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

GARRETT INTERVENORS' REPLY TO PETITIONER'S RESPONSE TO THE OBJECTION TO PETITIONER'S' PROPOSED PROCEDURAL AND SCHEDULING ORDER AND NOTICE OF HEARING

1. Intervenors Don and Sally Garrett (the "Garretts") briefly reply in support of their objection to Petitioner's Proposed Procedural and Scheduling Order and Notice of Hearing dated April 18, 2023 (the "Proposed Schedule"). Petitioner's response to the Garretts' objection argues that the Commission should adopt the Proposed Schedule because it tracks the schedule adopted by the Commission in *In re: The Great Walton Railroad Company, Inc., d/b/a The Hartwell Railroad Company's Petition for Approval to Acquire Real Estate by Condemnation* ("*Great Walton*") and that such a schedule "allows enough time for the Hearing Office[r] and the Commission, like in previous railroad condemnation cases, to determine the necessity and public interest involved in the condemnation requested." Resp. Intervenors' Obj. Pet'r Proposed Procedural & Scheduling Order Notice Hr'g 3. Petitioner is correct that the Commission's schedule in *Great Walton* is shorter than that proposed by the Garretts. However, the proceedings in *Great Walton* and in this proceeding are significantly different and the schedule proposed by the Garretts fits this proceeding far better than the truncated schedule proposed by Petitioner.

2. Petitioner's petition in this proceeding recognizes that, while Petitioner has moved against only the Garretts' property, this proceeding concerns portions of eighteen (18) parcels

owned by several different families and entities. Pet. Approval Acquire Real Estate by Condemnation, Docket No. 45045 ("Sandersville Petition") exs. B & C. Two of the owners of these properties have already indicated that they will resist any attempt to condemn their land and will not voluntarily sell any portion of their respective properties to the Petitioner. *See* V. Appl. Leave Intervene Marvin Smith, Jr. and Patricia Smith; V. Appl. Leave Intervene William Smith and Helen Smith.

3. Thus, this proceeding will determine factual findings and legal conclusions that could affect the property rights of several families and entities. In contrast, in *Great Walton*, the proceeding involved just two parties: the railroad and the First United Methodist Church of Hartwell, Georgia ("First United"). Pet. Approval Acquire Real Estate by Condemnation, Docket No. 41607 ("Great Walton Petition") ex. C.

4. Moreover, First United did not seek discovery in the *Great Walton* proceeding. In contrast, the Garretts expressly seek discovery to test the validity of Petitioner's assertions. *See* Obj. Pet'r Proposed Procedural & Scheduling Order Notice Hr'g 4.

5. These are not the only differences between the two proceedings, either. For instance, the area of proposed condemnation in this proceeding (4.5 miles of new track requiring dozens of acres from several properties) is substantially larger than the 20' x 260' parcel the railroad sought in *Great Walton*. *Compare* Sandersville Petition 2, *with* Great Walton Petition 2.

7. The project in *Great Walton* also concerned the rehabilitation of existing tracks, Great Walton Petition 3, while the proceeding before the Commission now concerns the proposed installation of miles of entirely new track. Sandersville Petition 1.

8. Finally, Petitioner has made several factual assertions that the railroad in *Great Walton* did not, including alleging that it has made agreements to acquire several necessary parcels,

Sandersville Petition 4, that the projected spur will bring $1.5 million in economic benefits to the county, Sandersville Petition 3, that the spur will reduce local truck traffic, Sandersville Petition 3, that the train will make one trip a day, Sandersville Petition 2, and that the spur is necessary for Petitioner's business. Sandersville Petition 6, ex. A. In other words, Petitioner has based its Petition on allegations that the Garretts are entitled to fully challenge—no such allegations were at issue in *Great Walton*. *See* Great Walton Petition 1-4.

9. Put simply, the schedule the Commission adopted in *Great Walton* will not work here. This is a much larger proceeding, involving more parcels, affecting the property rights of more people, a larger amount of land, miles of new track, and substantial factual allegations of a kind the railroad in *Great Walton* never made. Such a proceeding requires a full factual record, developed carefully and with sufficient time for all the parties involved.

CONCLUSION

For these reasons, and for the reasons set out in their initial Objection, the Garretts respectfully request that the Commission, either through the Hearing Officer or by its own action, reject Petitioner's Proposed Schedule and adopt a scheduling order that provides sufficient time to develop a full factual record.[1]

DATED this 17th day of May, 2023.

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[1] The Garretts have received the Hearing Officer's email dated May 16, 2023, which contained a proposed hearing schedule. The Garretts believe that this schedule is preferable to the one proposed by Petitioner. Their representatives are prepared to address the Hearing Officer's proposed hearing schedule in more detail at the status conference scheduled for May 17, 2023.

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**Pro hac vice* applications pending

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of May, 2023, a copy of the foregoing *Garrett Intervenors' Reply to Petitioner's Response To The Objection To Petitioner's Proposed Procedural And Scheduling Order And Notice Of Hearing* 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):

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Executive Secretary of the Public Service Commission

DATED this 17th day of May, 2023.

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