

SERVICE DATE – MARCH 25, 2026

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.

Digest:¹ The Board denies an appeal of a decision of the administrative law judge that granted a motion for issuance of a subpoena with certain limitations.

Decided: March 25, 2026

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 Delta Southern Railroad, Inc. (DSRR), a Class III rail carrier, through a feeder line application under 49 U.S.C. § 10907 and 49 C.F.R. part 1151.² LPPC owns two other segments of the corridor (one, jointly with North Louisiana & Arkansas Railroad, Inc. (NLA)), and Southeast Arkansas Economic Development District (SEAEDD) owns the third segment; NLA holds operating authority over these three segments. (See, e.g., Am. Appl. 1, 19-20, 56.)

The Board has assigned and authorized Administrative Law Judge (ALJ) Jenifer Soulikias to address discovery matters in this docket. See Lake Providence Port Comm’n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Pars., La. (Dec. 2025 Decision), FD 36447, slip op. at 3-4 (STB served Dec. 12, 2025). On February 27, 2026, ALJ Soulikias issued a decision granting a motion filed by DSRR for issuance of a document subpoena to Complex Chemical Company, Inc. (Complex Chemical), a non-party witness, with certain limitations. Complex Chemical and LPPC (collectively, Appellants) have jointly appealed a portion of the ALJ’s decision. The Board will deny the appeal.

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

² The McGehee-Tallulah rail corridor extends from milepost 408.9 in McGehee, Ark., where it connects with Union Pacific Railroad Company (UP), south to milepost 498.44 in Tallulah, La., where it connects with Canadian Pacific Kansas City Limited (CPKC).

BACKGROUND

As noted above, the December 2025 Decision assigned and authorized ALJ Soulikias to handle all remaining discovery matters in this proceeding. Dec. 2025 Decision, FD 36447, slip op. at 3-4.³ Since then, the parties have been engaged before the ALJ on various discovery disputes. As relevant here, on February 9, 2026, DSRR filed motions for issuance of seven separate subpoenas against party and non-party witnesses, including Jerry Melton of Complex Chemical, and an omnibus brief in support thereof. DSRR reported that, for the most part, there was agreement between itself and the witnesses on the subpoenas, but that Complex Chemical—from which DSRR sought only documents—continued to object. (DSRR Brief 3-4, Feb. 9, 2026.)⁴ The subpoena for Complex Chemical listed eight categories of requested documents. (DSRR Brief, Attach., Melton Subpoena, Feb. 9, 2026.)

On February 10, 2026, LPPC filed a letter stating, in pertinent part, that LPPC and Complex Chemical intended to reply to DSRR’s motion for a subpoena to Complex Chemical and expected to do so by February 13, 2026. (LPPC Letter 1-2, Feb. 10, 2026.)⁵ On February 13, 2026, LPPC and Complex Chemical filed a response in opposition to DSRR’s motion for issuance of a subpoena to Complex Chemical, maintaining the motion should be denied because “DSR[R] is in possession of all requested documents relevant and proportional to its discovery needs in these proceedings.” (Appellants Reply 15-16, Feb. 13, 2026.)

On February 27, 2026, the ALJ granted DSRR’s motion with certain limitations and issued a subpoena ordering Complex Chemical to produce the documents described in the attachment thereto by March 27, 2026. Lake Providence Port Comm’n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Pars., La. (Feb. 27 Decision), FD 36447, slip op. at 9 (STB served Feb. 27, 2026).

On March 5, 2026, Complex Chemical and LPPC jointly appealed a portion of the ALJ’s February 27 Decision. DSRR filed a reply in opposition to the appeal on March 11, 2026.

DISCUSSION AND CONCLUSIONS

An appeal prior to a final Board decision on the merits of a proceeding is an interlocutory appeal. Finch Paper LLC—Pet. for Declaratory Ord., FD 35981, slip op. at 5 (STB served Jan. 11, 2017). Interlocutory appeals are permitted only if a party establishes one of four

³ For a detailed description of the procedural history and background of this proceeding, see Lake Providence Port Comm’n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Pars., La., FD 36447, slip op. at 2-6 (STB served Sept. 25, 2025).

⁴ DSRR sought both documents and depositions from the other six witnesses. (*Id.*)

⁵ Also on February 10, 2026, DSRR advised the ALJ that there were no objections to its motions for issuance of the other six subpoenas. (DSRR Letter 1-2, Feb. 10, 2026.) By decision served February 13, 2026, the ALJ issued the six unopposed subpoenas. Lake Providence Port Comm’n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Pars., La., FD 36447 (STB served Feb. 13, 2026).

circumstances enumerated in 49 C.F.R. § 1115.9(a). Id. If an interlocutory appeal meets the 49 C.F.R. § 1115.9 requirements, the Board then analyzes the merits of the appeal under the standard outlined in 49 C.F.R. § 1115.1(c). Id.

