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Chair

The Honourable Judy A. Sgro

Standing Committee on Transport, Infrastructure and Communities

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● (0850)

[*English*]

The Chair (Hon. Judy A. Sgro (Humber River—Black Creek, Lib.)): Welcome, everyone.

Thank you all very much.

To our committee, thank you for showing up at this hour, which is going to be our slot. My apologies for being away. I wanted to congratulate my vice-chair on doing such a fabulous job last week, but I'll have to wait until he's here to do that publicly.

Mr. Aubin, welcome to our committee officially today. We're very happy to have you with us, and we hope that you enjoy this committee as much as I think the rest of us do, as we work through some of these particular initiatives.

Of course we all know some of our substitutes who join us all the time and always make sure we're on our toes with this experience as well.

We'll start with the Railway Association of Canada.

Would you like to introduce yourselves, please?

Mr. Michael Bourque (President and Chief Executive Officer, Railway Association of Canada): Thank you, Madam Chair.

My name is Michael Bourque. I am the president and chief executive officer of the Railway Association of Canada. With me today is Gérald Gauthier, our vice-president.

I'm here to speak on behalf of our federally regulated railways and to discuss our concerns with the Fair Rail for Grain Farmers Act, and in particular, the effect that interswitching provisions have on the railway sector and the customers it serves.

The Railway Association of Canada represents more than 50 freight and passenger railway companies. Our membership includes the class I freight operations of CN and CP and more than 40 short-line railways across Canada. It also includes Canada's principal passenger, commuter, and tourist railways. Since you will be hearing from CN and CP shortly, I will focus on the impact on short-line railways, but the detrimental effects of these provisions apply to class I railways as well.

Short-line railways are a vital part of Canada's transportation system. They own approximately 20% of the national rail network. One in five carloads originates on a short-line railway. These railways transport everything from bulk commodities such as metals, lumber, and grain to manufactured goods, accessing the high-density continental network operated by CN and CP.

Short-line railways provide an essential feeder service for businesses situated in rural and remote areas across the country. This service provides shippers with a cost-effective and energy-efficient option for moving their products to North American and global marketplaces.

Short-lines compete with trucking, but they are significantly different. They run on private track, not on public roads. They have lower emissions, lower greenhouse gases, and they don't congest our roads or wear them out.

Under the existing interswitching rules, a shipper serviced by one federal railway can ask the railway to move its traffic to the point where its line connects with another federally regulated railway, or the interchange point, at a prescribed rate. These rates are cost based. Subsection 128(3) of the Canada Transportation Act states that:

> In determining an interswitching rate, the Agency shall consider the average variable costs of all movements of traffic that are subject to the rate and the rate must not be less than the variable costs of moving the traffic, as determined by the Agency.

As the vast majority of traffic interchanged in this country is between CN and CP, it is their costs, not the costs of short-line railways, that are considered by the agency in its rate determination. This is a fundamental flaw in the methodology as it does not align with short-line railway's unique cost structure. The RAC, our organization, has voiced its concerns to the Canadian Transportation Agency many times, including during the very brief consultation process that supported Bill C-30. Rates under the interswitching provisions are not compensatory for short-line railways.

It is important to note that short-lines have access to a limited revenue stream and are unable to make systemic improvements or expand and build their infrastructure at a rate comparable to class Is. Short-line revenues are sufficient for the purposes of maintaining existing infrastructure in accordance with regulatory requirements, but they just do not have as much investment to put in as class Is.

Over the last three years, the costs of operating a railway in Canada have increased for short-line railways. The new rail regulatory requirements for rail crossings, minimum insurance requirements for dangerous goods, and increased fuel costs have put their long-term sustainability at risk. You will recall that as part of your review of Bill C-52, short-line railways testified that the proposed minimum insurance requirements would create a substantial cost for them, and they have.

By the way, we're not arguing against these safety regulations, on the contrary. I'm simply noting that they, especially crossing regulations, have been very costly for short-line railways.

If maintained, the existing interswitching zone of 160 kilometres can have a detrimental effect on the short-line sector by further eroding their access to the revenues they require to maintain, upgrade, and expand their infrastructure. Over time, the resulting effect will be a slow and steady decline of short-line railways in Canada. For shippers in rural and remote areas, their rail link to a low-cost, safe, and highly efficient class I rail network will be lost.

● (0855)

In closing, the reality is that interswitching provisions, in their current format, are harmful for the rail sector in Canada. In no way can this regulation stimulate or incent the investments that are required to improve the movement of goods by rail in the Prairies. In fact, there is a demonstrable need to create a dedicated funding program for the short-line railway sector, and I would be glad to come to talk to the committee about that at another time.

Short-line railways in the U.S. have a different support structure, which includes a variety of dedicated federal and state-level funding programs. To date, there are no similar programs available to short-line railways in Canada.

The interswitching provisions brought forward under the Fair Rail for Grain Farmers Act were introduced as a temporary measure, hoping to facilitate a more efficient movement of grain in the Prairies. With the 2013-14 grain crisis behind us, we believe that the provisions should be allowed to sunset and that the public policy discussion should focus on how Canada can stimulate the investments required to remain competitive and move goods to the marketplace more efficiently and safely.

Thank you.

The Chair: Thank you very much.

Mr. Pellerin.

Mr. Perry Pellerin (Chairman, Saskatchewan Shortline Railway Association): Good morning, Madam Chair and committee. First, thank you for inviting me to speak today and for giving the Saskatchewan Shortline Railway the opportunity to supply our thoughts on your study of the amendments to the Fair Rail for Grain Farmers Act.

As you are aware, short-lines transport approximately $500 million worth of commodities per year in Saskatchewan alone. The vast majority of this is grain, with producer cars making up over 65% of that number. The success of grain farmers is critically important to us, and we appreciate the opportunity to contribute in this topic.

The sections under discussion today are timely and critical to Canada's reputation as a reliable export partner. The volume of grain being produced in Canada is growing each year, and we believe that the future of transportation should include improved, competitive choice for farmers and shippers. We believe to achieve this the following points are critical.

Firstly, maintain Bill C-30 provisions which afford the agency more power. Second, create a rail transportation ombudsman, in the hopes of achieving real-time correction of issues that adversely affect the economy. Third, re-examine the minimum volumes model. Fourth, extend interswitching provisions to local carriers, short-line railways. Fifth, we believe we need to act quickly on small, isolated issues. These are issues that usually fester and soon become very costly and much larger issues in a short time. I think over the past few years, since 2013, we've been looking for a global fix for the grain transportation issue, but instead maybe we should be looking at more isolated problems and fixing those problems before they become larger ones.

Regarding agency powers and the ombudsman, subsections 5.1 (8), (10), (11), and (12) of the Fair Rail for Grain Farmers Act deal with agency powers in some form. The Saskatchewan Shortline Railway Association does not support any changes to the act that would limit the minister's or the agency's ability to delegate, arbitrate, set penalties, or require a railway company to compensate those adversely affected by failure to fulfill service obligations.

To support and encourage competition, there must either be competitive choice by several service providers or an increase in policing of service obligations to ensure that a limited choice of service providers fulfill their service obligations. While interswitching, which I will discuss shortly, allows for some increase in competition, Canada is largely at the mercy of two national freight carriers, CN and CP. Any disruption to service obligations affects Canada's international reputation as a reliable, safe transportation network. The service disruptions in 2014 have already negatively impacted our reputation. With increased technology and yields, Canada's farms will only continue to grow, increasing the strain on the rail network.

