

Kiamichi Railroad Company, L.L.C.

A RailAmerica Company



Freight Tariff KRR 6001-A

NAMING
DEMURRAGE RULES & CHARGES
AT LOCATIONS ON THE KIAMICHI RAILROAD

THIS TARIFF APPLIES ON INTERSTATE TRAFFIC AND INTRASTATE TRAFFIC IN THE STATE OF
OKLAHOMA AND ARKANSAS AND TEXAS

NOTICE
THE PROVISIONS HEREIN WILL, IF EFFECTIVE, NOT HAVE A NEGATIVE IMPACT ON THE QUALITY
OF THE HUMAN ENVIRONMENT OR ENERGY CONSUMPTION
FOR GOVERNING CLASSIFICATIONS, SEE ITEM 5

ISSUED: FEBRUARY 14, 2006

EFFECTIVE: MARCH 6, 2006

ISSUED BY:
KIAMICHI RAILROAD COMPANY, L.L.C.
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HUGO, OKLAHOMA 74743

METHOD OF ADDING, CHANGING OR DELETING ITEMS IN THIS TARIFF

Changes to this tariff will be made by issuing supplements. These supplements will show the action taken on each item, namely:

- A Increase
C Change resulting in neither an increase nor a decrease
R Decrease

There will be only one supplement to this tariff in effect at any time. Any item contained in a prior supplement will be brought forward to subsequent supplements.

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GENERAL RULES AND REGULATIONS	
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5	<p>DESCRIPTION OF GOVERNING CLASSIFICATION This tariff is governed, except as otherwise provided herein, by Uniform Freight Classification UFC 6000 series, issued by the national Railroad Freight Committee, Agent, supplements thereto or reissues thereof.</p>
10	<p>STATION LIST AND CONDITIONS This tariff is governed by the Official Railroad Station List, OPSL 6000 series, to the extent shown below: For addition and abandonment of stations, and except as otherwise shown herein, for prepay requirements, changes in names of stations, restrictions as to acceptance or delivery of freight, and changes in station facilities. When a station is abandoned as of a date specified in the above named tariff, the rates from and to such station, as published in this tariff, are inapplicable on and after that date.</p> <p style="text-align: center;">GEOGRAPHICAL LIST OF STATIONS</p> <p>For geographical locations of stations referred to in this tariff by station number.</p> <p style="text-align: center;">STATION NUMBERS</p> <p>For the identification of stations when stations are shown or referred to by numbers in this tariff.</p>
15	<p>EXPLOSIVES, DANGEROUS ARTICLES For rules and regulations governing the transportation of explosives and other dangerous articles of freight, also specifications for shipping containers and restrictions governing the acceptance and transportation of explosives and other dangerous articles, see Bureau of Explosives Tariff BOE 6000-series.</p>
20	<p>REFERENCE TO TARIFFS, ITEMS, NOTES AND RULES Where reference is made in this tariff to tariffs, items, notes or rules, such references are continuous and include supplements to and successive issues of such tariffs and reissues of items, notes or rules</p>
40	<p>CONSECUTIVE NUMBERS Where consecutive numbers are represented in this tariff by the first and last numbers connected by the word "to" or a hyphen, they will be understood to include both the numbers shown.</p>
50	<p>MILEAGE CHARGES ON PRIVATELY OWNED CARS KRR will not pay mileage charges on privately owned car when moving to, from or via stations on the KRR.</p>
60	<p>This section intentionally left blank</p>

