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ALJ

SERVICE DATE - FEBRUARY 27, 2026

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36447

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

DECISION GRANTING DSRR'S MOTION FOR ISSUANCE OF
SUBPOENA TO COMPLEX CHEMICAL COMPANY, INC. BUT
LIMITING THE SUBPOENA

Decided: February 27, 2026

The Motion for Issuance of Subpoena by Delta Southern Railroad, Inc. (DSRR or DSR) to Complex Chemical Company, Inc. ("Complex") is before the undersigned pursuant to a ruling by the Surface Transportation Board. See Decision (Dec. 12, 2025). This proceeding involves efforts by the Lake Providence Port Commission (LPPC), a noncarrier political subdivision of the State of Louisiana, to acquire the portion of the McGehee-Tallulah rail corridor owned by DSRR, a Class III rail carrier, through a feeder line application under 49 U.S.C. § 10907 and 49 C.F.R. part 1151.

In their joint reply to DSRR's Motion, LPPC and Complex argue that DSRR's Motion is untimely, the Board made findings of verified evidence, DSRR lacked good faith, and the subpoena is procedurally and substantively defective. (Joint Reply 8.) This summary of the proceeding's relevant procedural history of the proceeding is set forth to address LPPC and Complex's arguments.¹

Relevant Procedural History

On November 12, 2020, LPPC filed an application under 49 U.S.C. § 10907 and 49 C.F.R. part 1151 to acquire from DSRR a 20-mile line, together with various ancillary tracks, in East Carroll and Madison Parishes, La. (the Line). On January 11, 2021, the Board accepted the application, after LPPC submitted the information the Board required, and set a procedural schedule. Decision (Jan. 15, 2021).

¹ This overview does not purport to set out every detail in this contentious matter but focuses on the relevant portions involving in the instant Motion, and the focus is on DSRR, LPPC, and Complex.

On March 2, 2021, DSRR filed a motion to dismiss and request to hold the proceeding in abeyance pending disposition of the dismissal motion and unresolved discovery issues with North Louisiana & Arkansas Railroad (NLA).² The Board suspended the procedural schedule pending further Board order because of the pending numerous filings and the upcoming deadline for submission of verified statements and comments addressing the application. See Decision 2 (Mar. 9, 2021).

By its August 23, 2022 Decision, the Board allowed LPPC to file an amended feeder line application to acquire DSRR's entire rail line on the Tallulah-McGehee corridor, which was longer than originally proposed. See Decision 1 (Aug. 23, 2022). The Decision explained that:

the application must include the information specified in 49 C.F.R. § 1151.3, in the form of verified statements, and must contain detailed evidence that permits the Board to find, inter alia, that transportation over the line is inadequate for the majority of shippers who transport traffic over the line (49 C.F.R. § 1151.3(a)(11)(i)(B)), and that the sale of the line will not have a significantly adverse financial effect on DSR (49 C.F.R. § 1151.3(a)(11)(i)(C)), or an adverse effect on the overall operational performance of DSR (49 C.F.R. § 1151.3(a)(11)(i)(D)).

Id. at 6-7. The Decision required LPPC to include all of the arguments and evidence on which it will rely. Id. at 7. Further, each witness's sworn statement was required to be presented as a single verified statement from each witness. Id. The Decision also required LPPC to clarify certain information. Id. at 9-10. LPPC filed an amended feeder line application on January 4, 2023.

DSRR filed a motion to reject LPPC's amended application and terminate the proceeding. The Board denied DSRR's motion by its Decision served on November 20, 2023. See Decision (Nov. 20, 2023). To determine whether the amended application was complete, the Board reviewed, inter alia, DSRR's challenge to the verified statement of Complex and found "no basis for rejecting Complex Chemical's more recent statement here." Id. at 8. The Board found:

the amended application complete with respect to criterion (B) of the [public convenience and necessity] criteria for purposes of commencing a proceeding under 49 C.F.R. § 1151.2(b)(1). However, the Board **reiterates its earlier reminder** that **a finding of completeness** (on this or other criteria pertaining to the contents of a feeder line application prescribed in § 1151.3) **is not a ruling on the merits** that a Board-ordered sale would be warranted. See Aug. 2022 Decision, FD 36447, slip op. at 5 n.12. Should the Board ultimately accept LPPC's amended application and institute a proceeding, DSR will be free to present additional