The Saskatchewan Shortline Association feels that a critical piece missing from the grain transportation system is a transportation ombudsman. It is extremely foolish to let issues build to a breaking point as they did in 2013-14. The current system of dealing with the railway company's failure to fulfill its service obligation is slow, difficult to manage, and inefficient. This harvest season has already seen signs of 2013-14. But in the current system, again, we'll only be able to discuss issues after the fact, and cannot deal with them in a simple or timely manner.

We're having issues today on the south shore that would have directly affected customers such as Columbia Containers, which in week nine had to cancel all new orders because of a backlog of traffic. If farmers and shippers and stakeholders had an easy and accessible place to log concerns as they arise, it might be possible to avert issues rather than reflecting on them post-disaster. A public advocate, appointed by the minister, would be an excellent way to represent the interests of the public and stakeholders by investigating and addressing complaints and violations in real time. The ombudsman could easily identify systematic issues leading to poor service and attempt to resolve them through recommendations or mediation without the red tape so systematic in the current transportation system. We don't need more regulation. We need more timely actions.

● (0900)

In essence, an ombudsman would allow the government to protect Canada's export capacity proactively rather than reactively. It would also protect the smallest shipper to the largest shipper, and in some cases probably even protect the railways.

This brings us to the topic of minimum volumes. We support measures to encourage the movement of grain. However, there has been some unintended negative consequences to minimum volume regulations.

First, locations that are further geographically from the port are being unfairly disadvantaged. It is logical, less costly, and more logistically efficient to move grain from Alberta and western Saskatchewan to port than it is for the rest of Saskatchewan or Manitoba. This is not fair for farmers who are further from western port positions.

Second, customers shipping to the U.S., for example, those shipping oats, are negatively impacted, as CN and CP have trouble logistically meeting the minimum grain targets if they have to focus resources on these customers. This is not fair for farmers growing certain types of grain, and has a false impact on what farmers choose to grow in the future.

Third, small shippers are disadvantaged, as short-lines and producer cars do not always have enough volume to regularly ship assembled 130-car unit trains. As a result, large grain companies with huge storage facilities or mainline points are preferred for the mainline carriers.

The current obligation to move grain, which is in essence a positive provision, encourages CN and CP to favour large unit trains from large grain companies as close to western ports as possible, disadvantaging the eastern sites in western Canada and those shipping to the U.S., small shippers' producer cars, and subsequently short-lines. Small shippers deserve the right to move cars when sales are made, not when everybody else is done.

Michael did a very nice job on interswitching. Interswitching is, or could be, a useful and effective competitive access provision. It allows shippers access to the entire Canadian rail network and is a critical decision point for some shippers when deciding to do business in Canada.

Interswitching regulations do not benefit short-lines in their current form. We are only connected by an intermediate railway that can set intermediate or interswitching rates. A recent example of this is one class I carrier who set a rate of $2,600 to move a car one mile.

As a result, this makes short-lines a less attractive option to shippers looking for a location to build facilities with low-cost access to both CN and CP for competitive purposes. It would be ideal for short-lines to have interswitching regulations apply to us or not have the regulation at all. Currently this is actually a disadvantage for us, for the fact that if a new customer is looking to build a facility, especially in Saskatchewan, he's not going to look at a short-line. Under the current way that interswitching works, he doesn't have access to both carriers. He's much better to build on CN or CP.

In conclusion, we believe it is important to maintain the provisions of the Fair Rail for Grain Farmers Act, which provide the agency and the minister with the power to effect needed change. We also suggest taking one step further, the establishment of a rail transportation ombudsman to act in a timely fashion and prevent disasters like 2014.

As well, we believe there are added provisions needed for a minimum grain shipment section to ensure the act is indeed fair for all grain farmers.

Finally, we'd like to see interswitching provisions extended to short-line railways or abolished. Under the current form, as mentioned, it's a disadvantage to us.

I really appreciate the opportunity to speak here today, and thank you for all the work you have done. I want to express that time is of the essence. We've been talking about this, it seems like forever. Again, we're getting into trouble and we need to do something about it.

Thank you.

● (0905)

The Chair: Thank you very much for coming in with your suggestions.

We're always looking for solutions to some of the problems that the government of the country is facing. We appreciate your thoughtful presentations this morning, and your assistance in trying to deal with a difficult issue for which we are looking for long-term answers.

Thank you very much.

We turn to Ms. Block for six minutes.

Mrs. Kelly Block (Carlton Trail—Eagle Creek, CPC): Thank you very much, Madam Chair.

I join her in welcoming you here today. It's been good to hear your testimony in the context of short-line railways. I think Saskatchewan has the most short-line railways of any province in Canada. You can correct me if I'm wrong on that.

Mr. Perry Pellerin: You're right. It has 14.

Mrs. Kelly Block: I recognize that this is a very important conversation for us to be having. I want to clarify just a couple of things that were said and perhaps ask for some more information.

First, we've heard that the bumper crop of 2013 could fast become the norm in terms of what we're producing in western Canada. Perhaps you could comment on that. We've heard that shippers haven't used the 160-kilometre distance as much as it was first anticipated they would.

My question to Mr. Emerson and other witnesses has been, “If it hasn't been used that much, what's the problem with keeping it in, in case it is actually necessary?” Perhaps you could comment on that. What would your solution be? Is there another solution other than just applying interswitching to short-line?

Anyone can answer.

Mr. Perry Pellerin: First of all, I'll start on the ones I can help you with.

Technology in the grain industry is unbelievable. Even this year, as we fight through rain and other problems we're having right now, we're going to see some exceptional yields in durum and oats. They're talking about durum getting close to 100 bushels an acre, huge amounts. That's only going to grow as we go along.

Maybe one positive side of global warming is that we're seeing that we're able to grow different types of crops farther north, especially in Saskatchewan. That's opening up what we can grow and, again, the yields up there.... We only see that expanding. Down the road, the size of the crop, even in a normal year, is going to get to be pretty significant. I think that will continue.

Why don't people use interswitching? Possibly one of the issues was that last year we ran out of grain. In May and June, we were basically out. When you're out of grain, the need to use competitive points isn't there. I'm not sure it was a fair test of interswitching last year. You may see that it is different.

Some of the railways have products, as you're aware, and in those products, or in the tariffs, they've gotten around interswitching a little bit by saying that you can only use those products at either a CP or a CN location. It kind of eliminates your ability to go somewhere else.

On a positive side, I've seen a real change, especially at CN this past year, towards trying to allow customers to manage their own destiny. They have not really stuck to products as much, but have tried to say, “What do you need to move your product?” I thought CN did an excellent job this year and it is in good shape. The other guy, maybe not so much, but I do think there are some positive steps there. That's why, when it comes to the interswitching provision, I'm not sure it will ever actually attain what it was intended to do, if that makes any sense.

● (0910)

Mr. Michael Bourque: Can I just jump in? I'm glad that you asked about the 2013-14 crop because it predates this committee, and there was a lot of information shared during that time that's probably worth repeating.

First of all, this was the largest grain crop in the history of the country. It was 20 million metric tonnes larger than the average crop. It takes 100 extra trains—I forget the exact metrics, but in fact, it's hundreds of extra trains—to move that additional crop to an export position. At the same time, we had the worst winter in 100 years, or certainly in 75 years. Those of you who are from Winnipeg will recall that in June the municipal water pipes were still frozen from that winter. Unfortunately, with existing technology, there's an impact on rail. From a rail safety standpoint, we need to shorten trains. In addition, there is broken rail. There are broken wheels. These are facts of physics that we prepare for, but which still affect railways.

