

ANNEX XII

Order of the Agency of the Republic of Kazakhstan on Regulation of Natural Monopolies and Protection of Competition as of September 8, 2004 N 375-OD
On Regulations of Approval of Transient Lowering Coefficients for Tariffs (prices, rates of levies) on Regulated Services of the Railway's Trunk Network (including changes, invested by Order of Acting Chairman of the Agency of the Republic of Kazakhstan on Regulation of Natural Monopolies N 80-OD of 11.03.2005)

Title is stated in wording of the Order of the Acting Chairman of the Agency of the Republic of Kazakhstan on Regulation of Natural Monopolies N 80-OD of 11.03.2005 (**ref. previous edition**)

In accordance with sub-item b) of the article 14-1 and with sub-item 3) of the item 1 of the article 15 of the Law of the Republic of Kazakhstan "On Natural Monopolies" I ORDER:

Item 1 is amended in accordance with the Order of the Acting Chairman of the Agency of the Republic of Kazakhstan on Regulation of Natural Monopolies No. 80-OD of 11.03.2005 (ref. previous edition).

1. To approve the enclosed Regulations of approval of transient lowering coefficients for tariffs (prices, rates of levies) on regulated services of the Railway's trunk network
2. Department on Regulation and Control in the Sphere of Railway Transport of the Agency of the Republic of Kazakhstan on Regulation of Natural Monopolies and Protection of Competition (Mr. Zhusanbayev E.K.) has to ensure the public registration of the present Order in the Ministry of Justice of the Republic of Kazakhstan in accordance with the established procedure.
3. Department of the Administrative and Territorial Work of the Agency of the Republic of Kazakhstan on Regulation of Natural Monopolies and Protection of Competition (Mrs. Tokareva M.A.) after the public registration:
 - 1) to provide the publication of the present Order in the official mass media in accordance with established procedure;
 - 2) to bring to attention of organization developments and territorial institutions of the Agency of the Republic of Kazakhstan on Regulation of Natural Monopolies and Protection of Competition, Ministry of Transport and Communications of the Republic of Kazakhstan, Taxation Committee under the Ministry of Finance of the Republic of Kazakhstan, Joint-Stock Company "The National Company "Kazakhstan Temir Zholy".
4. Control over the fulfillment of present Order I reserve to myself.
5. The present Order is put in force from day of the state registration in the Ministry of Justice of the Republic of Kazakhstan.

Acting Chairman of the Agency of the Republic of Kazakhstan
on Regulation of Natural Monopolies

B. Sagyntayev

Agreed
Minister of Transport and Communications and
Chairman of the Taxation Committee under
the Ministry of Finance of the Republic of Kazakhstan

Approved
under the Order
of the Acting Chairman of the Agency
of the Republic of Kazakhstan
on Regulation of Natural Monopolies
No. 375-OD of September 8, 2004

Changes are entered in the title and the text of Regulations in accordance with the Order of the Acting Chairman of the Agency of the Republic of Kazakhstan on Regulation of Natural Monopolies as of 11.03.2005 No. 80-OD (see previous edition)

Regulations

on **approval** of transient lowering coefficients for tariffs (prices, rates of levies)
on **regulated** services of the Railway's trunk network

1. General Provisions

Changes are entered in item 1 in accordance with the Order of the Acting Chairman of the Agency of the Republic of Kazakhstan on Regulation of Natural Monopolies N 80-OD of 11.03.2005 (ref. previous edition).

1. Regulations of approval of transient lowering coefficients for tariffs (prices, rates of levies) on regulated services of the railway's trunk network (further – Regulations) are developed in accordance with the Law of the Republic of Kazakhstan “On Natural Monopolies” as well as with other regulatory legal acts of the Republic Kazakhstan.

2. Regulations determine procedure and conditions of approval of transient lowering coefficients for tariffs (prices, rates of levies) on regulated services of the railway's trunk network.

Item 1 is amended in accordance with the Order of the Acting Chairman of the Agency of the Republic of Kazakhstan on Regulation of Natural Monopolies and Protection of Competition No. 80-OD as of 11.03.2005 (ref. previous edition).

3. The following concepts shall be used in the Regulations:

repayment schedule – repayment schedule of indebtedness of consumer of regulated services of the railway's trunk network to the operator of the railway's trunk network, certified by signatures of consumer and a head of operator of the railway's trunk network ;

turnover of goods (passenger turnover) – the volume of the fulfilled hauling work for delivery of goods (of passengers) with calculation of haul distance;

declared turnover of goods (passenger turnover) – scheduled turnover of goods (passenger turnover), stated in consumer application

competent authorities as well as the Taxation Committee under the Ministry of Finance of the Republic of Kazakhstan;

authorized body – the central state authority realizing control and regulation of activity in the area of the natural monopolies, or provincial (city of republican subordination, capital) operating agency within the limits of prescribed competence.

Other concepts and terms to be used in the Regulations are adjusted in accordance with the legislation of the Republic of Kazakhstan.

Changes are entered in the title of chapter 2 in accordance with the **Order** of the Acting Chairman of the Agency of the Republic of Kazakhstan on Regulation of Natural Monopolies N 80-OD of 11.03.2005 (ref. previous edition).

2. Foundations and criteria of **approval** of transient lowering coefficients for tariffs (prices, rates of levies) on **regulated** services of the railway's trunk network

4. Transient lowering coefficient is determined on basis of calculation of the cost efficiency and expedience of this measure for state, for operator of the railway's trunk network and for consumer. Cost efficiency of approval transient lowering coefficient is determined by the increase of the volume of the rendering services, by receiving profits of operator of the railway's trunk network and consumer, by growth of the state budget earnings.

