

SERVICE DATE – JANUARY 15, 2021

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36447

LAKE PROVIDENCE PORT COMMISSION—
FEEDER LINE APPLICATION—LINE OF DELTA SOUTHERN RAILROAD LOCATED IN
EAST CARROLL AND MADISON PARISHES, LA.

Decided: January 11, 2021

On November 12, 2020, Lake Providence Port Commission, a noncarrier political subdivision of the State of Louisiana (LPPC or Applicant), filed an application under 49 U.S.C. § 10907 and 49 C.F.R. part 1151 to acquire from Delta Southern Railroad, Inc. (DSR), a 20-mile rail line between milepost 471.0 and milepost 491.0, together with various ancillary tracks, in East Carroll and Madison Parishes, La. (the Line). Concurrently, LPPC and the Southeast Arkansas Economic Development District (SEAEDD) filed a petition seeking expedited consideration and acceptance of LPPC's application prior to submission of evidence regarding the Line's valuation. DSR filed a reply in opposition to the petition to expedite on December 2, 2020, and stated that it would respond to the application, if accepted, in accordance with the procedural schedule set by the Board.

By decision served December 11, 2020 (December 11 Decision), the Board found that the application was substantially complete, except for the absence of information pertaining to the net liquidation value (NLV) of the Line. December 11 Decision, slip op. at 1.¹ The Board waived its regulations at 49 C.F.R. § 1151.2(d) and conditionally accepted the application, even though the application did not contain the required NLV information, subject to Applicant's submission of an NLV estimate and supporting information by December 28, 2020. Id. at 1-2.² The Board also stated that LPPC should submit a copy of any contract pertaining to the Line with North Louisiana & Arkansas Railroad (NLA), the proposed operator of the Line, as soon as the parties reach an agreement. Id. at 6 n.17.

¹ Section 1151.3(a)(4) requires an applicant to submit estimates and supporting information for both the NLV and the going concern value (GCV) of the line. Here, however, LPPC asserts that the GCV of the Line is \$0 so only an NLV estimate was required for purposes of making the application complete. See December 11 Decision, slip op. at 5 & n.14 (also noting that if the application were accepted, DSR would have the opportunity to provide evidence and argument to counter LPPC's assertion that the Line has no GCV).

² The Board stated that, upon receipt of the NLV evidence by the specified date, it would publish notice of acceptance of the application and a procedural schedule in the Federal Register. December 11 Decision, slip op. at 2.

On December 22, 2020, LPPC submitted an estimate of the NLV and supporting evidence, along with the lease agreement between LPPC and NLA that would govern NLA's operation of the Line.³ Accordingly, the Board will accept the application and will adopt the following procedural schedule as set out at 49 C.F.R. § 1151.2:

- Competing applications by other parties seeking to acquire all or any portion of the Line are due by February 16, 2021.
- Verified statements and comments addressing both the initial and competing applications must be filed by March 16, 2021.
- Verified replies by applicants and other interested parties must be filed by April 5, 2021.

It is ordered:

1. LPPC's feeder line application is accepted and notice will be published in the Federal Register.
2. The above schedule will govern this proceeding.
3. This decision is effective on its service date.

By the Board, Allison C. Davis, Director, Office of Proceedings.

³ On December 22, 2020, LPPC filed both public and confidential versions of the agreement. On December 28, 2020, LPPC filed an unredacted public version of the agreement previously filed under seal.