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INTERSTATE COMMERCE COMMISSION

December 19, 1988

DEC 19 1988 11:15 AM
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RECORDATION NO. _____ Filed 1425

No. 8-354A031

DEC 19 1988

Date _____

Fee \$ 13.00

ICC Washington, D.C.

DEC 19 11 06 AM '88
NOTICE OF RECORDATION

ICC WASHINGTON, D.C.

The Honorable Noretta R. McGee
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Secretary McGee:

Enclosed for recordation, under the provisions of 49 U.S.C. §11303(a) and the regulations thereunder, are an original and one counterpart of a Locomotive Lease Agreement, dated as of December 14, 1988, between General Electric Company ("Lessor") and Union Pacific Railroad Company ("Lessee"), a primary document.

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

LESSOR: General Electric Company
2901 East Lake Road
Erie, PA 16531

LESSEE: Union Pacific Railroad Company
1414 Dodge Street
Omaha, NE 68179

A general description of the railroad locomotives covered by the enclosed document is attached hereto as Schedule I.

The undersigned is the attorney-in-fact of General Electric Company. Please return the original of the enclosed document to John K. Maser III, Esquire, Donelan, Cleary, Wood & Maser, P.C., Suite 850, 1275 K Street, N.W., Washington, D.C. 20005-4006 or to the bearer hereto.

Counterpart - John Maser

Letter to Secretary McGee
Page Two
December 19, 1988

Also enclosed is a remittance in the amount of \$13.00 for the required recording fee.

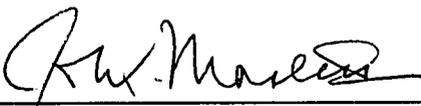
A short summary of the document to appear in the index follows:

PRIMARY DOCUMENT

Locomotive Lease Agreement, dated as of December 14, 1988, between General Electric Company ("Lessor") and Union Pacific Railroad Company ("Lessee"), relating to three (3) General Electric Dash 8-40C, 4000 horsepower, 6-axle road freight locomotives, bearing identification marks "Union Pacific" and Road Nos. 9353 through and including 9355.

Respectfully submitted,

GENERAL ELECTRIC COMPANY

BY: 

John K. Maser III
Attorney-In-Fact

004/207-B
Enclosure
286-8

INTERSTATE COMMERCE COMMISSION

DEC 19 1988 4-4 0 PM

RECORDATION NO.

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FILED 1425

ASSIGNMENT OF LEASE AND AGREEMENT dated as of November 1, 1988 ("Assignment"), by and between THE CONNECTICUT BANK AND TRUST COMPANY, NATIONAL ASSOCIATION, acting not in its individual capacity but solely in its capacity as Owner Trustee ("Lessor") under a Trust Agreement ("Trust Agreement") dated as of the date hereof with FIRST BANK NATIONAL ASSOCIATION, ("Owner"), and MERIDIAN TRUST COMPANY, as Agent ("Vendor") under a Participation Agreement dated as of the date hereof.

WHEREAS the Lessor is entering into a Conditional Sale Agreement and Indenture dated as of the date hereof ("CSA") with General Motors Corporation (Electro-Motive Division) and M-K Industrial Services Company (severally, a "Builder" and collectively "Builders"), providing for the sale to the Lessor of such units of railroad equipment ("Units") described in Annex B thereto as are delivered to and accepted by the Lessor thereunder;

WHEREAS the Lessor and Burlington Northern Railroad Company ("Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof ("Lease") providing for the leasing by the Lessor to the Lessee of the Units;

WHEREAS each Builder has assigned to the Vendor its rights in, to and under the CSA pursuant to an Assignment and Agreement dated as of the date hereof; and

WHEREAS in order to provide security to the Vendor for the obligations of the Lessor under the CSA and as an inducement to the Vendor to invest in the CSA Indebtedness (as defined in Section 4.3(b) of the CSA), the Lessor agrees to assign for security purposes its rights in, to and under the Lease to the Vendor;

