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February 23, 2018

Mr. Casey Brendon
Director, Revenue Services
City of Toronto
North York Civic Centre
5100 Yonge Street
Toronto, ON M2N 5V7

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Dear Mr. Brendon:

I understand that the City Administration has been asked to analyze the implications for Toronto if Ontario were to adopt an assessed value, or tonnage, formula for municipal property taxation of railway rights-of-way, rather than the current acreage-based system. On behalf of the members of the Railway Association of Canada, which includes four number of railways that operate in Toronto, I am writing to provide comments for consideration.

First, it is important to understand that railways do not track traffic volume or tonnage based on municipal boundaries. This data is tracked by railway subdivision, which could include dozens of separate municipalities. A requirement to start tracking traffic volume according to municipal boundaries would be administratively complex, labour-intensive, and costly. In other provincial jurisdictions where a volume-based formula is applied to railway ROW, it is administered at the provincial level, and not for municipal property tax regimes.

Second, if the total revenue generated from railway ROW property tax in Ontario remained constant, but the formula changed to a volume-based system, some municipalities would necessarily receive more tax revenue, while others would receive less. This is an important consideration for Toronto since it benefits from the existing acreage-based formula, as the acreage footprint of railways in Toronto is significant. Moreover, if a re-designed formula resulted in significant increases to the overall municipal property tax obligations of railways operating throughout Ontario, these additional costs would invariably be passed on to the users of the rail system: shippers, consumers, and commuters in the case of passenger rail.

Third, the adoption of a volume-based formula would introduce a significant degree of unpredictability and variation into the anticipated property tax revenues that could be collected by municipalities from railway ROW, property since traffic volumes can fluctuate significantly over time, depending on the overall strength of the economy and sector-specific need and demand. Moving away from a predictable acreage-based formula that does not vary significantly year over year would inevitably cause challenges for municipal



government financial planning, as it would be difficult to predict the revenue base generated from this formula each year.

Finally, any change to a volume-based formula would fundamentally alter the nature of the tax: rather than taxing property, a volume-based formula would effectively tax income – or profit – because it would be **based on a railway's traffic. This is inconsistent with the existing nature of property taxes, which are** intended to be based on property value. Railways that operate in Toronto already pay significant corporate income taxes to the Governments of Ontario and Canada. Thus, a volume-based formula for railway rights-of-way property would constitute a form of double-taxation. This ought to be avoided as a matter of sound public policy.

Thank you for your consideration. If you would like to discuss this issue in greater detail, please do not hesitate to contact me.

Sincerely,

Gérald Gauthier
Acting President
The Railway Association of Canada