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306121

February 9, 2023

Ms. Cynthia Brown, Section Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings
February 9, 2023
Part of
Public Record

Re: Emergency Motion to Compel: 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 behalf of Lake Providence Port Commission, I respectfully submit this
Emergency Motion to Compel.

Thank you for your assistance, please let me know if you have any
questions.

Respectfully submitted,

/s/ Richard H. Streeter

Richard H. Streeter
Attorney for Lake Providence Port
Commission

RHS:rs

cc: John M. Scheib, Counsel for Delta Southern Railroad, Inc.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**STB Docket No. FD 36447
LAKE PROVIDENCE PORT COMMISSION-FEEDER LINE
APPLICATION-LINE OF DELTA SOUTHERN RAILROAD
LOCATED IN EAST CARROLL AND
MADISON PARISHES, LOUISIANA**

**LAKE PROVIDENCE PORT COMMISSION'S
EMERGENCY MOTION TO COMPEL**

Lake Providence Port Commission ("LPPC"), by and through its counsel of record, files this Emergency Motion to Compel. This motion is in response to Delta Southern Railroad, Inc.'s ("DSRR") adamant refusal to provide any data that is exclusively within the personal knowledge of DSRR that will allow LPPC, consistent with the Board's decision, served August 23, 2022, to provide the Board with its determination of the constitutional minimum value of the Line of railroad between milepost 471.0 and the point of interchange with the Kansas City Southern at milepost 498.44 in Tallulah, Louisiana.

LPPC's initial Feeder Line Application, filed on November 12, 2020, only involved the Net Liquidation Value of the twenty (20) miles of what DSRR described as a "long-dormant Line." As the Board recognized in its decision dated August 23, 2022, when LPPC filed its *Motion to File a Supplemental Application*, it asked the Board "to require DSR to provide LPPC verified data that will allow LPPC to prepare its valuation of the Line." As the Board

explained at page 7 of its decision that authorized LPPC to file its Supplemental Application, LPPC's request for information was:

premature and misplaced under the governing regulations. See 49 C.F.R. § 1151.2(d). The regulation provides that "[i]f an applicant seeking to file an initial or competing application is unable to obtain required information that is primarily or exclusively within the personal knowledge of the owning carrier, the application *may* file an incomplete application *if it files at the same time a request for discovery under 49 C.F.R part 1114 to obtain the needed information from the owning carrier*" (emphasis added). See § 1151.2(d)(1).

As the Board also explained at p. 7:

Insofar as LPPC is unable to obtain information primarily or exclusively within the knowledge of DSR that is required to prepare a complete application, LPPC may file a concurrent request for discovery, with its amended application, to obtain the information from DSR. Any such request will be resolved in accordance with the procedures specified in 49 C.F.R. § 1151.2(d)(2).

As reflected by LPPC's filing of January 4, 2023, it submitted its request for discovery under 49 C.F.R. Part 1114 consistent with the Board's directive along with its Feeder Line Application. Thereafter, given the appearance of DSRR's third attorney, LPPC consented to a two (2) week extension for DSRR to respond to LPPC's discovery requests.

On February 6, 2023, DSRR's counsel forwarded a letter in which it argued that LPPC's requests were improper and requested LPPC withdraw them.¹ The following day, LPPC replied in which it stressed its reliance on the

¹ A copy of the letter is attached hereto as Exhibit 1.

Board's decision of August 23, 2022. LPPC also advised DSRR's latest attorney of LPPC's prior effort to alert DSRR's previous counsel of the need for the information that is the subject of its current request for discovery. It is further noted that following the Board's decision of August 23, 2022, that LPPC was compelled to wait to file its discovery until it filed its Feeder Line Application.²

While LPPC declined to withdraw its requests for discovery, LPPC agreed, consistent with Board precedent,³ to "meet and confer" at the offices of L. E. Peabody & Associates on February 13, 2023. That offer was once again offered on February 8. However, after reviewing the DSRR's **RESPONSES TO LAKE PROVIDENCE PORT COMMISSION'S SET OF INTERROGATORIES AND DISCOVERY REQUESTS SERVED JANUARY 4, 2023**,⁴ LPPC has reluctantly concluded that DSRR's repeated objection that "each and every" one of LPPC's requests are "improper at this time" indicates that a meeting to discuss the issues would be fruitless and not warranted.

LPPC will not respond in detail to the individual objections other than to note that no data whatsoever has been provided to LPPC's requests. LPPC will also suggest that DSRR's position is contrary to the Board's decision and is unsupported.

² A copy of LPPC's letter of February 7, 2023 is attached hereto as Exhibit 2.

³ See slip op. at 4, n. 7, in Board's prior decision in this proceeding, dated June 1, 2021, citing *CF Indus., Inc. Kaneb Pipe Line Partners, L.P.*, NOR 42084, slip op. at 2 (STB served Nov. 23, 2004) ("[T]he parties should discuss and attempt to resolve the disputed discovery requests.")

⁴ A copy of DSSR's Responses is attached hereto as Exhibit 3.

As a quick read will confirm, many of DSRR's responses are duplicative and wholly unresponsive. In addition, DSRR's position that LPPC's requests are "duplicative to the extent such costs are reflected in DSRR's financial information" is useless because DSRR has never provided any financial information at any time in this proceeding. Indeed, DSRR has offered only one verified statement since the Board established the original procedural schedule on January 15, 2021.

LPPC must, however, dispute the claim in General Objection #3 that LPPC's "Interrogatories and Discovery Requests purport to conclude that net liquidation value is the appropriate standard for [valuing] DSRR." That claim is not valid. LPPC's Interrogatories and Discovery Requests are specifically designed to acquire data that would enable LPPC to develop both the net liquidation value ("NLV") and the going concern value ("GCV"). The statute requires both and the greater of the two is the "Constitutional Minimum Value."

DSRR's position that any data is "not likely to lead to admissible evidence related to issues in a feeder line proceeding" underscores a lack of understanding of what is required to develop GCV and NLV. As a review of the Board's multiple decisions in Finance Docket No. 32479 demonstrates, the evidence that LPPC is seeking from DSRR is essential in a feeder line proceeding. *See Caddo Antoine and Little Missouri Railroad Company—Feeder Line Acquisition –Arkansas Midland Railroad Company Line between Gurdon*

and Birds Mill, AR, 4 S.T.B. 610 (2000). *See also, Caddo Antoine and Little Missouri R. Co. v. U.S.*, 95 F.3d 740 (8th Cir. 1996).

As the Board's decisions reflect, both parties have the right to present their calculations of the constitutional minimum value using the evidence that is obtained from the owner of the Line that is the subject of the feeder application. As a result, were the Board to deny LPPC's request for information, it would deny LPPC of the "fair and orderly" process that the Board has established for feeder line cases. DSRR has stated that it "will respond to the low estimate and point out the myriad of flaws in those estimates" at a later date.⁵

Given LPPC's undeniable need of information that is exclusively within DSRR's possession, DSRR's approach is designed to baselessly discredit LPPC's reliance on the literal wording of the Board's authorization of the approach that the Board required in its August 23, 2022 Decision. Because that decision prevented LPPC from obtaining the requested information before it filed its Supplemental Feeder Line Application on January 4, 2023, DSRR's attack, if accepted by the Board, would arbitrarily deprive LPPC of due process. Due process requires that the Board should order DSRR to provide the evidence that will allow L. E. Peabody, Inc. to verify or adjust its calculation of the constitutional minimum value of the particular Line of Railroad that LPPC seeks to acquire pursuant to the provisions set forth at 49 U.S.C. § 10907(b)(2).

