

The Kansas City Southern Railway Company



TARIFF 9213-H

(Cancels and Supercedes KCS 9213-G effective February 1, 2008

CONTAINING

RULES, REGULATIONS AND CHARGES

GOVERNING

DIVERSION OF FREIGHT

AT ALL POINTS

ON

THE KANSAS CITY SOUTHERN RAILWAY COMPANY

APPLICABLE ON INTRASTATE TRAFFIC

ISSUED BY:

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KCS Web Site

ITEM 100

This publication is now available on the Internet for viewing or sending directly to your printer. The KCS Home Page address is <http://www.kcsouthern.com>. From the Home Page choose the 'Customers' link, then click the 'Accessorial Charges' link and click '9213 Diversion' link.

If you are not prepared to obtain a copy of this publication directly from the KCS web site, a hard copy will be mailed to you, provided you furnish, to the address shown below, a formal written request for a printed copy. This formal request is required on an annual basis in accordance with the Surface Transportation Board's policy decision under Ex Parte 528, Disclosure, Publication and Notice of Change of Rates and Other Service Terms for Rail Common Carriage.

Manager Sales & Marketing Contracts
Kansas City Southern Railway Company
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Change In Provision(s)

Item 110

KCS reserves the right at any time to change the provisions of this Diversion Tariff; provided, however, any such change shall be effective only with regard to any transportation services provided under this Tariff for freight tendered after the effective date of the changes. KCS will make available on its web site this Tariff in its latest amended form. Shipper should review this Diversion Tariff before tendering freight to KCS. Revisions to this publication will be made from time to time by reissuing the publication in its entirety.

Notification of Changes

Item 120

Charges published herein are subject to increase by republication.

Credit Terms

Item 130

Charges that accrue per this Tariff are due and payable according to KCS' Credit Terms, as stated in KCS Rules Publication 9011 or KCS 9012, whichever is applicable.

Explanation of Abbreviations

Item 140

AAR – Association of American Railroads
KCS – The Kansas City Southern Railway Company

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General Application

Item 200

- A. Except as provided in Paragraph B below, the provisions of this Tariff apply:
1. When KCS is the origin line haul carrier and car has departed the origin loading facility when served by KCS; or
 2. When KCS has taken physical possession of the car from either a switching carrier or a connecting line haul carrier.
- B. The provisions of the Tariff are not applicable on the following:
1. Coal shipments moving in unit trains; and
 2. Empty private cars diverted to a private repair facility.
- C. If a single diversion order, given at one time, contains a request for more than one change in the billing/shipping document, only one charge will be assessed. The applicable charge will be for the change subject to the highest charge.
- D. When the party requesting a diversion asks that it be accomplished after he or she is made aware that the applicable diversion provisions have not been met or that the line haul transportation price does not authorize diversions, the shipment will be subject to the combination of rates for a shipment terminating and originating at the diversion points.
- E. Unless specified at the time of diversion, the Payor of Freight shown on the waybill shall be the party responsible for diversion charges and payment of any hold charges and/or demurrage or storage charges that may be applicable and incurred to accomplish the final delivery.
- F. All charges named in the Tariff are stated in United States Dollars.
- G. All charges for the shipment, whether accrued or accruing, must be paid or guaranteed to the satisfaction of KCS before the car is diverted.
- H. KCS will not be responsible for any charges accruing on cars delivered to connecting Railroads, other than the absorption of reciprocal switching charges that are authorized by KCS switching absorption provisions.

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Glossary of Terms

Item 300

CARE OF PARTY: A party other than the consignee designated on the bill of lading as the entity entitled to receive delivery of the goods from the carrier at destination.

CONSIGNEE: The party designated on the bill of lading as the entity entitled to receive delivery of the goods from the carrier.

CONSIGNOR: The party designated on the bill of lading as the entity which has caused the goods to be consigned into transportation.

DESTINATION: Billing destination, or if such destination is serviced by a terminal yard, then such terminal yard will be considered as the destination.

DIVERSION: A change in billing/shipping instructions that changes the route and/or destination of a freight car. Changes which constitute a diversion include:

- ...a change in destination;
- ...a change in route;
- ...a cancellation of a previous diversion order;
- ...the cancellation of an original shipping document after the car has been pulled from industry or team tracks;
- ...the addition of a Mexican Customs Broker, US Freight Forwarder, US Customs Broker and/or Canadian Customs Broker;

NORMAL BUSINESS HOURS: Normal business hours are from 8:00 a.m. to 5:00 p.m. Central Time on Monday through Friday, except for holidays. "Holidays" shall include Thanksgiving, Christmas Day and New Year's Day.