We had this perfect storm, and what have the railways done in response since then? They have massively invested in their network. You can't expect them to have hundreds of railcars, crews, and locomotives sitting on standby for that once in a hundred years crop, but they have invested, and it's exactly the kinds of regulatory provisions like extended interswitching that can prevent additional investment. We have to ask ourselves, what is the formula for this success in having successful, efficient railways in this country that are globally recognized as being among the most efficient? The key there is investment.

The Chair: Thank you very much.

Mr. Iacono, for six minutes.

[*Translation*]

Mr. Angelo Iacono (Alfred-Pellan, Lib.): Thank you, Madam Chair.

I will share my speaking time with my colleague, Vance Badawey.

Thank you, Mr. Bourque, for being here this morning and sharing your point of view.

My question is the following. How can the Railway Interswitching Regulations be changed to make them compensatory and applicable to shortline rail, in order to give producers access to a larger transportation network?

[*English*]

Mr. Michael Bourque: I focused quite a bit in my remarks on the fact that the rates are not compensatory. It's true that if those rates were adjusted, then it would be helpful, but the more important point is that it is a regulated rate. What my short-line members are telling me—the class Is can speak for themselves—is that they already exist within a highly regulated environment that allows for commercial interactions, and the marketplace can react more quickly.

I'm not speaking about grain, because that's already a regulated rate, but they want to operate within a commercial framework and not within a regulatory framework. The fact that those rates are not compensatory today indicates that the system will never keep up with the market, so you're better to leave that to the commercial marketplace and and make sure you have sufficient provisions in place that protect the customers in the event of a dispute.

I would argue that we already have a significant number of those measures in place. We have the Canadian Transportation Agency, which has significant powers. We have the maximum revenue entitlement. We have a common carrier obligation. There are a number of shipper protections, final offer arbitration, and mediation services available, so at some point you have to let commercial actors work it out themselves.

What we have seen in this country is that we've developed an efficient, highly productive, and well capitalized railway system. Where there is a *lacune* is that short-lines compete with trucks, the trucks drive on subsidized roads, and short-lines don't have that benefit of additional infrastructure spending from the government to help them and to level the playing field.

I would emphasize what Mr. Emerson said when he talked about the importance of these short-lines and that we need them to survive. We need to make sure those tracks don't get ripped up because in the future we're going to need them, particularly if you care about sustainability. We are a lot more efficient than trucks, and we are lower-emitting, and so on.

I'm sorry, that's a long answer to your question.

● (0915)

Mr. Angelo Iacono: Thank you.

Do I have more time?

The Chair: You have three minutes left.

Mr. Badawey, you can share it.

Mr. Vance Badawey (Niagara Centre, Lib.): Thank you, Madam Chair.

I'm going to direct my questions to all three with respect to some of the comments that were made.

In 2013, and now in 2016, we're seeing similar yields, we're expecting similar yields. You mentioned your opinions on interswitching. Interswitching was put in place back in 2013 to really look after the challenges that were evident.

How do you see short-lines being a part of a solution in 2016, with similar yields, versus interswitching?

Mr. Michael Bourque: I think the most important thing to remember is that, from a grain perspective, all grain starts on a truck, and it is delivered to an elevator, to a point, by truck. Short-lines are competing with those trucks, but they're still accepting the product from a truck. For a short-line to compete, what they want is to be compensated fairly for moving the traffic from point A to point B. The interswitching provisions have not been used that much, and therefore there hasn't been the greatest impact. But I think that just tells you that it's not a tool that does short-lines any good. Really what they're telling us is that they want to work within a commercial framework and negotiate with the parties to move that traffic.

Mr. Vance Badawey: Now from a macro point of view with respect to looking at an overall strategy beyond what we're discussing here today, with the yields and the crops in 2013 and 2016, how do you see overall strategies utilizing all methods of transportation as being an advantage to short-lines, but ultimately being an advantage to the actual markets that you're servicing?

Mr. Michael Bourque: It's a good question. From a strategic standpoint, we have to understand that we're operating within global supply chains and that Canadian supply chains are competing with other supply chains. Everything is connected. The shipping sector is connected to ports and ports are connected to rail and truck. Grain companies are big and are big actors there. So we all need to work together.

One of the things that I find people don't understand well, and certainly people don't get enough credit for, is the precision railroad model that has been introduced into Canada. What's happening with short-lines is that they are increasingly working into that precision railroad model. There is, in fact, private sector investment that's looking for opportunities to enhance that connection, to bolt on a precision railroad model at the short-line level to the class Is. From a rail perspective, the productivity has been there, the investment has been there, the efficiency gains have been there, but for the other parts of the supply chain I'm not so sure that has happened. For short-lines, what they need is a little bit of help from government, quite frankly, because of this competition with truck, as I explained.

From a broader strategic standpoint, I think what we need to look at is that government in particular is a huge player in the overall transportation network. They own the ports, they own the bridges, they own the roads, they own the tunnels for the most part, and they are the regulator. They're the elephant in the room of the supply chain and they need to look at how they can incent additional investment.

You've seen in Australia, for example, that governments have sold ports. I took note of the fact that when they sold the most recent port some of the revenue from that is going to be used to close 50 railway crossings. Why do they want to close 50 railway crossings? It's because it's going to increase the fluidity on the rail network and it's going to be safer, because the safest crossing is one that doesn't exist.

So there is an important strategic standpoint.

● (0920)

The Chair: I'll give you a second, Mr. Pellerin.

Mr. Perry Pellerin: I think one of the things we have to look at is that, yes, we do compete with trucks in this. We are doing an experiment this fall with CN Rail where we take cars and we're moving them from a branch line to an inland terminal within Saskatchewan. At that location they're going to unload the cars, clean the grain, and ship it out in unit trains. If that's effective, it accomplishes several things. Obviously, as was mentioned, it's better for the road network, better for the environment, and it's more efficient for the producer or the shipper off that short-line because he gets the car when he needs it. He doesn't necessarily have to sell the car to an export position at the west coast, he just wants to sell his grain the week when he wants to sell it at the best possible price. So we're offering that service. It is a good example of co-operation that we've received from CN.

Our next biggest issue is not rates, it's car supply. If we don't get the cars or have the ability to use our own cars, we can't compete against the trucks, and that's where we lose out.

The Chair: Thank you very much for that information.

Mr. Aubin, for six minutes.

[*Translation*]

Mr. Robert Aubin (Trois-Rivières, NDP): Thank you, Madam Chair.

Thank you, gentlemen, for being here this morning to share your expertise. I want to address two topics with you in the next six minutes. I will ask the questions, then leave you time to respond.

My first question is two-fold and concerns the interswitching costs. If the real financial interests of shortline rail companies were taken into account when calculating costs, would the measure seem adequate? For example, could an annual update of the interswitching rates be considered to make the measure more acceptable? That's my first question.

My second question concerns the crisis in 2013-2014, when both tremendous production and major climate problems apparently occurred. However, in the following years, we noted a significant decrease in oil transportation, which likely freed a certain number of trains and enabled us to fulfill our mission for grain.

The day we have significant agricultural production, which seems to be more and more the case, and also a steady oil market, will we still have the capacity to transport both?

[*English*]

Mr. Michael Bourque: I'll take two minutes, Perry, then you can take all the rest of the time.

On the first point, as I've said, on the interswitching provisions, what my short-line members are telling me is that it's potentially harmful to them. I realize that if the rate was fixed temporarily, perhaps, we would have something that's compensatory. But we would be working within a further regulatory environment. That is not what my members are looking for.

