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February 1, 1993

18109

FEB 1 1993 - 2 10 PM

INTERSTATE COMMERCE COMMISSION

3-032A037

Interstate Commerce Commission
Washington, D.C.
Attention of Secretary

Dear Sirs:

We enclose six counterparts of the document described below, to be recorded pursuant to section 11303 of Title 49 of the United States Code.

Counterparts - 2 of 2 Holdings

This document is an equipment lease, a primary document, dated as of January 1, 1993.

The name and addresses of the parties to the document are as follows:

Lessor: State Street Bank and Trust Company of Connecticut, National Association, as trustee
750 Main Street
Hartford, Connecticut 06103

Lessee: Kyle Railroad Company
Third and Railroad Avenues
Phillipsburg, Kansas 67661

A description of the equipment covered by the document follows:

Four General Motors model GP35L diesel-electric locomotives, bearing the marks UP and the numbers 783, 787, 794, and 795.

110482.1

A fee of $16.00 is enclosed. Please return the extra counterparts, marked with your recordation number, to:

James E. Magee, Esq.
Reboul, MacMurray, Hewitt,
Maynard & Kristol
1111 19th Street, N.W.
Suite 406
Washington, D.C. 20036

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

Equipment lease, dated as of January 1, 1993, between State Street Bank and Trust Company of Connecticut, National Association, as trustee, lessor, and Kyle Railroad Company, lessee, covering four General Motors model GP35L diesel-electric locomotives.

Very truly yours,

Michael Rice

MR:dp
Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

2/1/93

OFFICE OF THE SECRETARY

James E. Magee, Esq.
Reboul, MacMurray, Hewitt, Maynard & Kristol
1111 19th Street, NW., Ste. 406
Washington, DC. 20036

Dear Sirs:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 2/1/93 at 2:10PM, and assigned re-recordation number(s). 18109.

Sincerely yours,

Sidney L. Strickland, Jr.

Secretary

SIDNEY L. STRICKLAND, JR.

Enclosure(s)

SE-30
(7/79)

EQUIPMENT LEASE dated as of January 1, 1993, between (a) STATE STREET BANK AND TRUST COMPANY OF CONNECTICUT, NATIONAL ASSOCIATION, a national banking association, acting not in its individual capacity but solely as trustee under that trust agreement dated as of March 15, 1980 (hereinafter called the Trust Agreement), among The Connecticut Bank and Trust Company, National Association, General Electric Credit Corporation, and Connell Rice & Sugar Co., Inc. [now known as The Connell Company] (Connell Leasing Company Division) (State Street Bank and Trust Company of Connecticut, National Association, in such capacity, being hereinafter called the Owner-Trustee), and (b) KYLE RAILROAD COMPANY, a Kansas corporation (hereinafter called the Lessee).

SECTION ONE--COMMITMENT TO LEASE

1.1 Lease. The Owner-Trustee agrees to lease to the Lessee and the Lessee agrees to lease from the Owner-Trustee four General Motors model GP35L diesel-electric locomotives, bearing the marks UP and the numbers 783, 787, 794, and 795, all in accordance with the terms and conditions hereof.

1.2 Acceptance. The Owner-Trustee shall deliver or cause to be delivered one of said locomotives to the Lessee at the interchange point of the Southern Pacific Transportation Company and the Union Pacific Railroad Company at El Paso, Texas, on or about January 1, 1993, and the remaining three locomotives to the Lessee at its interchange point with the Union Pacific Railroad Company at Salina, Kansas, on or about January 1, 1993.

Upon acceptance by the Lessee by execution and delivery of a certificate of acceptance substantially in the form of Exhibit A hereto in respect of any locomotive, such locomotive shall be subject to the terms of this lease.

The Owner-Trustee hereby appoints the Lessee its agent to assert and enforce any rights the Owner-Trustee may have against the vendors or manufacturers of the locomotives and the component parts thereof.