Here, the timely filed appeal satisfies a threshold criterion under 49 C.F.R. § 1115.9, because the February 27 Decision would require Complex Chemical to produce documents not ordinarily available for public inspection. 49 C.F.R. § 1115.9(a)(2). Accordingly, the Board turns to the merits of LPPC and Complex Chemical’s appeal.

The standard for reviewing an appeal of an ALJ’s decision is set forth in 49 C.F.R. § 1115.1(c), which states: “Such appeals are not favored; they will be granted only in exceptional circumstances to correct a clear error of judgment or to prevent manifest injustice.” The Board has stated that this is a “high burden,” see Finch Paper, LLC—Pet. for Declaratory Ord. FD 35981, slip op. at 2 (STB served Mar. 24, 2017), and has accorded ALJs broad discretion to act within the scope of their authority, see CSX Corp.—Control & Operating Leases/Agreements—Conrail Inc., FD 33388, slip op. at 3 (STB served Feb. 23, 1998). Additionally, the appealing party must do more than show that the ALJ could have reached a different outcome regarding the requested discovery. See Finch Paper, FD 35981, slip op. at 2-3 (STB served Mar. 24, 2017). The Board applies a highly deferential standard of review to interlocutory appeals of ALJ discovery rulings. Wis. Power & Light Co. v. Union Pac. R.R., NOR 42051, slip op. at 2 (STB served June 21, 2000).

As described in their appeal, LPPC and Complex Chemical object to the ALJ’s determination that Complex Chemical must produce all of its documents relating to six categories, dating back to 1999 and including documents DSRR may already possess. (Appeal 1, Mar. 5, 2026.) Appellants do not address whether those aspects of the ALJ’s ruling satisfy the 49 C.F.R. § 1115.1(c) appeal standard. To the extent Appellants make generalized assertions that the ALJ’s decision was “an abuse of the subpoena process,” (see Appeal 10, 12, Mar. 5, 2026), the Board finds that Appellants’ claims do not satisfy § 1115.1(c)’s standard because neither “a clear error of judgment” nor “manifest injustice” has been shown.

Arguments Regarding DSRR’s Possession of Documents. LPPC and Complex Chemical claim that Complex Chemical should be excused from producing documents in categories 1-6 of the subpoena because the documents sought “are already in DSRR’s possession.” (Appeal 15, Mar. 5, 2026; accord e.g., id. at 2 n.2, 12 & n.9, 13, 14 (commenting that “of course, [DSRR] can get the documents—it already has them!”).) But Appellants offer no facts to show that DSRR already possesses the requested documents. As DSRR points out, (DSRR Reply 2, Mar. 11, 2026), the requests encompass more than just documents Complex Chemical might have exchanged with DSRR—including, for example, Complex Chemical’s internal documents regarding DSRR’s and NLA’s service and DSRR’s maintenance of the line, and documents regarding Complex Chemical’s decisions to ship by rail using the line or by truck instead of the line, including cost analyses, price quotes, and other comparisons. See Feb. 27 Decision, FD 36447, Attach. to Subpoena Duces Tecum, Requests 2-6. Moreover, even documents that Complex Chemical may have exchanged with DSRR could have different information on Complex Chemical’s versions (for example, notations, attachments, or internal distribution lists) that DSRR would be entitled to discover. See In re Honeywell Int’l, Inc. Sec. Litig., 230 F.R.D.

293, 300-301 (S.D.N.Y. 2003) (explaining that a party's possession of documents did not excuse a non-party from producing its copies of relevant documents, which may differ slightly from a party's copies).

Appellants' claims that "the ALJ made findings that DSRR has the documents it is seeking in categories 1-6," (Appeal 2 n.1), and that "[t]he ALJ acknowledges that these documents are already in DSRR's possession," (*id.* at 14), are incorrect. The ALJ made no such finding or acknowledgment. In the relevant passage of the decision, (*see* Appeal 2), the ALJ was simply describing LPPC and Complex Chemical's argument, which the ALJ did not accept or endorse, but rather, found was "beside the point":

LPPC and Complex [Chemical] argue that of the eight requests, Numbers 1-6 are in the possession of DSRR. (Joint Reply 15.) That is beside the point. DSRR is entitled to ascertain which documents Complex [Chemical] has in its possession to support its arguments relevant to this proceeding. If LPPC and Complex [Chemical] were to argue that DSRR could obtain those documents, not from Complex [Chemical], but from another party, then that would be different. But to argue that DSRR already has the documents in its own possession, without more, is insufficient to defeat a subpoena.