² On June 1, 2021, the Board denied NLA's motion for protective order, finding NLA was a "party," because it participated as a party in this proceeding by joining pleadings and provided a supplemental response to interrogatories that documents would be provided. See Decision 3 (June 1, 2021).

evidence and argument relating to the claims in its motion to reject (and other claims bearing on the merits of the amended application), and the Board will issue a decision on the merits of the application when the record is complete. See PYCO Indus., Inc.—Feeder Line Acquis.—S. Plains Switching, Ltd., FD 34844 et al., slip op. at 8 (STB served July 3, 2006) (accepting the application but reserving judgment on the merits pending completion of the record).

Decision 11 (Nov. 20, 2023) (emphasis added). The Board denied LPPC’s motions to supplement its amended application:

If this case proceeds to the merits phase, DSR will have an opportunity to submit verified evidence and argument regarding the merits of the amended feeder line application (under 49 C.F.R. § 1151.2(e)), and LPPC will have an opportunity to submit a verified reply to the claims that are made (under 49 C.F.R. § 1151.2(f)). Any relevant evidence or argument from these interim, unauthorized filings can be submitted at the appropriate times during that phase of the proceeding.

Id. at 16. The Board expected to conditionally accept LPPC’s amended application, provided LPPC filed and served the required certificate of service. Id. Then the case would proceed, including LPPC’s request for valuation discovery, and the Board assigned Administrative Law Judge Thomas McCarthy for the handling of discovery disputes. Id. at 16-17.

After LPPC filed the required certificate of service, the Board conditionally accepted the amended feeder line application on December 11, 2023. Decision (Dec. 11. 2023). The Decision further states that “LPPC’s request for discovery relating to valuation may move forward under the process specified in the November 20 Decision.” Id. at 2 (citing Decision (Nov. 20, 2023) (footnote omitted)).

LPPC and DSRR then disagreed about whether the Board’s November 20, 2023 and December 11, 2023 Decisions meant that only LPPC could take discovery. See Decision 2 (Apr. 15, 2024). Judge McCarthy found that DSRR was also entitled to take discovery, ordered DSRR and LPPC to meet and confer about the nature and scope of discovery, and scheduled a conference call. Id. at 3-4.

On August 2, 2024, the Board placed this matter in abeyance, because state court actions might impact this proceeding, including whether LPPC had the authority to bring this action under state law. See Decision 3-4 (Aug. 2, 2024).

By decision served September 25, 2025, the Board denied two motions to dismiss the proceeding, lifted the abeyance, and directed the parties to submit (jointly, if possible) a proposed procedural schedule that took into account a reasonable period of time “for DSR to

complete discovery[.]” Decision 8 (Sept. 25, 2025).³ In response to DSRR’s request for attorney’s fees, the Board noted LPPC argued DSRR was not permitted to engage in discovery; however, Judge McCarthy found DSRR was permitted to engage in discovery, and his order was not appealed. Id. at 9 n.19.

On November 19, 2025, DSRR filed a motion to strike verified statements signed by shipper witnesses in support of LPPC’s amended application or, in the alternative, to compel discovery from and then depose those witnesses (“Motion to Strike”).⁴ (DSRR Mot. to Strike 1-2, Nov. 19, 2025.) LPPC replied in opposition to DSRR’s Motion to Strike on November 24, 2025. LPPC argued, among other things, that the witnesses—including Complex—are not “parties” to the proceeding and, as such, are not required, under the Board’s regulations, to respond to interrogatories or requests for production. (LPPC Reply 4-5, Nov. 24, 2025 (citing 49 C.F.R. §§ 1114.26, 1114.30).) Complex also objected, arguing it is not a party. (E.g., Complex Letter 1-3.)

On December 12, 2025, the Board assigned discovery matters to the undersigned. Decision 3-4 (Dec. 12, 2025). To resolve the Motion to Strike (and another discovery issue), the undersigned ordered the parties and the disputed witnesses to meet and confer to resolve pending discovery issues. See Decision (Dec. 31, 2025). A status conference was scheduled for January 13, 2026, in case the discovery issues were not resolved. Id.

