

Kansas Administrative Regulations

Kansas Corporation Commission

Article 9.—Railroad Rates

82-9-16. Contracts.

(a) Definitions.

(1) "Contract," as used in this regulation, means a written agreement entered into by one or more rail carriers with one or more purchasers of rail services, to provide specified services under specified rates, charges, and conditions.

(2) "Amendment" means written contract modifications signed by the parties.

(b) Filing and approval. Each rail carrier providing transportation subject to commission jurisdiction shall file, with the commission, an original and one copy of all contracts entered into with one or more purchasers of rail services. These contracts shall be accompanied by two copies of the contract tariff that contains a summary of the nonconfidential elements of the contract in the form specified in 49 C.F.R. 1300.300-1300.315, as in effect on September 23, 1983, which is hereby adopted by reference. The following parts of the federal rules and regulations promulgated by the interstate commerce commission, as they existed on September 23, 1984, are hereby incorporated by reference: 49 C.F.R. 1300.300 through 1300.315.

(c) Each contract filed under the section shall specify that the contract is made pursuant to K.A.R. 82-9-16, and shall be signed by duly authorized parties.

(d) Each amendment shall be treated as a new contract. Each amendment shall be lawful only if it is filed and approved in the same manner as a contract. To the extent terms affecting the lawfulness of the underlying contract are changed, remedies shall be revived and review shall again be available.

(e) Grounds for review of contract. A proceeding to review a contract may be initiated within 30 days of its filing date upon the commission's own motion or complaint of an interested party. Such a review shall be based only on an allegation of violations as described in K.A.R. 83-9-17. For purposes of this subsection, the definition of the

term for "agricultural commodities," "forest products," and "paper" will be decided on a case-by-case basis.

(f) Enforcement. The exclusive remedy for an alleged breach of a contract approved by the commission shall be an action in an appropriate state district court, unless the parties otherwise agree in the contract. A rail carrier shall not be required to violate the terms of a contract, except to the extent necessary to comply with 49 U.S.C. § 11128.

(g) A rail carrier may enter into contracts for the transportation of agricultural commodities that involve the use of carrier-owned or leased equipment if the involved equipment does not exceed 40 percent of the total number of the carrier's owned or leased equipment, by major car type. Agricultural commodities shall include forest products, excluding wood pulp, wood chips, pulpwood or paper.

(h) Any transportation or service performed under a contract or amendment may begin, without specific commission authorization, on or after the date the contract and contract summary or contract amendment and supplement are filed and before commission approval.

(i) Rules governing railroad contracts as set forth in 4 I.C.C.2d 288 (1988) are hereby adopted by reference.

(Authorized by K.S.A. 66-106; implementing K.S.A. 1989 Supp. 66-146; effective May 1, 1984; amended May 1, 1985; amended Oct. 29, 1990.)

***** Authenticated Kansas Administrative Regulation *****