

SERVICE DATE – AUGUST 23, 2022

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.

Digest:¹ This decision allows the Lake Providence Port Commission to file an amended feeder line application that involves a longer line than originally proposed. The Board also denies as moot three motions pertaining to the initial application, grants a motion to strike a rebuttal filing in support of the motion to file a supplemental application, and orders the current owner to provide specified information about the line within ten days.

Decided: August 23, 2022

This proceeding involves efforts by the Lake Providence Port Commission (LPPC or Applicant), a noncarrier political subdivision of the State of Louisiana, to acquire portions of the Tallulah-McGehee rail corridor owned by Delta Southern Railroad, Inc. (DSR), through a Board-ordered sale. The initial application, in which LPPC sought to acquire only a segment of DSR's Lake Providence line, was accepted as complete and a procedural schedule was established early last year. DSR thereafter pursued discovery in order to prepare its response to that application, and, separately, moved to dismiss the proceeding.² This triggered numerous filings and led the Board to suspend the procedural schedule pending further Board order.

Thereafter, the Board issued a decision in June 2021 that resolved certain discovery issues, denied two motions to strike, and directed the parties to report the status of any remaining discovery issues and whether they were amenable to mediation. The Board issued another decision in October 2021 that acknowledged the parties' reports that discovery issues had been resolved and ordered Board-sponsored mediation.

Mediation concluded earlier this year without a settlement. LPPC has now moved to file a supplemental application to acquire DSR's entire rail line on the Tallulah-McGehee corridor,

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol'y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

² DSR also sought to hold the case in abeyance while the discovery issues and motion to dismiss were resolved.

including an approximately 7.5-mile segment (Southern Segment)³ over which DSR transports southbound freight traffic to interchange with Kansas City Southern Railway Company (KCS) at Tallulah, La.

As described below, this decision grants LPPC's motion to file a supplemental application that includes DSR's entire line and, as a result, denies as moot three motions pertaining to the initial application. The decision also grants a motion to strike a rebuttal filing in support of the motion to file a supplemental application and orders DSR to provide specified information about the line in question within ten days.

BACKGROUND

On November 12, 2020, LPPC filed an application under 49 U.S.C. § 10907 and 49 C.F.R. part 1151 to acquire from DSR a 20-mile segment of rail line between milepost 471.0 and milepost 491.0, together with various ancillary tracks, in East Carroll and Madison Parishes, La., for future operation by North Louisiana & Arkansas Railroad (NLA). (Appl. 1-3, 5.)⁴ Concurrently, LPPC and SEAEDD filed a petition seeking expedited consideration and acceptance of LPPC's application prior to submission of evidence regarding the valuation of that line. 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. (DSR Reply 1, Dec. 2, 2020.)

By decision served December 11, 2020, the Board found that the application was substantially complete, except for the absence of information pertaining to the net liquidation

³ As discussed below, there are questions regarding the length of the Southern Segment.

⁴ The application explained that the line at issue 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. (Appl. 1.) According to the application, LPPC and NLA jointly own the northernmost segment extending 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. DSR owns the segment that extends from milepost 471.0 to approximately milepost 500 at Tallulah. (*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.)

According to the application, an Infrastructure for Rebuilding America (INFRA) grant for restoration of the Corridor was awarded to SEAEDD on behalf of a public-private partnership composed of SEAEDD, LPPC, the Madison Parish Port Commission (MPPC), NLA, and DSR, (Appl. 2, 10-11), and grant funds are to be used to reopen the entire Corridor (the Project), including the line initially at issue, which is currently impassable, (*id.* at 2). LPPC stated that it filed the application because DSR has refused to commit the funds needed to restore the line, and that the proposed acquisition was therefore necessary to realize the goal of reopening the entire Corridor. (Appl. 2, 4-5; *id.* at Ex. 3, V.S. Hargrove ¶¶ 13-16; *id.* at Ex. 6, V.S. Gilfoil ¶¶ 13-14.)

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. Lake Providence Port Comm'n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Parishes, La., FD 36447, slip op. at 1-2 (STB served Dec. 11, 2020). The Board also stated that LPPC should submit a copy of any contract with NLA pertaining to the line as soon as the parties reached an agreement. Id. at 6 n.17. LPPC submitted an estimate of the NLV and supporting evidence, along with the lease agreement that would govern NLA's operation of the line, on December 22, 2020. By decision served January 15, 2021, the application was accepted as complete and a procedural schedule was adopted, under which verified statements and comments addressing the application were due March 16, 2021, and verified replies were due April 5, 2021.

