



Mr. H. G. Homme, Jr.

-2-

January 18, 1978

Also enclosed is Pittsburgh and Lake Erie Railroad Company Voucher No. 086508, dated January 17, 1978, in the amount of \$50.00, payable to the Treasurer of the United States, to cover the filing fee prescribed by the Commission in its rules and regulations.

Please acknowledge receipt at your earliest convenience by stamping and returning to me a duplicate original and two copies of the document.

Very truly yours,

A handwritten signature in cursive script, reading "Gordon E. Neuenchwander". The signature is written in dark ink and is positioned to the right of the typed name.

encs.

**Interstate Commerce Commission**  
Washington, D.C. 20423

OFFICE OF THE SECRETARY

1/25/78

Gordon E. Neuenschwander  
The Pittsburgh & Lake Erie RR. Co.  
324 P&LE Terminal Building  
Pittsburgh, Pa. 15219

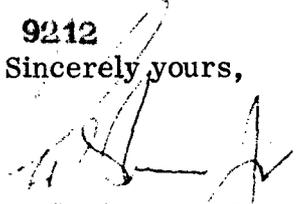
Dear

**Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on **1/23/78** at **12:25pm** and assigned recordation number(s)

**9212**

Sincerely yours,

  
H.G. Homme, Jr.  
Acting Secretary

Enclosure(s)

SE-30-T  
(6/77)

RECORDATION NO. 9212 Filed & Recorded

JAN 23 1978 - 12 21 PM

RAILROAD EQUIPMENT LEASE

INLAND STATE COMMERCE COMMISSION

THIS AGREEMENT AND LEASE, dated as of the 15th day of November, 1977, by and between THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY, hereinafter called "P&LE", and the YOUNGSTOWN & SOUTHERN RAILWAY COMPANY, hereinafter called "Y&S".

W I T N E S S E T H:

WHEREAS, P&LE is the owner of all of the capital stock of Montour Railroad Company which, in turn, is the owner of all of the capital stock of Y&S; and

WHEREAS, Y&S desires to obtain certain heavy duty box car equipment in order that traffic over its line may be properly transported; and

WHEREAS, P&LE is the owner of certain 70-ton, cushion underframe box cars, more particularly described in Exhibit A, attached hereto and made a part hereof, which P&LE proposes to lease to its wholly owned affiliate, Y&S, at the rental, for the term and upon the conditions hereinafter stated.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, the parties hereto covenant and agree as follows:

1. Lease of Cars. P&LE shall lease to Y&S and Y&S shall and does hereby lease from P&LE sixty (60) 70-ton, cushion underframe box cars (any one of said cars hereinafter referred to as "Car", and more than one or all of which are hereinafter referred to as "Cars"), bearing numbers as set forth

in Exhibit A. The lease shall become effective as to any Car immediately upon its acceptance by Y&S at a point on its line.

2. Additional or Substitute Cars. In the event that P&LE shall furnish to Y&S for lease other box cars in addition to or in substitution for any of the Cars described in Exhibit A hereto, such other cars, upon acceptance by Y&S, shall be included as Cars under this Agreement and Lease and shall be subject to all of the terms and conditions hereof in all respects as though they had been part of the Cars initially described herein.

3. Possession and Use. During the term of this lease, so long as Y&S is not in default of the provisions hereunder, Y&S shall be entitled to possession of each Car and the same may be used upon the lines of any other railroad in normal interchange service for the uses for which they are designed. All per diem time and mileage charges payable for the use of the Cars by other parties shall be accounted for by P&LE and paid over to Y&S.

4. Term. This Agreement and Lease shall continue in effect for an initial term of one (1) year which shall commence on the date hereinabove written. If Y&S has fully performed all of its obligations under this Agreement and Lease, the lease of the Cars shall continue under all the provisions herein contained for additional periods of one (1) year each until this Agreement and Lease shall be terminated upon six (6) months' written notice given by either party to the other, or at such earlier date as may be mutually agreed to by the parties.

5. Rental. As rental for the use of each Car, Y&S shall pay P&LE for such use from the date of this Agreement and Lease at the rate of One Dollar (\$1.00) per year. Y&S shall make annual payments of the aforesaid rental to P&LE within fifteen (15) days from the end of each year.

6. Title. Y&S shall not by reason of this Agreement and Lease or any action taken hereunder acquire or have any right or title in and to the Cars except as to the rights herein expressly granted to it as lessee.