GENERAL RULES AND REGULATIONS	
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90	<p>PAYMENT AND CREDIT TERMS Unless otherwise advised, in writing, demurrage charges will be assessed against the online consignor at origin or consignee at destination.</p> <p>Demurrage charges assessed must be paid in full and disputes for adjustment together with supporting documentation must be presented in writing to KRR within fifteen (15) days after the date on which the bill for demurrage is rendered. Disputes must be car specific and provided in writing. Disputes may be faxed, e-mailed or mailed to KRR administrative office. Fax: (580) 326-4018 or (580) 326-0372. E-mail: Cathy.Shufeldt@RailAmerica.com. Mail: 800 Martin Luther King Blvd., Hugo, Oklahoma 74743.</p> <p>When for reasons other than KRR error, consignor/consignee fails to pay KRR for assessed demurrage as provided in Item 500 of this tariff, KRR may assess an additional charge equal to the greater of an amount not to exceed two (2) percent per month of the unpaid charge or the highest rate allowed by law.</p>
100	<p>HOLIDAYS An additional day of credit will be allowed for the following Holidays when a specific car has not had a chargeable day prior to said Holiday. If, however, the car has already been charged for a day, all Holidays will also be chargeable.</p> <p>The term "Holidays" shall include only the following days:</p> <p>The following Holidays will apply for additional free time: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.</p> <p>When these dates occur on a Sunday, the following Monday will be observed as the Holiday. When these dates occur on a Saturday, the preceding Friday will be observed as the Holiday.</p>
300	<p>DEFINITION OF TERMS Actual Placement – When a car is placed in an accessible position for loading or unloading, or at a point designated by the consignor or consignee.</p> <p>Chargeable Demurrage Day/Chargeable Day/Demurrage Day – A twenty-four (24) hour period, or part thereof, commencing 07:00 hours after tender (calendar day) for which demurrage charges are due.</p> <p>Consignee – The party to whom a shipment is consigned or the party entitled to receive the shipment.</p> <p>Consignor – The party in whose name cars are ordered or the party who furnished forwarding directions.</p> <p>Constructive Placement – When a car cannot be actually placed because of any condition attributable to the consignor or consignee, including order notify and inbound shipments, such car will be held on KRR tracks and notice will be given to the consignor or consignee that the car is held awaiting disposition instructions. Such cars, which have been placed by KRR on private or other than public delivery tracks, including lead tracks serving the consignor or consignee, will be considered to have been constructively placed without notice.</p> <p>Empty Release Information – Advice by consignor or consignee faxed or emailed to authorized personnel of KRR that car is unloaded and available to KRR. Information given must include identity of consignee, party furnishing data, car initial and number. Date and Time stamp from fax or email will be used in demurrage calculations.</p> <p>Forwarding Instructions– Shipping instructions given to KRR at the point of loading, containing all of</p>
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GENERAL RULES AND REGULATIONS	
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(cont'd)	<p>the necessary information to transport the shipment to the final destination. "Released on track for a third party to bill" does not constitute Forwarding Instructions</p> <p>Free Time – Free time will be computed from the first 07:00 following actual placement or constructive placement, whichever occurs first, until car is released to railroad. When car is placed on a public delivery track, free time will commence at the first 07:00 after actual placement and after notice of the arrival is given to the party entitled to receive same.</p> <p>Lease Track – Any trackage assigned to a user through written agreement. Lease track will be treated the same as private track under this Section.</p> <p>Notification – When required, notification will be furnished verbally or in writing to all parties entitled to receive notification.</p> <p>Online Consignee/Online Consignor - For the purposes of Items 90 and 500, the online customer physically served by the KRR and who loads or unloads the cars, or, the party in whose care the car is delivered.</p> <p>Private Car – A car bearing other than railroad reporting marks and which is not a railroad-controlled car.</p> <p>Public Delivery Track – Any track open to the general public for loading and unloading.</p> <p>Reconsignment – An order from the consignor to bill a car to other than the original consignee.</p> <p>Tender - When KRR gives notification that a car is available for unloading or loading by either actual or constructive placement to consignor or consignee</p>
310	<p>EXCEPTIONS TO DEMURRAGE CHARGES</p> <p>All Railroad and Privately owned cars held for or by consignors or consignees are subject to demurrage rules and charges contained in this section, EXCEPT the following:</p> <ul style="list-style-type: none"> A. Cars for loading or unloading of KRR company material while held on KRR tracks or private sidings connecting therewith. B. Cars of refused or unclaimed freight to be sold by KRR for the time held beyond legal requirements. C. Empty Cars moving on own wheels under transportation charges as freight. D. Cars of railroad ownership, leased for storage of commodities, while held on lessee's tracks. E. Loaded or empty private cars held on private or leased storage tracks. F. Cars specially equipped for handling welded railroad rail held for loading such rail. G. Empty cars ordered and rejected as unsuitable for loading. H. Cars covered by storage or hold charges. I. Cars assigned to shippers returned empty to point of assignment, to the extent storage rules apply.

