

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36447LAKE PROVIDENCE PORT COMMISSION
--FEEDER LINE APPLICATION--
LINE OF DELTA SOUTHERN RAILROAD LOCATED IN
EAST CARROLL AND MADISON PARISHES, LA.

Lake Providence Port Commission (LPPC), Southeast Arkansas Economic Development District (SEAEDD), Madison Parish Port Commission (MPPC), and North Louisiana & Arkansas Railroad (NLA) (collectively referred to hereinafter as Movants), by and through counsel, request that the Board expeditiously issue a procedural schedule that will replace the original procedural schedule that was suspended on March 9, 2021. During the past several months, Movants have continued to work with the Federal Railroad Administration (FRA) so that reconstruction of the segment of the rail corridor between milepost 408.9 at McGehee, Arkansas and milepost 471.0 at Lake Providence, Louisiana will be substantially completed by the end of the year. However, as briefly explained *infra*, until the instant matter is resolved, engineering plans for the reconstruction of the twenty-mile segment between milepost 471.0 and milepost 491.0 at Talla Bena and several related projects cannot be finalized.

Movants respectfully submit that further delay cannot be reconciled with the STB's unchallengeable reasoning expressed in *Canadian National Railway*

Company, Grand Trunk Corporation, and CN's Rail Operating Subsidiaries – Control – Kansas City Southern, The Kansas City Southern Railway Company, Gateway Eastern Railway Company, and the Texas Mexican Railway Company, FD 36514, slip op. at 30 (STB served August 31, 2021). As the Board unanimously recognized in that decision, public interest considerations include matters that “impede the development and continuation of a sound rail transportation system, which the Board is charged with safeguarding” under the rail transportation policy (RTP). *See* 49 U.S.C. §§ 10101(1), 10101(4). Moreover, given the need to expedite reconstruction of the entire Line, further delay “is inconsistent with the RTP’s promotion of the expeditious handling of regulatory decisions. *See* 49 U.S.C. §§ 10101(2), (15).” *Id.*

The public interest in rebuilding the entire rail corridor between McGehee, Arkansas and Tallulah, Louisiana is not open to debate. As the record reflects, DOT’s award of an Infrastructure for Rebuilding America (INFRA) Grant to rehabilitate the entire corridor had the unanimous support of all levels of government in both Louisiana and Arkansas. In addition, the grant was supported by the involved railroads, ports, shippers and receivers located along the Line. All of whom recognized that the need for safe and efficient rail service requires the rehabilitation of the entire Line, and that rehabilitation of the Line will affirmatively contribute to the economic development of the most depressed areas of Arkansas and Louisiana. Given the public interest in the restoration of the rail corridor, Movants are speaking on behalf of the

communities, shippers and receivers who will benefit from the rehabilitation of the entire rail Line between McGehee, Arkansas and Tallulah, Louisiana.

In this case, the Board must decide whether public interests in renewed rail service over the entire Line outweigh DSR's private interests, which are reflected in DSR's conclusion that "the desired track renovations as to the long-dormant Line are unjustified and unwarranted." *Delta Southern Railroad, Inc.'s Motion to Dismiss Proceeding and Request to Hold Proceeding in Abeyance*, at p. 2. DSR is entitled to protect its own private interests. However, even if DSR's conclusion concerning the Line's future prospects ultimately proves to be true, the forced sale of the Line to LPPC will not harm DSR. On the contrary, the sale will allow DSR to realize its private interest of avoiding any adverse financial consequences associated with what it considers to be a "financially irrational" expenditure of any of its funds to rehabilitate the segment of track that Movants seek to rehabilitate.

The bottom line is that the goal of reopening the entire Line cannot be realized without a binding commitment to restore the twenty miles of track between MP 471 and MP 491. As a practical matter, the uncertainty that currently exists is hampering Movants' and FRA's ability to finalize planning. By way of example, DOT's scope of work has designated \$2,589,626 to be spent to construct an interchange track at the Lake Providence Port. If LPPC's feeder application is approved, there would be no need to construct the interchange track. This would free up funds to build other needed tracks and facilities that have been deferred. If the Board were to deny LPPC's feeder application, it

would be necessary to construct the interchange track. This has prevented Movants from seeking modifications of the scope of work that was approved by DOT, even though substantial cost-saving efficiencies could have been realized by simultaneously completing all of the needed reconstruction. Movants stress that the rebuilding of the mainline track that is located between McGehee and Lake Providence will begin in a matter of days and should be completed by the end of the year.

Conclusion

For all of the above-stated reasons, the public interest will be served by the immediate establishment of a procedural schedule that will govern the final stages of this proceeding. The public interest in expeditiously restoring the entire Line for rail service and the accompanying promises of economic growth cannot be overstated.

Respectfully submitted,

/s/ Richard H. Streeter

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Certificate of Service

I, Richard H. Streeter, do hereby certify that on this 7th day of September, I served at true copy of the foregoing on Thomas J. Healey, counsel for Delta Southern Railroad, at THealey@fletcher-sippel.com.

/s/ Richard H. Streeter