⁵ DSRR Letter, dated February 6, 2023, at unnumbered page 2.

Conclusion,

For all the above-stated reasons, the Board should expeditiously issue a decision finding that LPPC complied with its Decision, dated August 23, 2023, by filing its request for discovery when it filed its Feeder Application. Moreover, it should compel DSRR to provide the requested information. After DSRR submits the primary evidence that LPPC has requested, LPPC will readily agree to a meet and confer to resolve any issues that DSRR has properly raised.

Respectfully Submitted,

/s/ Richard H. Streeter

Richard H. Streeter
Counsel for Lake Providence Port Commission

Dated: February 9, 2023

Certificate of Service

It is hereby certified that a true and accurate copy of the Emergency Motion to Compel has been served by email on John M. Scheib, attorney for Delta Southern Railroad, Inc., this 9th day of February, 2023, at Scheib@gentrylocke.com.

/s/ Richard H. Streeter

Attachment 1



GENTRY LOCKE
Attorneys

John M. Scheib

Scheib@gentrylocke.com

P: (757) 916-3511

F: (540) 983-9400

February 6, 2023

VIA ELECTRONIC MAIL (rhstreeter@gmail.com)

Richard H. Streeter
Law Office of Richard H. Streeter
5255 Partridge Lane, N.W.
Washington, DC 20016

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

Dear Mr. Streeter:

This letter, on behalf of Delta Southern Railroad, Inc. (“DSRR”), concerns the 63 discovery requests served by the Lake Providence Port Commission (“LPPC”) on January 4, 2023, on DSRR (the “Requests”).

By agreement, DSRR’s responses and objections are due to be served February 8, 2023. Upon further review of the STB’s August 23, 2022, Decision (the “Decision”) and the extensive discovery propounded by LPPC, it is clear that the Requests are altogether improper and serve no useful or legitimate purpose in this matter.

In the Decision, the STB granted LPPC its requested opportunity to file an amended feeder line application; however, it also demanded an orderly and expeditious process for adjudicating LPPC’s amended application. Specifically, the STB directed LPPC “to submit *all* evidence and argument in support of its” amended application “in accordance with the requirements specified in 49 C.F.R. § 1151.3, without incorporation by reference of its previous application or any other filings.” Decision at 5 (emphasis added). The STB further explained that “LPPC has submitted numerous filings in this proceeding asserting various arguments on the merits throughout those filings. To ensure the fair and orderly resolution of LPPC’s feeder line request, LPPC *must* include in its amended application *all of the arguments and evidence* on which it will rely.” Decision at 7 (emphasis added).

In addition, the STB explained to LPPC that “[i]nsofar as LPPC is unable to obtain information primarily or exclusively within the knowledge of DSR that is required to prepare a complete application, LPPC *may* file a concurrent request for discovery, *with* its amended application, to obtain the information from DSR. Any *such request* will be resolved in accordance with the procedures specified in 49 C.F.R. § 1151.2(d).” Decision at 7 (emphasis added).

The STB explicitly gave LPPC a path to discovery but only if it was needed to complete the amended application. LPPC chose to file on January 4, 2023, what it purports to be a complete application. Nowhere in its amended application did LPPC indicate that it required any discovery from DSRR to file a complete application.

The Decision and applicable regulations make clear that the 63 discovery requests served on DSRR by LPPC are improper. It seems clear from the discovery that LPPC served that LPPC knows its estimates of constitutional minimum value are inaccurately low. But, without leave from the STB to deviate from the clear terms of the Decision (and the applicable regulations), LPPC cannot introduce new evidence into this proceeding. Thus, providing the extensive discovery requested by LPPC is not likely to lead to admissible evidence and is overly burdensome.

DSRR is entitled to the “fair and orderly” process that the Board has established for this feeder line case. Decision at 7. If the STB accepts the amended application, DSRR will respond to the low estimate and point out the myriad of flaws in those estimates – in addition to responding to the lack of merit of the amended application generally.

Given the clear impropriety of LPPC’s Requests, DSRR requests that LPPC withdraw them. If LPPC does not agree to do so, please provide your availability for a meet and confer to occur by Thursday, February 16. DSRR reserves its right to seek relief, including sanctions, and waives no other general or specific objections it may have to the Requests.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Scheib". The signature is fluid and cursive, with the first name "John" and last name "Scheib" being more prominent than the middle initial "M".

John M. Scheib

GENTRY LOCKE ATTORNEYS

Attachment 2

RICHARD H. STREETER

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Washington, D.C. 20016
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rhstreeter@gmail.com

February 7, 2023

Via email (Scheib@gentrylocke.com)

John M. Scheib
Gentry Locke Attorneys
919 E Main Street
Suite 1130
Richmond, VA 23219

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

Dear Mr. Scheib:

This letter responds to your letter dated February 6, 2023. I respectfully suggest that the pleadings that the Lake Providence Port Commission (“LPPC”) has filed are in full compliance with the Board’s directives set out in its decision, dated August 23, 2022. Because DSRR has never provided any documents that could be used to establish the going concern value (“GCV”) of the Line that LPPC seeks to acquire, the value that L. E. Peabody & Associates, Inc. placed on the Line was based on the limited evidence that was publicly available or provided by various shippers.

As the Board noted at page 7 of its decision, dated August 23, 2020, LPPC, in its March 4, 2022 *Motion to File a Supplemental Application*, asked the Board “to require DSR to provide LPPC verified data that will allow LPPC to prepare its valuation of the Line.” According to the Board, LPPC’s request was:

premature and misplaced under the governing regulations. See 49 C.F.R. § 1151.2(d). The regulation provides that “[i]f an applicant seeking to file an initial or competing application is unable to obtain required information that is primarily or exclusively within the personal knowledge of the owning carrier, the application *may* file an incomplete application *if it files at the same time a request for discovery under 49 C.F.R part 1114 to obtain the needed information from the owning carrier*” (emphasis added). See § 1151.2(d)(1).

As the Board then explained, “[i]nsofar as LPPC is unable to obtain information primarily or exclusively within the knowledge of DSR that is required to prepare a complete application, LPPC may file a concurrent request for discovery, with its amended application, to obtain the information from DSR. Any such request will be resolved in accordance with the procedures specified in 49 C.F.R. § 1151.2(d)(2).” As your letter of February 6 confirms, LPPC’s discovery was served January 4, 2023.

Given the Board’s subsequent decision, LPPC honored its commitment to the Board, expressed at page 15 of its *Motion to File a Supplement Application*, that “[s]hould the Board allow LPPC to supplement its Feeder Application, LPPC will immediately provide DSR’s counsel with a detailed list of the data that should be produced.”

