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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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Public Record

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

**LAKE PROVIDENCE PORT COMMISSION'S RESPONSE TO THE
DECISION OF THE SURFACE TRANSPORTATION BOARD DIRECTING THE
PARTIES TO SUBMIT A PROPOSED PROCEDURAL SCHEDULE FOR
COMPLETION OF THE RECORD IN THIS PROCEEDING**

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In its decision herein served September 25, 2025, the Surface Transportation Board (“Board” or “STB”) repeated its prior acknowledgement that LPPC’s amended application “was completed with LPPC’s submission of the revised valuation evidence just prior to the case being placed in abeyance.” *Id.* at 8. Having accepted LPPC’s amended Application, the Board directed LPPC and Delta Southern Railroad (“DSR”) “to meet and confer and submit to the Board (jointly if possible, otherwise separately) by October 9, 2025, a proposed procedural schedule” to be published in the *Federal Register*. *Id.*¹

Consistent with the STB’s September 25, 2025 decision, LPPC’s attorneys promptly reached out to DSR’s attorneys to schedule a “meet and confer” session. Thereafter, the parties engaged in multiple “meet and confer” sessions. However, because of fundamental differences regarding the scope and timing of future discovery, it proved not to be possible to reach an agreement regarding a joint procedural schedule.

Based on the Board’s general recognition in the September 25, 2025 decision that parties may pursue appropriate discovery without needing prior approval, LPPC, during the “meet-and confer sessions,” took the position that there was no need to wait for the Board to publish the Procedural Schedule

¹ Given the government shutdown, the due date for responses to the Board’s September 25, 2025 decision and order was postponed until November 20, 2025.

before DSR could seek to complete its discovery during the period since the proceeding was released from abeyance. DSR, however, insisted that, to reach an agreement to jointly file a proposed schedule, LPPC would have to agree to include a 120-day period in the Procedural Schedule for it to do so. Given the amount of time that has passed since LPPC filed its amended Application on January 4, 2023, given the fact that DSRR only recently (since October 13, 2025) propounded discovery to non-party witnesses even before the Board issues a decision establishing the Procedural Schedule, and given that the Board does not include discovery in the procedural schedules in feeder-line proceedings, LPPC could not agree that the proposed Procedural Schedule herein should include a period for discovery, let alone that such a discovery period should delay filings with the Board.

LPPC's Position Regarding Proposed Procedural Schedule

As reflected by LPPC's proposed Procedural Schedule, LPPC, which it is also submitting on behalf of Southeast Arkansas Economic Development District ("SEAEDD") and North Louisiana & Arkansas Railroad ("NL & A"), is requesting the Board to establish a Procedural Schedule that will conform with the standard schedule that was issued on January 15, 2021, and at long last compel DSRR to file its verified statements and comments, including its Response to the amended Application, within 60 days of the publication of the Procedural Schedule in the Federal Register. As will be addressed *infra*, DSR has, with one exception, disagreed with that approach, entirely based on its

argument that non-party shippers who merely have filed verified statements in support of LPPC are “Parties” to the proceeding.

Therefore, and in accordance with the provisions of 49 CFR § 1151.2(c), (e), and (f) and ordering paragraph 4 (at page 10) of the Board’s September 25, 2025 decision, LPPC’s proposed Procedural Schedule is as follows:

- Competing applications (if any) by entities seeking to acquire all or any portion of the Line will be due 30 days after publication in the *Federal Register* of the notice of the Board’s acceptance of LPPC’s amended feeder-line Application and the Procedural Schedule.
- Verified statements and comments addressing any competing applications must be filed within 30 days after a competing application is filed.
- Verified statements and comments addressing LPPC’s amended Application, including DSRR’s Response thereto, must be filed within 60 days after publication of the Federal Register notice.
- Verified replies by applicants and other parties, including LPPC’s Reply, must be filed within 30 days after filing of any response to LPPC’s amended Application.²

