The Western Canadian Short Line Railway Association’s Brief to the Senate Standing Committee on Transport and Communications

February 6th, 2018
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INTRODUCTION

Short line railways offer a green transportation option that supports local communities and strengthens both Canada's export capacity and the grain transportation system.

The Western Canadian Short Line Railway Association, previously the Saskatchewan Short Line Railway Association, is a not-for-profit membership-based organization representing the interest of 14 short line railways across Western Canada.

While present in all Western provinces, Saskatchewan has the most extensive network of short line rail. Saskatchewan short lines own and/or operate 24% of Saskatchewan's 8722kms of track and are present in 18% of urban municipalities and 26% of the province's rural municipalities. The short line railways employ 183 residents, serve 72 small and medium-sized businesses, have a combined expense budget of over 31 million dollars, and transport approximately $500 million worth of commodities per year.

WCSLRA member railroads depend on competitive rates and rail transportation options to compete with the subsidized trucking industry. We believe that the future of transportation should be improved competitive choice for farmers and shippers. It is our opinion that the proposed legislation will not achieve the Government's desire to increase competition.

We hope that this submission clarifies that:

- rate spreads set by the Class 1 railways are anti-competitive and unfairly disadvantage producers and small- and medium-sized businesses,

- the newly introduced long-haul interswitching will decrease Canada's ability to compete on the world agricultural stage against Russia, China, and other competitors, and

- short line railways should have access to shipper provisions, such as service level agreements, with their Class 1 partners.

This paired with sunsetting the 160km interswitching mechanism, the rapid disappearance of the producer car, and funding models that do not support short line rail, risk putting short line railways and our customers in a worse position should the legislation be passed as is.
RATES

Before discussing in detail our response to Bill C-49, we would like first to explain the underlying rate issues facing Western Canadian short lines and our customers as they apply to our submission.

Short Haul vs. Long Haul Rates

Requests for railway movements are not always for long hauls. In some instances, short lines are asked to provide quotes for rates for shorter movements, for example, shipping to a terminal or shipping gravel between municipalities within a province.

Unfortunately, rates provided by Class 1 carriers for short hauls are prohibitively high, and as such, shipping by rail is not an option for many small shippers. These goods are forced to be shipped by truck — adding significantly to greenhouse gas emissions, destroying provincial highways and roads, and disincentivizing small business economic growth.

In the table below, rates for different commodities are compared for a short-haul vs. long-haul rate by rail, as well as by truck. Rail rates were accessed via CN and CP’s tariffs posted online with varying expiry dates in the range of July 1, 2017, to July 31, 2017, for single cars (accessed August 28th, 2017) and truck rates were based on Government of Alberta average custom trucking rates, 2015.

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Route</th>
<th>Distance</th>
<th>Rate</th>
<th>Rate per mile</th>
<th>Rate via truck (at $5/lmi)$5 X 2*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barley</td>
<td>Swift Current, SK to Calgary, AB</td>
<td>322 miles</td>
<td>$2,602</td>
<td>$8.08/mile</td>
<td>$3,220</td>
</tr>
<tr>
<td></td>
<td>Swift Current, SK to Vancouver, BC</td>
<td>961 miles</td>
<td>$3,712</td>
<td>$3.86/mile</td>
<td>$9,610</td>
</tr>
<tr>
<td>Wheat</td>
<td>Swift Current, SK to Kamloops, BC</td>
<td>712 miles</td>
<td>$4,790</td>
<td>$6.73/mile</td>
<td>$7,120</td>
</tr>
<tr>
<td></td>
<td>Swift Current, SK to Vancouver, BC</td>
<td>962 miles</td>
<td>$4,162</td>
<td>$4.33/mile</td>
<td>$9,620</td>
</tr>
<tr>
<td>Peas</td>
<td>Assiniboia, SK to Coaldale, AB</td>
<td>354 miles</td>
<td>$3,815</td>
<td>$10.78/mile</td>
<td>$3,540</td>
</tr>
<tr>
<td></td>
<td>Assiniboia, SK to Vancouver, BC</td>
<td>1076 miles</td>
<td>$4,883</td>
<td>$4.54/mile</td>
<td>$10,760</td>
</tr>
</tbody>
</table>

* The rate is multiplied by a factor of 2 as two truckloads is approximately equivalent to one grain car.

