RECORDATION NO. 13579-A Filed 1425

AUG 23 1982 3 55 PM

INTERSTATE COMMERCE COMMISSION

ITEL

Rail Division
Two Embarcadero Center
San Francisco, California 94111
(415) 955-9090
Telex 34234

235A046

No. AUG 23 1982
Date.....
Fee $..10.00
ICC Washington, D. C.

August 13, 1982

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Ms. Mergenovich:

Purusant to 49 U.S.C. Section 11303(a) and the Interstate Commerce Commission's rules and regulations thereunder, I enclose herewith on behalf of Itel Corporation, for filing and recordation under the Lease Agreement dated as of December 16, 1981 (the "Lease") between Itel Corporation, Rail Division ("Itel") and the Green Bay and Western Railroad Company (the "GBW"), which was filed on March 3, 1982 at 2:30 P.M. and given recordation No. 13579, four counterparts of the following document:

> Lease Agreement dated July 1, 1982 between Itel Corporation, Rail Division and Green Bay and Western (the "Replacement Lease").

The names and addresses of the parties to the Replacement Lease are:

1. Green Bay & Western Railroad Company
   2155 Hutson Road
   Green Bay, Wisconsin 54306

2. Itel Corporation, Rail Division
   Two Embarcadero Center, 24th Floor
   San Francisco, California 94111

The equipment covered by the Replacement Lease is one hundred (100) 50' boxcars bearing reporting marks GBW 8200-8299, formerly marked as WVRC 8100-8199.

Also enclosed is a check in the amount of $10.00 for the required recording fee.

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Please stamp all counterparts of the enclosed Replacement Lease with your official recording stamp. You will wish to retain one (1) counterpart of the document for your files; it is requested that the remaining three (3) counterparts be returned by mail to me.

Sincerely,

Patricia Salas Pineda
Counsel

PSP:dmm
Enclosures

cc: Doug Drummond
Itel Corporation

Linda Lawrence
Itel Corporation

Interstate Commerce Commission
Washington, D.C. 20423

8/30/82

OFFICE OF THE SECRETARY

Patricia Salas Pineda, Counsel
Itel Rail Division
Two Embarcadero Center
San Francisco, Calif. 94111

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 **8/24/82** at **3:25pm**, and assigned re-recordation number(s). **13579-A**

Sincerely yours,

Agatha L. Mergenovich

Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION NO. 13579-A Filed 1425
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INTERSTATE COMMERCE COMMISSION

L-0256

ITEL

Rail Division
Two Embarcadero Center
San Francisco, California 94111
(415) 955-9090
Telex 34234

Edward M. O'Dea
President

July 1, 1982

Mr. Curtis J. Hockaday
President
Green Bay and Western Railroad Company
2155 Hutson Road
Green Bay, Wisconsin 54306

Dear Mr. Hockaday:

Please accept this letter as the lease agreement ("Agreement") between **Itel Corporation, Rail Division** ("Itel") and **Green Bay and Western Railroad Company** ("GBW") for the lease by Itel to GBW of one hundred (100) fifty-foot (50') boxcars (the "Boxcars") bearing the reporting marks GBW 8200-8299 which shall, as of July 20, 1982, replace the Lease Agreement dated December 16, 1981 between Itel and GBW.

Said Boxcars have been delivered to GBW's railroad lines and shall be subject to the terms and provisions of this Agreement for one month commencing as of July 20, 1982 ("Initial Term"). Upon expiration of the Initial Term, this Agreement shall be automatically extended on a month-to-month basis ("Extended Terms"), provided, however, that either party may terminate this Agreement upon written notice delivered to the other party not less than thirty (30) days prior to the end of the Initial Term or any Extended Terms. Upon expiration of the Initial Term or any Extended Terms, GBW shall at Itel's option: (i) deliver the Boxcars at no expense to Itel to any point on GBW's railroad lines as shall be designated by Itel, or (ii) provide final outbound loads for each of the Boxcars after such Boxcars have been remarked.

Upon the commencement of the Initial Term, GBW shall, at Itel's expense, be responsible for marking the Boxcars in compliance with all applicable regulations with the railroad markings of GBW. GBW shall, at Itel's request and expense, remark the Boxcars with the railroad markings of a subsequent lessee at the expiration of the Initial Term or any Extended Terms.

Definitions which apply to the rental payments from GBW to Itel are as follows:

A. "Revenues" shall be the total revenues earned and due from other railroad companies for the use or handling of the Boxcars, whether or not collected and received by GBW and without regard to any claimed abatement, reduction or offset, provided, however, that upon the occurrence of any such abatement, reduction or offset, GBW shall, within ten (10) days of Itel's request, reimburse Itel for any such amounts.

B. The "Base Rental" shall be defined as the sum equal to the Revenues which the Boxcars would have earned in the aggregate at a Utilization Rate (as defined below) of forty (40) percent.

C. The "Utilization Rate" of the Boxcars shall be determined by a fraction, the numerator of which is the aggregate number of hours in each Service Month, as hereinafter defined, that Revenues were earned on the Boxcars commencing from the Initial Loading, as defined herein, and the denominator of which is the aggregate number of hours in each Service Month that the Boxcars are leased to GBW, commencing from the Initial Loading (hereinafter defined as the first time such Boxcar is loaded with freight and is interchanged from GBW's railroad line to a connecting carrier).

