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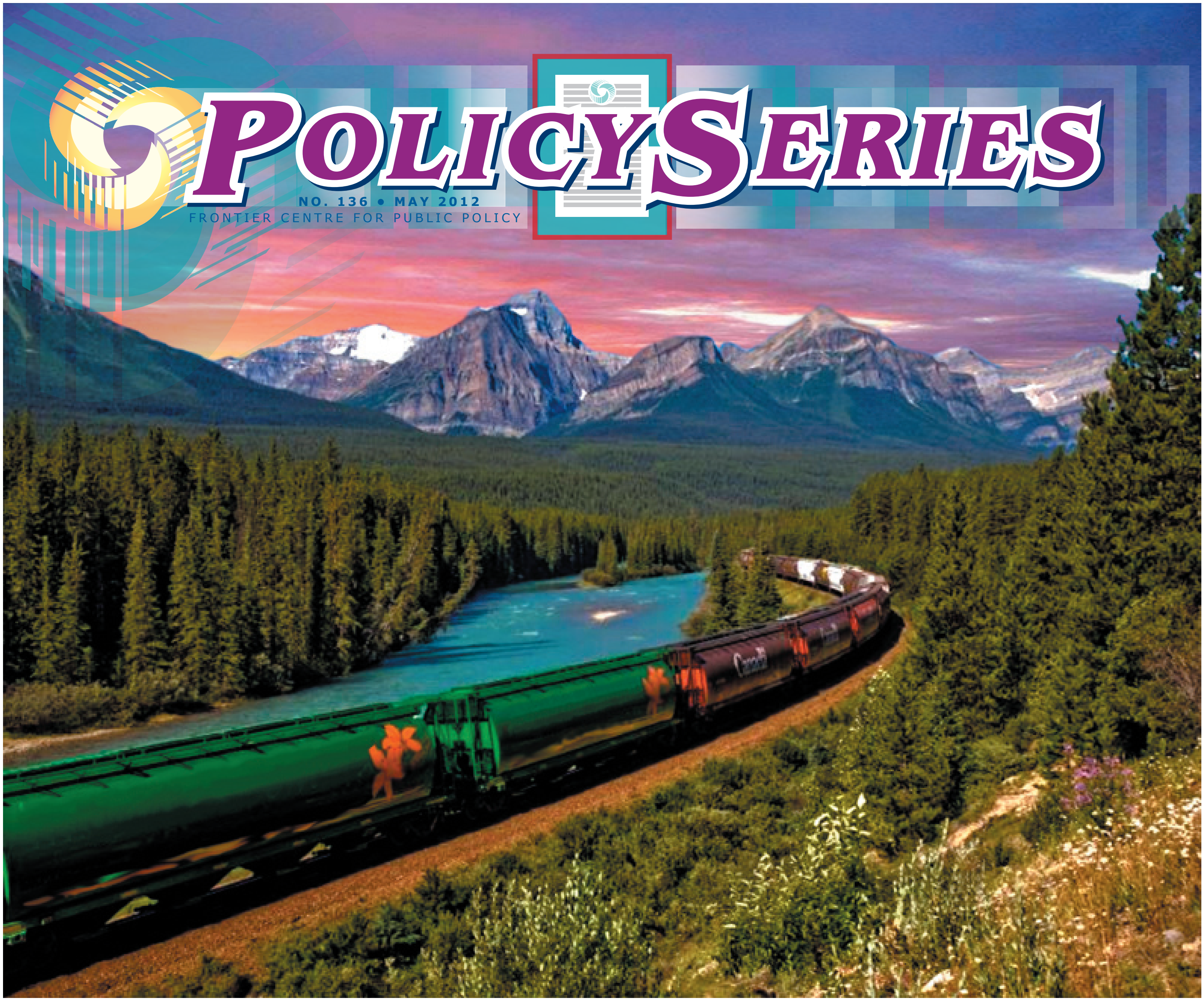

Grain Freight Regulation in Canada

By Mary-Jane Bennett

About the author

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Executive Summary

The Canadian railways, for their role in building the country, have been described as nation builders, the backbone of the national transportation system and key to the creation of Canada's renowned grain industry. Regulation of this backbone industry, ongoing since 1879, has been initiated and undertaken with mixed results. Invariably, regulation left the shipper, the railways and the Canadian economy with lost efficiencies, opportunities and effectiveness.

Over the years, some 20 Royal Commissions have outlined the impact of over-regulation on the rail industry. Over-regulation has not been limited to Canada but rather has been a North American issue. The U.S. Congress looked to the poor result of over-regulation on the rail industry, the economy and its minimal effect on shippers. The 1980 *Staggers Rail Act* deregulated U.S. rail transportation. When Canada and the United States faced an almost bankrupt rail system in the wake of over-regulation, Canada took a middle-of-the-road approach, clinging tenaciously to its right to regulate.

The paper will review the history of grain/rail rate regulation and examine the effect of that regulation on shippers, railways and the Canadian economy. Next, it will study the revenue-cap regime—rate regulation's last frontier—to assess whether the revenue cap has replicated the marketplace as it had promised to do. The third portion of the paper will outline the relationship between investment and regulation and productivity. The final section of the paper will deal with the deregulated grains industry and the effect of the revenue cap on the major stakeholders. This paper concludes that the continued regulation of freight rates in grain is an ill fit with a deregulated grains supply chain.

In its review of rail-rate regulation, this paper could do no better than return to the analysis provided in "'The Holy Crow' (And the Perverse Nature of Good Intentions)"[1] by Professor Paul D. Earl of the Asper School of Business.

...faced [with] an almost bankrupt rail system in the wake of over-regulation, Canada took a middle-of-the-road approach, clinging tenaciously to its right to regulate.

I History of rail regulation

Earl returns to the construction of the CP line in reviewing rail rate regulation. The public funding in the construction of the CP line created, he writes, a "harmony of interest between the public and private sectors."[2] Consequently, the Canadian government thought it was granted the right to regulate in the "public interest." He asserts that this perceived twinning of interest between Canada and CP Rail has resulted in the constraint of market-driven growth in the railways ever since. He concludes that if the 1880s federal funding for the construction of the CP mainline could be said to be the equivalent of the modern public-private partnership in creating a supposed harmony of interest, then in light of the totality of subsequent legislation, the balance sheet should be redone.

Rate regulation preceded the completion of the CPR mainline with *The Railway Act* (1879), which allowed Parliament to reduce rates if a railway other than the CPR earned more than 15 per cent of the capital cost of construction. Yet, for CPR the Leader of the Opposition, Edward Blake called for greater controls than the 10 per cent allotted to CPR. Threatening future controls, he rose in the House to claim "we may expect to impose more rigid limitations and regulations as to what they will give to the public for the great deal that the public has given them."[4]

The CPR mainline was completed with the last spike at Craigellachie in November 1885. CPR President Van Horne's claim that the "'railway was built for the purpose of making money for the share-holders and for no other purpose under the sun'"[3] was at odds with the Dominion's view that the $25-million federal subsidy and land grant entailed a partnership with the federal government.

