INSTITUTE FOR JUSTICE

June 10, 2024

VIA ALTERNATIVE ELECTRONIC FILING

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

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

Reply to Sandersville Railroad's Response to Joint Notice of Intent to Reply and Joint Motion to Stay Assignment of Oral Argument Date Until After June 20, 2024

Dear Ms. Tanner:

Property Owner Respondents ("Respondents"), by and through counsel, offer this brief response to Petitioner's letter of June 6, 2024, objecting to Respondents' and Intervenors' *Joint Notice of Intent to Reply* filed May 24, 2024, as Doc. No. 218810.

Respondents note that there are no deadlines by which applicants for full Commission review may file a reply in support of such an application. *See* Ga. Code Ann. § 46-2-50 *et seq*. Indeed, no rule provides that Petitioner could file an objection or response to Respondents' or Intervenors' applications for full Commission review in the first instance. Nonetheless, because Respondents and Intervenors believe that the Commission is better served having more information before it rather than less, and believing a briefing schedule would clarify next steps for all parties and the Commission, as soon as Respondents became aware that Petitioner planned to file an opposition-response, Respondents reached out to Petitioner to negotiate a briefing schedule that worked for all parties.

Specifically:

- On May 7, 2024, Respondents' counsel replied to Petitioner's counsel's email, stating Respondents would file a reply.
- On May 8, 2024, Respondents' counsel texted Petitioner's counsel asking for a phone meeting to discuss a briefing schedule. Petitioner's counsel responded he would call, but did not.
- On May 13, 2024, Respondents' counsel again texted Petitioner's counsel asking for a phone meeting.

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- On May 14, 2024, Petitioner's counsel called Respondents' counsel to discuss a briefing schedule. Respondents' counsel followed up with an email to Petitioner and Intervenors stating that Respondents would not oppose Petitioner's response brief under the condition that Respondents and Intervenors have the opportunity to reply to Petitioner's response brief. Respondents suggested the following briefing schedule:
    - Petitioner's Response – May 31, 2024
    - Respondents' and Intervenors' Replies – June 28, 2024
- On May 15, 2024, Petitioner's counsel responded to Respondents' proposed briefing schedule by saying that they were "discussing internally and [would] follow up shortly." Petitioner did not follow up with Respondents until after filing its response, however.
- Specifically, on May 24, 2024, Petitioner filed its response, then responded to Respondents' and Intervenors' May 14, 2024, request for a briefing schedule by proposing that Respondents' and Intervenors' reply briefs be submitted by June 12, 2024. Respondents answered by noting that this schedule did not work with counsels' schedule, explaining that they were working around other litigation deadlines, a maternity leave, a vacation, and other scheduling conflicts, and stated that Respondents intended to notice the Commission that they would file their reply June 20, 2024.

See Doc. No. 218801, *Joint Notice of Intent to Reply*, ¶¶ 6-12 and Exs. A and B.

Respondents also note that when Petitioner asked Respondents and Intervenors if they would oppose a week's extension in which Petitioner could file its reply in support of its post-hearing brief in this case, Respondents and Intervenors both responded the same day stating that they would not oppose Petitioner's request for an extension. *See* Attachment A to this letter.

Unfortunately, Petitioner's counsel was not interested in negotiating a schedule regarding the current round of briefing in a similar manner. Indeed, it was not until after Petitioner filed its response that Petitioner's counsel suggested an alternative schedule. *Id.* Now, nearly two weeks after Respondents noticed the Commission that replies are forthcoming on June 20, 2024—eight days *earlier* than Respondents had originally suggested—Petitioner's counsel belatedly objects.

Respondents and Intervenors filed their *Joint Notice of Intent to Reply* on May 24, 2024. Petitioner waited just shy of two weeks before objecting and requesting that Respondents be required to file their reply brief four days later. Petitioner points to no reason that it waited two weeks to object, and no reason why Petitioner waited nine days to respond to Respondents' initial proposal.

It is certainly Petitioner's prerogative not to cooperate on a briefing schedule. Nonetheless, had the parties spoken, agreed upon dates could have been reached, this dispute would not have needed to reach the Commission, and Petitioner would not be unhappy with the date on which Respondents and Intervenors will file their reply briefs.

Respondents are on schedule to file their reply by June 20, 2024. In the meantime, they are happy to answer any questions you or the Commission may have.

Sincerely,

INSTITUTE FOR JUSTICE

Elizabeth L. Sanz
Attorney for Property Owner Respondents

Enclosure

cc: Service list in Docket No. 45045

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

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of June, 2024, a copy of the foregoing *Letter on Behalf of Respondents in Reply to Sandersville Railroad's Response to Joint Notice of Intent to Reply and Joint Motion to Stay Assignment of Oral Argument Date Until After June 20, 2024,* 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 Intervenors No Railroad in Our Community Coalition ("NROCC")

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Designated Hearing Officer

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DATED this 10th day of June, 2024.

Elizabeth L. Sanz* (CA Bar No. 340538)
INSTITUTE FOR JUSTICE
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bsanz@ij.org

Counsel for Property Owner Respondents
**Admitted pro hac vice*
Signed digitally pursuant to O.C.G.A. § 10-12-7

Attachment A

From: Steven Jones <sjones@taylorenglish.com>
Sent: Friday, February 9, 2024 2:41 PM
To: Jamie Rush; Bill Maurer; Betsy Sanz; Malissa Williams; Miriam Gutman; gmcbride@smithwelchlaw.com; bobby@robertbbaker.com; Renée Flaherty; Michael Greenberg; Casey Nasca; Cara Di Silvio; Craig Dowdy; pac@harkinscunningham.com; asullivan@harkinscunningham.com; Will Aronin; Robert S Highsmith (robert.highsmith@hklaw.com); Laura E Flint (laura.flint@hklaw.com)
Subject: RE: In re: Sandersville RR Co.; Hancock County, GA Acq. - GA Pub. Serv. Comm'n. Dkt. 45045

Thank you, Jamie.