1.3 Conditions. The obligation of the Owner-Trustee to lease the locomotives to the Lessee is subject to the receipt, in form satisfactory to the Owner-Trustee, of the following:

(a) payment of the amount of initial rent contemplated by

section 3.2 hereof;

(b) evidence that this lease has been recorded with the Interstate Commerce Commission pursuant to section 11303 of Title 49 of the United States Code;

(c) evidence of the insurance required by section 4.4 hereof;

(d) a certified copy of a resolution of the board of directors of the Lessee authorizing the execution and performance of this lease; and

(e) an opinion of counsel for the Lessee to the effect set forth in paragraphs (a) through (c) of section 2.1 hereof.

SECTION TWO--REPRESENTATIONS AND WARRANTIES

2.1 Representations and Warranties of the Lessee. The Lessee represents and warrants that:

(a) the Lessee is a corporation duly incorporated, validly existing, and in good standing under the laws of the State of Kansas, and has the corporate power and authority to hold property under lease and to enter into and perform its obligations under this agreement;

(b) this lease has been duly authorized, executed, and delivered by the Lessee and is a legal, valid, and binding obligation of the Lessee, enforceable against the Lessee in accordance with its terms;

(c) the execution, delivery and performance by the Lessee of this lease are not inconsistent with or in violation of the Lessee's certificate of incorporation or by-laws, any law, governmental rule or regulation, judgment or order applicable to the Lessee, or any indenture, mortgage, contract or other instrument to which the Lessee is a party or by which it is bound, and do not require the consent, approval or other action by any federal, state, or local governmental body;

(d) there are no actions, suits, or proceedings pending or, to the knowledge of the Lessee, threatened against or affecting the Lessee in any court or before any governmental body that, if adversely determined, will have a material adverse effect on the ability of the Lessee to perform its obligations hereunder;

(e) the Lessee is not in default under any obligation for

the payment of borrowed money, the deferred purchase price of property, or rent under any lease of real or personal property, and no event that, with the lapse of time or the giving of notice or both, would constitute a default under any thereof, has occurred and is continuing;

(f) the Lessee is a common carrier by railroad; and

(g) the balance sheet and the related statement of income and statement of changes in financial position of the Lessee, heretofore delivered to the Owner-Trustee, have been prepared in accordance with generally accepted accounting principles and fairly present the financial position of the Lessee on and as of the date thereof, and the results of its respective operations for the period or periods covered thereby; since the date of such balance sheet and statement, there has not been any material adverse change in the financial condition or results of operations of the Lessee.

2.2 Representations and Warranties of the Owner-Trustee. The Owner-Trustee represents and warrants that:

(a) the Owner-Trustee is a national banking association duly organized, validly existing, and in good standing under the laws of the United States of America, and has the requisite power and authority to enter into and perform its obligations under the Trust Agreement, and acting as trustee thereunder, under this lease;

(b) the Trust Agreement has been duly authorized, executed, and delivered by the Owner-Trustee, and is a valid and binding obligation of the Owner-Trustee; and

(c) this lease has been duly executed and delivered by the Owner-Trustee in its capacity as trustee under the Trust Agreement, and is a valid and binding obligation of the trust created thereby.

THE OWNER-TRUSTEE DISCLAIMS ANY REPRESENTATION OR WARRANTY WITH RESPECT TO THE LOCOMOTIVES LEASED HEREUNDER, WHETHER EXPRESSED OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

SECTION THREE--TERM AND RENT

3.1 Term. The term of this lease with respect to all the locomotives leased hereunder shall commence on January 1, 1993, and shall expire on December 31, 1995.

This lease cannot be canceled or terminated except as specifically provided herein.

3.2 Rent. The Lessee shall pay to the Owner-Trustee, as rent for each locomotive, at the commencement of this lease, and on the last business day of each month, commencing January 29, 1993, and ending on December 31, 1995, the amounts specified in the rent supplement hereto executed by the parties hereto. Such amounts shall be paid in immediately available funds at such place as the Owner-Trustee shall specify.

