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March 26, 2021

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: **Docket No. FD 36447**
Lake Providence Port Commission – Feeder Line Application –
Line of Delta Southern Railroad Located in East Carroll and
Madison Parishes, Louisiana

Dear Ms. Brown:

Delta Southern Railroad, Inc. (“DSR”) hereby responds briefly in opposition to “Respondents’ Joint Motion to Strike” the March 22, 2021 filing (the “DSR Response”), which, as the record will reflect, was itself the product of a DSR motion to strike filed on March 8, 2021. The recent filings in this docket, and the Respondents’ lack of restraint and evident disregard for the orderly development of the evidentiary record, reinforce the wisdom of the Board’s order suspending the procedural schedule. The recent thread of filings warrants additional steps by this agency to restore order if this proceeding resumes, pending the outcome of DSR’s Motion to Dismiss what appears now to be the Respondents’ (formerly LPPC’s) Feeder Line Application.

Respondents note that the DSR Response is not expressly permitted under the Board’s rules, which DSR itself recognized when it filed the DSR Response. But, in light of the general rule, DSR requested leave to submit the DSR Response, and offered reasons to justify the Board’s forbearance. Respondents have recited 49 C.F.R. § 1104.13(c) to observe that a “reply to a reply” is generally not permitted, but they have not offered any argument challenging whether DSR should be granted leave (as was requested) to address perceived abuse of the STB’s processes, and to correct Respondents’ false statements regarding DSR’s ability and willingness to interchange and handle overhead traffic with NLA. Instead, Respondents commit

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their Motion to Strike to an effort to justify their repeated supplementation of their Feeder Line Application, and, predominantly, to discovery issues that can and should be addressed and resolved separately.

Because Respondents offer only the thinnest of arguments to strike the DSR response, and instead use the Motion to Strike as a springboard to try again to justify Respondents' questionable filing tactics, the DSR Response should be allowed. DSR would respectfully add here that – (1) it remains troubled with Respondents' position that they are entitled to supplement their Feeder Line Application with new evidence and argument whenever they see fit, and, in particular, in response to DSR's Motion to Dismiss, which highlighted some of the shortcomings in the Application; and (2) DSR is dismayed by Respondent's willful, and thus-far-unretracted, misstatement that DSR overhead service via the existing NLA-DSR connection is unavailable, when, in fact, such service and interchange is available upon reasonable request, ongoing car storage notwithstanding.

Because the majority of Respondents' five-page Motion to Strike deals with discovery issues that are better dealt with separately under applicable rules of procedure at 49 C.F.R. Part 1114, DSR will not address them here. But DSR will once again observe, in closing, that the Board should be attentive to the orderly administration of its processes, and protective of due process itself, where Respondents' actions indicate insufficient regard for such considerations.

Respectfully submitted,

Thomas J. Healey

Thomas J. Healey

TJH/dg

cc: All parties of record