

# SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N.W.  
WASHINGTON, D.C. 20036-3003

WILLIAM L. SLOVER  
C. MICHAEL LOFTUS  
JOHN H. LE SEUR  
KELVIN J. DOWD  
ROBERT D. ROSENBERG  
FRANK J. PERGOLIZZI  
ANDREW B. KOLESAR III  
PETER A. PFOHL  
DANIEL M. JAFFE  
KATHERINE F. WARING

OF COUNSEL  
DONALD G. AVERY  
CHRISTOPHER A. MILLS

TELEPHONE:  
(202) 347-7170

FAX:  
(202) 347-3619

WRITER'S E-MAIL:

kfw@sloverandloftus.com

March 16, 2014

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## BY E-FILING

Ms. Cynthia Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423-0111

ENTERED  
Office of Proceedings  
March 16, 2015  
Part of  
Public Record

Re: *Consumers Energy Company v. CSX Transportation, Inc.*  
Docket NOR 42142

Dear Ms. Brown:

Enclosed for filing in the above-referenced docket, please find an e-filed copy of the Consumers Energy Company's First Motion to Compel Discovery.

Thank you for your attention to this matter.

Respectfully submitted,



Katherine F. Waring  
Attorney for Movant

cc: Parties of Record  
Enclosures

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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<b>CONSUMERS ENERGY COMPANY</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>Docket No. NOR 42142</b>
	)	
<b>CSX TRANSPORTATION, INC.</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

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**COMPLAINANT’S FIRST MOTION TO COMPEL DISCOVERY**

Complainant Consumers Energy Company (“Consumers”), pursuant to 49 C.F.R. § 1114.31, hereby moves for a Board order compelling CSX Transportation, Inc. (“CSXT”), to provide substantive answers to Consumers’ Interrogatory Nos. 1, 2, 9 and 11, and to produce the documents requested in Document Production Request Nos. 1, 8, 9, 10, 11, 17, 23, 42, 71, 109, 115, 116, 124, 125 and 126.<sup>1</sup> In support hereof, Consumers shows as follows:

**BACKGROUND**

Consumers’ Original Complaint, filed on January 13, 2015, seeks the establishment of just and reasonable rates, rules and other terms for unit train coal transportation by CSXT to Consumers’ J.H. Campbell Generating Station near West Olive,

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<sup>1</sup> A copy of Defendant’s Responses and Objections to Complainant’s First Requests for Admission, Interrogatories and Requests for Production of Documents (“CSXT Objections”), which include Consumers’ discovery requests, is appended as Appendix 1.

Michigan (“Campbell”), from CSXT’s established railroad interchange with BNSF Railway Company (“BNSF”) in the vicinity of Chicago, Illinois. Consumers also seeks an award of reparations, plus applicable interest, for the difference between transportation charges paid by Consumers under Tariff CSXT-13952 and those that would have been paid under the rates ultimately prescribed by the Board.

On February 4, 2015, Consumers served CSXT with its First Requests for Admission, Interrogatories, and Requests for Production of Documents (“First Requests”). On February 27, 2015, CSXT and Consumers filed a Joint Motion for Protective Order that set out the agreement of the parties with respect to the production and protection of confidential and commercially sensitive information and documents, including specific material that could be considered Sensitive Security Information (“SSI”). CSXT then served its Responses and Objections to Complainant’s First Requests on March 6, 2015.

This Motion is directed to certain of CSXT’s discovery responses wherein the carrier refused entirely to provide a substantive Interrogatory answer or to produce responsive documents. In response to Consumers’ other First Requests, CSXT expressed a willingness to produce information and/or documents, but has not yet begun actual production. Consumers reserves the right to move separately for additional Board orders compelling discovery if CSXT’s eventual production fails to meet the requirements of the Board’s discovery rules and the parties are unable to resolve their differences through negotiation.

## ARGUMENT

Pursuant to 49 U.S.C. § 10501(b), the Board has “exclusive” jurisdiction over determinations relevant to an adjudication of the reasonableness of CSXT’s rates, rules and practices, and this extends to the formulation and application of procedural rules, including rules governing discovery. *See Trailways Lines, Inc. v. I.C.C.*, 766 F.2d 1537, 1546 (D.C. Cir. 1985), citing *Vermont Yankee Nuclear Power Corp. v. Natural Res. Defense Council, Inc.*, 435 U.S. 519, 524 (1978); *Laird v. I.C.C.*, 691 F.2d 147, 154 (3d Cir. 1982). The Board’s discovery rules at 49 C.F.R. Part 1114 permit “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). In general, the Board accords “very broad” discovery rights to parties<sup>2</sup> recognizing that “shippers need substantial discovery to put together a SAC presentation.” *Procedures to Expedite Resolution of Rail Rate Challenges to be Considered under the Stand-Alone Cost Methodology*, EP 638, slip op. at 4 (STB served Apr. 3, 2003).<sup>3</sup>

The Board’s discovery rules “follow generally those in the FRCP [Federal Rules of Civil Procedure].”<sup>4</sup> As such, Responding parties are “expect[ed] . . . to comply

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<sup>2</sup> *Ocean Logistics Mgmt., Inc. v. NPR, Inc.*, WCC 102, slip op. at 2 (STB served Jan. 14, 2000).

<sup>3</sup> *See also Coal Rate Guidelines, Nationwide*, 1 I.C.C 2d 520, 548 (1985) (the Interstate Commerce Commission in adopting Constrained Market Pricing (“CMP”) stated that “we recognize that shippers may require substantial discovery to litigate a case under CMP, and we are prepared to make that discovery available to them.”).

<sup>4</sup> *Simplified Standards for Rail Rate Cases*, EP 646 (Sub-No. 1), slip op. at 69 (STB served Sept. 5, 2007) (“*Simplified Standards*”).

with discovery in a prompt and forthright manner.”<sup>5</sup> A party seeking discovery “is entitled to all relevant and potentially admissible information . . . not only the information that [the responding party] believes is sufficient.”<sup>6</sup> The Board has also ruled that “objections relating to burden [that] are conclusory and unpersuasive”<sup>7</sup> or “boilerplate, generalized responses” will not “satisfy a party’s discovery obligations.” *See Trailer Bridge, Inc. v. Sea Star Lines, LLC*, WCC 104, slip op. at 8 (STB served Oct. 27, 2000).

In response to Consumers’ First Requests, CSXT objected to providing:

- (1) Any information or documents that post-date December 31, 2014
  - *when CSXT has no basis to establish an arbitrary discovery cut-off date; CSXT has an obligation pursuant to 49 C.F.R. § 1114.29 to update its production; and CSXT already has presented Consumers with the same discovery instruction;*
- (2) Any documents or information related to rate responses made by CSXT to alleged transportation competition
  - *when CSXT has denied that it enjoys qualitative market dominance over Consumers’ Campbell coal traffic;*
- (3) Certain requested data that is not included in CSXT’s traffic and revenue, car, or train movement databases
  - *when Consumers’ Requests are not limited to any specific database;*
- (4) Copies of Computer Models or Software
  - *when Consumers only requested that CSXT identify the computer model and software used;*
- (5) SSI data
  - *when the Protective Order already agreed upon and jointly filed by the parties specifically addresses the production of SSI data; and*

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<sup>5</sup> *Id.*

<sup>6</sup> *Seminole Elec. Coop., Inc. v. CSX Transp., Inc.*, NOR 42110, slip op. at 2 (STB served Feb. 17, 2009).

<sup>7</sup> *Ariz. Elec. Power Coop., Inc. v. Burlington N. & Santa Fe Ry.*, NOR 42058, slip op. at 4 (STB served Sept. 11, 2002) (“*Arizona Electric*”).

- (6) Dividends paid from and financial reports for CSXT-affiliated companies, the Belt Railway Company of Chicago and TTX Company
- *when recent Board precedent makes proportional revenues from and costs for affiliates relevant to Stand-Alone Costs when assets of affiliated companies are included as part of a SARR.*

As explained below, all of the foregoing objections raised by CSXT are without merit and should be overruled, and the Order requested herein should be granted.

**1. Information and Documents after December 31, 2014**

CSXT generally objects to providing any information or documents that were created after December 31, 2014.<sup>8</sup> However, CSXT has no basis to establish an arbitrary discovery production date cutoff; 49 C.F.R. § 1114.29 as interpreted by the Board clearly obligates CSXT to supplement its responses;<sup>9</sup> and CSXT's own discovery requests to Consumers include the same standard instruction to which CSXT has objected. To be sure, it is appropriate for parties or the Board to set an end point for the production of responsive information and documents, so that the parties have a defined record on which to base their respective evidentiary presentations. However, the Board has yet to issue a procedural schedule in this case, and it is not legitimate for one party to unilaterally and arbitrarily decree the end point, especially where – as here – that party has not adopted the same limitation for its own discovery requests. Accordingly, CSXT's General Objection No. 22 should be overruled.

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<sup>8</sup> See Appendix 1 at 7 ¶ 22.

<sup>9</sup> See *R.R. Salvage & Restoration, Inc. – Pet. for Declaratory Order – Reasonableness of Demurrage Charges*, NOR 42102, slip op. at 9 (STB served July 19, 2010).

## 2. Information Related to Establishment of CSXT's Rates

Consumers' Interrogatory Nos. 1 and 2 sought, *inter alia*, information concerning any rate reductions or other consideration that CSXT claims it offered to Consumers in response to threats of alleged transportation competition.<sup>10</sup> Document Production Request No. 1 sought documents related to the development of the common carrier rates at issue in this proceeding.<sup>11</sup> CSXT objected to providing the information requested in the Interrogatories on the ground that it would require that "CSXT disclose its litigation position" prematurely, and to producing the material sought by Document Production Request No. 1 because "[t]he process by which a railroad calculates its rates has no relevance in a SAC analysis."<sup>12</sup>

CSXT's objections might have some merit if the information requested was still in the process of development, or if the railroad had not already pleaded that it does not have market dominance over Consumers' Campbell traffic under 49 U.S.C. §10707 because that traffic allegedly is subject to "effective competition."<sup>13</sup> However, Consumers' Interrogatories are directed at historic information that either does or does not exist (Consumers expects the latter is the case), and CSXT's Answer in this case places market dominance squarely in issue.<sup>14</sup> The law is clear that in evaluating a claim that a railroad's

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<sup>10</sup> See Appendix 1 at 8-9.

<sup>11</sup> See Appendix 1 at 15-16.

<sup>12</sup> See Appendix 1 at 8-9, 15-16.

<sup>13</sup> See CSXT's Answer to Original Complaint, NOR 42142, ¶ 13 (filed Feb. 2, 2015) ("CSXT's Answer").

<sup>14</sup> See *id.*

rates are constrained by the availability of an effective alternative, the Board must consider not only whether the incumbent railroad was aware of the potential alternative, but whether it *responded to it* in its pricing decisions. See *Total Petrochemicals & Refining USA, Inc. v. CSX Transp., Inc.*, NOR 42121, slip op. at 9 (STB served Dec. 19, 2013); *M&G Polymers USA, LLC v. CSX Transp. Inc.*, NOR 42123, slip op. at 3 (STB served Sept. 27, 2012); *Ariz. Pub. Serv. Co. v. Atchison, Topeka & Santa Fe Ry.*, 2 S.T.B. 367, 374-75, 378-79 (1997); *W. Tex. Utils. Co. v. Burlington N. R.R.*, 1 S.T.B. 635, 650-51 (1996).

Consumers has the burden of proving that CSXT possesses “market dominance” over the Campbell coal deliveries, and as part of its proof will demonstrate that at no point during the long history of the parties’ relationship did CSXT offer to reduce or limit its rates to Campbell because of a threat that Consumers would shift to the use of some imaginary transportation alternative. Unless and until CSXT is prepared to stipulate (as it has with respect to quantitative market dominance)<sup>15</sup> that it does not face effective transportation competition for its Campbell coal service, information and documents related to whether CSXT ever made a rate response to such alleged competition, or considered it at all in establishing the common carrier rates now in issue, is clearly relevant, admissible, and legitimately subject to discovery by Consumers.

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<sup>15</sup> CSXT’s Answer ¶ 14.

**3. Data Not Included in CSXT’s Traffic and Revenue, Car, or Train Movement Databases**

CSXT objected to portions of Document Production Request Nos. 8, 9 and 10 on the ground that compliance would be “unduly burdensome,” because the requested data is “not available in the CSXT traffic and revenue data” or is “not available in the CSXT car movement data” or “train movement data.”<sup>16</sup> However, a plain reading of Consumers’ First Requests clearly shows that no part of the Requests limits the production or search to specific databases. For CSXT to presume that Consumers’ First Requests were limited to particular databases (when they are not) and then use such a false assumption to support a production objection is “conclusory and unpersuasive,”<sup>17</sup> and should not be accepted or upheld by the Board.

The requested data that CSXT objected to includes the following:

Document Production Request No. 8:

- oo. Miles used to derive applicable fuel surcharges;
- pp. Applicable fuel surcharge rate;
- rr. Length, width and height for each car/container/trailer used to move the shipment; and . . .
- ss. Number of articulated wells included (where applicable) in an individual railcar used to move an intermodal (or other) shipment.

Document Production Request No. 9:

- u. Trackage Rights Indicator;
- x. Direction of travel (for movement link data please also indicate whether the car movement was from line segment begin node-to-end node or end node-to-begin node);

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<sup>16</sup> Appendix 1 at 19-26.

<sup>17</sup> An objection that production would be burdensome may not be “conclusory and unpersuasive.” *Arizona Electric*, slip op. at 4.

Document Production Request No. 10:

- j. Event type indicator specifying if the event was an arrival, a departure, an intermediate handling event, or an instantaneous time as in the case of a non-dwell event (e.g., passing a scanner);
- l. Trackage Rights Indicator;
- jj. Number of cars repositioned on train;
- ll. Train fueling Indicator;
- mm. Meet/Pass Indicator.

On information and belief, all of the foregoing information is retained by CSXT in some recorded form, and the relevance of the information clearly outweighs any “burden” imposed on CSXT by having to turn to more than one database in order to produce it.<sup>18</sup> Notably, CSXT as part of its response did not claim that this data was unavailable or irrelevant, only that it was not included within three specified databases. As such, CSXT should be ordered to “conduct a reasonable search” that is not so limited, and “search for records within its possession, custody or control . . . that are located on its premises, files that are kept electronically, and the off-site storage or archived files of those individual employees or departments likely to have responsive information.”<sup>19</sup>

**4. Identification of Computer Models and Software**

CSXT objected to Interrogatory No. 9 and Document Production Request Nos. 8, 11, 17, 23, and 42 claiming that these requests may compromise their computer

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<sup>18</sup> *Application of the Nat’l R.R. Passenger Corp. under 49 U.S.C. § 24308(a) – Canadian Nat’l Ry. Co.*, FD 35743, slip op. at 10 (STB served Sept. 23, 2014) (“The Board agrees with CN that this combined and limited request appropriately balances the burden of production with CN’s discovery rights.”).

<sup>19</sup> *Entergy Ark., Inc. & Entergy Serv., Inc. v. Union Pac. R.R. & Mo. & N. Ark. R.R.*, NOR 42104, slip op. at 5-6 (STB served May 19, 2008).

model and software licensing agreements.<sup>20</sup> Again, however, a plain reading of the Requests show that they do not seek the production of computer models or software, only the *identification* of the computer models and software used by CSXT. The Board in the past has affirmed the rights of complainants to discovery of information as to how figures and data are derived including “all documents relied upon,”<sup>21</sup> and should do so again here.

## 5. **Disclosure of SSI**

CSXT objected to Interrogatory No. 11 and Document Production Request Nos. 71, 109, 124, 125 and 126 on the grounds that responding will require the disclosure of SSI data.<sup>22</sup> However, prior to CSXT’s raising this objection, the parties negotiated and submitted to the Board a proposed Protective Order that specifically addresses the production of SSI data. The Protective Order states that “[a]ny party producing in discovery railroad traffic data that has been designated Sensitive Security Information . . . shall produce such material in accordance with governing DOT and DHS regulations, rules and policies . . . . In addition to other applicable conditions and requirements, rail traffic SSI shall be produced only to those outside counsel or consultants to a Party who, prior to production, have (i) reviewed and executed an Undertaking for Highly Confidential Material; and (ii) reviewed and executed an ‘Undertaking for SSI Material.’” *Id.* at 2 ¶ 3. These protections for SSI data are consistent with those approved by the Board in other

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<sup>20</sup> See Appendix 1 at 13, 19-22, 26-27, 29-30, 33-34, 45.

<sup>21</sup> “Without providing the underlying documentation on which the figures in the workpapers are based, the opposing party cannot verify that those numbers were correctly calculated.” *Simplified Standards*, slip op. at 69.

<sup>22</sup> Appendix 1 at 14, 62, 86, 93-94.

proceedings. *See, e.g., SunBelt Chlor Alkali P'ship v. Norfolk S. Ry.*, NOR 42130, slip op. at 4 (STB served Sept. 6, 2011). Assuming that the Board adopts the stipulated Protective Order, CSXT's objections with respect to SSI will be moot.

