

Digest

MAY 24 1985

L-85-60

Director of Compensation and Certification

Deputy General Counsel

Cimarron River Valley Railway Company
Employer Status

This is in reply to your Form G-215 inquiry dated January 22, 1985, requesting my opinion regarding the employer status of the Cimarron River Valley Railway Company (CRVR). This railroad has not previously been an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

In a letter dated September 4, 1984, Mr. Peter A. Greene, Attorney for CRVR, stated that, upon commencement of operations, the railroad anticipated hiring one full-time paid employee and one or two part-time employees, as needed. In a letter dated January 12, 1985, Mr. Greene stated that CRVR commenced railroad operations on January 1, 1985. The Interstate Commerce Commission (I.C.C.) has exempted the acquisition and operation of the line by CRVR from the requirements of 49 U.S.C. 10901 and 49 U.S.C. 10746. See I.C.C. Order No. 30521, dated November 7, 1984.

According to the I.C.C. Order, CRVR will lease or purchase 25.47 miles of track owned by the Atchison, Topeka and Santa Fe Railway Company (ATSF). The line in question is located between milepost 59.38 at Camp, Oklahoma and milepost 84.85 at Cushing, Oklahoma, and is commonly known as the "Camp-Cushing line." The I.C.C. Order also indicates that CRVR is a wholly-owned subsidiary of Cushing Railcar, Inc. (CR). CR is, in turn, a wholly-owned subsidiary of MBF Industries, Inc. (MBF). Either CRVR or MBF will lease the Camp-Cushing line from ATSF for a period of one year pursuant to an agreement which then allows CRVR or MBF to renew the lease for two one-year periods and permits CRVR to purchase the line at any time.

Director of Compensation and Certification

Based on the above, I conclude that the Cimarron River Valley Railway Company became an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective January 1, 1985, the date on which it first had employees on its payroll and commenced actual railroad operations. It should also be noted that we reserve our ruling regarding the coverage status of CR and MBF under the Acts until such time as additional information can be obtained regarding the operations and structure of these two companies.

An appropriate Form G-215 giving effect to the foregoing is attached.



Steven A. Bartholow

Attachment

Law
LAWatkins:cmw:sdw
0511B/68A
C. 150-85