

FT EVWR 8001-B  
(Cancels FT EVWR 8001 - A)

# EVANSVILLE WESTERN RAILWAY, INC.



## FREIGHT TARIFF EVWR 8001-B

**NAMING  
CHARGES, RULES AND REGULATIONS GOVERNING  
TRANSPORTATION, SWITCHING AND TERMINAL SERVICES  
APPLYING AT STATIONS ON THE  
EVANSVILLE WESTERN RAILWAY, INC.**

## GENERAL RULES TARIFF & CHARGES

This tariff is also applicable on intrastate traffic.

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### **General Application – Item 1**

This tariff does not apply independently, but applies in connection with any and all rates and charges, either in tariff form or contained in contracts in which the Evansville Western Railway, Inc. (“EVWR”) is a participant. Except as otherwise provided herein, should provisions of other tariffs conflict with the provisions in this tariff, the provisions of this tariff shall supersede and govern. Should provisions in contracts or pricing documents in which the Evansville Western Railway, Inc. is a participant conflict with the provisions of this tariff; the contract provisions shall supersede and govern.

When in conflict with provisions in this tariff, the following tariffs shall supersede and govern:

- EVWR 4000-Series for Unit Trains of Bituminous Coal and Petroleum Coke
  - EVWR 5000-Series for Unit Trains of Commodities other than Bituminous Coal and Petroleum Coke.
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### **Method of Canceling and Amending the Tariff – Item 10**

When amended, this tariff will be replaced in its entirety using letter suffixes to cancel, replace and supersede the prior version; “A” is replaced by “B” which is replaced by “C”, etc. The latest amended form will be assessable on the EVWR website.

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### **Notices, Amendment of Tariffs – Item 20**

EVWR tariffs are available for viewing on the internet at our website [www.evwr.com](http://www.evwr.com) under the “Customers-Public Prices” tab. All customers shipping with EVWR should review the publications posted on the Website before tendering freight or requesting transportation services. Printed copies are available upon written request to the issuer and address found on the title page.

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### **Description of Governing Classifications – Item 30**

The term “Uniform Classification” when used herein, means Tariff UFC 6000 Series.

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### **Application of Increases – Item 40**

Rates and charges in this tariff are subject to increase upon twenty (20) days notice.

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### **Station List and Conditions – Item 50**

This tariff is governed by the Official Railroad Station List, OP SL 6000-Series, to the extent shown below:

- Prepay Requirements and Station Conditions

- For additions and abandonments 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 is inapplicable on and after that date.
- Geographical List of Stations
  - For geographical locations of stations referred to in this tariff by station numbers.
  - Station Numbers
  - For the identification of stations when stations are shown or referred to by numbers in this tariff.

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### **Definition of Line Haul Service – Item 60**

EVWR defines line-haul transportation as the movement of one or more railcars from station to station; the pulling of the railcar(s) from one location at origin and placement of the railcar(s) to one location at the destination, in a “Continuous Movement” at the carrier’s “Ordinary Operating Convenience” (both terms defined in Item 130). Any service outside these parameters subjects the shipment(s) to additional charges for additional services as defined herein.

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### **Reasonable Dispatch – Item 70**

EVWR will transport railcars over its line with reasonable dispatch. EVWR and connecting carrier(s) do not guarantee rail service on any scheduled time frame.

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### **Explosives, Dangerous Articles – Item 80**

For rules and regulations governing the transportation of explosives and other dangerous articles by freight, also specifications for shipping containers and restrictions governing the acceptance and transportation of explosives and other dangerous articles, see Tariff BOE 6000-Series.

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### **Relationships With Other Carriers – Item 90**

For the convenience of Customers, EVWR has and will from time to time coordinate with other rail carriers for the transportation of cargo. When EVWR coordinates such transportation, whether by contract or pursuant to that rail carrier’s tariff, those arrangements are made solely so that our customers do not have to arrange and contract with those rail carriers. In entering such contracts and/or tendering railcars under that tariff, and paying for the services of those rail carriers, EVWR is acting as the disclosed agent of the Customer. EVWR does not seek such transportation on its own behalf, and any such other rail carrier is not EVWR’s agent in completing the transportation. EVWR does not assume or accept any responsibility or liability

for the actions of any other rail carrier with regard to the transportation of any cargo. All such liability is solely the responsibility of the rail carrier whose actions give rise to the claimed liability. Each common carrier by rail is only responsible for the transportation services provided on its network.

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### **Maximum Allowance Gross Weight on Rail – Item 100**

EVWR will provide switching and transportation services for loaded cars subject to a maximum gross weight on rail not exceeding 286,000 lbs. across all line segments.