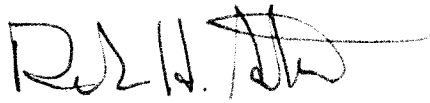
Based on the foregoing, your assertions that LPPC has deviated from the explicit “path to discovery” that the Board gave to LPPC are baseless. By seeking discovery, LPPC unequivocally alerted the Board to the fact that the GCV set out in its Supplemental Feeder Line Application was *not* based on verifiable data received from DSRR. Therefore, it would be necessary to obtain the information set out in the tendered requests for discovery. There is absolutely nothing that LPPC has done that is inappropriate.

While you assert that this will deprive DSRR of the “fair and orderly” process that the Board has established for this feeder line case, that claim is belied by actions taken by LPPC soon after it filed its *Motion to File a Supplemental Application*. On March 21, 2022, LPPC served interrogatories and requests for documents on DSRR that sought information that would allow LPPC to compute the GCV. On that same date, I spoke with Thomas J. Healey, who was then DSRR’s counsel, and explained that the discovery was forwarded at that time “to provide [him] with ample time to respond to discovery” should the Board deny DSRR’s pending motion to dismiss. Thereafter, on April 11, 2022, that understanding was confirmed following receipt of an email from Mr. Healey on behalf of DSRR that “DSR will not respond to LPPC’s Discovery unless and until the Surface Transportation Board (the “Board”) were to rule that LPPC’s renewed and expanded feeder line efforts are appropriate and otherwise are timely.” As this demonstrates, LPPC went out of its way to ensure that DSRR would not be deprived of a full opportunity to respond to discovery of essential information that is required for the Board to determine the constitutional minimum value of a particular railroad line in the context of a feeder application filed pursuant to 49 U.S.C. § 10907.

John Scheib
February 7, 2023
Page 3

Given the foregoing, LPPC will not withdraw its Requests. However, it will agree to "meet and confer" at the offices of L. E. Peabody & Associates on Monday, February 13, 2023. The meeting can be held on Zoom. Given the fact that Patriot Rail entered into a Stock Purchase Agreement to buy the shares of DSRR from West Branch on September 9, 2022, it is likely that much of the information that LPPC is seeking is readily available in the highly redacted document that was filed in FD No. 36642.

Yours truly,

A handwritten signature in black ink, appearing to read "R.H. Streeter", with a long horizontal flourish extending to the right.

Richard H. Streeter

RHS:rs

Cc: L. E. Peabody & Associates, Inc.

Wyly Gilfoil, Lake Providence Port Commission

Attachment 3

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket 36447

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

**RESPONDENT DELTA SOUTHERN RAILROAD, INC. RESPONSES TO
LAKE PROVIDENCE PORT COMMISSION'S SET OF INTERROGATORIES AND
DISCOVERY REQUESTS SERVED JANUARY 4, 2023**

Pursuant to 49 CFR Part 1114 and other applicable rules and authority, Delta Southern Railroad, Inc. ("DSRR"), by counsel, responds as follows to Lake Providence Port Commission's ("LPPC") Set of Interrogatories and Discovery Requests served January 4, 2023:

GENERAL OBJECTIONS

DSRR's General Objections, set forth herein, apply to each and every one of the specific Interrogatories and Discovery Requests that follow. These general objections are not exhaustive and, where appropriate, DSRR will also state specific objections. DSRR's objections shall not waive, limit, or prejudice any objections it may later assert.

1. DSRR objects to each and every Interrogatory and Discovery Request because they are improper at this time. The Surface Transportation Board ("STB") expressly held in its August 23, 2023 decision that LPPC could conduct discovery only if it sought permission to do so and for the purpose of filing a complete, amended application. The STB further required LPPC to present all of its evidence and argument in the amended application. On January 4, 2023, LPPC filed what it contended was a complete, amended application. LPPC did not, in that filing or by separate motion, seek permission from the STB to seek any further discovery in order to file a complete, amended application. LPPC is therefore not entitled to discovery. Moreover, any

discovery LPPC might obtain from DSRR, absent further order of the STB, would serve no legitimate purpose because LPPC will have no ability to submit any of the information into the record of this proceeding. Accordingly, these requests are wholly improper and an undue burden, and DSRR will not respond to them.

2. DSRR objects to each and every Interrogatory and Discovery Request to the extent they seek to impose obligations on DSRR greater than or inconsistent with those imposed under 49 CFR Part 1114 Subpart B. DSRR further objects to any and all definitions and or instructions to the extent they either expand upon or conflict with 49 CFR Part 1114 Subpart B.

3. DSRR objects to these Interrogatories and Discovery Requests insofar as they purport to conclude that net liquidation value is the appropriate standard for DSRR.

4. DSRR objects to each and every Interrogatory and Discovery Request to the extent it seeks materials protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege, protection or exception from discovery or disclosure. In the event that any such privileged, protected, or exempt information is inadvertently produced or provided, such disclosure or production is not intended as, and should not be construed as, a waiver of any applicable privilege, protection or exemption.

5. DSRR objects to each and every Interrogatory and Discovery Request to the extent it seeks information or data that is not relevant to the subject matter of this proceeding.

6. DSRR objects to each and every Interrogatory to the extent it asks for inappropriate legal conclusions, including conclusions as to the legal significance of underlying facts.

7. DSRR objects to each and every Interrogatory and Discovery Request to the extent that it is: (a) overly broad; (b) vague and/or ambiguous; (c) fails to describe with reasonable particularity the information sought; (d) seeks information that is not within the possession, custody,

or control of DSRR; or (e) would impose an undue burden that outweighs any relevance or probative value the information sought may have in this proceeding.

8. DSRR objects to each and every Interrogatory and Discovery Request to the extent it is duplicative.

9. DSRR objects to each and every Interrogatory and Discovery Request to the extent it requests information or material that is: (a) already in the possession of LPPC; (b) publicly available or otherwise readily available or accessible to LPPC from other sources; or (c) as accessible or available to LPPC as it is to DSRR and producing responsive information would impose substantially the same or greater burden on DSRR as it would impose on LPPC.

10. These general objections are incorporated by reference into the following responses.

SPECIFIC RESPONSES AND OBJECTIONS TO INTERROGATORIES

INTERROGATORY NO. 1

Please identify and describe in detail the manner in which DSRR currently provides service for the Line Segment, including the number of employees, agents or contractors assigned to each portion of line broken down into categories such as Transportation, Maintenance of Way, Maintenance of Equipment, General & Administrative and Marketing.

Response:

DSRR objects to this Interrogatory on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time.

INTERROGATORY NO. 2

Please provide DSRR Income Statements and Operating Results for the Line Segment for each year from 2017 to the present.

Response:

DSRR objects to this Interrogatory on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time.

INTERROGATORY NO. 3

Please describe all categories of revenue received by DSRR associated with the Line Segment.

Response:

DSRR objects to this Interrogatory on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time.

INTERROGATORY NO. 4

Please describe all categories of expense DSRR incurs associated with the Line Segment, including both cash and non-cash expenses.

Response:

DSRR objects to this Interrogatory on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time.

INTERROGATORY NO. 5

Please describe any derailments that have occurred on the Line Segment since January 1, 2017, including cars per train, cars derailed, shippers impacted, locomotives per train, date, time and location of derailment, and cause of derailment, if known.

Response:

DSRR objects to this Interrogatory on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this Interrogatory because it seeks irrelevant information, as derailments on the Line Segment are not relevant.