7. Maintenance. From the time of delivery of the Cars by P&LE to Y&S until the Cars have been accepted by P&LE from Y&S at the termination of the lease, maintenance of the Cars shall be provided in accordance with the following:

1. At times when Cars are on the lines of Y&S, Y&S will make routine inspection and repair such minor repairs as may be required at its sole cost and expense;
2. Cars returned to Y&S with defect cards or otherwise requiring other than minor repairs will be directed by Y&S to P&LE via Lansingville Yard, and P&LE will make such repairs as are necessary at no cost to Y&S. All payments made under applicable Car Service Rules for defect card repairs made by P&LE shall be retained by P&LE. Y&S will confer with P&LE Equipment Department regarding disposition of any Car received by Y&S in damaged condition without a defect card affixed thereto; and

3. The cost of all repairs made upon Cars by railroads other than the parties hereto and billable to the owning railroad under applicable Car Service Rules shall be borne and paid by Y&S.

8. Additions to Cars. Any parts, replacements or additions made to any Car shall be accessions to such Car and title thereto shall be immediately vested in P&LE without cost or expense to P&LE.

9. Taxes. Y&S shall promptly pay all taxes, assessments and other governmental charges, including sales, use or ad valorem taxes, levied or assessed during the continuance of this lease upon the Cars or the interest of Y&S therein whether or not upon the use or operation thereof or the earnings derived therefrom. If any levy or assessment is made against P&LE on account of any of the foregoing matters or on account of its ownership of the Cars, exclusive, however, of any taxes on the rentals herein provided or the net income of P&LE therefrom, Y&S will promptly pay or reimburse P&LE for the same except that Y&S shall not be required to pay the same so long as it shall in good faith and by appropriate legal or administrative proceedings protest the validity or amount of such levy or assessment.

10. Prohibition Against Liens. Y&S shall pay or set aside and discharge any and all sums claimed by any party by, through or under Y&S and its successors and assigns which,

if unpaid, might become a lien or a charge upon the Cars. Y&S shall not be required, however, to pay or discharge any such claim as long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner which will not affect the title in and to the Cars.

11. Identification of Cars. At all times during the continuance of this lease, Y&S will cause each Car to bear only the initials of Y&S and the number assigned to it and appearing thereon as of the date of its delivery by P&LE. Y&S shall further cause each side of such Cars to bear, in letters not less than one inch (1") in height, the following legend:

"LEASED BY YOUNGSTOWN & SOUTHERN RY. CO. FROM THE  
PITTSBURGH AND LAKE ERIE RAILROAD COMPANY, OWNER,  
UNDER LEASE FILED WITH THE INTERSTATE COMMERCE COM-  
MISSION PURSUANT TO SECTION 20(c) OF THE INTERSTATE  
COMMERCE ACT."

In the event that any of such markings or legends shall at any time prior to the termination of the lease be removed, defaced or destroyed, Y&S shall immediately cause the same to be restored or replaced.

12. Indemnity. Y&S agrees to indemnify, defend and save P&LE, its officers and employees, harmless from and against all expenses, damages, claims, actions or liabilities based upon personal injuries, death or property damage arising

out of or in connection with the condition, operation or use of any of the Cars upon the line of Y&S. Whenever Cars are operated on lines of railroads other than Y&S, P&LE will indemnify, defend and save Y&S, its officers and employees, harmless from and against all expenses (including litigation and counsel fees), damages, claims, actions or liabilities based upon personal injuries, death or property damage arising out of or in connection with the condition, operation or use of the Cars upon such railroad lines.

13. Loss or Destruction of Cars. Y&S shall forthwith advise P&LE of all occurrences in which any Car shall be lost, destroyed or irreparably damaged beyond economic repair from any cause whatsoever at any time during the term of this lease, and all sums due or payments made in accordance with the prevailing rules applicable thereto in the Field Manual of the Interchange Rules prescribed by the Association of American Railroads, shall be paid over to P&LE. Upon payment of such settlement this Agreement and Lease shall terminate as to such Car as of said date and Y&S shall be entitled to salvage, if any.

14. Redelivery of Cars. Upon termination of this lease with respect to any Car (other than pursuant to paragraph 13 hereinabove), Y&S shall at its sole cost and expense immediately surrender possession of such Car by causing delivery of the same to be made to P&LE at Youngstown, Ohio. Y&S shall return all Cars to P&LE in as good condition (ordinary wear and tear excepted) as when the same were delivered to Y&S. Until

such time as each Car has been redelivered to P&LE, Y&S shall make all payments and perform all obligations and requirements of Y&S under all other provisions of this lease as though such termination had not occurred.

