

FLETCHER & SIPPEN LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

THOMAS J. HEALEY
(312) 252-1505
thealey@fletcher-sippel.com

May 11, 2022

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20024

Re: **FD 36447**
Lake Providence Port Commission – Feeder Line Application – Line of
Delta Southern Railroad Located in East Carroll and Madison Parishes, LA

Dear Ms. Brown:

Delta Southern Railroad, Inc. (“DSR”) requests leave to file this limited Response to Lake Providence Port Commission’s (“LPPC”) April 27, 2022 “Reply to Motion to Strike” (“Reply”). DSR will not address the numerous factual inaccuracies in LPPC’s verified rebuttal filing of April 4, 2022 (the “Rebuttal”) or in LPPC’s subsequent filing in defense of it, instead awaiting the Board’s direction on whether DSR needs to respond to the Rebuttal at all. Rather, DSR must respond to an objectionable LPPC procedural maneuver that would severely prejudice DSR and bypass appropriate Board’s processes.

As the Board well knows, LPPC recently has designed to expand considerably the scope of DSR trackage that LPPC seeks to include in its feeder line application (the “Application”). LPPC’s November 12, 2020 Application sought the forced divestiture of 20 miles of currently-inactive DSR’s track between mileposts 471.0 and 491.0 (the “North Segment”), an Application that (as later supplemented) the Board deemed to be complete by an order served on January 15, 2021. Now, well over a year later (through its March 4, 2022 Motion to File a Supplemental Application – the “Motion”) LPPC wants to add the remainder of DSR’s Lake Providence Branch (between mileposts 491.0 and 498.6, the “South Segment”) to this proceeding.

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DSR pointed out in response to the Motion that LPPC's attempt to expand the scope of the feeder line proceeding, if permissible at all, would require the Board to restart the procedural process. In its Reply, LPPC has objected to such a restart. DSR seeks leave here to file this "reply to a reply" for a limited purpose as follows: Among other issues, LPPC's attempt through its Motion to expand considerably the scope of this proceeding without restarting the feeder line process (if allowed) would game the system to LPPC's advantage. It is an impermissible exclusionary tactic that would harm DSR and deprive other, potentially-interested parties of a full and fair opportunity to participate in this proceeding in accordance with Board regulations.

The Board's feeder line regulations at 49 C.F.R. § 1151.2(c) provide that, upon acceptance of a feeder line application as complete, the Board will afford other potentially interested parties 30 days to file competing feeder line applications. LPPC seeks to foreclose the public from that opportunity. DSR suspects that short line operators would be much more interested in the opportunity to acquire and operate the North and South Segments together than was the case with the North Segment alone. LPPC's exclusionary maneuver would foreclose the prospect of a competing offer (or offers) for the combined North and South Segments, thwarting the public interest and stifling the Board's railroad line valuation analysis in the process. Consistent with the objectives of its regulations, the Board should not eliminate consideration of competing applications when LPPC's new feeder line target differs so substantially from the target of its original Application.

Restarting the feeder line application process, even if only for the limited purpose of allowing time for potentially interested parties to consider whether to file (and to file) competing applications, is wholly warranted here. Such a step would ensure the integrity of the Board's processes. DSR therefore urges Board to restart the feeder line process here if it were to allow LPPC (over DSR's objection) to substantially amend the scope of its proposed taking to include DSR's South Segment.

Respectfully submitted,

Thomas J. Healey

James D. Helenhouse

Thomas J. Healey

Attorneys for Delta Southern Railroad, Inc.

cc: Richard Streeter

TJH:th