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### **Carrier Liability – Loss and Damage to Lading – Item 110**

The following liability provisions will apply unless EVWR and shipper agree in writing to different liability provisions:

#### General:

a. Carmack Amendment Liability:

EVWR offers Carmack Amendment protection tailored to the commodity and route over which a Shipper is requesting rail service. If desired, please contact your EVWR sales representative to receive a specific rate quote with Carmack Amendment protection. If Carmack Amendment protection is desired for a shipment that extends beyond EVWR's network, it is the Customer's responsibility to contact and determine the requirements, limitations, and fees of the other carrier(s), and to obtain Carmack Amendment protection from the other carrier(s). Any Shipper that wants EVWR to assume liability for damages up to a declared value of the goods being shipped must provide the following before tendering the goods to EVWR: (1) a statement declaring the election of Carmack Amendment protection and the value of the shipment, (2) acknowledgement that the Carmack Premium, as defined below, will be added to their invoices, or billed to them separately, and (3) railcar and waybill numbers for each affected railcar as soon as reasonably possible. The "Carmack Premium" portion of the line-haul rate shall be not less than 10% of the declared value of the goods and added to the common carrier line-haul price. EVWR's liability for damage to, or loss of, goods in transit under this Item – 110(a) shall not exceed, and is limited to, the lesser of value of the goods or the declared value, if applicable. In the absence of an election by Shipper under Item –110(a), Carmack Amendment protection is waived and the provisions of Item 110(b) shall apply.

b. General Provisions:

If the Shipper does not elect Carmack Amendment protections as set forth in Item 110(a) above, EVWR will assume liability for freight claims subject to the following limitations: 1. EVWR's minimum claim for loss or damage to freight is \$500.00. 2. EVWR's maximum liability for loss of or damage to freight is the lower of (i) its original cost; (ii) the cost of replacement; or (iii) \$25,000 per rail car; provided,

however, any liability of EVWR for damaged cargo shall be reduced by the amount of any net salvage proceeds received by Shipper for such cargo. 3. EVWR's Carrier's liability for shortage of goods shall be conditioned upon evidence of unauthorized entry into the rail car while the same is in the possession of EVWR. 4. EVWR will not be liable for loss, damage, or delay to lading caused by an Act of God, a public enemy, the authority of the law, labor strikes, acts of civil disobedience, the inherent nature or character of the lading, natural shrinkage, an act or default of the shipper/consignor, owner or consignee/receiver, or from any cause whatsoever which occurs while the lading is not in the actual physical custody and control of EVWR. 5. Shipper acknowledges and accepts the inherent tendency of perishable goods to deteriorate or decay. EVWR is not liable for the decline of goods as is reasonably expected to occur while enroute. EVWR is not liable for the decline of goods attributable to natural shrinkage, disease or decay within the goods when loaded. 6. EVWR shall not be responsible for loss or damage to the freight or shipments originating or terminating outside the United States when the location at which damage occurred is unknown. 7. A claimant must mitigate its damage by acceptance of damaged or remaining cargo, and may not abandon damaged or remaining goods to EVWR unless the damaged or remaining lading retains no value. Product that is abandoned to EVWR in an undamaged condition will be sold and the salvage proceeds only, less salvage expenses, will be remitted to the owner. 8. Shipper is responsible for proper and lawful packaging, loading, stacking, blocking, bracing and ventilation of the cargo. Shifting of a load enroute is, of itself, not evidence of EVWR's mishandling. 9. Shipper is responsible for loading only cars suitable for Shipper's cargo and determining that car doors are properly closed. 10. Individual pricing documents may contain different limits which take precedence over the terms in this Item 110(b). 10. Subject to the limitations in this Item 110, and the remaining provisions of this General Tariff 8001-B, claims for damage to, or delay or loss of, any commodity transported by EVWR is governed in all other respects by the provisions of the Carmack Amendment and Title 49 of the United States Code.

c. Shipper Indemnity:

The shipper agrees to indemnify and hold harmless EVWR from any loss, damage, or expense for personal injuries, death or property damage resulting from the shipper's negligence or failure to comply with the provisions contained herein. Acceptance of a shipment by EVWR for transportation shall not be considered as a waiver of shipper's liability.

d. Export Fees:

On shipments intended for export from the United States of America, EVWR will not be liable for charges such as brokerage fees, fines, penalties, foreign marine or foreign country freight charges, import duties or other such charges on cargo that is lost, damaged or delayed in domestic transportation.

e. Liability Restrictions:

1. Except as otherwise provided herein, the party in possession of rail cars and/or lading will be liable to the other as provided for by common law. In the

event of an act or omission of any party involved in the transportation process; (shipper, rail carriers, receiver) is not the sole cause but contributes to any loss or damage, each party will be liable for only that portion of the loss or damage caused by its negligence.