Instead, what they're looking for, in terms of a government role, is for assistance with their needs to improve their infrastructure so that they can compete with trucks and have a level playing field with trucking. Don't forget, the regulation that government has imposed has caused more cost and there has been no additional funding put forward to help these short-lines.

I'll let you go ahead.

Mr. Perry Pellerin: One part of the CTA review that was critical for us was that Mr. Emerson identified the need for short-lines to receive funding, which couldn't have been said better.

We took over a lot of lines that were in tough shape and we are struggling to keep our head above water. In a lot of cases, we take very seriously every single car we ship, and we are really an advocate for our customer, especially since the demise of the Wheat Board. We find short-lines, especially in Saskatchewan, to be the voice of a lot of producers.

In instances like this, we find that not only are we talking for the short-line but we're talking for the producer, because right now he doesn't know who to talk to who can give him any help.

When it comes to interswitching, as I mentioned, under the current form it really has no advantage to the short-line and doesn't help us. If that doesn't change, we'd rather see you get rid of it for the fact that it's an advantage to the class Is.

We also think that we can compete very well with trucks. We can compete with our class I customers, as long as that playing field is level and as long as we end up in a situation that we're afforded the same car supply and access as those mainline points. If we can obtain that, I think short-lines will be a valuable piece.

As was mentioned here, as we get into situations, short-lines can be a very valuable, let's say, surge capacity in a tough year. As was mentioned about winter conditions, we have the same winter conditions and we operate in the same fashion. But because we are able to react quicker and almost as efficiently as the class Is, we think there's incidents where we could help out. We simply have to work together. I think the relationship is growing between the class Is and the short-lines so that we can do that.

Not all of this is negative; there are some positives. But, really, the interswitching, when it was all done, didn't accomplish what it was supposed to and, like I said, I'm not sure it ever will.

● (0925)

Mr. Michael Bourque: On the question of petroleum being moved, I just did a little back-of-the-envelope calculation for what that extra grain crop was. It's 2,000 trains with 100 cars each. An additional 2,000 trains, with 100 cars each, was just to move the additional crop in that record year. A lot of that was being moved to an export position through the Vancouver gateway. There was not a single carload of oil that got moved to the Vancouver gateway, but you can ask the class Is that question when it comes up. We did not see a huge conflict in that respect.

Mr. Perry Pellerin: But we must not forget, up to that point of today, that last week we had no oil, we had no weather, we had nothing, and there were terminals on the south shore out of grain for more than 60 hours.

That's not acceptable. We have to do something, and what that reflects is that, if you don't unload them, they're not empty, they don't get back to the country, and it reflects on short-lines, producers, farmers, and even in this case the other class I carrier. It's not his fault. He didn't do anything wrong. He did everything he was supposed to. We're all responsible here for this chain, and we have to react more quickly than we've ever reacted in the past. To me, that is the key to this whole thing. We're too slow to decide when we're in a big mess. That's what we have to do.

The Chair: Thank you all very much for the information. We'd appreciate any further comments you might have that you want to send to the committee. You know what we're struggling with, to come up with recommendations that will seriously deal with this issue. If you have any subsequent thoughts following today's meeting, please feel more than welcome to send them to the clerk for distribution to the committee members.

Thank you very much. We will change panels now.

● (0925)

(Pause)

● (0930)

The Chair: Would you like to introduce yourselves, starting with the Canadian National Railway and then the Canadian Pacific Railway?

Ms. Janet Drysdale (Vice-President, Corporate Development, Canadian National Railway Company): Good morning. My name is Janet Drysdale. I'm vice-president of corporate development for CN Rail.

Mr. Sean Finn (Executive Vice-President, Corporate Services and Chief Legal Officer, Canadian National Railway Company): Good morning, Madam Chair. My name is Sean Finn. I am executive vice-president, corporate services, at CN.

Mr. James Clements (Vice-President, Strategic Planning and Transportation Services, Canadian Pacific Railway): Good morning, Madam Chair. I'm James Clements, vice-president, strategic planning and transportation services.

Mr. Robert Taylor (Assistant Vice-President, North America Advocacy, Canadian Pacific Railway): Good morning. My name is Robert Taylor. I'm responsible for government affairs for CP.

The Chair: Thank you. It's nice to see you all back here again.

I will turn it over to Canadian National to do a deputation.

Mr. Sean Finn: Thank you, Madam Chair.

[*Translation*]

Hello everyone. My name is Sean Finn and I'm the executive vice-president of CN. I'm joined by my colleague, Janet Drysdale. We appreciate the opportunity to meet with the committee to share CN's views on Bill C-30, the Fair Rail For Grain Farmers Act.

I would like to take this opportunity to confirm that CN is ready to transport grain this fall. Our locomotives, train crews and railcars are ready to serve our clients and Canadian farmers.

Regarding Mr. Pellerin's comment on the grain shortage on the south side of Vancouver last week, the explanation is very simple. The grain was not transported because it was not available last week for delivery to a market. So there is no danger with regard to transportation in Vancouver or issue with supplying grain to the network.

[*English*]

We are pleased that the committee has decided to review the provisions of Bill C-30. We recognize that, as a result of the serious backlog of grain in the 2013-14 crop year, the government of the time felt it had to take some action. However, the reality is that the grain would have moved at the same pace without this bill. The situation in 2013-14 was a result of the largest crop on record, combined with one of the longest and most severe winters in recent Canadian history.

To operate safely, railways must reduce train length in severe cold weather, which significantly impacts our capacity. We assured the government of the day that as soon as extreme winter conditions broke, which they did ultimately, we'd quickly ramp up to meet the capacity of the export terminals. The government felt compelled to bring in the quotas, but wisely, they were set at realistic levels based on what we and others recognized was the capacity of the supply chain. While there were a few individual weeks when we missed the quotas, overall we exceeded them.

CN believes the quotas are unnecessary and fail to recognize the importance and interconnectedness of the grain supply chain. If any part of the chain—ports, export terminals, vessels, or country elevators—is not operating at peak efficiency, the whole system suffers. We are only as strong as our weakest link.

Regulation that singles out only one component of the supply chain is, in our view, unnecessary and ineffective. I would also suggest that the quotas send the wrong signal to other Canadian shippers, by definition implying that their traffic does not have the same priority. This is not the message we want to convey to any of our customers, particularly other bulk exporters that are also competing in the global marketplace, as well as those shippers who choose to use Canadian ports and railways when they have other options.

Ms. Janet Drysdale: While quotas are an ineffective means to increase capacity, extended interswitching is far more problematic, undermining Canada's export agenda and exacerbating the looming issue with respect to railcar capacity for grain.

For those of you who travel by air to Ottawa, I imagine that given the option, you prefer a direct flight. Having to connect reduces your efficiency in trying to get from point A to point B. Like a connecting flight, extended interswitching introduces delays, sometimes significant, and uses up precious railcar capacity, reducing the overall throughput of the supply chain.

For every day that extended interswitching adds to the entire grain fleet, 785 additional railcars are required to move the same amount of grain. That translates into an additional supply chain expense of more than $100 million, directly impacting the competitiveness of Canada's grain exports.

Extended interswitching, over time, will also stifle investment. In April, fire destroyed a bridge on CN's rail network in Mayerthorpe, Alberta. Forty per cent of carloads originating or terminating west of that bridge fall within extended interswitching. If the only compensation CN received were the regulated interswitching rate for that traffic, we would not have been able to justify the $10 million required to rebuild the bridge. The same fundamental concern applies to all kinds of capital requirements across Canadian rail networks. When regulations discourage investment, we are putting the sustainability of Canada's supply chains at risk.