INTERROGATORY NO. 6

Please provide all costs associated with any derailment identified in Interrogatory No. 5.

Response:

DSRR objects to this Interrogatory on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this Interrogatory because it seeks irrelevant information, as costs associated with derailments on the Line Segment since January 1, 2017 are not relevant. DSRR also objects to this Interrogatory as

duplicative to the extent such costs are reflected in DSRR's financial information.

INTERROGATORY NO. 7

Please describe in detail and provide any projections or forecasts of future traffic volumes and/or revenues on the Line Segment.

Response:

DSRR objects to this Interrogatory on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time.

INTERROGATORY NO. 8

Please describe all agreements with connecting carriers for each year from 2017 through year-to-date 2022, including requirements, interchange commitments, payments and definitions.

Response:

DSRR objects to this Interrogatory on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to extent "year-to-date 2022" is vague and ambiguous.

INTERROGATORY NO. 9

Please describe in detail all maintenance work and repair work performed on the Line Segment between 2017 and the present including the exact location and nature of the work performed.

Response:

DSRR objects to this Interrogatory on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR further objects that this Interrogatory is overly broad and unduly burdensome insofar as the detailed information requested is not relevant to nor reasonably necessary for this proceeding.

INTERROGATORY NO. 10

Please identify all amounts actually expended for track materials for any maintenance performed on the Line Segment between January 1, 2017 and the present.

Response:

DSRR objects to this Interrogatory on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time.

SPECIFIC RESPONSES AND OBJECTS TO REQUESTS FOR
PRODUCTION OF DOCUMENTS

Request for Production No. 1

Please produce DSRR's income statements, profit or loss statements and/or statements of revenues and expenses for the years 2017 to 2021 and year-to-date 2022, including breakout of revenues and expenses by category.

Response:

DSRR objects to this Request for Production ("RFP") on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time.

Request for Production No. 2

Please produce documents describing any non-recurring expense items and/or extraordinary items that were included in the income statements, profit or loss statements and/or statements of revenues and expenses provided in response to Request for Production No. 1.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time.

Request for Production No. 3

Please produce DSRR's corporate consolidated statements of financial position or balance sheets for the years 2017 to 2021 and year-to-date 2022.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time.

Request for Production No. 4

Please produce DSRR corporate statements of cash flow for the years 2017 to 2021 and

year-to-date 2022.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time.

Request for Production No. 5

Please produce copies of all trackage rights agreements entered into by You for the Line Segment and any and all documents and correspondence referring or relating to any trackage rights agreements relating to the Line Segment.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR also objects to this RFP because it seeks irrelevant information, as trackage rights agreements are not relevant to this proceeding. DSRR objects to this RFP because it is overly broad and unduly burdensome because it requests *all documents and correspondence* regarding trackage rights agreements, and not all documents relating to trackage rights agreements are relevant to this proceeding. Ascertaining and providing the documents sought will also subject DSRR to a burden that is not proportional to the needs of the case. DSRR objects to this RFP as duplicative because revenues and expenses related to trackage rights agreements are reflected in DSRR's financials.

Request for Production No. 6

Please produce copies of all documents referring or relating to the total ton-miles of freight moved by DSRR on the Line Segment, and any other measures of DSRR's revenue on the Line Segment, including storage revenue, since 2017 and all documents referring or relating to the costs, including storage costs, incurred by DSRR related to the Line Segment over the same time period.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information, as the total ton-miles of freight moved by DSRR on the Line are not relevant to this proceeding. DSRR objects to this RFP because it seeks duplicative or cumulative information, as other RFPs request revenues and costs. DSRR also objects to this RFP because it is overly broad and unduly burdensome as it requests *all documents* referring or relating to other measures of DSRR's revenue and costs, and not *all documents* referring or relating to other measures of DSRR's revenue and costs are relevant to this proceeding. Ascertaining and providing

the documents sought will also subject DSRR to a burden that is not proportional to the needs of the case. DSRR objects to this RFP as duplicative because revenue and expenses related to storage are reflected in DSRR's financials.

Request for Production No. 7

Please produce copies of all documents referring or relating to all transportation services provided by DSRR in response to a request for service over the Line Segment, including but not limited to, any correspondence between DSRR and shippers.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it is overly broad and unduly burdensome as it requests *all documents* referring or relating to *all* transportation services provided by DSRR in response to a request for service over the Line Segment, and not *all documents* referring or relating to *all* transportation services provided by DSRR in response to a request for service over the Line Segment are relevant to this proceeding. Ascertaining and providing the documents sought will also subject DSRR to a burden that is not proportional to the needs of the case.

Request for Production No. 8

Please produce copies of all documents referring or relating to the taxes assessed to You due to Your ownership of the Line Segment, including but not limited to all correspondence between You and county or state representatives referring or relating to any disputes over the assessed taxes and assessed value of the Line Segment's assets.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information, as the taxes assessed to DSRR due to DSRR's ownership of the Line Segment are not relevant. DSRR also objects to this RFP because it is overly broad and unduly burdensome as it requests *all documents referring or relating* to tax assessments, and not all such documents are relevant to this proceeding. Ascertaining and providing the documents sought will also subject DSRR to a burden that is not proportional to the needs of the case. DSRR objects to this RFP as duplicative to the extent that taxes assessed to DSRR are reflected in DSRR's financial information.

Request for Production No. 9

Please produce all current tariffs that govern traffic on the Line Segment.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time.

Request for Production No. 10

Please produce capital expense projects for the years 2017 to 2021 and year-to-date 2022, including descriptions of the projects.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it is vague and ambiguous as to "produce capital expense projects". DSRR understands the RFP to seek DSRR's capital expense budgets. DSRR objects to this RFP because it seeks duplicative or cumulative information, as to other RFPs requesting capital expenses and DSRR financial information.

Request for Production No. 11

Please produce all current agreements or contracts with any operators on the Line Segment, including car storage agreements.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP as duplicative to the extent DSRR's financial information includes car storage revenue and expenses.

Request for Production No. 12

Please produce copies of all documents referring or relating to forecasts of traffic, revenue, or expense data for the Line Segment.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it is overly broad and unduly burdensome as it requests *all documents* referring or relating to forecasts of traffic, revenue, or expense data, and not *all documents* referring or relating to forecasts of traffic, revenue, or expense data are relevant to this proceeding. DSRR also objects to this RFP because it seeks duplicative or cumulative information, as other RFPs request forecasts of traffic, revenue and expense data for the Line Segment. Ascertaining and providing the documents sought will also subject DSRR to a burden that is not proportional to the needs of the case.

Request for Production No. 13

Please provide documentation for miles, tons, Gross Salvage Value (“GSV”), condition for each weight and type, e.g., jointed, CWR, of rail on the Line Segment.

Response:

DSRR objects to this RFP on the grounds that the STB’s prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it does not seek documents with particularity. DSRR objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case. Providing the requested documentation would require DSRR to conduct a special study, which would subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information.

Request for Production No. 14

Please provide number/amount and condition of all other track material (“OTM”) for the Line Segment. OTM consists of the material required to hold rail in place and includes, but is not limited to, the following: a) Tie Plates; b) Joint Bars; c) Rail Anchors; d) Track Spikes; and e) Bolts and Washers.