The Subpoena Duces Tecum Decision (“SDT Decision”)

The status conference was necessary and held as scheduled. On January 16, 2026, the undersigned issued an order memorializing the rulings made at the Status Conference. See Decision (Jan. 16, 2026). Relevant to DSRR’s Motion for Issuance of Subpoena to Complex, the SDT Decision explicitly stated: “the witnesses have argued that they are **non-parties**, and DSRR has not yet engaged the **proper procedural device for discovery upon a non-party** (i.e., a **subpoena duces tecum**). DSRR propounded interrogatories, **requests for production of documents**, and served notices of deposition.” Id. at 2 (citations omitted; emphasis added).

The SDT Decision rejected DSRR’s argument that the witnesses (including Jerry J. Melton of Complex) were parties, because each filed a verified statement. Id. at 2-3. The Board’s regulations define a party as:

³ This decision contains an extensive, although not exhaustive treatment, of this proceeding’s procedural history and background. Id. at 1-6. The decision notes that at this point, Judge McCarthy’s service as ALJ in the proceeding had concluded. See id. at 5 n.9.

The parties submitted competing proposals for a procedural schedule on November 19, 2025. See Materials Due to Be Submitted During the Fed. Gov’t Shutdown, EP 751 (STB served Nov. 13, 2025) (setting deadlines of November 20, 2025, due to the lapse in the Board’s appropriations). The procedural schedule is not within the purview of the undersigned; however, the competing proposals concern taking discovery (or not).

⁴ DSRR’s motion was captioned and alternatively requested the issuance of subpoena duces tecum. (DSRR Mot. to Strike 1 & 6.)

Party means a complainant, defendant, applicant, respondent, protestant, intervener, or petitioner in any proceeding, or other persons permitted or directed by the Board to participate in a proceeding. **It will not include persons merely signing certificates of support or witnesses at oral hearing or in modified procedure proceedings**, unless they are otherwise a party to the proceeding.

49 C.F.R. § 1101.2(d) (emphasis added). Here, the witnesses signed verified statements to LPPC's Amended Application. DSRR argued that verified witness statements are not the same as "certificates of support" in 49 C.F.R. § 1101.2(d). The SDT Decision explained that without a Board case rejecting that argument, the language of 49 C.F.R. § 1101.2(d) indicates that a person who provides a verified witness statement is not party and is more analogous to one merely signing a certificate of support or a witness at an oral hearing. See Decision 3 (Jan. 16, 2026). Thus, the undersigned found that the witnesses are non-party witnesses. Id. Moreover, contrary to DSRR's argument, it matters for discovery purposes, because a non-party witness must be issued a subpoena duces tecum. Id.

The SDT Decision explicitly denied DSRR's alternative motion to compel, because DSRR's request for production of documents was an incorrect procedural device for a non-party witness. Id. (citing 49 C.F.R. § 1114.30(a) (requests for production of documents may be served upon any "party")).

The SDT Decision required DSRR to circulate the proposed subpoena duces tecum with the attached requested documents for each witness to LPPC and counsel for the witness; confer with counsel for LPPC and the witness; and DSRR must file its requests for issuance of subpoenas duces tecum regarding the disputed witnesses.⁵ See Decision 3 (Jan. 16, 2026). The SDT Decision expressly stated that it applied to Jerry J. Melton, on behalf of Complex Chemical Corporation (Complex).⁶ Id. at 3-4 n.3.

The SDT Decision was not appealed. See 49 C.F.R. § 1115.1(c) (regarding appeals from decisions under authority delegated to them, i.e., an ALJ).

DSRR's Motion for Issuance of a Subpoena

DSRR's motion requests that a subpoena be issued to a non-party, Complex, and DSRR's Omnibus Brief explains that DSRR does not request a deposition of Jerry J. Melton. (DSRR Omnibus Brief 6, 9.) LPPC and Complex argue DSRR's Motion should be denied, because it is untimely, the Board made findings of verified evidence, DSRR lacked good faith, and the

⁵ The deadlines for the last two deadlines were extended. Decision (Jan. 30, 2026) (granting joint motion).

