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VIA ELECTRONIC MAIL (rhstreeter@gmail.com)

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

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 Ms. Brown:

On February 9, 2023, Lake Providence Port Commission (“LPPC”) filed an “Emergency Motion to Compel” in the above-captioned matter. LPPC’s purported emergency motion concerns 63 discovery requests (not including extensive subparts) that it served on Delta Southern Railroad Inc. (“DSRR”). LPPC did so without complying with 49 C.F.R. § 1151.2(d), which the STB expressly required in its August 23, 2022 Decision, at 7, should LPPC determine it needs information from DSRR. LPPC also filed its emergency motion without responding to DSRR’s offer to meet and confer on either February 10 or February 16. Exhibit A to this letter. DSRR notes LPPC’s refusal to meet and confer, as well as its consistent failure or refusal to comply with the STB’s orders. DSRR intends to respond fully and timely to this motion, but writes today for the sole purpose of noting that there is no emergency.

There is no emergency here, and LPPC does not articulate one. This proceeding was initiated more than two years ago with a request for “expedited consideration” of a feeder line application. In the interim, customers have continued to receive adequate service, including the movement of the Schnabel car over the entire Line.¹ Since the proceeding started, new business

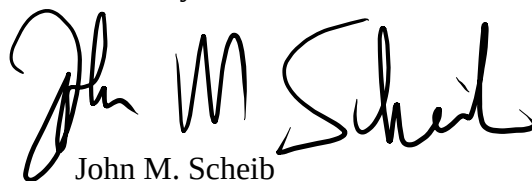
¹ See Delta Southern Railroad Inc.’s Motion to Reject Lake Providence Port Comm.’s Incomplete Feeder Line Application and for Action to Terminate this Proceeding, *Lake Providence Port Commission – Feeder Line Application – Line of Delta Southern Railroad Located in East Carroll and Madison, Parishes, Louisiana*, STB FD 36447 (filed Jan. 13, 2023) (detailing “many of the statements submitted prove that service is adequate and therefore cannot

has located on the Line.² In addition, a new operator took control of DSRR and the Line at issue in this proceeding on January 9, 2023,³ and thereafter has been active with customers and area stakeholders. These facts stand in stark contrast to other feeder line cases, where emergency service orders had been filed. *See e.g., Keokuk Jct. Ry. Co. – Feeder Line Application – Lines of S. Plains Switching Ltd. Co.*, STB FD 34890; STB FD 34922 (Aug. 30, 2007). Here, LPPC points to no such circumstances.

Second, the Surface Transportation Board issued a decision on February 2, 2023, waiving the 30-day regulatory requirement to accept or to reject LPPC’s amended feeder line application, noting that DSRR had raised serious issues regarding whether LPPC had made even a *prima facie* case for relief. Thus, LPPC’s application has not been accepted nor has a procedural schedule been established. In short, this proceeding is not moving forward at this time at any pace that makes this discovery – if legitimate at all – an emergency.

By filing its “Emergency Motion to Compel,” LPPC chose to involve the STB before talking with DSRR. There is no emergency here, and DSRR will respond to the motion to compel within the 20 days permitted for such reply, unless otherwise directed by the STB. 49 C.F.R. 1114.31(a)(1).

Sincerely,

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

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Attorney for:
Delta Southern Railroad Inc.

cc: Parties of Record

be read to be ‘detailed evidence that permits the STB to find’ transportation over the line has been inadequate for a majority of the shippers who transport traffic over the line’’).

² See Feeder Line Application, *Lake Providence Port Commission – Feeder Line Application – Line of Delta Southern Railroad Located in East Carroll and Madison, Parishes, Louisiana*, STB FD 36447 at Ex. O (filed Jan. 3, 2023).

³ See *Patriot Rail Company LLC, SteelRiver Transport Ventures LLC, Global Diversified Infrastructure Fund (North America) LP, First State Infrastructure Managers (International) Limited, and Mitsubishi UFJ Financial Group Inc. – Control Exemption – Delta Southern Railroad, Inc.*, STB FD 36642 (served Dec. 23, 2022).

Exhibit A

From: Scheib, John M.
Sent: Wednesday, February 8, 2023 4:48 PM
To: Richard Streeter <rhstreeter@gmail.com>
Subject: FD 36447 Responses to LPPC Discovery

Mr. Streeter:

Pursuant to our prior agreement in which you granted DSRR an extension until February 8, 2023, to formally respond to the most recently served discovery, please see DSRR's timely provided responses and objections, which are attached.

In addition, in your letter on February 7, 2023, you have offered February 13 for a meet and confer regarding DSRR's letter of February 6, 2023, in which DSRR objected to LPPC's discovery based on the plain language of the August 23, 2022 decision. That decision expressly required LPPC to file either a complete application with all evidence or an incomplete application along with a request to the STB outlining any needed discovery, to be resolved in accordance with 49 CFR § 1151.2(d)(2). Regrettably, I am traveling February 13-15, but could meet by phone on February 10 or February 16. Please let me know if either of those dates works for you.

Best regards,

John