

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
December 4, 2020
Part of
Public Record

**STB Docket No. FD 36447
LAKE PROVIDENCE PORT COMMISSION—FEEDER LINE
APPLICATION--LINE OF DELTA SOUTHERN RAILROAD
LOCATED IN EAST CARROLL AND
MADISON PARISHES, LOUISIANA**

**Motion Of Lake Providence Port Commission
Requesting Permission To Respond
To Comments In Reply Of Delta Southern Railroad, Inc.
To Petition Seeking Expedited Consideration Of
Feeder Application**

Lake Providence Port Commission (LPPC), by and through undersigned counsel of record, requests to Board to waive its rule set forth at 49 C.F.R. 1104.13(c) and permit LPPC to file this Response to clarify the record and respond to certain questions and misleading comments advanced by Delta Southern Railroad, Inc. (DSR).

At page 1, n.1 of its Reply, Delta Southern Railroad comments that “SEAEDD is not the applicant or a party to the associate feeder application, and thus it is unclear as to how it qualifies to be a petitioner or seek the relief requested.” SEAEDD’s is the grantee and the grant administrator of the INFRA Grant that has been awarded by the U. S. Department of Transportation for the purpose of rebuilding the subject line of railroad. Furthermore, SEAEDD is the sole contact with FRA for the PPP. To fulfill its responsibilities, which include the allocation of

funds to the partners for use in meeting requirements imposed by FRA, and to ensure that the Scope of Work is fully complied with, SEAEDD is entitled to join with LPPC to request the Board to give expedited consideration to LPPC's Feeder Application so that funds can be dispersed at the earliest moment possible.

At page 2, DSR states that "the only requests for service over the Eastern Line for the last several years has been traffic to be moved south from Madison Parish Port (milepost 491.0) to Tallulah." That statement is rebutted by sworn testimony that "DSR has declined to interchange traffic with NLA at MP 471." V.S. Daniel B. Robbins at ¶8. Furthermore, specific instances are mentioned regarding DSR's refusal to accept shipments at Lake Providence that have been confirmed by affected shippers who wish to reach both KCS and UP. See Exhibits 8 and 9.

At page 2, DSR also states that approximately \$2,000,000 of the INFRA Grant has been "allocated to DSRR." No INFRA Grant funds have been allocated to DSRR. As of this date, INFRA Grant funds have only been allocated to SEAEDD, which is charged with the sole responsibility of allocating them consistent with the Scope of Work that FRA has approved.

In seeking expedited consideration, LPPC and SEAEDD do not seek to deprive DSR of the opportunity to make a full and fair review of all of the information required by the Board's regulations. Recognizing that the

initial filing consists of more than 300 pages, the request is primarily intended to alert the Board of timelines that SEAEDD must meet in finalizing the documentation for FRA, which includes the commitment to upgrade the segment of the Line that LPPC intends to upgrade.

At this date, LPPC anticipates that it will submit its constitutional minimum value by December 12. This should provide DSR ample time to review the valuation and respond.

DSR also claims that the other information has not been provided in the Application. Proof of liability insurance that supplements the information set forth at page 5 of the Feeder Application is attached hereto.

Regarding the Operating Plan, LPPC asserts that it is premature to establish an operating plan. However, NLA has agreed that if LPPC's Application is granted and LPPC acquires ownership of the Subject Segment, it will provide on demand, tri-weekly (3 times a week) service to all customers except when prevented by Force Majeure, including acts of God, war, acts of terrorism, and epidemics; strikes and labor disputes; acts of governmental authorities that prevent rail operations; and derailments that prevent rail service

DSR also claims that 49 C.F.R. § 1151.3(c)(3) has not been satisfied because the Application does not include information that NLA has the financial ability to maintain and operate the Subject Segment for

three years without preconditions or subsidy is baseless. In the first place, a review of the Code of Federal Regulations does not reveal the provision that is cited. Assuming that DSR is referring to 49 C.F.R. § 1161.3(a)(3), NLA is not the Applicant. LPPC, which is the Applicant, is a government agency of the State of Louisiana and is presumed to be financially responsible. Should the Board require NLA to provide such information, it will do so.

