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May 5, 2026

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: FD 36447, Lake Providence Port Commission –
Feeder Line Application – Line of Delta Southern
Railroad, Inc. Located in East Carroll and Madison
Parishes, Louisiana; Status Report

Dear Chief of Case Administration:

In its decision herein served September 25, 2025, the Board removed the above-referenced proceeding from abeyance and directed the parties to provide reasonable proposed procedural schedule(s). In that decision (at 5), the Board recognized that Delta Southern Railroad, Inc. (“DSRR”) had previously noted that it intended, if the proceeding was removed from abeyance, to complete “its discovery of *other parties* to the proceeding.” To enable DSRR to complete its discovery, the Board stated that:

The proposed schedule(s) should take into account a *reasonable period of time* for DSR to complete discovery and the general timeline for record-building contemplated by the Board’s regulations. See 49 C.F.R. § 1151.2(c), (e), (f). After the Board has received the proposal(s), the Board will set the procedural schedule in the notice published in the Federal Register.
(Emphasis added)

Starting on October 12, 2025, DSRR, in addition to merely seeking to complete its discovery of other parties, propounded interrogatories and requests for production of documents (“written discovery”) to several non-party shipper witnesses. Based on 49 CFR § 1101.2, the non-party witnesses opposed DSRR’s written discovery. Faced with the opposition from the non-party witnesses and the Lake Providence Port Commission (“LPPC”), DSRR, in

its November 19, 2025 “Motion for Procedural Schedule” (at 2-3), filed in response to the Board’s September 25, 2025 decision, claimed that it would need 90-120 days to conduct its discovery.

In a decision (at p. 2 n.2) served herein on December 31, 2025, Administrative Law Judge Soulikias imposed the requirement that, with respect to DSRR’s additional request that it be granted deposition subpoenas for several witnesses, “[a]ny other disputed witnesses should be identified and included **now**.”)(emphasis in original). Her decision, which helps to prevent abuse of LPPC’s rights to receive timely handling and resolution of its Amended Application, is consistent with Board’s directive to establish a “*reasonable period of time for DSR to complete discovery*” (emphasis added). In her decision, served January 16, 2026, ALJ took a second step to curtail abuse when, consistent with the statutory definitions prescribed at 49 CFR § 1101.2(d), she denied DSRR’s motions to compel the non-party shipper witnesses to respond to DSRR’s written discovery.

However, during the January 13, 2026 discovery conference that led up to that January 16, 2026 decision, ALJ Soulikias indicated she would be open to permitting DSRR to take depositions of those non-party witnesses (and witnesses for parties). Accordingly, and as an accommodation, LPPC, North Louisiana and Arkansas Railroad (“NLA”), several non-party shipper witnesses, and DSRR agreed on issuance of subpoenas for depositions for six individual witnesses specified by DSRR. As a result, four non-party witnesses, and two party representatives (for LPPC and NLA), were deposed in Louisiana and Arkansas during the week of February 23-27, 2026.

Separately, on February 27, 2026, DSRR also obtained a subpoena duces tecum issued by ALJ Soulikias requiring non-party shipper Complex Chemical Company, Inc. (“Complex Chemical”), which had provided a relatively short Verified Statement of Mr. Melton, its President, to produce a substantial number of documents. However, Judge Soulikias determined (February 27, 2026 decision at 5 n.6) that DSRR was not correct in claiming to be able to “reserve its rights” to depose Mr. Melton, a non-party witness, at a later date, indicating that there was a deadline for seeking such depositions that DSRR had not met.¹

¹ Given that DSRR first announced, through its new counsel, on January 13, 2023, “that it regrets that it will likely have to depose many, if not all, of those whose verified statement was [sic] appended to LPPC’s Amended Application” (footnote 5 on unnumbered page 13 of 18 of the PDF version), why did it wait

That decision was affirmed by the Board in its decision issued on March 25, 2026 when it denied a joint appeal filed by LPPC and Complex Chemical. We understand that Complex Chemical timely produced all responsive documents to DSRR on April 10, 2026.

In the interim, in March 2026, DSRR propounded extensive *additional* discovery requests to NLA and Southeast Arkansas Economic Development District (“SEAEDD”). DSRR also requested that Applicant LPPC produce some *additional* documents that DSRR asserted were responsive to previous discovery requests propounded to LPPC. All of these parties had previously produced numerous documents in response to DSRR’s discovery requests, starting in 2021.

LPPC, NLA and SEAEDD have now completed their responses to DSRR’s latest discovery requests. While they recognize that they must supplement their previous disclosures in the event that circumstances change, they collectively have provided DSRR with all additional documents in their possession, custody and control that it requested in response to earlier document requests. Accordingly, there are no outstanding discovery requests as to which LPPC, NLA, and SEAEDD have not completed their responses. Any further demands for additional depositions and other discovery requests by DSRR should be denied as exceeding a “reasonable time” for DSRR to complete its discovery. But DSRR is now threatening to seek still more depositions, including a second LPPC witness and one from SEAEDD. It seems to believe that there is no deadline for seeking such depositions.

In deciding whether to foreclose further discovery by DSRR, the Board should also consider the fact that LPPC (through the State of Louisiana), NLA, and SEAEDD (on behalf of the State of Arkansas) have expended many millions of dollars, much of it from public grants and State funds, to rehabilitate segments of the Lake Providence Branch Line (“Line”) from McGehee, AR (MP 408.0) to the Lake Providence Port, LA (MP 471.0). However, DSRR, after refusing to use INFRA Grant funds to rehabilitate its portion of the line from the Lake Providence Port to Madison Parish Port (MP 491.0), has continued to

for years before seeking discovery from the non-party shipper witnesses, or depositions from party representatives? DSRR’s failure to timely seek written discovery or to depose witnesses that were identified in 2021 and 2023 until late 2025, especially depositions (which are unusual in modified proceedings such as this, see EP 527, *Expedited Procedures for Processing Rate Reasonableness, Exemption and Revocation Proceedings*, 1 S.T.B. 754, 766-67 (1996)), has plainly delayed issuance of a procedural schedule herein.

use that 20-mile stretch of track between the Lake Providence Port and the Madison Parish Port to store many rail cars. DSRR's failure to rehabilitate that 20-mile portion of the Line has prevented Complex Chemical and its suppliers, and other shippers (including from Arkansas, such as Epstein Gin), from using the Line to move shipments over the entire Line, south to the Meridian Speedway (MP 498.44) at Tallulah, LA (for shippers at or north of MP 471.0) or north to UP's line at McGehee, AR (for Complex Chemical and any other shipper at or south of MP 491.0). Given the above, it would be unreasonable to allow DSRR to forestall the prompt issuance of a new procedural schedule for the Board to stand by while DSRR seeks yet more discovery.

As stated above, LPPC and DSRR submitted separate proposed procedural schedules on November 19, 2025, in response to the Board's decision served September 25, 2025 herein, both of which contemplated that DSRR would take additional discovery. As also stated above, responses to all of DSRR's outstanding discovery requests have now been completed and DSRR has had more than 180 days to conduct its discovery, rather than the maximum of 120 days it originally requested in its proposed procedural schedule.

There is no denying the fact that DSRR has had more than three full years to seek discovery after Patriot Rail injected itself into this dispute and effectively into this proceeding by completing its purchase of DSRR's stock in early 2023. Accordingly, the Board should now issue such a procedural schedule herein, as it said it would do in its September 25, 2025 decision herein.

Respectfully submitted,

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cc: Administrative Law Judge Soulikias

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