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SERVICE DATE – OCTOBER 14, 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.

Docket No. FD 36642¹

PATRIOT RAIL COMPANY LLC, STEELRIVER TRANSPORT VENTURES LLC;
GLOBAL DIVERSIFIED INFRASTRUCTURE FUND (NORTH AMERICA) LP;
FIRST STATE INFRASTRUCTURE MANAGERS (INTERNATIONAL) LIMITED; AND
MITSUBISHI UFJ FINANCIAL GROUP, INC.
—CONTROL EXEMPTION—
DELTA SOUTHERN RAILROAD, INC.

Decided: October 14, 2022

On September 23, 2022, in Docket No. FD 36642, Patriot Rail Company LLC (Patriot), SteelRiver Transport Ventures LLC, Global Diversified Infrastructure Fund (North America) LP, First State Infrastructure Managers (International) Limited, and Mitsubishi UFJ Financial Group, Inc. (MUFG) (collectively, Patriot Rail), filed a verified notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to acquire control of Delta Southern Railroad, Inc. (DSRR), a Class III rail carrier.² Through this transaction, Patriot Rail would acquire from West Branch Intermediate Holdings, LLC (West Branch), a noncarrier, a controlling interest in DSRR. Currently, Patriot Rail indirectly controls 31 Class III rail carriers (the Patriot Short Lines).³

The verified notice notes that DSRR has been the target of a feeder line application filed by the Lake Providence Port Commission (LPPC) in Docket No. FD 36447. The verified notice

¹ These proceedings are not consolidated but are being addressed in the same decision for administrative convenience.

² The verified notice states that DSRR owns and operates two lines: the first rail line begins at Tallulah, La., and continues to Lake Providence, La.; the second line extends from Monroe, La., to Sterlington, La. Maps depicting the DSRR lines are contained in Exhibit B of the verified notice.

³ Exhibit C of the verified notice of exemption lists the Patriot Short Lines. Maps depicting the Patriot Short Lines are contained in Exhibit D of the verified notice.

states that Patriot Rail would “assume responsibility for that matter” and “looks forward to working with the LPP[C] to obviate the need for any further feeder line proceedings” going forward. (Notice 3, FD 36642.)

On September 28, 2022, LPPC filed a reply in opposition to the notice, requesting that the Board postpone the effective date of the exemption and “ultimately reject [Patriot Rail’s] petition insofar as it would permit [West Branch] and [DSSR] to disrupt” the ongoing feeder line proceeding. (LPPC Reply 1-2, FD 36642, Sept. 28, 2022.) LPPC states that its counsel initiated discussions concerning a meeting with Patriot Rail personnel “to explore whether grounds for a possible agreement may exist,” but that it was not possible to schedule a meeting during the first week of October due to Hurricane Ian. (Id. at 6 n.5.)

On October 7, 2022, Patriot Rail replied to LPPC’s request, asserting that the relief sought by LPPC is unsupported and unnecessary and should be denied. On October 11, 2022, LPPC requested waiver of 49 C.F.R. § 1104.13(c) to allow LPPC to file a reply to Patriot Rail’s reply, asserting that “the abrupt change in ownership raises substantial questions regarding the timing of the instant transaction and whether it is in the public interest.” (LPPC Reply 2, FD 36642, Oct. 11, 2022.) On October 12, 2022, Patriot Rail filed a reply in opposition to LPPC’s request for waiver.⁴

The Board has often noted its preference for privately negotiated solutions where possible. See, e.g., U.S. Dep’t of Energy v. Balt. & Ohio R.R., NOR 38302S et al., slip op. at 5 (STB served June 28, 2017) (“Wherever possible, the Board’s longstanding policy is to encourage the private resolution of disputes through voluntary negotiations among all interested parties.”) In light of the parties’ indications of willingness to work with one another to seek to resolve the issues raised in Docket No. FD 36447, the parties will be directed to meet and confer on these issues. A joint status report shall be filed with the Board by November 14, 2022. To provide time for the parties to work toward resolving some or all of the outstanding issues in Docket No. FD 36447 before Patriot Rail finalizes the control transaction, Docket No. FD 36642 will be placed in abeyance until further order of the Board.

It is ordered:

1. Patriot Rail, DSRR, and LPPC are directed to meet and confer on the outstanding issues raised in Docket No. FD 36447.
2. Patriot Rail, DSRR, and LPPC shall jointly file a status report by November 14, 2022.
3. Docket No. FD 36642 is held in abeyance until further order of the Board.
4. LPPC’s October 11, 2022 reply is accepted into the record.

⁴ In the interest of compiling a complete record, LPPC’s reply to Patriot Rail’s reply will be accepted into the record. See, e.g., City of Alexandria, Va.— Pet. for Declaratory Ord., FD 35157, slip op. at 2 (STB served Nov. 6, 2008).

5. This decision is effective on its service date.

By the Board, Mai T. Dinh, Director, Office of Proceedings.