Changes are entered in item 5 in accordance with the **Order** of the Acting Chairman of the Agency of the Republic of Kazakhstan on Regulation of Natural Monopolies No 80-OD of 11.03.2005 (ref. previous edition).

5. Earnings of the railway's trunk operator from rendering regulated services using transient lowering coefficient must cover expenses required for rendering of regulated services of the railway's trunk network.

6. Transient lowering coefficient is established for the specified period but no more than one calendar year.

Changes are entered in item 7 in accordance with the **Order** of Acting Chairman of the Agency of the Republic of Kazakhstan on Regulation of Natural Monopolies No 80-OD of 11.03.2005 (ref. previous edition).

7. Expediency criteria of approval of transient lowering coefficients for tariffs (prices, rates of levies) on regulated services rendered by the railway's trunk network are:

1) declared turnover of goods exceeds (retains) the actual turnover of goods during the relevant period of preceding year. Opinion of respective branch state structure about impossibility of further gradual raising of the production volume is produced in case of turnover of goods maintenance;

2) availability of vacant or badly equipped sections of railway's trunk network. Vacancy or bad equipment of railway's trunk network sections is scheduled to confirm by opinion of competent authority;

3) ecological risk of incidental output of industrial production. Ecological risk of incidental output of industrial production is scheduled to confirm by opinion of authorized body in the area of the environment protection of the Republic of Kazakhstan. Approval of transient lowering coefficients in case of conformity with criterion showed in present sub-item is made only under observance of criterion, provided by sub-item 1) of present item of Regulations;

Changes are entered in sub-item 4 in accordance with the **Order** of the Acting Chairman of the Agency of the Republic of Kazakhstan on Regulation of Natural Monopolies No. 80-OD of 11.03.2005 (ref. previous edition).

4) securing of equal tariff status on access to regulated services of the railway's trunk network ;

5) social importance of passenger traffic.

Changes are entered in title of chapter 3 in accordance with the **Order** of the Acting Chairman of the Agency of the Republic of Kazakhstan on Regulation of Natural Monopolies No. 80-OD of 11.03.2005 (ref. previous edition).

3. Order of **approval** of transient lowering coefficients for tariffs (prices, rates of levies) on **regulated** services of the railway's trunk network

8. Approval of transient lowering coefficients is made by authorized body according to the consumer's request with attached substantiating documents according to supplements 1-3 to Regulations with observance of the following applications:

1) every sheet of substantiating documents is initialed by the consumer's head or by acting official with enclosure of confirmation documents, whereas financial documents is initialed by chief accountant too;

2) to submit the facts on the results of the financial and economy activity for the previous period, as well as the anticipated results of transient lowering coefficients use for the required period of their approval;

9. Consumer, interested in approval of transient lowering coefficients, represents application about a need of such approval to the railway's trunk network operator, branch state structures, competent and representative authorities, Taxation Committee under the Ministry of Finance of the Republic of Kazakhstan simultaneously. At this the aforesaid state structures are responsible for disclosure of information referred to commercial and other secrets reserved by law.

10. Failure to submit or incomplete submission of necessary documents and information required in accordance with the Regulations, as well as inconsistency between presented materials and requirements of **item 8** of the Regulations is an argument to reject submission of the application.

11. The railway's trunk network operator, branch state structures, competent and representative authorities, Taxation Committee under the Ministry of Finance of the Republic of Kazakhstan notify the consumer on acceptance of application for submission or about rejection to accept the application including reasons for reject within 5 working days from the day of the application receipt.

At this, the railway's trunk network operator, branch state structures, competent authority and Taxation Committee under the Ministry of Finance of the Republic of Kazakhstan simultaneously inform the authorized body about acceptance of the application for consideration or about reasoned rejection of acceptance.

In case of non-submission of the confirmation documents on the acceptance or rejection of the application to the authorized body in the established terms the railway's trunk network operator, branch state structures, competent authority and Taxation Committee under the Ministry of Finance of the Republic of Kazakhstan, the consideration of the application is suspended in seven workdays.

Consideration of the application is recommenced taking into account terms provided in **item 16** of the Regulations after elimination of these defects.

Should the aforesaid deviations stay unrepaired within seven workdays from the moment of

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Order on approval of transient lowering coefficients is delivered to the railway's trunk network operator, the branch state structures, the competent authority, the Taxation Committee under the Ministry of Finance of the Republic of Kazakhstan not later than fifteen days before the effective date of the order of the authorized body, while the railway's trunk network operator delivers the order to consumers at least ten days before its effective date.

19. In case of rejection to approve the transient lowering coefficient, the authorized body pronounces the corresponding reasonable judgement which is delivered to the railway's trunk network operator, the branch state structures, the competent authority, the Taxation Committee under the Ministry of Finance of the Republic

Freight traffic activity by railway transport/turnover of goods, thousand tons/thousand tonne-kilometers.

N N in or- der	Name	Volumes/ turnover of goods of transportati on, in all during year, including monthly	January	February	March	April	May	June	July	August	September	October	November
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Continuation of Table

December	Departure station	Station of destination	Distance from station of departure to station of destination (passage), km	Tariff for transportation, tenge	Prime cost/
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Title and text are amended in accordance with the **Order**