

SERVICE DATE – JUNE 17, 2025

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: June 17, 2025

This proceeding involves efforts by LPPC, a noncarrier political subdivision of the State of Louisiana, to acquire portions of the McGehee-Tallulah rail corridor owned by Delta Southern Railroad, Inc. (DSR), a Class III rail carrier, through a Board-ordered sale under 49 U.S.C. § 10907 and 49 C.F.R. part 1151. LPPC's initial feeder line application (which sought to acquire only a portion of DSR's line) was accepted and a procedural schedule established in early 2021. On August 23, 2022, the Board granted LPPC's request to file an amended application, and on January 4, 2023, LPPC filed an amended feeder line application seeking to acquire DSR's entire line. Following an unsuccessful challenge by DSR to the amended application's completeness and LPPC's satisfaction of certain technical requirements,¹ the Board conditionally accepted LPPC's amended application. Lake Providence Port Comm'n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Parishes, La., FD 36447 (STB served Dec. 11, 2023).

On June 27, 2024, DSR moved to dismiss this proceeding with prejudice.² DSR argued that a Louisiana state court had ruled that LPPC lacks authority to dispossess DSR of property located outside East Carroll Parish, La., including a portion of the McGehee-Tallulah rail corridor, and attached a state court judgment and order directing LPPC to "cease its *ultra vires* actions and discontinue pursuit of its feeder line application [with respect to lines] that exist outside the Parish of East Carroll." (DSR Mot. to Dismiss 1-2, June 27, 2024; *id.*, Attach. A at 1.)³ LPPC filed a response on July 5, 2024, stating that it had filed: (1) an appeal of the state

¹ 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 6-13 (STB served Nov. 20, 2023).

² DSR also seeks attorneys' fees incurred in responding to discovery after January 4, 2023. (DSR Mot. to Dismiss 4-5, June 27, 2024.)

³ On July 3, 2024, DSR notified the Board of an amended judgment and order, filed by the state court on June 26, 2024. (DSR Letter 1, July 3, 2024; see Am. Judgment & Ord. 2 (attached thereto).) The amended judgment and order also directed LPPC to cease its effort to acquire property outside East Carroll Parish through its feeder line application. (*Id.*)

court's judgment and order; and (2) a petition for declaratory judgment (filed by LPPC and an entity known as the Northeast Louisiana Multimodal District (NELMMD)) in a separate state court proceeding seeking a determination that LPPC has the requisite authority to pursue the feeder line application pursuant to NELMMD's authority to acquire property. (LPPC Letter 1-2, July 5, 2024; see id., Attachs. A & B.)

By decision served on August 2, 2024, the Board held this proceeding in abeyance pending resolution of the issues raised in the state court actions and further Board order. Lake Providence Port Comm'n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Parishes, La. (Abeyance Ord.), FD 36447, slip op. at 1, 4 (STB served Aug. 2, 2024). The Board deferred ruling on DSR's motion to dismiss, finding that resolution of the issues raised in the parties' state court litigation would inform the Board's assessment of DSR's motion. Id. at 3. The Board directed the parties to submit any merits decision or other relevant decision in those actions to the Board within five days of its issuance. Id. at 4.

On March 4, 2025, LPPC filed a status report informing the Board that the Louisiana Court of Appeal for the Second Circuit had issued a decision affirming the trial court's decision, but that LPPC intended to seek rehearing. (LPPC Status Rep. 1-2, Mar. 4, 2025; see id., Attach.)

On April 9, 2025, DSR filed a notice that the Louisiana Court of Appeal for the Second Circuit had denied LPPC's application for rehearing and attached a copy of the court's order. (DSR Notice 1, Apr. 9, 2025; see id., Attach.) LPPC filed a reply on April 14, 2024, stating that it intended to file an application for a writ to the Louisiana Supreme Court and requesting the Board to continue to hold this proceeding in abeyance until the Louisiana Supreme Court has ruled. (LPPC Reply 1, Apr. 14, 2025.)

On May 29, 2025, DSR filed a renewed motion to dismiss this proceeding with prejudice.⁴ DSR states that on May 27, 2025, LPPC filed, and the Louisiana Supreme Court granted, a motion to dismiss LPPC's application to that court. (DSR Mot. to Dismiss 3, May 29, 2025; see id., Ex. 2 (second document).) DSR maintains that the appellate decision affirming the trial court's judgment and order is therefore final, and requests that the Board remove this proceeding from abeyance and expeditiously grant DSR's motion to dismiss with prejudice. (DSR Mot. to Dismiss 3, May 29, 2025.)

On June 13, 2025, LPPC filed a reply to DSR's request for an expedited ruling on its motion to dismiss, along with a request to extend the due date for LPPC's substantive reply to DSR's motion. LPPC states that the Louisiana State Legislature recently passed a bill (SB 146) that would provide LPPC with authority to acquire railroad property outside East Carroll Parish, including the segment of the former Lake Providence Branch Line that extends beyond the East

⁴ DSR originally filed its renewed motion to dismiss on May 27, 2025, but filed a request to substitute a revised version of the pleading on May 28, 2025, including attaching a filing that had been omitted from the original. On May 29, 2025, DSR filed an amended version of the revised motion, which replaced an attachment of the trial court's original judgment and order with the trial court's amended judgment and order. For purposes of calculating deadlines, DSR's motion will be treated as having been filed on May 29, 2025.

Carroll/Madison Parish boundary at milepost 488.61 to the termination of the line at milepost 498.4. (LPPC Reply 2-3, June 13, 2025; see id., Attach. 2.) According to LPPC, SB 146 was sent to the governor of Louisiana on June 9, 2025. (LPPC Reply 3, June 13, 2025.) LPPC asserts that, under Louisiana law, the period for action by the governor “should expire by June 29 or, at the latest, June 30, 2025.” (Id.) LPPC seeks leave to file its reply no later than July 7, 2025, seven days after the last date by which the governor could sign the bill. (Id. at 4.) LPPC states that if the bill is signed sooner, it will attempt to file its reply as soon thereafter as possible. (Id.)

Good cause exists to grant an extension. See 49 C.F.R. § 1104.7(b) (the Board may, in its discretion, grant extensions of time for good cause). The state legislation appears to be relevant to the Board’s analysis of DSR’s motion to dismiss. Additionally, the requested extension is modest and will not cause undue delay. Accordingly, LPPC’s motion to extend the due date to file its reply to DSR’s renewed motion to dismiss is granted. LPPC’s reply will be due seven days after the governor completes his consideration of the bill, or July 7, 2025, whichever is earlier.

It is ordered:

1. LPPC’s request for an extension of time to file a reply to DSR’s motion to dismiss is granted, as discussed above.
2. LPPC’s reply is due seven days after the governor completes his consideration of SB 146 or July 7, 2025, whichever is earlier.
3. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.