2. Rail carriers are not liable for temperature, corrosion or humidity related losses unless mechanical protective service is requested, paid for and carrier owned or leased equipment is used.
  3. Rail carriers are not liable for loss or damage caused by defective equipment when such equipment is not owned, or leased by rail carriers.
  4. Cargo loss and damage claims presented to the EVWR will be resolved for the account of all domestic U.S.A. and Canadian rail carriers, while in this country, involved in transportation of shipments moving under the provisions of this publication, unless a connecting rail carriers tariff or agreement provides for more limited liability in which case the more limited liability provision will govern.
  5. Rail Carriers will not be liable for more than \$250.00 per car load for the amount of internal revenue taxes paid or determined and customs duties paid on distilled spirits, wines, and beer previously withdrawn from bond, which were lost, rendered unmarketable or condemned by a duly authorized official by reason of fire, flood, casualty or breakage, destruction or other damage (but not including theft) resulting from vandalism or malicious mischief, if such damage or disaster occurred in the United States of America, and if such distilled spirits, wines or beer were held and intended for sale at the time of such disaster or other damage.
- f: Loss or Damage Verification and Disposition Provisions:
1. Rail carriers have the right to inspect, weigh or reject shipments at origin, en route or at destination for non-compliance with the provisions contained in the applicable publications.
  2. Rail carriers reserve the right to inspect damaged cargo. As a condition precedent to payment of any claims against carriers for loss or damage, the consignee must within twenty-four (24) hours of shipment's arrival, notify the destination carrier, shipper and EVWR, if EVWR is not the destination carrier, of any claimed damage and allow destination carrier or its agent to inspect.
  3. Failure of the rail carriers to inspect damaged cargo, for whatever reason, will not relieve the burden of the claiming party to establish that cargo was received in a damaged condition nor will it be considered an admission of liability by the rail carrier.
  4. Shipper and/or consignee must mitigate damage by accepting the damaged cargo unless it is totally worthless and is without salvage value. Shipper and/or consignee may not abandon damaged or partially damaged shipments to the rail carrier when the damaged shipments retain any value. Product that is abandoned to the rail carriers in an undamaged condition shall be sold for account of the beneficial owner and salvage proceeds only, less any salvaging expenses incurred, shall be remitted to the beneficial owner.



g: Claims:

1. As a condition precedent to payment of a claim, claims must be filed in writing to Freight Claims Administration, 200 Clark Street, Paducah, KY 42003 or FAX (270) 444-4397 or freightclaims@palrr.com within nine (9) months of the delivery date or in the event of non-delivery, within nine (9) months of the expected delivery date. Such communication shall comply with the minimum requirements contained in 49 C.F.R. 1005.2(b). Claims may only be submitted by the beneficial owner or a party to the transportation agreement.
2. In addition to the requirements of 49 C.F.R. 1005.2(b), all written claims must include the following documentation:
  - a. A demand for payment of a specific amount, with a statement of the formula or basis on which the damages are calculated, plus documentation to support the calculation.
  - b. Information identifying the rail shipment including equipment initials and numbers, shipper and receiver's names, notify party's name, shipping date and commodity.
  - c. Origin records or certification as to the condition and quantity of the cargo at the time tendered to the origin rail carrier. If shortage is involved, origin seal records must be furnished.
  - d. Destination records as to the condition and quantity of the cargo at the time received from the destination rail carrier. If shortage is involved, destination seal records must be furnished.
  - e. Verification of the amount claimed such as certified invoices or repair bills.
  - f. Evidence as to the disposition of the damaged cargo.
  - g. Carrier reserves the right to summarily deny any and all claims submitted that does not contain all or part of the aforementioned documentation.

h: Seals:

It is the sole responsibility of the shipper to determine the type of protection necessary to protect the cargo, including but not limited to the use of seals and security devices. EVWR does not provide seals, apply seals, or determine if seals or security devices are appropriate or adequate, except in the case of contamination (see paragraphs below). Nor does EVWR, in all cases, inspect shipments for seal integrity. In the event that a seal or a security device is broken, or missing, the absence or breach of a seal will not create a presumption of contamination or theft without actual physical evidence. Documentation of the application of seals or security devices at origin is the responsibility of the shipper and the seal number(s) must be included on the bill of lading or shipping instructions and in any claim application.

For EVWR to consider a claim for contamination of cargo the shipment must be sealed by the actual shipper or its agent. The minimum seal will be a barrier type seal meeting American Society for Testing and Materials (ASTM) standards, a cable seal 1/8 inch in diameter, a high security bolt seal, or its equivalent. All seals utilized by the shipper will be sequentially numbered and recorded on the bill of lading or

shipping instructions. The shipper will maintain for one year a record of the date and time of the application of seal, and the identity of the person applying the seal.

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### **Arbitration – Item 115**

To the greatest extent permissible by law, any and all irreconcilable disputes arising between the parties to this tariff shall be settled through final and binding arbitration. The parties to this tariff shall jointly submit irreconcilable disputes to final and binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association after the pre-arbitration dispute resolution period has elapsed. The decision of the arbitrator(s) shall be final and binding upon the parties to this tariff. Each party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator(s), if any, shall be borne equally by the parties to the tariff. Any award from an arbitration proceeding under this Item shall be submitted to each party within five (5) days of the decision, with a formal opinion. The final award of the arbitration shall be binding and no other remedy at law or in equity shall exist for the parties under the terms of the tariff.

*Pre-Arbitration Dispute Resolution and Notification:* The parties agree that good-faith informal efforts to resolve disputes often may result in a prompt, low-cost, and mutually beneficial outcomes. The parties therefore agree that, before either party demands arbitration against the other, customer and Railroad, and any other party with an interest in the arbitration will meet and confer, in person or via telephone/videoconference, in a good-faith effort to resolve informally any claim covered by this Arbitration Agreement. The party initiating the claim must give notice to the other party in writing of their intent to initiate an informal dispute resolution conference, which shall occur within thirty (30) days after the other party receives such notice, unless an extension is mutually agreed upon by the parties. After thirty (30) days of such an informal pre-arbitration dispute resolution conference with the non-demanding party to the informal dispute, and if and only if, the dispute remains irreconcilable, then the party initiating the claim may request arbitration under the Commercial Arbitration Rules of the American Arbitration Association.

