

March 2017

Canadian Transportation Agency Closes Submissions on Regulatory Costing Model Consultation

The Canadian Transportation Agency (Agency) recently invited submissions regarding its consultation on the Agency Regulatory Costing Model (ARCM) in setting rates for interswitching traffic between federal railway companies within prescribed geographic distances and for deriving long run variable costs (LRVC) of particular rail shipments in final offer arbitration. As the Agency states, the ARCM is an “activity-based costing system that relates the defined activities performed by a railway company in providing rail transportation service, to the financial costs incurred in performing each activity as defined in the Agency’s *Uniform Classification of Accounts and Related Railway Records* (UCA).”

The ARCM estimates “the variable portions of all the railway activities performed, including overhead activities, and sums up the activity variable costs. The model incorporates empirical relationships developed between the cost of each railway activity and changes in traffic volume to determine the proportion of the cost that varies with traffic volume.” The LRVC relationship to rates charged by railway companies is an important determinant in assessing the viability of transporting freight by rail. Almost all rail freight shippers are affected by the ARCM to some degree.

The ARCM Consultation is a continuation of the Agency’s efforts to “update the proportion of each cost activity that is estimated to vary with changes in traffic volume”. The Agency’s expert staff

undertook a comprehensive review of the ARCM, notably, as directed by the Agency:

- the existing aggregations of cost activities;
- the appropriate traffic-related variables influencing the cost activities;
- the appropriate data for analyzing the cost and traffic volume relationships; and
- the appropriate empirical methodologies for analyzing these relationships.

Canadian National Railway Company and Canadian Pacific Railway Company made submissions upon invitation. Agency staff then sought “industry views and comments on three underlying issues at the core of the Agency’s regulatory costing model, for consideration and decision by the Agency”: (i) whether cost categories should be aggregated or disaggregated further, (ii) the appropriate approach to determine the variable portions of the cost accounts and (iii) available approaches to address the lack of transparency and reliance on railway data.

McMillan made [submissions](#) on February 28, 2017 on behalf of Teck Resources (Canada’s single largest rail shipper), supported by the Western Grain Elevator Association, the Canadian Canola Growers Association and the Western Canadian Shippers Coalition. Our submissions were based on testimony by highly regarded experts in

- regulatory costing (Mr. Jamie Heller of Hellerworx Inc., John Edsforth of Travacon Research Limited and John Schmitter of KEP LLC)
- transportation economics (Dr. David Gillen, Ph.D., University of Toronto, Director, Centre for Transportation Studies, YVR Professor of Transportation Policy and Professor, Operations and Logistics Division, Sauder School of Business, University of British Columbia)

- econometrics (Dr. Adonis Yatchew, Ph.D., Harvard University, Professor of Economics, Department of Economics, University of Toronto)

Apart from the submissions of the two Class I federal railway companies, CP and CN, that were the object of the consultation, others made submissions, all found on the [Consultations Page](#) of the Canadian Transportation Agency website. Submissions are now closed.

by [François Tougas](#)

Strategy, Negotiations, Resolution



(from left to right: [Louis Zivot](#), [Lucia Stuhldreier](#), [Ryan Gallagher](#), [François Tougas – Co-Chair](#))

For more information please contact:

Vancouver [François Tougas](#) 604.691.7425 francois.tougas@mcmillan.ca

[a cautionary note](#)

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

© McMillan LLP 2017