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

1. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor under the CSA, all the Lessor's right, title and interest, powers, privileges and other benefits under the Lease (including those inuring to the benefit of the Owner), including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys, other than the payments included in Excluded Payments and Rights defined below, being hereinafter called "Payments"), and the right 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 do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease; provided, however, that, notwithstanding the foregoing, the payments and rights assigned by Lessor to Vendor herein do not include any of the following which are expressly reserved to Lessor and Owner, as the case may be: (a) all payments of any indemnity under Sections 6 and 12 of the Lease or under the Indemnity Agreement which by the terms thereof are payable to the Owner Trustee or the Owner for its own account; (b) any insurance proceeds payable under public liability policies maintained by the Lessee pursuant to Section 7.6(1)(ii) of the Lease which by the terms of such policies or the terms of the Lease are payable directly to the Owner Trustee or the Owner for its own account and any proceeds of insurance maintained with respect to the Equipment by the Owner Trustee or the Owner (whether directly or through the Owner Trustee) and not required to be maintained by the Lessee under the Lease; (c) all rights of the Owner Trustee or the Owner under the Lease to demand, collect, sue for or otherwise obtain all amounts from the Lessee due the Owner Trustee or the Owner on account of any such indemnities or payments referred to in clause (a) above and to seek legal or equitable remedies to require the Lessee to maintain the insurance coverage referred to in Clause (b) above, provided that the rights referred to in this clause (c) shall not be deemed to include the exercise of any remedies provided for in Section 13 of the Lease other than the right to proceed by appropriate court action, either at law or in equity, to enforce performance by the Lessee of such indemnities or insurance covenants or to recover damages for the breach thereof; (d) if any Event of Default under the Lease based solely on a breach of any covenant of the Lessee to pay any indemnity

referred to in clause (a) above or to maintain any insurance referred to in clause (b) above shall occur and be continuing, the right of the Owner Trustee to exercise the remedies, but only those remedies provided for in Section 13 of the Lease, to enforce, by appropriate court action, either at law or in equity, performance by the Lessee of any covenants of the Lessee to pay any such indemnity or payment directly to the Owner Trustee or to maintain such insurance or recover damages for the breach of any such covenant; (e) the right of the Owner Trustee, but not to the exclusion of the Indenture Trustee, (i) to receive from the Lessee certificates and other documents and information which the Lessee is required to give or furnish to the Owner Trustee pursuant to the Lease, (ii) to inspect the Equipment and all records relating thereto; (iii) to exercise its rights to perform for Lessee under Section 20 of the Lease and (iv) to cause the Lessee to take such acts as may be reasonably requested by the Owner Trustee pursuant to Section 18 of the Lease; (f) so long as no Default or Event of Default under the CSA has occurred and is continuing, the right, to the exclusion of the Indenture Trustee, (i) to accept delivery of the Equipment, under and pursuant to the Participation Agreement and the CSA, subject to the satisfaction of the conditions set forth in the Participation Agreement and the CSA and (ii) to exercise the rights of Lessor under Section 16 of the Lease with respect to the Lessee's renewal options and purchase options; and (g) whether or not an Event of Default under the CSA has been declared and is continuing, all rights of the Owner Trustee, to the exclusion of the Indenture Trustee, (i) to adjust the basic lease rates and Casualty Values as provided in Section 3.1(2) of the Lease and (ii) to determine Fair Market Sale Value and Fair Market Rental Value under the Lease, for all purposes except following an Event of Default under the Lease ("Excluded Payments and Rights"). In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the CSA, and, so long as no event of default or event which with the lapse of time and/or demand provided for in the CSA