1 http://www1.agric.gov.ab.ca/$department/deptdocs.nsf/all/inf15873
As evidenced in the table above, shipping by truck for distances less than 500km is more affordable than shipping by rail. While the price to ship by truck may be slightly higher for some commodities and distances, for example for barley from Swift Current, SK, to Calgary, AB, above, additional costs, for example, using short-haul trucks to get the product to and from the rail car, and loading and unloading, make rail more expensive. In some cases, for example, Assiniboia to Coaldale for peas, rail is more expensive than truck even without the additional costs of using rail.

This negatively impacts short lines when attempting to meet their customer’s needs for short hauls of less than 500km. This short-haul disadvantage negatively affects the customer wishing to ship by rail and increases the damage to highways and the environment; it is also a concern for the proposed long-haul interswitching rate mechanism.

**Single Car vs. Multiple Car Rates**

Many short line customers are small shippers. In much the same fashion as short-haul vs. long haul, these small shippers are disadvantaged based on the rates set by the Class 1 carriers for single car vs. multiple cars, and again are often forced to move their goods by truck.

Below is a scenario which demonstrates the issue for a shipper wishing to ship 15 cars of wheat to various destination points within Canada and the US. Considering the rate differential, it is obvious that rail, and short line rail, are at an unfair disadvantage to trucks for smaller shipments. These rates were accessed via CN, and CP’s tariffs posted online with varying expiry dates in the range of July 1, 2017, to July 31, 2017, and accessed on August 28th, 2017.

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Destination</th>
<th>Single Car Rate</th>
<th>25-Car Rate</th>
<th>100-Car Rate</th>
<th>Single Car Surcharge vs. Lowest Available Multi-car Rate</th>
<th>Total Additional Cost to Shipper for 15 Car Shipment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wheat</td>
<td>CN Marengo, SK to Chicago</td>
<td>$7,481</td>
<td>$6,481</td>
<td>n/a</td>
<td>$1,000</td>
<td>$15,000</td>
</tr>
<tr>
<td></td>
<td>CN Marengo, SK to Montreal</td>
<td>$8,294</td>
<td>$7,471</td>
<td>n/a</td>
<td>$823</td>
<td>$12,345</td>
</tr>
<tr>
<td></td>
<td>CN Unity, SK to Alton, IL</td>
<td>$9,289</td>
<td>$8,289</td>
<td>n/a</td>
<td>$1,000</td>
<td>$15,000</td>
</tr>
<tr>
<td></td>
<td>CN Unity, SK to Montreal</td>
<td>$8,187</td>
<td>$7,189</td>
<td>$7,087</td>
<td>$1,100</td>
<td>$16,500</td>
</tr>
<tr>
<td></td>
<td>CN Unity, SK to Washington</td>
<td>$5,610</td>
<td>$5,560</td>
<td>$4,050</td>
<td>$1,560</td>
<td>$23,400</td>
</tr>
</tbody>
</table>

The small shipper, when given the rates above, is forced to move his goods via truck, as adding $12,345 to $23,400 to his shipping budget is not feasible for a load of only 15 cars. It is also a concern for the proposed long-haul interswitching rate mechanism.
LONG-HAUL INTERSWITCHING

Interswitching

Interswitching was a useful and effective competitive access provision. It allowed shippers increased competitive access to the Canadian rail network and was a critical decision point for shippers when deciding to do business in Canada or establishing a location for a new build.

The loss of the 160km extended interswitching option is disappointing. While not available to shippers on our entire network of short lines, it did provide a strengthened bargaining position in most locations.

This affects our ability to attract new customers. Without access to multiple rail lines, businesses recognize that they will be captive to the Class 1 that connects to our short lines. This decreases our ability to build our businesses.

Long-Haul Interswitching

It is our understanding that the intent of the long-haul interswitching mechanism was to increase competition by providing expanded transportation options to shippers. We do not feel that the proposed long-haul interswitching will achieve this goal.

