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Office of Chief Counsel
November 2, 2026
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BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36447

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

REPLY OF LAKE PROVIDENCE PORT COMMISSION TO MOTION OF DELTA SOUTHERN RAILROAD, INC. FOR ISSUANCE OF A PROCEDURAL SCHEDULE

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Applicant Lake Providence Port Commission ("LPPC") hereby replies to "Delta Southern Railroad, Inc.'s Motion for Issuance of a Procedural Schedule" ("Motion") filed herein on October 30, 2026. Given that LPPC has, since September 7, 2021, repeatedly requested that the Board issue a new Procedural Schedule, LPPC readily agrees with Delta Southern Railroad, Inc. ("DSRR") that it is time for the Board to establish a new Procedural Schedule to fully resolve this proceeding.

While LPPC supports the issuance of a Procedural Schedule herein, LPPC is obliged to reply in certain respects to the Motion, to set the record straight.

First, DSRR could have sought LPPC's consent to its Motion which, if stripped of needless attacks on LPPC and other parties, would have been readily agreed to and made the Board's task easier.

Second, LPPC must object to DSRR's suggestion that the Board, if it rules in LPPC's favor, should delay its determination of the Constitutional Minimum Value ("CMV") of the DSRR-owned segment of the Lake Providence Branch Line ("Line") that is at issue herein. Of course, if the Board determines that LPPC and the shippers supporting LPPC have not demonstrated that DSRR's service is inadequate, and thus that LPPC's Amended Application should not be granted, there will be no need to establish the CMV.

However, if the Board agrees with LPPC, Southeast Arkansas Economic Development District, North Louisiana & Arkansas Railroad, Inc. ("NLA") and the shippers supporting those entities who have been harmed by DSRR's refusal to rehabilitate the DSRR-owned segment of the Line that LPPC's Amended Application should be granted, there is no reason now to delay this proceeding further by not providing for a determination of CMV at the same time. In those circumstances, there will be no avoiding the statutory requirement that the price to be paid by LPPC is CMV, which of course has nothing to do with the price that Patriot Rail paid to acquire control of DSRR, including both the "Tallulah Branch" (i.e., the DSRR-owned segment of the

Line at issue herein) and the "Sterlington Branch" from West Branch Intermediate Holdings, LLC. See FD 36642 (authorizing Patriot Rail to acquire control of DSRR).

Indeed, there is nothing that will prevent DSRR, in its Response to the Amended Application, from responding to the Verified Statements filed herein by LPPC's expert witnesses, Mr. Thomas D. Crowley, President Emeritus, and Ms. Christena Nielsen, Senior Consultant, of L.E. Peabody & Associates, Inc. on July 5, 2024, and updated on June 16, 2026. Those Verified Statements were largely based on information that DSRR finally produced in discovery after years of opposing LPPC's requests to obtain information that is primarily or exclusively within DSRR's knowledge. Mr. Crowley and Ms. Nielsen relied upon the data provided by DSRR during the discovery phase of this proceeding to determine the CMV. There is no reason now to decide to delay the determination of CMV for the DSRR-owned segment of the Line.

Plainly, any further delay would prevent LPPC from rehabilitating the DSRR-owned segment of the Line, notwithstanding the shippers' sworn testimony about their need for transportation over that segment. DSRR stated that it will extensively and robustly attack LPPC's claims, including that testimony, in an attempt to "demonstrate that LPPC's claims are false."[1] LPPC will respond at the appropriate time to the anticipated extensive Response that DSRR has signaled it intends to file.[2]

Finally, given the anticipated length of DSRR's Response to LPPC's Amended Application, when the Board does issue a Procedural Schedule, the Board should provide that

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[1] Motion at 3.

[2] LPPC must, however, briefly respond at this time to DSRR's extraneous attack in its Motion, regarding the undersigned counsel's prompt disclosure herein (on July 1, 2026) when they first leaned that Mr. Wyly Gilfoil, then-Executive Director of the Lake Providence Port, and Mr. Daniel Robbins, President of NLA had, in December 2023, entered into an oral agreement that would modify a term of the NLA-LPPC "Second Amended Lease Agreement" that will govern NLA's operations over the entire Line if the Board grants LPPC's request to acquire the line from DSRR. Not only were the undersigned attorneys unaware of the oral agreement until June 30, 2026, but also Mr. Gilfoil, who is not a lawyer, readily admitted in his reopened deposition on September 29, 2026 (DSRR October 22, 2026 filing 312728 at 15, 74) that he "dropped the ball on, you know, getting the lease amended, the proposed lease amended" and that he, in verifying LPPC's Responses to one of DSRR's Interrogatories, "forgot to mention that we had an oral agreement" to change the allocation of revenue for storage of railcars on LPPC's owned tracks. Because the Board, in its decision served September 2, 2026, explicitly stated that it "will entertain evidence and argument pertaining to the significance of the modification agreement during the merits phase of this proceeding," there was no reason for DSRR in its Motion to besmirch Messrs. Gilfoil and Robbins or their attorneys who, after learning of the oral agreement, *promptly* informed the Board of the parties' inadvertent failure to advise the Board and DSRR of their oral agreement. The Second Amended Lease Agreement[2] was submitted herein by LPPC's counsel on November 30, 2023 but has never taken effect, because its effectiveness is dependent on the Board's approval of LPPC's Amended Application.

LPPC has up to 30 days after LPPC receives all the data from DSRR supporting DSRR's Response to reply, not the 20 days proposed by DSRR in its Motion. If LPPC is able to reply in fewer than 30 days, it will do so, but now providing LPPC up to 30 days to reply will avoid a possibly unnecessary request later for additional time to reply.

Conclusion

The Board should promptly issue a Procedural Schedule herein, because all parties support that, but it should disregard, rather than address, the unwarranted arguments DSRR made in its Motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Richard H. Streeter, do hereby certify that, on November 2, 2026, a true copy of the foregoing was served on the following Parties of Record, via email:

ALJ Jenifer Soulikias
alj.soulikias.inbox@stb.gov

Delta Southern Railroad, Inc.
c/o John M. Scheib scheib@gentrylocke.com
Noah P. Sullivan NSullivan@gentrylocke.com
William L. Spotswood Spotswood@gentrylocke.com

Timothy Crowley tim@lepeabody.com
Thomas D. Crowley 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:

Counsel for Helena Chemical/South Delta Fertilizer
mark.marionneaux@keanmiller.com
bryant.bremer@keanmiller.com

Dan Militaru
Rail Vehicle Services LLC
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Jerry J. Melton
Complex Chemical.com
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Neil Martin
Terral River Service, Inc.
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(2) The designated State agency of the State where the property is located:

Louisiana Department of Transportation and Development
andrew.barry@la.gov
sanettria.pleasant2@la.gov

(3) County governments where the line is located:

East Carroll Parish Police Jury
Kendall Thompson, President
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Richard H. Streeter /s/