⁶ DSRR's motion "reserves the right" to depose Jerry Melton after documents are reviewed. (DSRR Omnibus Brief 10.) The SDT Decision set the deadline for DSRR to request the subpoena for Mr. Melton, and that deadline has passed. See Decision 3-4 n.3. (Jan. 16, 2026). DSRR's far better course would have been to request the subpoena duces tecum of Jerry Melton in compliance with the SDT Decision and explain that Mr. Melton's deposition be scheduled after the Complex documents were returned.

subpoena is procedurally and substantively defective.⁷ (Joint Reply 8.) DSRR filed a letter on February 18, 2026, to correct the procedural posture of the case and rebut the argument that the Board made a decision on the merits.

Relevant to non-party witnesses, section 1321 states that:

(c) SUBPOENA WITNESSES.—(1) The Board **may subpoena witnesses and records** related to a proceeding of the Board from any place in the United States, to the designated place of the proceeding. . . .

(d) DEPOSITIONS.—(1) In a proceeding, the Board may take the testimony of a witness by deposition and may order the witness to produce records. A party to the proceeding pending before the Board may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

(2) If a witness fails to be deposed or to produce records under paragraph (1), **the Board may subpoena the witness to take a deposition, produce the records, or both.** . . .

49 U.S.C. § 1321 (emphasis added).⁸

LPPC and Complex argue that without the deposition, the subpoena is procedurally defective. (Joint Reply 12-13.) They argue that the statute, 49 U.S.C. §§ 1321(c) & (d) must be read as “subpoena witnesses and records.” *Id.* at 13. LPPC and Complex, however, ignore 49 U.S.C. § 1321(d)(2), which explicitly authorizes a subpoena to take a deposition **or produce documents, or both.** Thus, the statute authorizes the requested subpoena without a deposition, as DSRR requests.

In Board proceedings, parties are entitled to discovery “regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding.” 49 C.F.R. § 1114.21(a)(1) (scope). “It is not grounds for objection that the information sought will be inadmissible as evidence if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.” 49 C.F.R. § 1114.21(a)(2) (relevance).

In reviewing an appeal of a subpoena to a non-party issued by the Director of Proceedings,⁹ the Board has explained that:

The February 27 Order [by the Director] described correctly the applicable legal standard to govern this request for nonparty discovery. In Board

⁷ LPPC and Complex’s Joint Reply spends several pages of its reply about the “purported shipper” and non-shippers. (Joint Reply 1-5.) DSRR agrees that Complex is “an actual shipper” over DSRR’s Line. (DSRR Omnibus Brief 12.)

⁸ This section was previously found at 49 U.S.C. § 721 but renumbered in 2015. *See* Pub. L. 114-110.

⁹ Reasonableness of BNSF Ry. Coal Dust Mitigation Tariff Provisions (February 27 Order), FD 35557, slip op (Feb. 27, 2012).

proceedings, “parties are entitled to discovery ‘regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding.’” February 27 Order, slip op. at 3 (quoting 49 C.F.R. § 1114.21(a)(1)). Further, it “is not grounds for objection that the information sought will be inadmissible as evidence if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.” Id. (quoting 49 C.F.R. § 1114.21(a)(2)). The February 27 Order explained that the requirement of relevance means “that the information might be able to affect the outcome of a proceeding.” Id. (citing Waterloo Ry.—Adverse Aband.—Lines of Bangor and Aroostook R.R. and Van Buren Bridge Co. In Aroostook Cnty., Me., AB 124 (Sub-No. 2), et al. (STB served Nov. 14, 2003)).

The February 27 Order balanced the relevance of the information sought against the burden. The order stated that: “In determining whether to issue a subpoena, the Board will examine whether the subpoenas could cause undue burden on third parties, especially those with a limited connection to the matter before the Board.” February 27 Order, slip op. at 2. . . . Where, however, a party seeks a subpoena from a nonparty that has a clear interest in the proceeding and will be directly affected by its outcome, the Director concluded that a very strong foundation is not a prerequisite to the issuance of a nonparty subpoena. Id.

....

