

# WESTERN GRAIN ELEVATOR ASSOCIATION

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Dear Sir/Madam,

## **Re: Consultation - Regulated Interswitching Rates**

The Western Grain Elevator Association (WGEA) is responding to the Canadian Transportation Agency's consultation with respect to *Railway Interswitching Regulations*. The WGEA is an association of six major grain businesses operating in Canada, which collectively handle in excess of 90% of western Canada's bulk grain exports. Its members account for approximately 20% of railway revenues, paying over \$1.5 billion in annual rail freight. Our members are listed at the bottom of our letterhead.

Interswitching is a significant operational necessity in moving grain from primary elevators to port terminal facilities. Over the course of the last two years, approximately 36% of the grain destined to Vancouver has been interswitched. Similarly, about 55% of the traffic moving to Thunder Bay is interswitched. The switching of traffic destined to terminals in the greater Vancouver area is technically executed through the Sapperton interchange, however, it is operationally more efficient for the railways (CN and CP) to physically exchange traffic at Boston Bar/North Bend under their Co-Production Agreement.

Using Vancouver as an example, traffic is interswitched to the North and South Shores as if it were Zone 2 movement. At the single car rate of \$435 per car, this would generate roughly \$38 million in associated annual interswitching charges. At the *60 car or more* rate of \$80, the total cost would amount to about \$7 million per year. Either way, the costs tied to interswitching grain are significant.

We understand that the charge for interswitching is generally built into the overall freight rate, and that grain shippers generally do not see a specific interswitching charge for this activity on the waybills or invoices produced by the railways involving such movements. It is our further understanding that when the railways are audited by the Agency for the purpose of calculating the Maximum Revenue Entitlement (MRE), these interswitching charges are deducted from the carriers' grain revenues. This is but one of the various elements that figures into the calculation of the MRE, all of which occurs between the Agency and the railways.

### Proposal #1 - One Zone with One Rate

It is difficult to comment on this principle, without more details as to the final value of the single zone rate. While the consultation paper identifies that the rate will be based on costs, and a weighted average would be used to account for each railway's costs, there are a number of unanswered questions about where the rate would settle. Will the Agency and the railways change the costing methodology used to determine the interswitching rates? Would railway costs yield a cost reflective of an approximate straight average between all four zones? If this is the case, we would expect a single car rate of \$333 and \$64 for a block of 60 cars or more. Or, would the methodology incorporate an average of historical volumes interswitched in each zone, in which case the final regulated rate could likely prove higher.

Moreover, we are not convinced that there is any necessity to this proposal. Why not simply change the rate associated with any of the existing and well-known rates for the four zones if an adjustment is required? If anything, amalgamating this into one zone and one rate may have the detrimental effect of burying necessary detail in how interswitching costs are calculated.

### Proposal #2 - Separate Rates for 60-99 Car Blocks versus 100 Cars or More

The introduction of new block rate categories further complicates the above, making it impossible to predict the rate values for these two blocks of movements. In addition, we are concerned about having a 'cut-off' at 100 cars given many unit train movements are originally of that size, but may be reduced to 90-99 as some cars may be in need of repair or cannot be loaded for some reason beyond the control of the shipper. This would inadvertently penalize a shipper who was prepared and expecting to ship 100-plus cars, but ended up shipping slightly less.

Uncertainty is a major risk for shippers. Due to the unknowns associated with the establishment of the single zone rate, and the rates for the new block size categories, the WGEA favours maintaining the status quo, and not making the above two regulatory changes. However, if the end result was a more open and transparent process that showed a net reduction in the interswitching rates for trainload blocks, we would be prepared to revisit this position.

### Proposal #3 – Definition of Car

The WGEA does not have a concern with the third proposal to define intermodal car to include platform.

### Proposal #4 – Interswitching Rate on Waybill

Similar to Proposals #1 and #2, the WGEA does not see the need to show the regulated interswitching rate on the waybill. We trust that the Agency has the expertise and resources to ensure the railways' combined charges under the Maximum Revenue Entitlement and Regulated Interswitching Rates do not exceed the maximum amounts on an annual basis.

## Defining Block Rate for Interswitching when Interchange is Smaller than the Car Block Presented

There have been some instances in the past where a shipper has asked a railway conduct a regular 30 km interswitch of a unit train at an interchange of a smaller size than the car block being presented, and the railway has sought to charge a single car rate for the interswitch because it has to break up the block into smaller sizes to successfully interswitch that traffic. The Agency has previously found that the need to break a *hook and haul* car block for their physical placement within the confines of the interchange tracks is not, in and of itself, a relevant consideration in determining eligibility of the car block rate for interswitching. The Agency recognized that *hook and haul* movements can involve the need to break a car block into a reasonable number of sub-blocks for placement within in the interchange tracks.

Given the Agency has made a determination on this in the past, and that this was supported by a decision of the Federal Court of Appeal, it seems logical that the Agency should enshrine this concept either into regulation or its guidance documents. Should the Agency move to provide regulated interswitching rates for larger car blocks, this principle will become even more important. Enshrining a definition of block in the regulation would presumably avoid any contention by a railway that a particular block movement does not meet the stated criteria. As noted above, uncertainty is a risk for shippers, and it has the potential to cloud the pricing of interswitched movements at times. Since the Agency must know the characteristics of a block to cost it, it is reasonable to pursue this simple fix to the regulation, or failing that, to formalize its opinion on this matter in any guidance documents.

## Long Haul Interswitching

Long Haul Interswitching (LHI) was designed by Transport Canada as a replacement shipper-protection mechanism for Extended Interswitching. Now that it has been in place for more than two years, the WGEA is of the strong view that the Agency should undertake a review of the efficacy of LHI. Is it an effective tool for shippers? Is it able to practically provide competitive alternatives, or guard against abuse of monopoly powers? We believe Transport Canada, shippers and railways would benefit from an analysis by the Agency in this regard.

## Regulated Interswitching Performance

The Agency has consulted several times now on interswitching rates but it has not asked stakeholders to comment on the performance of interswitching. For example, what is the shipper community's experience using interswitching? Does it provide a reasonable alternative to a direct haul by an originating carrier? If not, why not? What are the primary inefficiencies with interswitching and how can they be addressed? Have shippers ever experienced a refusal by a railway to interswitch, or alternatively, have they ever experienced interswitching service so poor that it amounted to a refusal? These, among several other important questions about the efficacy of regulated interswitching, should be the basis of a subsequent consultation by the Agency.

Thank you in advance for considering our views on interswitching. The WGEA looks forward to your decisions pursuant to this consultation process. If you have any questions with respect to the above, please do not hesitate to contact me.

Yours truly,

A handwritten signature in blue ink, appearing to read "Wade Sobkowich", written in a cursive style.

Wade Sobkowich  
Executive Director