Thereafter, a series of motions and other filings were made by NLA, LPPC, and DSR, including a motion to dismiss filed by DSR. By decision served March 9, 2021, in light of the numerous filings and then-impending deadline for submitting verified statements and comments addressing the application, the procedural schedule was suspended pending further Board order.

By decision served June 1, 2021, the Board resolved certain discovery issues and denied two motions to strike arising from DSR's motion to dismiss. See Lake Providence Port Comm'n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Parishes, La. (June 2021 Decision), FD 36447, slip op. at 3-6 (STB served June 1, 2021).⁵ The Board also directed the parties to report the status of any remaining discovery issues and whether they were amenable to mediation. Id. at 4, 6-7. On June 15, 2021, counsel for LPPC, SEAEDD, MPPC, and NLA (collectively, the Project Participants) submitted supplemental discovery responses on behalf of NLA, provided a status report on outstanding discovery issues, and advised the Board that the Project Participants did not wish to engage in mediation. (Project Participants Letter 2, June 15, 2021.) Counsel for DSR reported that DSR would evaluate the supplemental discovery responses and advise the Board of any remaining concerns, and that DSR was amenable to mediation. (DSR Letter 1-2, June 15, 2021.) DSR thereafter advised the Board that it would not pursue a motion to compel and that it deemed discovery concluded. (DSR Letter 2, June 30, 2021.)

The Project Participants filed a motion to re-set the procedural schedule on September 7, 2021,⁶ to which DSR replied on September 20, 2021, noting that favorable action on the motion to dismiss would obviate the need for further action in this docket and reiterating its support for Board-ordered mediation. By decision served October 21, 2021, the Board acknowledged the parties' reports that discovery issues had been resolved, ordered Board-sponsored mediation, and stated that it would address pending motions after the completion of mediation if the parties were

⁵ Further background on filings submitted between February and June 2021 is available in the June 2021 Decision.

⁶ On October 12, 2021, a letter in support of the Project Participants' motion was filed by U.S. Representatives Eric A. Crawford and Julia Letlow and U.S. Senators John Boozman, Bill Cassidy, Tom Cotton, and John Kennedy.

unable to fully resolve their disputes.⁷ See Lake Providence Port Comm’n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Parishes, La., FD 36447, slip op. at 4 (STB served Oct. 21, 2021).

By letter dated January 19, 2022, the mediators informed the Board that mediation had concluded without a settlement. As permitted by a subsequent Board order, LPPC filed a response to DSR’s May 28, 2021 motion to strike on February 18, 2022, and a corrected response on February 22, 2022.

On March 4, 2022, LPPC moved to file a supplemental application to acquire DSR’s entire line from milepost 471.0 to its point of interchange with KCS, located at or around milepost 498.6⁸ (the Lake Providence Line).⁹ (LPPC Mot. 1, Mar. 4, 2022.) LPPC asserts that its request is “consistent with Board precedent,” (*id.* at 1-2), and notes that DSR had argued earlier in this proceeding that if LPPC wanted to supplement its request for a Board-ordered sale, “the appropriate course would be for LPPC to seek leave to amend its Feeder Line Application.” (LPPC Mot. 2, Mar. 4, 2022 (quoting DSR Mot. to Strike 3, Mar. 8, 2021).) LPPC states that it is seeking to file a supplemental application because “[it] has concluded that the needs of existing and new shippers will be best served if LPPC is authorized to purchase and rehabilitate the entire Line that runs between MP 471, near Lake Providence, to MP 498.4 in Tallulah, LA.” (LPPC Mot. 2, Mar. 4, 2022.)

DSR replied to LPPC’s motion on March 24, 2022, arguing that the Board should dismiss this docket pursuant to DSR’s pending motion to dismiss, (DSR Reply 2, Mar. 24, 2022), and that, if LPPC’s motion to file a supplemental application were granted, “the Board must also re-start the feeder line process under 49 C.F.R. § 1151.” (DSR Reply 4, Mar. 24, 2022).¹⁰ On April 4, 2022, LPPC filed a pleading styled “Verified Rebuttal and Supporting Verified Statements in Support of Motion to File a Supplemental Application to Acquire the Entire Lake Providence Line Between MP 471.0 and MP 498.6,”¹¹ which DSR moved to strike on April 25,

⁷ The pending motions pertaining to the initial application are DSR’s motion to dismiss and request to hold the proceeding in abeyance pending disposition (filed March 2, 2021); DSR’s motion to strike LPPC’s supplementary new evidence and legal argument (filed May 28, 2021); and the Project Participants’ motion to re-set a procedural schedule (filed September 7, 2021).

