

17956

Law Offices of

SEP 30 1992-3 05 PM CHAPMAN AND CUTLER

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INTERSTATE COMMERCE COMMISSION

September 29, 1992

INTERSTATE COMMERCE COMMISSION

2-274A031

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Mr. Sidney L. Strickland, Jr., Secretary  
Interstate Commerce Commission  
Twelfth Street & Constitution Avenue, N.W.  
Washington, DC 20423

SEP 30 1992-3 05 PM

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INTERSTATE COMMERCE COMMISSION  
Re

INTERSTATE COMMERCE COMMISSION

SEP 30 1992-3 05 PM

Coal Supply Corporation II  
Consumers Power Company  
Coal Supply Service Agreement

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INTERSTATE COMMERCE COMMISSION

SEP 30 1992-3 05 PM

Dear Mr. Strickland:

INTERSTATE COMMERCE COMMISSION

We are enclosing for recording pursuant to Section 11303 of Title 49 of the United States Code, an original and one counterpart of each of the 4 primary documents described below and the 3 secondary documents described below, which secondary documents are related to the enclosed primary documents. The undersigned has acted as special counsel in connection with the preparation of the enclosed documents and has knowledge of the matters set forth therein.

The first document, the Lease Agreement, dated as of August 1, 1992, is a primary document. The names and addresses of the parties to such document are as follows:

Wilmington Trust Company, not individually but *lessor*  
solely as Owner Trustee  
Rodney Square North  
1100 Market Street  
Wilmington, Delaware 19890-0001  
Attention: Corporate Trust Administration

Coal Supply Corporation II *lessee*  
45 Cardinal Drive  
Westfield, New Jersey 07092

The second document, the Lease Supplement No. 1, dated September 30, 1992, is a secondary document. The primary document to which this is connected is the Lease Agreement, listed above. The names and addresses are as follows:

*Handwritten signatures and initials on the left margin.*

CHAPMAN AND CUTLER

Wilmington Trust Company, not individually but  
solely as Owner Trustee  
Rodney Square North  
1100 Market Street  
Wilmington, Delaware 19890-0001  
Attention: Corporate Trust Administration

Coal Supply Corporation II  
45 Cardinal Drive  
Westfield, New Jersey 07092

We request that this Lease Supplement be cross-indexed.

The third document, the Security Agreement, dated as of August 1, 1992, is a primary document. The names and addresses of the parties to such document are as follows: (3)

Wilmington Trust Company, not individually but *Owner*  
solely as Owner Trustee  
Rodney Square North  
1100 Market Street  
Wilmington, Delaware 19890-0001  
Attention: Corporate Trust Administration

Confederation Life Insurance Company *Second Party*  
260 Interstate North  
Atlanta, Georgia 30339

The fourth document, the Security Agreement Supplement No. 1, dated September 30, 1992, is a secondary document. The primary document to which this is connected is the Security Agreement, listed above. The names and addresses of the parties to such document are as follows: (4)

Wilmington Trust Company, not individually but  
solely as Owner Trustee  
Rodney Square North  
1100 Market Street  
Wilmington, Delaware 19890-0001  
Attention: Corporate Trust Administration

CHAPMAN AND CUTLER

**Confederation Life Insurance Company  
260 Interstate North  
Atlanta, Georgia 30339**

**We request that this Security Agreement Supplement No. 1 be cross-indexed.**

**The fifth document, the Memorandum of Coal Supply Service Agreement, dated as of August 1, 1992, is a primary document. The names and addresses of the parties to such document are as follows:** (5)

**Coal Supply Corporation II  
45 Cardinal Drive  
Westfield, New Jersey 07092**

**Consumers Power Company  
212 West Michigan Avenue  
Jackson, Michigan 49201**

**The sixth document, the Memorandum of Coal Supply Service Agreement Supplement No. 1, dated September 30, 1992, is a secondary document. The primary document to which this is connected is the Memorandum of Coal Supply Service Agreement, listed above. The names and addresses of the parties to such document are as follows:** (6)