Response:

DSRR objects to this RFP on the grounds that the STB’s prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it does not seek documents with particularity. DSRR further objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case, not likely to lead to admissible evidence, and is irrelevant to this proceeding. Providing the requested documentation would require DSRR to conduct a special study, which would subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information.

Request for Production No. 15

Please provide the number/amount and condition of all cross ties for the Line Segment.

Response:

DSRR objects to this RFP on the grounds that the STB’s prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it does not seek documents with particularity. DSRR also objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case, not likely to lead to admissible evidence, and is irrelevant to this proceeding. Providing the requested documentation would require DSRR to conduct a special study, which would subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information.

Request for Production No. 16

Please provide the number/amount and condition of all turnouts, as well as the type of turnout, e.g., 136 lb. No.10, 112 lb. No. 10, etc., for the Line Segment.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it does not seek documents with particularity. DSRR also objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case, not likely to lead to admissible evidence, and is irrelevant to this proceeding. Providing the requested documentation would require DSRR to conduct a special study, which would subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information.

Request for Production No. 17

Please provide unit prices and support for all inventory along the Line Segment including, but not limited to: a) Rail; b) Ties; c) Tie Removal; d) Tie Plates; e) Joint Bars; f) Rail Anchors; g) Spikes; h) Bolts and Washers; i) Turnouts; and j) Scrap.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it does not seek documents with particularity. DSRR objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case, not likely to lead to admissible evidence, and is irrelevant to this proceeding. Providing the requested documentation would require DSRR to conduct a special study, which would subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information.

Request for Production No. 18

Please provide any studies or estimates that DSRR has on the cost of removal and transportation cost of any track or other material for the Line Segment.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it does not seek documents with particularity.

Request for Production No. 19

Please provide the number/amount, condition, and location of all public and private crossings for the Line Segment. Identify the following for each public or private crossing separately: a) Crossing Type; b) Types of Signals; and c) Party responsible for Maintenance.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it does not seek documents with particularity. DSRR objects to this RFP because it seeks irrelevant information, as the number/amount, condition, and location of all public and private crossings for the Line Segment are not relevant to this proceeding. DSRR also objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case, not likely to lead to admissible evidence, and is irrelevant to this proceeding. Providing the requested documentation would require DSRR to conduct a special study, which would subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information.

Request for Production No. 20

Please provide the number/amount, condition, and location of all bridges on the Line Segment.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it does not seek documents with particularity. DSRR objects to this RFP because it seeks irrelevant information, as the number/amount, condition, and location of all bridges on the Line Segment are not relevant to this proceeding.

Request for Production No. 21

Please provide any studies or estimates DSRR has on the value of the Line Segment Real Estate.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time.

Request for Production No. 22

Please provide the number and location of non-reversionary acres owned by DSRR along the Line Segment.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it does not seek documents with particularity. DSRR also objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case. Providing the requested documentation would require DSRR to conduct a special study, which would subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information.

Request for Production No. 23

Please provide any studies or estimates DSRR has on the cost to restore any inactive portions of the Line Segment to Federal Railroad Administration ("FRA") Class 1 or Class 2 status. Studies should include, but not be limited to, costs for the following: a) Vegetation Removal; b) Crosstie Replacement; c) Ballast Cleaning and Replacement; d) Track Resurfacing; e) Rail Replacement; f) Track and Bridge Inspections; g) Crossing Repavement; and h) Communications & Signaling.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it does not seek documents with particularity.

Request for Production No. 24

Please produce documents, in a computer-readable format to the extent available, which contain complete information (including all events) tracking and describing car, trailer/container, and locomotive movements (including yard and hub operations) for all rail traffic handled by DSRR on the Line Segment during the time period from January 2017 to the present. The requested car event information includes, but is not limited to, the following:

- a)
- b) Car/Locomotive Initial;
- c) Car/Locomotive Number;
- d) Car Owner (System, Foreign, Private);

- e) Car Tare weight;
- f) Car Lading weight;
- g) Number of loaded intermodal units on flat cars;
- h) Number of empty revenue units on flat cars;
- i) Number of empty non-revenue units on flat cars;
- j) Event Sequence Number;
- k) Year;
- l) Month;
- m) Day;
- n) Unique Train Identification Symbol and/or Number;
- o) Train Date;
- p) Unique Waybill Number;
- q) Waybill Date;
- r) Load/Empty Indicator;
- s) Unique Shipment Identification Number or order number for each intermodal container or trailer;
- t) Actual event date/time stamp for nodal events;
- u) Time zone indicator;
- v) Event type indicator specifying if the event was an arrival, a departure, an intermediate switching/handling event, or an instantaneous time as in the case of a non-swell event (e.g., passing a scanner);
- w) Unique System/Network Location Identifier to include the following:
 - x) Station name;
 - y) City or metropolitan name;
 - z) State/Province name

- aa) SPLC;
- bb) Latitude and longitude;
- cc) Engineering Milepost; and
- dd) Transportation Milepost.
- ee) Trackage Rights Indicator;
- ff) Switching Type Indicator;
- gg) Line Segment Name;
- hh) Direction of Travel;
- ii) Interchange Indicator specifying if the car was received or delivered in interchange;
- jj) Identification of interchange railroad;
- kk) Industry Handling Indicator specifying if the car was pulled from origin or placed at destination;
- ll) Switching Indicator specifying if the car was switched to another train, from another train, or to a different position on the same train;
- mm) Time elapsed at event location;
- nn) Time elapsed between event locations; and
- oo) Miles between event locations.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it is overly broad and unduly burdensome as it requests voluminous documentation regarding *all* rail traffic handled by DSRR on the Line Segment during the time period from January 2017 to the present, and not all the requested information is relevant to this proceeding. Ascertaining and providing the documents sought will also subject DSRR to a burden that is not proportional to the needs of the case. DSRR objects to this RFP as irrelevant and not likely to lead to admissible evidence related to issues in a feeder line proceeding.

Request for Production No. 25

Please produce complete train movement data, in a computer-readable format to the extent available and including all events and intermediate stations, for all Line Segment traffic

handled by DSRR during the time period from January 2017 to the present. The requested train movement information includes, but is not limited to, the following:

- a) Unique Train Identification Symbol and/or Number;
- b) Train Date;
- c) Train Type;
- d) Event Sequence number;
- e) Year;
- f) Month;
- g) Day;
- h) Event date/time stamp;
- i) Time zone indicator;
- j) Event type indicator specifying if the event was an arrival, a departure, an intermediate switching/handling event, or an instantaneous time as in the case of a non-swell event (e.g., passing a scanner);
- k) Event indicator identifying crew change locations;
- l) Event indicator identifying inspection locations;
- m) Event indicator identifying fueling locations;
- n) Unique System/Network Location Identifier to include the following:
 - i. Station name;
 - ii. City or Metropolitan Name;
 - iii. State/Province Name;
 - iv. SPLC;
 - v. Latitude and Longitude;
 - vi. Engineering Milepost; and
 - vii. Transportation Milepost.