Steven L. Jones
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From: Jamie Rush <jamie.rush@splcenter.org>
Sent: Friday, February 9, 2024 2:35 PM
To: Steven Jones <sjones@taylorenglish.com>; Bill Maurer <wmaurer@ij.org>; Betsy Sanz <bsanz@ij.org>; Malissa Williams <malissa.williams@splcenter.org>; Miriam Gutman <miriam.gutman@splcenter.org>; gmcbride@smithwelchlaw.com; bobby@robertbbaker.com; Renée Flaherty <rflaherty@ij.org>; Michael Greenberg <mgreenberg@ij.org>; Casey Nasca <cnasca@ij.org>; Cara Di Silvio <cdisilvio@ij.org>; Craig Dowdy <cdowdy@taylorenglish.com>; pac@harkinscunningham.com; asullivan@harkinscunningham.com; Will Aronin <waronin@ij.org>; Robert S Highsmith (robert.highsmith@hklaw.com) <robert.highsmith@hklaw.com>; Laura E Flint (laura.flint@hklaw.com) <laura.flint@hklaw.com>
Subject: Re: In re: Sandersville RR Co.; Hancock County, GA Acq. - GA Pub. Serv. Comm'n. Dkt. 45045

Intervenors do not oppose the request. - Jamie

From: Steven Jones <sjones@taylorenglish.com>
Sent: Friday, February 9, 2024 1:53 PM
To: Bill Maurer <wmaurer@ij.org>; Betsy Sanz <bsanz@ij.org>; Malissa Williams <malissa.williams@splcenter.org>; Miriam Gutman <miriam.gutman@splcenter.org>; gmcbride@smithwelchlaw.com <gmcbride@smithwelchlaw.com>; bobby@robertbbaker.com <bobby@robertbbaker.com>; Renée Flaherty <rflaherty@ij.org>; Michael Greenberg <mgreenberg@ij.org>; Casey Nasca <cnasca@ij.org>; Cara Di Silvio <cdisilvio@ij.org>; Craig Dowdy <cdowdy@taylorenglish.com>; pac@harkinscunningham.com <pac@harkinscunningham.com>; asullivan@harkinscunningham.com <asullivan@harkinscunningham.com>; Will Aronin <waronin@ij.org>; Jamie Rush

<jamie.rush@splcenter.org>; Robert S Highsmith (robert.highsmith@hklaw.com) <robert.highsmith@hklaw.com>; Laura E Flint (laura.flint@hklaw.com) <laura.flint@hklaw.com>
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Thank you, Bill (and Will who returned my call to say the same). SPLC, may we represent to the hearing officer that Intervenors also do not oppose this request?

SLJ

Steven L. Jones
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Website | LinkedIn

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From: Bill Maurer <wmaurer@ij.org>
Sent: Friday, February 9, 2024 1:51 PM
To: Steven Jones <sjones@taylorenglish.com>; Betsy Sanz <bsanz@ij.org>; Malissa Williams <malissa.williams@splcenter.org>; Miriam Gutman <miriam.gutman@splcenter.org>; gmcbride@smithwelchlaw.com; bobby@robertbbaker.com; Renée Flaherty <rflaherty@ij.org>; Michael Greenberg <mgreenberg@ij.org>; Casey Nasca <cnasca@ij.org>; Cara Di Silvio <cdisilvio@ij.org>; Craig Dowdy <cdowdy@taylorenglish.com>; pac@harkinscunningham.com; asullivan@harkinscunningham.com; Will Aronin <waronin@ij.org>; Jamie Rush <jamie.rush@splcenter.org>; Robert S Highsmith (robert.highsmith@hklaw.com) <robert.highsmith@hklaw.com>; Laura E Flint (laura.flint@hklaw.com) <laura.flint@hklaw.com>
Subject: RE: In re: Sandersville RR Co.; Hancock County, GA Acq. - GA Pub. Serv. Comm'n. Dkt. 45045

Respondents do not oppose that request.

Thanks,

Bill

From: Steven Jones <sjones@taylorenglish.com>
Sent: Friday, February 9, 2024 10:49 AM
To: Betsy Sanz <bsanz@ij.org>; Malissa Williams <malissa.williams@splcenter.org>; Miriam Gutman <miriam.gutman@splcenter.org>; gmcbride@smithwelchlaw.com; Bill Maurer <wmaurer@ij.org>; bobby@robertbbaker.com; Renée Flaherty <rflaherty@ij.org>; Michael Greenberg <mgreenberg@ij.org>; Casey Nasca <cnasca@ij.org>; Cara Di Silvio <cdisilvio@ij.org>; Craig Dowdy <cdowdy@taylorenglish.com>; pac@harkinscunningham.com; asullivan@harkinscunningham.com; Will Aronin <waronin@ij.org>; Jamie Rush

<jamie.rush@splcenter.org>; Robert S Highsmith (robert.highsmith@hklaw.com) <robert.highsmith@hklaw.com>; Laura E Flint (laura.flint@hklaw.com) <laura.flint@hklaw.com>
Subject: In re: Sandersville RR Co.; Hancock County, GA Acq. - GA Pub. Serv. Comm'n. Dkt. 45045

All:

We plan to ask the hearing officer for a 1 week extension on Sandersville Railroad's deadline to file its reply brief. Can we say that Respondents and Intervenors do not oppose that request? The professional courtesy would be greatly appreciated.

Thank you, in advance; have a good weekend,

SLJ

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