⁸ As detailed below, the Board has questions regarding the southern terminus of the Lake Providence Line, and LPPC will be directed to clarify the endpoint of the line it seeks to acquire.

⁹ As described below, DSR also operates a second rail line, which extends from Monroe, La. to Sterlington, La., pursuant to a lease agreement with Union Pacific Railroad Company (UP).

¹⁰ See also *id.* at 8-9 (arguing that current Application should be dismissed because “there is no service demand that is going unmet” and that, if allowed, the supplemental application should “restart the regulatory processes set out at 49 C.F.R. § 1151.2.”).

¹¹ The rebuttal takes exception to contentions made in DSR’s response to LPPC’s motion and presents additional evidence and argument in support of LPPC’s request to file a supplemental application to acquire DSR’s entire Lake Providence Line. It also raises an issue

2022, as an unauthorized and untimely filing. LPPC replied to DSR's motion to strike on April 27, 2022, and DSR sought leave to file a response to that reply on May 11, 2022.

DISCUSSION AND CONCLUSIONS

The Board will grant LPPC leave to file a full amended application and will recommence the process for considering that application under 49 C.F.R. part 1151. LPPC is directed to comply with the service requirements specified in 49 C.F.R. § 1151.2(a), and to submit all evidence and argument in support of its request for a Board-ordered sale of DSR's Lake Providence Line in the amended application in accordance with the requirements specified in 49 C.F.R. § 1151.3, without incorporation by reference of its previous application or any other filings. The Board will thereafter assess the completeness of the amended application in accordance with the criteria specified in 49 C.F.R. § 1151.2(b) and issue a decision on that matter within 30 days.

Because LPPC's motion to file a supplemental application will be granted as discussed herein, the pending motions pertaining to LPPC's initial application—which sought to acquire only a portion of the Lake Providence Line—will be denied as moot, DSR's April 25, 2022 motion to strike LPPC's April 4, 2022 rebuttal filing will be granted, and DSR's May 11, 2022 request for leave to reply to LPPC's response to the motion to strike will be denied as moot. DSR will also be directed to provide the information specified below about the Lake Providence Line.

LPPC's March 4, 2022 Motion to File a Supplemental Application. As DSR points out, the case that LPPC cites in claiming that supplementation of LPPC's application is "consistent with Board precedent," (LPPC Mot. 1-2, Mar. 4, 2022), arose in a different context and involved different facts. (*See* DSR Reply 3-4, Mar. 25, 2022.)¹² LPPC cites no case involving

about the line in question on which the Board will direct DSR to provide further information, as discussed below.

¹² Specifically, in that case a feeder line applicant was afforded the opportunity to supplement an application that had been found substantively incomplete by providing information relating to valuation and financial responsibility to cure deficiencies in the original application. *See Keokuk Junction Ry.—Feeder Line Acquis.—Line of Toledo Peoria & W. Ry. Between La Harpe & Hollis, Ill.*, FD 34335, slip op. at 2 (STB served Sept. 26, 2003). Here, as LPPC reiterates, (*see* LPPC Mot. 2, Mar. 4, 2022), its initial application (which was limited to only a portion of DSR's Lake Providence Line) was found to be complete. But *Keokuk Junction Railway* did not address whether, or under what circumstances, an applicant may amend an application to expand its request for a forced sale to include a longer rail line. The Board also notes that its prior determination that LPPC's initial application was complete was not a ruling on the merits that a Board-ordered sale would be warranted. *See, e.g., Keokuk Junction Ry.*, FD 34335, slip op. at 6 & n.12 (STB served July 9, 2003) (noting that acceptance of application as complete is not a ruling on the merits of the application); *PYCO Indus., Inc.—Feeder Line Acquis.—S. Plains Switching, Ltd.*, FD 34844 et al., slip op. at 8 (STB served July 3, 2006) (stating that PYCO had submitted sufficient information to accept the application and that the Board would rule on the merits of the application when the record was complete).