**Coal Supply Corporation II  
45 Cardinal Drive  
Westfield, New Jersey 07092**

**Consumers Power Company  
212 West Michigan Avenue  
Jackson, Michigan 49201**

**We request that this Memorandum of Coal Supply Service Agreement Supplement No. 1 be cross-indexed.**

**The seventh document, the Memorandum of Assignment of Coal Supply Service Agreement, dated as of August 1, 1992, is a primary document. The names and addresses of the parties to such document are as follows:**

CHAPMAN AND CUTLER

Coal Supply Corporation II  
45 Cardinal Drive  
Westfield, New Jersey 07092

Wilmington Trust Company, not individually but  
solely as Owner Trustee  
Rodney Square North  
1100 Market Street  
Wilmington, Delaware 19890-0001  
Attention: Corporate Trust Administration

We request that this Memorandum of Assignment of Coal Supply Service Agreement be cross-indexed.

A description of the equipment covered by each of these documents follows: 210 4300 Cubic Foot High Side Aluminum Rotary Dump Gondola Cars, Serial Numbers CSCX 4201 through 4410, inclusive.

A filing fee of \$112 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to the undersigned.

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

Lease Agreement dated as of August 1, 1992 between Wilmington Trust Company, not individually but solely as Owner Trustee, as Lessor, and Coal Supply Corporation II, as Lessee, covering 210 4300 cubic foot high side aluminum rotary dump gondola cars, Serial Numbers CSCX 4201 - 4410, inclusive.

Lease Supplement No. 1 dated September 30, 1992 between Wilmington Trust Company, not individually but solely as Owner Trustee, as Lessor, and Coal Supply Corporation II, as Lessee, covering 210 4300 cubic foot high side aluminum rotary dump gondola cars, Serial Numbers CSCX 4201 - 4410, inclusive, and connected to Lease Agreement dated as of August 1, 1992 between Wilmington Trust Company, not individually but solely as Owner Trustee, as Lessor, and Coal Supply Corporation II, as Lessee.

Security Agreement, dated as of August 1, 1992, between Wilmington Trust Company, not individually but solely as Owner Trustee, and Confederation Life Insurance Company, as Secured Party, covering 210 4300 cubic foot high side aluminum rotary dump gondola cars, Serial Numbers CSCX 4201 - 4410, inclusive.

CHAPMAN AND CUTLER

Security Agreement Supplement No. 1, dated September 30, 1992, between Wilmington Trust Company, not individually but solely as Owner Trustee, and Confederation Life Insurance Company, as Secured Party, covering 210 4300 cubic foot high side aluminum rotary dump gondola cars, Serial Numbers CSCX 4201 - 4410, inclusive, and connected to the Security Agreement dated as of August 1, 1992, between Wilmington Trust Company, not individually but solely as Owner Trustee, and Confederation Life Insurance Company, as Secured Party.

Memorandum of Coal Supply Service Agreement dated as of August 1, 1992 between Coal Supply Corporation II, as Contractor, and Consumers Power Company, as Customer, covering 210 4300 cubic foot high side aluminum rotary dump gondola cars, Serial Numbers CSCX 4201 - 4410, inclusive.

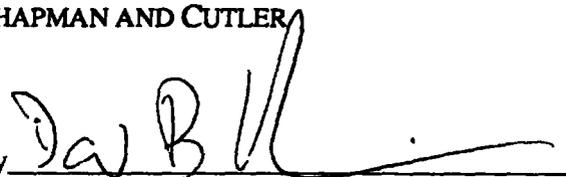
Memorandum of Coal Supply Service Agreement Supplement No. 1 dated September 30, 1992 between Coal Supply Corporation II, as Contractor, and Consumers Power Company, as Customer, covering 210 4300 cubic foot high side aluminum rotary dump gondola cars, Serial Numbers CSCX 4201 - 4410, inclusive, and connected to Memorandum of Coal Supply Service Agreement dated as of August 1, 1992 between Coal Supply Corporation II, as Contractor, and Consumers Power Company, as Customer.