15. Default. The term "event of default" for the purpose hereof shall mean any one or more of the following:

- (a) Y&S shall default or fail for a period of thirty (30) days in the observance or performance of any agreement required to be observed or performed on its part under this Agreement and Lease, and said default or failure shall continue for a period of thirty (30) days after the giving of written notice thereof by P&LE;
- (b) A decree or order shall be entered by a court having jurisdiction in the premises adjudging Y&S a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization under the Federal Bankruptcy Act or any other applicable Federal or State law;
- (c) The institution by Y&S of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of any proceeding or to any action taken or proposed

to be taken in any proceeding described hereinabove in clause (b), or the making by Y&S of a general assignment for the benefit of creditors.

16. Remedies. P&LE shall have the right in the event of default by Y&S to terminate this Agreement and Lease immediately by giving notice to Y&S, and P&LE may without any notice of demand take or cause to be taken immediate possession of the Cars and sell or otherwise dispose of the same, provided, however, that such retaking shall not be deemed a waiver of P&LE's right to receive payment of all sums payable by Y&S to P&LE under this Agreement and Lease or any other rights or remedies conferred upon P&LE under applicable laws.

17. Recording. Immediately upon execution, P&LE shall cause this lease to be filed with the Interstate Commerce Commission for recordation under Section 20(c) of the Interstate Commerce Act.

18. Sublease and Assignment. Y&S shall not assign or sublease this lease or any of the Cars without the prior written consent of P&LE. P&LE may assign and reassign all or part of its rights under this lease without the consent of Y&S if said assignment or reassignment does not diminish, interfere or prejudice the right of Y&S under this lease, and P&LE shall give to Y&S notice of any such assignment or reassignment.

19. Successors and Assigns. The covenants, conditions and agreements contained in this Agreement and Lease shall

bind and inure to the benefit of the parties, their successors and assigns (to the extent permitted in paragraph 18 hereof).

20. Governing Laws - Amendments. The terms of this Agreement and Lease and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania. The terms of this Agreement and Lease and the rights and obligations of the parties hereto may not be amended or terminated orally, but only by agreement in writing by the party against whom the enforcement of such amendment or termination is sought.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement and Lease to be executed by their duly authorized officers as of the day and year first above written.

THE PITTSBURGH AND LAKE ERIE  
RAILROAD COMPANY

WITNESS:

G. E. Neuenchwander

By H. E. Allyn  
President

YOUNGSTOWN & SOUTHERN RAILWAY  
COMPANY

WITNESS:

G. E. Neuenchwander

By H. G. Fife  
President



COMMONWEALTH OF PENNSYLVANIA) )  
COUNTY OF ALLEGHENY ) ) SS:

On this 13th day of Jan., 1978,

before me, the undersigned Notary Public, personally appeared H. G. PIKE who, being by me duly sworn, acknowledged that he is President of Youngstown & Southern Railway Company; that he executed the foregoing instrument for and on behalf of said corporation and that the execution of the foregoing instrument was the free act and deed of said corporation.

Donna R. Dineen

My commission expires: Feb. 3, 1980

DONNA R. DINEEN, Notary Public  
Pittsburgh, Allegheny County, PA  
My Commission Expires February 3, 1980

EXHIBIT A

No. of Cars: 60

Description of Cars: 70-ton, Heavy Duty, Cushion Underframe Box Cars

Identifying Nos:	<u>P&amp;LE</u>	<u>Y&amp;S</u>	<u>P&amp;LE</u>	<u>Y&amp;S</u>
	6555	1001	6883	1031
	6614	1002	6006	1032
	6107	1003	6443	1033
	6674	1004	6280	1034
	6051	1005	6156	1035
	6501	1006	6712	1036
	6824	1007	6390	1037
	6845	1008	6821	1038
	6749	1009	6643	1039
	6178	1010	6201	1040
	6185	1011	6669	1041
	6646	1012	6857	1042
	6023	1013	6386	1043
	6211	1014	6376	1044
	6661	1015	6262	1045
	6587	1016	6506	1046
	6520	1017	6384	1047
	6667	1018	6333	1048
	6231	1019	6899	1049
	6084	1020	6503	1050
	6784	1021	6853	1051
	6148	1022	6653	1052
	6704	1023	6135	1053
	6856	1024	6710	1054
	6834	1025	6321	1055
	6279	1026	6350	1056
	6393	1027	6585	1057
	6603	1028	6894	1058
	6602	1029	6819	1059
	6284	1030	6375	1060