

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.

DECISION DENYING IN PART AND DENYING IN PART AS MOOT
DSRR’S MOTION TO COMPEL

Decided: July 2, 2026

The Motion to Compel by Delta Southern Railroad, Inc. (DSRR) is before the undersigned pursuant to a ruling by the Surface Transportation Board. See Decision (Dec. 12, 2025). This proceeding involves efforts by the Lake Providence Port Commission (LPPC), a noncarrier political subdivision of the State of Louisiana, to acquire the portion of the McGehee-Tallulah rail corridor owned by DSRR, a Class III rail carrier, through a feeder line application under 49 U.S.C. § 10907 and 49 C.F.R. part 1151. If the Board approves the feeder line application, LPPC will extend its lease agreement with North Louisiana & Arkansas Railroad, Inc. (NLA) to include additional mileage. (LPPC Am. Application 56.)

On June 16, 2026, DSRR filed a motion to compel requesting NLA respond to or supplement responses to DSRR’s discovery requests related to NLA’s financial information.¹ (DSRR Motion 2-3.) NLA replied on June 25, 2026, arguing that NLA has responded to six of seven categories of DSRR’s discovery requests mooted most of the motion, will respond when

¹ DSRR’s motion requests an order compelling NLA to supplement its responses and answers to DSRR’s discovery requests dated March 19, 2026, and answers to DSRR’s discovery requests dated May 6, 2026. (DSRR Motion 1.) The substance of DSRR’s motion, however, only addresses the discovery requests seeking financial information. (See generally DSRR Motion.) Moreover, DSRR’s motion addresses the categories of financial information sought. (DSRR Motion 1-2) (“For example, the March 19th discovery sought the following information:” and then listing categories). DSRR’s motion fails to identify the specific discovery requests at issue (i.e., requests for production of documents and interrogatories). The undersigned ALJ attempted to match the specific discovery request with the category to follow the rulings in this decision. For the avoidance of any doubt, because DSRR failed to identify specifically the discovery requests at issue in this motion, DSRR’s motion to compel otherwise is denied (i.e., all remaining discovery requests not specifically identified in the decision below).

it receives 2025 audited financial information, and the remainder of the motion should be denied as not relevant or reasonably calculated to lead to discoverable evidence. (NLA Reply.)

The Surface Transportation Board regulations provide for broad discovery. These regulations provide that “[p]arties may obtain discovery under this subpart regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding.” 49 C.F.R. § 1114.21(a)(1). The Board has recognized that this regulation allows for broad discovery. See Canadian Pac. Ry.—Control—Kan. City S. (Decision No. 7), FD 36500, slip op. at 4 (Aug. 2, 2021) (acknowledging authority to seek material relevant to subject matter of proceeding under 49 C.F.R. § 1114.21 and interpreting scope of relevance in discovery “[b]roadly”). Whether there is evidence to rebut that presumption is reasonably calculated to lead to discoverable evidence, and whether the evidence ultimately is admissible is not grounds for objection. 49 C.F.R. § 1114.21(a)(2). An order may be entered for good cause and which justice requires, to protect from “annoyance, embarrassment, oppression, or undue burden or expense, or to prevent the raising of the issues untimely or inappropriate to the proceeding.” 49 C.F.R. § 1114.21(c). Protective orders may include that discovery not be had or that discovery be had only on specified conditions. 49 C.F.R. § 1114.21(c)(1)-(2).

DSRR’s March 19, 2026 discovery requests sought information including NLA’s cash on hand at the end of each calendar year (i.e., December 31, 2023, December 31, 2024, and December 31, 2025); the most amount of cash on hand at the end of a calendar month since 2022; net profit (gross revenue minus expenses) for each of 2022, 2023, 2024, and 2025; outstanding debt; year-end financial statements for each of 2023, 2024, and 2025; the profit and loss statement for each of 2023, 2024, and 2025; and balance sheet for each of 2023, 2024, and 2025. (DSRR Motion 1-2.)

DSRR argues its May 6, 2026 discovery requests are relevant to this matter. These discovery requests seek NLA’s cash on hand at the end of each fiscal quarter for 2025 and 2026; NLA’s outstanding debts; and documents and communications regarding the OmniTRAX transaction and matter (Docket No. FD 36922). (DSRR Motion, Exhibit B, 38-40.)

