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April 5, 2023

VIA ALTERNATIVE ELECTRONIC FILING

Ms. Sallie Tanner
Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, Georgia 30334
stanner@psc.ga.gov

Re: ***In re: Sandersville Railroad Company's Petition for Approval to Acquire Real Estate by Condemnation, Docket No. 45045***

Dear Ms. Tanner:

Please find enclosed the *Verified Application for Leave to Intervene of Robert Donald Garrett Sr. and Sarah Veazey Garrett* for filing in the above-styled proceeding. As required by the electronic filing procedures, a physical copy of this filing will be mailed to the Commission via U.S. First-class mail, postage pre-paid. Thank you for your attention to this matter.

Please let me know if you have any questions or require additional materials.

Sincerely,

Grant E. McBride
Counsel for Robert Donald Garrett Sr. and Sarah Veazey Garrett

Enclosures

cc: Nancy Gibson (via email)
L. Craig Dowdy (via email)
Steven L. Jones (via email)
Robert S. Highsmith, Jr. (via email)
Laura E. Flint (via email)

BEFORE THE
GEORGIA PUBLIC SERVICE COMMISSION

Sandersville Railroad Company Hancock County, Georgia **In re: Sandersville Railroad Company's Petition for Approval to Acquire Real Estate by Condemnation**	Docket No.: 45045

VERIFIED APPLICATION FOR LEAVE TO INTERVENE
OF ROBERT DONALD GARRETT SR. AND SARAH VEAZEY GARRETT

Pursuant to O.C.G.A. §§ 46-2-59 and 50-13-14 and Rule 515-2-1-.06 of the Georgia Public Service Commission (the "Commission"), Robert Donald Garrett Sr. and Sarah Veazey Garrett (together, the "Garretts") respectfully request that the Commission grant their Verified Application to Intervene in the above-captioned proceeding (the "Proceeding"). The Garretts own the property that is the subject of the Proceeding. They have interests of the highest order—the preservation of the property on which they live—and they thus fit the criteria for intervention set forth in Georgia statutes and this Commission's administrative provisions.

In support of this Application, the Garretts state as follows:

FACTS PERTAINING TO THE GARRETTS' INTEREST IN THE PROCEEDING

1. On March 8, 2023, the Sandersville Railroad Company ("Sandersville Railroad") filed a "Petition for Approval to Acquire Real Estate by Condemnation" (the "Petition") with the Commission.

2. The Petition sought approval pursuant to O.C.G.A. §§ 46-8-120 and 46-8-121 to acquire by condemnation Hancock County Tax Parcel Number 186 013, which corresponds to 1335 Shoals Road, Sparta, Georgia 31087 (the "Garrett Parent Tract"). Petition 4.

3. The Petition sought approval to condemn the Garrett Parent Tract to build an industrial spur between the CSX line near Sparta, Georgia, and a large open-air mine called the Hanson Quarry. Petition 1.

4. The Garretts own the Garrett Parent Tract and reside there in their home.

5. Mr. Garrett's family has owned the Garrett Parent Tract for many generations. He grew up on the Garrett Parent Tract and has lived on it for 71 of his 75 years. Mr. and Mrs. Garrett have lived on the Garrett Parent Tract together for 53 years. The Garretts raised their children on the Garrett Parent Tract.

6. The Garretts enjoy and make use of the entirety of the Garrett Parent Tract, and the proposed condemnation will directly and negatively affect their enjoyment and use of the Garrett Parent Tract. They also intend to use the Garrett Parent Tract in the future in ways that will be directly and negatively affected by the proposed condemnation of the Garrett Parent Tract.

7. The Sandersville Railroad served the Petition on the Garretts on March 10, 2023.

8. On March 24, 2023, the Commission appointed Nancy Gibson as the Hearing Officer to preside over the Proceeding pursuant to O.C.G.A. § 46-2-58.

9. To the best of the Garretts' knowledge and belief, neither the Commission nor Hearing Officer Gibson has issued a published notice of the Proceeding nor entered any procedural or scheduling orders.

GROUNDS FOR INTERVENTION

10. The Commission or the Hearing Officer should grant this Application for four reasons. First, the Garretts have a legal, property, or other interest of the highest order. Second, no other party can adequately protect the Garretts' interests. Third, their Application is timely. Finally,

the Garretts' proposed intervention presents identical issues of law and fact as those already raised by the Petition.

The Garretts Have Important Legal, Property, or Other Interests

11. Intervention before the Commission is governed by O.C.G.A. § 46-2-59 and Ga. Comp. R. & Regs. 515-2-1-.06. Under the relevant portion of O.C.G.A. § 46-2-59, the Commission or a hearing officer shall only permit a person to intervene who "demonstrates a legal, property, or other interest in the proceeding. In determining whether to permit intervention, the hearing officer may consider whether the person's interest is adequately represented by other parties and whether the intervention will unduly delay the proceedings or prejudice the rights of other parties." O.C.G.A. § 46-2-59(e)(2).

12. An individual's "right to maintain control over his home . . . is a private interest of historic and continuing importance. *United States v. James Daniel Good Real Prop.*, 510 U.S. 43, 53-54, 114 S. Ct. 492, 501 (1993).