circumstances comparable to the present situation, in which LPPC is seeking to expand the feeder line application that it initially filed (which was limited to a section of line over which there has been no traffic for several years, and which LPPC claims is impassable) to now include a rail line on which there are active shippers.¹³ Nevertheless, nothing would prevent LPPC from filing such an expanded feeder line application in a separate docket; moreover, because the procedural schedule has been suspended, the comment period on LPPC's initial application has not yet commenced. Accordingly, in these circumstances, the Board finds it appropriate to grant LPPC leave to file an amended application in the present docket.¹⁴ However, because the amended application would encompass rail line that has been in ongoing use by shippers, the procedures specified in 49 C.F.R. § 1151.2 must be satisfied anew with respect to that application in order to comply with the regulations that govern the service and assessment for completeness of applications filed under 49 U.S.C. § 10907 and to provide the opportunity for the filing of competing applications.

The Board's regulations specifically include a requirement that LPPC serve the application on the entities identified in 49 C.F.R. § 1151.2(a), including all rail patrons who originated or received traffic on the line during the 12-month period preceding the month in which the application is filed, see § 1151.2(a)(2), and the national offices of rail unions with employees on the line, see § 1151.2(a)(6). In addition, the application must include the information specified in 49 C.F.R. § 1151.3, in the form of verified statements, and must contain detailed evidence that permits the Board to find, inter alia, that transportation over the line is inadequate for the majority of shippers who transport traffic over the line (49 C.F.R. § 1151.3(a)(11)(i)(B)),¹⁵ and that the sale of the line will not have a significantly adverse

¹³ (See Appl. 2 (describing the DSR line segment that LPPC initially sought to acquire as "impassable and [one] that has not been used for common-carrier rail service for at least three years"); id. at 17-18 (describing DSR position that it would only commit to rehabilitate its "Priority Miles" between MP 491 and MP 500 and "did not need to rehab [its track beyond milepost 491] to service the shippers located at the Madison Parish Port"); see also DSR Reply 2, Mar. 24, 2022 (stating that "the South Segment actively supports local traffic for customers located on it").)

¹⁴ In its motion, LPPC makes various arguments about the benefits that would arise from a Board-ordered sale of DSR's Lake Providence Line. (See LPPC Mot. 2-3, 5-6, 8, Mar. 4, 2022.) This decision, which simply grants LPPC leave to file a full amended application, does not address the merits of those arguments; the Board notes, however, that, standing alone, LPPC's contentions would not suffice to support acceptance of an amended application to acquire the Lake Providence Line. Rather, as discussed herein, the contents of the amended application must contain the information specified in 49 C.F.R. § 1151.3, which includes information pertaining to the statutory criteria specified in 49 U.S.C. § 10907(c)(1), (see LPPC Reply 2, Apr. 27, 2022 (acknowledging "the five statutory requirements that Congress imposed when it enacted the feeder development line provisions")), and must include detailed evidence that permits the Board to find that all of the criteria stated in 49 C.F.R. § 1151.3(a)(11)(i) are satisfied.

¹⁵ The amended application should consider all shippers that currently use the Southern Segment of DSR's line to move traffic between the Madison Parish Port and the DSR-KCS

financial effect on DSR (49 C.F.R. § 1151.3(a)(11)(i)(C)), or an adverse effect on the overall operational performance of DSR (49 C.F.R. § 1151.3(a)(11)(i)(D)).¹⁶ The information shall be provided in a single submission that consists of a full application, without incorporating by reference the prior application or any other previous filings.¹⁷ LPPC has submitted numerous filings in this proceeding asserting various arguments on the merits throughout those filings. To ensure the fair and orderly resolution of LPPC's feeder line request, LPPC must include in its amended application all of the arguments and evidence on which it will rely. Additionally, to facilitate the development of a clear and coherent record, LPPC must present each witness's sworn testimony in support of the application in a single verified statement from each witness.

Lastly, LPPC's motion asks the Board "to require DSR to provide LPPC verified data that will allow LPPC to prepare its valuation of the [l]ine." (LPPC Mot. 15, Mar. 4, 2022.) That request is premature and misplaced under the governing regulations. See 49 C.F.R. § 1151.2(d). The regulation provides that "[i]f an applicant seeking to file an initial or competing application is unable to obtain required information that is primarily or exclusively within the personal knowledge of the owning carrier, the applicant may file an incomplete application if it files at the same time a request for discovery under 49 C.F.R. part 1114 to obtain the needed information from the owning carrier." See § 1151.2(d)(1). Insofar as LPPC is unable to obtain information primarily or exclusively within the knowledge of DSR that is required to prepare a complete application, LPPC may file a concurrent request for discovery, with its amended application, to obtain the information from DSR. Any such request will be resolved in accordance with the procedures specified in 49 C.F.R. § 1151.2(d).