**6. Dividends Paid from and Financial Reports for Affiliated Companies**

CSXT objected to Document Production Request Nos. 115 and 116, which seek documents concerning dividends paid to CSXT by affiliates and those affiliates' financial statements, on the grounds that the Requests are "irrelevant and not reasonably calculated to lead to the discovery of admissible evidence."<sup>23</sup> However, the relevance of financial information for CSXT-affiliated companies was unmistakably established in the Board's 2014 decision in *E.I. DuPont de Nemours and Co. v. Norfolk Southern Railway Co.* ("*DuPont*"), which required the SARR proponent to account for the proportional costs to build and operate facilities used as part of its SARR, when they were owned in part by the defendant. *Id.*, NOR 42125, slip op. at 48 (STB served Mar. 24, 2014) (updated Oct. 3, 2014). In this case, if any assets or services of a CSXT-affiliated company are used as part of Consumers' SARR, financial data concerning those affiliates would be incorporated in determining the proportional costs of construction and ownership in the SAC analysis. *See id.*

CSXT's 2013 annual Report Form R-1 shows that it has ownership interests in two corporate entities that might be deemed to do business with a Consumers' SARR that operates in the Chicago area and/or transports intermodal traffic. CSXT's Schedule 310 shows that CSXT holds a 25 percent stake in the Belt Railway Company of Chicago

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<sup>23</sup> Appendix 1 at 90.

("BRC"), and a 19.65 percent ownership in the TTX Company ("TTX"). The requested financial statements for these two entities are directly relevant to a determination of the companies' revenues and subsequent earnings, which the Consumers' SARR would be credited with by stepping into CSXT's shoes.<sup>24</sup> Logically, the SARR also should be credited with earnings and dividends extending from its partial ownership. These earnings are not immaterial: CSXT's Schedule 310A indicates the railroad booked a \$12.5 million credit to its lease expenses in 2013 from its equity position in TTX. If the Consumers SARR is to step into CSXT's shoes, it is entitled to a portion of these credits received by CSXT. Ultimately, TTX and BRC's financial statements are necessary to assist in determining what proportion of any earnings, dividends or expense credits are due under the SARR. Therefore, CSXT's objections to Request Nos. 115 and 116 should also be overruled.

### **CONCLUSION**

For the reasons set forth herein, CSXT's General Objection No. 22 and its enumerated objections to Consumers' Interrogatory Nos. 1, 2, 9 and 11 and Document Production Request Nos. 1, 8, 9, 10, 11, 17, 23, 42, 71, 109, 115, 116, 124, 125 and 126 should be overruled, and the Board should issue an appropriate Order directing CSXT to provide substantive answers to the Interrogatories, and produce documents responsive to Consumers' Document Production Requests.

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<sup>24</sup> *DuPont*, slip op. at 48 n.112.

Respectfully submitted,

CONSUMERS ENERGY COMPANY

By: Catherine M. Reynolds  
Senior Vice President and General Counsel  
Kimberly C. Wilson  
Supervisory Assistant General Counsel  
Consumers Energy Company  
One Energy Plaza  
Jackson, Michigan 49201

Kelvin J. Dowd  
Daniel M. Jaffe  
Katherine F. Waring  
Slover & Loftus LLP  
1224 Seventeenth St., N.W.  
Washington, D.C. 20036  
(202) 347-7170



Of Counsel:  
Slover & Loftus LLP  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036

Dated: March 16, 2015

*Attorneys and Practitioners*

## CERTIFICATE OF SERVICE

I hereby certify that this 16<sup>th</sup> day of March, 2015, I caused a copy of the foregoing First Motion to Compel Discovery to be served by hand delivery and electronic mail on the following counsel for Defendant CSX Transportation, Inc.:

G. Paul Moates, Esq.  
Raymond A. Atkins, Esq.  
Paul A. Hemmersbaugh, Esq.  
Matthew J. Warren, Esq.  
Sidley Austin LLP  
1501 K Street, NW  
Washington, D.C. 20005

I also caused the foregoing Motion to be served by overnight delivery on the following counsel for CSXT:

Peter J. Shudtz, Esq.  
Paul R. Hitchcock, Esq.  
John P. Patelli, Esq.  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, FL 32202



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Katherine F. Waring

# **APPENDIX 1**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**CONSUMERS ENERGY COMPANY**

**Complainant,**

**v.**

**CSX TRANSPORTATION, INC.**

**Defendant.**

**Docket No. NOR 42142**

**DEFENDANT’S RESPONSES AND OBJECTIONS TO COMPLAINANT’S FIRST  
REQUESTS FOR ADMISSION, INTERROGATORIES, AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS**

Pursuant to 49 C.F.R. Part 1114 and other applicable rules and authority, CSX Transportation, Inc. (“CSXT”), through undersigned counsel, responds as follows to Complainant Consumers Energy Company’s (“Consumers”) First Requests for Admission, Interrogatories, and Requests for Production of Documents (the “Discovery Requests”).

**GENERAL OBJECTIONS**

CSXT’s General Objections, as set forth herein, are to be considered objections to each of the specific interrogatories and document requests (including subparts) that follow. CSXT’s objections shall not waive or prejudice any objections that it may later assert.

1. CSXT objects to producing any confidential or highly confidential information or documents to Consumers until the Surface Transportation Board has entered an appropriate Protective Order. CSXT will commence production of such documents on a rolling basis once a Protective Order has been entered.

2. CSXT objects to any and all definitions and/or instructions to the extent that the definitions and instructions either seek to expand upon or conflict with 49 C.F.R. Part 1114,

Subpart B. Further, CSXT objects to these Discovery Requests to the extent that they seek to impose obligations on CSXT that are greater than or otherwise inconsistent with those imposed under 49 C.F.R. Part 1114, Subpart B.

3. CSXT objects to each and every Discovery Request to the extent that it seeks information protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege, exemption, or protection from discovery or disclosure. In the event that any such information is inadvertently produced or provided, and such information is the proper subject of the attorney-client privilege, the attorney work-product doctrine and/or other applicable privilege, exemption, or protection, such disclosure is not to be construed as a waiver of any of these privileges, exemptions, or protections. CSXT reserves the right to demand that such inadvertently produced privileged information be returned to it and that all copies in Consumers' possession, and that of its counsel, consultants, subsidiaries or other agents, be destroyed.

4. CSXT objects to each and every Discovery Request to the extent that it seeks production of information or data that is not relevant to the subject matter at issue in this proceeding and/or not reasonably calculated to lead to the discovery of admissible evidence.

5. CSXT objects to each and every Discovery Request requesting that CSXT produce "all" responsive information. For those requests to which it is obliged to respond, CSXT will produce such responsive non-privileged information or documentation as it is able to locate or identify in a reasonable search.

6. CSXT objects to each and every Discovery Request to the extent that it would require CSXT to perform a "special study" to identify or derive the requested information. *See, e.g., Entergy Ark., Inc. v. Union Pac. R.R. Co.*, STB Docket No. 42104 (May 19, 2008).

7. CSXT objects to each and every Discovery Request to the extent that it is: (a) overly broad; (b) vague or ambiguous; (c) fails to describe with reasonable particularity the information sought; or (d) imposes undue burdens that outweigh any probative value the information sought may have in this proceeding.

8. CSXT objects to each and every Discovery Request that requests information that is already in the possession of Consumers or that is readily available or accessible to Consumers.

9. CSXT objects to each and every Discovery Request to the extent that it purports to request information and data that is sensitive security information (“SSI”), classified or otherwise prohibited from disclosure, or documents whose public release could jeopardize the safety of the public and/or CSXT employees. Subject to and without waiving this objection, CSXT will only produce SSI information to the extent authorized by law and in the manner authorized by law, including the procedures set forth in FRA SSI Order 2011-06-FRA-01 (July 29, 2011).

10. CSXT objects to Consumers’ demand that copies of any responsive documents be delivered to the offices of Consumers’ counsel, which is inconsistent with the Board’s rule that a party producing documents may do so by making them available for inspection. *See* 49 C.F.R. § 1114.30(a)(1). Several of Consumers’ requests call for documents or data so voluminous that CSXT may need to make such documents or data available for inspection by Consumers counsel or consultants rather than delivering copies to Consumers. CSXT reserves its right to designate requests for which it will make documents available for inspection rather than delivering copies.

11. CSXT objects to Definition 11 of the Discovery Requests to the extent that it defines CSXT to include all subsidiaries of CSXT, on the grounds that such definition is overbroad and unduly burdensome. CSXT specifically objects to producing data and information

for non-wholly owned subsidiaries and for switching and terminal railroad subsidiaries, on the ground that producing responsive information for these entities, to the extent such information exists, would be unduly burdensome and would have little to no relevance to the issues in this proceeding.

12. CSXT objects to Consumers' Definition 15 defining "Document" to the extent it seeks to impose obligations broader than, or inconsistent with, those imposed by 49 C.F.R. Part 1114. CSXT particularly objects to Consumers' demand that CSXT produce documents in its "prior possession, custody and control." It is both unreasonable and illogical to demand that CSXT produce documents that are not in its current possession, custody, or control. CSXT further objects to the definition of "Document" to the extent it seeks information or data that is privileged, protected by the work product doctrine, or otherwise protected, exempted, or excluded from discovery or disclosure by an applicable privilege, protection, rule, or doctrine. In these Responses, CSXT will interpret the term "Document" to exclude any data or information that is protected from discovery or disclosure by such privilege, protection, doctrine, or rule.

13. CSXT objects to Consumers' Definition 18 defining "'Identify' when referring to a document" to the extent it seeks to impose obligations or requirements beyond, in addition to, or inconsistent with discovery obligations under 49 C.F.R. Part 1114. CSXT has no duty to search for, gather, and catalog every document possibly implicated by an interrogatory with the multiple pieces of information specified as required by the definition. This definition would impose an undue burden that outweighs any relevance or probative value the information sought may have in this proceeding. CSXT will respond to any interrogatory asking it to "identify" particular documents as if it were a request for production of those documents and respond in accordance with 49 C.F.R. § 1114.30.

14. CSXT objects to Consumers' Definition 23 defining "possession, custody, or control" to the extent it seeks to impose obligations or requirements beyond, in addition to, or inconsistent with CSXT's discovery obligations under 49 C.F.R. Part 1114.

15. CSXT objects to Consumers' Definition 25 defining "related," "related to," and "relating to" on the grounds that such definition is overbroad and unduly burdensome.

16. CSXT objects to Instruction 1(a)(i) to provide the "name and description of the source database or other file" from which computer readable information is provided to Consumers. CSXT has no duty to undertake to catalog and document its internal systems, because such a request would constitute a "special study" that CSXT is not required to perform. Moreover, such information would be unduly burdensome to create and is not relevant to any issue in this proceeding, nor is such information necessary to enable Consumers to use any information to be provided.

17. CSXT objects to Instruction 1(a)(ii) to provide "[a] description of how the records in the file produced were selected" as seeking information protected by the attorney-client privilege and/or work-product doctrine. Furthermore, such information would be unduly burdensome to create and is not relevant to any issue in this proceeding or necessary to enable Consumers to use any information to be provided by CSXT.

18. CSXT objects to Instruction 1(a)(iii) as seeking to impose obligations or requirements beyond, in addition to, or inconsistent with discovery obligations under 49 C.F.R. Part 1114. CSXT has no duty to undertake to catalog and document its internal systems, because such a request would constitute a "special study" that CSXT is not required to perform. Such information would be unduly burdensome to create and is not relevant to any issue in this proceeding, nor is such information necessary to enable Consumers to use any information to be

provided. Moreover, CSXT has no obligation to provide Consumers with any “intermediate file[s]” created by CSXT in its effort to provide Consumers with responsive information. Production of such files would be duplicative of the information in “final files.” Moreover, any “intermediate files[s]” used to create files produced in this litigation are protected by the work-product doctrine.

19. CSXT objects to Instruction 1(a)(iv) as seeking to impose obligations or requirements beyond, in addition to, or inconsistent with discovery obligations under 49 C.F.R. Part 1114. CSXT further objects to the instruction to produce “[a] relational diagram defining relationships amongst tables, with all fields. . .” on the grounds that CSXT has no duty to undertake to catalog and document its internal systems as such a request would constitute a “special study.” Such information would be unduly burdensome to create and is not relevant to any issue in this proceeding, nor is such information necessary to enable Consumers to use any information to be provided.

20. CSXT objects to Instruction 1(b) as seeking to impose obligations or requirements beyond, in addition to, or inconsistent with discovery obligations under 49 C.F.R. Part 1114. CSXT has no duty to undertake to catalog and document all computer-readable information provided to Consumers in the unduly complex format specified by Consumers. Responsive information provided in computer-readable format will be described to the extent necessary for Consumers to use such information.

21. CSXT objects to Consumers’ Instructions 2, 5, and 6 to the extent they attempt to impose obligations or requirements beyond, in addition to, or inconsistent with CSXT’s discovery obligations under 49 C.F.R. Part 1114. CSXT’s duties in responding to Consumers’

discovery requests are governed by the Board's rules, and Consumers cannot change or expand those duties by propounding "Instructions."

22. CSXT objects to Consumers' failure to limit certain of its requests to a reasonable time period as overbroad and unduly burdensome. Subject to, and without waiving this objection, unless otherwise indicated, CSXT's responses will cover the period from 2012 to 2014.

23. CSXT does not concede the relevance, materiality, competency, or admissibility as evidence of documents or information requested in the Discovery Requests. CSXT reserves its right to object on any ground to the use of the responses herein in this proceeding or in any subsequent appeal, proceeding, action or trial.

### **SPECIFIC OBJECTIONS AND RESPONSES**

In addition to its General Objections (which apply in full to each and every Discovery Request, without further enumeration), below CSXT sets forth Specific Objections and Responses to each Request for Admission, Interrogatory, and Request for Production. CSXT preserves all of its General Objections set forth above, and none of the following Specific Objections shall waive its General Objections. Nor shall any of CSXT's specific objections limit the scope, breadth, generality, or applicability of those General Objections.

#### **I. REQUESTS FOR ADMISSION**

##### **REQUEST FOR ADMISSION NO. 1**

Admit that CSXT faces no effective intramodal competition for the transportation of coal from Origin to Destination.

**Response:** CSXT objects to this Request for Admission for the reasons set forth in its General Objections. CSXT also specifically objects to this Request for Admission because it calls for CSXT to perform a special study to assess rail competition between Origin and Destination. CSXT also objects because this Request for Admission prematurely and

inappropriately demands that CSXT disclose its litigation position before the submission of opening evidence. CSXT further objects to this Request for Admission as calling for a legal conclusion to which no response is necessary. To the extent a response is required, CSXT denies Request for Admission No. 1.

#### REQUEST FOR ADMISSION NO. 2

Admit that CSXT faces no effective intermodal competition for the transportation of coal from Origin to Destination.

**Response:** CSXT objects to this Request for Admission for the reasons set forth in its General Objections. CSXT also specifically objects to this Request for Admission because it calls for CSXT to perform a special study to assess intermodal competition between Origin and Destination. CSXT also objects because this Request for Admission prematurely and inappropriately demands that CSXT disclose its litigation position before the submission of opening evidence. CSXT further objects to this Request for Admission as calling for a legal conclusion to which no response is necessary. To the extent a response is required, CSXT denies Request for Admission No. 2.

## **II. INTERROGATORIES**

#### INTERROGATORY NO. 1

If CSXT's response to Request for Admission No. 1 is anything other than an unqualified admission, please describe in detail the effective intramodal competition that Defendant claims exists for the transportation to which the Challenged Rates apply, the annual volume of coal subject to such competition, the rate reductions or other consideration that Defendant has offered to Consumers in response to such competition, and why such competition is effective.

**Response:** CSXT objects to this Interrogatory for the reasons set forth in its General Objections. CSXT also specifically objects to this Interrogatory because it calls for CSXT to perform a special study to assess the effectiveness of rail competition between Origin and Destination. CSXT also objects because this Interrogatory prematurely and inappropriately demands that CSXT disclose its litigation position before the submission of opening evidence.

Subject to and without waiving these objections and the General Objections, CSXT responds that it will provide evidence of the effectiveness of competition for the transportation to which the Challenged Rates apply at the appropriate time.

### INTERROGATORY NO. 2

If CSXT's response to Request for Admission No. 2 is anything other than an unqualified admission, please describe in detail the effective intermodal competition that Defendant claims exists for the transportation to which the Challenged Rates apply, the annual volume of coal subject to such competition, the rate reductions or other consideration that Defendant has offered to Consumers in response to such competition, and why such competition is effective.

**Response:** CSXT objects to this Interrogatory for the reasons set forth in its General Objections. CSXT also specifically objects to this Interrogatory because it calls for CSXT to perform a special study to assess the effectiveness of intermodal competition between Origin and Destination. CSXT also objects because this Interrogatory prematurely and inappropriately demands that CSXT disclose its litigation position before the submission of opening evidence. Subject to and without waiving these objections and the General Objections, CSXT responds that it will provide evidence of the effectiveness of competition for the transportation to which the Challenged Rates apply at the appropriate time.

### INTERROGATORY NO. 3

Provide a description of the movement of Consumers' trains by CSXT from Origin to Destination and from Destination to Origin, including but not limited to a description of all transportation-related activities (including placing and/or interchanging trains with other railroads, holding loaded or empty trains in transit, providing notifications to Consumers or other railroads, inspecting trains, changing crews and other related activities) at Origin, at Destination, and at intermediate stations or other points between Origin and Destination.

**Response:** CSXT specifically objects to this Interrogatory as overbroad and unduly burdensome to the extent it requires a description of “all transportation-related activities” at Origin, Destination, and “at intermediate stations or other points between Origin and Destination.” CSXT further objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. Subject to and without waiving these objections and the

General Objections, CSXT responds that it will produce business records or other documents from which information responsive to this Interrogatory can be derived or ascertained. *See* 49 C.F.R. § 1114.26(b).