Another very serious concern with extended interswitching, which also discourages investment, is the opening up of Canadian traffic to U.S. railways. Extended interswitching enables U.S. rails to draw Canadian traffic onto their network while paying extremely low regulated rates to the Canadian railway performing the interswitching, thereby improving the density of the U.S. rail network and improving the U.S. railway's reinvestment capabilities.

As Canadian traffic is diverted to the U.S., the investment to maintain a safe and fluid domestic railway will by definition need to be spread over a smaller traffic base. Two things are likely to result from that: one, the need to charge higher rates on the remaining Canadian traffic; and two, the likelihood that some reinvestment simply does not take place, ultimately reducing Canada's competitiveness, particularly with respect to export supply chains.

In the U.S., switching rates are commercially negotiated, and there is no forced access provision equivalent to Canadian interswitching. The poaching of Canadian traffic by U.S. railroads without reciprocity will negatively impact reinvestment in our nation's transportation system. Rest assured, we are not suggesting that Canadian rails are not prepared to deliver or receive traffic from U.S. rail carriers. We are simply saying that the terms to do so should be based on commercial negotiations, thereby ensuring a level playing field in how Canadian and U.S. rails interact on both sides of the border.

The notion that extended interswitching is an important customer lever in price and service negotiations overlooks how much regulation and competition already exist. With respect to price for grain shipments, railways are already regulated under the maximum revenue entitlement. With respect to service, it is important to remember that all grain starts in a truck. Eighty per cent of western elevator capacity is either dual-served by rail, within the 30-kilometre interswitching regulation, or within 50 truck miles of CN or CP. Those existing competitive options operate far more efficiently than extended interswitching.

Shippers also already have the benefit of other regulatory measures that address price and service issues, including final offer arbitration, common carrier obligations, level of service complaints, and service level arbitration provisions. It is also very important to note that close to 75% of CN's grain is now moving under commercial terms that include reciprocal penalties for car supply and car usage.

We are already dealing with the unintended consequences of regulation in the country's Vancouver trade corridor, where significant investments cannot be justified by rail companies because the regulated returns are simply insufficient.

Canada needs a transportation policy that supports our export-oriented economy with innovation and investment. Market-driven forces have enabled Canada to create a world-class rail network, in which Canadian shippers benefit from rates that are among the lowest in the world. We would like to keep it that way. If we collectively hope to do so, Bill C-30 must be allowed to sunset.

Thank you.

● (0935)

The Chair: Thank you very much.

Mr. Clements, go ahead.

Mr. James Clements: Thank you, Madam Chair.

Good morning. We thank the committee for the opportunity to discuss the consequences of Bill C-30 for the Canadian grain supply chain. The majority of our comments this morning will focus on the provisions of the act that grant authority to the Canadian Transportation Agency to extend the interswitching limits in the prairie provinces from 30 kilometres to 160 kilometres.

As background, grain is CP's largest line of business. Grain accounted for approximately one-quarter of CP's total revenue ton-miles in each of the last three years. CP's grain movements are roughly two-thirds originated in Canada and one-third from U.S. locations. Both regions supply agricultural products to domestic and international markets. CP serves directly or indirectly multiple export terminals for shipments overseas with major outlets on the west and east coasts, the U.S., and Mexico. The majority of CP's grain traffic is regulated, with two-thirds of our 2015 grain revenue relating to that traffic.

The grain supply chain starts at the farm gate. Every tonne of grain is loaded on a truck, and as a result, producers have the freedom of choice as they determine both the destination and the timing of their deliveries.

There's a high degree of coordination required within the grain supply chain, particularly with respect to grain moving to marine ports for export. The capacity of that system is determined by the capabilities and operating practices of the entire supply chain, and not just rail.

I'll note that it's important to understand the context that led to the introduction of Bill C-30 by the previous government. In the 2013-14 crop year, CP moved a record amount of grain. The challenge that the system faced was driven by the fact that the capacity of the system did not match the demands created by an extraordinary grain harvest. The crop that year was 23.5-million metric tonnes larger than a typical year's grain crop. That's the equivalent of an extra 13 Rogers stadiums full of grain that hit the supply chain at once, or put another way, more than double Canada's typical export movement of potash.

The system's ability to respond to the challenge in moving the large grain crop was compounded by the winter of 2013-14, which was extremely harsh. The weather pattern set in for a lengthy period of time across the entire North American supply chain. As Mr. Emerson's report noted:

> In spite of the challenges confronted by the grain-handling-and-transportation system, it still managed to move record volumes of grain under some very difficult conditions.

Temporary, extraordinary demands like the ones in 2013 pose a significant challenge. No efficient supply chain in the world is designed to handle extraordinary, atypical volumes under abnormally challenging operating conditions. A system built to handle these outliers would be under-utilized and/or under-compensated at all other times.

Although we are used to and prepared for dealing with challenging winter conditions in Canada, extremely cold temperatures require the railway to run shorter trains at slower speeds in order to operate safely. This reduces overall system capacity. The unusual, cold temperatures also caused the seaway, an important grain outlet, to be closed for a month longer than normal. Once the weather improved, the supply chain moved record volumes of grain. This performance was already in place before the legislation was passed, and it would have happened in the absence of any legislative intervention by Parliament.

Fundamentally, Bill C-30 was based on a flawed premise, namely, that Canadian railways had the ability to move an extraordinary volume of grain but were choosing not to. This premise simply defies logic because moving grain, our largest line of business, is how CP makes money.

The stated goal of the Fair Rail for Grain Farmers Act was, and I quote from a press release of March 26, “to help the entire grain transportation system reach the goal of getting product to market quickly and more efficiently following a record crop year for... farmers.” It was never clear how the legislation would actually achieve that goal.

At the time we cautioned that Bill C-30 would have a negative impact on Canada's competitiveness, threaten job growth and investment, and hinder the grain supply chain. The data over the past two years demonstrates that Bill C-30 has not resulted in the movement of any more grain. Regrettably, this legislation is harming capacity, efficiency, and competitiveness of the Canadian supply chain to the detriment of all shippers and the performance of the Canadian economy.

The extension of interswitching limits from 30 kilometres to 160 kilometres for all commodities in the prairie provinces is our major concern. The change has harmed the supply chain in three distinct ways: overall rail system capacity has been reduced as a result of the added complexity and variation; U.S. railroads have been given an unfair competitive advantage, which is drawing traffic away from Canadian railroads; and the regulated rate that Canadian railways can charge for interswitching is non-compensatory, so we lose money for every car that we interswitch, which undercuts investment in capacity-building infrastructure that could help move grain at a greater velocity in the future.

Overall system capacity declines because the extended interswitching limits reduce our operating efficiency. Interswitching creates additional work events to process cars to and from interchange locations.

● (0940)

The last thing a railway needs to do is to try to get air through railcars at -35° C. The extra work increases time and complexity in the supply chain. These inefficiencies reduce capacity and velocity for all players.

Bill C-30 also puts the Canadian railways at a competitive disadvantage to the U.S. railways because there is no reciprocal interswitching provision in American law. The expanded interswitching limit in Canada gives U.S. railroads significant reach into Canada, and has caused Canadian traffic to be interswitched to U.S. railroads. The lack of reciprocity in the U.S. prevents Canadian railways from doing the same in the U.S. For the 16 months from May 2015 to August 2016, BNSF obtained 3,945 carloads from CP through the application of extended interswitching regulations. Currently, the volume of this traffic is relatively low and involves six customers, but it is growing rapidly. Almost one-third of the BNSF interchange traffic related to non-grain commodities.

