



August 19, 2019

Scott Streiner
Chair and CEO
Canadian Transportation Agency
15 Eddy Street
GATINEAU QC K1A 0N9

Dear Scott Streiner:

On behalf of the Government of Saskatchewan (GOS), I am pleased to provide comments and input into the Canadian Transportation Agency's (the Agency) consultation on the Agency's approach to setting regulated interswitching rates.

The GOS continues to monitor the ongoing implementation of important changes made to the *Canada Transportation Act* (the Act). Regulated interswitching is a valuable tool contained in the Act to help introduce competition and transportation options for shippers with facilities that are directly served by a single railway.

Fundamentally, the GOS supports the Agency's goals to ensure that any regulatory changes and changes to the rate calculation are compensatory, consider the long-term investment needs of railway companies, and are commercially fair and reasonable to all parties. However, interswitching rates aggregated into one-size fits all, introduces concerns that the rates won't fairly reflect the railways actual revenue or cost for a given interswitching movement. Rates could either be unfair for the railways and introduce economic inefficiency, or the rates could be too high and won't create a realistic tool for shippers to use.

The GOS believes the Agency is on the right track in investigating interswitching rate calculations that includes specific rates for short line railways, regional and commodity specific rates, adjusting zone distances, and including additional operational factors (train size track gradient, number of customers within a zone). Including these factors has the potential to greatly increase the granularity and specificity of interswitching rates, but could also make the calculation and reporting of interswitching rates much more complex.

Developing interswitching rates specific to different regions, commodities or for short lines could have the added benefit of improving transparency. Additionally, shippers gain insight to how railways treat different regions, commodities, and could highlight differences in cost structures and revenue between class 1 railway and short lines.

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Interswitching rate discrepancies between regions, commodities and railways may be justified based on economic reasoning. However, if discrepancies reach beyond what is economically justified, it will be essential that the rate calculation methodology be economically consistent and clear to help explain any differences. The GOS recommends the Agency continue to develop methodology to establish interswitching rates specific to short lines, different regions and commodities.

Overall, the GOS is reasonably satisfied with the existing methodology in setting interswitching rates and estimating rail costs given the current state of theoretical framework employed. Upon reviewing the Agency's consultation discussion papers, we understand that the Agency's challenge is very complex. The questions posed by the agency on any changes in interswitching rates methodology requires careful consideration. Any changes to the methodology should have support from shippers, and should be based on sound economic theory and principles.

Careful consideration is required when changing interswitching rates methodology on the impact of cost of capital, contribution to fixed costs, productivity factors and volume discount rates. If the feedback from stakeholders encourages the Agency to consider these impacts, then the GOS would recommend conducting further investigation and analysis. Considering the highly technical and economically complex nature of the questions posed by the Agency, the GOS greatly appreciates the Agency's decision to provide an extension in the timeframe for submission of responses on some aspects of the methodology.

We also support the Agency's desire to investigate ways to increase transparency around interswitching rates. All regulated interswitching rates determined by the Agency should continue to be made public and published by the Agency. The GOS would support improving greater transparency by showing regulated interswitching rates as a separate charge on the waybill as one means of improving transparency. In addition, the Agency should consider a proactive approach to engaging shippers to ensure they are aware of changes to interswitching rates and provide guidance to individual shippers to ensure they understand how interswitching could apply to them.

Regardless of whether shippers utilize interswitching or not, it is an important tool and provision in the Act to create a contestable market between railways and captive shippers. The GOS has concerns regarding the potential for railways to limit their shippers' ability to access and utilize important rights and provisions under the *Canada Transportation Act* through confidential service agreements. Confidential service agreements are an important option and tool for both shippers and railways. However, we believe that pressuring shippers to forego their rights to access dispute resolution tools and mechanisms like interswitching violates the intent and spirit of the Act and could be seen as anti-competitive behavior by the railways.

We understand that this issue is beyond the scope of the consultation on the agency's approach to setting and calculating regulated interswitching rates, but we believe it is important for the federal government to carefully consider why shippers use, or do not use provisions in the Act. If the Agency receives feedback from shippers indicating their ability to access and utilize interswitching has been limited by their service agreements, then we would strongly encourage the Agency to consider using their investigative powers to examine the terms and conditions being introduced by railways. The Agency should also consider the circumstances under which those terms and conditions were negotiated between the shippers and railways.

The Ministry of Highways and Infrastructure values the ongoing open dialogue between the Agency staff and our ministry on these important transportation issues. The Ministry of Highways and Infrastructure is prepared to provide additional assistance and technical feedback on an ongoing basis and we encourage you or the Agency to contact us at your convenience. We appreciate the opportunity to provide input into this important review process and we look forward to working with the Agency on some of the economic theoretical challenges facing regulators and working towards the next steps.

Sincerely,



Fernando (Fred) Antunes, P. Eng.
Deputy Minister of Highways and Infrastructure

cc: Honourable Greg Ottenbreit, Minister of Highways and Infrastructure