Memorandum of Assignment Coal Supply Service Agreement dated as of August 1, 1992 between Coal Supply Corporation II, as Assignor, and Wilmington Trust Company, not individually but solely as Owner Trustee, as Assignee, covering 210 4300 cubic foot high side aluminum rotary dump gondola cars, Serial Numbers CSCX 4201 - 4410, inclusive.

Very truly yours,

CHAPMAN AND CUTLER

By



David B. McMullen

DBM/cp

Enclosures

17956

COUNTERPART NUMBER 3

SEP 30 1992-3 45 PM

INTERSTATE COMMERCE COMMISSION

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LEASE SUPPLEMENT NO. 1

Dated September 30, 1992

Between

WILMINGTON TRUST COMPANY,  
not in its individual capacity but solely as Owner Trustee,  
as Lessor

and

COAL SUPPLY CORPORATION II,  
as Lessee

210 4,300 CUBIC FOOT HIGH SIDE ALUMINUM BODIED ROTARY DUMP GONDOLA CARS

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CERTAIN RIGHTS, TITLE AND INTEREST IN AND TO THIS LEASE SUPPLEMENT AND TO THE UNITS COVERED HEREBY ON THE PART OF THE LESSOR HAVE BEEN ASSIGNED TO AND ARE SUBJECT TO A LIEN AND SECURITY INTEREST IN FAVOR OF A SECURED PARTY, A S ASSIGNEE, UNDER A SECURITY DOCUMENT. TO THE EXTENT, IF ANY, THAT THIS LEASE SUPPLEMENT CONSTITUTES CHATTEL PAPER (AS SUCH TERM IS DEFINED IN THE UNIFORM COMMERCIAL CODE AS IN EFFECT IN ANY APPLICABLE JURISDICTION), NO SECURITY INTEREST IN THIS LEASE SUPPLEMENT MAY BE CREATED THROUGH THE TRANSFER OR POSSESSION OF ANY COUNTERPART OTHER THAN THE ORIGINAL COUNTERPART THAT CONTAINS THE RECEIPT THEREFOR EXECUTED BY SUCH SECURED PARTY, AS ASSIGNEE, ON OR IMMEDIATELY FOLLOWING THE SIGNATURE PAGE THEREOF AND IS LABELED COUNTERPART NO. 1 ON THE FACE THEREOF.

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FILED WITH THE INTERSTATE COMMERCE COMMISSION  
PURSUANT TO 49 U.S.C. §11303  
ON \_\_\_\_\_, 1992 AT \_\_\_\_\_,  
RECORDATION NUMBER \_\_\_\_\_

**THIS LEASE SUPPLEMENT NO. 1, dated September 30, 1992, between WILMINGTON TRUST COMPANY, a Delaware banking corporation, not in its individual capacity but solely as Trustee under the Trust Agreement ("*Lessor*"), and COAL SUPPLY CORPORATION II, a New Jersey corporation ("*Lessee*").**

**WITNESSETH:**

**WHEREAS, Lessor and Lessee have heretofore entered into a Lease Agreement (the "*Lease*"), dated as of August 1, 1992 (capitalized terms used herein without definitions having the respective meanings set forth in the Lease);**

**WHEREAS, the Lease provides that on the Closing Date the Manufacturer shall deliver to Lessor a Bill of Sale or Bills of Sale dated each Closing Date by which the Manufacturer bargains, conveys, assigns, sets over, sells and delivers to Lessor and Lessor purchases and accepts from the Manufacturer the Units on such Closing Date and said Bill of Sale or Bills of Sale have been delivered by the Manufacturer and accepted by Lessor on this Closing Date;**

**WHEREAS, the Lease provides for the execution of a Lease Supplement substantially in the form hereof for the purposes of accepting and leasing the Units under the Lease as and when delivered by Lessor to Lessee in accordance with the terms thereof;**