Perversely, an unintended but real consequence of extended interswitching is that 20% of the volumes are inbound to Canada, meaning that Canada is subsidizing U.S. exports into Canada, and these volumes included grain. All traffic interswitched with the BNSF runs the majority of its movement in the U.S., increasing density and therefore efficiency of the U.S. system, allowing U.S. carriers to earn profits and pay taxes to a foreign government, and providing jobs to U.S. workers.

The lack of regulatory harmony in the rail industry is inconsistent with the access reciprocity that exists in other transport sectors. Air transport access for the Canadian and American air carriers is governed by bilateral air agreements negotiated on the basis of reciprocity. Similarly, access regulations governing coastal and inland marine services in Canada and the U.S. are reciprocal. The lack of reciprocity for the rail industry harms Canada's economy, and the expanded interswitching reach is pulling traffic south of the border. We ask why the Government of Canada's preferred policy position is to see rail traffic moved to American railways for shipment?

The current government has made a promise to Canadians to make policy based on evidence, and we applaud them for that commitment, but Bill C-30 is a perfect example of a policy based on politics, emotion, and anecdote, without any reference to data and evidence. Now, with the benefit of two years of data generated after Bill C-30 became law, we submit that the evidence demonstrates that the extended interswitching limits cause far more harm than good, both for the grain shippers the act purports to help and the broader Canadian economy.

Every legislative review of extended interswitching limits has reached the same conclusion. The panel conducting the first review of the CTA in 2000-01 rejected calls for extending interswitching limits and recommended that the 30-kilometre limit be retained. The panel said at the time, “expanding the interswitching limits would worsen the market-distorting aspects of the interswitching rate regime and would be a step backward.”

The more recent review, headed by Mr. Emerson, recommended that the extended interswitching limit be allowed to sunset. The negative consequences for infrastructure investment, system capacity, and supply chain efficiency are strong grounds for the sunsetting of Bill C-30.

We urge the committee to listen to the evidence-based advice and analysis in the Emerson report and past reviews of extending interswitching, and allow the sunsetting of the Bill C-30 provisions. We have the most efficient rail system in the world. Layering on further regulation of the grain supply chain is not the answer.

What will help move Canadian grain to international markets? Market-based capacity-building infrastructure investments and innovation that drive operating efficiency improvements across the Canadian grain export supply chain. Here we have good news to share. Over the past two years, country grain elevator and port capacities have been increased. CP has invested record amounts in new and expanded infrastructure that will improve the rail system's ability to move higher volumes of grain more efficiently. CP has also developed new programs that improve asset management and availability for our grain customers and provide them better predictability to what they can sell to international markets. These are the features of a rail system that will actually improve the performance of the Canadian grain supply chain, and this should be our collective focus going forward.

Thank you.

● (0945)

The Chair: Thank you all very much. That is quite valuable information you have provided.

We will start our questioning.

Ms. Watts.

Ms. Dianne L. Watts (South Surrey—White Rock, CPC): Thank you very much. You mentioned that the measures in place right now give U.S. carriers an unfair advantage.

You said BNSF was growing rapidly. Is there a U.S. carrier other than BNSF?

Mr. James Clements: No. They are the main carrier.

Ms. Dianne L. Watts: If Bill C-30 was reversed, that would take BNSF out of the picture or significantly decrease its competitiveness.

Ms. Janet Drysdale: Shippers would still have the option to use BNSF should they want to get their grain to U.S.-destined locations —

Ms. Dianne L. Watts: Right, but typically that—

Ms. Janet Drysdale: But the rates to do so would be at a commercial rate as opposed to a regulated rate.

Ms. Dianne L. Watts: Right.

Then typically, by logic, that would shift back to CN and CP, the major carriers for Canada. Correct?

Mr. James Clements: It would result in commercial negotiation.

As we've said, the issue with the regulated rate is that it has some market-distorting effects, and it would allow the normal commercial pricing processes to be re-established. Some of these commodities still may result in movement on the BN, but they would be starting with CN or CP.

● (0950)

Ms. Dianne L. Watts: Okay, so that's taking out the competition.

My second piece was that there was no mention of short-line rail. How does that work in terms of the whole system? You mentioned truck, you mentioned...but not short-line rail.

Ms. Janet Drysdale: Short-line rail is a very important partner for us in the supply chain. They typically have smaller branch lines that feed into the larger CN and CP networks. Certainly coordination, good information sharing, is an important part of how we deal with the short-line network.

However, with respect to Bill C-30, CN doesn't have a particular view with respect to the short-line perspective in that regard.

Ms. Dianne L. Watts: Right, okay.

Mrs. Kelly Block: Thank you very much, and welcome.

My first question will be about an observation that I think both of you made in terms of the landscape in the United States. You commented that there is no interswitching that takes place in the United States.

How many railways operate in the United States?

Ms. Janet Drysdale: There are five class I railroads. Essentially, there are four major railroads. Two of them operate exclusively east of the Mississippi River, two operate exclusively west of the Mississippi River. The fifth is more of a regional railroad comparable to a large short-line.

In terms of the relative competitive landscape, U.S. versus Canada, it's virtually identical, given that in Canada most of the geography is covered by two major railroads.

Mrs. Kelly Block: Okay.

I'd also like to follow up on the comment about interswitching being non-compensatory.

Two meetings ago, we heard from the CTA that they determine the regulated interswitching rate from the ground up by assessing the various input costs that railways face. They stated that they do not consider the commercial rate when determining the regulated rate.

I'm wondering how the rate-setting process can be improved to provide the railways with sufficient return to invest in their infrastructure.

Ms. Janet Drysdale: The regulated rates are essentially a variable cost, accounting for fuel and labour and not much more. Inherently, therein lies the problem. There is nothing accounted for in terms of the required investment to keep the railway operational on a go-forward basis.

Our view would be that the ability to negotiate those rates on a commercial basis would be the best practice.

Mr. James Clements: I would add that the methodology they use creates an average rate and treats every circumstance the same. The reality is that if you're going in and switching a grain elevator, it might be a very efficient move. If you're going deep into a chemical plant, it may require a whole day of switching by a crew. That creates some problems, as well as the points that CN has made here.

Mr. Sean Finn: If I may, in the U.S. it's important....

It's not just reciprocal in the U.S., it's commercially negotiated. It does happen that U.S. railways interswitch with each other, but it's based on a commercial negotiation at commercial rates. They don't have regulated rates that don't compensate for the costs of their infrastructure, for example.

Mrs. Kelly Block: Can you comment on the recommendation that the report made in terms of reviewing the rates annually?

Mr. James Clements: The comment I would make is that right now it's a fairly labour-intensive process. It requires on-site visits. The burden of doing it every year would seem a little unnecessary for costs that don't tend to change a lot, at least in this low inflation environment.

I would suggest that you look at a longer period for review.

Mrs. Kelly Block: My final question would be in regard to what we heard from the CTA at our first meeting, that interswitching at 160 kilometres wasn't actually accessed that much.

In that case, why would it be problematic to keep it in the act if it's not accessed as much, but it's there if needed?

Mr. James Clements: We believe that it creates some distortions to what normal market rates are based on.

The intent of the transportation policy is that it has always had regulation as the backstop, so why should we leave in something that has the risks? We should understand what the right policy is and then go forward with that.

