

\$30.00

Union Pacific Corporation

RECORDATION NO 17081-C FILED 1425

RECORDATION NO 17081-B FILED 1425



APR 1 1991 4 05 PM

Jack E Jerrett
Senior Corporate Attorney

APR 1 1991 4 05 PM

INTERSTATE COMMERCE COMMISSION
March 28, 1991

INTERSTATE COMMERCE COMMISSION

BY HAND

Honorable Sidney L. Strickland
Secretary
Interstate Commerce Commission
12th Street and Constitution Ave., N.W.
Washington, DC 20423

1-091A058

APR 1 11 02 AM '91

Re: Locomotive Lease Agreement, Dated as of October 31, 1990, As Amended, Between Union Pacific Railroad Company and General Electric Company

Dear Mr. Strickland:

Enclosed for filing and recordation under Section 11303 of Title 49 of the United States Code are four (4) executed original counterparts of an Amended and Restated Locomotive Lease Agreement ("Amended Lease") and a Termination of Lease ("Lease Termination"), each dated as of March 28, 1991, between General Electric Company (the "Lessor") and Union Pacific Railroad Company (the "Lessee"). The primary document to which these documents are connected is a Locomotive Lease Agreement, dated as of October 31, 1990 (the "Lease Agreement"), as amended, between the Lessor and the Lessee, which was filed with the Commission under Recordation No. 17081.

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

- Owner-Lessor: General Electric Company
2901 East Lake Road
Erie, PA 16501
- Lessee: Union Pacific Railroad Company
1416 Dodge Street
Omaha, NE 68179

The Amended Lease restates and extends the terms of the Lease Agreement covering fifty (50) General Electric Company Dash 8-40CW diesel-electric locomotives bearing road numbers 9406-9455, inclusive, until July 3, 1991. The Lease

4 counterparts - Charles H. Carter

Termination provides for the termination of the Lease Agreement as amended and restated by the Amended Lease as of the date hereof with respect to fifteen (15) of the diesel-electric locomotives covered thereby bearing road numbers 9436-9450, inclusive. Each of the locomotives covered by the Amended Lease and the Lease Termination are marked with the following words, "Ownership subject to a Security Interest Filed with the Interstate Commerce Commission".

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

1. Amended Lease:

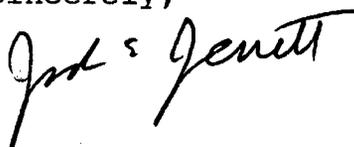
Amended and Restated Locomotive Lease Agreement, dated as of March 28, 1991, between General Electric Company, 2901 East Lake Road, Erie, Pennsylvania 16501, and Union Pacific Railroad Company, 1416 Dodge Street, Omaha, Nebraska 68179, as lessee, covering fifty (50) General Electric Company Dash 8-40CW diesel electric locomotives, bearing road numbers 9406-9455, inclusive.

2. Lease Termination:

Termination of Lease, dated as of March 28, 1991, between General Electric Company, 2901 East Lake Road, Erie, Pennsylvania 16501, as lessor, and Union Pacific Railroad Company, 1416 Dodge Street, Omaha, Nebraska 68179, as lessee, terminating the lease of fifteen (15) General Electric Company Dash 8-40CW diesel electric locomotives, bearing road numbers 9436-9450, inclusive.

I have also enclosed a check for \$30.00 to the order of the Interstate Commerce Commission to cover the fees associated with the filing and recordation of the enclosed Amended Lease and Lease Termination. Please time and date stamp three of the enclosed counterparts of each document along with the enclosed extra copy of this letter as proof of filing and recordation and return the same to the waiting messenger.

Sincerely,



JEJ/ko
Enclosures

RECORDATION NO. 17081-B FILED 1425

APR 1 1991 4:00 PM

INTERSTATE COMMERCE COMMISSION

AMENDED AND RESTATED LOCOMOTIVE LEASE AGREEMENT

This Amendment is made as of March 28, 1991, between GENERAL ELECTRIC COMPANY, a New York corporation, ("Lessor"); and Union Pacific Railroad Company, a Utah corporation ("Lessee").

