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March 11, 2024

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

Re: STB FD 36447, *Lake Providence Port Commission—Feeder Line
Application-Line of Delta Southern R.R. Located in East Carroll
And Madison Parishes, LA.*

Dear Ms. Brown:

This letter, consistent with the Board's decision of November 20, 2023, advises the Board that Lake Providence Port Commission ("LPPC", Southeast Arkansas Economic Development District, Madison Parish Port Commission ("SEAEDD"), and North Louisiana & Arkansas Railroad, Inc. ("NLA") (collectively "Movants"), have this date filed the attached motion with ALJ Thomas McCarthy, et al, in response to the Motions to Compel filed March 8, 2024, by Delta Southern Railroad, Inc. Please let me know if you have any questions.

Respectfully submitted,

/s/ Richard H. Streeter

/s/ Michael F. McBride

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Cc: ALJ Thomas McCarthy, Connor Brightwell, Esq., Charles Tolbert, Esq.
John M. Scheib, Esq., Noah Sullivan, Esq.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36447

**LAKE PROVIDENCE PORT COMMISSION
--FEEDER LINE APPLICATION--
LINE OF DELTA SOUTHER RAILROAD LOCATED IN
EAST CALLOLL AND MADISON PARISHES, LA.**

**EMERGENCY MOTION FOR RULING BY ALJ McCARTHY OR, IN THE
ALTERNATIVE, FOR REFERRAL BY ALJ McCARTHY TO THE BOARD, ON
THE SCOPE OF DISCOVERY PERMITTED AT THIS TIME UNDER THE
BOARD'S DECISIONS DATED NOVEMBER 20, 2023
AND DECEMBER 11, 2023**

Lake Providence Port Commission ("LPPC"), Southeast Arkansas Economic Development District ("SEAEDD") and North Louisiana and Arkansas Railroad, Inc. ("NLA") by and through their counsel of record, respectfully request Administrative Law Judge ("ALJ") McCarthy to decide, or in the alternative for the Board to expeditiously clarify whether the Board's Decisions, dated November 20, 2023, and December 11, 2023, which specifically ordered that "LPPC's request for discovery relating to valuation may proceed under the process specified in the *November 20, Decision*," also authorized Delta Southern Railroad, Inc. ("DSRR"), at this point in the proceeding, to pursue discovery against LPPC, et al. As of this time, the Board has not yet accepted LPPC's Expanded Feeder Line Application or established a procedural schedule.

Mindful of the Board's directive in its *November 20, 2023 Decision* that ALJ McCarthy was to handle all discovery matters, the foregoing question was

raised before Judge McCarty by LPPC, et al., via emails to ALJ McCarthy and Conner Brightwell, Esq., his attorney advisor, on February 20, 2024, and on March 8, 2024. However, before ALJ McCarthy could respond, on March 8, 2024, DSRR jumped the gun and filed Motions to Compel against LPPC, SEAEDD and NLA with the Board.

Before responding to the merits of DSRR's pending motions to compel, LPPC, et al., submit that simple fairness to all parties requires that ALJ McCarthy or the Board decide the issue that is posed above. Indeed, resolution will require a simple "No" or "Yes" whether DSRR is entitled to take discovery from LPPC, et al., at this time. In the alternative, ALJ McCarthy is requested to seek clarification from the Board, if he has any doubt in the matter.

Accordingly, LPPC, et al., deem it necessary to move for an order from ALJ McCarthy limiting the right to discovery at this time to valuation discovery propounded by LPPC. In the alternative, LPPC, et al. asks ALJ McCarthy to request clarification by the Board regarding whether its decisions served November 20, 2023 and December 11, 2023, allow DSRR to pursue discovery at this time. As noted above, resolution will require a simple "No" or "Yes."

If DSRR is authorized to pursue discovery at this time, LPPC, et al., jointly request ALJ McCarthy to schedule a conference as soon as possible to discuss the merits of their responses and, most importantly, the General Objections that LPPC, et al. have raised to various interrogatories and requests for production of documents. As 49 C.F.R. §1114.21(c) reflects, LPPC, et al.

have to seek relief from discovery that is unduly burdensome, or to prevent the raising of issues that are “untimely or inappropriate to the proceeding.”

Respectfully submitted,

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