Any amounts of rent and other payments due hereunder, including amounts payable in respect of loss or default hereunder, not paid when due shall bear interest for the period of time during which they are overdue at the rate of ten per cent per annum.

This lease is a net lease, and the obligation of the Lessee to make the payments of rent and other amounts specified herein is absolute and unconditional and not subject to reduction or set-off for any reason whatsoever.

SECTION FOUR--COVENANTS

4.1 Maintenance and Use. The Lessee shall maintain the locomotives leased hereunder in the same condition as delivered at the commencement hereof, ordinary wear and tear excepted, and shall use and maintain the leased locomotives in compliance with all laws, regulations, and orders of governmental authorities having jurisdiction over the leased locomotives. Any parts installed on the leased locomotives in the course of such maintenance and compliance and improvements thereto (except improvements that can be removed without material damage to the leased locomotives) shall be the property of the Owner-Trustee.

The Lessee shall maintain and preserve the serial numbers and road numbers on the leased locomotives, and shall install and maintain on the leased locomotives any ownership markings requested by or supplied by the Owner-Trustee. The Lessee shall not change the road numbers of the leased locomotives unless, prior to such change, it shall have prepared a statement of new numbers, showing the existing and new numbers for each such locomotive, delivered the same to the Owner-Trustee, and recorded the same in every public office where this lease has been recorded.

THE LESSEE SHALL NOT SELL, TRANSFER, ASSIGN, SUBLEASE, OR OTHERWISE PART WITH POSSESSION OF THE LEASED LOCOMOTIVES, except that

(a) the Lessee may permit the use of the locomotives by connecting carriers in run-through service in the ordinary course of the Lessee's business; and

(b) the Lessee may sublease any of the locomotives to any common carrier by railroad wholly owned by the Lessee or by Kyle Railways, Inc.

Any sublease pursuant to item (b) of the preceding sentence shall be expressly subject and subordinate to this lease and the rights of the Owner-Trustee hereunder, and the Lessee shall remain primarily liable for its obligations hereunder notwithstanding any such sublease. The Lessee shall furnish the Owner-Trustee not less than 30-day's notice of any such sublease, and if the Owner-Trustee shall so request, the Lessee shall assign such sublease to the Owner-Trustee and record both such sublease and such assignment in any public office where this lease shall have been recorded.

The Lessee shall not use or permit the use of any leased locomotive outside of the United States of America unless the rights of the Owner-Trustee have been protected, to its satisfaction, by recordation in appropriate public offices in any foreign jurisdiction in which such leased locomotive shall be used.

The Lessee shall not suffer or permit to exist any claim against or security interest in the leased locomotives.

The Owner-Trustee, by its agents, shall have the right to inspect the leased locomotives and the records of the Lessee with respect thereto at any reasonable time.

4.2 Return. Upon the expiration of the term of this lease (unless the Lessee or its assignee shall have exercised the purchase option set forth in Section Seven hereof), the Lessee shall provide storage for the leased locomotives for a period of not less than ninety days, shall permit inspection by the Owner-Trustee or parties designated by the Owner-Trustee, and shall deliver the locomotives to an interchange point for shipment by connecting carriers, at the direction of the Owner-Trustee.

4.3 Loss. The Lessee bears the risk of loss of the leased locomotives. If any of the leased locomotives shall be lost, stolen, destroyed, damaged beyond repair, or rendered permanently unfit for use, the Lessee shall immediately notify the Owner-Trustee and shall, on the next date for the payment of rent with respect to such locomotive, pay to the Owner-Trustee all rents and other amounts due the Owner-Trustee to such date plus the

amount specified for such date in the stipulated loss value table included in the rent supplement hereto. Upon such payment, such locomotive shall be no longer subject to the lease, the rent in respect thereof shall be abated, and the Lessee shall be entitled to retain possession of the hulk.

