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May 27, 2025  
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Public Record

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**FINANCE DOCKET NO. 36447**

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

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**DELTA SOUTHERN RAILROAD INC.’S RENEWED MOTION TO DISMISS  
EXPEDITED CONSIDERATION REQUESTED**

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Attorneys for:  
Delta Southern Railroad, Inc.

**Dated: 5/27/25**

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SURFACE TRANSPORTATION BOARD**

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Respondent, Delta Southern Railroad Inc. (“DSRR”), moves to dismiss, with prejudice, Lake Providence Port Commission’s (“LPPC”) Feeder Line Application for the Line of Delta Southern Railroad Located in East Carroll and Madison Parishes, Louisiana.

LPPC filed its Feeder Line Application with the Surface Transportation Board (“STB”) on November 12, 2020. On June 27, 2024, DSRR filed a Motion to Dismiss and for Attorney’s Fees. (“Motion to Dismiss”). After subsequent filings and litigation in Louisiana state court, the STB decided to hold proceedings in FD 36447 in abeyance pending “resolution of these state law issues.” *See Lake Providence Port Comm’n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Parishes, La. (Aug. 1, 2024 Decision)*, FD 36447, slip op. at 3 (STB served Aug. 2, 2024). Those issues are now resolved with final action by the Supreme Court of Louisiana.

On May 27, 2025, LPPC filed, and the Supreme Court of Louisiana granted, its Motion to Dismiss Original Application. See Order, attached as Exhibit 1. Thus, the decision of the Louisiana Court of Appeals for the Second Circuit, about which DSRR provided notice to the Board on March 6, 2025, is final. That decision affirmed the Sixth Judicial District Court of the Parish of East Carroll, Louisiana (Trial Court No. 23,740), which held (1) LPPC lacks statutory authority to acquire property outside East Carroll Parish and is acting “*ultra vires*” and which upheld (2) the lower court’s issuance of a writ ordering LPPC to discontinue its pursuit of ownership or control of property outside of East Carroll Parish in its feeder line application.

WHEREFORE, DSRR respectfully moves the STB to dismiss with prejudice expeditiously LPPC’s Feeder Line Application. Attorneys’ fees issue need not delay dismissal of this action and can be addressed separately as is done in courts. A draft order is attached as Exhibit 2.

Respectfully submitted,

/s/ *John M. Scheib*

John M. Scheib  
Gentry Locke Attorneys  
919 E Main St Ste 1130 Richmond, VA 23219  
757-916-3511

Attorney for:  
Delta Southern Railroad, Inc.

Dated: May 27, 2025

### **CERTIFICATE OF SERVICE**

I hereby certify that on this date a copy of the foregoing document was served by email on counsel for all parties of record.

/s/ *John M. Scheib*

John M. Scheib

Dated: May 27, 2025

EXHIBIT 1- ORDER OF THE LOUISIANA SUPREME COURT



**Supreme Court**  
STATE OF LOUISIANA  
*New Orleans*

CHIEF JUSTICE

JOHN L. WEIMER

JUSTICES

WILLIAM J. CRAIN

JOHN MICHAEL GUIDRY

CADE R. COLE

JAY B. MCCALLUM

JEFFERSON HUGHES

PIPER D. GRIFFIN

Sixth District

First District

Second District

Third District

Fourth District

Fifth District

Seventh District

VERONICA O. KOCLANES  
CLERK OF COURT

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May 27, 2025

James Edward Paxton  
124 Hancock St  
St Joseph, LA 71366-

John D. Crigler, Jr.  
124 Hancock St  
St Joseph, LA 71366-

Re: DELTA SOUTHERN RAILROAD,  
INC. VS. LAKE PROVIDENCE PORT  
COMMISSION, ET AL.  
2025-C-00549

Dear Counsel:

This is to advise that the court took the following action on your Motion To Dismiss filed in the above entitled matter.

CONSIDERING the foregoing Motion to Dismiss Original Application on Behalf of LAKE PROVIDENCE PORT COMMISSION, WYLY GILFOIL, MARK BUNTYN, ROGER CLEMENT, JERRY KING, FRANCIS LENSING, KARVAN POWELL, AND JAMES THOM, IV. ("Applicant"):

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Original Application filed on behalf of Applicant is hereby DISMISSED.

Regards,

Theresa McCarthy  
Second Deputy Clerk

TM: TM

ccs:

All Counsel

Hon. James H. Boddie, Jr.

Hon. Rene Thomas Williams

Hon. Robin Norman Jones

6th Judicial District Court: 23,740 - Div:B

Court of Appeal, Second Circuit: 56,112-CA

## EXHIBIT 2 – PROPOSED ORDER

## PROPOSED ORDER

### SURFACE TRANSPORTATION BOARD DECISION

#### 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.

On November 12, 2020, Lake Providence Port Commission filed its Feeder Line Application, which it later amended. The parties engaged in litigation in state courts in Louisiana regarding the scope of LPPC's authority under state law to pursue the property of Delta Southern Railroad ("DSR") involved in this proceeding.

The Sixth Judicial District Court of the Parish of East Carroll, Louisiana (Trial Court No. 23,740), held (1) LPPC lacks statutory authority to acquire property outside East Carroll Parish and is acting "*ultra vires*" and which upheld (2) the lower court's issuance of a writ ordering LPPC to discontinue its pursuit of ownership or control of property outside of East Carroll Parish in its feeder line application. Based on this ruling, on June 27, 2024, DSR filed a Motion to Dismiss and for Attorney's Fees. ("Motion to Dismiss"). The Board by decision served August 2, 2024, held this proceeding in abeyance pending the outcome of the state court litigation. On May 27, 2025, DSR notified the Board that the state court action is final after the Louisiana Court of Appeals for the Second Judicial Circuit affirmed the lower court and a petition for certiorari to the Louisiana Supreme Court was withdrawn. DSR renewed its motion to dismiss with prejudice. The state court litigation is now final.

Therefore the Motion to Dismiss with prejudice is granted. The Board will consider DSR's petition for attorney's fees in a separate decision.

It is ordered:

1. DSR's motion to dismiss with prejudice is granted.
2. The Board will consider DSR's petition for attorneys' fees in a separate decision.
3. This decision is effective on its service date.