#### INTERROGATORY NO. 4

To the extent that the information is not included in your response to Interrogatory No.3, please describe:

- a. The location and length (route miles) of each crew district (identified by "from and to" stations) traveled by the Consumers trains when operated by CSXT;
- b. The location(s) where the locomotives on the Consumers trains are fueled by CSXT and the fueling method used (e.g., DTL);
- c. If distributed power is used, please describe the distributed power configuration used for locomotives on the Consumers trains;
- d. The locations where 1,000-mile or 1,500-mile inspections are performed on the Consumers trains by CSXT;
- e. The operations involved in interchanging the Consumers trains with BNSF in the vicinity of Chicago, Illinois, including but not limited to operations involving the removal, placement and/or re-positioning of locomotives on the trains;
- f. Any run-through locomotive power arrangements between CSXT and BNSF in effect between 2011 and the present which apply to the Consumers trains interchanged in the vicinity of Chicago, Illinois;
- g. The operations in delivering loaded trains to, placing loaded trains for unloading at, and removing empty trains subsequent to unloading from, the railcar unloading facilities at Destination, including but not limited to operations involving the removal, placement and/or repositioning of locomotives or railcars;
- h. Identify any other carriers tracks, personnel or facilities used to perform any activities for Consumers' trains moving between Origin and Destination; and
- i. Identify any third-party contractors that perform any services on behalf of CSXT for Consumers' trains moving between Origin and Destination.

**Response:** CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce business records or other documents from which information responsive to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R. § 1114.26(b).

#### INTERROGATORY NO. 5

Please identify the location and name of each intermodal terminal, Automotive Distribution Center, bulk transfer facility or yard located on CSXT Lines in Illinois, Indiana and Michigan.

**Response:** CSXT objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce business records or other documents from which information responsive to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R. § 1114.26(b).

#### INTERROGATORY NO.6

For each calendar year from 2002 through 2014, please provide:

- a. The total amount of corporate debt incurred or assumed by CSXT or by CSX Corp. on behalf of CSXT, including principal and all accrued interest, that was outstanding as of the first day of such year;
- b. The total principal amount of new corporate debt incurred or assumed by CSXT or by CSX Corp. on behalf of CSXT, during such year;
- c. The total amount of corporate debt for which CSXT or CSX Corp. on behalf of CSXT was responsible for repayment, including principal and all accrued interest, which remained outstanding as of the last day of such year.

As used in this Interrogatory, "corporate debt" refers to all types of commercial (as distinguished from personal or residential) indebtedness, including, but not limited to, bonds, notes, debentures, equipment trust certificates, conditional sales agreements and capitalized leases whether secured or unsecured and regardless of the source of the borrowing.

**Response:** CSXT objects to this Interrogatory because it is not reasonably calculated to lead to the discovery of admissible evidence. CSXT further objects because information about CSXT's corporate debt can be derived from SEC filings that are public and readily available to Consumers. *See Duke Energy v. Norfolk So. Co.*, STB Docket Nos. 42069, 42070 (July 26, 2002) ("[I]t is unduly burdensome to require a party to produce information that is available

from public records or through less intrusive means.”). CSXT also objects because this interrogatory is not limited to a reasonable period of time.

#### INTERROGATORY NO.7

For each calendar year from 2002 through 2014, separately for CSXT and CSX Corp., please provide:

- a. The total number of shares of common stock and total number of shares of preferred stock (by class, if applicable) that were issued and outstanding as of the first day of the year;
- b. The total number of shares of common stock and total number of shares of preferred stock (by class) that were repurchased by CSXT or CSX Corp. during such year;
- c. The total amounts expended (stated separately for common and preferred stock) to make the repurchases described in Subpart b; and
- d. The sources (stated separately by source and amount) of the funds used to make the repurchases described in Subpart b.

**Response:** CSXT objects to this Interrogatory because it is not reasonably calculated to lead to the discovery of admissible evidence. CSXT further objects because information about CSXT’s outstanding shares and share repurchases can be derived from SEC filings that are public and readily available to Consumers. *See Duke Energy v. Norfolk So. Co.*, STB Docket Nos. 42069, 42070 (July 26, 2002) (“[I]t is unduly burdensome to require a party to produce information that is available from public records or through less intrusive means.”). CSXT also objects because this interrogatory is not limited to a reasonable period of time.

#### INTERROGATORY NO. 8

Please (a) explain the meaning of the term "Rail Cost Adjustment Factor- All Inclusive Less Fuel" as used in Item No. 7 on page 3 of Tariff CSXT-13952 Amendment 1, a copy of which was attached as Exhibit A to Consumers' Complaint; (b) identify the document or publicly available source where it can be found; and (c) provide an example of its application to the Challenged Rates.

**Response:** Subject to and without waiving the General Objections, CSXT responds that it will produce business records or other documents from which information responsive to this

Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R. § 1114.26(b).

INTERROGATORY NO. 9

Please identify any computer programs or models that are currently being used or have been used by CSXT in the past three years to (a) download locomotive, train and/or car event or similar data from locomotives, trains, and/or cars along any line segment on CSXT Lines in Illinois, Indiana, or Michigan, including, but not limited to, the Event Recorder Automated Download system or any successor thereto and/or (b) process locomotive event data for purposes of determining locomotive throttle position and/or fuel consumption.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to share “computer programs or models,” which may violate the terms of applicable software licenses or agreements, as well as applicable copyright and patent laws. CSXT also objects because Consumers’ request that CSXT produce computer programs or models is not reasonably calculated to lead to the discovery of admissible evidence, and is overbroad and unduly burdensome.

INTERROGATORY NO. 10

Please identify each Short Line Railroad and describe the arrangements between CSXT and each Short Line Railroad identified in response to this Interrogatory regarding all movements handled in whole or in part by CSXT:

- a. Whether CSXT sets all rates, fees and surcharges, including the portion of the movement handled by each identified Short Line Railroad, and if not, identify who sets the rates, fees and surcharges;
- b. Whether the CSXT revenues reported in the traffic and revenue data provided in response to Request for Production No. 8 include or exclude the monies paid to each identified Short Line Railroad as compensation for its portion of each movement;
- c. Whether a physical interchange of traffic takes place between CSXT and each identified Short Line Railroad, and if so, identify the interchange locations(s);
- d. Whether each identified Short Line Railroad provides its own locomotive power for its portion of each movement or if CSXT power is used; and
- e. Whether each identified Short Line Railroad provides its own train crew personnel for its portion of each movement or if CSXT train crew personnel are used.

**Response:** CSXT objects to this Interrogatory as overly broad and unduly burdensome to the extent it requests information regarding “all movements.” CSXT further objects to this Interrogatory to the extent it requires a special study that CSXT is not required to conduct. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce business records or other documents from which information responsive to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R. § 1114.26(b).

#### INTERROGATORY NO. 11

Please describe how hazardous materials are handled by CSXT in each of the yards identified in response to Interrogatory No. 5, and specifically describe the procedures used by CSXT to classify railcars containing hazardous materials and if such classification occurs in a separately designated portion of the yards.

**Response:** CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Security Sensitive Information (“SSI”). Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce business records or other documents from which information responsive to this Interrogatory can be derived or ascertained, to the extent that such documents can be located in a reasonable search and can be produced consistent with CSXT’s legal obligations to safeguard SSI. *See* 49 C.F.R. § 1114.26(b).

#### INTERROGATORY NO. 12

Please identify CSXT affiliates that provide services to CSXT in Illinois, Indiana and Michigan. Describe the services provided by these affiliates. Also provide a description of payments made to affiliates, equity contributions made to affiliates, distributions from affiliates, and other financial or accounting transactions between CSXT and affiliate.

**Response:** CSXT objects to the vague and undefined terms “affiliate” and “financial and accounting transactions” and to Consumers’ failure to limit Interrogatory 12 to a reasonable time scope. Subject to and without waiving these objections and the General Objections, CSXT

responds that it will produce business records or other documents from which information responsive to this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R. § 1114.26(b).

### INTERROGATORY NO. 13

Please describe the use of one-man crews on trains operated by CSXT or its affiliates. Also describe efforts made by CSXT to reduce train crews to one person.

**Response:** CSXT objects to the vague and undefined term “affiliate” and to Consumers’ failure to limit Interrogatory 13 to a reasonable time scope. CSXT further objects to the second sentence of the Interrogatory’s request for information regarding “efforts made by CSXT to reduce train crews to one person” as not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce business records or other documents from which information responsive to the first sentence of this Interrogatory can be derived or ascertained, to the extent that such documents exist and can be located in a reasonable search. *See* 49 C.F.R. § 1114.26(b).

## **III. DOCUMENT PRODUCTION REQUESTS**

### REQUEST FOR PRODUCTION NO. 1

Please produce all documents related to the establishment of the Challenged Rates, including but not limited to all documents used and/or relied upon in determining any formula or other methodology used for calculating the rates.

**Response:** CSXT specifically objects to this Request because it is not reasonably calculated to lead to the discovery of admissible evidence. The question in this proceeding is whether the rates CSXT charges for the transportation at issue are reasonable under a stand-alone cost analysis under the Constrained Market Pricing principles established in *Coal Rate Guidelines*, 1 I.C.C.2d 520 (1985). The process by which a railroad calculates its rates has no relevance in a SAC analysis. Here, therefore, how CSXT “establish[ed]” its rates or

“determin[ed]” the “formula or other methodology for calculating the rates” are not relevant.

CSXT further objects to the request for production of “all” documents as overbroad and unduly burdensome. CSXT also objects to the request to the extent that it requests documents protected by the attorney client privilege or the work product privilege.

#### REQUEST FOR PRODUCTION NO.2

Please produce any studies, analyses and other documents in CSXT's possession from January 1, 2002 to the present regarding the transportation of coal to Destination from Origin (a) by a rail carrier(s) other than CSXT; and (b) by any mode of transportation other than rail. If no such documents exist, please confirm same in the response to this Request.

**Response:** CSXT specifically objects to the request for the production of “any studies, analyses or other documents” on the ground it is overbroad and unduly burdensome. CSXT also objects to this Request to the extent it calls for information protected by the work product doctrine. CSXT further objects to this Request as overbroad and unduly burdensome in that it requests studies “from January 1, 2002 to the present” and is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO.3

Please provide the density information described below for CSXT's entire system for each year or partial year 2013 to the present in a computer readable database or electronic spreadsheet, including all record layouts, all field descriptions, data definitions and data dictionaries/decoders required to utilize the data. The density database should include, at a minimum, the following data:

- a. Identification of the unique railroad divisions, subdivisions, and individual line segments for each unique density segment;
- b. Station name and SPLC at the beginning of a unique density segment and at the end of a unique density segment;
- c. Beginning and ending milepost for each unique density segment;
- d. Rail and track mileage for each unique density segment;

- e. (i) Total density (both directions including empty and loaded trains) by segment expressed in net ton-miles, or in the alternative, (ii) total density (both directions including empty and loaded trains) by segment expressed in gross ton-miles plus appropriate factors that can be used to convert gross ton-miles to net ton-miles on each unique density segment; and
- f. Density information (i) for segments that CSXT utilizes via trackage rights (or other joint facility or joint use agreements) on another railroad, (ii) for segments where another railroad(s) operates by trackage rights (or other joint facility or joint use agreements) over CSXT segments and (iii) an identification of such densities in (i) and (ii) that are included in the total densities provided in response to subpart e. above.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO.4**

Please produce density charts and/or maps for the CSXT system for the period 2013 to the present.

**Response:** Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO.5**

Please produce documents sufficient to show the maximum permissible gross weight on rail ("GWR") per railcar for all CSXT Lines in Illinois, Indiana and Michigan, and for all segments having a GWR less than 286,000 lbs. per railcar, please produce documents sufficient to show the items and factors that limit the GWR for the identified segments.

**Response:** Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO.6

For each CSXT line segment and for any other railroad's line segments which CSXT utilizes via trackage rights agreements in Illinois, Indiana or Michigan, please produce documents, in a computer-readable database or spreadsheet format to the extent available, which contain operating statistics and density data (including but not limited to train miles, train hours, locomotive unit miles, loaded car-miles, empty car- miles, net ton-miles, gross ton-miles (both including and excluding locomotives), number of trains, etc.) for all traffic by commodity for each year or partial year 2013 to the present.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 7

For each Road Train operating in Illinois, Indiana or Michigan, please produce documents sufficient to show:

- a. CSXT's train identifier or designation and/or symbol of each identified Road Train and the beginning and end points served by each of the identified Road Trains;
- b. Whether the crews are assigned or in pool service;
- c. The home and away-from-home terminals for each crew district;
- d. The scheduled on-duty and off-duty locations for each crew assigned to the identified Road Trains;
- e. The number of crew members assigned per shift to each of the identified Road Trains;
- f. The number and type of locomotives assigned to each of the Road Trains;
- g. The number and type of loaded and empty cars assigned to each of the Road Trains;
- h. The trailing length for each of the identified Road Trains;
- i. The trailing weight for each of the identified Road Trains;
- j. The scheduled frequency of service for each identified Road Train; and
- k. The scheduled time of departure and arrival at stations served by each of the identified Road Trains.

**Response:** CSXT objects to this Request to the extent it requires a special study that CSXT is not required to conduct. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO.8

Please produce the databases, data warehouses and computer programs (with all documentation related to these databases and computer programs and associated selection criteria), in a computer-readable format, that include the information listed below for each movement handled by CSXT as originating, terminating, overhead or single-line carrier that traveled on CSXT Lines in Illinois, Indiana or Michigan for each year or partial year 2013 to the present. To the extent this data is contained in separate tables, please provide the appropriate fields to correctly link the separate tables. Please also include appropriate fields required to correctly link this data to the car event data requested in Request for Production No.9, including any "foreign key(s)" CSXT uses in the normal course of business to link the data sets.

- a. The name of the consignee, shipper, payee, and customer for each shipment record;
- b. Commodity (seven-digit Standard Transportation Commodity Code "STCC");
- c. Toxic Inhalation Hazard/Poisonous Inhalation Hazard ("TIH/PIH") Commodity Identifier;
- d. Origin station and State;
- e. Destination station and State;
- f. For shipments that originated on CSXT's system(s), the date and time the shipment was originated;
- g. For shipments CSXT received in interchange, the on-junction location station, State, Standard Point Location Code ("SPLC"), Freight Station Accounting Code ("FSAC"), and milepost;
- h. For shipments CSXT received in interchange, the road received from;
- i. For shipments CSXT received in interchange, the date and time the shipment was interchanged;
- j. For shipments given in interchange, off-junction location station, State, SPLC, FSAC, and milepost;
- k. For shipments given in interchange, the railroad given to;
- l. For shipments given in interchange, the date and time the shipment was interchanged;

- m. For shipments terminated on CSXT's system, the date and time the shipment was terminated;
- n. Origin FSAC;
- o. Destination FSAC;
- p. Origin SPLC;
- q. Destination SPLC;
- r. Number of rail cars;
- s. Number of intermodal containers or trailers;
- t. Tons (Net);
- u. Rail car tare weight;
- v. Intermodal container or trailer tare weight
- w. Total freight revenues from origin to destination, or CSXT's share of the total freight revenues in the event that CSXT was not the sole carrier for a particular movement, including any adjustments thereto, along with a description of the adjustment (*i.e.*, add to or subtract from gross revenue);
- x. Total revenues from surcharges (including but not limited to fuel surcharges), and whether such revenue from surcharges is included in the total freight revenues and CSXT's division thereof provided in response to Subpart (w) above;
- y. The contract, agreement, tariff, or other pricing authority that the shipment is billed under including the amendment and item numbers;
- z. Unique Waybill number and date;
- aa. TOFC/COFC plan;
- bb. Car/trailer/container initial for each car/trailer/container used to move the shipment (for intermodal movements provide both the railcar and container/trailer initial);
- cc. Car/trailer/container number for each car/trailer/container used to move the shipment (for intermodal movements provide both the railcar and container/trailer number);
- dd. The unique train identification initial and number of all trains used to move the shipment;
- ee. The number of locomotives, by train identification, by segment, used to move the shipment;
- ff. The total horsepower, by train identification, by line segment, used to move the shipment;
- gg. The station, State and SPLC where the traffic was interchanged between trains;
- hh. Total loaded movement miles;

- ii. Total loaded miles on CSXT's system;
- jj. The predominant route of movement for each shipment on CSXT's system that is associated with the loaded movement miles;
- kk. AAR car-type code;
- ll. provider of car and container/trailer (CSXT-owned, CSXT-leased, shipper or foreign road);
- mm. Total empty movement miles;
- nn. Total empty miles on CSXT's system;
- oo. Miles used to derive applicable fuel surcharges;
- pp. Applicable fuel surcharge rate;
- qq. Intermodal service plan code and the intermodal line of business code for each intermodal shipment;
- rr. Length, width and height for each car/container/trailer used to move the shipment; and
- ss. Number of articulated wells included (where applicable) in an individual railcar used to move an intermodal (or other) shipment.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to share “computer programs or models,” which may violate the terms of applicable software licenses or agreements, as well as applicable copyright and patent laws. CSXT also objects because Consumers’ request that CSXT produce computer programs or models is not reasonably calculated to lead to the discovery of admissible evidence, and is overbroad and unduly burdensome. CSXT further objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also specifically objects to the requests in subparts w and x, hh, and mm as irrelevant and unduly burdensome to the extent they seek non-CSXT information. CSXT also specifically objects to the requests in subparts oo, pp, rr and ss as unduly burdensome since they are not available in the CSXT traffic and revenue data. Subject to and without waiving these specific objections or the General

Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO.9

Please produce documents, in a computer-readable format to the extent available, which contain complete information (including all events) tracking and describing car, trailer/container, and locomotive movements (including yard and hub operations) from origin to destination for each car, trailer/container, and locomotive moving on CSXT Lines in Illinois, Indiana or Michigan for each year or partial year 2013 to the present. Please include appropriate fields required to correctly link this data to the waybill data described in Request for Production No. 8 and the train event data discussed in Request for Production No. 10, including any "foreign key(s)" CSXT uses in the normal course of business to link the data sets. The car event information requested includes, but not is limited to, the following information:

- a. Car Initial;
- b. Car Number;
- c. Car Owner (System, Foreign, Private);
- d. Tare weight;
- e. Lading weight;
- f. Number of intermodal units on flat cars;
- g. Event Sequence Number;
- h. Year;
- i. Month;
- j. Day;
- k. Unique Train Identification Symbol and/or Number;
- l. Train Date;
- m. Unique Waybill Number;
- n. Waybill Date;
- o. Load/Empty Indicator;
- p. Unique Shipment Identification Number;
- q. Actual event date/time stamp for nodal events (if movement link data are provided, provide timestamps for both car departure from line segment begin node and car arrival at line segment end node);
- r. Time zone indicator (of the Event date/time stamp);
- s. Event type indicator specifying if the event was an arrival, a departure, an intermediate switching/handling event, or an instantaneous time as in the case of a non-dwell event (e.g., passing a scanner);

- t. Unique System/Network Location Identifier (if movement link data are provided, provide for both line segment begin and end nodes). Include the following:
  - i. Station name;
  - ii. City or metropolitan name;
  - iii. State/ Province name;
  - iv. SPLC;
  - v. Engineering milepost; and,
  - vi. Transportation milepost.
- u. Trackage Rights Indicator;
- v. Switching Type indicator (specifying if the event is classifying a car onto a train, classifying the car off a train, or intermediate switching);
- w. Line segment name (for movement link data);
- x. Direction of travel (for movement link data please also indicate whether the car movement was from line segment begin node-to-end node or end node-to-begin node);
- y. Interchange Indicator specifying if the car was received or delivered in interchange;
- z. Identification of interchange railroad;
- aa. Industry Handling Indicator specifying if the car was pulled from origin or placed at destination;
- bb. Time elapsed at event location;
- cc. Time elapsed between event locations; and
- dd. Miles between event locations.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also specifically objects to the requests in subparts u and x as unduly burdensome since they are not available in the CSXT car movement data. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

## REQUEST FOR PRODUCTION NO. 10

Please provide documents that record complete train movement data (including all events and intermediate stations) in a computer readable format to the extent available, from origin to destination for all CSXT train movements (including yard and hub operations) to, from, within or through CSXT Lines in Illinois, Indiana or Michigan for each year or partial year 2013 to the present. Please include the appropriate fields required to correctly link this data to the car event data described in Request for Production No.9, including any "foreign key(s)" CSXT uses in the normal course of business to link the data sets. The train movement information requested includes, but is not limited to, the following information:

- a. Unique Train Identification Symbol and/or Number;
- b. Train Date;
- c. Train Type (intermodal, unit, merchandise, foreign, etc.);
- d. Event Sequence Number;
- e. Year;
- f. Month;
- g. Day;
- h. Event date/time stamp;
- i. Time zone indicator (of the Event date/time stamp);
- j. Event type indicator specifying if the event was an arrival, a departure, an intermediate handling event, or an instantaneous time as in the case of a non-dwell event (e.g., passing a scanner);
- k. Unique System/Network Location Identifier (if for movement data, provide for both line segment begin and end nodes). Include the following:
  - i. Station name;
  - ii. City or metropolitan name;
  - iii. State/Province name;
  - iv. SPLC;
  - v. Engineering milepost; and,
  - vi. Transportation milepost.
- l. Trackage Rights Indicator;
- m. Number of loaded cars arriving at station;
- n. Number of loaded cars departing from station;
- o. Number of loaded intermodal units arriving at station;
- p. Number of loaded intermodal units departing from station;
- q. Number of empty cars arriving at station;

- r. Number of empty cars departing from station;
- s. Number of empty intermodal units arriving at station;
- t. Number of empty intermodal units departing from station;
- u. Trailing net tons arriving at station;
- v. Trailing net tons departing from station;
- w. Trailing gross tons arriving at station;
- x. Trailing gross tons departing from station;
- y. Length of train arriving at station;
- z. Length of train departing from station;
- aa. Number of active locomotives arriving at station;
- bb. Number of active locomotives departing from station;
- cc. Horsepower of active locomotives arriving at station;
- dd. Horsepower of active locomotives departing from station;
- ee. A flag indicating if the location was turn station;
- ff. Unit Train Loading/Unloading Indicator (for unit trains indicate if the cars were loaded or unloaded at station);
- gg. Switching Indicator (indicate if the train was picking up or dropping off cars);
- hh. Number of cars switched onto train;
- ii. Number of cars switched out of train;
- jj. Number of cars repositioned on train;
- kk. Train Crew Change Indicator;
- ll. Train Fueling Indicator;
- mm. Meet/Pass Indicator;
- nn. Line segment name;
- oo. Direction of travel (for movement link data please also indicate whether the car movement was from line segment begin node-to-end node or end node-to-begin node);
- pp. Interchange Indicator specifying if the train was received or delivered in interchange;
- qq. Identification of Interchange Railroad;
- rr. Industry Handling Indicator specifying if the train pulled cars from origin or placed cars at destination;
- ss. Time elapsed at event location;

- tt. Time elapsed between event locations; and
- uu. Miles between event locations.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also specifically objects to the requests in subparts j, l, jj, ll and mm as unduly burdensome since they are not available in the CSXT train movement data. CSXT further objects to this Request because it is overbroad and unduly burdensome, to the extent it calls for CSXT to produce data that is not readily accessible in a computer readable format. Subject to and without waiving these objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### **REQUEST FOR PRODUCTION NO. 11**

Please provide all documents, including computer programs, definitions, decoders, and instructions, necessary to utilize, evaluate and link the data produced in response to Request for Production No.8, Request for Production No.9, and Request for Production No. 10. Please include with this production a description of the relationship between the databases (*e.g.*, whether there is a 1:1 ratio between databases, or whether one can expect to link 100% of the records in one file to another file). Please also indicate which data fields are common (and may be used to link) to the provided databases.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to share “programs . . . decoders, and instructions,” which may violate the terms of applicable software licenses and agreements. CSXT further objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing “decoders” or devising means to “link” data. CSXT also objects to this Request because it is overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that

it will provide information necessary for Consumers' consultants to access and read the data CSXT produces, to the extent that CSXT maintains such information.

REQUEST FOR PRODUCTION NO. 12

Please produce documents sufficient to show the relationship(s) among, and the scope of, all databases used to record, monitor, track and invoice trains and/or cars on CSXT's system, including, but not limited to, graphical representations of such systems.

**Response:** CSXT objects to this Request because it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. A complete accounting of "all databases" that have any role in monitoring traffic on CSXT's system is massively overbroad, unduly burdensome, and utterly unnecessary. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will provide information necessary for Consumers' consultants to access and read the data CSXT produces, to the extent that CSXT maintains such information.

REQUEST FOR PRODUCTION NO. 13

For each database identified in response to Request for Production No. 12, please produce documents sufficient to show the fields in each database and the type of data in each field (*i.e.*, a detailed field description and decoder for each unique entry in each field).

**Response:** CSXT refers Consumers to CSXT's Response to Request for Production No. 12.

REQUEST FOR PRODUCTION NO. 14

For each database identified in response to Request for Production No. 12, please produce documents sufficient to show the standard reports (including a description of the report) that are produced from data contained in the databases, including reports that rely on multiple databases. "Standard reports" include regularly recurring reports and commonly requested ad-hoc reports.

**Response:** CSXT refers Consumers to CSXT's Response to Request for Production No. 12.

## REQUEST FOR PRODUCTION NO. 15

Please produce all transportation contracts, including amendments and supplements thereto (or letters of understanding with appendices or attachments), and all tariffs, common carrier pricing authorities or other documents containing common carrier rate and service terms (collectively "pricing authorities"), entered into, agreed to or established or provided by CSXT which govern or governed shipments handled by CSXT as originating, terminating, overhead or single-line carrier on CSXT Lines in Illinois, Indiana and Michigan for each year or partial year 2013 to the present. For each pricing authority, please provide the traffic volumes and revenues associated with the movement of traffic under each pricing authority by traffic group (e.g., coal, agriculture, intermodal, etc.) for each year or partial year 2013 through the present.

**Response:** CSXT objects to this Request as unduly burdensome and overbroad. CSXT has had thousands of common carrier prices and contracts in effect since the beginning of 2013. The burden of producing tariffs and common carrier authorities is particularly undue because current tariff information is public and readily available to Consumers. *See Duke Energy v. Norfolk So. Co.*, STB Docket Nos. 42069, 42070 (July 26, 2002) (“[I]t is unduly burdensome to require a party to produce information that is available from public records or through less intrusive means.”). And, the request for production of “all” contracts creates a significant burden on CSXT both to identify those contracts with provisions requiring notification of the customer before the contract may be disclosed in discovery and to provide appropriate notice to such customers. Subject to and without waiving these objections or the General Objections, CSXT responds that production of “all” contracts and pricing authorities is unduly burdensome, unreasonable, and unlikely to be of use to Consumers in this litigation. However, CSXT will make relevant contracts available to Consumers. CSXT first will produce significant contracts relating to traffic in Illinois, Indiana, and Michigan, and then will give Consumers the opportunity to select additional contracts for production. Specifically, the traffic files that CSXT will produce will contain a field identifying the pricing authority for each movement, which should enable Consumers to select particular contracts for production. In addition, information

on millions of current CSXT common carrier pricing rates is available to Consumers on CSXT's website at <http://www.csx.com/index.cfm/customers/prices-tariffs-fuel-surcharge/>.

#### REQUEST FOR PRODUCTION NO. 16

Please produce all forecasts and all documents related to forecasts or projections prepared by or for CSXT from 2012 through the present, or in CSXT's possession and relate to that time period, of future traffic volumes and/or revenues for all freight traffic by traffic group (including any breakdown of any such forecasts or projections whether by commodity classification, geographic regions, line segment, or any other category) moving over CSXT's system and/or CSXT Lines located in Illinois, Indiana or Michigan, including but not limited to traffic projections prepared in connection with engineering studies, authorizations for expenditures or other road property investments, marketing studies, operating expense budgets, capital budgets, human resource planning, or mergers with or acquisition of other carriers.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the request for production of "all" documents as overbroad and unduly burdensome. CSXT also objects to Consumers' overbroad and unduly burdensome request for all documents "related to" forecasts. CSXT further objects to Consumers' request for outdated forecast data as irrelevant and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce its most recent non-privileged, responsive forecasts.

#### REQUEST FOR PRODUCTION NO. 17

To the extent that such documents are not produced in response to Request for Production No. 16, please produce copies of all computer programs and databases used by CSXT from 2012 through the present to forecast or project volumes and/or revenues for all traffic moving over any portion of the CSXT system and/or CSXT Lines located in Illinois, Indiana or Michigan.

**Response:** CSXT objects to this Request because it requires CSXT to produce computer programs in potential violation of applicable licensing agreements and copyright laws. CSXT further objects to this request as not reasonably calculated to lead to the discovery of admissible

evidence. What is potentially relevant in this case are actual forecasts that CSXT will produce in response to Request for Production No. 16; underlying “programs” and “databases” are not relevant.

#### REQUEST FOR PRODUCTION NO. 18

Please produce any studies or analyses of transit and/or cycle times for any CSXT train movements originating, terminating, within or passing through CSXT Lines in Illinois, Indiana or Michigan for each year or partial year from 2011 to the present. Included in this Request are documents containing the following information for each movement, in a computerized format to the extent available.

- a. Waybill number and date;
- b. Car/trailer initial and number;
- c. Origin location, *i.e.*, city, State, FSAC and SPLC;
- d. Destination location, *i.e.*, city, State, FSAC and SPLC;
- e. Transit time from origin to destination and (if applicable) return from destination to origin;
- f. Location (*i.e.*, city, State, FSAC and SPLC) where shipment enters the States identified above;
- g. Location (*i.e.*, city, State, FSAC and SPLC) where shipment departs from or terminates in the States identified above; and
- h. Cycle time while movement is within the States identified above.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 19

Please provide documents, in a computer-readable format to the extent available, sufficient to show the projected and actual transit and/or cycle times, and the standard or expected or contractual transit and/or cycle time for each CSXT movement originating, terminating, within or passing through CSXT Lines in Illinois, Indiana or Michigan for each year or partial year 2011 to the present.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects that, to the extent there is a “contractual” cycle time for particular movements, Consumers could determine that by reviewing applicable contracts and price authorities. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 20

Please provide the following CSXT Geographic/Geospatial Information System ("GIS") data for the States of Illinois, Indiana and Michigan. The GIS data should be viewable, readable, and writable with no access limitations. The GIS data should be able to be read using current off the shelf(COTS) software, using either ESRI ArcView (ArcGIS) or Mapinfo Pro (Mapinfo/ PitneyBowes):

- a. Map Projections defined per layer;
- b. GIS files associated with and/or created by the GIS software system, to include:
  1. In their original vector, or other, file format to include file types such as:  
For ESRI application software:
    - a) .shp (shape files, feature geometry)
    - b) .shx (shape file indexes)
    - c) .dbf (attribute format)
    - d) .prj (projection format)
    - e) .sbn, .sbx (spatial indexes of features)
    - f) .fbn, .fbx (spatial index of features)
    - g) .ixs (geocoding indexes)
    - h) .mxs (geocoding indexes)
    - i) .atx (attribute index)

- j) .shp.xml (metadata in xml)
  - k) .cpg (code page)
2. For MapInfo application software:
- a) .dat (attribute data)
  - b) .tab (MapInfo table, stores types of data)
  - c) .id (stores links to graphic and database information)
  - d) .map (stores graphic and geographic information)
  - e) .ind (index files)
3. For other GIS systems: provide native files.
- c. Map data geocoded to a standard available coordinate system;
  - d. Map data associated to latitude and longitude coordinates without limits placed on decimal accuracy; and
  - e. Map Layers (either separate object layers, or in layers with each object having attributes defining the item's entity type and attributes)
    - 1. Track detail
      - a) Rail stations and/or nodes (an entity with all attributes)
      - b) Rail segments and/or links between nodes (an entity with all attributes )
      - c) Siding (an entity with all attributes)
      - d) Grade (an entity, or attributes associated to track)
      - e) Curves (an entity, or attributes associated to track)
      - f) Mileposts (an entity, with a unique identifier, milepost name, milepost code, latitude and longitude coordinates with no limits on geocoded coordinate decimal values) that match the mileposts in the transactional "Event" data provided in response to Request For Production Nos. 7 and 8
      - g) Elevation in feet above sea level per rail node/milepost
      - h) Time tables
      - i) Signals
    - 2. Mileage between track nodes;
    - 3. Land parcels; and,
    - 4. Terminals (including, but not limited to, CSXT rail yards, Automotive Distribution Facilities, Bulk Transfer Facilities and intermodal facilities).

**Response:** CSXT objects to this overbroad demand that CSXT produce system-wide GIS data that accords with Consumers' exacting data specifications. Subject to this objection and the General Objections, CSXT will produce non-privileged, responsive data in its possession, to the extent that it can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 21

Please produce current operating timetables (including special instructions and/or operating rule books), station lists, station books, and track charts (including a legend for the track chart markings) covering CSXT's rail system. Please provide the requested documents in their native format to the extent available (including all necessary documentation). If current versions of any of the requested documents are not available, please produce the most recent versions that are available.

**Response:** Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 22

To the extent such information is not produced in response to Request for Production No. 21, please produce track charts and "condensed profiles" (including schematics which provide the number, length, and ownership status (*i.e.*, whether railroad-owned or privately-owned) of the tracks at the origins and destinations), which are applicable to all CSXT Lines in Illinois, Indiana and Michigan.

**Response:** CSXT objects to the request for "condensed profiles," which is not a term used by CSXT. Subject to and without waiving this objection or the General Objections, CSXT responds that it will produce non-privileged, responsive track chart documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 23

Please produce the track chart information contained within the Optram designed CSXT Track Chart and Engineering System discussed in the September 10, 2000 paper titled "CSX Track Chart and Engineering Information System" in spreadsheet or database format along with the fields required to link this data to timetable data for the CSXT Lines in Illinois, Indiana and Michigan.

**Response:** CSXT objects to this Request because it requires CSXT to produce software in potential violation of applicable software licensing agreements and copyright laws. CSXT also objects to this Request because it calls for production of commercially available software or equivalents of such software that can be acquired from other sources. CSXT further objects because Consumers' request that CSXT produce software is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections or the General Objections, CSXT responds that it will produce non-privileged, responsive data in its possession, to the extent that it can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 24

Please produce detailed track diagrams of all tracks in the vicinity of Chicago, Illinois that are utilized for the interchange of trains between CSXT and BNSF, including but not limited to the track layout, the length of each track, the ownership of each track and descriptions of the existing facilities.

**Response:** Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 25

Please provide the CSXT mileage chart and/or table-based mileage matrix and/or routing table that identifies the CSXT rail mileage between any two points on the CSXT rail system based upon a predominant or expected route of movement.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT specifically objects that the request for a mileage chart providing mileages between each and every pair of points on the CSXT system, uniformly and entirely "based upon a predominant or expected route of movement" would require a special study. CSXT further objects to this request as overbroad and unduly burdensome to the extent that it requests documents identifying rail mileage between

“any two points” on CSXT’s system. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they exist. At this time CSXT does not believe that any such mileage chart exists.