We find no error in the balancing test applied by the Director. All discovery requests entail the balancing of the relevance of the information sought against the burden of producing that information. Moreover, the Director properly determined that where the information is sought from a nonparty, greater weight should be given to the burden and thus a stronger showing of relevance is required. The more tangential the nonparty is to the proceeding, the greater the weight given to the burden being imposed in the balancing test. Indeed, if a party seeks a subpoena to compel from a nonparty unrelated to the litigation discovery that may be expensive, oppressive or burdensome, then we require a strong foundation regarding the relevance of the information sought to overcome the burden on that nonparty. But even in the case of a nonparty with no interest in the proceeding, we still balance the relevance against the burden.

Reasonableness of BNSF Ry. Coal Dust Mitigation Tariff Provisions, FD 35557, slip op. 3-5 (June 25, 2012) (footnotes omitted). Similarly, an order may be entered for good cause and which justice requires, to protect from “annoyance, embarrassment, oppression, or undue burden or expense, or to prevent the raising of the issues untimely or inappropriate to the proceeding.” 49 C.F.R. § 1114.21(c). Protective orders may include that discovery not be had or that discovery be had only on specified conditions. 49 C.F.R. § 1114.21(c)(1)-(2).

Complex is a non-party and interested in the outcome of this proceeding. Complex’s President, Jerry J. Melton, supplied a verified statement that is attached to LPPC’s Amended Application. Complex is a shipper on the Line. Even LPPC, DSRR, and Complex ultimately agree about these facts.

The procedural history is set forth above, and this matter is pending. Judge McCarthy decided that DSRR is entitled to discovery. The Board has decided several pleadings-based attacks, but the Board has **not** decided the merits of this proceeding. See Decision 11, 16 (Nov. 20, 2023) (stating decision was not a merits decision).

LPPC and Complex argued that DSRR's discovery was not timely, because DSRR should have requested discovery when LPPC filed its Amended Application on January 4, 2023. (Joint Reply 5.) DSRR served its non-party discovery in October 2025. Id.

Discovery is not stayed or concluded. Instead, the Board has not entered a procedural schedule. Thus, the requested subpoena is not untimely.

According to their Joint Reply, LPPC and Complex, rely on the Board's decision that rejected DSRR's claim that it would be prejudiced by being unable to seek discovery from the Madison Parish Port Commission (MPPC). (Joint Reply at 5 (citing Decision 6 (June 1, 2021)).) LPPC and Complex argues that at the time of that decision, DSRR failed to take discovery from MPPC for four months and instead took discovery from other parties, and here DSRR failed to take discovery from Complex for over three years since LPPC's Amended Application. Id.

The June 1, 2021 Decision regarding MPPC that LPPC and Complex rely upon was not a request for discovery or for issuance of a subpoena, as is the issue here. See Decision 6 (June 1, 2021). Instead, the Board analyzed whether to accept additional filings, such as a motion to strike. Id. The Board explained that:

the Board disagrees with DSR's claims that it has been prejudiced by NLA and MPPC's appearances in this proceeding in recent pleadings. . . . With respect to MPPC, DSR argues that prejudice arises because it is unclear whether DSR "would have a full and fair opportunity to undertake discovery of MPPC." The Board disagrees. MPPC's involvement in the Corridor restoration project has been known to DSR from the outset.

Id. (internal citation omitted). Again, the issue before the Board was whether to strike certain filings and DSRR's claimed prejudice, not about the length of time since discovery was initiated. Therefore, this discussion is unhelpful to resolving the instant Motion.

LPPC and Complex argue that the Board made findings of verified evidence. (Joint Reply 9-10.) They are mistaken. Again, the Board reviewed LPPC's Amended Application for completeness. See Decision 11, 16 (Nov. 20, 2023).

To oppose the requested subpoena, LPPC and Complex argue that DSRR lacked good faith. (Joint Reply 10-12.) They argue that DSRR first focused its discovery on parties, and the initial discovery requests (the requests for production of documents and interrogatories) served upon Complex were intended to mislead Complex into thinking it was a party. (Joint Reply 10-12 & Exh. A.)