4.4 Insurance. Until the leased locomotives shall have been returned to the Owner-Trustee, the Lessee shall obtain and maintain:

(a) insurance against loss of or damage to the leased locomotives in an amount not less than the amount payable to the Owner-Trustee pursuant to section 4.3 hereof in case of loss of any of the leased locomotives, and

(b) public liability and property damage insurance.

Such insurance shall be in such amounts, in such form, and with such insurers as shall be satisfactory to the Owner-Trustee. Each insurance policy shall name the Owner-Trustee as additional insured and loss payee, shall contain appropriate provisions for waiver of subrogation, shall not be invalidated by any breach of warranty by the Lessee, shall have a statement that the insurance is primary without right of contribution, shall contain appropriate language as to severability of interests, and shall provide for not less than thirty days' prior written notice to the Owner-Trustee of cancellation or material change in the terms of such policy. The Lessee shall furnish to the Owner-Trustee, prior to acceptance of any locomotive hereunder and upon the request of the Owner-Trustee thereafter, a certificate, broker's report, or other evidence of the insurance required to be maintained hereunder with respect to such locomotive.

The proceeds of any insurance against damage to the leased locomotives shall be applied to the repair and restoration thereof. Any such proceeds received in case of total loss of any of the leased locomotives shall be paid to the Owner-Trustee, to the extent of amounts payable by the Lessee in respect of such loss pursuant to section 4.3 hereof, and any balance shall be payable to the Lessee.

4.5 Reports. The Lessee shall furnish to the Owner-Trustee, annually and upon request of the Owner-Trustee, financial statements of the same type, scope, and tenor as those furnished in connection with the execution of this lease.

SECTION FIVE--INDEMNITIES

5.1 General Indemnity. The Lessee shall indemnify and

defend and hold harmless the Owner-Trustee and the parties for which it is acting as trustee from any and all claims, damages, costs, losses, and liabilities arising out of or relating to the leased locomotives and the purchase, ownership, possession, operation, and use thereof.

5.2 Taxes. The Lessee shall pay directly or reimburse the Owner-Trustee and the parties for which it is acting as trustee for any and all sales, use, property, excise, and other taxes and similar impositions imposed by any governmental body upon this lease, the leased locomotives, the purchase, leasing, ownership, and use thereof, and the rent and other payments payable hereunder, except taxes measured by the net income of the Owner-Trustee or any such party.

SECTION SIX--DEFAULT

6.1 Default. If the Lessee shall

(a) fail to make any rent or other payment required hereunder when the same shall become due and such failure continues for a period of five days;

(b) fail to perform any other obligation hereunder and such failure continues for a period of thirty days after notice by the Owner-Trustee;

(c) attempt to remove, sell, part with possession, transfer, sublet or encumber any of the leased locomotives;

(d) make a material misstatement or misrepresentation herein or in any document supplied in connection herewith; or

(e) be generally not paying its debts when they become due, become insolvent, come under the protection of any law relating to bankruptcy or insolvency or otherwise affecting creditors' or lessors' rights, propose any dissolution, liquidation, reorganization, recapitalization or other winding-up of corporate affairs, propose any arrangement, composition, or assignment for the benefit of creditors, or come under the control of a receiver, trustee, custodian, or person with similar powers;

then the Owner-Trustee may (i) proceed by court action to enforce performance by the Lessee of the applicable provisions of this lease, and (ii) by notice in writing terminate this lease.

If the Owner-Trustee shall have terminated this lease pursuant to the preceding sentence, all rights of the Lessee to

the use and possession of the leased locomotives shall immediately cease and terminate, but the Lessee shall remain liable as herein provided. The Lessee, if so requested by the Owner-Trustee, shall promptly return the leased locomotives to the Owner-Trustee or the Owner-Trustee may, by its agents, enter the premises where the leased locomotives are located and take possession of and remove the same. The obligation of the Lessee to return the leased locomotives to the possession of the Owner-Trustee is of the essence of this lease, and the Owner-Trustee shall be entitled to a judgment conferring upon the Owner-Trustee the immediate right to such possession and a decree of specific performance requiring the return of the leased locomotives.