REQUEST FOR PRODUCTION NO. 26

Please produce documents, in a computer-readable format to the extent available, that show the following for CSXT Lines in Illinois, Indiana and Michigan:

- a. The gradient or grade profile for each line segment;
- b. The elevation and elevation changes (in feet above sea level) for each line segment; and
- c. The locations of all curves on each line segment and all information maintained by CSXT pertaining to such curves, including but not limited to the beginning milepost, ending milepost, and degree of curvature.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the overbroad and unduly burdensome request for “all” information about “all” curves. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 27

Please produce documents which provide the following information for all CSXT helper services operated on CSXT Lines in Illinois, Indiana and Michigan, separately for each helper service location, for each year or partial year 2011 to the present:

- a. "From" and "To" stations and mileposts where trains are actually helped;
- b. Number and type of locomotives (model and horsepower) involved per help;
- c. Round-trip mileage each locomotive travels per help;
- d. Number of total trains helped per crew assignment;
- e. Minimum train size/weight requiring helper service; and

f. Crew size per crew assignment.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 28

Please produce documents or data, in a computer-readable format to the extent available, which provide the following information for each CSXT crew district in Illinois, Indiana and Michigan:

- a. Each crew district identified by "from" and "to" stations;
- b. The route miles in each such crew district; and
- c. The number of locomotive units per train by train type (*i.e.*, coal, general freight, automotive, intermodal, etc.) and the extent to which the locomotive units are in a distributed power train configuration.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 29

Please produce documents which contain the following information for CSXT for each year or partial year 2011 to present:

- a. The location(s) where car inspectors inspect trains in Illinois, Indiana and Michigan, and the location(s) where inspections occur on the CSXT Lines between Origin and Destination;
- b. A description of the procedures followed by the car inspectors in preparing for and inspecting the trains;
- c. The total number of car inspections per tour of duty (by day of the week) and the total number of trains inspected per tour of duty (by day of the week), separated between coal trains and other than coal trains, for each location identified in response to (a) above;
- d. The number of car inspectors inspecting each train at each location identified in response to (a) above and the time spent by each inspector during each inspection;
- e. The daily or hourly rates of pay, including all additives, for the inspectors identified in response to (d) above;
- f. The number of trains each car inspector identified in response to (a) above inspects during his tour of duty;
- g. The other duties performed by the car inspectors identified in response to (d) above while on duty and not inspecting trains;
- h. The percentage of time the car inspectors identified in response to (d) above spend inspecting trains versus other assignments during their tour of duty;
- i. The materials and supplies used by the car inspectors at each of the locations identified in response to (a) above;
- j. The purchase price of each item identified in response to (i) above; and
- k. The total number of trains and cars inspected at each location identified in response to (a) above.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 30

Please produce all studies or analyses conducted by CSXT from January 1, 2011 to the present which model and evaluate rail operations over all or any part of the CSXT Lines in Illinois, Indiana or Michigan using the Rail Traffic Controller ("RTC") computer model. In addition to the results of such studies or analyses, please produce documents sufficient to show the following information for each study or analysis:

- a. The version of the RTC model utilized in each study or analysis;
- b. All electronic files input into the RTC model, including track input files, train input files, Form A and Form B files (or similar files showing track, operating or other outages or failures that affected train operations); and
- c. All electronic files generated as output from the RTC model for each study or analysis.

**Response:** CSXT specifically objects to this Request as overbroad to the extent that it requires CSXT to produce RTC studies funded and/or owned by third parties, including governmental authorities. Such studies are the proprietary information of the third parties who funded and instigated them. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce a list of non-privileged, responsive documents related to RTC studies that were funded and owned by CSXT, from which Consumers may select a reasonable number for production.

REQUEST FOR PRODUCTION NO. 31

Please produce the train list(s) and train profile(s) showing the scheduled horsepower per ton ("HPT") for (a) all CSXT trains operating between Origin and Destination, and (b) all other CSXT trains operating to, from, within or through Illinois, Indiana or Michigan. If the train list(s) or train profile(s) are not available, please provide other documents sufficient to show the scheduled HPT for the trains identified in (a) and (b) above.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period

of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 32

Please produce copies of the following documents:

- a. Documents sufficient to show the locomotive tonnage ratings (*e.g.* horsepower per trailing ton) by line segment for CSXT Lines between Origin and Destination; and
- b. Tractive effort tables or other documents sufficient to show the tractive effort produced by the locomotives used to transport trains through all or any portion of CSXT Lines in Illinois, Indiana or Michigan.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 33

Please produce all records from January 1, 2011 through the present related to CSXT's use of BNSF locomotives in the provision of service between Origin and Destination.

**Response:** CSXT objects to this Request as overbroad and unduly burdensome to the extent that it requests "all" records. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 34

Please produce all locomotive and/or railcar spare margin studies performed by or for CSXT from January 1, 2008 to the present that include (in whole or in part) locomotives used

(a) in CSXT coal service and/or (b) in other service to, from, within or through CSXT Lines in Illinois, Indiana or Michigan.

**Response:** CSXT specifically objects to the vague, ambiguous, and undefined term “locomotive and/or railcar spare margin.” CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 35

Please produce documents, in a computer-readable format to the extent available, sufficient to show the dispatch priority given by CSXT to each train type (e.g., doublestack, priority intermodal, through, general freight, coal, *etc.*) and, to the extent applicable, special dispatch priority given to any train within a grouping based on train type.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 36

Please produce documents sufficient to show unplanned track-related and operating-related incidents or outages that affected CSXT train operations on CSXT Lines in Illinois, Indiana and Michigan in 2012-2014, including the cause of the incidents or outages, the duration of the incidents or outages, the location of the incidents or outages, and the train IDs of any trains impacted by the incidents or outages.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 37**

To the extent such information is not produced in response to Request for Production No. 33, please produce documents for each year or partial year 2011 to the present which list by initial and unit number: (a) locomotives used in the Consumers service between Origin and Destination, and in any other coal service between Origin and any destination or used by CSXT in providing transportation service, including switching services, on CSXT Lines and yards in Illinois, Indiana or Michigan; and (b) if such locomotives were drawn from a pool(s), all the locomotives in the pool(s) from which the locomotives used in the Consumers or other coal service are drawn.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by identifying the particular locomotives used in Illinois, Indiana, and Michigan, and compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 38**

Please produce documents, in a computer-readable format to the extent available, which provide the following information for each of the locomotives contained in each of the listings produced in response to Request for Production No. 37, to the extent that the information is in CSXT's possession or is available to CSXT upon request:

- a. The locomotive initial and number;
- b. The manufacturer, if purchased;
- c. The lessor, if leased or rented, or provider, if used in run-through service;
- d. Model or type (e.g., SD-40-2);
- e. Horsepower;
- f. Capacity of its fuel tanks (gallons);
- g. Weight;
- h. Date of purchase or lease;
- i. Date first placed into service;
- j. The original cost plus the cost of any additions and betterments;
- k. Financing vehicle (e.g., equipment trust);
- l. Debt rate as a percent;
- m. Financing terms (in years);
- n. Annual depreciation;
- o. Annual depreciation as a percent;
- p. Current salvage value as a percent;
- q. Accrued depreciation;
- r. If leased, the type of lease (i.e., capital, operating, "power by the hour", etc.);
- s. If a capital lease, the capitalized value of the lease by locomotive or group of locomotives (if a group of locomotives, the number of locomotives (by initial and number) and aggregate dollars);
- t. If an operating lease, the quarterly, semi-annual, etc., lease payment by locomotive or group of locomotives covering the term of the lease (if a group of locomotives, the number of locomotives (by initial and number) and aggregate dollars);
- u. If leased or rented under a short-term or "power by the hour" agreement, the minimum annual fixed payment and the use payment (e.g., per kilowatt/hour, per diesel unit mile, etc.) per locomotive, the average annual payment per locomotive, and the annual locomotive unit-miles for each such locomotive, stated separately for coal service and other service; and
- v. The diesel unit-miles traveled each year or partial year from 2011 to the present in all types of service.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by identifying the particular locomotives used in the SARR States and compiling or organizing data and documents in a manner different from how those data and documents are

kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 39

Please produce all lease or rental agreements, including all supplements and copies of all billings, applicable to each leased or rented locomotive identified in response to Request for Production No. 37 and Request for Production No. 38.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by identifying the particular locomotives used in the SARR States and compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the request for “all billings” as unduly burdensome and overbroad. CSXT also objects to the request to the extent it calls for production of confidential agreements that may require CSXT to provide notice to other parties before disclosure to Consumers. CSXT further objects to the request for “all” lease or rental agreements as overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce data from which Consumers can select a reasonable number of lease or rental agreements for production.

#### REQUEST FOR PRODUCTION NO. 40

Please produce all locomotive maintenance and repair records and/or reports and related documents for each year or partial year 2011 to the present, which provide CSXT locomotive maintenance, repair and overhaul expenses by locomotive or locomotive type or series (or by other basis in which records are kept) and the total locomotive unit-miles corresponding to these maintenance, repair and overhaul expenses for the locomotives identified in response to Request for Production No. 37. To the extent that these records and/or reports do not include all locomotive repair, maintenance and overhaul amounts reported in R-1 Schedule 410, please identify those expenses that are not included.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 41**

Please produce all locomotive maintenance agreements, including all supplements, attachments, exhibits and schedules, with outside contractors and provide, for each year or partial year 2011 to the present for all locomotives in CSXT's fleet under such maintenance agreements, (a) the amount paid for each locomotive or by locomotive type in total and broken down by each service performed under the agreement and (b) the number of locomotive unit miles corresponding to the amounts listed above.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also objects to the request to the extent it calls for production of confidential agreements that may require CSXT to provide notice to other parties before disclosure to Consumers. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 42

Please produce documents sufficient to show the following information for CSXT for the most recent 12 calendar months:

- a. The location(s) where locomotives are fueled on CSXT Lines in Illinois, Indiana and Michigan;
- b. The actual amount of fuel used by the locomotives identified in response to Request for Production No. 37, by individual locomotive;
- c. The total number of diesel unit miles generated by the locomotives for which fuel consumption data was provided in response to (b) above during the same time period used in response to (b) above;
- d. The method by which CSXT accounts for or records fuel usage for locomotives;
- e. Computer-readable versions (both compiled and non-compiled), including all supporting databases and necessary documentation, of any and all computer programs in CSXT's possession used to estimate the fuel usage of locomotives; and
- f. The same information for all road and switch locomotives on the CSXT system in the same format as that given in the responses to (b), (c), and (e) above.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the request in subpart (e) for “computer programs or models,” which may violate the terms of applicable software licenses or agreements, as well as applicable copyright and patent laws. CSXT also objects because Consumers’ request that CSXT produce computer programs or models is not reasonably calculated to lead to the discovery of admissible evidence, and is overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

### REQUEST FOR PRODUCTION NO. 43

For the locomotive fueling locations identified in response to Request for Production No. 42, please produce documents sufficient to show the following information with respect to locomotive fueling at each location:

- a. The source(s) of the fuel, including the name and location of the vendor(s) who provide the fuel to CSXT and the refinery(ies) or other location from which the fuel is obtained;
- b. The method and cost of transporting and dispensing the fuel from the refinery(ies) or other locations from which the fuel is obtained to the location where the fueling of locomotives is performed;
- c. The method by which fuel is dispensed into locomotives, *i.e.* from fixed fueling facilities or by direct-to-locomotive (tanker truck) service; and
- d. A description of all facilities and equipment (including but not limited to fuel storage tanks) at each location where CSXT has fixed fueling facilities; and
- e. The cost per gallon paid (including any applicable taxes) on a weekly basis in 2013, and in 2014 to the extent available.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

### REQUEST FOR PRODUCTION NO. 44

Please produce copies of all contracts/agreements with third parties related to the performance of locomotive fueling functions for all locomotives that are used on CSXT Lines in Illinois, Indiana and Michigan.

**Response:** Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in CSXT's possession, to the extent that they exist. CSXT will produce data from which contracts with third parties for locomotive fueling can be identified by Consumers for production.

REQUEST FOR PRODUCTION NO. 45

Please produce all studies, analyses and related documents, in a computer-readable format to the extent available, pertaining to the fuel consumption or the measurement of the fuel consumption by CSXT's trains (or the locomotives used on CSXT's trains) moving over any portion of the CSXT Lines in Illinois, Indiana or Michigan during the period from January 1, 2011 to the present.

**Response:** CSXT specifically objects to Consumers' overbroad and unduly burdensome request for "all" documents and to the vague and ambiguous term "related documents." CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 46

Please produce documents, in a computer readable format to the extent available, which show locomotive utilization and locomotive performance (e.g., locomotive unit-miles, locomotive hours running, locomotive hours switching, locomotive hours out-of-service for repairs and locomotive hours stored useable) for each locomotive that CSXT owned or leased for each year or partial year 2011 to the present and that CSXT used in providing transportation service on CSXT Lines in Illinois, Indiana and Michigan.

**Response:** CSXT specifically objects to the vague, ambiguous, and undefined term "locomotive utilization." CSXT also objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 47

Please produce documents for each year or partial year 2011 to the present which contain the following, in a computer readable format, for each freight car purchased or leased by CSXT (including freight cars currently on order and privately- owned freight cars leased by CSXT that maintain the private owner's car initial and number) that CSXT has in providing transportation service in Illinois, Indiana or Michigan:

- a. Initial and number;
- b. Manufacturer;
- c. Lessor, if leased;
- d. AAR car type;
- e. Tare weight;
- f. Purchase or order date, if purchased;
- g. Lease or order date, if leased;
- h. Total purchase price, if purchased;
- i. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- j. If leased, the amount and frequency of lease payments;
- k. If purchased, the AFE applicable to each purchased freight car; and
- l. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome. CSXT also objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search. Also subject to its objections, CSXT will produce a list of responsive leased freight cars, from which Consumers may select a reasonable number of leases it wishes to review.

REQUEST FOR PRODUCTION NO. 48

Please produce all railcar repair and maintenance records, reports, databases and related documents which include or record rail car repair and maintenance expenses for each year or partial year 2011 to the present, including but not limited to all input data to schedules 415 and 755 of CSXT's R-1, and the total rail car-miles corresponding to these repair and maintenance expenses, in a computer readable format to the extent possible, for all freight cars in CSXT's system. To the extent that these records, reports and databases do not include all car repair and maintenance amounts reported in R-1 Schedule 410, please identify the expenses that are excluded.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the request for production of “all” records as overbroad and unduly burdensome. CSXT also objects to Consumers’ overbroad and unduly burdensome request for all “related documents.” CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 49

Please produce documents for each year or partial year 2011 to the present that contain the following, in a computer readable format, for each trailer (chassis) or container purchased or leased by CSXT, CSXI, or another affiliate of CSXT (including trailers/containers currently on order and privately-owned trailers and containers leased by CSXT or CSXI or an affiliate):

- a. Initial and number;
- b. Lessor, if leased;
- c. Tare weight;
- d. Purchase or order date, if purchased;
- e. Lease or order date, if leased;
- f. Total purchase price, if purchased;

- g. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- h. If leased, the amount and frequency of lease payments;
- i. If purchased, the AFE applicable to each purchased trailer or container; and
- j. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome. CSXT also objects to the request for CSXI trailers and containers because CSXI no longer exists. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search. Also subject to its objections, CSXT will produce a list of responsive leased trailers and containers, from which Consumers may select a reasonable number of leases it wishes to review.

#### **REQUEST FOR PRODUCTION NO. 50**

Please produce documents for each year or partial year 2011 to the present, that contain the following, in a computer readable format if available, for each Auto Rack Car and/or Auto Rack which attaches to a flat car purchased or leased by CSXT, CSXI or another affiliate of CSXT (including privately-owned Auto Rack Cars leased by CSXT, CSXI or an affiliate, and Auto Rack Cars currently on order):

- a. Initial and number;
- b. Lessor, if leased;
- c. Tare weight;
- d. Purchase or order date, if purchased;
- e. Lease or order date, if leased;
- f. Total purchase price, if purchased;
- g. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- h. If leased, the amount and frequency of lease payments;

- i. If purchased, the AFE applicable to each purchased trailer or container; and
- j. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. CSXT also objects to the request for CSXI auto rack cars because CSXI no longer exists. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search. Also subject to its objections, CSXT will produce a list of responsive leased auto rack cars, from which Consumers may select a reasonable number of leases it wishes to review.

#### **REQUEST FOR PRODUCTION NO. 51**

Under *Alternative Methods of Accounting for Railroad Track Structures*, 367 I.C.C. 157, 180 (1983), CSXT is required to submit a standard "unit of property" that distinguishes between when a certain cost should be expensed or capitalized. Please produce CSXT's most recent, STB approved, property units and the supporting information and data for those units.

**Response:** CSXT specifically objects to Consumers' request for "supporting information and data" as vague, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession sufficient to show CSXT's capitalization policy.

#### **REQUEST FOR PRODUCTION NO. 52**

Please produce a copy of CSXT's rules and instructions pertaining to train handling, including but not limited to measures for conserving fuel.