could constitute an event of default thereunder, shall have occurred and be continuing, any balance shall be paid to the Owner on the same date such Payment is applied to satisfy such obligations of the Lessor by bank wire to the Owner at such address as may be specified to the Vendor in writing, and such balance shall be retained by the Owner. If an event of default under Section 16.1 of the CSA shall have occurred and be continuing, the Indenture Trustee, after application of such Payments to satisfy the obligations of the Lessor under the CSA, may hold the balance remaining of such Payments until the earlier to occur of (i) the date on which such Event of Default shall have been cured to the extent permitted under the provisions of the CSA, or (ii) the 180th day following the date on which such funds were received by the Indenture Trustee, in which event, unless a Declaration of Default (as defined in Section 16.1 of the CSA) has been made, such Payments shall be distributed to the Owner. If the Vendor shall not receive any rental payment under Section 3 of the Lease or Casualty Value payment under Section 7.1 of the Lease when due, the Vendor shall within 1 business day after the due date thereof notify the Lessee, the Lessor and the Owner by telephone, confirmed in writing, at their addresses set forth in the Lease; provided, however, that the failure of the Vendor so to notify the Lessor and the Owner shall not affect the obligations of the Lessor hereunder or under the CSA, except that the Vendor may not make a Declaration of Default (as defined in Section 16.1 of the CSA) based solely on an event of default under subparagraph (a) of said Section 16.1 arising solely by reason of the failure of the Lessee to make any such rental or Casualty Value payment which would not constitute an event of default under subparagraph (e) of said Section 16.1 if the Lessor complies with the provisions thereof, unless such event of default is not remedied within 7 days after notification is given as aforesaid.

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

3. The Lessor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by

the Lessor; without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void.

4. The Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claim or take any action or institute any proceedings which to the Vendor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all sums and other obligations due from the Lessor under the CSA, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor. Promptly following such full discharge and satisfaction, the Vendor agrees that it will advise the Lessee in writing that all sums and other obligations due from the Lessor under the CSA have been fully discharged and satisfied and instruct the Lessee that no further payments under the Lease are to be made to the Vendor.

6. The Lessor will, from time to time, execute, acknowledge and deliver any and all further instruments reasonably requested by the Vendor in order to confirm or further assure, the interest of the Vendor hereunder.

7. The Vendor 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 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 Vendor hereunder.

8. 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 49 U.S.C. § 11303 and Section 86 of the Railway Act of Canada, such additional rights, if any, arising out of the filing, recording or deposit hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement shall be filed, recorded or deposited or in which any unit of Equipment shall be located, and such rights, if any, arising out of the marking of Equipment.

9. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor unless the same are delivered directly to the Vendor pursuant to the provisions of any other document.

10. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no event of default under the CSA has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in paragraph 1 hereof, and upon the occurrence of an event of default under the CSA, the Vendor shall be entitled to exercise remedies in respect of such assigned rights, powers, privileges, authorizations and benefits pursuant to and subject to the provisions and limitations set forth in the CSA and this Assignment; provided, however, that the Vendor may not amend any provision of the Documents without the consent of the Lessor unless an event of default under the CSA has occurred and is continuing and the Vendor has given at least 10 days prior written notice to the Lessor of such amendment (it being understood that a waiver of any existing default shall not be construed as such an amendment), and, if such amendment involves any changes in any of the dates of payment of or any of the amounts of rentals or casualty values under the Lease and any such change is materially adverse to the interests of the Lessor, the Lessor shall have the option within 90 days thereafter to pay or cause to be paid the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under the CSA, and upon receipt of such payment the Vendor and the Investors shall have no further interest in any of the Documents or the Equipment. In addition, the Vendor may waive any event of default under the CSA, except that if the Vendor has waived three events of default under

the CSA of the type which could be cured with the payment of money ("Money Events of Default") and the Vendor proposes to waive a fourth or subsequent Money Event of Default, the Lessor shall have the option within 90 days thereafter to pay or cause to be paid the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under the CSA, and upon receipt of such payment the Vendor and the Investors shall have no further interest in any of the Documents or the Equipment. Subject to the terms of the Lease and the CSA, the Lessor may, so long as no event of default under the CSA has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges, and remedies arising out of Section 13.1(a) of the Lease; provided, however, that the Lessor may, whether or not an event of default under the CSA has occurred and is then continuing, exercise or enforce, or seek to exercise and enforce, its rights, powers, privileges and remedies arising out of Section 13.1(a) of the Lease in respect of the Excluded Payments and Rights; provided further, however, that the Lessor shall not, without the prior written consent of the Vendor, terminate the Lease or otherwise exercise or enforce, or seek to exercise or enforce any rights, powers, privileges and remedies arising out of Section 13.1(b) of the Lease or take any action which would cause any termination of the Lease.