Feb. 27 Decision, FD 36447, slip op. at 9. Thus, the ALJ made no factual finding that DSRR already has the documents sought in the subpoena, and there is nothing in the record that would have supported such a finding by the ALJ.

Appellants further assert that the ALJ's ruling is "internally inconsistent and irrational" because she found that Complex Chemical should be required to provide documents to DSRR, even though she acknowledged such documents are already in DSRR's possession. (Appeal 13, Mar. 5, 2026.) As discussed above, the ALJ never found that the documents are in DSRR's possession. Moreover, Appellants misconstrue the ALJ's statement that "[i]f LPPC and Complex [Chemical] were to argue that DSRR could obtain those documents, not from Complex [Chemical], but from another party, then that would be different." (*See id.* (quoting statement from Feb. 27 Decision, FD 36447, slip op. at 9).) Appellants argue the ALJ's issuance of the subpoena is inconsistent with this statement because "DSRR can obtain the documents at issue from a party to the proceeding—itsself!" (*Id.*) But the most natural reading of the term "from another party" in the ALJ's statement would be the parties to the proceeding *other than* DSRR: LPPC, NLA, and SEAEDD.⁶ Properly construed, the ALJ's statement simply comports with the straight-forward proposition that, as a general matter, the burden of responding to discovery is more appropriately placed in the first instance on other parties to the proceeding rather than non-

⁶ SEAEDD has participated from the outset as a party to this proceeding, and NLA is also a party. See Lake Providence Port Comm'n—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Pars., La., FD 36447, slip op. at 1-4 (STB served June 1, 2021).

party witnesses.⁷ The ALJ was merely indicating that this principle did not come into play here, because none of the other parties to the proceeding had the documents being sought by DSRR.⁸

Appellants' Arguments About the Subpoena's Temporal Scope. Appellants also fail to show that the ALJ's establishment of a 1999 cut-off date constitutes a "clear error in judgment" or would result in "manifest injustice." Appellants state that the ALJ "did not explain in any manner why that date [1999] should apply to production of documents by a non-party shipper such as Complex Chemical." (Appeal 10, Mar. 5, 2026.) However, the ALJ's decision did address the basis for that date and looked to the record in establishing the time period. DSRR's proposed subpoena requests did not include a cut-off period. The ALJ reasonably recognized that the temporal scope of the subpoena was "too broad." Feb. 27 Decision, FD 36447, slip op. at 9. Having to then determine the appropriate span the requests should cover, she referred back to the record, explaining that "[t]he Amended Application states that DSRR's failure to implement an adequate maintenance program can be traced back to 1999, when William Wainright and his wife acquired the track." Feb. 27 Decision, FD 36447, slip op. at 9; (see also Am. Appl. 4, Jan. 4, 2023 (further stating that "the impact of that refusal has impacted every shipper on the Line for the past 23 years.")) LPPC and Complex Chemical also underscore this point in their reply to DSRR's motion for issuance of a subpoena:

Every single one of LPPC's non-party shipper witnesses has been adversely impacted by DSR[R]'s owners since Mr. William Wainright acquired the former Lake Providence Branch Line ("Line") from McGehee, AR to Tallulah, LA in 1999 and thereafter failed to maintain its tracks, which led to his decision to sever the entire Line on both sides of the Arkansas/Louisiana boundary. That step immediately prevented all shippers and potential shippers from being able to use rail service to move their products and other commodities over the Line either to the south of Milepost ("MP") 471.0 near Lake Providence, LA or to the north from any point in Louisiana south of MP 491.0 near Madison Parish Port, LA.

(Appellants Reply 1, Feb. 13, 2026.)⁹ Based on Appellants' own contentions, the ALJ's establishment of a 1999 cut-off date was appropriate. Although there may arguably have been

⁷ Two cases cited by LPPC in its appeal support this principle. See City of Colton v. Am. Promotional, Inc., No. CV 05-01479-JFW (SSx), slip op. at 3 (C.D. Cal. Feb. 6, 2006) ("The nonparty witnesses should not be burdened with the annoyance and expense of producing the documents unless the seeking party is unable to discover them from the other party."); Bada Co. v. Montgomery Ward & Co., 32 F.R.D. 208, 209-210 (S.D. Cal. 1963) (holding that nonparty witnesses "should not be burdened with the annoyance and expense of producing the documents sought unless the plaintiff is unable to discover them from the defendant.").