**Response:** CSXT specifically objects to the vague and undefined term “train handling.” CSXT further objects to the undefined term “pertaining to” as vague, ambiguous, and potentially overbroad. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 53

For each year or partial year 2011 to the present, please produce documents which contain the following information (in a computer-readable format, if available) with respect to each shipper-owned and shipper-leased railcar and each intermodal and automotive railcar provided by a third party moving over any part of CSXT's Lines in Illinois, Indiana and Michigan:

- a. Identification number of the car;
- b. The type of the car;
- c. The length and tare weight of the car (for intermodal and automotive cars only);
- d. The cost to CSXT for use of the car;
- e. The terms of any mileage allowance agreement covering the car;
- f. Whether the car is subject to a zero-based mileage agreement;
- g. Whether the car hire paid on the car is subject to refund of the payments under certain contractual conditions; and
- h. The year of manufacture of the car.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also objects to this Request as overbroad and unduly burdensome. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from

January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 54

Please produce all railcar maintenance agreements with outside contractors, including all supplements, attachments, exhibits and schedules, in effect during all or any portion of each year or partial year 2011 to the present, for all the cars on CSXT's Lines in Illinois, Indiana and Michigan, and documents providing (a) the amount paid for each car or by car or by car type total and broken down by each service performed under the agreement, and (b) the number of car-miles corresponding to the amounts referenced in (a).

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also objects to this Request as overbroad and unduly burdensome. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce a list of maintenance agreements from which Consumers can select agreements for production.

REQUEST FOR PRODUCTION NO. 55

Please produce copies of all contracts/agreements with third parties (including but not limited to shippers or receivers) in effect during all or any portion of the period from January 1, 2011 to the present related to the performance of car inspection functions with respect to (a) CSXT coal trains and (b) other CSXT trains traversing all or a portion of CSXT Lines in Illinois, Indiana and Michigan.

**Response:** CSXT objects to this Request as overbroad and unduly burdensome. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 56

Please produce the following for all joint ownership, joint facility or joint use agreements, including but not limited to trackage rights agreements, joint or common ownership agreements and lease agreements, between CSXT and another rail carrier or other entity applicable to any of the railroad lines and/or facilities in Illinois, Indiana and Michigan (including but not limited to any agreement(s) between CSXT and Norfolk Southern Railway ("NS") and/or Norfolk Southern Corporation that allows CSXT to operate over the NS line segment between Pine Junction and Porter, Indiana via Portage, Indiana), and that were in effect during all or any portion of the period from January 1, 2011 to the present:

- a. Copies of all agreements (including amendments and supplements);
- b. Copies of all bills and/or payments from 2011 to the present (including all supporting documents and data), including but not limited to all payments made by CSXT to NS for use of the NS line segment between Pine Junction and Porter, Indiana for each month, quarter and/or annual period from 2011 to the present; and
- c. Density data and operating statistics (including but not limited to train miles, train hours, locomotive unit miles, loaded car-miles, empty car-miles, net ton-miles, gross ton-miles (both including and excluding locomotives), and number of trains) separately for CSXT and all other carriers using the facility for each year or partial year for the period from 2011 to the present.

**Response:** CSXT specifically objects to Consumers' request for production of "all" agreements and bills as unduly burdensome and overbroad. CSXT also objects to the request to the extent it calls for production of confidential agreements that may require CSXT to provide notice to other parties before disclosure to Consumers. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will make a reasonably limited number of joint facility or joint use agreements available to Consumers. CSXT will produce data from which Consumers can select particular joint facility and joint use agreements for production.

REQUEST FOR PRODUCTION NO. 57

Please produce all documents related to any lease of CSXT Lines in Michigan by the Michigan Shore Railroad ("MSRR"), including but not limited to the following for each such arrangement:

- a. All lease agreements, including amendments or other modifications;

- b. All correspondence or other communications between CSXT and MSRR with respect to the terms of any leases or the condition of the leased premises;
- c. All documents related to any actual or proposed additions or betterments to the leased premises, separately for those made or proposed by CSXT and those made or proposed by MSRR;
- d. All payments (including but not limited to rental payments) made by MSRR to CSXT in consideration of MSRR's use of the leased premises;
- e. All documents related to traffic transported or proposed by MSRR to be transported over the leased premises;
- f. All documents related to rates, operating rules or other conditions applicable to MSRR operations over the leased premises;
- g. All documents related to CSXT's own use of or control over the use of the leased premises; and
- h. All pleadings, other filings or other documents related to any regulatory approvals or exemptions by the STB or other regulatory authority of MSRR's lease of and operation over the leased premises.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to Consumers' request for production of "all" documents related to the lease of CSXT lines by the MSRR as unduly burdensome and overbroad. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### **REQUEST FOR PRODUCTION NO. 58**

For each year or partial year 2011 to the present, please produce CSXT's detailed annual and quarterly Wage Forms A and B that support the summary Wage Forms A and B provided to the STB.

**Response:** CSXT objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged,

responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 59

Please provide documents sufficient to show the amounts paid by CSXT for training employees and the number of employees trained, including but not limited to training employees hired for the following positions, in each of the year 2011 to the present:

- a. Experienced locomotive engineers;
- b. Experienced locomotive conductors;
- c. Locomotive conductors training to become engineers;
- d. Novice conductors;
- e. Train dispatchers;
- f. Crew callers;
- g. Information technology programmers;
- h. Supervisors of maintenance operations;
- i. Maintenance of way employees; and
- j. Equipment inspectors.

The training information requested includes, but is not limited to, wages paid during classroom training, wages paid during field or on the job training, fringe benefits paid during classroom training, fringe benefits paid during field or on the job training, costs for classroom training, costs for on the job training or field training, expenses for room and board during classroom training and during field training, the number of weeks of classroom training required for each type of employee, and the number of weeks of on the job or field training required for each type of employee.

**Response:** CSXT objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 60

Please produce documents sufficient to show the amount(s) paid by CSXT to a recruitment firm or firms for executive search services in each year or partial year 2011 to the present. The documents should include the amount paid by individual, the position of the individual hired and the basis for the recruitment firm's fee schedule. As used in this Request,

the term "executive" means those employees so defined or grouped in CSXT's Wage Forms A and B.

**Response:** CSXT objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 61

Please produce documents sufficient to show the applicable wage rates for CSXT's maintenance of way employees by job classification for each year or partial year 2011 to the present.

**Response:** CSXT objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 62

Please provide documents sufficient to show CSXT's existing maintenance-of-way plan and staffing in Illinois, Indiana and Michigan, including maintenance-of-way districts and/or crews employed by CSXT to maintain the (a) track, (b) signals and communications facilities, and (c) bridges and (d) all other facilities and structures in Illinois, Indiana and Michigan, the number of CSXT employees by job classification presently assigned to each maintenance-of-way district or crew on both a permanent and a seasonal basis, and any changes in the maintenance districts, crews, and number and classification of employees that have occurred since January 1, 2011.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also objects to this Request as vague and ambiguous to the extent that it calls for "any changes." CSXT will

interpret this Request as calling for information about significant general changes to the designations of the maintenance and crew districts, including the numbers and classifications of employees assigned to these districts, to the extent such changes to classifications are specified in the district designations. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 63

Please produce documents sufficient to show the maintenance-of-way equipment owned or leased by CSXT whose value per unit exceeded \$5,000 when acquired, and how such equipment is assigned to the respective maintenance-of-way districts identified in response to Request for Production No. 62. In addition, please provide documents sufficient to show the unit costs for such equipment, if purchased, or the annual lease cost if leased, and the annual cost of ownership including information on maintenance and fueling costs during each year or partial year 2011 to the present.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 64

For maintenance of way and/or construction for CSXT Lines in Illinois, Indiana and Michigan performed by contractors for the period from 2011 to the present, please produce copies of all bills for services, documents which contain a description of the line location of

the contract repairs and/or construction, and the details of the work performed, including labor and materials. If CSXT does not maintain copies of these documents, produce whatever documents CSXT does maintain or have available to it describing the costs incurred by CSXT and the details of the work performed, in a computer readable form if available (including all necessary decoders or other explanatory documentation).

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome to the extent the Request calls for “copies of all bills for services.” CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce a reasonably limited number of maintenance of way or construction bills for the period between January 1, 2012 and December 31, 2014. CSXT will produce data from which Consumers can select particular maintenance of way or construction bills for production.

#### REQUEST FOR PRODUCTION NO. 65

Please produce documents for each year or partial year from 2011 to the present sufficient to show (a) the frequency of ultrasonic rail testing and track geometry testing and (b) the costs per mile, or other applicable unit of measure, incurred by CSXT for ultrasonic rail testing and track geometry testing for CSXT Lines in Illinois, Indiana and Michigan.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 66

Please produce documents sufficient to show the frequency of rail grinding as well as the cost per mile, or other applicable unit of measure, incurred by CSXT for rail grinding for CSXT Lines in Illinois, Indiana and Michigan.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. Subject to and without waiving this objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 67

Please produce documents sufficient to show the transaction costs incurred by CSXT, by service unit, for electronic data interchange services with Railinc (or other applicable service providers) during each of the years 2011 to the present.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 68

Please produce documents for each year or partial year 2011 to the present which provide CSXT's loss and damage costs and annual tonnage separately for each commodity that CSXT carries on its system.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 69**

Please produce documents, including, but not limited to, tax returns filed with the States and all supporting schedules and attachments, showing the ad valorem taxes that CSXT paid to each of the States of Illinois, Indiana and Michigan for each year or partial year 2011 to the present, together with documents showing the total route-miles and total track-miles CSXT owned or owns in the State for each year 2011 to the present.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 70**

Please produce all documents relating to any contribution by any governmental or quasi-governmental entity (including, without limitation, Amtrak, CREATE, or other passenger or commuter rail entities) to the construction, upgrading, maintenance and/or operating expenses on any CSXT Lines in Illinois, Indiana or Michigan.

**Response:** CSXT specifically objects to this Request as overbroad and unduly burdensome in that it seeks “all” documents without any date limitation. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce a reasonably limited number of agreements with governmental or quasi-governmental entities responsive to this request.

#### REQUEST FOR PRODUCTION NO. 71

Please produce an unredacted copy of CSXT's Positive Train Control ("PTC") Implementation Plan filed with the Federal Railroad Administration as required under 49 C.F.R. Part 236, as well as any amendments or supplements thereto.

**Response:** CSXT specifically objects to this Request to the extent it calls for disclosure of Sensitive Security Information (“SSI”). CSXT further objects to this Request as unduly burdensome because the non-SSI information indicated by the request is publicly available to Consumers. Subject to and without waiving these objections and the General Objections, CSXT states that it will produce unredacted portions of its PTC Implementation Plan only to the extent authorized by law and in the manner authorized by law.

#### REQUEST FOR PRODUCTION NO. 72

Please produce documents sufficient to show CSXT's actual costs to implement its PTC program, including but not limited to all input data to schedules PTC 330, PTC 332, PTC 335, PTC 352B, PTC 410, PTC 700, PTC 710, PTC 710S, PTC 720 and PTC Supplement: Grants of CSXT's R-1 from 2013 to present. To the extent that these records, reports and databases do not include all cost amounts reported in the R-1 Schedules, please identify the expenses that are excluded.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 73

Please produce copies of the most current land valuation maps for CSXT Lines in Illinois, Indiana and Michigan, and all documents (including but not limited to deeds or other instruments of grant or conveyance) related to the parcels identified on those maps.

**Response:** CSXT objects to this Request as overbroad and unduly burdensome, as it calls for production of voluminous land valuation maps as well as “all” documents “related to” identified parcels. Subject to and without waiving this objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 74

Please produce documents sufficient to show all donated rights of way and/or land grants (including easements) obtained by CSXT's and/or CSXT's predecessors in connection with the construction of any rail lines or facilities located on CSXT Lines in Illinois, Indiana and Michigan.

**Response:** CSXT objects to this Request as overbroad and unduly burdensome, as it calls for production of documents identifying “all” donated rights of way and easements. Subject to and without waiving this objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 75

Please produce all documents related to any sale, appraisal, abandonment or acquisition of land (improved and unimproved) that CSXT completed on CSXT Lines in Illinois, Indiana or Michigan since 2011, including but not limited to documents showing the location of the parcel, size of the parcel, the valuation of the parcel by CSXT, the sale or acquisition price, CSXT land transaction cost, a description of any improvements to the parcel, the date of sale, and any characteristics of the parcel such as land use, utilities, access and topography.

**Response:** CSXT specifically objects to this Request as overbroad and unduly burdensome in that it seeks “all” documents “related to” any sale, appraisal, abandonment or acquisition. CSXT further objects to this Request as overbroad and unduly burdensome in that it

is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 76

Please produce documents sufficient to show the following with respect to grading construction activities undertaken or proposed at any time by CSXT or its predecessors, or currently ongoing, on any CSXT Lines in Illinois, Indiana or Michigan:

- a. Number of cubic yards of excavation of:
  - i. Common earth;
  - ii. Loose rock;
  - iii. Solid rock; and
  - iv. Unclassified material.
- b. Number of cubic yards of embankment of:
  - i. Common earth;
  - ii. Loose rock;
  - iii. Solid rock; and
  - iv. Unclassified material.
- c. Number of cubic yards of borrow of:
  - i. Common earth;
  - ii. Loose rock;
  - iii. Solid rock; and
  - iv. Unclassified material.
- d. Grading construction data for each construction specification measured by CSXT including without limitation, roadbed width, side slope ratio, track center distance, presence of access roads, impact of grading activities on right-of-way width, use of geotextiles, use of water, soil stabilization, and width and depth of side ditches;
- e. Number of route miles, separated between single track main, double track main, triple track main, etc., corresponding to the cubic yard information described in paragraphs (i) through (iv) of Subparts (a), (b) and (c) of this Request;
- f. Number of track-miles corresponding to the cubic yards in paragraphs (i) through (iv) of Subparts (a), (b) and (c) of this Request;

- g. All of the different types of equipment (and the associated tasks) used to:
  - i. Excavate common earth;
  - ii. Excavate loose rock;
  - iii. Excavate solid rock;
  - iv. Excavate unclassified material; and
  - v. Obtain borrow material.
- h. Linear feet of pipe installed for lateral drainage;
- i. Number of cubic yards of rip-rap placed for the protection of the roadway;
- j. Location, type and quantity of retaining walls;
- k. Construction method, including but not limited to the number of cubic yards of masonry or other similar material used for retaining walls;
- l. Number of acres cleared;
- m. Number of acres grubbed; and
- n. Number of acres seeded.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it seeks documents related to any grading construction activities “undertaken or proposed” at “any time.” Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession for the period from January 1, 2011 to December 31, 2014, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 77**

Please produce documents sufficient to show the costs that CSXT incurred during each year 2011 to the present for the following:

- a. Cost per cubic yard of excavation for:
  - i. Common earth;
  - ii. Loose rock;
  - iii. Solid rock; and
  - iv. Unclassified material.

- b. Number of cubic yards of embankment of:
  - i. Common earth;
  - ii. Loose rock;
  - iii. Solid rock; and
  - iv. Unclassified material.
- c. Cost per cubic yard of borrow for:
  - i. Common earth;
  - ii. Loose rock;
  - iii. Solid rock; and
  - iv. Unclassified material.
- d. Cost per cubic yard of rip-rap (installed), separated between material and labor;
- e. Cost for each material used for retaining walls, separated between material and labor;
- f. Gross cost per acre for clearing timber and any credits reflecting the sale of timber;
- g. Cost per acre for grubbing;
- h. Cost per acre for seeding;
- i. Cost per acre for weed spray (including necessary chemicals);
- j. Cost per hour or per mile for brush cutting;
- k. Cost per square yard for geotextile fabric;
- l. Cost per linear foot for yard drainage facilities. Request for Production No. 78
- m. Please produce documents sufficient to show culvert/drainage pipe locations (*i.e.*, railroad milepost), size (diameter), length, height of cover, number of tracks crossed, type, and cost of material and installation for each, for CSXT Lines in Illinois, Indiana and Michigan.

**Response:** Subject to and without waiving the General Objections, CSXT incorporates by reference its response to Request for Production No. 76.

**REQUEST FOR PRODUCTION NO. 78**

Please produce documents sufficient to show culvert/drainage pipe locations (*i.e.*, railroad milepost), size (diameter), length, height of cover, number of tracks crossed, type, and cost of material and installation for each, for CSXT Lines in Illinois, Indiana, and Michigan.

**Response:** Subject to and without waiving the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 79

Please produce documents sufficient to show the following for construction projects that CSXT has undertaken since January 1, 2011:

- a. Standard construction project specifications, including but not limited to: track structures and designs; bridges; culverts; yard and roadway buildings; fueling facilities; maintenance facilities and waste water treatment facilities;
- b. Whether or not the project was performed "under traffic", (*i.e.*, traffic continued to move through the construction area);
- c. Standard estimating procedures for track construction projects; and
- d. Standard estimating procedures for non-track construction projects.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce a list of AFEs from which Consumers can select a reasonable number of AFEs for projects which exceeded \$2,000,000 for production.

REQUEST FOR PRODUCTION NO. 80

Please produce all of CSXT's price list books governing prices for construction and maintenance materials (including but not limited to weights of rail from 115 to 141 pounds per yard, turnouts, ties, fasteners, lubricators, plant and field welds, fencing, roadway signs, track geometry cars, hot bearing and dragging equipment detectors, and related tools), or other documents utilized by CSXT's engineering personnel for estimating costs of maintenance and construction projects for each year or partial year 2011 to the present. To the extent that the charges for transportation and delivery of materials are not included in the prices shown, please produce documents sufficient to show such charges for all materials.

**Response:** CSXT specifically objects to this Request as overbroad and unduly burdensome in it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession to the extent that they can be located in a reasonable search.

