

**Before the
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
June 23, 2025
Part of
Public Record

STB Docket FD No. 36447

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

**LAKE PROVIDENCE PORT COMMISSION'S RESPONSE TO REPLY
FILED JUNE 20, 2025 BY DELTA SOUTHERN RAILROAD, INC.**

Lake Providence Port Commission ("LPPC"), by and through its attorneys, respectfully requests the Board to reject Delta Southern Railroad Inc.'s ("DSRR") latest reply to a reply because DSRR's arguments are unhelpful, repetitious of arguments previously made, unduly lengthy, irrelevant, or erroneous. Nevertheless, should the Board grant DSRR leave to reply to LPPC's Substantive Reply, LPPC requests leave to file a response to the unwarranted and erroneous arguments regarding Louisiana's Constitution and statutes that could not have been anticipated.

ARGUMENT

**I. AS REFLECTED BY THE STATUS REPORT REGARDING THE
ACTIONS TAKEN BY THE LOUISIANA LEGISLATURE AND THE
GOVERNOR, SB 146 WAS DULY ENROLLED AND ENACTED INTO
LAW ON JUNE 11, 2025 AS ACT 334 AND BECAME EFFECTIVE ON
JUNE 11, 2025.**

Louisiana Constitution Art. III, Section 19, which establishes the date of enactment of new laws, reads as follow:

§19. Effective Date of Laws

Section 19. All laws enacted during a regular session of the legislature shall take effect on August first of the calendar year in which the regular session is held and all laws enacted during an extraordinary session of the legislature shall take effect on the sixtieth day after final adjournment of the extraordinary session in which they were enacted. All laws shall be published prior thereto in the official journal of the state as provided by law. **However, any bill may specify an earlier or later effective date.** (Emphasis added).

Acts 1992, No. 1139, §1, approved October 3, 1992, effective November 5, 1992; Acts 2009

DSRR's argument that SB 146 will not become effective until August 1, 2025, narrowly focuses solely on the first sentence of Article III, section 19 of the Louisiana Constitution.¹ While that sentence broadly establishes the effective date of newly enacted laws that *do not specify a precise effective date*, the third sentence of section 19 specifically provides that: "**However, any bill may specify an earlier or later effective date.**" (Emphasis added).

In this instance, Section 2 of SB 146 specifically provides that "[t]his Act shall become effective upon signature of the governor."² As such, it unquestionably fits within the language of the third sentence of Section 19 of Art. III. Hence, DSRR's arguments regarding the effective date are baseless and should be summarily rejected by the Board.³

DSRR's further argument at page 2 of its reply that SB 146 does not apply retroactively, must also be rejected. Because the Board has not yet

¹ DSRR Reply at 2.

² Emphasis added. For the Board's convenience, the Enrolled Bill, which was attached to LPPC's pleading, dated June 13, 2025, is also attached hereto.

³ Because LPPC clearly has the explicit statutory authority Judge Boddie held it lacked, Act 334 renders Judge Boddie's order moot.

issued its final decision with regard to the amended feeder line application, there is no issue of retroactive application of SB 146. Instead, the Louisiana Legislature clearly intended SB 146 to provide LPPC with the necessary statutory authority to take the rail line at issue herein and for the Board to renew its consideration of LPPC's feeder line application in light of DSRR's ongoing failure to comply with its common-carrier obligations. Moreover, SB 146 imposes no liability for past transactions. As the Supreme Court held in *Landgraf v. USI Film Products*, 511 U.S. 244, 280 (1994) there is "no issue of retroactivity for newly enacted legislation if the dispute pertains to present and future matters and because the statute imposes no liability for past transactions."

II. DSRR'S REPEATED CLAIMS THAT LPPC HAS ENGAGED IN ILLEGAL AND *ULTRA VIRES* ACTIONS INVOLVE ISSUES THAT, IF DEEMED TO BE WORTHY OF FURTHER ACTION BY THE STATE COURTS, SHOULD BE LEFT TO THE STATE COURTS TO RESOLVE.