The initial discovery requests served upon Complex are not at issue here. The SDT Decision found that Complex was not a party, and the requests for production of documents and interrogatories were the inappropriate procedural device. Decision 2-3 (Jan. 16, 2026). LPPC and Complex argue that if DSRR had presented Complex with a subpoena duces tecum or subpoena ad testificandum in October 2025, they would have saved tens of thousands of dollars and countless hours with respect to this proceeding. (Joint Reply 12). In light of the numerous filings in this case, even where there is an agreement, it seems unlikely. In any event, LPPC and Complex's arguments here do not rise to the level of entering a protective order to deny a subpoena. See 49 C.F.R. § 1114.21(c).

Finally, LPPC and Complex argue the subpoena is substantively defective. (Joint Reply 14-16.) They argue it is overly broad in time, scope, and subject matter, unduly burdensome, and seeks documents readily available to DSRR. Id. at 14. These issues **should have been significantly narrowed or resolved** by the meet and confer that was ordered in the SDT Decision. See Decision 3-5 (Jan. 16, 2026).

LPPC and Complex argue that of the eight requests, Numbers 1-6 are in the possession of DSRR. (Joint Reply 15.) That is beside the point. DSRR is entitled to ascertain which documents Complex has in its possession to support its arguments relevant to this proceeding. If LPPC and Complex were to argue that DSRR could obtain those documents, not from Complex, but from another party, then that would be different. But to argue that DSRR already has the documents in its own possession, without more, is insufficient to defeat a subpoena.

In order to balance the interests of the non-party, Complex, against the relevant discoverable evidence, the requests must be narrowed according to the issues of this proceeding regarding time and scope.

The subpoena is too broad and will be narrowed regarding the time of the documents produced. The Amended Application states that DSRR's failure to implement an adequate maintenance program can be traced back to 1999, when Willaim Wainright and his wife acquired the track. Accordingly, all the requests are limited to 1999 to present.

Request Number 5 is limited to "decisions to ship by rail using the Line or by truck instead of the Line."

Request Number 7 is limited to "related to the Line or alternatives to the Line."

It is ordered:

1. DSR's Motion for Issuance of Subpoena to Complex is Granted. The subpoena, as limited (explained herein), is issued as attached to this decision.

2. This decision is effective on the date of service.

By the Board, Jenifer J. Soulikias, Administrative Law Judge.

**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.**

**SUBPOENA DUCES TECUM TO COMPLEX CHEMICAL COMPANY, INC.
TO PRODUCE DOCUMENTS**

To: Complex Chemical Company, Inc.
c/o Jerry J. Melton, President
177 Complex Chemical Road
Tallulah, LA 71282

Pursuant to the rules of the Surface Transportation Board governing discovery, 49 C.F.R. § 1114, *et seq.*, and by Order of the Board:

YOU ARE HEREBY COMMANDED to produce the items described in Attachment A to this subpoena by 5:00 p.m. on **March 27, 2026**, by electronic or physical mail to Delta Southern Railroad, Inc., c/o GENTRY LOCKE ATTORNEYS, William L. Spotswood, Esq. (spotswood@gentrylocke.com), 10 Franklin Road, SE, Suite 900, P.O. Box 40013 (zip 24022) Roanoke, Virginia 24011 and J. Cole Gayle, Esq. (CGayle@gentrylocke.com), 919 East Main Street, Suite 1130, Richmond, Virginia 23219.

DATED: February 27, 2026

Administrative Law Judge Jenifer J. Soulikias:

Jenifer J.

Soulikias -S

Digitally signed by
Jenifer J. Soulikias -S

Date: 2026.02.27
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ATTACHMENT A TO SUBPOENA DUCES TECUM

INSTRUCTIONS AND DEFINITIONS

1. “Document(s)” shall mean anything on or in which data or information is recorded or stored, including, but not limited to: writings or representations of every kind, correspondence, electronic mail and files, text messages, memoranda, notes, statements, paraphrases or summaries of statements, drawings, tabulations, charts, graphs, plans, maps, sketches, photographs, brochures, diaries, records, rules, regulations, summaries, reports, report forms, studies, papers, work papers, letters, books, notebooks, schedules, lists, worksheets, agreements, contracts, records of telephone calls or any other communications or conversations, telegrams, teletypes, radiograms, cables, discs, tapes or any other forms of mechanical recordings of all statements not reduced to writing, film, microfilm, computer printouts and computations potentially generated to summarize information stored in computer storage by whatever means. The word “Document(s)” also includes, but is not limited to, all handwritten, typed, printed and photocopied matter, including all marginal notations and drafts, duplicates, carbon copies and any other copies thereof, all electronically stored documents such as information stored on computer drives, hard discs, diskettes, floppy discs, DVD, CD, memory sticks, any other means of electronic storage, and all information posted online such as information posted on social media or a blog, even if such information was later edited or deleted.