PAYOR OF FREIGHT: The responsible party listed on the waybill for payment of the line haul freight charges.

PRIVATE CAR: A car which is not owned or leased by a railroad.

RAILROAD CONTROLLED CAR: Any car other than a Private Car.

RECONSIGNMENT: A change in billing/shipping instructions that does not affect the physical movement or route of a freight car. Changes which constitute a reconsignment include:

- ...a change in the Consignee, Care of Party, or Payor of Freight;
- ...a change from prepay to collect or vice versa;
- ...a change in the original shipping documents in conjunction with an overcharge claim per item 1100.

RULE 11 PAYOR OF FREIGHT: The legal entity listed on the waybill that is responsible for the payment of line haul freight charges on a rule 11 shipment.

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Glossary of Terms (continued)

Item 300

WAYBILL CORRECTION: A correction to a waybill includes:

- a. correcting a seal number, reference number, quantity count or package type;
- b. adding or removing equipment from a multi-car bill, the net weight on a weight agreement or shipper's certified weights movement
- c. adding or correcting a beneficial owner, notify party, account of party, ship from party or ultimate Consignee.

A waybill correction can not be completed on a closed or cancelled waybill. Non-revenue empties that are railroad controlled cars can not be corrected.

WAYBILL CANCELLATION: A waybill cancellation is accomplished if:

- a. the equipment has not been pulled from the industry or has been interchanged from a connecting carrier;
- b. the industry's cut-off time has not passed.

If any of the above events occur, the customer must issue a Diversion.

Notifying KCS of Diversion/Reconsignment

Item 400

Diversion or Reconsignment request will only be processed when a request is submitted to KCS, by the following methods:

- a. KCS' Shipment Tracking tool on the Internet <http://www.kcsouthern.com>
- b. call to KCS' Customer Service Center (CSC) at telephone #(800) 468-6527 *
- c. fax to KCS' Customer Service Center (CSC) at fax #(800) 874-7088 *
- d. fax via third party services *

Prior to KCS approving a diversion or reconsignment request from an authorized representative/agent of the Payor of Freight, the party making the request must submit an approved letter of authorization to KCS at:

Kansas City Southern Railway Company
Business Solutions
Fax #: (816) 983-1621
Email: KCSEcommerce@kcsouthern.com

If a diversion or reconsignment, except diversion of unit trains, request is submitted to KCS, **other than** by a.) KCS' Shipment Tracking tool on the Internet <http://www.kcsouthern.com>, shown above, a fee of \$75.00 per request will be assessed. Charges assessed under this Item will be assessed to the shipper and is payable in U.S. funds.

* Denotes \$75.00 charge per car

Diversion Request on Empty Private Cars

Item 500

Request for diversion on an empty Private Car(s) is subject to the provisions of this Tariff except that Paragraph F in item 700 does not apply. See KCS Circular 3700 for further information regarding movement of empty cars.

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Orders for Diversion/Reconsignment

Item 600

Orders for diversions or reconsignments will only be accepted from:

- A. Payor of Freight;
- B. authorized representative/agent of the Payor of Freight;
- C. Consignee, when issuing instructions for delivery to a KCS served or open industry within the switch limits of the billed destination of record at the time of the diversion request; or
- D. car owner or lessee on non-revenue moves of empty railway cars.

Non-Acceptance of Orders for Diversions/Reconsignments

Item 700

KCS will not accept orders for diversions or reconsignments:

- A. after car has been interchanged to a connecting line haul carrier;
- B. after car has been interchanged to a switching railroad;
- C. after actual placement of the car at billed destination by KCS;
- D. on "Order Notify" bill of lading consignments;
- E. on orders to change the status of shipment from a "Straight" bill of lading consignment to an "Order Notify" bill of lading consignment;
- F. that require KCS to perform backhauls or out-of-line hauls;
- G. to a station or to a point of delivery against which an embargo is in force;
- H. if the car is in an interchange block;
- I. if the car is a non-revenue empty Railroad Controlled Car;

KCS reserves the right to accept or reject a diversion or reconsignment request for any reason.