In the first place, the Board has no authority to address pending matters in state courts that are outside the STB's jurisdiction, thus the Board should not consider those matters or address them. Moreover, the Board should note that LPPC's attorneys have not yet responded to the charges that have been leveled against LPPC and its local attorneys by DSRR.

The undersigned attorneys will not speculate regarding the defenses that may be offered by LPPC's local attorneys before the state courts in response to the multiple cases that have been filed by DSRR in recent weeks. Nor will the undersigned attorneys speculate regarding the outcome of the cases that DSRR

has highlighted in its attempt to distract the Board from the issues that the Board must resolve.

The enactment and effective date of Act 334 has, in effect, confirmed that the Louisiana Government has correctly left it to the Board to determine the issue of whether LPPC is entitled to the feeder line remedies created by 49 U.S.C §10907. As a result, the sole issue for the Board to decide is whether LPPC's expanded feeder line application should be granted. Given the passage of four and a half years since LPPC filed its initial feeder line application, there is no justifiable reason for the Board to dismiss or further delay this action.

III. LPPC WILL NOT ADDRESS THE ARGUMENTS THAT HAVE BEEN BRIEFED IN F.D. 36809 BY THE NORTHEAST LOUISIANA MULTIMODAL DISTRICT.

In response to DSRR's comments, LPPC notes that the full development of Northeast Louisiana Multimodal District was considered at length during the legislative sessions that resulted in the enactment of Act 334. LPPC will also note that it disputes DSRR's characterization of LPPC's comments in LPPC's Substantive Reply at p. 6 & n. 10 and otherwise stands by the merits of the positions stated by the NELMD in F.D. 36809.

IV. LPPC WILL WAIT UNTIL AFTER THE BOARD HAS RELEASED A NEW PROCEDURAL SCHEDULE AND DSRR HAS FILED ITS VERIFIED COMMENTS TO RESPOND TO DSRR's CLAIMS REGARDING ITS SERVICE OVER THE LINE.

As evidenced by the enactment of Act 334, Governor Landry was not swayed by the arguments expressed in the letter from Madison Parish Port. LPPC will remind the Board that the record to date reflects verified statements from shippers who are located within the Madison Parish Port who support

LPPC's efforts to acquire the entire Line, which will allow them to economically and efficiently reach both CPKC and UP over the former Lake Providence Branch Line.

CONCLUSION

For all the above-stated reasons, LPPC respectfully requests that the Board deny DSRR's request for leave to file its Reply to LPPC's Substantive Reply. If the Board does grant DSRR leave to file, the Board should consider LPPC's brief Response in order to correct the errors and misstatements in DSRR's Reply. If the Board accepts DSRR latest Reply, the Board should (1) deny DSRR's renewed and revised Motion to Dismiss; (2) reject DSRR's latest arguments; (3) find that LPPC's Extended Feeder Line is complete; and (4) immediately release a new procedural schedule.

Respectfully submitted,

Richard H. Streeter

Michael F. McBride

/s/ Richard H. Streeter

/s/ Michael F. McBride

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June 23, 2025

Attachment

Enrolled SB 146

SENATE BILL NO. 146

BY SENATORS JACKSON-ANDREWS, BARROW, BOUDREAUX, CARTER,
CATHEY, MORRIS AND WOMACK AND REPRESENTATIVE
THOMPSON

AN ACT

To amend and reenact R.S. 34:1503(C) and 1504(C), relative to the Lake Providence Port Commission; to provide relative to the powers of the commission; to provide relative to the issuance of bonds by the commission; to provide relative to limitations; to provide relative to obligations of the commission; to provide for effectiveness; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 34:1503(C) and 1504(C) are hereby amended and reenacted to read as follows:

§1503. Rights and powers of the board

* * *

C. The commission shall regulate the commerce, and traffic, within such port area in such a manner as may, in its judgment, be for the best interests of the state. It shall have charge of and administer public wharves, docks, sheds and landings, and shall have authority to construct or acquire and equip wharves and landings, and other structures useful for the commerce of the port area, and provide mechanical facilities therefor; to erect sheds or other structures on said wharves and landings; to maintain proper depths of water at all such wharves and landings; to provide light, water, police protection and other services for its facilities as it may deem advisable; to construct or acquire, maintain and operate basins, locks, canals, warehouses and elevators; to charge for the use of all facilities administered by it, and for all services rendered by it, such fees, rates, tariffs, or other charges as it may establish; **and** to