The first CPR tariff carried with it the first shipper rate complaint of discriminatory rate structures. Even with the declining rates that followed, shippers continued to express dissatisfaction with the tariffs, and by 1895, a commission was established to look into passenger and freight rate complaints. CPR Vice-president Shaughnessy was wary of the "position of hostility"[5] that had developed even in the railway's first days.

The commission found nothing wrong in the railway rate tariffs, yet the public mood was that a return from the railway should be extracted to compensate for the grants it had received. Earl claims that this sentiment led to the federal government response of "increasingly tight controls on railway tolls."[6] With the Crow's Nest Pass Agreement, which followed, the tight control ended up a stranglehold.

The railway line to British Columbia's Kootenay region was part of Canada's overall National Policy. The federal government, the B.C. government and the CPR had separate but intersecting interests in the construction of the Crow's Nest Pass line, and each stood to lose by not concluding an agreement to gain access to that region. CPR may have been influenced by the largesse of the Laurier government's Crow's Nest subsidy and that of the British Columbia government. The presence of a U.S. rail interest, Northern Pacific, in the region was as much a concern to CPR as it was to the federal government, which sought to establish sovereignty over the Kootenay area. On the economic front, the interests of the government of

British Columbia and CPR were matched; both were anxious to open up the mine-rich Kootenay area for commercial development and transportation. Parliament passed the *Crow's Nest Pass Act* on June 29, 1897, which was signed into contract with CPR under the Crow's Nest Pass Agreement in September of that year.

Section 11 of that Agreement, which provided that "no higher rates than such reduced rates or tolls shall be charged after the dates mentioned" has become the stuff of legend. Earl addresses the question as to why CPR would seemingly tie itself to rates in perpetuity. Answers include government pressure, the probability that the railway; would be restrained by British law on common carriers, the Canadian mood—that the railway needed to be regulated—the general decline in rates with the economic boom of the times and the favourable comparison between eastern rates and the Crow rate.

By the end of the First World War and after enormous railway capital expenditure in building branch lines—at an average of 380 miles every year—the federal government changed the Crow agreement. This was a time of hyperinflation. With the Crow agreement not containing an adjustment for inflation, the government used the *War Measures Act* to allow grain rates to increase.

Following a Supreme Court decision that Crow rates related only to railway lines in existence at the 1897 signing of the Crow agreement, Parliament amended the *Railway Act* in 1925 and established the right to rate control over all shipping points then in existence and those yet to come, a substantially wider jurisdiction than the original 289 shipping points. Although this amendment effectively ended the Crow's Nest Agreement, Earl notes that the commission then ensured that all rates under its expanded jurisdiction were "firmly re-established at 1899 levels where they were to stay until 1984."[7] In 1961, rapeseed and flaxseed were added.

With rail rates now firmly entrenched, the economic fallout of a protracted period of rate stagnancy with no consideration of inflation became the subject of two Royal Commissions: the Turgeon Commission of 1949-1951 and the MacPherson Commission of 1959-1961. Whereas W. F. A. Turgeon saw toll and rate control as part of the national fabric and interest, the MacPherson Commission took a more trenchant approach to the issue. By this time, there was a clear understanding that rate regulation was seriously undermining the industry. Murdoch MacPherson reported that rate regulation did not work in a number of ways: It failed to address competition, specifically from a burgeoning trucking industry and the fact that some rail rates could not increase as there would otherwise be a loss of traffic. The report found that the poor financial condition of the railways was a direct result of escalating operating costs; that market forces could create an efficient and economical transportation system; that the railways were operating at a loss in some areas and, if the public interest required the continuation of unprofitable branch lines, uneconomic passenger service and statutory grain rates, then these should be subsidized. Although the government paid heed to the concept of subsidizing to meet loss, the amendment dealing with statutory grain rates was voted down in Parliament. The Crow rate had reached mythical status, with some members of Parliament claiming it to be the Magna Carta of Western Canada.

In the 1950s and 1960s, Canada signed extensive grain-delivery contracts with

Due to competition with trucks, by 1978, the railroad share of freight had fallen to 35 per cent, from 75 per cent in the 1920s.

the USSR and China. The added weight caused the system to crash, and a special committee was established to oversee the orderly movement of grain to port to meet these commitments.

Earl remarks that *The National Transportation Act* of 1967, which attempted to follow the MacPherson recommendations, actually removed any incentive to abandon unprofitable branch lines. The result: unprofitable branch lines were maintained, and the system lurched further toward collapse.[8]

The Honourable Otto Lang's 1973 report, *The State of the Industry,* pointed to the continuation of a statutory grain rate as the cause of railway losses and concluded that the time had come to face the issue of market forces head-on. Earl claims that the suggestion that market forces govern grain transportation "set off a storm of controversy" with politicians, the wheat pools and farm media springing "to the barricades in defence of the Crow."[9]

The Hall Commission of 1975 restricted its scope to branch abandonment, refusing to question the sanctity of statutory grain rates in transportation. The 1975 Snavely Commission, headed by Washington, D.C., transportation consultant Carl Snavely, dealt directly with rail costing. Its recommendations reflected Lang's earlier position.

By the time of the Snavely Commission, the alarming results of over-regulation in the United States were surfacing. By the 1970s, railroads were, in the words of the American Association of Railroads "at the brink of ruin." Their October 2011 report "The Impact of the *Staggers Rail Act* of 1980"[10] documents the near bankruptcy of the U.S. rail system.

Prior to the deregulation of the rail industry in the United States, more than 21 per cent of the nation's rail mileage was accounted for by bankrupt railroads. Most Northeastern railroads, including giant Penn Central, and several Midwestern railroads went bankrupt. Return on investment averaged 2 per cent. Due to competition with trucks, by 1978, the railroad share of freight had fallen to 35 per cent, from 75 per cent in the 1920s.[11]

Lacking funds for capital infrastructure, the railroads did not maintain the tracks, and maintenance—estimated to be in the billions of dollars—was deferred. The results were reduced train speed and derailments. Productivity, efficiency and capital investment were all casualties of over-regulation.