² LPPC’s proposed Procedural Schedule tracks the Board’s regulations for such filings, except that, rather than allowing 20 days for LPPC’s Reply (and any replies of other parties) as was initially proposed to DSR, LPPC is proposing that the Board allow LPPC (and other parties) to have 30 days after filing of DSR’s Response to LPPC’s amended Application to file their Replies, because, as explained *infra*, DSR has now made it clear that it intends to take extensive discovery even of non-party witnesses, in addition to the extensive discovery it has taken of parties, strongly suggesting that its Response to LPPC’s amended

**DSR's Belated Recast of Its Position Regarding the
Need to Include 120 Days of Additional Discovery Would
Unnecessarily Extend the Procedural Schedule**

DSR has already had over thirty-four (34) months since the amended Application was filed on January 4, 2023 to review every aspect of LPPC's amended Application and take additional discovery beyond that taken in 2021 and 2024. Indeed, DSR did propound additional discovery requests to LPPC, NL & A, and SEAEDD, which were responded to and supplemented after DSR filed motions to compel with ALJ McCarthy in 2024. After those supplemental responses were provided to DSR, it did not file further motions to compel.

Prior to October 13, 2025, DSR, to the best of LPPC's knowledge, never sought any discovery against any non-party shipper who filed a verified statement herein. Furthermore, even in its rebuttal filed June 20, 2025, which the Board cites in its September 25, 2025 decision, DSR did nothing to alert the Board or LPPC that its reference to "verified statements" signaled its intent to later seek discovery of non-party shipper witnesses. Instead, DSR masked its intentions by subtly commenting (at 6 n.9) that "[t]he Board placed this case in abeyance prior to DSRR completing discovery of other parties to the proceeding, including those who provided verified statements." Had it clearly explained its intentions to propound interrogatories and requests for production of documents to non-party shipper witnesses, the issues concerning DSR's claimed right to take discovery in the form of interrogatories and

Application will be extensive. If LPPC can file its Reply at an earlier time, it will do so.

document requests could have been resolved several months ago instead of potentially extending the proceeding several months for discovery of non-party witnesses. Plainly, DSR has only itself to blame for not explicitly giving notice much earlier in this proceeding that it intends to ignore the provisions of 49 CFR § 1101.2(d) defining “Party,” and the provisions of 49 CFR §§ 1114.26-30 (providing for interrogatories, requests for production of documents, and admissions to be propounded only to parties); compare 49 CFR § 1114.22 (depositions may be taken from “any person, including a party”).

Notwithstanding DSR’s insistence that the Procedural Schedule herein must provide additional time at the outset for DSR’s new discovery requests, DSR’s previous position on the same subject in this proceeding was that the STB’s “... *procedural schedules in feeder line cases do not even mention discovery.*” See DSR Reply in Opposition to Emergency Motion (filed herein on April 1, 2024 at 2 (emphasis added)). DSR also stated in that same Reply that “The Board has explicitly stated that ‘the Board’s regulations do not prevent parties from starting discovery before a procedural schedule is issued.’ *Navajo Transitional Energy Co., LLC v. BNSF Ry. Co.*, NOR 42179, 2023 STB LEXIS 145 at *7 (STB decided Aug. 4, 2023).”

LPPC’s position is simply that (1) traditional discovery (i.e., interrogatories, requests for production of documents, and requests for admission) may be propounded ***only to parties of record*** (and DSR already is so proceeding, by requesting that the parties (LPPC, SEAEDD, and NL&A) supplement their discovery responses if appropriate) and (2) potential

depositions of parties and other persons (see 49 CFR § 1114.22) can proceed independently of the Procedural Schedule. That position is consistent with the Board's ordering paragraph 4 (referring to the submissions to the STB that need to be set out in the procedural schedule) at page 10 of the September 25, 2025 decision. That list of submissions does not refer to discovery, but rather only to substantive filings with the Board.