1 establish harbor lines within the port area by agreement with the corps of engineers;
2 ~~and to~~ Notwithstanding the provisions of Subsection A of this Section, the
3 commission is hereby authorized to acquire, construct, own, operate and maintain
4 terminal rail facilities, and other common carrier rail facilities, including rail
5 facilities that are physically located beyond the boundaries and limits of East
6 Carroll Parish, for the purpose of rendering rail transportation to and from the port
7 area. ~~facilities to be erected, owned and operated by the commission in both~~
8 ~~intrastate and interstate commerce.~~ The legislature may confer additional powers
9 upon the commission not inconsistent with the provisions hereof; provided, however,
10 that it shall not impair any contracts lawfully entered into by the commission. Title
11 to all property and improvements thereon operated by the commission shall vest in
12 the state of Louisiana.

13 * * *

14 §1504. Authority for issuance of bonds; levy of taxes; election

15 * * *

16 C. The commission, with the approval of the State Bond Commission, is
17 authorized to incur debts for its lawful purposes, and to issue in its name, negotiable
18 bonds or notes therefor, and to pledge for the payment of the principal and interest
19 of such negotiable bonds or notes the revenues derived from the operation of
20 properties and facilities maintained and operated by it, or received by the
21 commission from any taxes authorized under this Section or from other sources;
22 ~~provided, however, that the amount of such bonds or notes outstanding at any one~~
23 ~~time shall not exceed fifteen million dollars. Such bonds, when authorized to be~~
24 ~~issued, shall constitute, first, a general obligation of the commission, and secondly,~~
25 ~~the full faith and credit of the parish of East Carroll and the state of Louisiana shall~~
26 ~~be and are hereby pledged.~~ In addition to the pledge of revenues to secure said bonds
27 and notes, the commission may further secure their payment by conventional
28 mortgage upon any or all of the properties constructed or acquired, or to be
29 constructed and acquired by it. The commission is further authorized to receive, by
30 gift, grant, donation or otherwise, any sum of money, aid or assistance from the

1 United States, the state of Louisiana, or any political subdivision thereof, and unless
2 otherwise provided by the terms of such gift, grant or donation, in its discretion, to
3 pledge all or any part of such monies for the further securing of the payment of the
4 principal and interest of its bonds or notes.

5 Section 2. This Act shall become effective upon signature by the governor or, if not
6 signed by the governor, upon expiration of the time for bills to become law without signature
7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
9 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

Certificate of Service

I, Richard H. Streeter, do hereby certify that, on June 23, 2025, true copies of the foregoing and attachments were served on the following Parties of Record, via email:

Delta Southern Railroad, Inc. (the owning railroad)
c/o John M. Scheib scheib@gentrylocke.com. and
Noah P. Sullivan NSullivan@gentrylocke.com.

ALJ Judge McCarthy ctolbert@fmshrc.gov.

Thomas D. Crowley at tc@lepeabody.com

In addition, true copies were served, consistent with 49 C.F.R. § 1152.1(a) on the following:

- (1) All rail patrons who originated and/or received traffic on the line during The 12-month period preceding the month in which the amended application was filed:

Jose Hernandez
Helena Chemical/South Delta Fertilizer
hernandezj@helenaagri.com

Dan Militaru
Rail Vehicle Services
dan.militaru@railcarco.com

Jerry J. Melton
Complex Chemical Co.
jmelton@complexchemical.com

Neil Martin
Terral River Service, Inc.
nmartin@terralriverservice.com

- (2) The designated State agency in the State where the property is located:

Louisiana Department of Transportation and Development
andrew.barry@la.gov

sanetttria.pleasant2@la.gov

(3) County governments where the line is located:

East Carroll Parish Police Jury
Kendall Thompson, President
ecpj400@att.net

Madison Parish Police Jury
Jane Sanders, President
msmith_mppj@bellsouth.net

Richard H. Streeter

/s/ Richard H. Streeter

Counsel to the Lake Providence
Port Commission