Pending Motions Pertaining to the Initial Application. Because LPPC will be granted leave to file an amended application, the pending motions pertaining to the initial application will be denied as moot. DSR's motion to dismiss the initial application was based on two alternative grounds: that (1) the application in question failed to allege or show that any shipper

interchange at Tallulah. (See Appl., Ex. 7 (V.S. Murphy) ¶ 4) (stating that DSR is the only rail carrier that provides service to customers located in the Madison Parish Port).)

¹⁶ As noted in LPPC's March 4, 2022 motion, (id. at 15), DSR also operates a second line, which extends from Monroe to Sterlington, pursuant to a lease agreement with UP, the owner of that line. (See also Appl., Ex. 1 (INFRA Grant Application, page 12) (stating that DSR has two separate rail lines and operates as two divisions—the Sterlington Division in Monroe, and the Lake Providence Division in Tallulah—under common staff headquartered at the Madison Parish Port, transporting grain, aggregates, agricultural products, cotton, coal, chemicals, fertilizer, forest products, sand clay, and soda ash).) Accordingly, the amended application must address the impact that a forced sale of DSR's entire Lake Providence Line would have on DSR's financial health and overall operational performance.

¹⁷ This directive addresses LPPC's request that the Board "authorize LPPC's submission of a full supplemental Feeder Application." (See LPPC Mot. 12, Mar. 4, 2022.) The Board further notes that the regulations under part 1151 provide for incorporation by reference of a prior application only when that application continues to serve as the operative request for a Board-ordered sale of a rail line under 49 U.S.C. § 10907 but has been found incomplete. See 49 C.F.R. § 1151.2(b)(2).

has requested service to or from a point on the line at issue or that DSR has refused to make the necessary efforts to provide such service, and (2) no shipper located on other segments of the Corridor has claimed that existing through routes (via UP and KCS) are inadequate. (See Mot. to Dismiss 4-6, Mar. 2, 2021.) The expanded scope of the application, to now include the Southern Segment of DSR's Lake Providence Line, would have a bearing on the evidence and argument pertinent to each of these claims. Accordingly, the motion to dismiss the initial application will be denied without prejudice to DSR's ability to file a new motion as DSR deems warranted following LPPC's filing of an amended application.

DSR's motion to strike Applicant's supplementary evidence and argument in support of the initial application, and the Project Participants' motion to re-set the procedural schedule pertaining to the initial application, have also become moot in light of this decision, and are accordingly denied.

DSR's April 25, 2022 Motion to Strike LPPC's Rebuttal Filing. As noted above, on April 4, 2022, LPPC filed a pleading styled "Verified Rebuttal and Supporting Verified Statements in Support of Motion to File a Supplemental Application to Acquire the Entire Lake Providence Line Between MP 471.0 and MP 498.6," which DSR moved to strike on April 25, 2022. The rebuttal filing takes exception to statements made in DSR's response to LPPC's motion to file a supplemental application and presents additional evidence and argument in support of LPPC's request. Additionally, as discussed below, it raises an issue about the line in question that DSR will be directed to address.

Nothing in this rebuttal filing bears on the Board's reasons for granting LPPC leave to file an amended application. Accordingly, the Board will grant the motion to strike the rebuttal filing, which LPPC did not seek leave to submit, see 49 C.F.R. § 1104.13(c) ("A reply to a reply is not permitted."), and which is not pertinent to the Board's decision. As discussed above, LPPC will be permitted to submit the evidence and argument it wishes to present in support of its request for a Board-ordered sale of the Lake Providence Line in the amended application (and must do so without incorporation by reference of its previous application or any other filings). LPPC will thus be able to present the evidence and argument it deems relevant to the amended application at that time. The Board cautions LPPC that the amended application must include all historical information known or reasonably available to LPPC in support of its case-in-chief for a Board-ordered sale.¹⁸

Although the Board will grant the motion to strike, LPPC's rebuttal filing refers to one issue, which is a matter of public record, that DSR will be directed to address. LPPC states that in 1999, when DSR acquired the rail line from McGehee to Tallulah pursuant to a notice of exemption in Docket No. FD 33802, "DSR did not seek or obtain authority to operate over the segment of the [Lake Providence] Line between MP 489.44 and MP 498.4, where the Line connects with KCS," but that "DSR has operated over that segment of the Line since 1999."