The Snavely Commission report confirmed that the Canadian situation was no different. The Commission found that the railways were providing service at less than cost, and this was a major reason for the deteriorating branch line network and a significant factor in the distortions throughout the entire freight rate structure. In "The Economics of Branchline Abandonment: A Case Study of West-Central Saskatchewan," authors Mohammad Khakbazan and Richard Gray outline the situation:

> Over time, the costs associated with the transportation of grain rose with inflation and the two dominant railway companies that existed in western Canada began to incur losses. By the 1970s the rates the railways were forced to charge for moving grain was far below its costs of doing so. In 1977, only 32% of variable costs were covered by users, 18% by federal branch line subsidies and the remaining 50% was left to the railways at a loss. As a result, the railway companies had an incentive to slow down maintenance on prairie branch lines.[12]

Not only was the branch line system not maintained, it was out of date and its 5,000 grain elevators were nothing more than museum pieces. By the 1970s, railway technology had advanced, with bulk commodities travelling in specialized rail cars and dieselization permitting longer trains. Thus, if market forces had prevailed, a rationalized elevator system with reduced loading points and specialized hopper cars for easier loading of grain would have been the natural result. However, due to the constraints of the Crow, rail cars and elevators remained unchanged since their inception. With regulated rates, the needed investment in an efficient elevator system and in the transition from boxcar to hopper car was little more than a pipe dream. Earl provides a look at the state of the industry at the time of the Snavely Commission:

> Many of these [the elevators] were relics of the1920s, with scales that were incapable of handling modern trucks and equipment that was made to load old fashioned boxcars. On top of this, railways investment was essentially brought to a halt by virtue of the inadvertent inconsistency in the NTA [*National Transportation Act*] which had left the railways in a loss position. While modern specialized rolling stock was purchased for other goods and commodities, grain was left to move in aging boxcars—a 1920s technology, ill adapted to modern bulk handling. Moreover, in response to stiff resistance to the abandonment of branch lines, the federal government had protected 12,000 miles of line in the prairies from abandonment—about two thirds of the total—making it impossible to rationalize the rail network.[13]

Some agricultural groups, including the prairie pools and United Grain Growers, recognized the financial drain on the railways by carrying grain at a loss. They argued that rates had to be addressed by government intervention. Yet, the views of these agricultural organizations were ignored. Deputy Transportation Minister Arthur Kroeger points to the realpolitik that delayed necessary action:

> The message was… very explicit. It was essential for future national unity that the government be able to win some representation from the West. The agricultural organizations were not reliable, and their views were given no weight whatever. The western provincial governments were key and Saskatchewan (which was the only one of the four opposed to Crow change at the time) was of particular importance. No action would be taken on the Crow until Saskatchewan's Blakeney government not only agreed, but asked for it.[14]

The government response was to compensate with an initial purchase of 8,000

By 1981, the tab to fix the rail system was an astonishing $3.2-billion of new investment.

hopper cars for the transportation of grain and to subsidize the branch lines.[15] By 1980, the government had spent $170-million in branch line rehabilitation. By 1981, the tab to fix the rail system was an astonishing $3.2-billion of new investment.

This price tag provided the government with the estimate of a continued willful path against market forces. Evidence that the rates had resulted in the railways operating at a loss was repeatedly ignored, notably with the MacPherson and Snavely reports. Evidence from the United States of the relationship between railway bankruptcies and regulatory oversight was also ignored. Evidence that the rail system could not handle the grain contracts with Russia and China was disregarded. Evidence in the decayed and inefficient branch line system that had left the federal government in the business of running a railway was overlooked. Action was delayed while the government undertook further study of the issue. University of Manitoba agricultural economist Clay Gilson was commissioned to provide an analysis and an answer to the issue of cost.

The 1982 Gilson Report set the railways' annual shortfall on grain rates at $650-million. Whether the farmer or railway should be the recipient of a government subsidy was left open. Earl describes those two positions as follows:

> The pro-market forces in this debate wanted the subsidy paid to the farmers, with the actual freight rates established by negotiation between shippers and carriers and individual rates varying to reflect the efficiencies of elevator size and location. The proponents of a more regulated regime wanted the subsidy paid to the railways and the freight rates set by regulation and varying only by distance. In the end, the pro regulatory forces won this debate, and, with the assistance of several industry committees, new legislation was prepared.[16]

By this point, the United States had adopted the 1980 *Staggers Rail Act* and had entered an unregulated era of rail transportation where market forces, not rate regulation, provided the necessary discipline. By contrast, Canada took the route of continued oversight of rates, routes and service with its new legislation, the *Western Grain Transportation Act* (1983) (*WGTA*). It also ignored the efficiencies to branch lines that could have resulted if the legislation had allowed for negotiated freight rates. Described as "a more sophisticated instrument than the flat Crow Rate but still a subsidy,"[17] the *WGTA* ratemaking regime was the antithesis of a free market system.

The *WGTA* provided railways with some breathing room from losses but the quid pro quo was a wieldy and complex system of cost-based grain rates. Rate setting first required the total rail cost of moving Western grain.

These reviews were undertaken in 1984, 1988 and 1992, with railway productivity gains clawed back.

Second, costs had to be adjusted for the upcoming crop year. Inflation and traffic volume drove the updates. From this point, annual mileage-based rates were developed. With productivity gains given no value, the final stage involved subsidies with the rates per tonne divided into shipper and federal government portions. The *WGTA* regime has been described as allowing rail to make money for three years, at which point any efficiency gain it made is clawed back in year four.

Routes were protected with the *Act* preventing the railways from abandoning uneconomic branch lines. Over time, the shippers decided that they, rather than the railway, should receive the annual subsidy for grain transportation. A panel was established to review the issue. Before it was able to report, the government fell. Finance Minister Martin announced a $1.6-billion payout package to producers who owned Crow-rate affected land. This ended the Crow rate and its *WGTA* offshoot.

The repeal of the *WGTA* did not end the regulation of grain rates, however. Rather, it put grain rates under the jurisdiction of the new *Canada Transportation Act* (*CTA*) 1996. It provided wide shipper protections that far exceeded those in the United States. These included provisions regarding level of service, confidential contracts, interswitching, connection rates and final offer arbitration.

The *CTA* allowed the railways to abandon uneconomic lines. Shipper subsidies stopped. This provided market signals that the government was distancing itself from railway management.

Government, however, could not see fit to free itself from grain rate regulation. Oversight continued under a newly conceived rate-cap regime. This capped what the railways could charge for grain transportation while allowing the railways the flexibility to set their own freight rates to encourage efficient grain handling. In his 1998 *Grain Handling and Transportation System Review,* Justice Estey describes the rate cap:

> The rate cap is the maximum rate which may be recovered by the railway for grain movements over 25-mile blocks and is used by the railways to develop freight rates for each of the possible origin/destination pairs on the western rail system. Lower than maximum rates can be negotiated between shippers and carriers. For example, the railways offer incentive rates for large block loadings in unit trains of 112 or multiples of 25 cars. Failing a negotiated agreement on rates, the tariff or maximum rate applies.[18]

Before submitting his Final Report, Estey met with a large number of stakeholders in the grain handling system to discuss a number of questions. Prompted by CP's guarantee that ending the rate cap and replacing it with a commercial system would mean reduced rates for shippers, Estey recommended its repeal. He also found the rate cap "mileage oriented and insensitive to the actual costs of transportation,"[19] resulting in anomalies such as the unusually high rate for grain to the Port of Prince Rupert.