⁸ DSRR's reply corroborates this point. (See DSRR Reply 15, Mar. 11, 2026 (stating that DSRR sought discovery from the other parties and that no party has produced documents related to Complex Chemical's verified statement or the other categories specified in the subpoena issued to Complex Chemical).)

⁹ Similarly, the verified statement of Mr. Melton, Complex Chemical's President, asserts that, although "for many years" after 1988, Complex Chemical was able to transport shipments

other cut-off dates the ALJ could have used, the use of 1999 was sufficiently supported by the record. See Finch Paper, FD 35981, slip op. at 2-3 (STB served Mar. 24, 2017) (the appealing party must do more than show that the ALJ could have reached a different outcome). Accordingly, it was neither a “clear error in judgment,” nor would it result in “manifest injustice” to require Complex Chemical to produce documents spanning this time period.¹⁰

Lastly, although they claim that it would be prejudicial and unduly burdensome to require Complex Chemical to respond to the subpoena, (Appeal 2 n.2, 3, 6, 10, Mar. 5, 2026; accord Reply to DSRR Mot. to Issue Subpoena 14, Feb. 13, 2026), Appellants present no facts to substantiate that claim, and their conclusory objections are not sufficient. See, e.g., Wis. Power, NOR 42051, slip op. at 3-4 (denying interlocutory appeal of ALJ’s discovery ruling where petitioners presented no evidence on the burden of complying with challenged discovery requests); cf. S. Plains Switching, Ltd.—Comp. for Use of Facilities in Alt. Rail Serv.—W. Tex. & Lubbock Ry., FD 35111, slip op. at 1 (STB served Dec. 28, 2007 (denying joint motion for a protective order where parties had “failed to show with any specificity” that the challenged discovery requests were either unduly burdensome or irrelevant)).¹¹ For this reason as well, there is no showing of a “clear error of judgment” or “manifest injustice.”

For the reasons discussed above, the appeal will be denied.¹²

north to UP in McGehee, Ark., over DSRR’s line, “DSRR’s extended refusal to maintain its line between MP 471.0 and 491.0 has deprived Complex Chemical” of that ability. (Appeal 7, Mar. 5, 2026 (quoting passages from Melton V.S.).)

¹⁰ Appellants’ claim that “DSRR was unwilling to accept fewer documents than it sought in the proposed subpoena duces tecum to Complex Chemical,” (Appeal 2 n.2, Mar. 5, 2026), does not align with the record, which indicates that DSRR made a variety of efforts to address their claims of overbreadth and undue burden—including proposing a shorter, bilateral cut-off date that Appellants rejected. (See DSRR Reply 3, 8, Attach. A (Feb. 6, 2026 email exchange between counsel), Mar. 11, 2026; DSRR Brief 8, Ex. A at 1 (Feb. 6, 2026 email exchange between counsel), Ex. B at 1-3 (Feb. 6, 2026 email exchanges between counsel), Feb. 9, 2026.)

¹¹ Accord 49 C.F.R. § 1114.21(c), stating that “upon motion . . . and for good cause shown,” any order which justice requires may be entered to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense; SSL, LLC v. Garcia-Chicoine Enters., No. 04-1017-JTM, slip op. at 3 (D. Kan. Aug. 24, 2005) (“Any objections that discovery is unduly burdensome or overly broad must contain a factual basis for the claim (i.e., time it would take to collect the evidence requested or exorbitant costs of retrieving the information requested).”).

¹² The Board rejects Appellants’ suggestion that, if the appeal is not granted, the Board should nevertheless limit the subpoena’s requirement to produce “all documents” responsive to categories 1-6 to the last three years. (Appeal 13 n.10, Mar. 5, 2026.) Such a limitation would excuse Complex Chemical from producing relevant documents from the very time-period covered by its verified statement—which predates the filing of the amended application on January 4, 2023—and would impair DSRR’s ability to test the credibility of assertions made therein that LPPC has presented to support its case-in-chief on the merits of the application.

The ALJ's decision directs Complex Chemical to produce the documents described in the attachment to the subpoena by 5 p.m. on March 27, 2026. Because the Board's resolution of the appeal is occurring close to that deadline, the Board will extend the compliance deadline by two weeks. The documents must be produced by 5 p.m. on April 10, 2026.

It is ordered:

1. The interlocutory appeal of portions of the ALJ's February 27 Decision is denied.
2. Complex Chemical must comply with the subpoena duces tecum issued by the ALJ by 5 p.m. on April 10, 2026.
3. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, and Schultz.