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### **Receipt or Delivery of Freight – Item 130**

- a. Except as otherwise provided in Paragraph (c) or in other tariffs, cars of freight moving at line haul or switching rates will be delivered on and removed from privately owned or leased tracks near and connecting with this railroad's tracks without additional charge, provided there are no conditions which make it unsafe for EVWR locomotives to operate over such tracks or that prevent EVWR from receiving or delivering cars at its ordinary operating convenience.
- b. Except as otherwise provided in Paragraph (c) such cars will be received and delivered at loading and unloading locations on tracks designated by the customer

within the facility without additional charge when that service can be performed in continuous movement at this railroad's ordinary operating convenience, and provided EVWR's locomotives can safely operate over such tracks.

- c. When receipt or delivery of a car or cars cannot be accomplished in continuous movement at EVWR's ordinary operating convenience because of any condition caused by the industry, EVWR will arrange for receipt or delivery as follows:
    - 1. If it appears that the delay will be of a temporary nature, the locomotive will be held at the nearest available location and the service completed when conditions permit. When such delay to EVWR's locomotive exceeds 30 minutes, the charge is \$60.00 for each five minutes or fraction thereof after the first 30 minutes of delay. The time of the delay will be measured from the minute the conductor determines that the industry is unable to accept service.
    - 2. If, after a period of delay, the condition preventing completion of service has not been eliminated, EVWR may, at its option, withdraw its locomotive and place any car or cars on available track inside or outside the facility. Subsequent movement by EVWR of any car or cars so moved will be subject to Intra-Plant or Intra-Terminal charges, as the case may be.
  - d. "Continuous movement" means a movement between EVWR's tracks and the designated location of receipt or delivery within the facility without any delay due to a condition of which the industry is responsible.
  - e. "Ordinary operating convenience" means the time of arrival of EVWR's locomotive and contemplates only one switch per service day except when additional switches are made by this railroad at its sole option. Any other switching service on request of the industry is not "ordinary operating convenience" and subject to additional charges.
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### **Security Deposits for Payment of Demurrage and Other Accessorial Charges – Item 170**

A security deposit to insure payment of any demurrage, detention, storage or other accessorial charges that may accrue will be required from any consignor, consignee, beneficial owner, or other responsible parties, hereafter referred to as customer who fails to pay demurrage, detention, storage or other accessorial charges after specific written demand referring to this tariff provision. EVWR will give the customer 10 days' written notice before the provisions of this item are invoked.

The deposit must be paid in cash, certified check, cashier's check or money order before any freight car is delivered to such customer for loading or unloading.

The minimum deposit for each freight car will be the average amount of demurrage, detention, storage or other accessorial charges outstanding at the time this tariff provision is invoked against the customer. The maximum amount of deposit will be determined by EVWR's credit office through other alternative forms of security. The credit office may waive the minimum deposit per car by accepting a revolving deposit of \$1,000 to \$10,000 based on traffic volume.

The deposit will be held in a non-interest bearing escrow account to guarantee payment of and to be applied against any demurrage, detention, storage or other accessorial charges which may accrue since the implementation of the security deposit arrangement.

EVWR will refund the deposit or balance of the deposit within 30 days after notification by its agents that the equipment has been released to this railroad. Any demurrage, detention, storage or other accessorial charges will be deducted from the deposit before any refunds are made. The deposit or balance of the deposit may be transferable to another freight car to cover charges incurred since the implementation of the security deposit arrangement.

Security deposits will no longer be required after the customer has paid all outstanding demurrage, detention, storage and other accessorial charges and has given assurance in writing to the satisfaction of this railroad's credit office that future demurrage, detention, storage and other accessorial charges will be paid within the credit period.

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#### **"Order", "Order Notify" Shipments - Item 175**

EVWR does not provide Order/Notify service. Bills of lading or shipping instructions tendered to EVWR in the form of an order/notify bill of lading will be handled as straight bills of lading. Instructions to the effect of requiring EVWR to not complete delivery of a shipment until either securing authorization for delivery from the shipper or some other party, surrender of the bill of lading or notification by EVWR to the shipper or some other party shall have no effect and be void regardless of whether such instructions are contained in a straight or an order/notify bill of lading; and EVWR shall have no liability for delivering a shipment to the consignee listed in the bill of lading in such circumstances.

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#### **Cars Loaded Improperly or in Excess of Maximum Load Limit – Item 180**

- a. Carload freight must be loaded in conformity with Association of American Railroads' Closed Car and Open Top rules. Carload freight must not exceed the maximum load limit stenciled on cars or the gross weight of car cannot be in excess of the track weight limit at any point along the route of movement. Cars found to be overloaded or improperly loaded while on the tracks of EVWR, or cars interchanged from EVWR to another carrier which are returned to EVWR because such cars are overloaded or improperly loaded, will either be returned to the shipper for adjustment, or placed at a location suitable for adjusting the load, the location of which will be at the discretion of EVWR.
- b. Improperly and/or overloaded cars will be subject to a charge of \$750 per car in addition to any applicable freight, switching, weighing, demurrage and or storage charges.
- c. Cars covered by this item will be subject to EVWR demurrage rules and charges, and no free time or credits will be allowed. Demurrage will begin upon notification to customer of overloaded or improperly loaded condition, or placement of the car at