- o) Trackage Rights Indicator;
- p) Number of active locomotives arriving at station;
- q) Total Horsepower of all active locomotives arriving at station;
- r) Number of idled locomotives arriving at station;
- s) Number of active locomotives departing station;
- t) Total horsepower of all active locomotives departing station;
- u) Number of idled locomotives departing station;
- v) Number of loaded railcars arriving at station;
- w) Number of empty railcars arriving at station;
- x) Number of loaded railcars departing from station;
- y) Number of empty railcars departing from station;
- z) Number of loaded intermodal units arriving at station;
- aa) Number of loaded intermodal units departing from station;
- bb) Number of empty intermodal units arriving at station;
- cc) Number of empty intermodal units departing from station;
- dd) Switching Indicator;
- ee) Number of cars switched onto train;
- ff) Number of cars switched out of train;
- gg) Line Segment Name;
- hh) Direction of Travel;
- ii) Interchange Indicator specifying if the train was received or delivered in interchange;
- jj) Identification of interchange railroad;
- kk) Industry Handling Indicator specifying if cars were pulled from origin or placed at destination;
- ll) Time elapsed at event location;

mm) Time elapsed between event locations; and

nn) Miles between event locations.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it is overly broad and unduly burdensome as it requests voluminous documentation regarding *all* rail traffic handled by DSRR on the Line Segment during the time period from January 2017 to the present, and not all the requested information is relevant to this proceeding. Ascertaining and providing the documents sought will also subject DSRR to a burden that is not proportional to the needs of the case. DSRR objects to this RFP as irrelevant and not likely to lead to admissible evidence related to issues in a feeder line proceeding.

Request for Production No. 26

Please produce DSRR organization charts which show each DSRR management and/or supervisory position, the number of personnel in each position and the relationship or reporting authority and relative rank of each position. Please include organizational charts which include, but are not limited to, positions related to train operations, yard operations, maintenance of way, maintenance of equipment, engineering, and general and administrative functions.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time.

Request for Production No. 27

Please produce current operating timetables (including special instructions and/or operating rule books), station lists, station books, and track charts (including a legend for the track chart markings) for the Line Segment. Please provide the requested documents in their native format to the extent available (including all necessary documentation). If current versions of any of the requested documents are not available, please produce the most recent versions that are available.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do

not permit LPPC to conduct discovery at this time.

Request for Production No. 28

Please provide annual carloads and revenues by shipper for the Line Segment for each year from 2017 through year-to-date 2022.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it does not seek documents with particularity. DSRR objects to this RFP because it seeks duplicative or cumulative information, as other RFPs request the revenues for the Line Segment.

Request for Production No. 29

For each year from 2017 through year-to-date 2022, please produce the following for each freight car purchased or leased by DSRR:

- a) Initial and Number;
- b) Manufacturer;
- c) Lessor, if leased;
- d) AAR Car Type;
- e) Tare Weight;
- f) Purchase or order date, if purchased;
- g) Lease or order date, if leased;
- h) Total purchase price, if purchased;
- i) If lease, the type of lease, e.g., capital, operating, etc., and term; and
- j) If leased, the amount and frequency of lease payments.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it does not seek documents with particularity. DSRR objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case. Providing the requested documentation would require DSRR to conduct a special study, which would subject DSRR to

a substantial financial burden that is grossly out of proportion to the value of the requested information. DSRR also objects to this RFP because it seeks irrelevant information, as the requested information for each freight car purchased is not relevant to this proceeding.

Request for Production No. 30

Please produce DSRR traffic volumes in number of loaded and empty railcars transported over the Line Segment for the years 2017 to 2021 and year-to-date 2022, including shipper/receiver and commodity.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it does not seek documents with particularity. DSRR also objects to this RFP because it seeks irrelevant information, as DSRR traffic volumes in number of loaded and empty railcars transported over the Line Segment are not relevant to this proceeding.

Request for Production No. 31

Please produce documents relating to the calculation of DSRR's operating expenses for service provided on the Line Segment for the time period from January 1, 2017 to the present.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant material and is otherwise overly broad and unduly burdensome. DSRR further objects to the RFP as vague and ambiguous as to "documents relating to the calculation of DSRR's operating expenses". DSRR further objects to this RFP because it seeks duplicative or cumulative information, as other RFPs request documents relating to DSRR's operating expenses.

Request for Production No. 32

Please produce documents sufficient to show the information used by DSRR for the following items, in its native computer-readable format to the extent available, in determining the maintenance and operating costs associated with providing train service to the Line Segment, including the definitions and decoders needed to understand each piece of information and the supporting data used to develop the information:

- a) Roadway maintenance;
- b) Road property investment;
- c) Locomotive investment;
- d) Locomotive maintenance;
- e) Locomotive fuel;
- f) Railcar investment;
- g) Railcar maintenance;
- h) Trailer investment;
- i) Trailer maintenance;
- j) Train and engine crews; and
- k) Clerical expenses.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it does not seek documents with particularity. DSRR objects to this RFP because it is overly broad and unduly burdensome as it seeks voluminous documentation regarding information used by DSRR in determining the maintenance and operating costs associated with providing service on the Line Segment, and not all the requested information is relevant to this proceeding. DSRR objects to this RFP to the extent it is duplicative of other DSRR financial information.

Request for Production No. 33

Please produce documents sufficient to identify the profitability and/or costs relating to

the Line Segment traffic, including but not limited to:

- a) Any monthly, quarterly, annual or other regular studies, analyses, or reports referring or relating to the costs of service associated with DSRR traffic by customer; and
- b) Any monthly, quarterly, annual or other regular studies, analyses, or reports referring or relating to the profitability, contribution and/or margin associated with DSRR traffic by customer.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks duplicative or cumulative information, as other RFPs request documents identifying the profitability and/or costs relating to the Line Segment traffic.

Request for Production No. 34

Please produce DSRR operating statistics, volume and density data (including but not limited to train miles, train hours, locomotive unit-miles, loaded car-miles, empty car-miles, net ton-miles, gross ton-miles (both including and excluding locomotives), and number of trains) for the Line Segment from 2017 to the present.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks duplicative or cumulative information, as other RFPs request documents relating to operating statistics, volume and density data. DSRR also objects to this RFP because it is overly broad and unduly burdensome as it seeks DSRR operating statistics, volume and density data, and not all DSRR operating statistics, volume and density data are relevant to this proceeding. DSRR objects to this RFP to the extent it is duplicative of other requests for DSRR financial information.

Request for Production No. 35

Please produce studies and analyses undertaken by DSRR from January 1, 2017 to the present to evaluate available capacity, or capacity constraints, at DSRR facilities on the Line Segment.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do

not permit LPPC to conduct discovery at this time. DSRR objects to this RFP as irrelevant and not likely to lead to admissible evidence related to issues in a feeder line proceeding.

Request for Production No. 36

Please produce all contracts, agreements or tariffs, and amendments or modifications thereto, including car storage agreements, in effect during the period from January 1, 2017 to the present between DSRR and all shippers with shipments traversing any part of the Line Segment.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks duplicative or cumulative information, as other RFP's request contracts, agreements or tariffs between DSRR and all shippers. DSRR also objects to this RFP because it is overly broad and unduly burdensome as it seeks *all* contracts, agreements or tariffs, and not *all* contracts, agreements or tariffs are relevant to this proceeding.