#### **REQUEST FOR PRODUCTION NO. 81**

Please produce documents sufficient to show the following information with respect to rail purchased by CSXT and used on CSXT Lines in Illinois, Indiana or Michigan for each year or partial year 2011 to the present:

- a. The average cost per linear foot and/or ton by weight of rail for both new and relay rail;
- b. The source of the rail;
- c. The average cost per ton-mile to transport the rail on CSXT;
- d. The average cost per ton to handle the rail, categorized by the length of and weight of rail, including the cost for a specialized rail train if applicable, on CSXT;
- e. The average cost per ton-mile, by carrier, to transport the rail on a foreign carrier by carrier; and
- f. The average cost per ton to handle the rail, categorized by length and weight of rail, including the cost for a specialized rail train if applicable, on a foreign carrier by carrier.
- g. Any haulage agreements between CSXT and a foreign carrier that applied or could apply to the transportation of rail over either carriers rail lines in Illinois, Indiana or Michigan.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession

covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 82

Please produce documents sufficient to show the following information with respect to ballast or sub-ballast used on CSXT Lines in Illinois, Indiana or Michigan for each year or partial year 2011 to the present:

- a. The average cost per cubic yard for ballast, by type;
- b. The average cost per cubic yard for the transportation and handling of ballast;
- c. The average length of haul represented by the value(s) in (b) above;
- d. The average cost per cubic yard for sub-ballast, by type;
- e. The average cost per cubic yard for transportation and handling of sub-ballast;
- f. The average length of haul represented by the value(s) in Subpart (e)
- g. above;
- h. The names and locations of all quarries supplying such ballast or sub-ballast; and
- i. The unit prices from all quarries listed in response to Subpart (g).

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in part because it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 83

Please produce documents sufficient to show the tunnels or former tunnels that have been constructed or removed (by daylighting or other means) by CSXT or its predecessors, detailing location (line segment and milepost), length, number of tracks in the tunnel, method and time period of construction, and the cost per linear foot to construct or remove the tunnel, for any tunnels located on CSXT Lines in Illinois, Indiana or Michigan. If no cost data is

available for any such tunnels, please produce documents sufficient to show the cost per linear foot of any tunnel construction or removal performed anywhere on CSXT's system since January 1, 2011.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving this objection and the General Objections, CSXT responds that the only two tunnels on the CSXT System in the three SARR States are in southern Indiana and not on the typical route of movement for the issue traffic. CSXT will produce documents sufficient to show the location of these tunnels, but production of cost data is not relevant or necessary in this case.

#### **REQUEST FOR PRODUCTION NO. 84**

Please produce bridge lists or other documents detailing location (milepost, division and subdivision), number of spans, type(s) of spans, length of each span, load rating, a description of what is being crossed (*e.g.*, name of body of water, highway or road (including name or number), navigable waterway *etc.*), whether or not it is a movable bridge, whether or not it is in service, type, length, number of tracks, clearance, height, curvature and skew (if any) for all bridges located on CSXT Lines in Illinois, Indiana and Michigan.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they exist.

#### **REQUEST FOR PRODUCTION NO. 85**

For each of the types of bridges identified in the documents produced in response to Request for Production No. 84, please produce documents sufficient to show the standard design for the bridge type and the unit costs (*e.g.*, cost per foot or other appropriate measure), for single track open deck and ballast deck construction and double track open deck and ballast deck construction, from 2011 to the present.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 86**

Please produce documents sufficient to show the following information related to the construction or replacement, in part or in whole, of each bridge on CSXT's Lines in Illinois, Indiana and Michigan from 2011 to the present:

- a. The location of the bridge, by line segment and milepost;
- b. An itemized listing of the bridge components being constructed or replaced (including quantities);
- c. The estimated cost, by component, for each of the components (identified in response to Subpart (b) above) being constructed or replaced; and
- d. The actual cost, by component, for each of the components (identified in response to Subpart (b) above) being constructed or replaced;
- e. The design for each bridge;
- f. The total cost of the bridge;
- g. The total length of the bridge;
- h. Whether the project was new construction or rehabilitation;
- i. Whether or not the project was performed "under traffic", i.e. traffic continued to move through the construction area;
- j. All costs incurred as a function of performing the project under traffic, e.g., flagging costs, temporary signal costs, realignments, delays and all other costs that would not be incurred if the bridge was new construction;
- k. The construction documents and contracts for the construction and/or rehabilitation; and
- l. Any cost sharing between CSXT and another entity.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable period of time. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce a list of AFEs from which Consumers can select a reasonable number of AFEs related to bridge construction or replacement for production.

**REQUEST FOR PRODUCTION NO. 87**

Please produce documents (in computer readable format to the extent available) that identify and list the location and type of communications and signals systems/facilities used for train operations by milepost, division, and subdivision on the CSXT Lines in Illinois, Indiana and Michigan.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 88**

Please produce documents listing the items, the cost of each item and the quantity of each item installed on CSXT's system related to the construction and (during each year or partial year 2011 to the present) operation of the centralized traffic control signal system(s) or any other traffic control system in use on the CSXT system (including hot bearing and dragging/failed equipment detectors). Please indicate whether the costs include additional services such as installation, design planning, electrical drops for utilities, and/or transportation. If the costs for additional services are not included, please provide each cost separately for each additional service.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different

from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable period of time. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce a list of AFEs from which Consumers can select a reasonable number of AFEs related to traffic control systems for production.

REQUEST FOR PRODUCTION NO. 89

Please produce documents containing the following information for each CSXT communications site (defined as a location with a microwave tower, a land mobile radio ("LMR") tower, a tower used for both purposes, or a location where communications equipment (microwave or LMR) is located that does not include a tower) located on or near CSXT Lines in Illinois, Indiana or Michigan:

- a. The number of microwave towers, LMR towers, combined towers, or other communications equipment location (shown separately for each category);
- b. The latitude and longitude coordinates of each tower or other communications equipment location;
- c. The height of each tower in (i) feet above the ground and (ii) feet above sea level;
- d. The number of microwave antennae on each tower and the status of each antenna (*i.e.*, whether it is operational);
- e. The number of LMR antennae on each tower and the status of each antenna (*i.e.*, whether it is operational);
- f. The latitude and longitude coordinates of other communications sites that can link via microwave or radio from this site or a topological map of the communication system; and
- g. The acres of land owned or leased by CSXT for these sites and the cost of purchase or lease.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 90

Please produce documents sufficient to show:

- a. CSXT's specifications for the construction of communications sites (as defined in Request for Production No. 87 above);
- b. The total number of CSXT route miles on CSXT Lines in Illinois, Indiana and Michigan that are covered by microwave communications;
- c. The total number of CSXT route miles on CSXT Lines in Illinois, Indiana and Michigan that are not covered by microwave communications;
- d. The cost, manufacturer and model number of each item and the quantities used for the construction and operation of the microwave radio and/or land mobile radio communications system(s) on the CSXT system during each of the years 2011 to the present; and
- e. The annual spot maintenance costs incurred by CSXT for the microwave and/or land mobile radio tower communications system per tower and by device type, on CSXT Lines in Illinois, Indiana and Michigan.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 91

Please produce documents sufficient to describe the specifications, functions, operation and costs, during each year or partial year 2011 to the present, of any communications system equipment other than microwave towers used to transmit data from devices such as mobile two-way radios, portable (hand-held) two-way radios, FEDs, AEI scanners and EOTDs across all or any part of the CSXT system(s).

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different

from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 92

Please produce documents sufficient to show:

- a. The locations and quantities of fiber optic cabling installed on CSXT rights-of-way in Illinois, Indiana and Michigan;
- b. The bandwidth capacity of the fiber optic cabling identified in Subpart (a);
- c. The entity that owns and operates the fiber optic cabling identified in Subpart (a);
- d. The costs to CSXT, if any, for installing the fiber optic cable identified in Subpart (a);
- e. Whether CSXT is permitted to use the fiber optic cable identified in Subpart (a);
- f. The amount, if any, that CSXT pays the carriers for use of the fiber optic cable identified in Subpart (e); and
- g. The revenues or other payments that CSXT receives from the carriers for the use of the railroad's right-of-way for fiber optic cable.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 93

If CSXT utilizes the fiber optic cable(s) identified in response to Request for Production No. 92, please provide documents sufficient to show:

- a. The total number of CSXT route miles on CSXT Lines in Illinois, Indiana and Michigan that are covered by fiber optic communications;
- b. The cost, manufacturer and model number of each item and the quantities used for the construction and operation of the fiber optic communications system on the CSXT system(s) during each of the years 2011 to the present; and
- c. The annual spot maintenance costs incurred by CSXT for the fiber optic communications system and by device type, on CSXT Lines in Illinois, Indiana and Michigan.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 94

Please produce documents sufficient to show the location, size (including square footage, number and lengths of tracks, capacity, etc.), components (such as equipment and machinery), and original cost of each facility located on CSXT Lines in Illinois, Indiana and Michigan that falls within each of the following categories of facilities:

- a. Roadway maintenance facilities;
- b. Locomotive maintenance facilities;
- c. Locomotive servicing facilities (including fueling facilities);
- d. Administrative facilities;
- e. Rail yards;
- f. Dispatch centers;
- g. Freight car repair and maintenance facilities;
- h. Scales;

- i. Wastewater treatment plants;
- j. Landslide/rockslide detection/protection devices or facilities;
- k. Snowshed facilities; and
- l. Train, yard and engineman facilities.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it seeks information on “original cost” without any date limitation. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 95

For each year or partial year 2011 to the present, please produce documents which contain the following information with regard to CSXT highway and railroad at-grade crossings:

- a. The various sizes, compositions and costs per linear foot (installed) of a one-lane private road crossing over a single line of track;
- b. The various sizes, compositions and costs per linear foot (installed) of a two-lane public highway crossing over a single line of track;
- c. The various sizes, compositions and costs per linear foot (installed) of a four-lane public highway crossing over a single line of track;
- d. The installed cost of signs for a private road crossing (if necessary);
- e. The installed cost of signs for a public highway crossing;
- f. The installed cost of each of the different types of protective devices identified in the response to Subpart (g) below;
- g. A list identifying each component required for an automatic type interlocking (assuming a diamond crossing);
- h. The cost of each of the components identified in response to Subpart (g) above and the cost of installation for each year or partial year 2008 to the present;
- i. The costs for a 16-foot and 24-foot cattle guard and the cost of installation for each year or partial year 2011 to the present; and
- j. Any additional costs incurred.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to subpart (h) of this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time and instead seeks information since 2011. Subject to and without waiving this objection and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession dated from 2012 to the present, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 96**

Please produce documents in a computer readable format, to the extent available, containing the following information for each CSXT at-grade and grade-separated road crossing on CSXT Lines in Illinois, Indiana and Michigan:

- a. Geographic location, *i.e.*, city, county and State;
- b. Rail location, *i.e.*, railroad, line name and milepost;
- c. Whether public or private;
- d. Name of road crossed;
- e. Width;
- f. Length;
- g. Type of construction;
- h. Number of tracks;
- i. Type of protective devices;
- j. Date of initial installation at the location;
- k. Total cost of the initial installation and the amount borne by CSXT, if any; and
- l. Identification of the party responsible for ongoing maintenance of any such structures.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further

objects to this Request as overbroad and unduly burdensome in that it seeks information on “cost” and “date of initial installation” without any date limitation. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 97

For each grade-separated, highway crossing identified in Request for Production No. 96, please provide documents sufficient to show, separately for each crossing:

- a. The total construction cost of the highway crossing;
- b. The percentage of the total cost incurred by CSXT;
- c. Any monies received by CSXT from any other party to compensate CSXT for the use of the crossing, including, but not limited to, maintenance and easement payments.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it seeks information without any date limitation. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from January 1, 2012 to December 31, 2014 that can be located after a reasonable search.

REQUEST FOR PRODUCTION NO. 98

Please produce documents sufficient to show the location, linear feet, and type of fencing (*e.g.*, snow fence) for all fencing currently in place on CSXT Lines in Illinois, Indiana and Michigan.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different

from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as unduly burdensome. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 99

Please produce all documents relating to any contribution by any governmental or quasi-governmental entity (including, without limitation, Amtrak, CREATE, or other passenger or commuter rail entities) to the construction or maintenance of at-grade or grade separated crossings of CSXT Lines in Illinois, Indiana and Michigan.

**Response:** CSXT specifically objects to this Request as overbroad and unduly burdensome in that it seeks “all” documents without any date limitation. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will make a reasonably limited number of agreements with governmental or quasi-governmental entities responsive to this request available to Consumers. CSXT will produce data from which Consumers can select particular agreements for production.

#### REQUEST FOR PRODUCTION NO. 100

Please produce documents sufficient to show the following for each construction and rehabilitation project which exceeded \$2,000,000 in cost and was completed by CSXT, or an outside contractor acting on CSXT's behalf, since January 1, 2011:

- a. The date the project was started;
- b. The date the project was completed;
- c. Whether the project was new construction or rehabilitation;
- d. Whether or not the project was performed "under traffic", (*i.e.*, traffic continued to move through the construction area);
- e. A complete copy of the Authorization For Expenditure ("AFE") and description of all columns and data contained with the AFEs;
- f. A complete copy of the Roadway Completion Report or any successor document;
- g. All invoices underlying each AFE and/or Roadway Completion Report;
- h. Engineering and/or construction plans;

- i. Progress reports;
- j. Photographs, if available; and
- k. Construction contracts.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable period of time. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce a list of AFEs from which Consumers can select a reasonable number of AFEs for projects which exceeded \$2,000,000 for production.

#### REQUEST FOR PRODUCTION NO. 101

Please produce documents, including but not limited to AFEs, construction plans, engineering estimates, bid tabs, contractor invoices, and construction specifications, for any projects that a carrier other than CSXT has undertaken on CSXT Lines in Illinois, Indiana or Michigan for which CSXT paid for some or all of the project cost since 2011.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome, in part because it is not limited to a reasonable period of time. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce a list of AFEs from which Consumers can select a reasonable number for production.

#### REQUEST FOR PRODUCTION NO. 102

Please provide documents identifying each electrical connection in Illinois, Indiana, and Michigan that is used to provide power to devices including, but not limited to, the CTC system and other signal devices, hot box detectors, failed equipment detectors, powered road crossings, warning devices and power switches, and provide the following for each such connection:

- a. The location of the connection by line segment and milepost;

- b. The source of the electricity;
- c. The amount CSXT paid for each connection and the date; and
- d. CSXT's costs for each billing period from 2008 to the present.

**Response:** CSXT specifically objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT also objects to this Request as overbroad and unduly burdensome in that it seeks documents dating from 2008. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 103**

Please produce documents (in computer readable format to the extent available) that depict individual tracks, connections to the main line, turnouts, communications, signals and elevations for all yards on the CSXT system which are located in Illinois, Indiana, and Michigan.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they can be located in a reasonable search.

**REQUEST FOR PRODUCTION NO. 104**

Please produce all inflation and/or rail cost adjustment estimates or calculations in CSXT's possession or that CSXT prepared or caused to be prepared or purchased for each year or partial year 2011 to the present, including, but not limited to, any estimates relating to:

- a. The cost of acquiring equity;
- b. The cost of acquiring debt;
- c. General expenses, including, but not limited to, asset, equipment, materials and supplies, fuel and labor expense;
- d. Railroad productivity, including but not limited to commodity-specific productivity, asset productivity and expense productivity;
- e. Gross Domestic Product/Implicit Price Deflator;
- f. Producer Price Index - All Commodities;
- g. The U.S. Department of Energy's U.S. average price of Retail On- Highway Diesel Fuel; and,
- h. Land values along or adjacent to CSXT's right of way for CSXT Lines in Illinois, Indiana, or Michigan.

**Response:** CSXT specifically objects to this Request as vague and ambiguous, particularly as to the requests for estimates relating to “the cost of acquiring equity” and the “cost of acquiring debt.” CSXT further objects to this Request as unduly burdensome in that it asks CSXT to provide documents relating to publicly available data and information that Consumers can access readily. *See Duke Energy v. Norfolk So. Co.*, STB Docket Nos. 42069, 42070 (July 26, 2002) (“[I]t is unduly burdensome to require a party to produce information that is available from public records or through less intrusive means.”). CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time.

#### **REQUEST FOR PRODUCTION NO. 105**

Please provide documents related to the amount of Bonus Depreciation claimed by CSXT Corp. separately for 2011, 2012, 2013 and 2014 on CSXT Corp.'s Federal Tax Returns in Schedule 4562. The amount should be separated by asset class and include the historical cost recorded for the assets related to the claimed bonus depreciation, including all schedules and worksheets showing the calculation and development of bonus depreciation allowed under the Economic Stimulus Act of 2008, the American Reinvestment and Recovery Act, the American Taxpayer Relief Act and the Tax Increase Prevention Act.

**Response:** CSXT objects to this Request as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. CSXT’s federal tax returns contain sensitive commercial information and are not relevant to a Stand Alone Cost

analysis. CSXT further objects to this Request as overbroad and unduly burdensome in that it requests “all schedules and worksheets.” Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they can be located in a reasonable search. CSXT assumes that Request for Production 105’s reference to “CSXT Corp.” is intended to refer to CSX Corp.

REQUEST FOR PRODUCTION NO. 106

Please provide copies of CSXT Corp.'s 2011 and 2012 State income tax returns for Illinois, Indiana and Michigan, including all State tax credit worksheets.

**Response:** CSXT objects to this Request as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. CSXT’s state tax returns contain sensitive commercial information and are not relevant to a Stand Alone Cost analysis. CSXT further objects to this Request as overbroad and unduly burdensome in that it requests “all schedules and worksheets.” Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they can be located in a reasonable search. CSXT assumes that Request for Production 106’s reference to “CSXT Corp.” is intended to refer to CSX Corp.

REQUEST FOR PRODUCTION NO. 107

Please produce all studies or analyses conducted by or for CSXT, or purchased by CSXT, from January 1, 2011 to the present addressing the utilization and/or consumption of coal by electric generating facilities in States included within the region managed by the Mid-continent Independent System Operator.