- the location for adjustment of the car, whichever occurs last.
- d. Cars found to be overloaded or improperly loaded at a loading point served by EVWR will not be moved until the load has been adjusted. Demurrage will continue until the car is released and accepted by EVWR. No additional free time will be allowed.
  - e. All arrangements and costs for load adjustment shall be the responsibility of the shipper. 72 hours after notification to the shipper if no instructions or arrangements have been made by the shipper to have the load adjusted/reduced, EVWR may, at its discretion, have the load adjusted. All costs for load adjustment will be billed to the shipper by EVWR. Any applicable freight, switching, weighing and demurrage charges will apply.
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### **Payment of Charges – Item 185**

Shipper or consignee shall be liable for payments of the transportation charges accruing on a shipment and nothing herein shall limit the right of EVWR to require at time of shipment the prepayment or guarantee of charges. Shipper will pay EVWR if shipment is prepaid, or be responsible for payment if shipment is made collect, and pay immediately upon presentation of a bill unless credit has been granted by EVWR. If shipper or consignee has established credit with EVWR, the EVWR's credit terms and conditions will supersede any prepayment or payment upon demand requirement. If transportation charges have not been prepaid, or shipper or consignee has not entered into an agreement for credit, EVWR shall not make delivery of the shipment without payment or guarantee by shipper or consignee of all charges. Placement of equipment by EVWR under credit agreement for loading shall be deemed acceptance of shipment for the purpose of incurring freight charges under a credit agreement.

Acceptance of shipment by consignee or beneficial owner shall be deemed acceptance of responsibility for payment of all charges accruing on the shipment, including, but not limited to demurrage and switching services performed at destination. Such payment shall be in U.S. dollars.

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### **Error in Billing Freight by Shipper – Item 190**

If a car is tendered to carrier for shipment and after the line-haul transportation commences it is discovered that through error of the shipper the car is empty, freight charges will be assessed from origin to point at which car is discovered to be empty.

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### **Requests for Carrier Cars for Loading – Item 200**

All requests for carrier supplied cars for loading must be submitted to EVWR, who reserves the right to furnish cars from the following sources:

- EVWR's owned or leased fleet
- Other Carriers' cars readily available

- Nationwide pools provided to support certain commodities
  - A connecting Carrier who will be involved in the route.
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### **Misloading of Railcars – Item 210**

If a railroad owned or leased car is supplied to a customer for loading by a carrier connecting to EVWR, and such car is loaded in line haul service via a carrier other than the carrier supplying the car, customer will be charged a misloading fee of \$500.00, which fee accrues wholly to the account of EVWR. The affected connecting carriers may additionally charge a fee for misloaded cars in addition to the EVWR fee.

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### **Ordering Empty Cars in for Placement by Specific Car Number – Item 220**

When empty cars are stored or otherwise held for loading, and customer requests such cars per day for placement by specific car number (as opposed to ordering in “any empty cars” or “the next cars in line”), then an “Ordering Empty by Car Number” charge of \$80.00 per car applies. Charge applies regardless of car ownership and whether the cars are stored or held on railroad tracks or on customer lease tracks.

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### **Cars Ordered and Not Used – Item 230**

If a railroad owned or leased empty car is ordered for loading and the service of switching and placing it has been performed and the car is not loaded, a fee of \$250 in addition to the published intraterminal switching charge will be assessed against the person, firm or corporation ordering such car. In the event a car is rejected account not suitable for loading, this item will not apply if party ordering the car advises this railroad of rejection and condition that caused car to be rejected within twenty-four (24) hours exclusive of Saturday, Sundays and holidays, after actual placement. These provisions will also apply in connection with cars held on constructive placement on shipper-owned or leased tracks. In connection with firms that perform their own switching, switching charge will not apply if cars are rejected account not suitable for loading.

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### **Cleaning Requirements for Carrier Cars – Item 240**

With the exception of railroad-owned securement devices, each railroad owned or leased car must be completely unloaded, clean and have all doors and hatch covers properly closed and secured prior to being released as “empty.” Customers are responsible for all charges arising from the release of a railroad owned or leased car that is not empty and clean, including but not limited to charges for cleaning, switching or line haul movement to the nearest point where the car can be cleaned. Customer shall indemnify and hold EVWR harmless for all liability, claims loss and expenses resulting from customer’s failure to properly close and secure doors or hatches.

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## **Shipping Instructions – Item 250**

