

RECORDATION NO. 12325-F Filed & Recorded

RCC-ICC

NOV 3 1986 11-05 AM

FEDERAL EXPRESS

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 12325-F Filed & Recorded

NOV 3 1986 11-05 AM

INTERSTATE COMMERCE COMMISSION

RCC RAILCAR LEASING, INC.
c/o MGC Leasing Corp.
666 Fifth Avenue
New York, New York 10103

RECORDATION NO. 12325-A Filed & Recorded

NOV 3 1986 11-05 AM

INTERSTATE COMMERCE COMMISSION

October 30, 1986

R Office of the Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Secretary:

I have enclosed eight (8) original counterparts of the documents described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

The enclosures are:

1. Amendment to Trust Agreement, dated as of October 10, 1986 ("Amendment");
2. Assignment of Lease and Agreement, dated as of October 10, 1986 ("Assignment"); and
3. Railcar Lease Agreement dated as of October 10, 1986 ("Lease").

The names and addresses of the parties to the Amendment and the Assignment are as follows:

Owner/Assignor: RCC Railcar Leasing, Inc.
c/o MGC Leasing Corp.
666 Fifth Avenue
New York, New York 10103

Trustee: Continental Illinois National
Bank and Trust Company of Chicago
30 North LaSalle Street
Chicago, Illinois 60693

The names and addresses of the parties to the Lease are as follows:

Lessor: RCC Railcar Leasing, Inc.
c/o MGC Leasing Corp.

666 Fifth Avenue
New York, New York 10103

Lessee: MNVA Railroad, Inc.
P.O. Box 218
Redwood Falls, Minnesota 56283

The equipment covered by the documents consists of railroad rolling stock described as 203 100-ton 4750 cubic-foot covered hopper railroad cars.

A fee of \$30.00 is enclosed. Kindly file one (1) copy of each of the aforementioned documents, file stamp the remaining copies, and return them to me as soon as possible.

If you have any questions, please feel free to call me at (212) 757-6200.

Very truly yours,



Robert A. Ginzberg
Vice President

RAG:be
Enclosures

cc: Mr. James A. Kaylor
Mr. George Reaves
Continental Illinois National Bank
Dean C. Waldt, Esq.
Mr. Alfred P. Quirk

Interstate Commerce Commission
Washington, D.C. 20423

11/4/86

OFFICE OF THE SECRETARY

Robert A Ginzberg
Vice President
RCC Railcar Leasing, Inc.
c/o MGC Leasing Corp
666 Fifth Ave.
New York, N.Y. 10103
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 11/3/86 at 11:05am, and assigned re-
recording number(s). 12325-E, 12325-F & 12325-G

Sincerely yours,

Noreta R. McGee
Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION NO. 12325 ^F
Filed & Recorded

NOV 3 1986 10 05 AM

AMENDMENT TO TRUST AGREEMENT

INTERSTATE COMMERCE COMMISSION

AMENDMENT TO TRUST AGREEMENT dated as of

October 10, 1986, between RCC Railcar Leasing, Inc., a Delaware corporation ("RCC") and Continental Illinois National Bank and Trust Company of Chicago, as Trustee (the "Trustee").

WHEREAS, the Trustee is the trustee under that certain Equipment Trust Agreement between AmeriGas, Inc. and the Trustee dated as of August 1, 1980, and recorded with the Interstate Commerce Commission ("ICC") on October 20, 1980 as Recordation No. 12325 (as heretofore amended and supplemented, the "Agreement"), providing for the issuance of and security for 12-7/8% Equipment Trust Certificates in the original principal amount of \$6,602,018.00 (the "Trust Certificates");

WHEREAS, AmeriGas, Inc. assigned its rights and interests under the Agreement to AmeriLease, Inc. and AmeriLease, Inc. assumed all of the duties and obligations of AmeriGas, Inc. under the Agreement by an Assignment and Assumption Agreement dated as of March 31, 1983 and recorded with the ICC on March 16, 1984 as Recordation No. 12325-C; and

WHEREAS, RCC is the successor to AmeriLease, Inc. by merger and assignment; and

WHEREAS, the obligations of RCC under the Agreement are secured by the trust equipment (the "Trust Equipment") and the lease thereof (the "Lease") to North American Car Corporation (the "Lessee"); and

WHEREAS, on December 5, 1984 the Lessee filed a voluntary petition under Chapter 11 of the United States Bankruptcy Code, which constituted an Event of Default under the Lease and the Agreement; and

