

Rail Relocation versus Grade Separation Feasibility Study – April 2021 Update

ISSUE

City Council requested additional information respecting the interswitching of rail traffic contained in federal legislation and regulations.

BACKGROUND

City Council, at its Regular Business Meeting held on January 25, 2021, considered the report Rail Relocation versus Grade Separation Feasibility Study – January 2021 Update and resolved:

“That the Administration review paragraph 137(1)(a) and subsection 152(4) of the National Transportation Act, 1987, and the annexed Regulations respecting the interswitching of rail traffic, made by the National Transportation Agency and report back.”

CURRENT STATUS

The *National Transportation Act*, 1987 has been repealed and replaced by the *Canada Transportation Act*. The Administration has identified the appropriate sections of the *1996 Act* that relate to the original motion.

The *Canada Transportation Act*

<https://laws-lois.justice.gc.ca/eng/acts/c-10.4/page-1.html>

and *Regulations*:

<https://laws-lois.justice.gc.ca/eng/regulations/sor-88-41/FullText.html>

DISCUSSION/ANALYSIS

Interswitching

The *Canada Transportation Act* states:

127 (1) If a railway line of one railway company connects with a railway line of another railway company, an application for an interswitching order may be made to the Agency by either company, by a municipal government or by any other interested person.

Interswitching is a practice that gives some shippers access to the services of railway companies that do not directly serve their facilities or sidings, by requiring that a railway company that does provide such direct service transfer cars with a shipper's traffic at an interchange to a different railway company with which the shipper has made transportation arrangements.

For example, in Saskatoon, if CN had customers along CP's mainline, interswitching would provide those customers with CN rail service and access. The interswitching could be accomplished through use of the existing rail interconnection located at the diamond, near the grade separation of Circle Drive South and 11th Street West. The

interswitching regulations allows for compensation and by agreement for the two railways to share a rail line or service for nearby customers using the other railway's infrastructure.

The Administration believes a municipality may apply to the Canada Transportation Agency on behalf of shippers to establish interswitching. However, the Administration interprets the intent of regulation as limiting the scope of interswitching to the servicing of local customers and a shared line using the existing rail infrastructure.

The costs of compelling the railways to share their infrastructure are unknown, although the Administration assumes those costs would be borne by the applicant.

The *Canada Transportation Act* states:

127.1 (1) The Agency shall, no later than December 1 of every year, determine the rate per car to be charged for interswitching traffic for the following calendar year.

The Canada Transportation Agency sets the rates for interswitching.

Running Rights and/or Joint Track Usage

The *Canada Transportation Act* states:

138 (1) A railway company may apply to the Agency for the right to

- (a) take possession of, use or occupy any land belonging to any other railway company;
- (b) use the whole or any portion of the right-of-way, tracks, terminals, stations or station grounds of any other railway company; and
- (c) run and operate its trains over and on any portion of the railway of any other railway company.

The Canada Transportation Agency may order running rights and/or joint track usage through an Order in Council if the Agency believes significant efficiencies and cost savings would result from joint or common use of the right-of-way by two or more railway companies and would not unduly impair the commercial interests of the companies, fix the amount of compensation to be paid in respect of the joint or common use of the right-of-way and any related work if the companies do not agree on the amount of that compensation.

Rail Relocation

The Administration's original approach for Phase 1 and Phase 2 of the Rail Relocation versus Grade Separation project was to pursue developing a business case, an acceptable alternative, and demonstrate the financial benefit of relocation or shared corridor and right-of-way to the railways. The framework for this approach was based on the mechanisms available to the City of Saskatoon in the *Railway Relocation and Crossing Act*, 1985.

The City's consultant at the time, HDR recommended the approach that the railways needed to see a financial benefit of relocation (shorter network, faster movement, removal of bottlenecks). Unfortunately, both railway's responses to the proposal suggest the concept developed in Phase 2 had not provided a good business case for further developing the shared-use corridor concept for relocation.

The Administration believes no further action on rail relocation is possible at this time until either or both railway companies express a desire to further develop either the shared corridor or relocation concept. Information on the *Railway Relocation and Crossing Act*, 1985 is at:

<https://laws-lois.justice.gc.ca/eng/acts/r-4/FullText.html>

OTHER IMPLICATIONS

There are no financial, privacy, legal, social, or environmental implications identified as a result of this report.

NEXT STEPS

No further reporting or follow-up is planned for the Rail Relocation versus Grade Separation Study at this time.

Report Approval

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