- a. **Shipments Billed on EVWR (Local or Interline Forwarded):** All shipping instructions must be submitted by the Consignor or person acting on Consignor's behalf using EVWR's internet web site, www.evwr.com, or via previously agreed-upon means of Electronic Data Interchange. Consignors may make arrangements directly with third party logistics services providers to submit shipping instructions on their behalf via the same methods. In emergencies, EVWR will accept shipping instructions via telefacsimile at its Customer Service Center, 270-444-4347 or by email to customerservice@palrr.com, and may charge up to \$100 for any bill of lading received. EVWR will not accept delivery of shipping instructions by fax, US Mail, express service, personal delivery, or otherwise. Shipping instructions must contain all the information necessary to transport the shipment to its final destination. Required information includes, but is not limited to: Car initial and number, shipper name, origin, destination, consignee name and address, care of party (when using a third-party unloader), route, load or empty status, commodity description, standard commodity code, net weight and unit of measure, and payee (party responsible for the freight charges). Hazardous materials shipments also require UN Number, Class Number, Packing Group and a 24-hour emergency contact number. Consignors must provide in their billing instructions to EVWR any and all additional information as may be required by the other carriers in the route, including but not limited to required information for transborder shipments. Cars held for complete instructions may be subject to a hold charge of \$500 per non-hazmat car and \$1,500 per hazmat car and the car will be subject to demurrage/storage charges without free time until such time that complete delivery and payment instructions are received, in addition to incidental switching charges that may occur. All shipments received and accepted are transported subject to all applicable circulars, tariffs, contracts, price quotations, and the terms of the Uniform Straight Bill of Lading.
- b. **Interline Shipments Received by EVWR:** In the case of shipments terminating on EVWR and originating on a railroad connecting directly or indirectly to EVWR, it is the responsibility of the consignor to provide complete shipping instructions to the originating carrier to affect accurate delivery and billing as described above through the means of standard EDI information exchanges. Failure to provide all required information will subject the shipment holding, demurrage/storage, switching and incidental charges as described above, until complete information is received.

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## **Charges for Cars with More than Four Axles – Item 260**

Charges for Intraplant, Intra-terminal or Reciprocal switching will be confined to cars having no more than four (4) axles. When cars with more than four (4) axles are used, the charges for such service will be 200 percent of that shown for the same service applicable on cars with four (4) axles.

### **Idler and Buffer Cars – Item 270**

An idler car is an empty car, on which no part of a load rests, that is used in transporting freight of unusual length or excessive weight for the safe transportation or protection of lading. Buffer cars are empty cars used in transporting loaded unit trains of flammable commodities. Customers with loaded moves that require idler or buffer cars will be charged \$500 per idler or buffer car (one way).

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### **Charges for Articulated Cars – Item 280**

On movements of articulated cars (two or more units permanently or temporarily joined together), the switching charges published in this tariff will apply separately to each unit of the articulated equipment.

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### **Charges on Cars Held for Instructions or Cancelled Billing – Item 290**

In the absence of specific provisions to the contrary, the following will apply:

- a. When on shipper's order loaded or empty cars are removed from industry or industry leased track and held by this railroad awaiting billing instruction, the move will be subject to a "pull and hold" charge of \$500 per car, and the car will remain on continuous demurrage or storage until billing instructions are received.
- b. When on shipper's order, a shipment described in paragraph (a) is returned from whence it came, the return move will be subject to an intra-terminal switching charge.
- c. "Pull and hold" service is provided at EVWR's discretion, subject to availability of sufficient capacity to hold such cars.
- d. EVWR will not provide "pull and hold" service for cars containing Toxic Inhalation Hazard (TIH) or Poisonous Inhalation Hazard (PIH) commodities, as defined in AAR Circular No. OT-55.
- e. When, after billing instructions are submitted, cars are removed by EVWR from industry, leased track or team track, prior to departure from origin station are subsequently ordered back to the original industry, leased track or team track, the intraterminal switching charge, will be assessed for the movement of the car, and the car will remain on continuous demurrage in the demurrage account of the party in whose name the car was ordered for loading, and a billing cancellation charge of \$150 per bill of lading will apply.

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### **Intra-plant Switching – Item 330**

Intraplant switching is a switching movement from one location at an industry to another



location at the same industry where the service can be performed without leaving the industry tracks and industry's property boundary. The charge for this service is \$275 for each one way movement.

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### **Intra-terminal Switching – Item 340**

Intra-terminal switching is defined as a switching movement, other than Intraplant or Intermediate switching, meeting one of the following criteria:

- Between industries within a station on this railroad but not to or from interchange with a connecting railroad
- Between industries and their lease tracks within a station on this railroad
- Between a serving yard track and a lease track within a serving yard
- Between tracks within a serving yard where in-transit storage occurs.

The charges for this service vary due to the following circumstances:

- a. Load or empty, \$275 per each one-way segment with the exception of (b) below.
  - b. A loaded move following a loaded move will be billed at \$550 per car, per one-way segment.
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### **Switching and Holding Charges on Cars Held in Route – Item 360**

When on shipper's or consignee's instructions loaded cars, or empty cars moving on own wheels, are held by EVWR within the route in its serving yard and/or terminal boundaries, pending delivery to the original destination and consignee, intra-terminal charges in accordance with item 340, will be assessed against the party responsible for issuing the instructions. If due to capacity constraints, carrier must move subject cars to a holding point outside of the serving yard and/or terminal boundaries, line haul charges will apply from the point where the service was requested to the point where the cars are held and from the point where held to the original destination. The charges provided in this item are in addition to applicable demurrage and storage charges defined in EVWR 9000-Series Tariff.

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### **Furnishing of Dedicated Freight Train Service – Item 370**

This railroad will furnish dedicated freight train service between any two points on this railroad, either as a local movement or as a portion of a joint line movement

- a. when required by tariff provisions, or
- b. when required by directive of a federal or state agency, or
- c. when requested by consignor or consignee (or the agent of either) and subject to this railroad's convenience.