WHEREAS, by order of the bankruptcy court entered in the Lessee's bankruptcy proceedings, the Lease was rejected as of July 3, 1986; and

WHEREAS, the Lessee has returned all of the Trust Equipment to RCC; and

WHEREAS, RCC proposes to lease the Trust Equipment or portions thereof to various lessees and to enter into a management agreement with respect to the Trust Equipment; and

WHEREAS, RCC and the Trustee desire to amend the Agreement to provide for the new leases of the Trust Equipment and for the assignment by RCC to the Trustee of such leases as security for RCC's obligations under the Agreement.

NOW THEREFORE, in consideration of the premises and \$10.00 and other good and valuable consideration paid by RCC to the Trustee, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

The Agreement is hereby amended effective as of October 10, 1986 as follows:

1. Section 1.01 is hereby amended by adding thereto the following language:

"Management Agreement shall mean the agreement by and between the Owner and the Manager with respect to the Trust Equipment."

"Management Fee shall mean the fee paid or due to the Manager under the Management Agreement, not to exceed 12% of the net revenues paid by the Substitute Lessees."

"Manager shall mean Helm Financial Corporation."

"Substitute Assignments shall mean the assignments of the Substitute Leases between the Owner and the Trustee each in the form of the Assignment of Lease and Agreement set forth in Annex III hereto."

"Substitute Leases shall mean the leases of the Trust Equipment by the Owner entered into pursuant to Section 4.07."

"Substitute Lessees shall mean the lessees under the Substitute Leases."

2. Section 1.01 is hereby amended by changing the definition of Owner to read as follows:

"Owner shall mean RCC Railcar Leasing, Inc., a Delaware corporation, and its successors and assigns."

3. Article Four is hereby amended by adding thereto the following Section 4.03 A:

"4.03 A. For purposes of subsection 4.03(i)(b) hereof, (i) an Event of Default shall be deemed to have occurred and be continuing until all past due rent under Section 4.03 shall have been paid in full, (ii) proceeds received pursuant to the Lease shall include any and all amounts received by the Owner pursuant to any order of a bankruptcy court having jurisdiction over the bankruptcy proceedings of the Lessee with respect to the Lease or claims by the Owner against the Lessee under or related to the Lease, or the Lessee's breach thereof, (iii) the term "proceeds ... for or with respect to such Trust Equipment as a result of the sale, lease, or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition" shall include all rent and amounts in respect to Casualty Occurrences paid for or with respect to the Trust Equipment pursuant to the Substitute Leases, and (iv) the costs and expenses of, and related to the negotiation, execution and performance of, the Substitute Leases shall be limited to the Management Fee paid to or retained by the Manager pursuant to the Management Agreement."

4. The first sentence of the Section 4.05 shall be amended to read as follows:

"The Owner will cause each unit of the Equipment to be kept numbered and marked as provided in the Substitute Leases."

5. The second paragraph of Section 4.05 shall be amended to read as follows:

"The Trust Equipment may be marked or lettered with the name of a Substitute Lessee or in some other appropriate manner for convenience of identification of the leasehold interest of such Substitute Lessee; but the Owner will not allow the name of any person, association or corporation to be placed on any unit of the Trust Equipment as a designation that might be interpreted as a claim of ownership."

6. The second paragraph of Section 4.07 is hereby amended to read as follows:

"So long as the Owner shall not be in default under this Agreement, the Owner shall be entitled to the possession and use of the Trust Equipment and shall be entitled to act as the Lessor under the any Substitute Lease with respect to which the Trustee has given its prior written consent."

7. Section 4.09 is amended by replacing the term "the Lessee" wherever it shall appear therein with the term "a Substitute Lessee."

8. Article Five is hereby amended by adding the following Section 5.01 A:

"Section 5.01 A. From and after October 10, 1986 (a) 'the Lessee' as that term is used in Section 5.01 shall mean a 'Substitute Lessee,' (b) 'the Lease' as such term is used in Section 5.01 shall mean 'a Substitute Lease,' and (c) 'the Lease Assignment' as such term is used in Section 5.01 shall mean 'a Substitute Assignment,' PROVIDED HOWEVER, that

any Event of Default occurring prior to October 10, 1986 shall be deemed to be a continuing Event of Default if such Event of Default would be a continuing Event of Default without regard to this Section 5.01 A."