2. The connectors “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests any information that might otherwise be construed to be outside the scope of the interrogatory or request.

3. The word “person” shall mean any individual, firm partnership, corporation, association, business or governmental entity or subdivision, agency, department, and any “person” acting by or through, directly or indirectly, and other “person” as well as any “person” by whom such “person” was controlled with respect to the matter in question.

4. The word “including” shall mean “including but not limited to.”

5. “Complex,” “You,” and “Your” shall mean Complex Chemical Company, Inc. and each of its agents, attorneys, accountants, consultants, officers, commissioners, employees, independent contractors, and any other individual or entity associated or affiliated with it or purporting to act on its behalf.

6. “DSRR” shall mean line-owner Delta Southern Railroad, Inc., and each of its agents, attorneys, accountants, consultants, officers, directors, employees, independent contractors, affiliates, and any other individual or entity associated or affiliated with it, or purporting to act on behalf of it.

7. “NLA” shall mean the North Louisiana and Arkansas Railroad, Inc., and each of its agents, attorneys, accountants, consultants, officers, directors, employees, independent contractors, affiliates, and any other individual or entity associated or affiliated with it, or purporting to act on behalf of it.

8. The “Line” means the portion from milepost (“MP”) 471.0 to MP 498.44 of the DSRR line that runs from Lake Providence, Louisiana (MP 471.0) to the point of interchange with the Kansas City Southern Railway Company (“KCS”) at Tallulah, Louisiana, which is the complete and only subject of the amended feeder line application filed on January 3, 2023.

9. “Proceeding” shall mean Surface Transportation Board Docket No. FD 36447.

10. “Verified Statement” means the Verified Statement of Jerry J. Melton dated November 11, 2022, and that was submitted in LPPC’s Amended Application in the Proceeding.

11. Responsive documents should be produced as they are kept in the usual course of business, or organized and labeled to correspond with the categories in these requests.

12. Procedure for production of ESI: All metadata is to be included on every document, email, etc. produced electronically. All E-mails are to be produced in PST format. All data and documents to be produced electronically shall be produced using a Concordance Load File. Documents produced in PDF format should be text searchable (OCR). All documents stored in electronic format should be produced in electronic format.

DOCUMENTS REQUESTED:*

1. All Documents referenced or relied upon in the Verified Statement.
2. All Documents related to any refusal to provide rail service by DSRR or NLA.
3. All Documents regarding adequacy of service by DSRR or NLA.
4. All Documents regarding requests for rail service from DSRR that involve an interchange with NLA.
5. All Documents regarding decisions to ship by rail using the Line or by truck instead of the Line, including cost analyses, price quotes, and other comparisons.
6. All Documents regarding any refusal by DSRR to take steps to maintain, rebuild, or improve the Line.
7. Any shipper surveys received or completed related to the Line or alternatives to the Line.
8. All Documents regarding the proceeding, including any communications regarding, or drafts of, the Verified Statement.

*** ALL DOCUMENTS ARE LIMITED FROM 1999 TO PRESENT.**

**Before the
SURFACE TRANSPORTATION BOARD**

STB Docket FD No. 36447

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

VERIFIED STATEMENT OF JERRY J. MELTON

1. My name is Jerry J. Melton. I am the President of Complex Chemical Co. (Complex Chemical), whose facilities are located within the Madison Parish Port in Tallulah, Louisiana. My address is P.O. Box 1352, Tallulah, Louisiana (318) 574-0382. I have personal knowledge of the facts stated herein and am duly authorized to present this Verified Statement on behalf of Complex Chemical.