**NOW, THEREFORE, in consideration of the premises and for good and sufficient consideration, Lessor and Lessee hereby agree as follows:**

**1. Lessor hereby delivers and leases to Lessee, and Lessee hereby accepts and leases from Lessor, under the Lease as hereby supplemented, the Units listed on Schedule 1 hereto.**

**2. Lessee hereby confirms to Lessor that Lessee has accepted such Units for all purposes hereof and of the Lease.**

**3. The aggregate Lessor's Cost of the Units leased hereunder is \$9,455,321.40. The Interim Rent and Basic Rent payable with respect to the Units leased hereunder and the Termination Values for the Units leased hereunder are set forth respectively, on Schedules 2 and 3 hereto.**

**4. Lessee hereby confirms its agreement, in accordance with the Lease as supplemented by this Lease Supplement No. 1, to pay to Lessor Interim Rent, if any, on the Basic Term Commencement Date and to pay to Lessor Basic Rent, Fixed Rate Renewal Rent and Fair Market Renewal Rent, if any, on each Payment Date, in each such case, for each Unit leased hereunder as provided for in the Lease and to pay, as and when due, any and all Supplemental Rent as provided for in the Lease.**

**5. The Lessor and the Lessee hereby agree that the Lessor shall tender delivery to the Lessee of (i) the Units leased hereunder numbered CSCX 4296 - 4301**

(inclusive), CSCX 4307, CSCX 4308, CSCX 4210 and CSCX 4219 at West Olive, Michigan, (ii) the Units leased hereunder numbered CSCX 4201 - 4209 (inclusive), CSCX 4211 - 4218 (inclusive), CSCX 4220 - 4233 (inclusive), CSCX 4235 - 4240 (inclusive), CSCX 4242, CSCX 4243, CSCX 4245 - 4247 (inclusive), CSCX 4249-4251 (inclusive), CSCX 4253 - 4295 (inclusive), CSCX 4302 - 4306 (inclusive), CSCX 4309 and CSCX 4310 at Dansville, West Virginia and (iii) the Units leased hereunder numbered CSCX 4234, CSCX 4241, CSCX 4244, CSCX 4248, CSCX 4252, CSCX 4311 - 4410 (inclusive) at Johnstown, Pennsylvania.

6. All of the provisions of the Lease are hereby incorporated by reference in this Lease Supplement No. 1 to the same extent as if fully set forth herein.

7. This Lease Supplement No. 1 may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

8. This Lease Supplement No. 1 shall in all respects be governed by, and construed in accordance with, the laws of the State of New York, including all matters of construction, validity and performance.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease Supplement No. 1 to be duly executed on the date and year set forth in the opening paragraph hereof.

Lessor/Owner Trustee

WILMINGTON TRUST COMPANY,  
not in its individual capacity but solely as  
Owner Trustee

By   
Title: SR Financial Services Officer

Lessee

COAL SUPPLY CORPORATION II

By \_\_\_\_\_  
Title:

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease Supplement No. 1 to be duly executed on the date and year set forth in the opening paragraph hereof.

Lessor/Owner Trustee

WILMINGTON TRUST COMPANY,  
not in its individual capacity but solely as  
Owner Trustee

By \_\_\_\_\_  
Title:

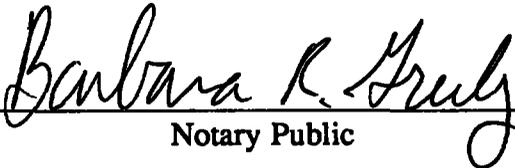
Lessee

COAL SUPPLY CORPORATION II

By J. Perry  
Title: Vice President

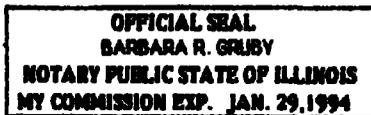
STATE OF Illinois )  
  :SS:  
COUNTY OF Cook )