Request for Production No. 37

Please produce documents which DSRR relies on in the ordinary course of business to determine mileages for movements on the Line Segment.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information outside the scope of permissible discovery, as documents relied on to determine mileages for movements on the Line Segment are not relevant to this proceeding.

Request for Production No. 38

Please produce documents for 2017 through year-to-date 2022 that list by initial and unit number: (a) locomotives used to transport the Line Segment traffic; and (b) all the locomotives in the pool or other group from which the locomotives used to transport the Line Segment traffic are drawn. Please provide a copy of the guidelines used for assigning locomotives to the Line Segment traffic, indicating applicable horsepower requirement per ton and applicable locomotive models and/or series.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it does not seek documents with particularity. DSRR objects to this RFP because it is overly broad and unduly burdensome as it seeks documents listing locomotives used to transport the Line Segment traffic, *all* the locomotives in the pool or other group from which the locomotives used to transport the Line Segment traffic are drawn, and a copy of the guidelines for assigning locomotives to the Line Segment traffic, and not all of the requested documents are relevant to this proceeding.

Request for Production No. 39

Please produce documents, in its native computer-readable format to the extent available, which provide the following information for each of the locomotives contained in each of the listings produced in response to RFP No. 38, to the extent that the information is in DSRR's possession or is available to DSRR upon request:

- a) The locomotive initial and number;
- b) The manufacturer, if purchased;
- c) The lessor, if leased or rented, or provider, if used in run-through service;
- d) Model or type (*e.g.*, SD-40-2);
- e) Horsepower;
- f) Capacity of its fuel tanks (gallons);
- g) Weight;
- h) Date of purchase or lease;
- i) Date first placed into service;
- j) The original cost plus the cost of any additions and betterments;
- k) Financing vehicle (*e.g.*, equipment trust);
- l) Debt rate as a percent;
- m) Financing terms (in years);
- n) Annual depreciation;
- o) Annual depreciation as a percent;

- p) Current salvage value as a percent;
- q) Accrued depreciation;
- r) If leased, the type of lease (i.e., capital, operating, “power by the hour”, etc.);
- s) If a capital lease, the capitalized value of the lease by locomotive or group of locomotives (if a group of locomotives, the number of locomotives (by initial and number) and aggregate dollars);
- t) If an operating lease, the quarterly, semi-annual, etc., lease payment by locomotive or group of locomotives covering the term of the lease (if a group of locomotives, the number of locomotives (by initial and number) and aggregate dollars);
- u) If leased or rented under a short-term or “power by the hour” agreement, the minimum annual fixed payment and the use payment (e.g., per kilowatt/hour, per diesel unit mile, etc.) per locomotive, the average annual payment per locomotive, and the annual locomotive unit-miles for each such locomotive, stated separately for intermodal service and other service;
- v) Expected salvage value as a percent at the end of the locomotives expected physical life.

Response:

DSRR objects to this RFP on the grounds that the STB’s prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information outside the scope of permissible discovery and is not likely to lead to admissible evidence related to issues in a feeder line proceeding. DSRR also objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case. Ascertaining and providing the documents sought will subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information.

Request for Production No. 40

If any non-DSRR owned or leased locomotives have been used for the movement of traffic over the Line Segment during 2017 through year-to-date 2022, please produce documents sufficient to determine the frequency of DSRR’s use of such locomotives including the following:

- a) List all agreements (or describe any arrangements other than agreements) applicable to the use of the locomotive(s);
- b) State the itemized amount of compensation or equalization for use of the locomotive, by each category of compensation or equalization, including but not

limited to fuel, maintenance and servicing;

- c) List service units covered by the compensation or equalization;
- d) Describe the methodology used for computing the compensation or equalization by component;
- e) State the time periods during which the locomotive was used for the movement of traffic over the Line Segment; and
- f) State the locomotive unit miles traveled by the locomotive during the time period that it was used for the movement of traffic over the Line Segment.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information outside the scope of permissible discovery and is not likely to lead to admissible evidence related to issues in a feeder line proceeding. DSRR also objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case. Ascertaining and providing the documents sought will subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information.

Request for Production No. 41

Please produce all locomotive maintenance agreements, including all supplements, attachments, exhibits and schedules, with outside contractors and provide, for 2017 through year-to-date 2022 for all locomotives in DSRR's fleet under such maintenance agreements: (a) the amount paid for each locomotive, by locomotive type and by maintenance agreement in total and broken down by each service or group of services performed for each separate charge performed under the agreement; and (b) the number of locomotive unit miles corresponding to the amounts listed above.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information outside the scope of permissible discovery and is not likely to lead to admissible evidence related to issues in a feeder line proceeding. DSRR also objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case. Ascertaining and providing the documents sought will subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information.

Request for Production No. 42

Please produce all DSRR locomotive maintenance and repair records and/or reports and related documents for 2017 through year-to-date 2022, which provide DSRR locomotive maintenance, repair and overhaul expenses by locomotive or locomotive type or series (or by other basis in which records are kept) and the total locomotive unit-miles corresponding to these maintenance, repair and overhaul expenses for all locomotives in DSRR's fleet.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information outside the scope of permissible discovery and is not likely to lead to admissible evidence related to issues in a feeder line proceeding. DSRR also objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case. Ascertaining and providing the documents sought will subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information. DSRR also objects to this RFP as duplicative to the extent it seeks information in DSRR's financials.

Request for Production No. 43

Please produce the lease agreements or rental agreements, including all supplements and amendments, plus copies of all billings, applicable to each leased or rented locomotive identified in response to RFP No. 38.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information outside the scope of permissible discovery, as the information requested on locomotives is not relevant to this proceeding. DSRR also objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case. Ascertaining and providing the documents sought will subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information. DSRR also objects to this RFP as duplicative to the extent it seeks information in DSRR's financials.

Request for Production No. 44

Please produce documents sufficient to show the following information for DSRR for 2017 through year-to-date 2022:

- a) The actual amount of fuel used by the locomotives identified in response to RFP

No. 38, by individual locomotive;

- b) The actual cost per gallon of fuel reported in response to (a) above;
- c) The total number of diesel unit miles generated by the locomotives for which fuel consumption data was provided in response to (a) above during the same time period used in response to (a) above;
- d) The method by which DSRR accounts for or records fuel usage for locomotives; and
- e) Computer-readable versions (both compiled and non-compiled), including all supporting databases and necessary documentation, of any and all computer programs in DSRR's possession used to estimate the fuel usage of locomotives.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information outside the scope of permissible discovery and is not likely to lead to admissible evidence related to issues in a feeder line proceeding. DSRR also objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case. Ascertaining and providing the documents sought will subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information. DSRR also objects to this RFP as duplicative to the extent it seeks information in DSRR's financials.

Request for Production No. 45

Please produce all studies, analyses and related documents or reports (including summaries and supporting data), in its native computer-readable format to the extent available, pertaining to the results of DSRR's fuel hedging programs.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information outside the scope of permissible discovery, as the information requested on DSRR fuel hedging programs is not relevant to this proceeding.