The Irrelevant Discovery Requests

DSRR argues that NLA’s financial stability and ability to operate and invest in the Line are relevant. (DSRR Motion 5.) In support, DSRR cites the Second Amended Railway Lease Agreement By and Between LPPC and NLA (“Lease”), (LPPC Suppl. 7-39, Nov. 30, 2023 (Filing ID 307561)), which was filed in this matter. (See DSRR Motion 5.) DSRR argues that if LPPC prevails, under § 4.2 of the Lease, NLA would be responsible for all maintenance and repair of the Line. (*Id.*) DSRR further argues under § 4.3 of the Lease, “if NLA fails to maintain and repair the Line, then LPPC can but at NLA’s expense.” (*Id.*)

Pursuant to 49 C.F.R. § 1151.3(a)(3), **Applicant**, LPPC (not NLA), must demonstrate its ability to pay the purchase price of the Line and the ability to cover the operating expenses for three years. (DSRR Motion 3 n.1 (“DSRR is not now challenging whether that position is legally correct when the applicant must demonstrate its ability to pay the purchase price of the Line and the ability to cover operating expenses for three years.” (citing the regulation provision)).) Yet

again, this is not the merits phase; but DSRR must demonstrate relevance and that the requested discovery would lead to discoverable evidence. See 49 C.F.R. § 1114.21(a)(1) & (2). In discovery, that requires DSRR to have a legally defensible position on the merits.

A review of Section 4.3 of the Lease demonstrates that its terms provide if NLA fails to maintain the Line, then LPPC may **either** terminate the Lease or in LPPC's sole discretion, arrange for a contractor to perform maintenance and repair, and then NLA would pay those expenses. (Lease § 4.3.) If NLA does not maintain the Line, LPPC may terminate the Lease with NLA. It is not the only option for NLA to pay the expenses to maintain the Line, as DSRR misleadingly argues. (See DSRR Motion 5.)

NLA has provided audited financial discovery to DSRR already. (E.g., NLA Reply 2.) To date, NLA continues to operate as a carrier for LPPC under the Lease and has been doing so for several years. (NLA Reply 4 n.4.) At best, under the Lease's terms, it is one option that NLA is responsible for expenses if it fails to maintain the Line. But ultimately, under both the regulation, 49 C.F.R. § 1151.3(a)(3), and the terms of the Lease itself, LPPC holds the responsibility. In any event, NLA has provided DSRR with financial documents, just not in the format that DSRR wants. DSRR has not explained why the unaudited financial documents are discoverable in this matter.

DSRR's motion to compel argues that in April 2026, OmniTRAX, a short line holding company, announced that it was acquiring three short line railroads (NLA's "parent and affiliate" companies) but not NLA. (DSRR's Motion 3 (citing Verified Notice of Exemption, Apr. 27, 2026, OmniTrax Holdings Combined, Inc.—Control Exemption—Arkansas Short Line R.R.s, FD 36922).) DSRR propounded additional discovery on NLA on May 6, 2026, seeking financial information about the proposed transaction. (DSRR Motion 3-4.) DSRR argues that:

OmniTRAX's decision to purchase all of NLA's affiliates and parent (but not NLA) is a substantial, recent change in this matter that occurred even after DSRR deposed NLA's witness. Given that OmniTRAX was unwilling to buy NLA, **presumably** because of its **financial weaknesses**, and the fact that NLA no longer has the financial support of a parent company or affiliates to prop up its **financial weaknesses**, NLA's financial information is relevant and likely to lead to admissible evidence.

(DSRR Motion 5 (emphasis added).) NLA has since filed its responses to DSRR's May 6, 2026 discovery requests.² (NLA Reply 4.)

DSRR has offered no support for its supposition that OmniTRAX was unwilling to buy NLA due to NLA's finances. NLA states that OmniTRAX decided not to buy NLA due to the pendency of this matter. (See NLA Reply 6 n.8.) It is logical that OmniTRAX would not want to get involved in this **pending** feeder line matter. (See id.)

² NLA's counsel states that the discovery responses were prepared but inadvertently not served upon DSRR. (See NLA Reply 4.) NLA's reply explains that if DSRR had brought the oversight to NLA's attention, NLA would have served the responses promptly. (Id.)

DSRR argues that OmniTRAX's supposed unwillingness to purchase NLA is based on NLA's purported "financial weakness." To the contrary, NLA argues that if it were relevant, the OmniTRAX transaction increases its financial support for operations (if needed), rather than weakens it. (NLA Reply 6 n.8.)

DSRR requests the discovery of NLA's "cash on hand." NLA argues that cash on hand is irrelevant to NLA's financial condition. (NLA Reply 6-9.) NLA states that cash on hand picks an arbitrary time (i.e., end of month) to review the account balance. (*Id.* at 7.) Moreover, NLA's President, Daniel Robbins, testified at his deposition about NLA's bank balances and when NLA's funds were not used for operations, they were transferred to the Arkansas Short Line Railroads, Inc.'s (ASL) account, which was owned by Mr. Robbins then. (NLA Reply 3-7 & n.2.) Importantly, NLA provided the final (or audited) financial information in discovery and agreed to provide the 2025 financial information when it is available.