We appreciate that shippers on short lines have access to long-haul interswitching as per the proposed legislation, but we are disappointed that the rate for this new mechanism will be based on commercial rates, thus rendering it, for all intents and purposes, inaccessible.

As commercial rates for short hauls are currently excessively high, as previously described in the Rates section, basing the long-haul interswitching rate on comparable commercial short-haul traffic rates will not improve competition, or make shipping by rail more competitive than trucks for short distances.

The Factors to consider for comparable traffic as stated in the Transportation Modernization Act are:

“a) the type of traffic;

b) the distance over which the traffic is moved;

c) the conditions of the movement of the traffic, including whether it is moved as single cars, blocks of cars or unit trains;

d) the type and ownership of the cars used to move the traffic;

e) the handling requirements for the traffic;

f) the volume and frequency of the traffic;

g) any undertaking given by the shipper in respect of the volume of the traffic;

h) any incentives, rebates or any similar reductions in respect of the traffic; and

i) any other factor related to the requirements of the shipper and the local carrier that the Agency considers appropriate.”
We have concerns with several of these elements as pertains to the possible competitive nature of commercial long-haul interswitching rates set by the Agency.

The Type of Traffic
From our analysis, rates are excessively high for short-haul and single car movements across traffic type. This is concerning as all commodities produced by Western Canadian farmers would be given a rate based on non-competitive commercial rates which have been established in a monopolistic environment.

The Distance Over Which the Traffic is Moved
As discussed in the Rates section, short-haul movements are often double the rate of long-haul movements. As a result, it difficult to imagine that the rates for long-haul interswitching will be competitive if being based on current short-haul rates.

The Conditions of the Movement of the Traffic, Including Whether it is Moved as Single Cars, Blocks of Cars or Unit Trains
Again, as discussed in the Rates section, single cars have a significant price disadvantage to larger blocks. While this may not adversely affect large shippers, it is an added issue to consider for small shippers when deciding whether to apply for a long-haul interswitching rate from the agency. It is our opinion that the government should think carefully about whom they are assisting by further supporting a system that already disadvantages a nimble transportation system that benefits all economic players, including small business. The drive for efficiency is negatively affecting the economic growth of small shippers and small business.

The Volume and Frequency of the Traffic
This factor further disadvantages small shippers if the intent is to provide reduced rates for high-frequency and high-volume traffic.

Any Other Factor Related to the Requirements of the Shipper and the Local carrier that the Agency Considers Appropriate
In our opinion, it is dangerous to assume that this factor will hold significant weight. As the factor is broad and poorly defined, it is likely that the Class 1s could appeal any significant deviation from the other eight factors as determines the rate. Small shippers are not in a favorable position to challenge Class 1s and would not likely attempt to do so.

Other Organization's Analysis of Long-haul Interswitching
The following are excerpts from testimony at the Parliamentary Standing Committee on Transport, Infrastructure and Communities concerning long-haul interswitching provisions in Bill C-49 from September 11th to September 13th, 2017.

Chemistry Industry Association of Canada: “...range of limitations and specific exclusions...will lead to underuse and ineffectiveness."

Mining Association of Canada: “unduly restrictive”; “…mirrors the current competitive line rates remedy that it proposes to replace...”
Forest Products Association of Canada: “Without important amendments, LHI will not be a usable remedy for the majority of captive forest products traffic.”; “It is not going to have the desired impact that the Minister wants it to have.”

Teck Resources Limited: “I can’t figure out who might actually be able to use the thing.”

Canadian National Millers Association: “Disappointed that the extended interswitching rates were not extended.”

McMillan LLP: “I would fix the rate mechanism that’s attached to it.”

Alberta Wheat Commission: “Not only do these changes make interswitching more onerous and complicated, they can essentially render the provision useless in a variety of scenarios.”

Western Canadian Shippers’ Coalition: “We haven’t seen any willingness to do that, to compete using CLR since the early 1990’s, and we don’t see anything in the long-haul interswitching remedy that changes that dynamic.”

Forrest Hume: “I think it should be altered from the way it is currently written, so that it will continue as a competitive remedy, available to all shippers who find themselves having a need to access that remedy.”

