

B.C.D. 15-12

June 19, 2015

EMPLOYER STATUS DETERMINATION

Big Four Terminal Railroad, LLC (BFTR)

BA # 5341

This is a determination of the Railroad Retirement Board concerning the status of Big Four Terminal Railroad, LLC (BFTR) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.). The status of BFTR under the Acts has not previously been considered.

BFTR is a subsidiary corporation of RMW Ventures, LLC (RMW) and is part of a family of business entities owned and controlled by Spencer N. Wendelin. Mr. Wendelin controls BFTR as well as Wabash Central Railway, LLC (WCRC) (BA # 2376) and C & NC Railroad Corporation (CNC) (BA # 2374) through his ownership of RMW. WCRC was found to be a rail carrier employer under the Acts effective December 19, 1997 in Board Coverage Determination 98-09. Similarly, CNC was found to be a rail carrier employer under the Acts effective December 19, 1997 in Board Coverage Determination 98-11. The status of RMW was considered under the Acts on December 4, 2001, but it was found not to be a covered employer under the Acts in Board Coverage Determination 01-86.

Mr. Wendelin also serves as the Chief Executive Officer of BFTR. In that capacity, Mr. Wendelin provided information regarding the formation and start of operations for BFTR. Mr. Wendelin stated that BFTR began operations on October 8, 2013, but as of December 4, 2014 had not hired any employees. Instead, BFTR has contracted for operating personnel with GPB Consulting, LLC (GPB) (BA # 9364). GPB was found to be an employer under the Acts effective April 1, 2007 in Board Coverage Determination 08-46.

In Surface Transportation Board Finance Docket No. 35454, BFTR filed a Verified Notice of Exemption to operate along approximately 5.2 miles of rail line in the state of Indiana, from Milepost 0.0 in Connorsville, Indiana to Milepost 5.2+/- in Beeson, Indiana. BFTR indicated in that filing that it had entered into an agreement on December 1, 2010 with RMW to provide common carrier rail service along the identified 5.2 miles of rail line, replacing CNC as the line operator, and that projected annual revenues would not exceed \$5 million. However, Mr. Wendelin did not file an individual application with the Surface Transportation Board to seek continuance in control authority involving RMW and BFTR until February 12, 2014 (Surface Transportation Board Finance Docket 35801). The Surface Transportation Board granted Mr. Wendelin's request for exemption effective April 4, 2014, in conjunction with a concurrently filed Verified Notice of

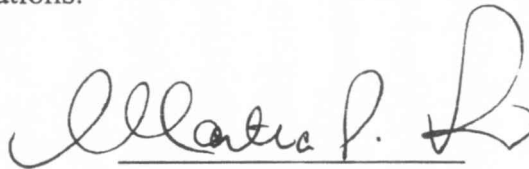
Exemption for RMW to acquire the stock of BFTR (Surface Transportation Board Finance Docket 35798).

Section 1(a)(1) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)), insofar as relevant here, defines a covered employer as:

(i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of title 49, United States Code.

Section 1 of the RUIA (45 U.S.C. § 351) contains essentially the same definition, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that BFTR is a rail carrier operating in interstate commerce. Accordingly, the Board finds that Big Four Terminal Railroad, LLC became an employer within the meaning of section 1(a)(1) of the Railroad Retirement Act and Section 1 of the Railroad Unemployment Insurance Act effective October 8, 2013, the date on which BFTR began operations.

A handwritten signature in black ink, appearing to read "Martha P. Rico", with a stylized flourish at the end.

FOR THE BOARD

Martha P. Rico

Secretary to the Board