11. Anything herein to the contrary notwithstanding, each and all of the representations and agreements in this Assignment made on the part of the financial institution acting as Lessor are each and every one of them made and intended not as individual representations and agreements by said financial institution in its individual capacity, or for the purpose or with the intention of binding said financial institution individually but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by said financial institution solely in the exercise of the powers expressly conferred upon it as trustee under the Trust Agreement; and no individual liability or individual responsibility is assumed by or shall at any time be asserted or enforceable against said financial institution, on account of any representation or agreement hereunder of the Lessor, either expressed or implied, all such individual liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided,

however, that the Vendor or any person claiming by, through or under the Vendor, making claim hereunder, may look to said Trust Estate for the satisfaction of the same.

This Assignment shall be effective upon delivery of fully executed counterparts hereof to Cravath, Swaine & Moore, at their offices in New York, New York.

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

[Seal]

Attest:

Authorized Officer

CONNECTICUT BANK AND TRUST
COMPANY, NATIONAL ASSOCIATION,
as Owner Trustee as aforesaid,

by

Vice President

MERIDIAN TRUST COMPANY,
as Agent,

by

Authorized Officer

[Corporate Seal]

Attest:

Authorized Officer

respective corporate seals to be affixed and duly attested,
all as of the date first above written.



[Signature]
Authorized Officer

THE CONNECTICUT BANK AND TRUST
COMPANY, NATIONAL ASSOCIATION,
as Trustee as aforesaid,

by *[Signature]*
Authorized Officer

MERIDIAN TRUST COMPANY,
as Agent,

by *[Signature]*
Authorized Officer

[Corporate Seal]

Attest:

[Signature]
Authorized Officer

Consent and Agreement

The undersigned, the lessee ("Lessee") named in the Lease ("Lease") referred to in the foregoing Assignment of Lease and Agreement ("Lease Assignment"), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consents to all the terms and conditions of the Lease Assignment and agrees that so long as the Lease Assignment is effective:

(1) it will pay all Payments (as defined in Section 1 of the Lease Assignment) and other moneys provided for in the Lease due and to become due under the Lease directly to Meridian Trust Company, as Indenture Trustee ("Vendor"), the assignee named in the Lease Assignment, by bank wire transfer of immediately available funds to Meridian Trust Company, Reading, Pennsylvania, for credit to its Corporate Trust Department's Account No. 0131-3851 with advice that the funds are "RE: BN 11/1/88": (or at such other address as may be furnished in writing to the Lessee by the Vendor);

(2) the Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Lessor and that the Lessee will not assert against the Vendor any claim or defense the Lessee may have against the Lessor under the Lease;

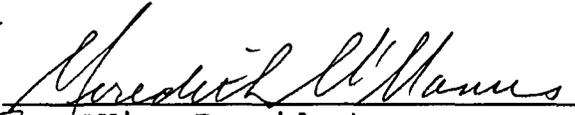
(3) the Vendor shall not, by virtue of the Lease Assignment, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Vendor, be terminated or modified, nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement, when accepted by the Vendor by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of New York and, for all purposes, shall be construed in accordance with the laws of said state.

BURLINGTON NORTHERN RAILROAD
COMPANY,

by


S~~enior~~ Vice President

The foregoing Consent and Agreement is hereby
accepted, as of the 1st day of November 1988.

MERIDIAN TRUST COMPANY, as
Indenture Trustee,

by


Authorized Officer