Pulse Canada: “Excluding large groups of shippers from accessing the provisions or limiting a shipper’s access to the nearest rail competitor when the next competitor may offer the best combination of service, price, and routing, significantly decreases the potential impact of this provision.”

Fertilizer Canada: “We are disappointed by the government’s decision to sunset extended interswitching.”; “… measures proposed in the legislation that would exclude certain materials and certain regions from accessing the benefits of long-haul interswitching are a serious concern for our members.”

Western Grain Elevators Association: “Extended interswitching was not made permanent – a significant loss for us.”; “On long-haul interswitching rates, proposed paragraph 135 (1) (a) of the bill directs the agency to calculate the rate by referring to historical comparable rates, but most comparable rates to date have been set under monopolistic conditions.”

Canadian Oilseed Producers: “To be very clear, extended interswitching was an incredibly important tool for value-added processors.”; “By contrast, the long-haul interswitching mechanism contained in Bill C-49 presents a number of challenges and removes the key characteristics that we were leveraging in extended interswitching. LHI also proposes setting rates based on historical comparable rates. All comparable rates, to date, have been set under monopolistic conditions.”

Western Canadian Shippers’ Coalition: “The newly introduced long-haul interswitching rate mechanism is designed in such a way as to be inaccessible to our shipper customers. Using commercial short-haul rates, which are currently higher than that of trucks, makes competing virtually impossible for us.”

**Interswitching Summary**

Small shippers will be very reluctant to apply to the agency for long-haul interswitching rates based on the current commercial rates and the factors listed above. As a result, competition and increased traffic
on short lines – by way of small shippers or new builds on our lines – will be reduced. This paired with
the sunsetting of the 160km interswitching distance, in our opinion, results in less competition than existed
before the introduction of the Transportation Modernization Act.

While efficiency is important, it should not put small business out of business, and in our opinion, this
legislation risks doing so. This is a critical issue for our producers, as Canada’s economy depends to a
large degree on agricultural exports as outlined in the following table.

<table>
<thead>
<tr>
<th>Canadian top 5 agri-food exports (CDN$ million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
</tr>
<tr>
<td>Domestic Agri-Food Exports:</td>
</tr>
<tr>
<td>Canola seeds</td>
</tr>
<tr>
<td>Non-durum wheat, other than seed for sowing</td>
</tr>
<tr>
<td>Soybeans, other than seed for sowing</td>
</tr>
<tr>
<td>Lentils, dried, shelled</td>
</tr>
<tr>
<td>Bakery products</td>
</tr>
</tbody>
</table>

Source: Statistics Canada

Canada’s transportation system must be made more competitive and reliable, to allow Canada’s
agricultural products to compete against Russia, China, and other agricultural producing countries.

SHORT LINE ACCESS TO CTA SHIPPER PROVISIONS

Currently, the WCSLRA advocates on behalf of our customers, while being unable to directly access the
shipper remedies provided for in the Act. Many of our customers are small shippers, and as such, they
are unable to invest the time and money necessary to truly benefit from shipper remedies.

To support small businesses and shippers on our line, the WCSRLA would like to be able to access
shipper remedies directly, particularly Service Level Agreements, allowing us to negotiate directly with
the CTA.

PRODUCER CARS

Producer cars allow Canadian farmers to choose where they sell their grain. Farms are geographically
fixed and without the flexibility and choice offered by producer cars, are limited in the choice of where
to sell their grain.

The grain year of 2013/14 had a major impact on the grain transportation system. One of the
consequences was the diminished use of producer cars. Producer cars were virtually impossible to secure,
with producers waiting months – far longer than if they sold their grain to a large terminal. Producers
lost confidence in the producer car ordering system and began using the more reliable primary
elevators instead.

Producer cars can increase competition in the grain industry should they be accessible. They are an
attractive option for farmers and companies that do not have facilities in Canada if there are access
points, value, and reliability.
We recommend that protection for producer cars and producer car sites be included in the legislation. As we have learned with short lines, once they are gone they never come back.

**MRE/RATE PROTECTION**

The Western Canadian Short Line Railway Association supports the continuation of the MRE as outlined in the Transportation Modernization Act.