Ms. Janet Drysdale: I would just add another comment to that. The regulation of the 160 kilometres was not based on a thorough fact-based, data-rich analysis. In the context of developing good transportation policy, I think we're trying to do that analysis before we make the policy. There's good justification to allow it to sunset and perhaps continue the research, if that's required.

I think the key point we've been trying to raise here is that the existence of that legislation is detrimental to encouraging investment into the supply chain network. When we think about the looming capacity issue with respect to grain cars, and when we think about the amount of investment that's required to sustain railway networks for CN, we reinvest over 50% of our operating income every year just to maintain the safety and fluidity of the rail network.

Those levels of capital investment need to be somehow reflected in legislation that continues to support the ongoing level of investment. Bill C-30 goes exactly against those principles.

● (0955)

The Chair: Thank you very much.

Mr. Hardie.

Mr. Ken Hardie (Fleetwood—Port Kells, Lib.): Thank you.

One of the challenges we have here is limited time to ask questions and extract answers, and so I'm going to ask for a couple of things from you that you could submit after the fact, but at least then we can factor them into our deliberations here.

You mentioned reciprocal access to U.S. rail. What does that look like? What does the fix look like? Give me something simple on that.

In discussions with Mr. Emerson and others, we see a lot of pressure to move our grain-handling system more to a commercial basis at commercial rates, as opposed to regulated rates.

In order to maintain a reasonable profit, and in order to maintain the kind of infrastructure investment you think is worthwhile, what would an unregulated regime look like?

Right now, if you can answer this question quickly, what is the rate differential, first for moving grain generally, and second for the interswitching rate? Over a magnitude, what percentage would shipping rates go up if the regulations weren't in place?

Ms. Janet Drysdale: For reciprocal access to the U.S.—

Don't start with that one?

Mr. Ken Hardie: No, don't—

I need the question answered on that one. Just give me the other stuff by way of—

Ms. Janet Drysdale: In terms of a commercial—

Mr. Ken Hardie: In other words, if grain was shipped according to commercial rates, as opposed to regulated rates, what would the difference in price be, percentage-wise? How much more would it cost shippers to move grain?

Ms. Janet Drysdale: I don't have an exact number on that. We know that all rates in Canada for all commodities, and for all goods shipped, are among the lowest in the world. We've had studies from the OECD that speak to that evidence.

Mr. Ken Hardie: I understand that piece, but here we have a rough balance with grain shipping right now. What would change if we moved away from regulated rates, both for mainline traffic and interswitching? You can get back to me on that one, if you don't have a precise answer.

I also wanted to spend some time on containers. To what degree would shipping grain by containers alleviate the looming railcar shortage? What would it do to the provision of producer cars? Finally, what would it do with respect to the ability of short-line railways to provide that kind of interconnectivity from the farm gate to the mainlines?

Ms. Janet Drysdale: Shipping grain by container already happens today. It is a small piece of the overall grain supply chain. It tends to be more specialty crops that are shipped in smaller quantities to specific markets.

I think it can help alleviate some of the issues with respect to surge capacity. We've seen that as an example in our lumber business when we hit capacity issues with lumber cars. I think it can help part of the problem.

It's not going to solve the looming grain car problem by any stretch of the imagination.

Mr. Ken Hardie: Why not?

Ms. Janet Drysdale: Most grain needs to move in significant bulk volume, and it's just the inherent nature. You're going to ship a 150-unit car train of bulk grain, and the efficiency of doing the equivalent amount of grain in an intermodal container just doesn't compare.

Mr. Ken Hardie: Given the difference in efficiency, what does the plan look like to rejuvenate the bulk hopper car fleet?

Ms. Janet Drysdale: I think that's an issue that is in front of all of us that we need to try to figure out. We do have an issue with the hopper cars. It was government that had invested in them in a significant way in the last round. The cars are coming to the end of their useful lifespans. There is a significant problem with the maximum revenue entitlement and how it treats investments, which is what we refer to as the free rider problem, meaning that if CN goes and buys 1,000 new hopper cars, the formula by definition gives 50% of the benefit of that investment to my competitor.

I think there's work that needs to be done with modernizing the maximum revenue entitlement if we hope to have a situation where either railway companies or customers have an incentive to reinvest in the fleet.

● (1000)

Mr. Ken Hardie: You suggest then that there would still need to be some kind of regulatory regime to deal with the free-rider issue, for instance, and to ensure that when the railways are making their choice about where to put their money, it is done in a way that balances the national interest in moving grain.

Ms. Janet Drysdale: Let me be clear. I think our preference would be not to have the maximum revenue entitlement. Notwithstanding that, at a minimum, we think that regulation needs to be modernized.

With respect to the specific formula that governs the investment component and how that's dealt with, that is an issue that both customers and railways understand well. They can very clearly be on the same side of the issue.

Mr. Ken Hardie: Okay. That's fine. Thank you.

The Chair: Mr. Aubin.

[*Translation*]

Mr. Robert Aubin: Thank you and welcome. It has been a pleasure to hear you speak.

However, I was a bit surprised by Mr. Finn's opening statement. I was on the Standing Committee on Transport when hearings were held regarding Bill C-30. Serious concerns were raised. Correct me if I'm wrong, but you said earlier that if Bill C-30 hadn't been adopted, the capacity of companies to deliver grain would not have changed at all, and the same goals would likely have been achieved another way.

I'll try a different tack. Did your companies experience negative effects or consequences as a result of the regulation requiring you to transport 500,000 tonnes of grain a week?

Mr. Sean Finn: Even if we imposed quotas, if the grain is not available for either climate or temperature reasons, we can't lengthen our trains to increase the volume of goods. Strictly speaking, it wouldn't have had an impact. We wouldn't have reached the quotas and we would have been penalized. However, as I explained, the quotas established were reachable because the people understood that, at a certain point during the week, a terminal may or may not be open.

What created the crisis in fall and winter 2013-2014? There were two factors. First, the amount of wheat harvested was far greater than normal. Second, the winter was unusual. You know that in Winnipeg, water pipes were still frozen in June. You must understand that these constraints are outside the rail companies' control. However, when the temperature improved beginning in March, CN and CP started transporting record quantities of wheat to deliver the bumper crop to the markets.

Mr. Robert Aubin: Could these deliveries have exceeded the 500,000 tonnes set out in Bill C-30?

Mr. Sean Finn: Maybe, but the obstacle was the network and railcar capacity. We could have exceeded the quotas if the network had had more railcars available and if there had been the capacity to receive more deliveries. However, since the crop was substantial, as soon as the temperature warmed up, we delivered the grain. We occasionally exceeded the 500,000 tonnes during that period. It's not that CN or CP didn't want to deliver grain. It's that we had a hard winter and a bumper crop.

Since that time, partly thanks to Bill C-30, but also as a result of the rail companies' recognition of the need to do more—because we're expecting larger and larger harvest volumes—this year, we're ready. At CP, we have more locomotives. Our rail crews are in place. We've invested in equipment in order not to need grain quotas. We'll deliver the grain as soon as it becomes available, to meet the demand. We're there to serve our clients and to deliver the grain to the international market.

Mr. Robert Aubin: That leads in to my next question.

Could we broaden rail transportation to include all natural resources that must be transported? In recent years, there has been a type of fluctuation that I suppose has been positive for the companies, CN and CP. When the transportation of grain increased, the amount of oil transported by rail decreased.

If, one day, all the markets are steady, would we manage or would a producer have to pay for the consequences of a deficient network that can't meet all the demand?