Request for Production No. 46

Provide all documents for 2017 through year-to-date 2022, in its native computer-readable format to the extent available, containing:

- a) Line-specific maintenance of way and structures expenditures for the Line Segment; and

- b) The gross ton-miles for the Line Segment included in the response to (a) above.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information outside the scope of permissible discovery, as the information requested is not relevant to this proceeding. DSRR objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case. Ascertaining and providing the documents sought will subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information. DSRR also objects to this RFP because it seeks duplicative or cumulative information, as other RFPs request documents relating to the gross ton-miles for the Line Segment.

Request for Production No. 47

Please produce documents for 2017 through year-to-date 2022 which provide DSRR's loss and damage costs separately for each commodity it carries on the Line Segment.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information outside the scope of permissible discovery, as the information requested on DSRR's loss and damage costs for each commodity it carries is not relevant to this proceeding. DSRR also objects to this RFP as duplicative to the extent costs are reflected in DSRR's financial information.

Request for Production No. 48

For each of the years 2017 to the present, please produce all studies, analyses and related documents (including logs, records and summaries) of switching performed on the Line Segment, including, but not limited to:

- a) Inter-plant switching;
- b) Intra-plant switching; and
- c) Inter-terminal switching.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information outside the scope of permissible discovery, as the information requested on

switching performed on the Line Segment is not relevant to this proceeding. DSRR also objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case. Ascertaining and providing the documents sought will subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information.

Request for Production No. 49

Produce all documents, in its native computer-readable format to the extent available (including all necessary documentation), relating to train activities for each crew handling each train operating on the Line Segment.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information outside the scope of permissible discovery, as the information requested on train activities for each crew handling each train operating on the Line Segment is not relevant to this proceeding. DSRR also objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case. Ascertaining and providing the documents sought will subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information.

Request for Production No. 50

For each crew operating on the Line Segment (in both the loaded and empty directions), please produce documents, in its native computer-readable format to the extent available (including all documentation, i.e., record layouts, field definitions, code definitions, etc.), which provide the following information, in whole or in part, for individual trainmen and enginemen for each train carrying traffic for 2017 through year-to-date 2022:

- a) The date;
- b) Number of enginemen (including trainees);
- c) Number of trainmen (including trainees);
- d) Place, time, and date each employee went on duty;
- e) Place, time, and date each employee went off duty;
- f) Train number assigned;
- g) Whether or not a relief crew;

- h) Locomotive initials and numbers (including slave units) and number of units in train;
- i) Number of cars in train;
- j) Actual miles run per train;
- k) Kind of service (e.g., local, through, switching, deadheading);
- l) Service class for each employee (including definitions of codes used);
- m) Run number (including definitions of codes used);
- n) Time claimed for each employee;
- o) Straight time actually worked for each employee;
- p) Straight time paid for each employee (hours and dollars of compensation);
- q) Overtime actually worked for each employee;
- r) Overtime paid for, for each employee (hours and dollars of compensation);
- s) Constructive codes, related miles and payments, for each employee (including Code Abbreviation or Number, complete words for which the abbreviation or number stands, definition and explanation of the basis for calculating the payment shown and the different payment rates, e.g., \$0.50 for each five (5) minutes of this, \$10.00 for company negotiated agreement to pay for that, \$100 to reach the amount of salary the engineer is guaranteed for the month, etc.);
- t) The definition DSRR uses internally for payroll determination, transportation classification, labor relations, or accounting purposes for each constructive code identified in response to (s) above. As a hypothetical example, if DSRR defines the constructive code "01" as "back pay," provide a description of what constitutes "back pay" under DSRR's guidelines;
- u) Rate codes of each employee (including definition of codes used and all different wage rates); Payments for meals and lodging for each employee; and
- v) Productivity fund payments on behalf of each employee as well as the amount in the fund, the basis for the distribution and the source/activity which created the fund.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information outside the scope of permissible discovery, as the information requested on

each crew operating on the Line Segment is not relevant to this proceeding. DSRR also objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case. Ascertaining and providing the documents sought will subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information.

Request for Production No. 51

Please produce all wage data, in its native computer-readable format, showing wages paid to each trainman and engineman, separately, by date, to the extent that is not included in the data DSRR provides in response to Request for Production No. 50 for 2017 through year-to-date 2022.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information outside the scope of permissible discovery, as the information requested on wage data is not relevant to this proceeding. DSRR also objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case. Ascertaining and providing the documents sought will subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information. DSRR objects to this RFP as duplicative to the extent such costs are reflected in DSRR's financial information.

Request for Production No. 52

Please provide all documents related to the assignment or sale of Railroad Track Maintenance Tax Credits for the years 2017 to the present, including the identification of, to whom the credit was assigned or sold, the amount of the credit assigned or sold, and the miles of track related to the assigned or sold tax credit.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time. DSRR objects to this RFP because it seeks irrelevant information outside the scope of permissible discovery, as the information requested on the assignment or sale of Railroad Track Maintenance Tax Credits is not relevant to this proceeding. DSRR also objects to this RFP because it imposes an undue burden on DSRR, not proportional to the needs of the case. Ascertaining and providing the documents sought will subject DSRR to a substantial financial burden that is grossly out of proportion to the value of the requested information. DSRR objects to this RFP as duplicative to the extent treatment of such credits are reflected in DSRR's financial information.

Request for Production No. 53

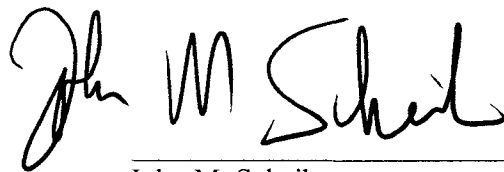
Please produce copies of all operating budgets associated with the Line Segment for the years 2017 to the present, including any subsidiary budgets, including, but not limited to:

- a) Freight revenues;
- b) Storage revenues;
- c) Switching revenues;
- d) Car hire expenses;
- e) Locomotive expenses;
- f) Track repair expenses;
- g) Equipment repair expenses;
- h) Insurance expenses;
- i) Purchased services expenses;
- j) Rental expenses;
- k) Professional service expenses;
- l) License expenses;
- m) Tax expenses;
- n) Utility expenses; and
- o) Depreciation expenses.

Response:

DSRR objects to this RFP on the grounds that the STB's prior rulings and procedures do not permit LPPC to conduct discovery at this time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John M. Scheib". The signature is fluid and cursive, with the first name "John" and last name "Scheib" being more prominent than the middle initial "M".

John M. Scheib
Noah P. Sullivan
Jasdeep S. Khaira
GENTRY LOCKE ATTORNEYS
919 E Main St Ste 1130
Richmond, VA 23219
757-916-3511

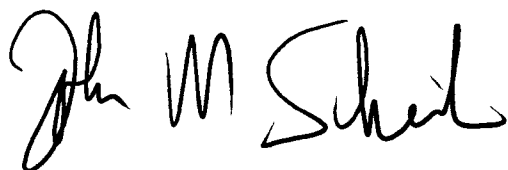
Attorneys for:
Delta Southern Railroad Inc.

Dated: February 8, 2023

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing document was served by email on the following:

Mr. Richard H. Streeter
5255 Partridge Lane, NW
Washington, DC 20016
rhstreeter@gmail.com

A handwritten signature in black ink, reading "John M. Scheib". The signature is fluid and cursive, with the first name "John" and last name "Scheib" being more prominent than the middle initial "M".

John M. Scheib

Dated: February 8, 2022