2. Complex Chemical produces brake fluid, antifreeze/coolants, Lubrications, oil additives, materials used in paving, mining & drilling, and various glycols via distillation of glycol residues for multiple markets. It is heavily dependent upon rail service for 50% of its gross revenues. In 2021, due to Covid-19, Complex only received or shipped 850 jumbo railcars of material. Immediately thereafter, there was a surge of demand as customers had literally run out of product. However, because they needed immediate service, Complex Chemical was forced to switch to trucking to keep up with demand. It is anticipated that the recently completed expansion of a glycol distillation project

and the installation of an additional reactor to expand capacity for manufacturing materials for the mining and drilling markets will increase our need for adequate rail service and surpass the 1,100 jumbo carloads that we received or shipped from 4/30/2019 to 5/1/2020. To illustrate the financial benefits that the various railroads have received from Complex Chemical over the years, I ask the Board to consider the fact that in 1987, we received only 3,270 tons of product consisting of intermediate feedstocks and base oils for further processing and shipped 2,660 tons of brake fluids and lube oil additives for crankcase lubrications. Because the line between McGehee and Tallulah was saved from abandonment in 1988, Complex Chemical has been able to prosper and contribute to the railroads' and the region's economy.

3. For many years, Complex Chemical was able to route traffic over either the Delta Southern Railroad, Inc. ("DSRR")/the Kansas City Southern Railway Company ("KCS") or DSRR/the North Louisiana & Arkansas Railroad ("NLS")/and the Union Pacific Railroad Company ("UP"). However, DSRR's extended refusal to maintain its line between MP 471.0 and 491.0 has deprived Complex Chemical of its ability to reach NLA and UP directly. Because of that loss, Complex Chemical has been forced to utilize the much longer DSRR/KCS/UP routing at a much higher rate than the rate paid for its DSRR/NLA/UP routing.

4. Complex Chemical currently supplies roughly 30% of all the DOT 3 and DOT 4 brake fluid sold in the United States. It also manufactures three (3) products that are used in roughly 40% of all the heavy-duty diesel crank case

oil sold in North America. The expansion and capacity increase will allow Complex Chemical to be the second largest producer of glycols from residues in the United States.

5. This is significant in that Complex Chemical has 15 outbound destinations scattered throughout the United States, Canada and Mexico. In addition, it has inbound material from points in Texas, Louisiana, and Canada. Seven (7) of its outbound customers are captive UP customers, while four (4) are captive KCS customers. In terms of incoming materials, five (5) origins are captive UP customers. As a result, the relationship between Complex Chemical and UP is significant.

6. As I previously stated in my sworn letter filed in this proceeding in April 2021, having to pay the higher rates that are charged for the current routing that has been created by DSRR's refusal to maintain its rail line imposes a penalty on Complex Chemical. As a result, I view DSRR's owner's self-imposed refusal to bear the cost of maintaining its own line as a restraint on trade and contrary to the public convenience and necessity and the public interest. That restraint also causes its service to be inadequate from an economic standpoint. While it may be financially rewarding for DSRR to exact higher rates while collecting rental payments for storing railcars on its mainline, that action is, in my mind, a violation of its statutory rail common carrier obligation. Furthermore, I request the Board to note that DSRR's storage activities are troublesome due to the fact that the crossing at the

entrance of the Port is blocked excessively when DSRR is switching rental storage cars.

7. I firmly believe that LPPC's ownership of the entire Lake Providence Branch Line promises to restore competitive direct routings to Complex Chemical. In addition, because Complex Chemical has been the largest of DSRR's customers and the major shipper on the direct line to UP at McGehee, Arkansas, I also believe that LPPC's ownership will directly contribute to the local region's economic prosperity as has Complex Chemical. The same would not be true of a railroad that has no existing ties to northeast Louisiana and southeast Arkansas which would skim needed revenues from LPPC and NLA. Because DSRR's owners are intent upon selling its shares to a different railroad, I fail to see how they would be impacted by the sale to LPPC.

I, Jerry J. Melton, declare under penalty of perjury that the foregoing statement is true and correct. Further, I certify that I am qualified and authorized to file this statement. Executed this 11th day of November 2022.


Jerry J. Melton