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400	<p>NOTIFICATION TO CONSIGNOR OR CONSIGNEE</p> <p>A. The following notifications will be furnished as indicated:</p> <ol style="list-style-type: none"> 1. Cars for Other than Public Delivery Tracks: <ol style="list-style-type: none"> a Notice of constructive placement if cars are held on KRR tracks due to reasons attributable to the consignor or consignee. b Delivery of car upon tracks of consignee will constitute notice. c When two or more parties, each performing their own switching, take delivery of cars from the same track, notice will be given when cars are placed on that track. 2. Cars for Public Delivery Track: Notice will be given to the party entitled to receive notification when car is actually placed 3. Cars Stopped in Transit: Notice will be given to consignor, consignee, or owner responsible for the car being stopped upon arrival of the car at the point of stoppage. 4. Refused Loaded Car: When a loaded car is refused at destination, KRR will give notice of such refusal to the consignor or owner. <p>B. Notification may be given in writing or electronically, and will contain the following:</p> <ol style="list-style-type: none"> 1. Car initials and number, if lading transferred en route, the initials and number of the original car, commodity, time and date.
450	<p>CARS HELD FOR COMPLETE UNLOADING</p> <p>Unloading is the complete unloading of a car, including blocking and dunnage, and advice from the consignee to the railroad that the car is empty and available to the railroad.</p> <p>The notification, actual or constructive placement of a loaded car.</p> <p>A. RELEASE:</p> <ol style="list-style-type: none"> 1. Date and time that the railroad received advice that the car is empty. 2. Cars placed on interchange tracks of a consignee doing its own switching, must also be returned to the interchange track for release. 3. When the same car is unloaded and reloaded, empty release information must be furnished. If not furnished, demurrage will continue until forwarding instructions are received.
450	<p>B. NOTIFICATION TO KRR:</p>