6.2 Damages. The Lessee shall be liable for all damages, costs, and expenses, including attorneys' fees and disbursements, incurred by the Owner-Trustee because of the default by the Lessee of its obligations hereunder, the occurrence of any other event set forth in section 6.1 hereof, and the exercise of the Owner-Trustee's rights with respect thereto. Upon termination of this lease pursuant to section 6.1 hereof, the Lessee shall pay to the Owner-Trustee without further demand an amount equal to

(a) the accrued and unpaid rent and other payments due hereunder to the date the leased locomotives are returned to the Owner-Trustee,

(b) the amount payable to the Owner-Trustee upon loss of the leased locomotives pursuant to section 4.3 hereof (subject to the setoff specified below),

(c) interest on any payments not paid when due to the date so paid, at the rate specified for overdue payments in section 3.2 hereof,

(d) any damages and expenses that the Owner-Trustee shall have sustained because of the occurrence of any event described in section 6.1 hereof, other than the non-payment of rent, and

(e) the expenses incurred by the Owner-Trustee in the enforcement of its rights and remedies hereunder.

The Owner-Trustee may retain the use of any of the leased locomotives after return by the Lessee, or with or without recovering possession thereof may sell or lease any of the leased locomotives in a commercially reasonable manner. If any of the leased locomotives shall be sold or leased, the Lessee will be entitled, in mitigation of the damages specified in clause (b) of the second sentence of this section 6.2 in respect of such locomotive, to a credit against such damages (not to exceed the

same) equal to the net proceeds of such sale or the net present value of the rents under any new lease (discounted at the rate such new lessee could borrow funds on a secured basis for a term equal the term of such new lease), as the case may be, after deduction from such proceeds or present value all costs and expenses incurred by the Owner-Trustee in exercise of its remedies hereunder. If the Owner-Trustee shall elect to retain any of the leased locomotives, the Lessee will be entitled, in mitigation of the damages specified in said clause (b), to a credit against such damages (not to exceed the same) equal to the then fair market value of such locomotive.

6.3 Remedies not Exclusive; Waiver. The remedies referred to herein are not exclusive but are cumulative and are in addition to any other remedy available to the Owner-Trustee. Any express or implied waiver by the Owner-Trustee of any default by the Lessee, or any failure of or delay by the Owner-Trustee in asserting rights or remedies hereunder in respect of any default, shall not be construed as a waiver of any such rights or remedies with respect to such default or any subsequent default.

SECTION SEVEN--OPTIONS

7.1 Purchase Option. Unless an event specified in section 6.1 hereof shall have occurred and shall be continuing, the Lessee may purchase not less than all of the locomotives then subject hereto, on any date for the payment of rent hereunder or at the end of the term hereof, for a purchase price for each such locomotive equal to the Stipulated Loss Value specified in the rent supplement hereto, in addition to the rent due on such date. The Lessee shall provide 30-day's written notice of any intended exercise of this option on or prior to June 30, 1995, and notice on or before such date of any intended exercise of this option thereafter.

Upon payment of such amount and satisfaction of all obligations of the Lessee hereunder then due, this lease will terminate, and the Owner-Trustee will convey to the Lessee the locomotives so purchased as is, where is, with no warranties except as to freedom from liens arising from, through, or under the Owner-Trustee.

SECTION EIGHT-MISCELLANEOUS

8.1 Method of Notice. All notices shall be in writing and shall be effective when delivered or three days after deposit in the United States mail, first class postage prepaid, to the address set forth below:

(a) if to the Owner-Trustee, at 750 Main Street, Hartford, Connecticut 06103, attention of Corporate Trust Department, with a copy to General Electric Capital Corporation, 1600 Summer Street, Stamford, Connecticut 06927, attention of Manager--Operations, and

(b) if to the Lessee, at Third and Railroad Avenues, Phillipsburg, Kansas 67661, attention of General Manager, with a copy to Kyle Railways, Inc., ~~at Third and Railroad Avenues, Phillipsburg, Kansas 67661~~, attention of President, Ventura Corporate Plaza, 8687 E. Via de Ventura, Suite 310, Scottsdale, AZ 85258

or such other address as either party shall furnish by notice.