NLA's cash on hand is irrelevant. LPPC, as Applicant (not NLA), must demonstrate its ability to cover the operating expenses for three years under 49 C.F.R. § 11151.3(a)(3). Under the Lease, if NLA failed to maintain the Line, LPPC could either terminate the Lease or have NLA pay the operating expenses. So NLA's financial condition can come into play, but it is not the only option. Moreover, cash on hand, as NLA's president testified at deposition, is not a sufficient measure because of the way the accounts are used. Finally, NLA has provided (and will provide 2025) audited financial information. Therefore, DSRR has not demonstrated that cash on hand is relevant such that the discovery should be compelled or that the discovery requests will lead to discoverable information.

DSRR failed to demonstrate that its May 6, 2026, discovery requests regarding the OmniTRAX transaction are relevant to this matter. Instead, DSRR's discovery requests about the OmniTRAX transaction are based on a series of unsupported presumptions. DSRR starts with the premise that NLA is in a financially weak position (without support). Then, DSRR argues it requires NLA's financial discovery about NLA's financial condition, and it has already had at least a deposition of NLA's president by the time the motion to compel was filed. (*See* NLA Reply 6-8.) Moreover, NLA agreed to provide audited financial documents. (NLA Reply 1.) But DSRR does not want those; it wants certain financial information from dates it picked (i.e., end of month). DSRR has not demonstrated that the additional unaudited financial information is relevant or would lead to discoverable information where LPPC is ultimately responsible under the regulation and Lease. Further, NLA's president offered deposition testimony about NLA's accounts, and discovery requests about cash on hand would not be relevant or lead to discoverable evidence.

The 2022 Discovery Requests

DSRR requests NLA's 2022 financial information; however, DSRR did not provide any specific argument about the 2022 requests. (*See* DSRR Motion.) NLA argues that its past financial condition is irrelevant. (NLA Reply 8.) NLA objected to providing 2022 financial data, did provide 2023 and 2024, and will provide 2025 financial information when it becomes available. (*Id.*)

As set forth above regarding relevance, the undersigned agrees with this approach for 2022. Because DSRR has not articulated any argument for the 2022 financial information specifically and no argument is readily discernible to the undersigned, DSRR's motion to compel the 2022 financial information is denied.

The 2025 Discovery Requests

DSRR's discovery requests financial information from NLA for 2025. (E.g., DSRR Motion 2-3.) NLA agreed to provide 2025 audited financial information when available. (NLA Reply.)

DSRR argues that NLA's 2025 financial information was **filed under seal** in Finance Docket No. 36922 to demonstrate NLA's 2025 financial information is available, used for other purposes, and "eviscerates any burden argument NLA might try to make." (DSRR Motion 5 ("see e.g., **highly confidential** versions of schedules 4.09(a) and 4.09(f)" (emphasis added) (citing Verified Notice of Exemption, Apr. 27, 2026, Omnitrax Holdings Combined, Inc.—Control Exemption—Arkansas Short Line R.R.s, FD 36922)).³

Under STB regulations, there is a duty to supplement complete discovery responses only under certain circumstances, and one of those is pursuant to an order. 49 C.F.R. § 1114.29(c). Accordingly, the undersigned orders that NLA produce the 2025 audited financial information when available to NLA. Thus, DSRR's motion to compel regarding 2025 financial information is denied.

The Moot Discovery Requests

NLA served its responses to DSRR's discovery requests, including providing reviewed (or audited) consolidated financial statements for ASL and its then-subsidiary railroads (including NLA). (NLA Reply 4.) NLA agreed to provide the 2025 audited financial documents when available. (Id. at 5.)

Conclusion

DSRR's motion to compel is:

- **Denied** for Interrogatories Numbers: 67, 68, 69, 70, 78, 79 (2022 & 2025), and 80 (2022 & 2025);

³ Finance Docket No. 36922 has a **Protective Order**, which is Decision Number 53027, and served May 8, 2026. DSRR cannot possibly intend to refer the ALJ to **highly confidential documents** and **documents filed under seal** in a separate, unrelated case. Counsel for DSRR should review the provisions of the Protective Order and particularly the Undertaking-Highly Confidential Material before running afoul of those provisions.

- **Denied** for Requests for Production Numbers: 25, 26, 36 (2025), 37 (2025), and 38 (2025);
- **Denied as Moot** for to Interrogatories Numbers: 79 (2023 & 2024), and 80 (2023 & 2024);
- **Denied as Moot** for Requests for Production Numbers: 36 (2023 & 2024), 37 (2023 & 2024), and 38 (2023 & 2024); and
- **Denied** for any and all requests in DSRR's March 19, 2026 and May 6, 2026 discovery requests not specifically stated above.

It is ordered:

1. NLA will provide the 2025 financial information to DSRR, as soon as it is available.
2. DSRR's Motion is denied in part and denied as moot in part as set forth in this decision.
3. This decision is effective on the date of service.

By the Board, Jenifer J. Soulikias, Administrative Law Judge.