

SERVICE DATE – MARCH 9, 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: March 9, 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), for future operation by North Louisiana & Arkansas Railroad (NLA). (Appl. 1-3, 5.)¹ Concurrently, LPPC and 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, and conditionally accepted the application subject to Applicant's submission of an NLV estimate and supporting information by December 28, 2020. December 11 Decision, FD 36447, slip op. at 1-2. The Board also stated that LPPC should submit a copy of any contract with NLA pertaining to the Line as soon as the parties reach an agreement. Id. at 6 n.17.

¹ The application explains that the Line is one segment of the 91.3-mile McGehee-Tallulah Railroad Corridor (the Corridor), which runs from milepost 408.9 in McGehee, Ark., to milepost 500.2 in Tallulah, La. (Appl. 1.) According to the application, LPPC and NLA jointly own the northern-most segment that extends from milepost 408.9 to milepost 433.0 at Lake Village, Ark. Southeast Arkansas Economic Development District (SEAEDD), a noncarrier, owns the segment between milepost 433.0 and milepost 454.8 at or near the Louisiana/Arkansas border. LPPC owns the segment between milepost 454.8 and milepost 471.0, at or near Lake Providence, East Carroll Parish, La. Finally, DSR owns the segment that extends from milepost 471.0 to approximately milepost 500 at Tallulah, La. (Id. at 6-7; but see, e.g., id. at 1 (stating that the end milepost for DSR's segment is 500.2).) NLA currently operates all segments of the Corridor not owned by DSR. (See id. at 3, 6.)

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. By decision served January 15, 2021, the application was accepted and a procedural schedule as set out at 49 C.F.R. § 1151.2 was adopted. Under the current procedural schedule, verified statements and comments addressing the application are due March 16, 2021, and verified replies are due April 5, 2021.

On February 18, 2021, NLA filed a motion for protective order under 49 C.F.R. § 1114.21(c), seeking relief from responding to certain interrogatories served by DSR on February 5, 2021, on the grounds that NLA is not a party to this proceeding, and asserting other various objections. On February 26, 2021, DSR responded in opposition to the motion for protective order and also filed a petition for issuance of a subpoena under 49 C.F.R. § 1113.2. NLA filed a reply opposing DSR's petition for issuance of a subpoena on March 1, 2021.

On March 2, 2021, DSR filed a motion to dismiss and request to hold the proceeding in abeyance pending disposition of the dismissal motion and unresolved discovery issues. On March 5, 2021, LPPC, SEAEDD, Madison Parish Port Commission, and NLA filed a reply in opposition to DSR's motion jointly requesting the Board to deny all relief requested by DSR. On March 8, 2021, DSR filed a motion to strike the March 5 reply.

In light of the numerous recent filings and the approaching deadline for submission of verified statements and comments addressing the application, the procedural schedule will be suspended pending further Board order. The Board will address the recent filings and the issues raised therein in a subsequent decision.

It is ordered:

1. The procedural schedule is suspended pending further Board order.
2. This decision is effective on its service date.

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