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ENTERED
Office of Chief Counsel
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Part of
Public Record

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Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

*Re: FD 36447, Lake Providence Port Commission - Feeder Line Application -
Line of Delta Southern Railroad Located in East Carroll and Madison Parishes, LA*

Dear Sir or Madam:

We represent Complex Chemical Company, Inc. ("Complex") and Mr. Jerry J. Melton, its President. Neither Complex nor Mr. Melton is a party to the above-referenced proceeding. However, because Delta Southern Railroad, Inc. ("DSR") is seeking relief against Complex, a non-party, to which DSR is not entitled, Complex asks that you please consider this letter as its reply to the "Motion to Strike and in the Alternative Motion to Compel or for a Subpoena Duces Tecum" (docketed by the Surface Transportation Board as "Motion to Compel") filed in the above-referenced proceeding by Delta Southern Railroad, Inc. ("DSR") on November 19, 2025 (the "Motion to Compel").

Applicant Lake Providence Port Commission ("LPPC") submitted Mr. Melton's Verified Statement, prepared on behalf of Complex, with its Amended Application, filed in the above-referenced proceeding on January 4, 2023. DSR served interrogatories and requests for production of documents on Complex on October 13, 2025. Motion to Compel, Exhibit [B]. Through undersigned counsel, Complex responded to Mr. John Scheib, Esq., counsel for DSR, on October 27, 2025 (Motion to Compel, Exhibit [G]) that Complex is not a party herein and thus is not required to respond to, nor is it subject to, such interrogatories and requests for production of documents under 49 CFR §§ 1114.26 and 1114.30. Therefore, undersigned counsel informed Mr. Scheib that Complex will not be responding to DSR's interrogatories and requests for production of documents.

DSR's Motion to Strike seeks to strike Mr. Melton's Verified Statement if it is not withdrawn

or if Complex does not answer the interrogatories and request for production of documents. DSR's Motion to Strike is an attempt to muffle Mr. Melton and Complex, who have many years of business at MP 491, and to strip them of their due process right to be heard in this proceeding on a matter impacting their rights under 49 U.S.C. § 11101(a) to request rail transportation service from DSR. Compare, *Matthews v. Eldridge*, 424 US 319, 332 (1976) (due process rights).

49 U.S.C. § 10907 “ was enacted to address concerns about the deteriorating rail service provided on some of the secondary railroad lines throughout the country [United States].” *GS Roofing Prods. Co, v. Surface Transportation Bd.*, 262 F. 3d 767,771 (8th Cir. 2001). Granting DSR's Motion to Strike Complex's Verified Statement would be inconsistent with the purpose of 49 U.S.C. § 10907, which is to address concerns about DSR's deteriorating rail service in the United States that is described in Mr. Melton's Verified Statement. DSR's Motion to Strike should be denied.

As DSR's alternative to the Motion to Strike, its Motion to Compel seeks to compel Complex to respond to DSR's written discovery requests (interrogatories and request for production of documents) or, alternatively, for the issuance of a Subpoena Duces Tecum upon Complex. Regrettably, DSR has disregarded the Code and its regulations which restrict service of interrogatories and requests for production of documents only upon parties. 49 CFR §§ 1114.26 and 1114.30. Instead, DSR served interrogatories and request for production of documents upon Complex, a non-party.

Importantly, 49 CFR § 1101.2(d) specifies who is not considered a party. Persons who sign certificates of support, witnesses at oral hearings or in modified procedure proceedings (unless otherwise designated as parties), and individuals listed on the docket service list solely to receive copies of Board releases do not qualify as parties. Their involvement is limited to providing information or receiving updates, without conferring any legal rights or obligations in the proceeding.

Accordingly, while correspondence or supportive documentation may be submitted by interested individuals, such actions do not confer party status. Under the Surface Transportation Board's regulations, LPPC's submission of Mr. Melton's Verified Statement does not make him a party in the above-referenced proceeding. Clearly, Mr. Melton is merely a witness, not an Applicant, and so is not a party to the above-referenced proceeding. 49 CFR § 1101.2(d). Only those formally named in the pleadings or admitted by the Board are recognized as parties with standing to participate fully in the proceeding. *Id.*

Because Complex has not been named in the pleadings, has not filed any motion to intervene, and has not otherwise been granted party status by the Surface Transportation Board, it remains a

non-party. Mr. Melton's Verified Statement is supportive documentation only. Thus, DSR's allegations that Complex has made itself a part of this proceeding by filing a Verified Statement is unsupported under the law. DSR's Motion to Compel should be denied.

Moreover, in the alternative, the Motion to Compel seeks issuance of subpoenas duces tecum against several non-party witnesses, including Mr. Melton's company, Complex Chemical Company. Motion to Compel at 11. Mr. Melton agrees with LPPC that, if DSR does seek to have the Surface Transportation Board issue a subpoena duces tecum to him or Complex, that DSR must file a separate petition for issuance of such a subpoena to each non-party witness, including Mr. Melton and Complex, so that Mr. Melton can raise any objections, such as to the date, location, scope of the proposed deposition, burdensomeness (and potential applicable privileges) of the documents demanded, and the like. To that end, I note that one of Mr. Scheib's colleagues sent witnesses other than Mr. Melton notices of deposition. DSR has not filed a petition for subpoena duces tecum to Mr. Melton.

In conclusion, as a non-party witness, Mr. Melton should not have his Verified Statement stricken, nor should Complex be required to respond to DSR's interrogatories and requests for production of documents. Moreover, if DSR should seek to depose Mr. Melton, it should only be after DSR files a separate petition for issuance of a subpoena to Mr. Melton, with sufficient opportunity for Mr. Melton to reply to the petition with any objections he may have to the subpoena, including as to timing, location, burden, applicable privileges (if any), and any other factors that Mr. Melton may reasonably raise for determination before he is required to appear at such a deposition.

We thank the Board in advance for its consideration of these arguments and concerns with DSR's Motion to Compel, directed as it is to non-party witnesses, Complex and Mr. Melton.

Respectfully submitted,

GLOVER RUSSELL, a Professional Association

A handwritten signature in blue ink, appearing to read "Glover Alcorn 'Russ' Russell, Jr.", is written over the typed name.

Glover Alcorn "Russ" Russell, Jr., J.D., LL.M., C.P.A.
Attorney for Complex Chemical Company, Inc., and
Jerry J. Melton, President

Cc: All persons on the Service List in FD 36447

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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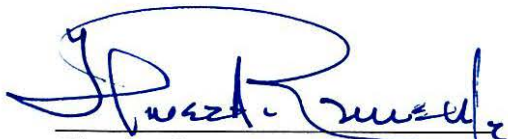
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Glover Alcorn "Russ" Russell, Jr.

Dated: December 09, 2025