

October 31, 2014

Honourable David L. Emerson, P.C., O.B.C.
Chair, *Canada Transportation Act* Review
Canada Transportation Act Review Secretariat
350 Albert Street, Suite 330
Ottawa, ON K1A 0N5

Dear Mr. Emerson:

Congratulations on your appointment as Chair of the *Canada Transportation Act* (CTA) Review. You and your team have an important task ahead given the highly publicized rail freight service issues (i.e. grain shipment bottlenecks and the *Fair Rail Service for Grain Farmers Act*), the increasingly complex global supply chains, and growing commodity exports in Western Canada.

Alberta's economy relies on a safe, efficient, and reliable rail transportation system to move its goods and access international markets. Rail is the linchpin of Western Canada's transportation system for exports. The majority of rail shippers in Alberta have access to only one railway, and have no economically-viable alternatives to rail. This gives the Class 1 railways significant market power. Recent grain backlogs have drawn attention to capacity and efficiency issues throughout the system. Grain shippers suffered considerable financial losses from contract penalties and demurrage on waiting vessels due to inadequate rail service during the past grain shipping season. While the Class 1 railways charge penalties for late car loading and other performance failures by shippers, rail shippers have no ability to recoup losses due to performance failures by the Class 1 railways. The Government of Alberta (GOA) believes that reciprocal accountability is an essential feature of a properly functioning rail supply chain, and it will expand on it in its full submission of the CTA.

In response to the Review's request for early input on the grain-specific elements of the CTA, the GOA wishes to offer the following comments.

The Maximum Revenue Entitlement

Alberta officials recently met with grain industry stakeholders – including industry associations, individual shippers and farm organizations – to discuss rail freight service. There is wide agreement among grain shippers that rail service is inadequate, both in terms of capacity and reliability. Grain shippers also note that service does not appear to be better on routes that are not covered by the Maximum Revenue Entitlement (MRE). Reports for the Grain Monitor program support this contention and clearly show that rail service on movements outside of the MRE does not differ from service on movements under the MRE.

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Feedback from rail shippers of other commodities, such as coal and forestry products, indicates that rail service for industries whose rates are entirely unregulated is not superior to rail service received by the grain industry.

Grain is a bulky, but relatively low value product, and is not able to bear the type of rail rate that a higher-value product can. Given that much of Canada's grain crop is produced at a considerable distance from ports, mills, and other users, rail freight comprises a large portion of the cost of bringing Canadian grain to market.

There may be some features of the MRE that need further examination. Representatives of the Class 1 railways have claimed that the MRE provides a disincentive to invest in capacity to move grain. Producer organizations, such as the Western Canadian Wheat Growers Association, have also suggested that the current structure of the MRE does not reward railways for moving the maximum amount of grain possible during the peak shipping season. The GOA also notes that the cost calculations used in determining the MRE have not been reviewed for a significant period of time.

Given the evidence that rail service is not superior for entirely unregulated commodities or for grain movements outside of the MRE, the GOA recommends that the MRE be retained in the CTA.

The GOA supports an examination of the MRE to remove any disincentives to investment in rail capacity or to expand capacity during the peak shipping season. Given the market power of the Class 1 railways, it is also advisable to review the MRE to ensure that gains in efficiency are shared across the entire grain supply chain.

The Grain Dependent Branch Line Abandonment Process

It is the GOA's opinion that the required process for Class 1 railways to abandon grain dependent branch lines works reasonably well. The process should be maintained in the CTA.

During its engagement with grain industry stakeholders, the GOA learned that Class 1 railways have entered into highly restrictive sales agreements with the purchasers of some branch lines. These agreements may bind the purchaser to receive all of its railcars in the future from the seller and prohibit the purchaser from obtaining cars by any other means (e.g. leasing cars itself), even if the seller fails to supply the purchaser with the number of cars it requires.

Given the market power of the Class 1 railways, the GOA doubts that such a restrictive agreement is reached through a balanced negotiation, or that it serves the best interests of both parties. The GOA recommends that the Canadian Transportation Agency monitor such sales agreements to ensure they do not represent a misuse of market power by the Class 1 railways. If the Agency does not currently have such a mandate, the GOA recommends that the CTA Review consider an expansion of the Agency's mandate to include abuse of market power. The GOA intends to expand on this recommendation in further submissions to the CTA Review.

Grain Movement Targets

The record grain harvest of 2013 led to the passing of the *Fair Rail for Grain Farmers Act*, which amended the CTA to grant the federal Minister of Transport the power to mandate minimum grain movement levels for the Class 1 railways. The Government of Canada has exercised this power and set a weekly movement level of approximately one million metric tonnes. The GOA regards the grain shipping targets as a blunt, but necessary instrument.

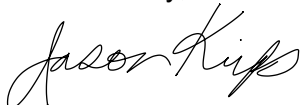
A weekly target expressed in tonnes or railcars appears to provide incentives for the Class 1 railways to emphasize some grain movements over others. In order to meet the target, rapid and high volume movements are desirable. This means that movements of large trains on main lines to export ports present the Class 1 railways with the best means to meet the mandated movement level.

Movements from farther away, slower movements, and smaller trains are less desirable for the Class 1 railways to meet the shipping levels. These movements, however, can represent high value sales or important ongoing commercial relationships for grain shippers. It appears that the mandated movement levels provide an incentive for the Class 1 railways to emphasize routes and train sizes that may not be in the best interest of grain shippers or grain users. During the past six months, this has manifested itself as railway concentration on high volume moves to Thunder Bay, Prince Rupert, and Vancouver, and a continued inadequate level of rail service on domestic and United States movements.

The GOA recommends that the ability to mandate movement levels remain in the CTA as an extraordinary measure, and that consideration be given to making it apply to any commodity. The GOA also recommends that the minimum movement targets be set in a way that does not favour one type of rail movement over another.

The GOA appreciated meeting with you on October 21, 2014, to share information, build a working relationship, and better understand initial positions on the CTA Review. The GOA also appreciates the opportunity to make this, and other submissions, to the CTA Review. We look forward to a continued dialogue on Canada's transportation needs in the next decades.

Sincerely,

A handwritten signature in cursive script, reading "Jason Krips".

Jason Krips
Deputy Minister

cc: Honourable Verlyn Olson, Minister of Agriculture and Rural Development
Gitane De Silva, Deputy Minister, International and Intergovernmental Relations
Grant Sprague, Deputy Minister, Energy
Andre Corbould, Deputy Minister, Transportation