



# MONTREAL, MAINE & ATLANTIC RAILWAY

NORTHERN MAINE JUNCTION PARK

15 IRON ROAD HERMON, MAINE 04401-9621

May 21, 2010

Canadian Transportation Agency  
Ottawa, Ontario  
K1A 0N9

Attention: John Corey

Subject: Review of the Railway Interswitching Regulations

Dear Mr. Corey,

The following comments regarding the proposed modifications to the railway interswitching regulations are submitted on behalf of the Montreal, Maine & Atlantic Railway (MMA).

The Montreal, Maine & Atlantic Railway is a 745-mile regional freight railway with operations in the provinces of Quebec and New Brunswick and the states of Vermont and Maine. MMA has been in operation since January 2003, when it assumed operation of the lines formerly operated by the Iron Road group, which had fallen into bankruptcy. Because of its international operations, the MMA falls under the regulatory authority of the Canadian federal government.

Canadian interswitching regulations apply at the points of interchange between two federally-regulated railways. MMA has four such interchange points:

- St Jean, QC, Sainte Rosalie, QC, and St Leonard, NB, where it interchanges with Canadian National
- Sherbrooke, QC, where it interchanges with the St. Lawrence & Atlantic (Quebec) Railway

(Note: MMA also interchanges with CPR at St Jean, QC, but traffic exchanges between MMA and CPR at this location are governed by a bi-lateral agreement.)

Interswitched traffic represents a significant portion of the MMA's total traffic base. In 2009, MMA sold approximately 4178 cars in interswitching service from connecting railways, and bought only approximately 992 cars in interswitching service representing a total imbalance to our reciprocal nature of the CTA regulation. This traffic represented slightly less than 16.9% of MMA's total carload traffic for the year, but almost two-thirds of the business that MMA handles in Canada.

Of the traffic handled in interswitching by MMA, Zone 4 switches represent 78.2% of the interswitching purchased (776 cars), while representing 48.1% of switching performed for others (2,008 cars). The net loss for MMA resulting from the reduction in charges for the Zone 4 switches totals \$78,848 net.

*A detailed analysis of MMA's current interswitching activity is contained in Schedule A, which we wish to be held confidential.*

The costs and statistics used to calculate the regulated interswitching rates are those of the Class 1 railway companies, but the cost structures and productivity levels of Class 1 and Shortline railways are different. While the revenues of the Class 1 carriers are protected, it is at times at the expense of the Shortline carriers. The smaller carriers do not have co-production agreements available to them. These are reserved for mutually beneficial arrangements between CN and CPR.

The 2004 rate reduction was extremely onerous for MMA. Like most regional and shortline railways, MMA does not have the same economies of scale as CN or CPR, and had not been able to reduce its variable operating costs during the period leading up to 2002 in the same manner as the national railways. In addition, as demonstrated above, MMA is a disproportionate net provider of interswitching service. The lower rates for interswitching services provided by MMA resulted in a significant loss of revenue, during a period when the company was just beginning operations and in a fragile financial position.

The current regulations have made it impossible for an interswitch carrier to market its services. The structure of the regulations protects and enhances the revenues of the Class 1 carriers at the expense of the Shortlines, Shortlines that exist due to the sale or abandonment of the properties by the Class 1s themselves. Due to the extreme size and market power of the Class 1 carriers they also use their leveraging power to install volume incentive contracts with the customers, ultimately disadvantaging smaller competitors, the short lines. The control of rail transportation in Canada remains totally in the hands of the Class 1 carriers, CN and CPR. Additionally, on the MMA itself, some line segments are either fully within the interswitching zones and the interswitching revenues alone do not allow for adequate maintenance or reinvestment on these lines.

Since 2004, interswitching rates have been frozen, while many of MMA's operating costs have risen dramatically. For example, the average benchmark price for oil (West Texas intermediate) in 2004 was \$US 41.44 per barrel. The cost of fuel rose dramatically since that time, and though it has dropped since the highs as of 2008 the current cost per barrel is \$US 84.48 per barrel in 2010, which is more than double the cost from 2004. Clearly, carriers providing interswitching services have not been allowed to recover fuel cost increases.

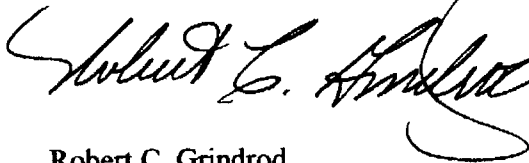
Similar, though less dramatic, price increases have occurred in other categories such as rail and track material. The Association of American Railroads monitors changes in the cost of railway materials and publishes this data on a quarterly basis in the form of its

Rail Cost Adjustment Factor. The "Unadjusted Rail Cost Adjustment Factor" as published by the AAR increased 14.3% between 2004 and 2007 and through the first quarter of 2010 it has increased an additional 3.8% with no adjustment to the interswitching rates during that time.

The Canadian Transportation Agency has proposed to increase the interswitching rates for Zones 1, 2 and 3 by between \$44 and \$48 per car, and reduce the Zone 4 rate by \$64 per car. Based on MMA's traffic profile, this proposal would result in virtually no net increase in revenue.

The management of the Montreal, Maine & Atlantic Railway believes that the new interswitching rates proposed by the Canadian Transportation Agency do not adequately reflect the increase in operating cost experienced by regional and shortline railways since 2004 and are onerous to the Shortline industry as described above. We therefore request that the Agency consider a reworking of the entire interswitching regulations or risk MMA and other Shortline carrier disinvestment in Canadian rail operations.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert C. Grindrod", with a large, stylized flourish extending from the end of the signature.

Robert C. Grindrod

President and CEO