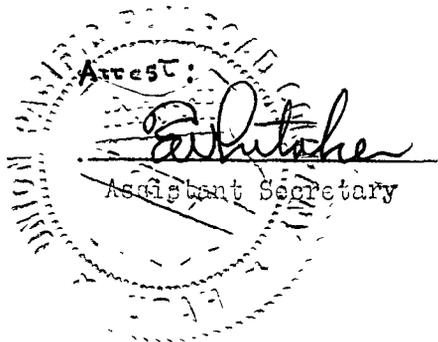
WHEREAS the Lessor and the Lessee have entered into a Locomotive Lease Agreement, dated as of October 31, 1990, as amended (the "Old Lease"); and

WHEREAS the Lessor and the Lessee desire to amend and restate the Old Lease in its entirety;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

1. The Old Lease is amended and restated in its entirety as set forth in Exhibit A hereto.
2. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, the parties have hereunto affixed their signatures as of the date first above written.



UNION PACIFIC RAILROAD COMPANY,
 by John W. Clark
 Title: Assistant Treasurer

GENERAL ELECTRIC COMPANY,
 by J.R. Malou
 Title: Manager, North American Locomotive Marketing and Sales

Commonwealth of Pennsylvania

County of Lehigh

On this 28th day of March, 1991, before me personally appeared John B. Larsen, to me personally known, who, being by me duly sworn, says that he is Asst. Treasurer, of Union Pacific Railroad Company, that the foregoing instrument was executed 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.

[NOTARIAL SEAL]

Valerie A. Madea

Notary Public

My Commission expires:

Notarial Seal
Valerie A. Madea, Notary Public
Bethlehem, Northampton County
My Commission Expires Oct. 10, 1994



Commonwealth of Pennsylvania

County of Erie

On this 26th day of March, 1991, before me personally appeared J. R. Malone, to me personally known, who, being by me duly sworn, says that he is Manager, North American Locomotive Marketing and Sales, of GENERAL ELECTRIC COMPANY's Transportation Systems Business Operation, that the foregoing instrument was executed 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.

[NOTARIAL SEAL]

Michael J. Baughman

Notary Public

My Commission expires:

Notarial Seal
Michael J. Baughman, Notary Public
Erie, Erie County
My Commission Expires Aug. 1, 1994



LOCOMOTIVE LEASE AGREEMENT

This Lease is made as of the 31st day of October, 1990, between General Electric Company, a corporation of the State of New York through its Transportation Systems Business Operations (hereinafter "Lessor") and Union Pacific Railroad Company, a corporation of the State of Utah (hereinafter "Lessee").

1.0 Equipment

Lessor agrees to furnish and lease to Lessee, and Lessee agrees to accept and use under the terms and conditions set forth herein, the locomotives described in Annex 1 hereto (hereinafter, individually, "Locomotive" and in the aggregate, "Locomotives").

2.0 Delivery

- 2.1 Delivery of the Locomotives shall be made at Lessor's facility in Erie, Pennsylvania, or at such other point as may be agreed upon by the parties in writing. If delivery is to be made at a point other than Lessee's interchange in Erie, Pennsylvania Lessee shall pay all expenses of shipment of the Locomotives to said point. The estimated date of delivery of each Locomotive is set forth in Annex 1.
- 2.2 Lessor shall not be liable for delays in delivery or failure to deliver the Locomotives due to (a) causes beyond its reasonable control, (b) acts of God, acts of Lessee, acts of civil or military authority, priorities, fires, strikes, floods, epidemics, war, riots, or delays in transportation, or (c) inability to obtain necessary labor, materials, components, transportation or manufacturing facilities. In the event of any such delay, the date of delivery shall be extended for a period equal to the time of the delay.

3.0 Receipt, Inspection and Acceptance

- 3.1 At delivery of each Locomotive, an authorized representative of Lessee shall execute a Certificate of Acceptance in the form of Annex 2 hereto.
- 3.2 The Locomotives are subject to Lessee's inspection at delivery. Failure to report any material defect in the Locomotives discoverable upon visual examination within three (3) days of delivery will constitute acceptance of the Locomotives and be conclusive evidence of fitness for service at the time of delivery.
- 3.3 The Locomotives will be available at all reasonable times for Lessor's inspection, but Lessor is under no obligation to inspect and Lessee's obligations to keep the Locomotives in good repair and operating condition is not affected in any manner by any failure of Lessor to inspect.