**Response:** CSXT objects to this request as not reasonably calculated to lead to the discovery of admissible evidence. CSXT further objects to this Request as overbroad and unduly burdensome because it seeks “all” studies or analyses for a region spanning fifteen states and a

Canadian province. CSXT also objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time.

REQUEST FOR PRODUCTION NO. 108

Please produce copies of all documents, including agreements and/or understandings and all amendments and supplements thereto between CSXT and each Short Line Railroad identified in response to Interrogatory No. 10, which refer or relate to the pricing and handling of all commodities, including but not limited to:

- a. Agreements or understandings pertaining to CSXT's payments to any identified Short Line Railroad of a revenue factor, division, flat rate or other type of compensation for the Short Line Railroad's portion of a movement;
- b. Locomotive run-through power or power sharing agreements or arrangements;
- c. Train crew run-through or train crew sharing agreements or arrangements;
- d. Any other agreements or arrangements pertaining to rates, surcharges, revenue sharing or operations;
- e. Any operating timetables (including special instructions and/or operating rule books), station lists, station books, track charts and "condensed profiles" for any of the identified Short Line Railroads; and
- f. Copies of all bills or invoices from 2011 to the present (including all supporting documents and data) rendered between CSXT and any identified Short Line Railroad pursuant to each of the agreements and/or understandings produced in response to this Request for Production No. 108.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 109

For each intermodal terminal, Automotive Distribution Center, bulk transfer or yard facility located on CSXT Lines in Illinois, Indiana and Michigan (as identified in response to Interrogatory No. 5), please provide the following:

- a. Documents containing descriptions of the existing facilities;
- b. Documents sufficient to show the track layout, the length of each track and the ownership of each track;
- c. Copies of all agreements (including amendments and supplements) between CSXT and any other entity pertaining to services provided by such entity and charges incurred by CSXT for such services from 2011 to the present;
- d. Copies of all invoices, bills, etc. (including all supporting documents and data) received by CSXT for services provided from 2011 to the present;
- e. Document sufficient show the services that CSXT or any other entity provides at each facility;
- f. Documents sufficient to show the components (e.g., land, track, specific buildings, loading or unloading facilities, etc.) that are owned and/or operated by CSXT or by any other entity. In the event that an entity other than CSXT owns and/or operates any identified facility, please produce documents sufficient to show any applicable lift or other charges incurred by CSXT for such services; and
- g. Documents sufficient to show the security procedures and measures employed and the entity responsible for providing and paying for security.

**Response:** CSXT objects to this Request to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to subpart (g) to the extent it calls for disclosure of Sensitive Security Information (“SSI”). CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-SSI, non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 110

For each yard identified in Interrogatory No. 5, please produce documents sufficient to show:

- a. The type of yard, (*i.e.*, electronically controlled hump yard or flat switch yard);
- b. The number of shifts operated at each yard, and the average number of cars handled over each yard per day;
- c. The yard layout, yard signaling, yard switching, and the yard connection to mainline track;
- d. The average number of hazardous material cars handled at each yard on a daily basis that by-pass the hump;
- e. The scheduled switch crew assignments on a daily basis (including the name or designation of each assignment) and the respective duties of each assignment (e.g., switching job, bowl job, hump job, industrial job, etc.);
- f. For each of the switch assignments identified in response to subpart e above, the typical number of switch crew members and the number and type of locomotives assigned to each switch service; and the typical number of hours worked by switch crews in performing their assigned tasks;
- g. For each individual industrial switch job identified in response to parte, above:
  - i. The name or designation of each individual industrial switch job;
  - ii. The number of crew members assigned to each identified industrial switch job;
  - iii. Number and type of locomotives assigned to each identified industrial switch job;
  - iv. The industries served by each identified industrial switch job; and
  - v. The frequency of service of each identified industrial switch job.
- h. For each Local Train, that originates or terminates in each of the yards:
  - i. CSXT's train identification or designation of each Local Train;
  - ii. The number of crew members assigned to each identified Local Train;
  - iii. The number of loaded and empty cars assigned to each Local Train;
  - iv. The trailing length of each identified Local Train;
  - v. The trailing weight of each identified Local Train;
  - vi. The number and type of locomotives assigned to each Local Train;
  - vii. The route of service for each identified Local Train, and if the Local or Road Train is a turn crew or straight-away crew;
  - viii. The industries served by each identified Local Train; and
  - ix. The frequency of service of each Local Train.

**Response:** CSXT objects to this Request as vague and ambiguous because the term “yard” is not defined. CSXT will interpret “yard” as a railroad facility where a yard crew and/or

locomotive has been assigned. CSXT also objects to this Request to the extent it requires a special study that CSXT is not required to conduct. CSXT further objects to this Request as overbroad and unduly burdensome. Subject to and without waiving these objections and the General Objections, CSXT responds that it will produce non-privileged responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 111

For all locations on CSXT Lines in Illinois, Indiana and Michigan where CSXT interchanges railcars and/or trains with another railroad, please provide documents that:

- a. Identify the location of the interchange (by milepost and/or yard name);
- b. Describe the interchange procedures at each location;
- c. Identify the tracks (and length of each track) used for interchange purposes;  
and
- d. Identify the ownership of each track used for interchange purposes.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 112

For each track construction project that CSXT has undertaken since 2011 to the present, provide documents showing the following:

- a. How the disposal of excess excavation quantities was handled; and
- b. All costs associated with the disposal of such excess excavation quantities.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to

this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession covering the period from January 1, 2012 to December 31, 2014, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 113

Please provide documents sufficient to show the elapsed times and locations where CSXT trains were delayed due to foreign railroads crossing CSXT at at-grade railroad crossings, including crossing diamonds, in Illinois, Indiana and Michigan for the time period from 2012 through 2014.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 114

Please produce documents sufficient to show the amount of annual depreciation expense shown in Column (c) of CSXT's 2013 and 2014 Schedule PTC 335, Accumulated Depreciation-Road and Equipment Owned and Used that is associated with bonus depreciation allowed under the American Tax Payer Relief Act, including any supporting schedules.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 115

Please provide documents sufficient to show to the amount of dividends paid from affiliated companies as shown in CSXT's Annual Report Form R-1, Schedule 210, Line 25(a) separately for years 2011, 2012, 2013 and 2014. The amounts should be separated by the affiliated companies paying the dividends in the respective years.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as seeking information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 116

Please provide copies of the Comparative Statement of Financial Position (Balance Sheet), the Results of Operations (Income Statement) and the Statement of Cash Flows for CSXT affiliated companies The Belt Railway Company of Chicago and TTX.

**Response:** CSXT objects to this Request as seeking information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Financial reports of the Belt Railway and TTX have no relevance to any of the issues in this litigation.

REQUEST FOR PRODUCTION NO. 117

Please produce for each CSXT territory or division located in Illinois, Indiana, or Michigan organization charts which show each CSXT management and/or supervisory position, the number of personnel in each position and the relationship or reporting authority and relative rank of each position. Please include organizational charts which include, but are not limited to, positions related to train operations, yard operations, maintenance of way, maintenance of equipment, engineering, and general and administrative functions. Also, include the relationship and reporting authority from each CSXT territory or division to CSXT senior management.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to the extent that this Request is overbroad and unduly burdensome by requesting organization

charts that encompass virtually every CSXT employee in Illinois, Indiana, and Michigan.

Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 118

Please produce for each year or partial year 2012 to the present documents (in a computer readable format) which show for each CSXT individual locomotive engineer, conductor, dispatcher and equipment inspector, the number of shifts worked per year, their length of employment, and their annual compensation.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as calling for sensitive, highly confidential, and private information about individuals' compensation. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 119

Please produce for each year or partial year 2012 to the present documents (in a computer readable format) which show for CSXT employees by position the amount spent for travel including but not limited to transportation, meals, entertainment, lodging and the corresponding number of travelers.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce

non-privileged, responsive documents in its possession, to the extent they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 120

Please produce for each year or partial year 2012 to the present, documents (in a computer readable format) which show for CSXT contracts with lodging companies for use of CSXT personnel when traveling.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 121

Please produce for each year or partial year 2010 to the present documents (in a computer readable format) which show the actual attrition rate for CSXT employees by position including age group and years of service.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome in that it is not limited to a reasonable period of time and instead seeks information since 2010. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession dating from January 1, 2012 to December 31, 2014, to the extent they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 122

Please produce documents sufficient to show the applicable wage rates for CSXT's maintenance of way employees by job classification for each year 2012 to the present.

**Response:** CSXT objects to this request on the grounds that it is duplicative of Request for Production 61. Subject to and without waiving the General Objections, CSXT responds that in response to RFP 61 it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 123

Please provide any studies or databases showing dwell times in yards for shipper-provided and foreign cars.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 124

Please provide a copy of any CSXT operating rules related to the special handling of hazardous materials (provide the requested information by class of hazardous material), including, but not limited to, rules related to:

- a. Placement of cars containing hazardous materials in a train;
- b. The number and location of buffer cars required, if any, when handling hazardous materials in trains; and
- c. Special routing instructions for trains containing hazardous materials.

**Response:** CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Sensitive Security Information (“SSI”). Subject to and without waiving this objection and the General Objections, CSXT states that it handles hazardous materials in accordance with all applicable regulations, including FRA and PHMSA regulations. CSXT will produce non-privileged, responsive documents in its possession that do not contain SSI, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 125

For each CSXT rail yard referred to in Interrogatory No. 5, please produce documents sufficient to identify switch crew assignments, hump crew assignments, Local Train assignments, the number of cars handled over each hump yard per day and the number of hazardous material cars handled at each hump yard per day which by-pass the hump operation at each yard.

**Response:** CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Security Sensitive Information (“SSI”). Subject to and without waiving this objection and the General Objections, CSXT will produce non-privileged, responsive documents in its possession that do not contain SSI, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 126

Please produce copies of any documents, reports, analyses or studies provided to any Federal or State agencies which discuss or describe CSXT's compliance with regulations for handling, routing or proposed routing of hazardous materials.

**Response:** CSXT specifically objects to this Request for Production to the extent it calls for disclosure of Sensitive Security Information (“SSI”). CSXT further objects to this Request as seeking information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Consumers’ vague request for any “documents, reports, analyses or studies” created at any time that discuss or describe CSXT’s compliance with federal regulations has no conceivable relevance to the issues in this case.

REQUEST FOR PRODUCTION NO. 127

Please produce documents for each year or partial year 2012 to the present, that contain the following, in a computer readable format if available, for each freight car purchased or leased by TRANSFLO (including privately-owned freight cars leased by TRANSFLO and freight cars currently on order):

- a. Initial and number;
- b. Lessor, if leased;
- c. Tare weight;
- d. Purchase or order date, if purchased;

- e. Lease or order date, if leased;
- f. Total purchase price, if purchased;
- g. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- h. If leased, the amount and frequency of lease payments;
- i. **If** purchased, the AFE applicable to each purchased trailer or container; and
- j. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents or information in a manner different from how they are kept in the ordinary course of business. CSXT also objects to this Request as unduly broad and burdensome. Subject to and without waiving these specific objections or its General Objections, CSXT states that TRANSFLO does not own or lease freight rail cars.

#### REQUEST FOR PRODUCTION NO. 128

Please provide information related to any liability expense incurred as a result of CSXT's handling hazardous materials for each year 2012 to the present. For each liability expense incurred, please provide the following:

- a. The total amount of the liability expense;
- b. The STCC of hazardous material involved with the incurrence of the expense;
- c. The number of rail cars involved with the incurrence of the expense; and
- d. Any reimbursement of all or a portion of the liability expense, or other reimbursement which offset all or a portion of the liability expense received by CSXT from any third party.

**Response:** Subject to the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession from January 1, 2012 to December 31, 2014 that can be located after a reasonable search.

#### REQUEST FOR PRODUCTION NO. 129

Please provide information related to any additional operating or administrative expenses incurred by CSXT for each year from 2012 to the present as a result of handling hazardous materials, including, but not limited to, items such as switching expenses,

insurance expenses, station clerical, car cleaning expenses, accident clean-up expenses and/or billing expenses. For each expense identified, please provide:

- a. The total amount of the annual expense for each year;
- b. The class or classes of hazardous material to which the expense applies; and
- c. The number of annual carloads handled each year to which the expense applies.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. CSXT further objects to this Request as overbroad and unduly burdensome. Subject to and without waiving these specific objections or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession that can be located after a reasonable search.

#### REQUEST FOR PRODUCTION NO. 130

Please produce documents identifying and explaining the procedures by which CSXT develops the bills or invoices to CSXI, TDSI and TRANSFLO for rail-related transportation services. For each component of each CSXT bill or invoice, please identify and produce documents identifying the STB accounts in which CSXT records the payments received from CSXI, TDSI and TRANSFLO, as well as the following information for CSXI, TDSI and TRANSFLO for each year or partial year 2012 to the present:

- a. Total revenues;
- b. Amounts received to cover transloading costs;
- c. Amounts received to cover payments for costs associated with other transportation modes, e.g., over-highway truck costs, water vessel costs, etc.;
- d. Amounts paid to CSXT;
- e. Overhead and administrative costs; and
- f. Margin or profit.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by gathering, compiling and organizing data, documents, or information in a manner different from how they are kept in the ordinary course of business. CSXT also objects to the Request for documents “explaining the procedures by which CSXT develops the bills or invoices” as vague and ambiguous. CSXT further objects to the unduly burdensome nature of

this Request which instructs CSXT to inspect “each component of each CSXT bill or invoice” to provide additional information to Consumers. CSXT also specifically objects to subpart (a) as irrelevant to matters at issue in this case. Furthermore CSXT objects to subparts (b), (c), (e), and (f) of this Request as unduly burdensome and irrelevant to the extent that they request detailed financial and internal cost data on non-CSXT operations. Any potential relevance of the requested information is outweighed by the burden that would be incurred in attempting to find the detailed information requested in the records of affiliated companies. CSXT further objects to subparts (b), (c), and (e) as vague and ambiguous. For purposes of responding to this Request, CSXT will construe subparts (b) and (c) as seeking information concerning the costs to the respective affiliate for loading and unloading, and the respective affiliate’s costs associated with over-highway trucks or water vessels. CSXT finally objects on the grounds that CSXI no longer exists. Subject to and without waiving these specific objections or its General Objections, CSXT responds that it will produce non-privileged documents that are responsive to subparts (a) through (d) to the extent they exist and can be located in a reasonable search.

#### REQUEST FOR PRODUCTION NO. 131

For any company other than CSXT that provides the development, implementation and/or maintenance of computer systems, software and associated documentations for the day-to-day operations of CSXT, please produce documents sufficient to show the services outsourced, the fees paid for the outsourced services, and the analyses which developed the estimated and/or actual savings realized by CSXT and each of its subsidiaries from such outsourcing.

**Response:** CSXT specifically objects to this Request for the “analyses which developed the estimated and/or actual savings realized by CSXT and each of its subsidiaries from such outsourcing” as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving this objection and the General Objections, CSXT

responds that it will produce non-privileged, responsive documents in its possession, to the extent that they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 132

For each of the following companies listed on page 103 in CSXT's 2013 R-1 Schedule PTC 330, CSX Technology, Meteorcomm LLC, and PTC-220 LLC, please produce documents sufficient to show CSXT's percent ownership or relationship to each company, the services provided to CSXT by each company, and the fees paid by CSXT to each company for the services provided.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession, to the extent they can be located in a reasonable search.

REQUEST FOR PRODUCTION NO. 133

Please produce documents that show in detail all items of expense and the associated dollar amount of each expense item included in CSXT's R-1 Annual Report to the STB Schedule 410, Column (c) (Materials, Tools, Supplies, Fuels and Lubricants), Line 202 (Locomotive Repair and Maintenance), Line 403 (Train Crews) and Line 411 (Servicing Locomotives), for years 2012 to the present.

**Response:** CSXT objects to this Request to the extent that it requires CSXT to perform a special study by compiling or organizing data and documents in a manner different from how those data and documents are kept in the ordinary course of business. Subject to and without waiving this specific objection or the General Objections, CSXT responds that it will produce non-privileged, responsive documents in its possession to the extent that they can be located in a reasonable search.

Peter J. Shutz  
Paul R. Hitchcock  
John P. Patelli  
CSX Transportation Inc.  
500 Water Street  
Jacksonville, FL 32202

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Raymond A. Atkins", is written over a horizontal line.

G. Paul Moates  
Raymond A. Atkins  
Terence M. Hynes  
Paul A. Hemmersbaugh  
Matthew J. Warren  
Hanna M. Chouest  
Sidley Austin LLP  
1501 K Street, N.W.  
Washington, D.C. 20005  
(202) 736-8000  
(202) 736-8711 (fax)

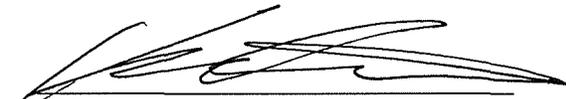
*Counsel to CSX Transportation, Inc.*

Dated: March 6, 2015

## CERTIFICATE OF SERVICE

I hereby certify that on this 6<sup>th</sup> day of March, 2015, I caused a copy of the foregoing Responses and Objections of CSX Transportation, Inc. to Complainant's First Requests for Admission, Interrogatories, and Requests for Production of Documents to be served on the following parties by first class mail, postage prepaid or more expeditious method of delivery:

Kelvin J. Dowd  
Daniel M. Jaffe  
Christopher A. Mills  
Slover & Loftus  
1224 17th Street N.W.  
Washington, DC 20036



Hanna M. Chouest