One additional point that we would like to include: the spread in rates between the branch and mainlines on a carrier should not exceed what is charged to a short line. It would be beneficial to have added protection to rates for short lines within the MRE to encourage competition.

**SHORT LINE INFRASTRUCTURE FUNDING**

Funding is critical to short line railways. Short lines are facing growing expenses related to increased safety regulation and aging infrastructure, all while making an effort to compete with the subsidized trucking sector. The current legislation risks further decreasing our competitiveness.

We have recently experienced issues with programs that the government has expanded to include short lines, but that in reality, we cannot access, namely the Railway Safety Improvement Program (RSIP) and the Building Canada Fund.

**Railway Safety Improvement Program (RSIP)**

WCSLRA members applied for funding in the RSIP's last funding cycle, but all applications were declined. In discussions with Transport Canada, we were told that we did not provide projects that were ranked highly enough and that they were only approving crossings, while some of our applications were for LEDs.

Despite our short lines having accessed the traffic counts from the Saskatchewan provincial government Rail Safety branch, and including them in our applications, it became apparent in discussions with Transport Canada that the traffic counts that were being used to rank were from a Transport Canada maintained spreadsheet that is outdated. Transport Canada staff could not answer when or how it had last been updated, and comparisons between the province’s data and Transport Canada’s data showed significant deviation for some of our member short lines. This had a significant impact on our applications, as decisions were being based on the outdated and incorrect information.

**Building Canada Fund**

This program has also been inaccessible to short lines to date, despite short lines being encouraged to apply by both levels of government.

A letter from the Minister of Infrastructure and Communities dated July 31, 2017, to Mr. Perry Pellerin, President, WCSLRA states:

“Short Line Rail is an eligible category for funding under the Provincial-Territorial Infrastructure Component of the New Building Canada Fund. Under this program, proposed projects must first be prioritized by the province before they are submitted to Infrastructure Canada for consideration. The Government of Canada works closely with provincial, territorial and municipal partners to fund infrastructure projects, but it is these orders of government that are responsible for the planning,
prioritization, design, financing, and operation of their infrastructure assets. As the projects you are writing about could be constructed in Saskatchewan, Manitoba, and Alberta, I would encourage you to contact their ministries of infrastructure.”

The WCSLRA took the Minister’s advice and contacted the Director, Rail Policy, and Programs, at the Government of Saskatchewan. The response included:

“MHI [Ministry of Highways and Infrastructure] has not provided any letters of support or agreed to act as a sponsor for any shortline’s application under Building Canada Fund. Government Relations indicated to us that private-sector applicants could apply if they have a sponsor. However, it must not be an agent such as MHI that is involved in the funding decision chain.”

After the program was first announced back in 2013, Cabinet directed the province’s $437 million in PTIC funding to be divided as follows:

- $196.5 million administered by MHI
- $240.2 million administered by Government Relations to all other eligible PTIC applicants for municipal projects.

Ultimately, the major challenge for shortlines is that when the funding was originally allocated, nothing was specifically set aside for shortline projects.”

As a result, no Saskatchewan short lines were able to apply for funding under the Building Canada Fund.

**Funding Summary**

The WCSLRA fears that this legislation will result in situations much like the RSIP and Building Canada Fund. While we often hear that short line rail is important and that both levels of government support our efforts, changes to programs that appear to support short lines continue to be inaccessible.

**CONCLUSION**

It is of critical importance that competition is a focus in any consideration of the future of transportation in Canada. The industry is becoming less competitive over time, for both grain handling and rail transportation. This poses serious risks to farmers, the export industry, and Canada’s attractiveness as an investment option.

In this submission, we hope we have shed light on the effect we believe the Transportation Modernization Act will have on short line rail, small shippers, and small business in Western Canada. While intending to increase competition, this legislation continues to move our transportation system towards ‘efficiency’ that deters small business and small shippers, and negatively impacts the flexibility and accessibility of our transportation system. Our goods have become known on the international stage as both expensive and unreliable. It is very important that Bill C-49 improve our reputation rather than further damaging it.