4.0 Rentals

- 4.1 Lessee agrees to pay to Lessor, as daily rent for each of the Locomotives, the amount set forth in Annex 1.
- 4.2 Payment of all rental charges will be made within ten days of receipt of invoice. Invoices for rental charges will be submitted at the end of the term or every month of the term, whichever is the shorter period; provided, however, that no payment of rent shall be due prior to January 1, 1991. Any other payments due will be made within thirty days of invoice.
- 4.3 Any amounts unpaid after they become due shall accrue interest at the then current prime rate of interest charged by Citibank N.A. plus 2-1/2 percent (or the lawful rate, whichever is less) for the period of time during which they are overdue; it is expressly understood that this provision shall be in addition to (and not in derogation of) any other rights which Lessor has.

5.0 Alterations, Maintenance and Repair and Warranty

- 5.1 Except for alterations or changes required by law or regulatory authority, Lessee shall not make any change in the design, construction or specifications of the Locomotives' body or electrical equipment, or components thereof, without the prior written approval of Lessor. Any such alteration or change shall be at Lessee's expense. Any parts

installed or replacements made by Lessee shall be considered accessions to the Locomotives and title thereto shall immediately vest in Lessor, without cost or expense to Lessor.

5.2 Lessee shall, during the term of this Lease, at its expense (except to the extent otherwise provided in this Section 5.2 and Section 5.3) keep the Locomotives in good repair and operating condition (reasonable wear and tear excepted), applying the manufacturer's recommended normal maintenance. Lessee, at its expense, will provide the following consumable replacement materials as needed: filters, brushes, brake shoes, wheels, pedestal liners, pumps and nozzles (after 1 year), fuel, lubricating oil (including complete oil changes), other lubricants, light bulbs, cab glass and wiper blades. Lessee shall also at its expense provide all non-consumable replacement materials which cost less than \$1,000. Lessee is responsible for repairing the Locomotives promptly when repairs are needed, subject to availability of Lessee's shop space and material to be supplied by Lessor, if any.

5.3 Lessor's Warranty

5.3.1 Lessor warrants that the Locomotives shall be free from defects in material and workmanship under normal use and service during the term of this Lease. If any part of the Locomotives fails to meet the foregoing warranty and Lessee so informs Lessor of that failure, Lessor, after verification of the condition of the part and usage, and subject to the provisions of Section 5.2 above, shall make available to Lessee a replacement or repaired part. Lessee shall, at its expense, remove defective parts and install repaired and replacement parts.

5.3.2 If Lessor is to provide any replacement or repaired part for a Locomotive, this shall not in any way affect or abate Lessee's obligation to pay rent.

5.3.3 Lessor's warranty responsibility shall not extend to parts normally consumed in operation (such as, but not limited to, filters and brake shoes), or defects or damage caused in whole or in part by failure to comply with operating and maintenance recommendations, by reason of improper storage or application, misuse, negligence, accident or improper maintenance, or by repairs or alterations not approved by Lessor.

5.3.4 This Section 5.3 sets forth the exclusive remedies for claims based on defects in or failures of the Locomotives, and any part thereof, whether the claim is in contract, warranty, tort (including negligence) or otherwise and however instituted. The foregoing warranties are exclusive and in lieu of all other warranties, whether written, oral, implied or statutory. **NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE SHALL APPLY. BOTH OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED BY LESSOR.**