GENERAL RULES AND REGULATIONS	
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(cont'd)	<ol style="list-style-type: none"> 1. The KRR must be notified of empty releases by fax, EDI or e-mail. All notifications must include the car initial and number, date, time, company name, and person providing the notification. 2. When electronic or mechanical devices are used to furnish notification to railroad, the recorded date and time that instructions are received will govern. 3. When notification is received from customer that car is unloaded and released and railroad determines that car is not completely unloaded a charge of \$150.00 will be assessed and demurrage charges will continue to be assessed until actual release. <p>C. COMPUTATION:</p> <ol style="list-style-type: none"> 1. Time will be computed from the first 07:00 hours after tender until release. 2. On reloaded cars, time will be computed from the first 07:00 hours after advice is received that the car is empty until release. 3. When the same car is unloaded and reloaded, empty release information must be furnished. If not furnished, demurrage will continue until forwarding instructions are received.
455	<p>CARS HELD FOR LOADING Loading is the complete or partial loading of a car in conformity with KRR loading and clearance rules, and the furnishing of Forwarding Instructions.</p> <p>The notification, actual or constructive placement of an empty car placed on orders of the consignor.</p> <p>A. RELEASE:</p> <ol style="list-style-type: none"> 1. Date and time Forwarding Instructions are received. 2. Cars placed on tracks of a consignor doing its own switching must be returned to the interchange by the consignor to be considered released. 3. Cars found to be improperly loaded or overloaded at origin will not be considered released until the load has been adjusted properly. 4. A car to be held for official grading or inspection at origin will not be considered released until such time as the grading and inspection is complete. <p>B. NOTIFICATION TO RAILROADS:</p> <ol style="list-style-type: none"> 1. KRR must receive complete Forwarding Instructions by EDI, fax or email before a car will be considered to be released. 2. When Forwarding Instructions are received, the recorded date and time instructions are received will govern. 3. If, after receipt of Forwarding Instructions, the KRR determines after arriving at our customers facility that a car is not ready to move, KRR will assess a charge of \$150.00 and
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GENERAL RULES AND REGULATIONS	
ITEM	APPLICATION
(cont'd)	<p>demurrage charges will continue to be assessed until actual release.</p> <p>COMPUTATION:</p> <ol style="list-style-type: none"> 1. Time will be computed from the first 07:00 hours after tender until release. 2. If a car is placed prior to the date for which it was ordered from "Railroad," time will be computed from the first 07:00 hours on the date for which it was ordered until its release. 3. On cars for reloading: Demurrage time for the UNLOADING cycle will terminate and demurrage time for the (RE)LOADING cycle will be computed from the first 07:00 hours after notification received by KRR that the car is empty. Demurrage time for LOADING will continue until the car is released to KRR loaded. Car will NOT be considered released until complete Forwarding Instructions are received by KRR and all car doors and hatches are closed for movement. 4. When a car is actually placed, or constructive placed, and released prior to 07:00 hours same day, no demurrage day will be accrued. 5. When an empty car is placed for loading and movement via a specific route in conformity with Car Service Rules and/or directives, and the loaded car is offered for movement via some other route and refused by the railway necessitating unloading, demurrage shall be charged from the first 07:00 hour after placement until the car is loaded and no credit allowance shall be made.
460	<p>PRIVATE AND RAILROAD CARS HELD FOR OTHER PURPOSES</p> <p>Applicable to cars held on orders of consignor or consignee, while awaiting disposition from the consignor or consignee or as a result of conditions attributable to consignor or consignee.</p> <p>Disposition - That information, including forwarding instructions or empty release, which allows the railroad to either tender or release the car from the consignor's or consignee's account.</p> <p>RELEASE:</p> <p>Date and time that the railroad received advice that the car is empty, or that forwarding instructions are received.</p> <p>COMPUTATION:</p> <p>Time will be computed from the first 07:00 hours:</p> <p>A. After tender until release, on cars:</p> <ol style="list-style-type: none"> 1. Diverted. 2. Empty for loading – ordered and not used (other than a rejected car). 3. Partially unloaded. 4. Reconsigned. 5. Reshipped. 6. Stopped in transit.

SECTION 2 – DEMURRAGE PLAN AND PRICES

ITEM	APPLICATION
500	<p>DEMURRAGE PLAN AND PRICES</p> <p><u>APPLICATION:</u> The provisions of this item will apply on cars placed for loading and/or unloading, while on the rails of the Kiamichi Railroad Company and, unless otherwise provided, will take precedence over any charges published in any other tariff which may provide a conflict.</p> <p>Unless otherwise provided in writing, demurrage charges published herein will be assessed against the online consignor at origin or, online consignee at destination or, party responsible for car(s) being held empty or loaded at a hold point who will be responsible for payment of demurrage charges.</p> <p>Demurrage is a charge made on freight cars held by or for consignor or consignee for loading or unloading, for forwarding directions, or for any other purpose, beyond the allowed free time and will apply under the following provisions:</p> <p><u>FREE TIME</u> Twenty-four (24) hours free time will be allowed for the loading and Forty-eight (48) hours for the unloading of cars. Free time will be computed from the first 07:00 hour after actual placement or where otherwise applicable notification is provided. Saturdays, Sundays, and designated Holidays are exempt when computing free time. Notwithstanding, if the day preceding a Saturday or Sunday or designated Holiday is a chargeable demurrage day, then the Saturday, Sunday or designated Holiday, and all subsequent days, are chargeable demurrage days.</p> <p><u>CHARGES:</u></p> <p>A. Demurrage is assessed at the rate of \$50.00per car per day for all time in excess of 24 hours for loading or 48 hours for unloading from the first 07:00 hours after tender until release.</p> <p>B. No “Average Agreement” provisions apply on KRR</p> <p>C. Settlement of charges will be made on a monthly basis on all cars released during each calendar month.</p> <p>D. Unless otherwise advised in writing, demurrage charges will be assessed against the online consignor at origin or consignee at destination.</p> <p>E. Demurrage charges assessed must be paid in full and disputes for adjustment together with supporting documentation must be presented in writing to KRR within fifteen (15) days after the date on which the bill for demurrage is rendered. Disputes must be car specific and provided in writing. Disputes must be faxed or mailed to KRR administrative office.</p> <p>F. When for reasons other than “Railroad” error, consignor/consignee fails to pay KRR for assessed demurrage as provided in Item 90 of this tariff, KRR may assess an additional interest charge of an amount not to exceed two (2) percent per month of the unpaid charge.</p>