DSR cannot be heard to argue, when it serves its litigation purposes, that "procedural schedules in feeder-line cases do not even mention discovery," but then, when it serves its purposes, argue that the Procedural Schedule that the Board is to establish must provide dates for such discovery (and that filings be delayed by 90-120 days to allow for such discovery). Clearly, DSR's position that the Procedural Schedule needs to be delayed to allow DSR to propound additional discovery (beyond the extensive discovery it has already taken) is being interposed for delay.³

DSR had it right the first time. Discovery is independent of a feeder-line procedural schedule, because such discovery may be pursued on its own schedule under the Board's rules, and indeed, as discussed *supra*, DSR is already pursuing its latest discovery (albeit of non-party witnesses) before the

³ At unnumbered page 4 of 14 its Motion to Reject LPPC's amended Application, filed January 13, 2023, DSR asserted that any further efforts to resolve this matter "will involve substantial time and costs to take numerous depositions of those who submitted verified statements, serving discovery on LPPC, and so on." While DSR propounded discovery to LPPC, NL & A, and SEAEDD previously, including in 2021 and 2024 as discussed *supra*, it only now has sought to propound discovery and take depositions of non-party witnesses, and seeks to further delay the proceeding because of such belated discovery.

parties have even proposed procedural schedules to the Board and the Board has decided on the Procedural Schedule.

In sum, LPPC's proposed Procedural Schedule is fully consistent with the Board's instructions that the Procedural Schedule "take into account a reasonable amount of time for DSR to complete discovery and the general timeline for record-building contemplated by the Board's regulations" because DSR has already commenced such discovery, well before the Board is able to establish the Procedural Schedule. *Id.*

Given the history of this proceeding, it is highly unlikely that anyone will file a competitive application. Furthermore, LPPC is unaware of any ***party to the proceeding*** that has not already responded to DSRR's discovery requests and that would fall within the definition of "Party" in 49 CFR § 1101.2(d) other than Madison Parish Port Commission ("MPPC").

Thus, the immediate issue to be resolved is whether **any additional days** should be built into the proposed procedural schedule (much less the 120 days that LPPC has suggested) so that DSR can "complete its discovery of other parties" to the proceeding. Plainly, the only possible entity that fits within the Board's definition of "Party" is MPPC, which unquestionably supported LPPC earlier in the proceeding. Any discovery involving MPPC could have been started at any time over the last 34 months and would not require any pre-approval from the Board.

**Based on DSR's Positions Expressed in Its April 1, 2024 Reply, and
Because DSR Has Had Several Years to Pursue Discovery from
All The Non-Party Shippers Who Have Filed Verified Statements,
The Board Should Adhere to Its Consistent Practice of
Not Including Additional Time in the Procedural Schedule for Discovery**

As shown by DSR's pleadings filed in April 2024, DSR was fully aware that there was nothing to prevent it from seeking additional discovery at any time before now and, indeed, DSR propounded discovery in 2021 and 2024. By insisting that the new Procedural Schedule must specifically establish a discovery period of at least 120 days after the Board has published the Procedural Schedule and provided notice of it in the Federal Register **before** DSR would have to submit its verified statements and Response in opposition to LPPC's amended Application, DSR has left no doubt that it is attempting to further and unnecessarily delay the Board's final decision in this proceeding. That should not be tolerated as any such further and unnecessary delay would be a denial of LPPC's due process and statutory rights and would be contrary to the policies expressed in the United States' Rail Transportation Policy to "require fair and expeditious regulatory decisions when regulation is required" and "to provide for the expeditious handling and resolution of all proceedings required or permitted to be brought under this part."⁴

DSR's suggestion that the Procedural Schedule should provide for a 120-day discovery period would also be highly inappropriate, even unconscionable, especially when LPPC, SEAEDD, and NL&A have already spent over \$23 million to rehabilitate the remainder of the corridor between McGehee, AR and MP

⁴ 49 U.S. C. §§ 10101(2) and (15).

471.0 at the Lake Providence Port to the FRA's Class 2 standard so that former, current, and future shippers will be able to receive adequate timely and economically efficient rail service.