8.2 Indemnities to Survive. The provisions of Section Five shall survive the expiration of the term of this lease.

8.3 Compensation for Owner-Trustee's Performance. The Owner-Trustee may perform any obligation that Lessee fails to perform with respect to any of the leased locomotives, and the Lessee shall compensate the Owner-Trustee for the cost thereof, with interest at the rate set forth in section 3.2 hereof for overdue payments of rent.

8.4 Hypothecation. This lease shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto. WITHOUT THE CONSENT OF THE OWNER-TRUSTEE, THE LESSEE SHALL NOT SELL, TRANSFER, OR ASSIGN ANY OF THE LEASED LOCOMOTIVES OR ITS RIGHTS THEREIN HEREUNDER, but this shall not prohibit (a) any sublease of any locomotive by the Lessee permitted by section 4.1 hereof, or (b) the assignment of this lease by the Lessee to any railroad company that shall succeed the Lessee or acquire substantially all of its assets, if such successor or acquiring railroad company assumes all of the obligations of the Lessee hereunder.

If the Owner-Trustee assigns this lease and the Owner-Trustee or such assignee (or successor assignee) so notifies the Lessee, to the extent of such assignment (a) all rights of the Owner-Trustee hereunder shall be exercisable by such assignee; (b) the rights of such assignee shall not be subject to any defense, counterclaim, or set-off that the Lessee may have or assert against the Owner-Trustee; and (c) such assignee shall not be or become liable for any obligation of the Owner-Trustee.

8.5 Amendments. The terms of this lease shall not be amended, waived, or modified except by a written instrument executed by the Lessee, the Owner-Trustee, and any assignee of the Owner-Trustee.

8.12 Effectiveness. This lease has been dated the date first above written for convenience of reference, but shall be effective on the date of the last execution hereof, as evidenced by the notary's acknowledgment with respect thereto.

STATE STREET BANK AND TRUST COMPANY OF CONNECTICUT, NATIONAL ASSOCIATION, not in its individual capacity but solely as trustee

by.....
Title: ASSISTANT SECRETARY

KYLE RAILROAD COMPANY

by.....
Executive Vice President

Equipment Lease

STATE OF CONNECTICUT)
) SS.:
COUNTY OF HARTFORD)

On this 31st day of December, 1992, before me personally appeared Sandy Lawson Cody to me personally known, who, by me being duly sworn, says that he is ASSISTANT SECRETARY. of State Street Bank and Trust Company of Connecticut, National Association, that the foregoing instrument was signed and on behalf of said association 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 association.

Maryanne Y. Dufresne
Notary Public

MARYANNE Y. DUFRESNE
NOTARY PUBLIC
MY COMMISSION EXPIRES JUL. 31, 1997

My commission expires

STATE OF KANSAS)
) SS.:
COUNTY OF Phillips)

On this 30th day of December, 1992, before me personally appeared Rick Cecil, to me personally known, who, by me being duly sworn, says that he is Executive Vice President of Kyle Railroad Company, that the foregoing instrument was signed 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.

Marcia Heersink
Notary Public

My commission expires

NOTARY PUBLIC - State of Kansas
MARCIA HEERSINK
My Appt. Exp. 3-4-95

Equipment Lease

EXHIBIT A

CERTIFICATE OF ACCEPTANCE

KYLE RAILROAD COMPANY, the lessee under that certain Equipment Lease dated as of January 1, 1993, with State Street Bank and Trust Company of Connecticut, National Association, as trustee, does hereby accept the following locomotives for all purposes of said equipment lease:

Quantity	Description	Road Numbers
Four	General Motors model GP35L	783 787 794 795

Dated: .....

KYLE RAILROAD COMPANY

by .....
Executive Vice President