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ENTERED

Office of Chief Counsel

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VIA ELECTRONIC FILING

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, SW
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 Chief of Case Administration:

Delta Southern Railroad Inc (“DSRR”) joins the request filed today by Lake Providence Port Commission (“LPPC”) asking for expedited resolution of the issues before the Board posed by DSRR’s Motion to Strike filed November 19, 2025, to which LPPC replied on November 24, 2025 (hereinafter “*LPPC’s Nov. 24 Reply*”).¹

- DSRR is moving this case forward after it was held in abeyance for 13 months because of LPPC’s *ultra vires* actions. “The Board placed this case in abeyance prior to DSRR completing discovery of other parties to the proceeding, *including those who provided verified statements.*” FD 36447 at n.9 (STB Filed June 20, 2025). The Board understood: “DSR notes that if the proceeding is reactivated, it intends to seek additional discovery.” FD 36447 at 5 (STB Decided Sept. 25, 2025) (hereinafter “*Sept. 25 Decision*”). DSRR has been working even during the government shutdown to move forward.
- LPPC’s objections to DSRR’s efforts and attempts to delay DSRR getting access to LPPC’s witnesses is inexplicable given the Board’s order that a proposed procedural schedule “should take into account a reasonable period of time for DSR to complete discovery” that suspended when the Board placed the matter in abeyance. *Sept. 25 Decision* at 8.
- Why is LPPC is fighting hard against DSRR using discovery to explore LPPC’s allegations and to test the veracity of what LPPC’s witnesses’ statements include and

¹ Given LPPC’s response to DSRR’s Motion to Strike filed on November 24, 2025, it is unclear what right to respond “LPPC waives.” LPPC undated letter, FD 36447 (STB filed Dec. 5, 2025).

exclude? DSRR does not share LPPC's belief that the Board must blindly accept its allegations or witness statements without challenge.

- Granting DSRR's Motion to Strike will resolve the discovery disputes for certain of LPPC's witnesses and provide LPPC the outcome it seeks – avoiding fact discovery of its witnesses.
- Expedited resolution should be easy because:
 - LPPC's citation to 49 CFR 1101.2(d) confirms that LPPC's witnesses are parties who did not merely sign a certificate of support. *Id.* at n.3. They provided testimony, with gaping holes.
 - *Wisconsin Power & Light Co. v. Union Pac. R.R. Co.*, FD. 42051 (STB Served June 21, 2000)), cited by LPPC, proves that witnesses can be “required to . . . produce documents.” *LPPC's Nov. 24 Reply* at 6.
 - A review of *Ballard Terminal R.R. Co., L.L.C. – Acquisition and Operation Exemption – Woodinville Subdivision*, FD 35731 (STB Served Jan. 31, 2014), which LPPC struggles to distinguish (*LPPC's Nov. 24 Reply* at 7), reveals that the Board ordered document production by third parties.
 - A subpoena duces tecum is not required to depose any person. 49 C.F.R. §1114; *see Union Pac. R.R. Co. at al. – Control and Merger – South. Pac. Rail Corp et al.*, STB Finance Docket No. 32760 [Decision No. 20], at 1996 STB LEXIS 81*23 (STB Decided Mar. 19, 1996) (discussing that under § 1114.22 non-testifying witnesses are subject to deposition and discussing a now removed provision that previously required petition to Board for a deposition).

Respectfully submitted,

/s/ John M. Scheib

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CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing document was served by email on the following who are on the Board's service list or counsel who have made it known to DSRR that they represent one of the LPPC witnesses:

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Dated: December 5, 2025