The same cannot be said of DSR which, when it partnered with LPPC, SEAEDD, MPPC and NL&A to file the INFRA Grant Application, determined that DSR would require \$11,448,000 in 2018 to bring its segment of the corridor between the point of interchange with NL&A at MP 471.0 and the point of interchange with KCS at MP 498.4. However, when the U.S. DOT did not cover the entire cost of rehabilitation, DSR's owners decided to refuse any of the Grant funds. That refusal has required the other members of the public-private partnership to shoulder the entire cost of covering the costs of rehabilitation.

DSR's claim to have spent \$400,000 to rehabilitate the 29-mile portion of the Line that it owns does come near the cost of rehabilitating the crucial segment of the Line that would allow interchange traffic to move over the 20-mile segment at issue herein. Given DSR's stated refusal to invest sufficient funds in the Line to provide for adequate service, the only way that will be done is by granting LPPC's amended Application.

As a matter of common sense, DSR's quarrel with non-party shippers who have stated in their verified statements that the crucial segment of the track between Mileposts 471.0 and 491.0 is "impassable" or "virtually impassable" and must be rehabilitated, is quixotic at best. In deciding to fund a

significant portion of the entire corridor between McGehee and Tallulah, the U.S. Department of Transportation in 2019 pointedly recognized that:

Much of the Corridor had been closed or underutilized for approximately 15 years, which is consistent with the overall economic decline of the region. During this period there was a decrease in demand for freight rail service. Eventually, rail service ceased due to difficulties operating over substandard rail infrastructure.” Grant Agreement, Statement of Work at p. 2.⁵

The above, when linked to DSR’s admission that DSR, after engaging in discussions concerning renovation of its tracks, “has concluded that the desired track renovations of the long-dormant Line are unjustified and unwarranted,”⁶ demonstrates that shippers’ concerns are warranted. Hence, it does not matter if a shipper has testified that it is unwilling to accept DSR’s current claims that (1) DSR’s expenditure of \$400,000 has cured the problems with the Line and (2) therefore, the shippers’ concerns must be ignored.

The crucial facts to be considered at this stage are that no rail freight traffic, other than the Schnable car, has moved over the Line from McGehee to Tallulah (or vice versa) since August 2017. Nor has any freight traffic moved from Milepost 491.0 at the Madison Parish Port to the north to be interchanged with UP. Finally, until shippers are convinced that DSR’s segment of the Line has been restored to a point that a shipper can be assured that its cars will be able to safely moved over all of DSR’s tracks to reach the point of interchange

⁵ LPPC Feeder Line Application, filed November 12, 2020 at 237.

⁶ Delta Southern Railroad, Inc.’s Motion to Dismiss Proceeding and Request Hold Proceeding in Abeyance, dated March 2, 2021 at 2.

with either CPKC to the south or the point of interchange with UP to the north, nothing will change.

Conclusion

The Board should adopt LPPC's proposed Procedural Schedule set forth herein, without providing a period for discovery. Plainly, there is no need to add 120 days to the procedural schedule to allow DSR to conduct discovery of non-party shippers who merely filed verified statements herein. The Board should determine that such non-party witnesses are not required to respond to interrogatories and requests for production of documents.⁷

Respectfully submitted,

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⁷ LPPC also believes that it will be a waste of time, money, and energy to subject any of the non-party shippers who have presented verified statements to discovery and depositions that may ask them to produce documents dating back in time to years before Patriot Rail acquired the shares of DSR from a subsidiary of Golden State Capital in January 2023. LPPC has been advised that several of the shippers that have been served with interrogatories and document requests have already advised DSR that, because they are not parties, they will not agree to respond to such discovery requests. LPPC is also aware that in response, DSR forwarded notices of depositions to several non-party shipper witnesses (and even one Office Manager for NL & A, who did not submit a verified statement in this proceeding) for the week before Christmas. If DSR petitions for subpoenas to compel such persons to attend depositions, LPPC and the witnesses' own counsel will reply to such petitions at that time.

Certificate of Service

I, Richard H. Streeter, do hereby certify that, on November 19, 2025, true copies of the foregoing with 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.

U.S. Office of Personnel Management (OPM)--Human Resources Solutions--ALJ
Program Office

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 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

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