KCS Responsibility to Effect Diversions/Reconsignments

Item 800

KCS will make a diligent effort to effect desired diversion or reconsignment when the car is in KCS' possession, except under the following conditions:

- A. KCS will not assume any responsibility for effecting a diversion at a specified location:
 1. After a car has been classified or assembled into a train for outbound movement. In this situation, a car may be diverted at the next classification yard or interchange location and the diversion will be governed by the rules and charges herein at that location.
 2. After a car has been placed in "pre-blocked" or "run-through" train service. In this situation, a car may be diverted:
 - a. When billed to a KCS destination, after the car reaches the "pre-blocked" destination or the destination of the "run-through" train or the billed destination, as the case may be, and the diversion will be governed by the rules and charges herein at that location; or

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KCS Responsibility to Effect Diversions/Reconsignments

Item 800

(continued)

- b. When billed to a non-KCS destination, after the car reaches the “pre-blocked” destination or the destination of the “run-through” train and the diversion will governed by the rules and charges herein at that location, except if the car is not scheduled to be reclassified prior to interchange to the connecting railroad, the car may not be diverted.
 3. When a car has been placed in “pre-blocked” train service for delivery to another carrier at a KCS destination for that carrier’s performance of reciprocal switching service.
- B. KCS will not be responsible for executing a diversion/reconsignment order on a specified day or time of day.
- C. KCS will not be responsible for increased charges when the diversion/reconsignment cannot be accomplished at the desired locations.
- D. An order for diversion which specifies that a through rate is to be protected will not be construed as obligating KCS to protect other than the lawful rates and charges under these diversion rules.
- E. KCS will not assume any responsibility for effecting a diversion at a specified location if orders are received outside of normal business hours as defined in Item 300 of this Tariff.

Multiple Car Shipments

Item 900

- A. Multiple car shipments comprised of more than one car tendered on one bill of lading on one day from one shipper at one origin to one consignee at one destination for movement under line haul rates or charges specifically providing for application on multiple car shipments, will be subject to the diversion rules and charges provided herein. Separation of the multiple car shipment by diversion will not be allowed, except by rate item authorization or as provided in Paragraph B.
- B. If one or more cars of a multiple car shipment go “bad order” after departing the origin station, they may be diverted at the customer’s option. Such cars will be subject to the diversion rules and charges as provided herein. The multiple car freight rate originally assessed on the whole shipment will apply on the remaining cars that are not accorded diversion. On prepaid shipments, the freight bill/charges should be “paid short” citing the diversion as authority. The freight bill is not to be returned for correction.

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Diversion/Reconsignment Charges

Item 1000

Diversion or reconsignment will only be allowed when the applicable price authority permits diversion or reconsignment and the shipment is in the possession or under control of KCS. Shipments diverted or reconsigned under this process will be assessed the following charges: (Request for diversion or reconsignment must be made in as shown in Item 400 of this tariff.)

Cars diverted or reconsigned prior to arrival of car at billed destination shall be charged a rate of \$225 per car as well as the otherwise applicable tariff charge for the move.

Diversion or reconsignment request will ONLY be accepted on cars that are physically on the KCS.

Diversion or reconsignment request will ONLY be accepted as provided for in item 600.

Reconsignment Charges on TOFC/COFC

Item 1050

Only one request for reconsignment of a TOFC/COFC shipment will be permitted and only to change the name of the Consignee or the delivery address at original billed destination, subject to the following conditions and charges:

- A. carrier will make diligent effort to execute a request for reconsignment, but will not be responsible if such service is not effected.
- B. no Reconsignment will be made on "In Bond" shipments.
- C. shipments reconsigned will be subject to the same free time and detention rules and charges as if the shipment had not been reconsigned.

Diversion Charge on TOFC/COFC Units: \$225.00 per change

Overcharge Claims

Item 1100

When an overcharge claim is submitted based on an addition or change to the original shipping document, a charge of \$225 per car will apply. An overcharge claim will only be accepted when it is submitted in writing along with a signed amendment to the original bill of lading. In the event the claim is honored, this charge will be withheld from the overcharge amount.

Overcharge claims are to be sent to the following address:

Kansas City Southern Railway Company
Revenue Accounting – Overcharge Claims
P O Box 219335
Kansas City, MO 64121-9335

Cancellation of a Waybill by KCS

Item 1150

When a request for pull is made by the shipper and upon the crew's arrival it is determined the car is not ready to pull, a cancellation charge of \$200 per bill of lading will be assessed. The Payor of Freight will be responsible for the cancellation charge and is payable in US funds.

The End