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September 20, 2021

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: **Docket No. FD 36447**
Lake Providence Port Commission – Feeder Line Application –
Line of Delta Southern Railroad Located in East Carroll and
Madison Parishes, Louisiana

Dear Ms. Brown:

On September 7, 2021, Lake Providence Port Commission (“LPPC”), Southeast Arkansas Economic Development District, Madison Parish Port Commission, and North Louisiana & Arkansas Railroad (“NLA”) (collectively referred to hereinafter as “Movants”) filed an untitled pleading seeking re-establishment of a procedural schedule in this docket. As has become customary for them, Movants urge action by the Board premised on the existence of Federal grant money they are eager to spend on a 20-mile railroad line owned by Delta Southern Railroad, Inc. (“DSR”), a line they would prefer to acquire by way of the Surface Transportation Board’s (the “Board”) feeder line processes. And as has also become customary for Movants, they ignore significant aspects of both the procedural and substantive standards governing the outcome of their unfounded feeder line application (the “Application”).

Remarkably, Movants urge the Board to set a procedural schedule while ignoring DSR’s pending motion to dismiss. That motion to dismiss addresses the failures of the original applicant, LPPC, to satisfy the Board’s standards for compelling the sale of a rail line under the feeder line statute, despite Movants’ frequently-repeated efforts to bolster that evidence with impermissible and abusive supplements to the record. Favorable action on DSR’s motion to dismiss would obviate the need for further action in this docket.

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Movants' impatience also ignores the Board's invitation (set forth in its order of June 1, 2021) to engage in Board-sponsored mediation. As reflected in its Status Report of June 15, 2021, DSR has been amenable to use of the Board's offices to attempt to resolve this dispute, and it remains willing to mediate the issues underlying the Application. Although the Movants have claimed a desire to find a swifter path to resolve the issues presented in the Application, they have rejected the Board's offer of mediation. Nonetheless, the Board is authorized to order mediation in its discretion, with or without Movants' consent. *See* 49 C.F.R. § 1109.1 ("The Board may, by its own order, direct the parties to participate in mediation using the Board's mediation procedures."). DSR remains interested in finding an acceptable means of making DSR's track segment a thriving link in a viable through route (considering that DSR is willing and able to interchange traffic with NLA today to facilitate the through movement over the track segment in question if a shipper demand for such a traffic routing were to arise), and, for that reason, DSR urges the Board to prescribe mediation.

Finally, Movants' continued insistence that its intended use of Federal grant money somehow trumps DSR's ownership of the line does not substitute for the Board's exacting standards for granting a feeder line application. The linchpin of any feeder line application is prevailing proof that the existing carrier "refused within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over the line." 49 C.F.R. §1151.3(a)(11)(i)(A). Nowhere do the Board's regulations, or Congress' statute directing those regulations, reference any right to force a line sale absent proof of *actual* service inadequacy. Unless the Movants had satisfied that standard (and they have not), the asserted urgency of their subsequent pleadings cannot be mistaken for merit under the Board's feeder line processes.

Respectfully submitted,

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TJH/dg

cc: All Parties of Record