II Revenue-cap regime

Canada and the United States had responded differently to their near bankrupt railways. The U.S. response was deregulation in one swift move with the 1980 *Staggers Rail Act.*

Deregulation of rail in the United States has been viewed as positive for all parties with benefits that include a sharp rise in traffic, a rise in productivity (up 172 per cent), a fall in rates (down 55 per cent—with the exception of grain), an increase in length of haul, an increase in revenue ton miles per mile of road, an increase in the per cent of train miles completed in unit trains, an improvement in employee efficiency, and technological advances such as a move to more efficient locomotives to deal with the increases in the price of coal, re-engineered rail cars, automated inspections and the like.

In contrast to the United States' swift response to the railway financial crisis, Canada's more gradual approach showed a marked reluctance to let go of grain-rail oversight. Canada's first step toward deregulation in grain-rail movements was the *WGTA.* The rate cap followed. Effective August 1, 2000, and in disregard of the Estey proposal, the revenue cap replaced the rate cap.

The revenue cap was heralded as part of "a more commercial, more contract based system in which there would be more competition, clearer accountabilities and greater scope for market forces to influence decision-making."[20]

Yet, the revenue cap is not that. It is an unwieldy method of regulating some Canadian grain movements, for it is not intended to cover all grain movements, grain, railways or ports. It sets the boundary line for grain at Thunder Bay/ Armstrong allowing that eastern grain and ports would not be bound by caps. The revenue cap considers export grains as eligible but not export grains for U.S. consumption. With a 2005 amendment to the *Canada Transportation Act,* U.S. grains imported to Canada move under the Canadian revenue cap.

The revenue cap involves a two-stage approach. As its purpose is to cap railway revenue in grain transportation, the first stage is a determination of railway revenue. Section 150(3) of the Act goes as far as to classify what is not included in revenue, subsection (4) tells us what is revenue, and subsection (5) outlines reductions in revenue. The second stage is to input the revenue determination into the formula of section 151.

Under the first stage, "revenue" is determined with section 150(3) outlining what is and is not revenue. Generally speaking, revenue is not to include amounts received under railway incentives, demurrage, storage, performance penalties and compensation for running rights.

> ... Canada's more gradual approach showed a marked reluctance to let go of grain-rail oversight.

Despite Parliament's attempt at defining "revenue," it is a hard concept to capture. Assessing whether a specific item or program in a tariff amounted to revenue proved difficult, with rare agreement between the parties. Although the revenue-cap system was heralded as importing efficiency and competition by replicating a market model, there was no statutory language in the legislation requiring that these qualities be addressed.

Lacking the statutory jurisdiction to consider questions of efficiency and competition, they remained unaddressed or accorded secondary importance.

There was no clear focus on the purpose of the revenue cap. On one hand, it was a regulatory regime intended to benefit farmers by keeping down the cost of grain transportation, but, on the other, it was claimed to be based on market modelling. The demarcation line between these two competing themes was not drawn, with the result being inconsistent and varied interpretations. Nor was there any consideration as to the disjointedness of such a policy. A similar incoherent grain-rail policy was commented on by the 1993 National Transportation Act Review Commission. The Commission remarked on the difficulty facing a regulator in making a commercial decision and simultaneous public interest one in branch line decommission applications. This finding applies with equal force to the difficult task faced by the Agency under the revenue cap.

A review of decisions under the revenue cap provides context to this claim. The Agency revenue-cap decisions begin March 16, 2001, which was preceded by a wide consultation with shippers, railways and provincial governments as to their definition of "revenue" under section 150 of the *Act*.

The Agency looked to the classic bid-car system in use in the United States, which allowed shippers to pay an amount in advance to ensure that they would have cars, and its Canadian rough equivalent, advance ordering, whereby shippers ordered cars in advance and paid a penalty if they were not used. The Agency analyzed whether advance ordering was a penalty system. If a penalty system, revenue would not be counted as railway revenue. The provincial governments were divided as to whether advance ordering was a penalty system. Railways claimed it a "penalty"; shippers submitted that "penalty" was a misnomer, as advance ordering was designed to ensure car supply. In the final analysis, its characterization was disputed and agreed to in equal measure by the participants.

The Agency looked to the penalties attached and found that CN's advance car ordering with its flat rate was a penalty whereas CP's advance car ordering with a bid system attached to penalties would be allowed but to a maximum amount that matched CN's. Although treating both railways equally enhanced fairness, it is questionable whether it encouraged competition between them.

The Agency concluded that it would monitor the situation and may in the future decide that advance car ordering was not a penalty system dependant on the level of the penalties levied. Recently, the Federal Court of Appeal expressed its disapproval of Agency practice in monitoring evidence.

The Agency next looked to other rail movements. The respondents were divided on the issue of whether staging, being the assembly of cars in transit to ensure timely arrival for loading a specific vessel, was a penalty. Shippers claimed staging

"The Agency majority found that the tenfold increase in charges following the elimination of the debit-credit system resulted in an unreasonable demurrage tariff...

was not a penalty, as it formed part of a regular railway movement with an upfront payment. As, in the absence of staging, demurrage charges would result, the Agency agreed with rail, characterizing staging as a penalty-based system.

Defining "interswitching" proved problematic. The railways argued that interswitching must be a performance penalty and deducted from revenue to be consistent with the treatment accorded compensation for running rights. Both interswitching and running rights, they claimed, were aimed at enhancing competition. The legislation could not have intended different treatment between two shipper-protection provisions. The railways also questioned whether the revenue-cap provisions were intended to benefit a wider audience than grain shippers given that interswitching was a railway function and had nothing to do with shippers. The Agency found that although interswitching was not a regular mileage-based movement, it qualified as a grain movement. It claimed that the best way to encourage its use by shippers was to assign interswitching revenue to the railway company that is performing the interswitching.

The parties were divided as to whether trucking incentives amounted to an incentive under the *Act.* The railways claimed that the plain reading of the word "incentive" suggested that trucking incentives not be included as revenue under section 150(3). The Agency ruled that the trucking incentives paid by railways could not be characterized as an incentive, as these incentives did not form part of the base-year calculations under the *Act.*

In defining "demurrage," the Agency found that a two-day period to unload grain was appropriate, as it corresponded to demurrage granted other commodities. CN's demurrage of 12 hours less time did not qualify. The Agency exhaustively reviewed the issue of industrial development fund contributions, being the sidings and extensions built by the railways to accommodate grain facility rationalization, leaving the issue open for further scrutiny. The Federal Court of Appeal dealt with the specifics of that very issue years later.

The year following that initial decision of March 2001, the Agency reviewed new CP demurrage tariff as to whether it qualified as a penalty. The tariff eliminated the previous debit-credit system with the result that credits for quick unloading no longer offset debits. The Agency majority found that the tenfold increase in charges following the elimination of the debit-credit system resulted in an unreasonable demurrage tariff and that it was no longer reasonable to call it a penalty. The Federal Court of Appeal found that the definition of "demurrage" required a focus on the policy rather than on the amount.

