8-332467

No.

Date DEC 28 1978

Fee $10.00

ICC Washington, D. C.

RECEIVED

DEC 28 12 07 PM '78

I.C.C.

FEE OPERATION BR.

ITEL CORPORATION

December 28, 1978

RECORDATION NO. 9941-A Filed 1425

DEC 28 1978 - 12 10 PM

INTERSTATE COMMERCE COMMISSION

The Acting Secretary
Interstate Commerce Commission
Washington, D. C. 20423

ASSIGNMENT OF LEASE AND AGREEMENT, relating to Lease Agreement dated as of September 20, 1978, between Itel Corporation, Rail-Intermodal Division and Erie Western Railway Company filed and recorded with the ICC on December 26, 1978 Recordation Number 9941

Dear Sir:

Enclosed herewith on behalf of Itel Corporation, for filing pursuant to 49 U.S.C. § 11303, is an ASSIGNMENT OF LEASE AND AGREEMENT dated as of December 28, 1978, between:

ITEL CORPORATION,
Two Embarcadero Center
San Francisco, California 94111

and

CITIBANK, N.A., as Trustee
111 Wall Street
New York, N. Y. 10043

The enclosed Assignment effects assignment of the Lease Agreement referenced in the heading of this letter. The railroad equipment covered by such Lease and the enclosed Assignment is described as follows:

No. of Units	Road Numbers	Description	A.A.R. Mechanical Designation
50	ERES 250000-250049 Both inclusive	70-ton 89'4" Flat cars for trailer and container service	FC

ONE EMBARCADERO CENTER
SAN FRANCISCO
CALIFORNIA 94111
(415) 955-0000

Five copies of the Assignment and an extra copy of this letter are enclosed, along with a check which includes the $10 filing fee for this filing. Please stamp the four extra copies of the Assignment and the extra copy of this letter and return them to the delivering messenger who will wait.

Very truly yours,

Edward P. Schneider

Edward P. Schneider
Vice President-Treasurer
Itel Corporation, Rail Division

Encls.

ASSIGNMENT OF LEASE AND AGREEMENT dated as of December 28, 1978 (hereunder called this Assignment), by and between ITEL CORPORATION, a Delaware corporation (together with its successors and assigns, being hereinafter called ITEL) and CITIBANK, N.A., as Trustee, a national banking association, incorporated and existing under the laws of the United States of America (hereinafter called the Trustee).

RECORDATION NO. 9912-A Filed
DEC 28 1978 -12 10 PM
INTERSTATE COMMERCE COMMISSION

WHEREAS ITEL has entered into an Equipment Trust Agreement dated as of November 1, 1978 (such Equipment Trust Agreement, together with any amendments or supplements thereto, being hereinafter called the Agreement);

WHEREAS ITEL and Erie Western Railway Company (hereinafter called the Lessee) have entered into a lease of Equipment (as defined in the Agreement) dated as of September 20, 1978 (such lease, together with any amendments or supplements thereto, being hereinafter called the Lease), providing for the leasing by ITEL to the Lessee of units of the Trust Equipment (as defined in the Agreement);

WHEREAS the Lease may also cover the leasing to the Lessee of other equipment not included as part of the Trust Equipment; and

WHEREAS in order to provide security for the obligations of ITEL under the Agreement and as an inducement to the investors for which the Trustee is acting to purchase Trust Certificates (as defined in the Agreement), ITEL agrees to assign for security purposes its rights in, to and under the Lease to the Trustee as and only to the extent that the Lease relates to the Trust Equipment;

NOW, THEREFORE, in consideration of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. ITEL hereby assigns, transfers and sets over unto the Trustee, as collateral security for the payment and performance of ITEL's obligations under the Agreement, all of ITEL's right, title and interest, powers, privileges and other benefits under the Lease as and only to the extent that the Lease relates to the Trust Equipment set forth in Annex A hereto, including, without limitation, all rights to receive and collect all rentals, profits and other sums payable to or receivable by ITEL from the Lessee under or pursuant to the provisions of the Lease to the extent that the same are payable in respect of such Trust Equipment, whether as rent, casualty payment, indemnity, liquidated damages or otherwise (such moneys being hereinafter called the Payments); *provided, however,* that until an Event of Default under the Agreement, or any event which, with notice or lapse of time or both, could constitute such an Event of Default, shall occur, it is understood that ITEL shall be entitled to collect and receive all such Payments and to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to apply all Payments to which ITEL is entitled to the payment of any and all of ITEL's obligations under the Agreement and to retain the balance, if any. In furtherance of the foregoing assignment, but subject to the foregoing provisions of this paragraph, ITEL hereby irrevocably authorizes and empowers the Trustee in its own name, or in the name of its nominee,