SECTION 2 – DEMURRAGE PLAN AND PRICES	
ITEM	APPLICATION
	<p>TERMINATION OF DEMURRAGE CHARGES: Demurrage charges as defined herein, once applicable, will terminate only under the following provisions: Receipt of advice from the loading/unloading facility that car(s) is(are) ready for forwarding or release and suitable order has been given to this railroad of the required forwarding information.</p> <p>The KRR must be given complete billing/forwarding instructions by the customer via fax, email or EDI transmission, even if similar notification has already been given to another railroad.</p> <p>ALL TIMES SHOWN IN THIS ITEM ARE CENTRAL TIME ZONE TIMES.</p>
600	<p>HEAVY DUTY OR SPECIAL TYPE FLATCARS If a shipment requires the use of a heavy duty or special type flat car with AAR mechanical designations "FD", "FW" or "FML", use and detention charges for such cars as provided in Tariff RIC 6740-series (TEA series) will apply in lieu of rates and charges contained herein.</p>

SECTION 2 – DEMURRAGE PLAN AND PRICES

ITEM	APPLICATION
700	<p>HAZARDOUS COMMODITY</p> <p>The shipper of any hazardous commodity shipped via KRR shall indemnify KRR and hold KRR harmless for any and all loss, liability or cost whatsoever that KRR may incur or be held responsible for, to the extent that such liability is due to, or arising from, defects in or failure of shipper’s cars and equipment, due to shipper’s failure to conduct proper or appropriate pre-shipment inspection of the cars as described in 49 CFR Sec. 173.31 (b) or mis-identification of commodity shipped.</p> <p>The foregoing indemnification shall not apply to any loss or liability caused by or due to KRR’s failure to conduct pre-departure inspections as described in 49 CFR Sec. 174 (A) or failure to follow AAR interchange rules, or any other liability resulting from KRR’s negligence.</p> <p>After the expiration of any free time allowed, or without free time allowance where none is provided, the following charges will apply per day of twenty-four (24) hours, or fraction thereof, until removal from KRR’s premises:</p> <ul style="list-style-type: none"> A. Class A-Explosives: <ul style="list-style-type: none"> 1. \$110.00 per car per day, will apply on cars held on KRR premises. B. Class B and C – Explosives <ul style="list-style-type: none"> 1. \$110.00 per car per day, will apply cars held on KRR premises C. Hazardous Materials, Substances, Wastes, Other Than Explosives <ul style="list-style-type: none"> 1. \$110.00 per car per day, will apply on cars held on KRR premises <p>The above provisions apply to shipments of classes A,B or C explosives, as named in Part 172 Commodity List of Tariff BOE 6000-Series, hazardous materials, substances or wastes requiring the use of a 4-digit identification number on shipping papers, placards or panels, as named in Part 11, Section 172.101 of Tariff BOE 6000-Series, while held on KRR premises.</p> <ul style="list-style-type: none"> D. Empty Railcars Formerly Containing Hazardous Materials or Explosives <ul style="list-style-type: none"> 1. \$110.00 per car per day will apply to the Customer (defined for the purpose of this subsection as the consignee of the empty railcar) for each empty tank car and privately marked covered hopper, if the railcar’s prior movement contained any of the items referenced in A., B. or C. above.