Unlike the *Western Grain Transportation Act,* with costing based on forecasting, revenue-cap costing looks back to the previous crop year. Often, with appeals and redeterminations, years pass before issues are clarified and rail operations defined. CP's demurrage program provides an example of the built-in slow pace of the revenue cap. Following the Court of Appeal decision on CP's tariff, CN was asked to resubmit its earlier tariff for redetermination. Years passed before certainty in operations accrued. With the ability to revisit earlier decisions, certainty is forever elusive.

The Agency scrutinized CP's pickup and delivery charges for trucking in 2004. This highlighted the wide differences between the CP and Agency databases. Despite Agency attempts to reconcile the two, it was unable to resolve the issue satisfactorily before the December 31 statutory reporting time imposed under the *Act.* The majority resorted to an estimate of pickup and delivery charges, despite the sample reliability rate of 50.9 per cent.

In its 2005 revenue-cap decision, the Agency reviewed manual transaction surcharges. The railway imposed these surcharges on shippers who requested a paper bill rather than an electronic one. Although acknowledging that the surcharge encouraged efficient operations, the Agency found that as paper billing had formed the basis of the revenue-cap base year, the integrity of the formula required it be carried forward and maintained. The Agency disallowed the surcharge. Despite the relatively small amount at stake, the import of the decision was large. In allowing change only by reference to the industry inputs at base year, a structural defect emerged. Change was questionable if it touched on matters not provided for in the base year. As discussed later, government action on the sale or transfer of the government hopper cars was delayed, because of concern over a similar structural defect.

In the 2005 revenue-cap ruling, the Agency dealt with the question of whether amounts received under a railway category 'cars unsuitable for loading' was a penalty under the *Act.* The Agency accepted that the argument might well be circular in that the poor state of the cars may be the result of poor maintenance by the railways. However, it found that the legislation restricted it from looking beyond whether the program was a performance penalty. The decision also expanded upon the penalties under the industrial development fund category (sidings and extensions) and, specifically, whether they amounted to a penalty or a recapture of the amortized amounts.

The 2006 Agency revenue-cap decision is a cautionary tale to any federal railway seeking to purchase rail-dependant grain lines. The decision outlines the consequences to CN of buying back the Stettler subdivision in Alberta. CN, the original owner of the line, repurchased it from short line Central West Railway. To be consistent with its 2001 interswitching decision, CP, which ran over CN's line, benefitted from the deduction in revenue. In the 2006 decision, the Agency also looked to the bad debts claimed by the railways and began determining what did or did not amount to bad debt, a role for which it was ill-equipped. In fact, it was a role that it never would have had to consider if the bedrock of the revenue-cap regime were market driven.

In its 2007 decision, the Agency consulted widely with industry on how to classify multi-car block movements in grain and, specifically, the performance penalties attached in the event the movement did not take place. Under the tariff, if the movement was not unloaded, the railway said that it should be allowed to claim as a performance penalty not only the tariff amount but the per car penalty. The Agency queried whether this amounted to a double penalty. To the contrary, claimed CP, the entire Multi-car block (MCB) tariff amount was a performance penalty given it "was aimed at incenting or disincenting particular behaviours or actions."[21] The Agency found that it was not reasonable for the tariff amount to be characterized as a performance penalty. Yet, if the system were truly built on a market model foundation, tariffs designed and oriented toward greater efficiency should have been encouraged.

The Agency again attempted rationalization between its revenue-based approach and rail's cost-based approach. This had become an ongoing exercise with the only solution being that one of the two parties was going to have to change its financial system in order to jive with the other. Requiring either a railway or the Agency to adopt a new method of recording was probably unanticipated when the revenue cap was enacted.

In 2008, the Agency dealt with matters that originated in 2004. Specifically, on April 6, 2004, the World Trade Organization (WTO) ruled that the revenue-cap regime might adversely affect the competitive conditions of imported grain. In August 2005, section 147 of the *Canada Transportation Act* was amended to provide that grains included grains (and crops) imported into Canada.

CN argued that grain movements through Canada that originated in the United States should not qualify under the cap, as the revenue cap was not intended to cover U.S. movements through Canada. CP claimed that including U.S. grain under Canadian revenue-cap provisions was at odds with the WTO ruling. The Agency ruled that imported U.S. grain would be eligible under the revenue-cap program. The Agency next turned to the allocation of the Canadian portion of the U.S. originating movement.

CP submitted that the cross-border move should reflect the revenue derived for income tax purposes. CN submitted that a better fit was the East-West Allocation Methodology, which was developed by the Agency specifically to deal with the allocation between eligible (west of Thunder Bay) and non-eligible (east of Thunder Bay) portions of grain movements. CN argued that the East-West Allocation was a better fit than an income tax model would be, as the western intercept portion reflected the relatively higher costs associated with the origination and gathering of grain and, consequently, was better tailored to reflect the true costs of a grain movement than a flat-tax scheme. The Agency did not agree, disallowing the Canadian portion of the U.S. originating movement under a derivative of the East-West Allocation. Therefore, CN's grain-revenue system was required to reflect the north-south movements on one system with grains moving east and west on another.

The issue of the Stettler subdivision was revisited. As CN had resold the Stettler subdivision since the previous decision, the issue of its date of sale became pertinent in dividing interswitching charges between the railways. Although both railways agreed that the transfer date should be September 1, 2007, as this represented the date CP began dealing directly with the new short line and CN stopped being party to any transactions, the Agency required the railways to adjust their revenue-cap entries based on the Certificate of Title date.

In that decision, the Agency once again attempted to reconcile railway cost-based methodology with the Agency revenue-based approach in intermodal movement pickup and delivery charges. It also examined three specific topics in intermodal movements: lifting costs at a railway terminal, container maintenance costs and container-ownership costs. The railways claimed that the lifting at railway terminals was an analogous movement to that done by grain elevators or terminals in transload movements between hopper cars, trucks or vessels. The railways argued that a transload movement was a loading rather than a transportation movement and, consequently, should not be of relevance to the revenue cap. However, the Agency found that as the costs for these movements were embedded in the original revenue-cap formula, consistency required that they be included as revenue. The Decision was appealed on three issues: imported grain, transload movements, and penalties with the Federal Court of Appeal ruling issued in March 2010. The issue of imported grain, outstanding since the WTO ruling of 2004, was finalized with the Federal Court of Appeal decision in 2010.

The paper billing issue and others, such as transload movements, raised the question of whether only those matters initially anticipated or embedded in the revenue cap could form part of the regime going forward. The reverse concept arose when the government hopper cars were withdrawn from the fleet.

In the late 1960s following the crisis in grain deliveries, the government bought 2,000 hopper cars to keep the grain moving. By 1986, and to maintain branch line deliveries, the federal government's hopper car numbers had increased to 14,000. The fleet was available to the railways without charge and in equal numbers. The cars hauled grain for domestic buyers and for export. Ownership costs were not embedded in the formula, but the maintenance costs of the hopper cars were. When the government fleet was withdrawn, the integrity of the system required an adjustment to the formula to reflect the embedded costs. It turned out to be a costly exercise for the railways with an approximate reduction of 8 per cent in revenue. The issue set in motion six separate appeals to the Federal Court of Appeal, one to the Supreme Court of Canada, an amendment to the *Act,* an interim and a final Agency Review of the issue. It certainly put to rest any question of whether the revenue-cap regime was even remotely market based.

