

Bethlehem Steel Corporation

BETHLEHEM, PA 18016

1-272A085



No.

SEP 29 1981

Date.....

Fee \$.. 50.00

ICC Washington, D. C.

September 22, 1981

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Interstate Commerce Commission
Washington, D. C.

REGISTRATION NO. Filed 1425

SEP 29 1981 20 PM

Letter of Transmittal

INTERSTATE COMMERCE COMMISSION

Gentlemen:

Enclosed herewith for filing are an original and executed counterparts of an "AGREEMENT Between BETHLEHEM STEEL CORPORATION And GULF STATES UTILITIES COMPANY Dated as of September 10, 1981".

The names and addresses of the parties are as follows:

Debtor: Gulf States Utilities Company
P. O. Box 2951
Beaumont, Texas 77704

Secured Party: Bethlehem Steel Corporation
Martin Tower
Bethlehem, Pennsylvania 18016

The equipment covered by the enclosed Agreement is generally described as follows:

Six Hundred Five (605)
BethGon Coalporter
Railroad Cars, numbered
GSNX 60 to 66, inclusive,
and GNSX 100-697, inclusive.

Very truly yours,

BETHLEHEM STEEL CORPORATION

By

R. M. Hand
Vice President

Copy Herpelt - Keenan P. Horton

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

R. M. Hard
Bethlehem Steel Corporation
Bethlehem, PA 18016

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 9/29/81 at 2:20PM, and assigned re-
recording number(s). 13247

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

RECORDATION NO. **13217** Filed 1425

SEP 29 1981 12 20 PM

INTERSTATE COMMERCE COMMISSION

AGREEMENT

Between

BETHLEHEM STEEL CORPORATION

And

GULF STATES UTILITIES COMPANY

Dated as of September 10, 1981

AGREEMENT dated as of September 10, 1981 between BETHLEHEM STEEL CORPORATION, a Delaware corporation with a principal place of business at Bethlehem, Pennsylvania ("Contractor"), and GULF STATES UTILITIES COMPANY, a Texas corporation with a place of business in Beaumont, Texas ("Company").

W I T N E S S E T H:

1. Construction and Security Interest. The Contractor shall construct at its manufacturing plant at Johnstown, Pennsylvania, six hundred five (605) BethGon Coalporter Cars bearing Numbers GSNX 60 to 66, inclusive, and GSNX 100-697, inclusive, ("Cars") in accordance with the Contract Agreement Between Gulf States Utilities Company And Bethlehem Steel Corporation, dated January 30, 1981, as amended, ("Contract").

The Company hereby grants to the Contractor a security interest in each Car upon the terms and subject to the conditions hereinafter set forth, effective as to each Car for a period beginning with the delivery of such Car pursuant to the Contract and terminating at the earliest of (a) payment to the Contractor by or on behalf of the Company under an equipment lease, conditional sale agreement, equipment trust agreement or other equipment financing agreement, (b) payment by or on behalf of an assignee of the Contractor or Company or (c) payment by the Company pursuant to the Contract.

At the request of the Company, the Contractor shall execute an instrument confirming such termination.

2. Delivery. The Contractor shall deliver the Cars to the Company in groups f.o.b. Johnstown, Pennsylvania, beginning on or about September 15, 1981.

Upon delivery of each Car by the Contractor, the Company shall obtain legal title to the Car, subject to the security interest created by this Agreement, and shall assume the risk of loss with respect to it.

3. Car Numbers. During the term of the respective security interests, the Company shall keep the Cars marked with their identifying numbers.

4. Taxes; Liens. The Company shall promptly pay all taxes, fees and assessments on, or in respect of, the Cars which are subject to the security interest in favor of the Contractor, and shall not encumber the title to such Cars or grant or create a security interest prior to the security interest in favor of the Contractor. If the Contractor pays any such tax, fee or assessment, or pays a third party to obtain a release of a prior security interest, then the Company shall on demand pay the Contractor the amount thereof.

5. Assignment. Neither the Contractor nor the Company shall sell, assign, transfer or otherwise dispose of its rights under this Agreement nor transfer possession of any Car to any other firm, person or corporation without first obtaining the written consent of the other party; provided, such consent shall not be required in the event of an assignment by the Company to a

lessor under a financing arrangement; provided, further, that such assignment shall not release the Company from its obligations under the Contract.

6. Recording. The Contractor shall file a signed counterpart of this Agreement with the Interstate Commerce Commission in accordance with 49 U.S.C. Section 11303 and wherever else required to protect the Contractor's security interest in the Cars.

7. Default. Upon a default by the Company in its payment of the purchase price for any Car, the Contractor may, without notice or demand, take or cause to be taken immediate possession of the Cars, and, at such time, all of the Company's rights in the Cars will terminate; provided, however, that such retaking shall not be a waiver by the Contractor of its right to receive from the Company the purchase price of the Cars or of any other rights or remedies. The Contractor, at its option, may within a reasonable time after such retaking sell the Cars and, in such event, the Company shall pay any deficiency between the amount of such sales price and the purchase price plus the costs (including reasonable attorney's fees) incurred by the Contractor in retaking and selling the Cars. Such sale may be by public or private sale, all together or in groups, at any reasonable place and time and in accordance with such terms as the Contractor may obtain.

8. Payments by Company. All payments to the Contractor shall be made ~~by the transfer of Federal Funds to the~~ IN ACCORDANCE WITH THE CONTRACT.

~~account of the Contractor at the Morgan Guaranty Trust Company of
New York (Account Number 006-10-116).~~ *CPB*

9. Extension Not a Waiver. Any extension of time granted by the Contractor to the Company for the payment of any sum under this Agreement or the Contract, or for the performance of any other obligation hereunder or thereunder, shall not be a waiver of any other rights of the Contractor.

10. Notice. Notice to the Company shall be given by delivery or mail to the Company at P. O. Box 2951, Beaumont, Texas 77704. Notice to the Contractor shall be given by delivery or mail to the Manager of Sales, Railroad Products, Bethlehem Steel Corporation, Bethlehem, Pennsylvania 18016.

11. Use of Counterparts. This Agreement may be signed in several counterparts and each signed counterpart shall be deemed to be an original counterpart. The agreement of the parties may be evidenced by any one original counterpart.

12. Article Headings. All article headings are inserted for convenience only and they shall not be used to construe or interpret this Agreement.

13. Modification. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by the duly authorized officers of the Contractor and the Company.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized officers and sealed with their corporate seals.

ATTEST:

R. H. [Signature]
Assistant Secretary

ATTEST:

Lester D. Ogden
Attesting Officer

BETHLEHEM STEEL CORPORATION,
By

R. M. [Signature]
Vice President

GULF STATES UTILITIES COMPANY,
By

Calvin J. [Signature]

COMMONWEALTH OF PENNSYLVANIA)
) ss.
COUNTY OF LEHIGH)

On this *22nd* day of *September*, 1981, before me personally appeared, *R.M. Hurd*, to me personally known, who being by me duly sworn, says that he is a Vice President of Bethlehem Steel Corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation 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 corporation.

My Commission Expires
July 17, 1982
City of Bethlehem
Lehigh County

J. Ethel A. Vary

STATE OF TEXAS)
) ss.
COUNTY OF *Jefferson*)

On this *28th* day of *September*, 1981, before me personally appeared, *Calvin J. Hebert*, to me personally known, who being by me duly sworn, says that he is *Vice President* of Gulf States Utilities Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation 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 corporation.

Pamela L. Dattalo
my Commission Expires
7-3-84