On this 24 day of September, 1992, before me personally appeared Carolyn C. Daniels to be personally known, who, being by me duly sworn, says that [s]he is SR Fin. Serv. Officer of Wilmington Trust Company, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and [s]he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

[Notary Seal]



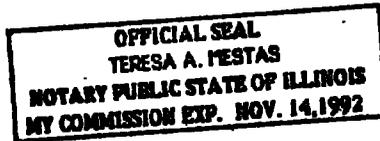
STATE OF ILLINOIS )  
  ) :SS:  
COUNTY OF COOK )

On this 28th day of September, 1992, before me personally appeared J.S. Perry, to be personally known, who, being by me duly sworn, says that he is Vice President of Coal Supply Corporation II, 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.

Teresa A. Mestas  
Notary Public

My Commission Expires:

[Notary Seal]



**DESCRIPTION OF UNITS**

<b>QUANTITY OF UNITS</b>	<b>UNIT NUMBERS</b>	<b>LESSOR'S COST PER UNIT</b>
210	CSCX 4201 - 4410 (inclusive)	\$45,025.34

**SCHEDULE 1  
(to Lease Supplement)**

**INTERIM RENT AND BASIC RENT**  
 (Subject to an automatic reduction  
 upon the payment by Lessee of the  
 Termination Value of a Unit due to a  
 Casualty Event or an early termination  
 pursuant to Section 11(C) of the Lease)

<b>Date</b>	<b>Rent</b>
1/ 2/1993	154453.73
7/ 2/1993	431615.49
1/ 2/1994	431615.49
7/ 2/1994	431615.49
1/ 2/1995	431615.49
7/ 2/1995	431615.49
1/ 2/1996	431615.49
7/ 2/1996	431615.49
1/ 2/1997	431615.49
7/ 2/1997	431615.49
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1/ 2/2009	431615.49
7/ 2/2009	431615.49
1/ 2/2010	431615.49
7/ 2/2010	431615.49
1/ 2/2011	431615.49
7/ 2/2011	431615.49
1/ 2/2012	431615.49
7/ 2/2012	431615.49
1/ 2/2013	431615.49

**SCHEDULE 2**  
 (to Lease Supplement)

## TERMINATION VALUE

PAYMENT DATE	AMOUNT PER UNIT
02-Jan-93	\$50,114.73
02-Jul-93	\$50,449.00
02-Jan-94	\$50,593.51
02-Jul-94	\$50,593.46
02-Jan-95	\$50,468.71
02-Jul-95	\$50,236.48
02-Jan-96	\$49,911.32
02-Jul-96	\$49,506.05
02-Jan-97	\$49,031.92
02-Jul-97	\$48,489.75
02-Jan-98	\$47,864.86
02-Jul-98	\$47,120.83
02-Jan-99	\$46,271.75
02-Jul-99	\$45,385.12
02-Jan-2000	\$44,463.07
02-Jul-2000	\$43,504.18
02-Jan-2001	\$42,506.99
02-Jul-2001	\$41,488.06
02-Jan-2002	\$40,455.86
02-Jul-2002	\$39,391.39
02-Jan-2003	\$38,303.93
02-Jul-2003	\$37,206.63
02-Jan-2004	\$36,084.85
02-Jul-2004	\$34,948.10
02-Jan-2005	\$33,785.76
02-Jul-2005	\$32,599.53
02-Jan-2006	\$31,393.48
02-Jul-2006	\$30,191.39
02-Jan-2007	\$29,002.42
02-Jul-2007	\$27,829.63
02-Jan-2008	\$26,678.99
02-Jul-2008	\$25,554.33
02-Jan-2009	\$24,462.61
02-Jul-2009	\$23,408.54
02-Jan-2010	\$22,400.22
02-Jul-2010	\$21,443.36
02-Jan-2011	\$20,547.40
02-Jul-2011	\$19,688.98
02-Jan-2012	\$18,789.53
02-Jul-2012	\$17,831.43
02-Jan-2013	\$16,659.38