



**EVANSVILLE WESTERN RAILWAY, INC.
(EVWR)**

FREIGHT CIRCULAR 5-A

**RULES GOVERNING CREDIT AND COLLECTION TERMS
FOR TRANSPORTATION AND ACCESSORIAL SERVICES**

Cancels and supersedes Circular 5 as of the effective date

ISSUED: March 17, 2017

EFFECTIVE: April 1, 2017

**ISSUED BY
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1. Pre-paid Shipments.

On "pre-paid" shipments, when EVWR is the originating carrier, EVWR may require that tender of a shipment be accompanied by full payment of charges unless consignor has established credit to the satisfaction of EVWR. "Pre-paid" shipments shall mean shipments for which the originating carrier bears the billing and collection responsibilities.

2. Collect Shipments.

On "collect" shipments, when EVWR is the delivering carrier, EVWR may require full payment of all charges prior to delivery of shipments unless consignee has established credit to the satisfaction of EVWR. For purposes of this item, "collect" shipments shall mean shipments for which the delivering carrier bears the billing and collection responsibilities.

3. Payment.

All credit patrons must pay charges in accordance with the terms established by the billing carrier. Where EVWR is the billing carrier, the credit period is fifteen (15) days, including Saturdays, Sundays, and legal holidays, and shall begin on the day following presentation of the freight bill. The term "freight bill" as used in this paragraph includes paper documents, billing by electronic data interchange ("EDI"), and invoice-less procedures. Presentation of the freight bill shall be deemed to have been made:

- A. Upon mailing when mailed,
- B. Upon sending by EVWR of a transmission when EDI billing is used, and
- C. Unless otherwise agreed, upon waybill date when invoice-less procedures are utilized.

Payment shall be deemed to have been made:

- A. Upon mailing of an acceptable check, draft, or money order when paying by mail, and
- B. Upon receipt of funds in EVWR'S bank account when paying via electronic transmission.

4. Finance Charge.

EVWR will assess a late payment finance charge on any freight transportation charges paid delinquent, at a rate of twelve percent (12%) per year (or, to the extent the rate of such charge is not preempted by federal law and such rate exceeds the maximum rate permitted by applicable law, the maximum rate permitted by applicable law). Payments shall be deemed delinquent when not made within the credit period. The late payment finance charge shall be assessed for each day beyond the credit period that payment is made.

5. Offset Prohibited.

In no event shall any amount(s) claimed against EVWR including without limitation claims for freight loss or damage or overpayment of freight or other charges, be deducted from or offset against freight or other charges due hereunder. Freight charges due must be paid in full, and any claim against EVWR must be asserted separately in accordance with the applicable procedure.

6. Disputes.

All freight bills and other invoices shall be considered as valid unless disputed within thirty (30) days of the invoice date.

7. Revocation of Credit and Other Remedies.

If a credit patron fails to pay in accordance with these requirements, EVWR, in its sole discretion, may revoke credit privileges and institute any one or more of the following procedures:

- A. Require that applicable freight charges be pre-paid by the consignor (who shall not be such patron) on all shipments destined to such patron. Section 7 of the bill of lading, if executed by the billing party, will not apply to such shipments.
- B. Require that the consignee (who shall not be such patron) pay applicable freight charges on a collect basis on all shipments originating with such patron.
- C. Assess demurrage charges on rail cars placed in hold status for cash. When rail cars are held in transit due to cash status, time for demurrage purposes will be computed from the first 12:00 midnight following the sending or giving of notice of arrival. Rail cars will be released at the time lawful charges are received by an agent of EVWR or an agent of any railroad which has participated in the transportation transaction; however, if such payment of lawful charges is received by U.S. mail, it will be considered as having been received after 12:00 midnight of the date received. Changes in billing requested by any shipper after a shipment has occurred shall not alter any entity's liability for freight charges in accordance with this paragraph

8. Third Party Payment Services.

If a shipper uses a third party payer for the payment of invoices, the shipper shall remain fully responsible for the full and timely payment of the charges.

9. Definitions.

The term "shipper" includes without limitation consignors, consignees, freight forwarders, shippers' associations, and shippers' agents and "charges" or "freight charges" include without limitation transportation charges, switch charges, demurrage, detention, and other accessorial charges that may accrue in connection with shipments handled by EVWR.