[*English*]

Ms. Janet Drysdale: Let me make a few comments.

I think it's important to recognize that when we speak about railcar capacity, oil moves in a completely different kind of railcar. Those railcars are actually owned by the customers who ship oil, not by the railway. In the context of actual equipment capacity, there is no conflict.

I think the different geographies were mentioned earlier as well. Oil typically moves from west to south and east, whereas grain is moving from west to further west. We have significant locomotives at the moment, probably in the range of 400, that are being stored because we have excess capacity. I think the key thing is, of course, the planning process, and how connected we can be to our customers and forecast that demand. Clearly, the demand that we saw in 2014, and expected to continue, has not materialized.

I would like to make one other comment specifically regarding grain, and address some of the issues that have been already raised.

Harvesting this year is about two weeks late. It's late because of weather. While I'm not suggesting that we should put quotas on the amount of grain that farmers need to deliver to the elevators, what I am pointing out is the interconnectedness of the supply chain. To the extent that we have vessels waiting on the west coast of Vancouver, and to the extent that last week there might not have been grain available, the reality is that part of the supply chain has been constrained by rain in the prairie provinces, which has constrained the farmers' ability to actually deliver the grain to the elevator.

● (1005)

[*Translation*]

Mr. Robert Aubin: My question is for either company.

In the study conducted in 2013, there was considerable discussion about service level agreements. Has the number of service level agreements between shippers and producers greatly increased, or has it remained about the same as before Bill C-30?

[*English*]

Mr. James Clements: As Mr. Finn has noted, we realized we had to do better. We now have over 70% of our grain moving in a new product that we call the dedicated train program. The dedicated train program has reciprocal commitments, from us to the shipper, and the shipper to us, around how we're going to use it, and what each of the players is going to do with that train. That has improved the communication and the planning within the supply chain. It aligns the interests of the stakeholders better.

If you unload the train efficiently, you get to benefit from the efficiencies that you've created. In the old system, you didn't see that benefit flowing to the player that was making those incremental decisions. We are seeing the cycle times on those railcars and those programs offer significant improvements versus what we saw in 2013. We think that's a result of the commercial innovation between us and our customers.

The Chair: Thank you very much.

Go ahead, Mr. Fraser.

Mr. Sean Fraser (Central Nova, Lib.): Thank you very much, and I will be sharing my time with my colleague, Mr. Sikand.

Ms. Drysdale, I think it was you who drew the analogy between direct flights and the need to move efficiently, which is interesting, but I think incomplete. Of course, I prefer to take a direct flight when I travel here from Halifax, but I also like checking the price on WestJet, Air Canada, and Porter.

When it comes to interswitching, what we heard from our prior witnesses is that, although not everybody's taking advantage of it, it creates competition during the negotiation phase where there really isn't any. You've highlighted a couple of instances where there may be some competition during the negotiation because you could ship on truck, for example, but when we're dealing with rural grain farmers who are shipping at 100 bushels an acre, we're talking about 640,000 bushels for a single section. I don't think truck is a realistic competitor for, say, a short-line railway, to get it even 50 kilometres to the CP or CN locations that you describe.

In the long term, we heard testimony about infrastructure being the solution to create competition, but we might be facing a short-term pinch with a year like this year, if we have another bad winter. Is there a short-term solution that can maintain competition in the negotiation phase if it's not interswitching?

Ms. Janet Drysdale: First of all, I would come back to grain on the farm, and the reality is that no matter the number of bushels that need to get off the farm, it is all going to start by moving in a truck. The efficiency to move it by truck to an elevator on CN or on CP is actually far better than what we're talking about with extended interswitching. To the extent that a farmer or grain company wants to choose which elevator on which railroad, that situation already exists today, and I think that tends to get overlooked.

In terms of rates, per se, the rates themselves are regulated under the maximum revenue entitlement, so it's not clear to me how interswitching is really leveraging a rate environment, whereby that rate environment already has existing regulation.

Certainly, with respect to service, if there is some condition in which service becomes an issue, there are already multiple layers of regulation where that shipper has recourse to actually raise those service issues. Whether it is through the level of service complaint, or whether it is through the service arbitration process, and even on the rate side for all commodities, we already have in Canada, which does not exist in the U.S., a final offer arbitration process that can deal with the rate issue in the case of commodities that may be impacted other than grain.

● (1010)

Mr. Sean Fraser: Thank you.

I'll pass it over to Mr. Sikand. If there's time at the end, I'll pick it back up.

Mr. Gagan Sikand (Mississauga—Streetsville, Lib.): Grain producers want a level playing field. They don't think rail companies have the incentive to move their grain in a timely manner. Should CN and CP be forced with some type of sanction, if grain is not delivered on time?

Ms. Janet Drysdale: I think the issue there is what “on time” means.

The existing regulatory framework will pay the railways the same amount of money whether we move the grain in six months or in 12 months. So that regulatory framework that exists does put a kind of overarching framework, if you will, in terms of how and when grain moves. There is no incentive built into the system today to allow us to provide more at peak capacity. There is an issue also with the railcar component.

So to the extent that farmers want to move grain in a peak period, they're no different from any other commodity shippers that are trying to maximize their netback. When I'm speaking about netback, I'm really speaking about grain companies, not farmers, and we need to kind of separate these two as two distinct groups.

If a grain company wants to benefit from higher market prices and wants to ship more when those prices are high, it is behaving in the same manner all other commodity producers behave. The question is what incentives can be built into the regulation that would encourage incremental capacity.

Today it's up to the railways to provide that service, but I have a rate regulation that says I can't earn any more to service people more volume in a peak capacity. They'll get a higher margin, but I get the same margin. So there's something broken in the existing regulation, I think, that we need to fix if we really want to incent incremental peak-period types of shipments to benefit grain companies' margins, where the railways could at least somewhat participate in that upside potential.

James, do you want to add anything?

Mr. James Clements: As I stated before, grain is important to CP. We feel we already have incentive to move grain. It's an important part of our business. We want to move it, we want to provide great products and services to our customers, and that's why we have developed programs like the dedicated train program with the grain companies out there in the marketplace in order to help them deliver to the international markets.

In a bigger picture, we need the Canadian grain system, the entire supply chain, to be highly efficient. That's how we're going to compete in international markets, and that's how we're going to then see farmers, grain companies, railways, and all the other stakeholders have the returns they need to invest to grow production and grow the ability to supply those global markets.

We're very much interested in being part of that solution in providing the lowest cost transportation to tidewater, so that we can compete.

Mr. Robert Taylor: We're moving that tonne of grain from Manitoba to Vancouver for maybe $35 to $40. Our average rate per grain is in cents-per-tonne mile. So we're moving a tonne of canola, which is worth over $400, 1,500 miles for $35 to $40.

Another important fact not to lose sight of is that farm income from grain and oilseed production in Canada has increased from $4.5 billion to $13 billion over the last 15 years. That's a CAGR, or cumulative annual growth rate, of 7.3%.

We're not saying the system is perfect, we're not saying we're perfect, but some things are working fairly well, if you get to the facts.

The Chair: Thank you very much. The time for this panel has finished.

Thank you all very much for the information you have provided today, which no doubt will be reflected as we continue our discussions on Bill C-30.

Mr. Sean Finn: Can we send the answers to your questions?

The Chair: Yes, you can submit them to the clerk, and he will distribute them to all of the committee.

Thank you very much.

Could you all exit fairly quickly from the room, so that the committee can get on to committee business, please?

[*Proceedings continue in camera*]