¹⁸ In particular, the amended application should identify with specificity all shippers who contend that they have been refused interchange by, or otherwise received inadequate service from, DSR, and provide detailed supporting evidence of the alleged refused or inadequate service. See 49 C.F.R. § 1151.3(a)(11)(i)(A) & (B).

(LPPC Rebuttal 14 (citing Delta S. R.R.—Acquis. & Operation Exemption—Delta S. R.R., FD 33802 (STB served Oct. 20, 1999).) DSR did not address this contention in its motion to strike LPPC’s rebuttal filing. As described in the notice of exemption in Docket No. FD 33802, it does not appear that DSR sought or obtained acquisition or operating authority over the line located between milepost 489.44 and milepost 498.4, and the Board has not found any indication that DSR obtained such authorization in another proceeding. At the same time, DSR’s website represents that its “Tallulah line includes 29.2 miles of main line track, plus another mile of sidings and right of way which originates from a connection with [KCS] in Tallulah, Madison Parish”¹⁹—which, measured from milepost 471.0, appears to suggest that DSR believes the Lake Providence Line extends to milepost 500.2.

Accordingly, to clarify these apparent discrepancies and ensure that DSR has complied with the regulations in 49 C.F.R. part 1150 applicable to the acquisition and operation of rail lines, DSR will be directed to provide the following information by September 2, 2022.

(1) the mileposts that correspond to (i) the southern terminus of DSR’s Lake Providence line and (ii) DSR’s point of interchange with KCS;

(2) if the southern terminus of DSR’s Lake Providence line is a point beyond milepost 489.44, the basis of DSR’s authority to own and operate the segment between milepost 489.44 and the southern terminus; and

(3) if no such authority exists, the action DSR intends to take to rectify the failure to seek and obtain such authority.²⁰

¹⁹ See DSR Home Page, <https://deltasouthern.net>.

²⁰ We note that in this proceeding, LPPC has been inconsistent in defining the southern terminus of the line it seeks to acquire from DSR. Although the title of the LPPC’s March 4 motion identifies that location as “MP 498.6,” (see LPPC Mot. 1, Mar. 4, 2022), the motion itself states that LPPC “will seek to acquire the segment of line between MP 471.0 and MP 498.4, where freight traffic is interchanged with [KCS],” (*id.*; see also *id.* at 2, 10, 13 (referencing desire to purchase and rehabilitate line between milepost 471.0 and milepost 498.4)). In addition, the initial application identifies milepost 500.2 as the southern terminus of DSR’s Lake Providence line and the point of interchange with KCS, (see Appl. 1; *id.* at Ex. 1 (INFRA Grant Application), pages 5, 8), while in the March 4 motion, LPPC describes DSR’s “entire” line as comprised of the segment between milepost 471.0 and approximately milepost 498.6 of the Corridor, (see LPPC Mot. 1-2, Mar. 4, 2022; see also *id.* at 4-5, 8, 12 (referencing importance of rehabilitating “the entire” Line)). If LPPC disagrees with DSR’s supplement regarding the southern terminus of DSR’s Lake Providence line or the point of interchange with KCS, LPPC should explain the basis for its view in its amended application. In addition, LPPC should clarify the milepost designation of the southernmost point LPPC seeks to acquire in its amended application.

It is ordered:

1. Applicant's motion to file a supplemental application to acquire DSR's Lake Providence Line is granted, as described above. The amended application shall be served on the parties specified in 49 C.F.R. § 1151.2(a) and shall contain the information specified in 49 C.F.R. § 1151.3 in a single submission that consists of a full application with supporting exhibits, without incorporating by reference the initial application or any other filings.

2. DSR's motion to strike LPPC's rebuttal filing in support of its motion to file a supplemental application is granted, and DSR's May 11, 2022 request for leave to reply to LPPC's response to the motion to strike is denied as moot.

3. DSR is directed to provide the information specified above by September 2, 2022.

4. The pending motions pertaining to the initial application are denied as moot.

5. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.