The government response to the embedded hopper car maintenance was Bill C-11. The government proposed to rebalance the revenue-cap formula with a one-time adjustment representing the embedded maintenance costs. In his press release, Transport Minister Cannon claimed the readjustment would "lower freight rates for Western farmers…."[22] This was certainly true, but CN President E. Hunter Harrison questioned why. Reiterating that the revenue cap was intended to be commercially oriented, that rail rates for grain transport in Canada were among the lowest in the world and significantly lower than those in the United States, Harrison addressed

> Being a mathematical formula, the revenue cap is inflexible and by its nature, a poor fit with a labile, market-driven rail industry.

the core issue of why the rates should be different based on the commodity:

> There is no sound policy rationale for arbitrarily lowering grain rates, nor is there any fairness or equity in favouring grain producers over rail shippers from all other sectors who have to pay market rates consistent with a privately funded railway industry.
>
> I can understand why farmers would like to pay lower freight rates. Everyone would like to pay less for what they buy. But the fact is that prices are normally set in the marketplace—it's true for gasoline at the pumps, food at the grocery store, and, yes, it's also true for grain, which is currently commanding record high prices because of supply and demand dynamics.
>
> Let's not forget that deregulation revived the Canadian rail industry over the past decade, producing lower rates and improved service, while allowing railways to generate sufficient profits to significantly step up investment in their networks.[23]

The revenue cap does not replicate the marketplace; there are wide differences between the revenue cap and a commercial, market-driven model. First, with the initial review of grain movements being completed a year and sometimes years after the fact, forward thinking is difficult. Second, revenue-cap regulation is an expensive exercise that requires teams of lawyers, accountants and bureaucrats to analyze the results of the previous year's grain movements. It is designed to encourage litigation. There have been nine appeals to the Federal Court of Appeal in its short history as well as a consistent disagreement between the parties on definitions.

Being a mathematical formula, the revenue cap is inflexible and by its nature, a poor fit with a labile, market-driven rail industry. Its underlying assumption that rates in grain movements need to be constrained is questionable. It ignores the fact that the grain rates are amongst the lowest in the world. It also ignores the general decline in the extent of shipper captivity and, importantly, the relationship between regulation, capital and productivity.[24] The revenue cap is quixotic, extending to some, but not all, grain movements, excluding some grains and eliminating some ports. It requires that costing models be integrated with Agency models—despite the fact that they are divergent. As the review of the Agency decisions demonstrates, the Agency must involve itself in railway operations, costing, real estate development and taxation issues to properly address revenue-cap issues. This is not light-handed regulation.

Perhaps one of the most serious consequences of the revenue cap is the emergence of a blinkered and parochial mindset that is focussed on the regulation rather than the market. Prior to deregulation in the United States, an attitude that discouraged innovation and entrepreneurial thinking was observed in the transportation industry. This is true of Canada.

Thus, the Saskatchewan Association of Rural Municipalities claims they are unable to assess whether branch lines are set at the right price as they cannot get a quote for a single-car rate. Wild Rose Agricultural Producers wants the Agency to have a mandate to allow shippers to share in railway productivity gains. The National Farmers Union claims the revenue cap provides fewer protections than the rate cap did. The Western Grain Wheat Growers claim that the revenue cap provides little incentive for rail to add extra capacity during periods of peak demand. A number of groups request a further costing review in order to benefit from railway productivity gains, with the Director of the Transport Institute at the Asper School of Business replying: "You can't have your cake and eat it too. If you have a revenue cap, then the productivity gains go to the provider."[25]

III Regulation, capital spending and productivity

By its nature, the revenue-cap regime ignores the relationship between regulation and the supply and demand of capital. Equally ignored is the result of non-investment on capacity and productivity. A drawback of a revenue cap is its effect on the railways' ability to make necessary capital investments and compete with other transportation providers.

In its March 2001 "The Effectiveness of the Canada Transportation Act Framework in Sustaining Railway Capital Spending," the Conference Board of Canada questions the special legislation that has governed grain for over a century and the seeming government fixation on this one commodity. It claims that the government claw-back of productivity gains that preceded the revenue-cap regime calls into question how committed the government really was to a market-driven rail system. It claims the $178-million reduction in revenue that the change imposed on the railways is "the equivalent of an imposed public duty without adequate compensation."[26]

The Conference Board of Canada charted key legislation in rail on the correlation between regulation, investment and capacity. They found that when regulation negatively affects railway operations, investment is deferred, which affects capacity. As an example, the Conference Board of Canada pointed to the *National Transportation Act,* which generally—except grain—allowed the railways pricing freedom but required them to maintain branch lines. The pricing freedom resulted in lowered shipping rates and increased competition. However, when the 1990s recession occurred, both railways were by regulation unable to quickly exit unprofitable branch lines, and traffic density dropped to about half that in the United States. In similar fashion, when the *Canada Transportation Act (CTA)* was passed in 1996, it created a climate that favoured new investment. Investment in rail doubled that of 10 years earlier.

They conclude that regulation in grain affects investment in a number of ways. The clawback in productivity gains that occurred at the outset of the revenue-cap regime raises the risk profile of rail. In similar fashion, the unanticipated reduction in revenue following the hopper car decision equally flags its risk profile.

By its nature, rail has a limited ability to compensate for loss of revenue. Compared with its competitors, rail maintains its own infrastructure, faces greater capital-heavy decisions and is constrained by more-onerous tax structures.

The Conference Board of Canada concludes that with the current regulated environment favouring grain, there will be three effects on capital spending if productivity gains cannot compensate for the reduced rail revenue in grain. First, overall capital spending for the entire system could be reduced. Second, the railways could target capital-spending reductions in the grain sector—as occurred with the failing branch lines and the lack of necessary equipment, such as hopper cars, to service grain shipment.

Third, capital spending could be maintained but non-grain shippers would have to pay higher rates to compensate for the lost grain revenue. If non-grain shippers are helping to move grain, it is questionable whether the revenue cap is justified in a wider Canadian economy.

The position of the Conference Board of Canada echoes that of the railway industry and industry watchers. They made similar claims about the serious consequences to the rail network of regulated grain rates.

The Railway Association of Canada in its submission to the Canada Transportation Act Review Panel states that regulated grain represents about 10 per cent of CPR revenue and "to jeopardize the overall railway enterprise to resolve a problem in one sector does not make too much sense—especially when it will not solve the farm income situation."[27] In a similar vein, Harrison claims that with the hopper car decision, "'the continued erosion of grain profits by re-regulation will force CN to review investment decisions in grain transportation and to restructure its services for the sector.'"[28] Dr. Barry Prentice of the Asper School of Business claims, "In some ways, the revenue cap is the new Crow Rate, and it's going to, over time, cause more and more distortions."[29]

> The position of the Conference Board of Canada echoes that of the railway industry and industry watchers.

