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Ms. Cynthia T. Brown
Chief, Section of Administration Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

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:

Attached for filing in the above-captioned proceeding is the parties' Joint Motion for an Extension of Time to Complete Meet and Confer Process Regarding Valuation Discovery. We are also providing copies of the same to Administrative Law Judge Thomas McCarthy.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

Respectfully submitted,

A handwritten signature in black ink that reads 'John M. Scheib'.

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Attorney for:
Delta Southern Railroad, Inc.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 36447

**LAKE PROVIDENCE PORT COMMISSION – FEEDER LINE APPLICATION – LINE
OF DELTA SOUTHERN RAILROAD LOCATED IN EAST CARROLL AND MADISON
PARISHES, LOUISIANA.**

**JOINT MOTION FOR AN EXTENSION OF TIME TO COMPLETE
MEET AND CONFER PROCESS REGARDING VALUATION DISCOVERY**

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Attorneys for Delta Southern Railroad, Inc.

Dated: January 5, 2024

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SURFACE TRANSPORTATION BOARD**

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**JOINT MOTION FOR AN EXTENSION OF TIME TO COMPLETE
MEET AND CONFER PROCESS REGARDING VALUATION DISCOVERY**

Lake Providence Port Commission (“LPPC”) and Delta Southern Railroad, Inc. (“DSRR”) (and collectively, the “Parties”) hereby request that the Board extend the deadline by which the Parties must complete their meet-and-confer process regarding valuation discovery propounded by LPPC, to March 25, 2024. In support whereof, the Parties state as follows:

1. On November 20, 2023, the Board issued an order (the “Order”) resolving pending motions in the above referenced matter, including discovery motions related to discovery propounded by LPPC, and to which DSRR had objected, regarding LPPC’s valuation assessment of the Line it sought to acquire in its amended application. *See* Order at 13-15.
2. The Board overruled DSRR’s general objection that LPPC was not permitted to conduct discovery after it filed a complete feeder line application, and it found that “LPPC’s request for valuation discovery is necessary and appropriate,” and that the Board would therefore

provide LPPC the opportunity to seek discovery “that will allow L.E. Peabody, Inc. to verify or adjust its calculation of the constitutional minimum value’ of the Line.” Order at 14 (and quoting LPPC Motion to Compel, Feb. 9, 2023). The Board did not, however, resolve DSRR’s specific objections to any of the discovery served by LPPC. *Id.* at 14.

3. Instead, the Board directed that the parties “(i) meet and confer on the scope of discovery necessary for LPPC to develop a sound valuation assessment, and (ii) to report to the administrative law judge assigned below on any remaining disputes within 30 days after the service date of a decision conditionally accepting the amended application.” Order at 14.

4. The Board further directed that the parties should notify the Board upon DSRR’s “completion of discovery to which the parties mutually agree or that is ordered by the administrative law judge.” Order at 15. LPPC will then “have 45 days from the date of that notice to file and serve revised valuation calculations and supporting evidence in its amended application” if it desired to do so. *Id.* The Board would then proceed with noticing the filing of the amended feeder line application and set a procedural schedule for the case. *Id.*

5. The Board issued an order conditionally approving LPPC’s amended application on December 11, 2023. Accordingly, under the Order, LPPC must report to the administrative law judge on any remaining disputes by January 10, 2024.

6. On December 12, 2023, LPPC served a second set of discovery requests on DSRR, which included minor modifications and additions to LPPC’s prior requests. By agreement, the Parties treat this set of discovery requests as the pertinent requests for the Parties’ meet-and-confer process.

7. Since that time, the Parties have conducted two conferences (on December 20, 2023 and January 3, 2024) to discuss the scope of necessary valuation discovery. DSRR also timely served its objections to LPPC's discovery requests on December 28, 2023, and it has provided initial productions to LPPC to assist in evaluating what further material may be needed.

8. While the Parties are making good-faith efforts to resolve any discovery disputes, they believe more time will be helpful, such that DSRR can provide more complete material that it does not object to providing and LPPC can then review it to determine what, if any, additional material it may need to make a sound valuation assessment of the Line.

9. The Parties have agreed that DSRR should have, from January 10, 2024, 45 additional days to complete its production of materials to LPPC, which it will provide on a rolling basis. LPPC will then have 30 days to complete its review and for the Parties to conduct any further meet-and-confer process, before LPPC must report to the administrative law judge whether discovery disputes remain to be resolved. The Parties believe this additional time will best enable them to conclude the valuation discovery LPPC is entitled to, while avoiding unnecessary discovery disputes.

WHEREFORE, the Parties respectfully request that the Board grant their joint motion and order an extension of time by which LPPC must report to the administrative law judge as to any discovery disputes requiring resolution, to March 25, 2024.

Respectfully submitted:

/s/ Richard H. Streeter

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Attorneys for Delta Southern Railroad, Inc.

Dated: January 5, 2024

CERTIFICATE OF SERVICE

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

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In addition and as directed by the Board, I hereby certify that on this date a copy of the foregoing document was served by email and U.S. Mail on the following:

Judge Thomas McCarthy
Administrative Law Judge
Federal Mine Safety and Health Review Commission
1331 Pennsylvania Avenue, N.W., Ste. 520N
Washington, DC 20004-1710
ctolbert@fmshrc.gov
cbrightwell@fmshrc.gov

/s/ John M. Scheib
John M. Scheib

Dated: January 5, 2024