When such service is to be provided on request (see (c) above), such request must be made in writing (or orally and confirmed in writing) and must include consist, date and time of

movement routing and any other information and instructions pertinent to the movement and must be given in time to permit this railroad to make necessary arrangements for the movement, including the assembly of equipment and personnel.

The charge for this service is \$125 per mile for the distance over the actual route of movement on this railroad subject to a minimum of 110 miles in addition to applicable freight charges on the commodities transported and any other applicable charges. If a movement involves more than one origin point and/or more than one destination point on this railroad, each movement from one such point to the next such point will be considered a separate service. In providing dedicated freight train service, this railroad reserves the right to handle other shipments in the course of providing such service.

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### **Furnishing Extra Switching Service – Item 380**

Upon specific request of the shipper or consignee, EVWR will operate extra switching service, which is defined as service requested by the shipper or consignee at a time or date other than the scheduled regular service and/or EVWR's operating convenience. Charges will be assessed against the party requesting the service according to the following circumstances:

- a. \$400 per hour or fraction thereof but not less than \$800 for each extra service, provided the service is performed by a regular switching assignment.
- b. \$400 per hour or fraction thereof but not less than \$3200 if the extra service must be performed by an extra switching assignment.

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### **Diversion or Reconsignment – Item 390**

One diversion or reconsignment will be allowed on a shipment received on the tracks of the EVWR, provided no previous diversion or reconsignment has taken place on the same shipment, subject to the following conditions:

- a. Definition – A single change in name of consignor or consignee, and/or a single change in destination or place of delivery a destination, and/or a change in route.
- b. Diversion or reconsignment may be made only at a point intermediate between interchange with line haul carrier and origin or original destination.
- c. The rate to be used will be the through rate from point of origin to final destination, in addition to the rate from point of origin to diversion point, or from diversion point to final destination, whichever is higher, as a minimum.
- d. Diversion or reconsignment will only be accorded when order is placed with an authorized agent of the EVWR prior to arrival of car at destination and in time to permit instructions to be relayed to yard personnel.
- e. The charge for diversion or reconsignment shall be \$250 per car.
- f. The original bill of lading should be surrendered or other proof of ownership established.

- g. A request for diversion or reconsignment must be made or confirmed in writing.
  - h. When an order for diversion or reconsignment requires the application of a rate and/or route which cannot lawfully be applied via the point at which the diversion or reconsignment is made, prompt notice shall be given to the party requesting the diversion or reconsignment.
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#### **Weight Agreements & Weighing– Item 400**

- a. Freight rates in contracts and tariffs will primarily not be based on lading weight, but on other criteria such as car capacity, car length, car type, etc. Freight rates may be weight based only upon mutual agreement of EVWR and Customer.
  - b. When a car is weighed at the shipper's or receiver's order at a track scale of this railroad for reasons other than determination of freight charges, the weigh charge will be \$300 per car if the nearest scale is located at the same station as the origin station of the car, in addition to the applicable Intra-terminal switch charges.
  - c. When weighing or reweighing is performed at industry's orders at a track scale owned by subject industry, the charge will be \$200 per car, plus the applicable Intra-plant or Intra-terminal switch charge.
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#### **Interchange Error Movements – Item 420**

- a. Cars, loaded or empty, received by EVWR in error or without forwarding instructions from the delivering carrier, will be returned to the delivering carrier or forwarded to the proper carrier within the same switching district at a charge of \$250 per car. Charge will be assessed against the delivering carrier.
  - b. Loaded cars destined to stations on the EVWR, or for subsequent movement and interchange to other connecting carriers, delivered to the EVWR at the improper junction (based on the route applicable for protecting the appropriate rate or charge), will be subject to a charge of \$500.00 per car for returning the car to the delivering carrier, or at EVWR's sole option, moving the car to the final destination or proper interchange point with the connecting carrier. This charge will be assessed against the delivering carrier and will not, in any way, alter or affect the normal interline freight settlement between carriers as stipulated in the appropriate Association of American Railroads Railway Accounting Rules.
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#### **Set Back Charges on Reconsigned Cars – Item 430**

When a loaded railcar of either private or railroad ownership is received in interchange by this railroad and is subsequently ordered to be reconsigned or diverted (before leaving the interchange point), to a new destination where this railroad will not act in the capacity of a line haul carrier in the route, then a charge of \$200.00 per car shall be assessed for the service of returning the car to the designated railroad. This charge shall be in addition to any charges provided in Item 420 of this tariff.

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### **Charges for Moving Empty Railcars – Item 440**

When an empty (Note 2) railcar is moved by this railroad, and said railcar is being returned to origin from a loaded movement in which this railroad participated as a line haul carrier, that movement shall be free of charge. All other movements of empty railcars shall be chargeable at a rate of \$350 per car for cars interchanged with CSX at Evansville, IN or for local moves on EVWR, and shall be chargeable at a rate of \$750 per car for cars interchanged to BNSF at Woodlawn, IL or UP at Mt. Vernon, IL. The charge shall be applied in any direction each time a car is moved between two EVWR stations.

Note 1 – Applicable only in privately owned or leased railcars, except will apply in railroad owned or leased railcars when moving from or to a facility for car cleaning, repair or alteration. No mileage allowance will be paid on the private railcars moving under the provisions of this item.