or in the name of ITEL or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which ITEL is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof. Whenever a Lease covers other equipment not included as part of the Trust Equipment and the amount of any payment due to ITEL under such Lease as car hire payments (including both straight and incentive per diem), mileage charges or other rental revenues is calculated on an aggregate basis for all equipment leased thereunder, for the purposes of this Assignment an amount equal to the Assigned Fraction (as hereinafter defined) of each such payment shall be deemed to be payable with respect to such Trust Equipment leased under such Lease. The term "Assigned Fraction" as used herein shall mean a fraction the numerator of which shall be the number of units of equipment comprising such Trust Equipment leased under such Lease and the denominator of which shall be the aggregate number of units of equipment (including such units of Trust Equipment) at the time leased under such Lease.

2. This Assignment is executed only as security for the obligations of ITEL under the Agreement and, therefore, the execution and delivery of this Assignment shall not subject the Trustee to, or transfer, or pass, or in any way affect or modify, the liability of ITEL under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of ITEL to the Lessee shall be and remain enforceable by the Lessee, its successor and assigns, against, and only against ITEL or persons other than the Trustee.

3. To protect the security afforded by this Assignment, ITEL agrees as follows:

(a) ITEL will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides is to be performed by ITEL.

(b) At ITEL's sole cost and expense, ITEL will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of ITEL under the Lease.

(c) Should ITEL fail to make any payment or to do any act which this Assignment requires ITEL to make or do, then the Trustee, but without obligation so to do, after first making written demand upon ITEL and affording ITEL a reasonable period of time within which to make such payment or do such act, but without releasing ITEL from any obligation hereunder, may make or do the same in such manner and to such extent as the Trustee may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Trustee, and also the right to perform and discharge each and every obligation, covenant and agreement of ITEL contained in the Lease; and in exercising any such powers, the Trustee may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and ITEL will reimburse the Trustee for such costs, expenses and fees.

4. Upon the full discharge and satisfaction of all of ITEL's obligations under the Agreement and this Assignment, all rights herein assigned to the Trustee shall

terminate, and all estate, right, title and interest of the Trustee in and to the Lease shall revert to ITEL.

5. ITEL will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Trustee in order to confirm or further assure, the interests of the Trustee hereunder.

6. If an Event of Default shall occur and be continuing under the Agreement, the Trustee may assign all or any of the rights assigned to it hereby or arising under the Lease, including without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Trustee hereunder. The Trustee will give written notice to ITEL and the Lessee of any such assignment.

7. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by the laws of the United States permitting filing with the Interstate Commerce Commission.

In Witness Whereof, the parties hereto have caused this instrument to be executed in their respective names, by officers thereunto duly authorized, and their respective seals to be affixed and duly attested, all as of the date first above written.

Itel Corporation

By Edward P. Schneider

[Corporate Seal]

Attest:

AUTHORIZED OFFICER ~~Secretary~~

Citibank, N.A., as Trustee

By .....

Senior Trust Officer

[Seal]

Attest:

.....

Trust Officer

STATE OF NEW YORK,
COUNTY OF NEW YORK } SS.:

On this 20th day of December 1978, before me personally appeared Edward P. Schneider, to me personally known, who, being by me duly sworn, says that he is Authorized Officer of ITEL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its By-laws and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

William R. Ellis
Notary Public

[NOTARIAL SEAL]

WILLIAM R. ELLIS
NOTARY PUBLIC, State of New York
No. 43-1977759
Qualified in Richmond County
Commission Expires March 30, 1980

My Commission expires

STATE OF NEW YORK,
COUNTY OF NEW YORK } SS.:

On this 27th day of December 1978, before me personally appeared G. H. GREGOR, to me personally known, who, being by me duly sworn, says that he is a Senior Trust Officer of CITIBANK, N.A., a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said national banking association and that said instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

Alice H. Shaw
Notary Public

[NOTARIAL SEAL]

ALICE H. SHAW
Notary Public, State of New York
No. 24—4646218
Qualified in Kings County
Term Expires March 30, 1979

My Commission expires

ANNEX A

No. of Units	Road Numbers	Description	AAR Mechanical Designation
50	ERES 250000-250049 Both inclusive	70-ton 89'4" Flat Cars for trailer and container service	FC