13. Because they own the Garrett Parent Tract, the Garretts have a "legal, property, or other interest in the proceeding" of "historic and continuing importance," and, as such, they meet Georgia's standards for intervention in this Proceeding.

No Other Party Can Adequately Protect the Garretts' Interests

14. No other parties can adequately represent the Garretts' interests in the Proceeding. To meet this standard, an intervenor need only show that his or her interests "may be" inadequately protected, a burden that is "minimal." *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972). *See also S.W. Ga. Prod. Credit Ass'n v. Wainwright*, 241 Ga. 355, 357, 245 S.E.2d 306 (1978) (intervention was proper when intervenor had a claim adverse to the opposing party involving the subject matter of the pending suit).

15. As the sole owners of the Garrett Parent Tract, no other parties have an incentive to adequately protect the Garretts' interests. Their status as the owners of the Garrett Parent Tract deserves vigorous legal protection. They also have a claim adverse to Sandersville Railroad involving the subject matter of the pending Proceeding—namely, they wish to fully protect their interests in the Garrett Parent Tract and actively assert their rights under Georgia law in the Proceeding. They therefore meet this "minimal" burden.

This Application is Timely

16. O.C.G.A. § 46-2-59(c) provides in relevant part that "[a]ny other person desiring to intervene must file an application for leave to intervene within 30 days following the first published notice of the proceeding."

17. As noted above, neither the Commission nor Hearing Officer Gibson has issued a public notice of the Proceeding.

18. The Garretts have acted with great speed in filing this Application, doing so shortly after Sandersville Railroad initiated the Proceeding. Specifically, Sandersville Railroad first filed the Petition less than 30 days before the date of this Application. No other parties have appeared or sought intervention. Neither the Commission nor the Hearing Officer has issued a procedural or scheduling order. As such, the Commission or Hearing Officer's grant of this Application will not "unduly delay the proceedings or prejudice the rights of other parties." O.C.G.A. § 46-2-59(e)(2).

The Garretts Will Address the Central Issue in the Proceeding

19. Finally, the purpose of the Garretts' intervention warrants the grant of this Application. The Garretts desire to intervene in the Proceeding to protect their interests, including but not limited by their rights to receive notice of any action in the Proceeding; present evidence,

provide testimony, and cross-examine witnesses; submit briefs; participate in any Commission ordered mediation, hearings, or other proceedings; and be heard in oral argument.

20. Their interest in this Proceeding correlates with the sole issue in this case, namely, whether the Petition meets the standards for the use of eminent domain in Georgia law. As such, the Garretts present questions of law and fact identical to those raised by the Petition and their participation will not introduce any issues unrelated to those already raised by the Petition.

REQUEST FOR RELIEF

WHEREFORE, the Garretts respectfully request that the Commission grant their Verified Application for Leave to Intervene in the Proceeding as a party, with full rights of participation as provided by the Commission's Rules of Practice and Procedure and appropriate sections of the Georgia Code on all issues of law and fact to be developed during the Proceeding. The Garretts further respectfully request that they be placed on the Commission's official service list to receive copies of all notices, pleadings, orders and other documents that are submitted or otherwise made available in the Proceeding. All such notices, pleadings, correspondences, orders and other documents should be served on the Garretts and their counsel as follows:

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Grant E. McBride
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DATED this 5th day of April, 2023.

Grant E. McBride
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Counsel for
Robert Donald Garrett Sr. and Sarah Veazey Garrett

BEFORE THE
GEORGIA PUBLIC SERVICE COMMISSION

Sandersville Railroad Company Hancock County, Georgia **In re: Sandersville Railroad Company's Petition for Approval to Acquire Real Estate by Condemnation**	Docket No.: 45045

VERIFICATION OF APPLICATION FOR LEAVE TO INTERVENE

Grant E. McBride personally appeared before the undersigned Notary Public and stated under oath that he is an authorized representative of Robert Donald Garrett Sr. and Sarah Veazey Garrett in this matter and the facts contained in the foregoing *Verified Application for Leave to Intervene* are true and correct to the best of his information, knowledge and belief.

This 5 day of April, 2023.

Grant E. McBride

Counsel for
Robert Donald Garrett Sr. and Sarah Veazey Garrett

Sworn to and subscribed
before me this 5th day
of April, 2023.

Shannon Du Cray
Notary Public
My Commission Expires: June 12, 2026

SHANNON DUCRAY NOTARY PUBLIC HENRY COUNTY, GEORGIA My Comm. Expires June 12, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of April, 2023, a copy of the foregoing *Verified Application for Leave to Intervene* has been served via electronic mail and U.S. First-Class Mail on the following pursuant to GA. COMP. R. & REGS. 515-16-16-.02; 515-2-1-.04(4)(b), (3):

VIA Electronic Mail and U.S. First-Class Mail:

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Counsel for Petitioner Sandersville Railroad Company

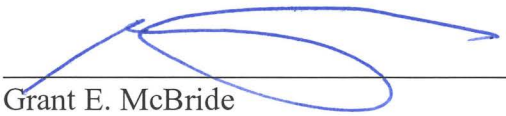
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Designated Hearing Officer

Sallie Tanner
Georgia Public Service Commission
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Executive Secretary of the Public Service Commission

DATED this 5th day of April, 2023.



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