Note 2 – Cars containing product residue which exceeds seven percent of the weight of the marked capacity of the car shall be considered a loaded car and will be charged utilizing otherwise applicable rates.

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### **Transportation of Empty Private Railcars – Item 450**

Transportation rates published in tariffs, special quotes or contracts by EVWR or by another railroad that interchanges with EVWR, include the movement of empty railcars on EVWR via reverse route to the point of loading (for local or interline forwarded shipments originating on EVWR) or returned to the connecting carrier via reverse route (for loaded interline received shipments terminating on EVWR). All other empty private car moves are subject to switching and/or line haul charges, as the case may be. Cars containing product residue which exceeds seven percent of the weight of the marked capacity of the car shall be considered a loaded car and will be charged accordingly.

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### **Private Car Mileage – Item 460**

EVWR is not a party to the RIC 6007 Tariff Series. EVWR does not pay private car mileage unless specified in any particular tariff or contract to the contrary.

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### **Industry Sidetracks – Item 500**

In order to provide line haul and/or switching services, EVWR must access privately owned industry sidetracks. Industries are required to establish side track agreements with EVWR to govern their safe operations. In the absence of a private sidetrack agreement, the following terms and conditions will govern, however EVWR reserves the right to decline service on a sidetrack in the absence of a private sidetrack agreement.

- a. EVWR will use the Sidetracks to deliver or pick up any railcar directed to or from the Customer's facility by a valid Shipping Instruction.
- b. EVWR may access and temporarily occupy Customer's Sidetracks when useful in the course of providing local service in the Customer's vicinity.
- c. Customers must, at their own expense, inspect, maintain, and renew Sidetracks consistent with normal operations, and in accordance with:
  - 1. The Federal Railroad Administration's Track Safety Standards (49 C.F.R. Part 213)
  - 2. Railroad Worker Safety Regulations (49 C.F.R. Part 214)
- d. The Customer must inform EVWR's local representatives of the dates and amount of time that the Sidetracks will be out of service, whether for maintenance or other reasons.
- e. Customers must keep sidetracks free from debris and weeds, potholes and excavations, ice and snow, temporary or permanent structures and poles, and any other obstructions that would prevent the safe operation thereupon.
- f. EVWR has the right, but not the duty, to inspect sidetracks.
- g. EVWR will not operate over any sidetracks that we determine are unsafe.
- h. A customer shall not maintain Close Clearances in the area of sidetracks unless:
  - 1. The customer obtains a waiver from any conflicting Governmental Requirements, and
  - 2. EVWR approves such Close Clearance in writing
- i. Customers must install, maintain and replace at their expense any warning signs or lighting, or make other adjustments regarding Close Clearances as may be necessary, useful, or required by any Governmental Requirements or EVWR.
- j. If a Customer seeks to construct new or additional, or alter existing, sidetracks such construction must be done in accordance with the provisions of EVWR's current Standard Guidelines and Specifications for the Design and Construction of Private Sidetracks, and Customers must supply EVWR with construction plans for any addition, deletion, or modification to the Sidetracks, and obtain EVWR's written confirmation that EVWR has no objections to the proposed changes prior to making any material alterations to the Sidetrack
- k. To facilitate safe operations and avoid interruptions of service, Customers should notify EVWR not less than 30 days prior to constructing or allowing the construction of any new tracks, public or private road, gate, tunnel, bridge, culvert, pit, gas-line, pipe, or other items on, over, under or along any part of the Sidetrack or right-of-way.
- l. EVWR may use Sidetracks for emergency operating purposes as long as the emergency operations do not materially affect the use of the Sidetracks for rail service to the Customer.
- m. EVWR surrenders possession and control of each railcar, and its contents, consigned to or ordered by the Customer when:
  - 1. A railcar has been placed on a Sidetrack, and EVWR's locomotive uncouples from the railcar, or

2. EVWR's crew departs from the locomotive if the locomotive is being left with the Customer
- n. EVWR assumes possession and control of a railcar and its contents when:
    1. EVWR's locomotive is coupled to the railcar, or
    2. When the locomotive has been left with the Customer, EVWR's crew is onboard the locomotive and has actual control over the train by initiating departure from the Private Track
  - o. Hazardous Materials shall not be placed by anyone on or within the twenty-five feet of Sidetracks, or on Customer property within 100 feet of EVWR's connecting mainline track. This does NOT apply to shipments consigned to, or ordered by, a Customer accessible by such Sidetrack, or existing pipelines for the transportation of Hazardous Materials.
  - p. Customer shall indemnify and save harmless EVWR from any and all claims, demands, suits, losses, liabilities, damages, fines or expenses, including liability under any applicable statute, for personal injury or wrongful death, or for the clean-up of any hazardous or toxic waste materials or other substances, arising out of or in any way connected with the construction, maintenance, use or operation of the Sidetrack, except to the caused by the sole or gross negligence of EVWR.

## EXPLANATION OF ABBREVIATIONS

BOE	Bureau of Explosives
EVWR	Evansville Western Railway, Inc.
OPSL	Official Railroad Station List, OPSL 6000-series, Railinc, Agent
RER	Official Railway Equipment Register, RER 6413-series, R. E. R. Publishing Corporation, Agent
UFC	Uniform Freight Classification, UFC 6000-series, National Railroad Freight Committee, Agent