9. Article Five is hereby amended by adding the following Section 5.02 A:

"Section 5.02 A. From and after October 10, 1986 (a) 'the Lessee' as that term is used in Section 5.02 shall mean 'a Substitute Lessee,' (b) 'the Lease' as that term is used in Section 5.02 shall mean 'a Substitute Lease,' and (c) 'the Lease Assignment', as that term is used in Section 5.02 shall mean 'a Substitute Assignment,' PROVIDED HOWEVER, that no remedy available to the Trustee under Section 5.02 shall be deemed waived because of the provisions of this Section 5.02 A."

10. The last clause of the first paragraph of Section 5.03 is amended to provide that in the event that payments described therein are insufficient to pay all interest and principal of the outstanding Trust Certificates, then such payments shall be applied in the manner and order as Holders shall direct.

11. The second paragraph of Section 6.01, clause (i), is hereby amended to read as follows:

"(i) might become a lien, charge or security interest on or with respect to any unit of Trust Equipment or the Owner's interest in any claims against the Lessee under or by reason of the Lease or the Owner's interest in a Substitute Lease and the payments to be made thereunder (excepting only the Manager's right to the Management Fee) or... ."

12. Section 6.02 is hereby amended by adding the following paragraph:

"The Owner's obligation under this Section 6.02 to make filings with the Interstate Commerce Commission and in Canada and provinces thereof, and to furnish Opinions of Counsel to the Trustee with respect thereto, shall include the filing or recordation of each Substitute Lease and each Substitute Assignment, and supplements and amendments thereto, subject however to the proviso set forth in clauses (1), (2) and (3) of subsection (ii) of this Section 6.02 with respect to filings outside the United States of America."

13. Section 7.03 is hereby amended by replacing the term "the Lessee" wherever it shall appear therein with the term "a Substitute Lessee."

14. Section 8.04 is hereby amended by replacing the term "Lessee" wherever is shall appear therein with the term "Owner".

15. The last proviso of the first sentence of the first paragraph of Section 9.02 is hereby amended to read as follows:

"provided finally, however, that no such amendment or waiver shall modify the rights or obligations of, or otherwise materially affect, any Substitute Lessee hereunder without the prior written consent of such Substitute Lessee."

16. The last paragraph of Section 9.02 is hereby amended by replacing the term "Lease" wherever it shall appear therein with the term "a Substitute Lease."

17. Section 9.05 is amended by adding the following paragraph:

"The Owner shall have no responsibility for any Substitute Lessee's failure to perform undertakings under a Substitute Lease (unless it is also an undertaking of the Owner hereunder) but, if any of the same shall not be performed, it shall constitute the basis for an Event of Default under Section 5.01 and 5.01 A. No waiver or amendment of the undertakings of any Substitute Lessee under a Substitute Lease shall be effective unless joined in by the Trustee."

18. Schedule A to the Agreement is amended by substituting therefor the schedule attached hereto as Exhibit I.

IN WITNESS WHEREOF, the parties have caused this Amendment to Trust Agreement to be executed in their name and on their behalf by their duly authorized officers as of the date and year first above written.

CONTINENTAL ILLINOIS NATIONAL
BANK AND TRUST COMPANY OF
CHICAGO, as Trustee

By: *Robert J. Amshue*
Title: VICE PRESIDENT

RCC RAILCAR LEASING, INC.

By: *Mark Giff*
Title: Vice President

STATE OF New York)
New York) SS
COUNTY OF)

I, Grace Coppinger, a Notary Public in and for the County and State aforesaid, do hereby certify that Robert A. Linberg, the Vice President of RCC Railcar Leasing Inc., a Delaware corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officers of said corporation, appeared before me in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal this 14th day of October, 1986.

Grace Coppinger
Notary Public

My Commission Expires:

GRACE COPPINGER

Notary Public, State of New York

No. 24-4527108

~~Qualified in Kings County~~

Commission Expires , 1988

Dec 31

EXHIBIT 1

SCHEDULE A
to Equipment Trust Agreement dated
as of August 1, 1980

<u>DESCRIPTION</u>	<u>NUMBER OF CARS</u>	<u>CAR MARKINGS</u>
4,750 cubic foot, 100 ton capacity, covered hopper railcars built in 1981	203	NAHX 483249 - 483453 Exclusive of: NAHX 483360 and NAHX 483368