IV Revenue-cap in a deregulated grains industry

Bill C-18, which received Royal Assent on December 15, 2011, structurally transforms the Canadian Wheat Board (CWB). Beginning with the crop year of August 1st, 2012, the CWB will be a voluntary marketing agency, commercially driven and contract based. Gone is the single desk co-ordination of grain movements. Bill C-18 relies on market signals rather than on the administrative authority of the CWB to provide the necessary discipline. Bill C-18 provides the basis for a competitive environment in grain. This is a significant change, and the recent rise in the price of high quality Prairie grain to U.S. levels shows the market to be responding favourably.[30]

As markets generally function best when armed with a reliable expectation of the behaviour of the other stakeholders, a fresh look at the effect of the revenue cap is warranted.

Although a seemingly neutral regulation, the revenue cap remains an irritant in the grain handling and transportation system. It creates inequities among the major stakeholders given that there is no regulatory cap on grain revenue moving by truck or marine, nor is there a revenue cap on grain moving to the United States for domestic consumption, nor on grain elevator fees, nor on grains not listed in Schedule II of the *Act,* nor on other commodities. By its nature, the revenue cap restricts the smooth functioning of the system.

Regulation such as the revenue cap, which on face value seems flat or neutral, can have wide repercussions. Regulation and market forces are not an easy match as the following two examples under the *WGTA* regime allow.

The subsidy regulation of pooling points under the *WGTA* provides the first example or insight into how seemingly neutral regulation can have a serious effect on other stakeholders. Under the *WGTA,* the cost of rail transportation of grain was to be covered by a transportation subsidy to Canadian ports. Until the 1970s and due to the export market of grain being predominantly the United Kingdom, the St. Lawrence price for grain was higher than the Vancouver price. As such, the use of Thunder Bay and Vancouver prices as pooling points worked. However, when the price of West coast grain increased, the pooling no longer worked. With the higher cost of seaway movements no longer offset by higher grain prices, shipping through Thunder Bay naturally declined. To address the loss of traffic to Thunder Bay, the *Act* was amended to change the point of equivalence to St. Lawrence/ Vancouver rather than Thunder Bay/Vancouver. This, however, resulted in the lowering of grain prices in eastern Saskatchewan and Manitoba relative to Alberta. Although the revenue cap may not have as wide and pernicious an effect, issues such as the hopper car transfer certainly bring home the serious and unforeseen consequences of seemingly neutral regulation such as the revenue cap.

The second example involves the 2005 amendment to section 147 of the *CTA,* which allowed U.S. imported grain movements to fall under the revenue cap.

Dependant on other conditions, such as the price of grain, vessel availability, and especially the emergence of containerization, greater volumes of U.S. grain could move through Canada. These volumes, capped by that amendment, could attract extra routing. In order to access subsidies on U.S.-bound grain, movements under the *WGTA* became victim to those subsidies, and it was common to have grain moved from the Prairies to Thunder Bay and then back to Fort Frances or Winnipeg before moving to U.S. destinations. With Winnipeg as a reference point, this practice, known as backhauling, increased grain movements by some 450 miles (under CN movements) and 860 miles (under CP). The result was a marked inefficiency in grain transportation, longer car-cycle times, less effective use of cars, the need to lease extra cars from the United States to accommodate the backhauling, delays at port and market distortions.

The grain lands of the Prairies have many stakeholders, each with an important and interdependent share in the multi-billion dollar grain handling and transportation business. In his review, Estey lists the stakeholders as the grain and elevator companies, the ports and waterways, the railways, the farmers and the CWB.

The larger grain companies have the necessary weight to deal with the railways. As well, these grain companies have the ability to redirect shipments to one or the other of the carriers and, like the potash industry, are able to properly leverage one railway against the other. Product competition in grains and secondary products will encourage producers to explore other options and routing of products. Yet, the revenue-cap regime may have a secondary effect on the grain companies.

Under section 150(5) of the *CTA,* the railways can deduct from grain transportation revenue, the amortized amount of the railway contribution to the development of grain-related facilities. For the most part, the railway contributions have related to the extension of sidings at elevators or the construction of multi-car sidings at the new high-throughput elevators. If there is a rail component to any future collaborative grain handling undertaking, the railway will want to ensure that its contribution reduces grain-transportation revenue. The Agency's definition of "contribution" encompasses "any assistance or tangible benefit that can be valued in money such as cash, property or services provided by the railway company."[31] Similarly, a "grain-handling undertaking" includes licensed operators at primary, terminal or processing elevators under the *Canada Grain Act* and unlicensed operators at grain-related facilities such as seed processing plants, dehydration plants, facilities for the shipment of specialty crops, and port facilities. This may be of specific relevance to inland terminals and independent grain elevators seeking to enhance their competitive position by adding to grain-related facilities. As the Agency has final say on whether the amortized amount of the contribution can reduce income, the speed and access to capital for the construction of future facilities may be impeded.

A further impact of revenue-cap regulation on grain companies relates to incentives. Railways are able to reduce revenue for incentives, such as the loading 50- and 100-car spots. There is a concern that the incentives to grain companies may be distorting the true economics of grain transportation by providing a greater value to the incentive than the cost of the movement warrants. The revenue cap encourages this practice, a practice that remains a vulnerability to grain pricing

> The revenue cap is a deterrent to capital investment, as it increases risk. This in turn affects productivity and capacity.

and, by extension, grain companies. Inputs to the volume-related composite price index portion of the formula remain a vulnerability for all stakeholders.

A major stakeholder in the grain handling and transportation system is the ports. The definition of "movement" restricts grain covered by the revenue cap to movements to Thunder Bay, the port of Churchill or a port in British Columbia. Grain handlers with port position will move more grain through their terminals. Grain terminals at port will earn fees for storage, elevation, blending and cleaning. There is some thought that movements to the Gulf coast will increase, as grain will move where grain company competition and market forces are best served. Thus, and despite the fact that the Port of Churchill is approximately 1,000 miles closer to Rotterdam than to Thunder Bay, its ownership makes it non-competitive with the exception of certain international markets. Similarly, the Port of Prince Rupert, although closer to certain Asian markets, remains non-competitive in relation to the Port of Metro Vancouver. The Ports of Churchill and Prince Rupert are more affected by the changes to the CWB than they are by the effect of the revenue cap. The revenue cap issues that may affect ports relate to the construction of grain-related facilities that may affect ports relate to the construction of grain-related facilities that may be anticipated at that port and whether incentives reflect cost."

