



CSXT will produce available updated information to an extent consistent with any prior objections to the scope of TPI's discovery requests or to particular subparts of these enumerated requests. If CSXT determines that it does not have updated information for one or more of these discovery responses, it will inform TPI of that fact.

Neither party will use in the rate reasonableness phase of this case private information that was responsive to a prior discovery request and that has not been produced in discovery or supplemental discovery. This restriction shall not apply to proprietary computer programs/models, including without limitation the MultiRail operational planning software owned by OliverWyman Company and the Rail Traffic Controller ("RTC") model owned by Berkeley Simulations Software. This agreement is without prejudice to any other objections that TPI may assert to the propriety of using MultiRail, or any other computer programs/models, in this proceeding.

As a result of the foregoing agreement with CSXT, TPI moves for partial dismissal of its Third Motion to Compel as that motion pertains to the scope of supplemental discovery. TPI's request that the Board order CSXT to begin producing responsive information immediately and to establish a date for completion of supplemental discovery responses remains pending before the Board, however. CSXT has informed TPI that it intends to submit a brief reply today to this Motion for Partial Dismissal.

Respectfully submitted,



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July 12, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12th day of July 2013, I served a copy of the foregoing upon counsel for defendant CSXT via electronic mail and U.S. first-class mail, postage prepaid, at the address below:

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*Counsel for CSX Transportation, Inc.*

  
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Jeffrey O. Moreno