Respectfully submitted,

/s/ Richard H. Streeter

Richard H. Streeter
Law Office of Richard H. Streeter
5255 Partridge Lane, N.W.
Washington, D.C. 20016
(202) 363-2011
rhstreeter@gmail.com

Dated: December 4, 2020



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/10/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Brown & Brown of Central Arkansas 706 W. Main Russellville AR 72801	CONTACT NAME: Rhonda Smith PHONE (A/C, No, Ext): (479) 968-3333 FAX (A/C, No): E-MAIL ADDRESS: rsmith@bbgca.com <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 80%;">INSURER(S) AFFORDING COVERAGE</th> <th style="width: 20%;">NAIC #</th> </tr> <tr> <td>INSURER A: Westchester Surplus Lines Insurance Company</td> <td></td> </tr> <tr> <td>INSURER B: Auto-Owners Insurance Company</td> <td>18988</td> </tr> <tr> <td>INSURER C: Starr Surplus Lines Insurance Company</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Westchester Surplus Lines Insurance Company		INSURER B: Auto-Owners Insurance Company	18988	INSURER C: Starr Surplus Lines Insurance Company		INSURER D:		INSURER E:		INSURER F:	
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INSURED Arkansas Short Line Railroads, Inc. 4416 South Arkansas Ave Russellville AR 72801															

COVERAGES
CERTIFICATE NUMBER: 20/21 ALOB

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY	Y		G71758333 002	11/10/2020	11/10/2021	EACH OCCURRENCE \$ 10,000,000
	☒ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$
	☒ Comprehensive						MED EXP (Any one person) \$
	☒ Railroad Liability						PERSONAL & ADV INJURY \$ Excluded
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$ 20,000,000
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG \$ 10,000,000
	☒ OTHER:						\$
B	AUTOMOBILE LIABILITY			4671056100	03/01/2020	03/01/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	☒ ANY AUTO						BODILY INJURY (Per person) \$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident) \$
	☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident) \$
							Underinsured motorist BI \$ 1,000,000
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	N/A					PER STATUTE OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$
C	Equipment Floater			ITA11085419	12/10/2019	12/10/2020	Rented/Leased Deductible \$5,000 \$200,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

(Comprehensive Railroad Liability Policy), FELA provides Employer's Liability Coverage as prescribed under the Federal Employers Liability Act as the sole remedy for railroad employee injuries.

CERTIFICATE HOLDER
CANCELLATION

Lake Providence Port Commission Attn: Mr. Gilfoil 409 Port Road Lake Providence LA 71254	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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AGENCY CUSTOMER ID: 00137994

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

AGENCY Brown & Brown of Central Arkansas		NAMED INSURED Arkansas Short Line Railroads, Inc.
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,****FORM NUMBER:** 25 **FORM TITLE:** Certificate of Liability Insurance: Notes

The certificate holder is named as additional insured as their interest may appear, per Railroad Liability form #GLE0241 05/15.

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing documents was served by email (where indicated) and U.S. first class mail, postage pre-paid on the following:

Eric M. Hockey
Clark Hill PLC
Two Commerce Square
2001 Market Street
Suite 2620
Philadelphia, PA 19103
ehockey@clarkhill.com

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 2004
jmarks@clarkhill.com

Louisiana Public Service Commission
Galvez Building
12th Floor
602 North Fifth St.
PO Bos 91154
Baton Rouge, LA 70821-9154

East Carroll Parish
400 First St.
Lake Providence, LA 71254

Madison Parish
100 North Cedar St.
Tallulah, LA 71282

/s/ Richard H. Streeter

Dated: December 4, 2020