As stakeholders in the grain handling and transportation system, the railways continue to be in a vulnerable position with the revenue cap. The history of grain-rate regulation points to regulation as responsible for jarring and unpredictable changes to railway revenue. Decisions under the revenue cap have infiltrated the operation, real estate, planning and taxation issues faced by the railways. Looking back to the past crop year, as the revenue cap requires, results in unreliable planning. The revenue cap is a deterrent to capital investment, as it increases risk. This in turn affects productivity and capacity.

The Railway Association of Canada claims that the revenue cap jeopardizes the overall railway enterprise and creates conditions for deteriorating plant and service similar to the problems created under the Crow until 1983. Akin to the conclusions of the Conference Board of Canada, the Railway Association of Canada found that this deterioration would affect not just grain but other commodities. "And who," they ask, "will finance the replacement of the 20-year-old public hopper cars as they wear out and become obsolete?"[32]

The last group of stakeholders that may be affected by the revenue cap are the shippers. There appears to be a vocal but divided stance on the issue of removing the single-desk status of the CWB. The Western Canadian Wheat Growers Association submission to the CTA Review Panel provides thoughtful analysis.

It claims that the Estey and Kroeger Reviews provided the right answer: Eliminate the role of the CWB in rail transportation. This would have provided an optimum competitive environment, as the grain companies represent a hefty response to any claim of railway power. The grain companies, the Western Canadian Wheat Growers Association claims, are of sufficient weight to deal with the railways. As the CWB was not decommissioned despite the Estey and Kroeger urgings, the revenue cap, which could have provided some benefit, has resulted in little benefit to the individual shipper.

By contrast, the Western Grain Elevator Association on behalf of Cargill International, Louis Dreyfus Canada Ltd., Parish & Heimbecker Ltd., Paterson GlobalFoods Inc., Richardson International Ltd., Viterra and Weyburn Inland Terminal Ltd. does not think that shippers have sufficient weight to deal with railway market power. It recently claimed that the problem is the result of an imbalance in market power of the railways and that regulation should be put in place "favouring the shipper in order to establish market equilibrium."[33]

Recently, the Executive Director of this association claimed that the removal of the revenue cap would result in better service to the shippers. With variable moves and tonnages likely the result of the new competitive grains system, service will be a major factor. Dr. Barry Prentice of the Asper School of Business at the University of Manitoba points to the revenue cap as responsible for the current level of service complaints. If, he claims, you create a system with incentives, the railways naturally gear toward where they are directed to go. The revenue cap rewards efficiency and lowered costs. Consequently, he claims unit trains are on the radar with little appetite for spotting cars to small shippers.

In this light, the Freight Rail Service Review in its Final Report of January 2011 found the answer to service issues qua railway-shipper was to require commercial, contract-based measures to regulate relations between the parties. A contract-based system dependent upon the certainty of terms may be of benefit to shippers but an ill fit with an ever-changing revenue-cap regime. Possibly the rate cap provided a better basis for commercial relations, as approximately 20 per cent[34] of grain movements did not move under the rate cap but were contract based.

A final issue regarding the revenue cap and its possible impact on the shipper community is a consideration of containerization. Containerization is no longer considered a trend but, rather, the new reality in shipping. Some shippers see an opportunity in a deregulated grains industry for shipment of specialty crops and grains, such as hard red spring. These movements would typically be backhaul movements and being grain movements would, dependant on the port, be eligible under the revenue cap. Although a thorough study by Transport Canada suggests that it is too early to assess whether the revenue cap would be a deterrent or a benefit to container movement, it may be that as container movements will typically be backhaul attracting credits for underused import markets, that the revenue cap is a complicating factor and a detriment to shippers.

In sum, after reviewing the impact of the revenue cap on all the stakeholders in a deregulated grains industry, there is no clear case for the retention of the revenue cap.

V Conclusions

In *A Real Train Wreck,* many in the grain industry urge a full costing review where grain farmers share rail's productivity gains. This continued urging for a non-market-based approach to grain transportation recalls Earl's "harmony of interest" theme. Although this model may have had its place in a 19th century Canadian economy with an emerging grain industry, it is inconsistent with a 21st century global, market-driven model.

Grain must be placed on a more-commercial footing reasoned the Canadian Transportation Act Review Panel. It found there was no rationale for its different treatment, concluding that its non-commercial treatment may result in a crisis. The Canadian Transportation Act Review Panel concluded that a commercial footing for grain was not only reasonable but fair, noting that when the *WGTA* was repealed in 1995 and replaced with a rate cap, the legislation contemplated eventually giving grain's special status a sunset clause.

There is no historical imperative for continued grain/rail rate regulation. All the players are aware that policy developed in 1897 with the Crow rate cannot guide today's economy and that if in the past there existed the need to give grain shippers a boost, it is no longer appropriate. In fact, its continuation may imperil the railway industry. It is submitted that deregulating rail rates in a deregulated grains industry is fair and urgently required.

Much can be learned from the deregulation of the U.S. rail industry. In *Surface Freight Transportation Deregulation,*[35] Thomas Gale Moore, a member of President Reagan's Council of Economic Advisors concludes:

> In 1974, President Ford organized an economic summit meeting dealing with inflation to which he called some of the leading economists in the country. Although many people believe that economists never agree, twenty-three economists signed a statement at that meeting recommending deregulation of transportation. The result has been all that the economists predicted.[36]

> All the players are aware that policy developed in 1897 with the Crow rate cannot guide today's economy...

Endnotes

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15. Earl notes that the government eventually purchased 13,500 cars, with the Canadian Wheat Board buying 2,000 and the Saskatchewan and Alberta provincial governments each purchased 1,000. ←
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19. Ibid., p. 32. ←
20. Kroeger, Arthur, Letter to The Honourable David M. Collenette, P.C., M.P., dated September 29, 1999, p. 3. ←
21. Agency Decision No. 655-R-2007, p. 14. ←
22. Government of Canada media release dated February 25, 2008. ←
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24. There are three types of competition: intramodal, intermodal and through the market itself. The increase in competitive measures results in a decline in shipper captivity. ←
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26. Conference Board of Canada, "The Effectiveness of the Canada Transportation Act Framework in Sustaining Railway Capital Spending," submitted to the Canada Transportation Act Review Panel, March 2001, p. 12. ←

27. Extract from a Railway Association of Canada submission to the Canada Transportation Act Review Panel, 6-4.
28. Ibid., footnote 22.
29. Kamchen, Richard, *Railing Against the System,* p. 2.
30. *Winnipeg Free Press* editorial, "Grain War Serves No Purpose," December 26, 2011.
31. Agency Decision No. 114-R-2001, p. 11.
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33. Ibid., footnote 23.
34. Honourable W.Z. Estey reported that approximately 10 to 15 per cent of grain moved under contract and was not rate capped.
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Further Reading

July 2011

Removal of the Canadian Wheat Board Monopoly

By Milton Boyd

http://www.fcpp.org/publication.php/3849

May 2011

Whither Taxi Regulation

By David Seymour

http://www.fcpp.org/publication.php/3763

For more see

www.fcpp.org