The calendar month during which Revenues are earned is defined as a "Service Month." GBW shall submit with its rental payments to Itel any records required to substantiate such rental calculations. During the Inital Term or any Extended Terms of this Agreement, Itel shall at any time be allowed to audit GBW's car hire records. Final reconciliation of all rent due Itel for a Service Month shall be made within five (5) months after the end of a Service Month. GBW agrees to pay the following rent to Itel for the use of the Boxcars:

A. In the event that Revenues earned in any Service Month or applicable portion thereof are equal to Base Rental, GBW shall pay to Itel an amount equal to Base Rental.

B. In the event that Revenues earned in any Service Month or applicable portion thereof are less than Base Rental, GBW shall pay to Itel a sum equal to one hundred percent (100%) of the total Revenues.

C. In the event that Revenues earned in any Service Month or applicable portion thereof exceed the Base Rental, GBW shall pay to Itel an amount equal to the Base Rental and GBW shall receive one hundred percent (100%) of any Revenues received in excess of the Base Rental.

Itel shall, at its expense, perform or have performed all maintenance and repairs to and inspections and servicing of the Boxcars as shall be necessary to maintain the Boxcars in good operating condition as specified in the Association of American Railroad's ("AAR") Interchange Rules, unless such repair, maintenance or servicing was occasioned by the fault of GBW, or arises in those instances in which the Interchange Rules would assign responsibility to GBW for loss, damage, destruction or liability requiring such repair, maintenance or servicing. Itel shall also make, at its expense, all alterations, modifications or replacement of parts as shall be necessary to maintain the Boxcars in good operating condition. GBW may make running repairs to facilitate continued immediate use of each Boxcar, but shall not otherwise make any repairs, alterations, improvements, or additions to any Boxcar without Itel's prior written consent. GBW shall be liable to Itel for any Revenues lost due to any unauthorized repair, alterations, improvement or addition. Title to any such alteration, improvement or addition shall be and remain with Itel.

Itel agrees to reimburse GBW for all taxes actually paid in cash by GBW resulting from ad valorem and car line tax assessments on the Boxcars which may be levied or assessed during the Term of this Agreement, except taxes on GBW's income or gross receipts. Itel and GBW will comply with all state and local laws, rules or regulations requiring filing of ad valorem tax returns on the Boxcars.

GBW's rights shall be subject and subordinate to the rights of any owner or secured party under any financing agreement entered into by Itel in connection with the acquisition of the Boxcars which are the subject of this Agreement. Accordingly, following notice to GBW from any such secured party or owner that an event of default by Itel has occurred at any time (including at a time prior to the effective date of this Agreement), and is continuing under such financing agreement, such secured party or owner may require either or both that all rent shall be made directly to such secured party or owner, and that the Boxcars immediately be returned to such party.

GBW shall at all times while any Boxcar is in GBW's possession or control, be responsible and liable for such Boxcar in the same manner that GBW is responsible under Rule 107 of the AAR Field Manual of the Interchange Rules and Rule 7 of the AAR Code of Car Service Rules and Interpretations-Freight for freight cars not owned by GBW on GBW's tracks.

GBW shall indemnify Itel for any claim or liability arising while any Boxcar is in the GBW's possession or control.

Upon the breach by GBW of any of its obligations hereunder which is not cured within ten (10) days thereafter, Itel may terminate this Agreement (without releasing GBW from any liability occurring prior thereto), and/or may exercise all rights or remedies available under applicable law, and/or by notice in writing terminate GBW's right to possess and use the Boxcars, whereupon all right of GBW in the Boxcars shall terminate, GBW shall return the Boxcars to any point or points on the lines as Itel shall designate, and Itel may enter upon any premises where the Boxcars may be located and take possession of them.

Please signify your acceptance of this Agreement by signing said Agreement in the presence of a notary public and by returning the executed letter to us.

Sincerely,

Edward M. O'Dea
President, Rail Division

ACCEPTED AND AGREED TO:

GREEN BAY AND WESTERN RAILROAD COMPANY

By: C. Hockaday

Title: President

Date: 7-6-82

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

On this 1st day of July, 1982, before me personally appeared Edward M. O'Dea, to me personally known, who being by me duly sworn says that such person is President of Itel Corporation, Rail Division, that the foregoing Lease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

OFFICIAL SEAL
JODY A. BLOMGREN
NOTARY PUBLIC — CALIFORNIA
San Francisco County
My Commission Expires May 31, 1985

Jody A. Blomgren
Notary Public

STATE OF _____)
) ss:
COUNTY OF _____)

On this _____ day of _____, 1982, before me personally appeared _____, to me personally known, who being by me duly sworn says that such person is _____ of Green Bay and Western Railroad Company, that the foregoing Lease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

_____
Notary Public

FRANCIS L. RENARD
NOTARY PUBLIC STATE OF WISCONSIN
My Commission Expires Oct. 2, 1983

CERTIFICATION OF TRUE COPY

On August 19, 1982, I, Sandra Costa, examined the original copy of the Lease Agreement dated July 1, 1982, between ITEL CORPORATION, RAIL DIVISION and the GREEN BAY AND WESTERN RAILROAD COMPANY, and I hereby certify that I have compared the attached duplicate copy with the original, and that it is a complete, true and correct copy of the original in all respects, including the dates, signatures and acknowledgements thereof.

Sandra Costa
Sandra Costa
Contract Administrator

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

On August 19, 1982, before the undersigned, a Notary Public for the State of California, personally appeared Sandra Costa, known to me to be the person whose name is subscribed to the above instrument, acknowledged that she executed the same.

Jody A. Blomgren
Notary Public

OFFICIAL SEAL
JODY A. BLOMGREN
NOTARY PUBLIC — CALIFORNIA
San Francisco County
My Commission Expires May 31, 1985