6.0 Patents

6.1 Except in case of designs, articles and materials specified by Lessee and not manufactured by Lessor, or manufactured by the Lessor to Lessee's design, Lessor shall defend any suit or proceeding brought against Lessee based on a claim that any Locomotive or any part thereof furnished under this Lease constitutes an infringement of any patent of the United States, if notified promptly in writing and given authority, information and assistance (at Lessor's expense) for the defense of same, and Lessor shall pay all damages and costs awarded or incurred therein against Lessee. In case said Locomotive, or any part thereof, is held to constitute infringement and the use of said Locomotive or part is enjoined Lessor shall, at its own expense and option, either: procure for Lessee the right to continue using said Locomotive or part; replace same with non-infringing items; modify it so as to be non-infringing; take possession of said Locomotive and cancel this Lease with respect to such Locomotive, effective as of the date on which the Locomotive or part is held to constitute infringement. In such suit, Lessor to pay the reasonable cost of returning said Locomotive to Lessor. The foregoing states the entire liability of Lessor for patent infringement. In the event the use of a Locomotive is enjoined based on a claim of infringement covered by the provisions of this Section, Lessee's obligation to pay rent with respect to such Locomotive shall abate until the use of the Locomotive no longer is so enjoined or this Lease is cancelled with respect to such Locomotive.

6.2 With respect to any designs, articles or materials specified by Lessee and not manufactured by Lessor, or manufactured by Lessor to Lessee's specifications, Lessee shall defend any suit or proceeding brought against Lessor so far as based on a claim that any such designs, articles or materials, or any part thereof, furnished under this Lease constitutes an infringement of any patent of the United States, if notified promptly in writing and given authority, information and assistance (at Lessee's expense) for the defense of same, and Lessee shall pay all

damages and costs awarded or incurred therein against Lessor. In case said designs, articles or materials, or any part thereof, is held to constitute infringement, and the use thereof is enjoined Lessee shall, at its own expense and option, procure for Lessor the right to continue using or manufacturing said designs, articles and materials, or shall permit Lessor, at Lessee's expense, to modify such designs, articles and materials so as to become non-infringing. Notwithstanding any suits or proceedings which may be brought against Lessor or Lessee based on a claim that any designs, articles or materials specified by Lessee constitute an infringement of any patent of the United States, Lessee's obligation to pay rent shall continue for the term of this Lease.

7.0 Use and Operation

- 7.1 Lessee agrees to comply with all laws of the jurisdictions in which its operations involving the Locomotives may extend and with all rules of the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over Lessee or the Locomotives, to the extent that such laws and rules affect the operation or use of the Locomotives. In the event such laws or rules require the alteration of Locomotives, Lessee will conform therewith at its expense, and will maintain the same proper condition for operation under such laws and rules; provided, however, that Lessee may, in good faith, contest the validity and application of any such law or rule in any reasonable manner which does not, in the opinion of Lessor, adversely affect the property or rights of Lessor as owner.
- 7.2 Lessee will use and operate the Locomotives in conformance with all applicable manufacturer recommendations.
- 7.3 Lessee will maintain records as to the use, operation, movement and maintenance of the Locomotives, and make such records available for Lessor's inspection at reasonable times and upon reasonable notice.
- 7.4 Lessee agrees to use the Locomotives exclusively within its own service and within the boundaries of the United States, except as specifically agreed to in writing by Lessor, which agreement will not be unreasonably withheld. Any additional operating limitations applicable to the Locomotives will be set forth in one or more riders to this Lease.
- 7.5 Charges levied by third parties for use of their rights of way, track, storage or hauling are the responsibility of Lessee.

8.0 Taxes and Liens

- 8.1 Lessee agrees that, during the continuance of this Lease, it will promptly pay, as additional rentals, all taxes, assessments and other governmental charges levied or assessed against Lessor, or any predecessor or successor in title of Lessor, as the case may be, on account of its ownership of the Locomotives, or on account of the possession, use or operation thereof, or on account of the earnings arising therefrom (exclusive, however, of any tax in the nature of an income tax on the rentals herein provided), including any sales or similar taxes payable on account of the leasing of the Locomotives hereunder; Lessee shall not be required to pay the same so long as it shall in good faith and by appropriate legal or administrative proceedings contest the validity or amount thereof, unless thereby, in the judgment of Lessor, the rights or interests of Lessor will be materially endangered. In the event any tax reports are required to be made concerning said Locomotives, Lessee will either make such reports in such manner as to show the ownership of such Locomotives by Lessor or will notify Lessor of such requirement and will make such report in such manner as shall be satisfactory to Lessor.
- 8.2 Lessee will pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any debt, tax, charge, assessment, obligation or claim against Lessee which, if unpaid, might become a lien or charge upon or against the title or interest of the Lessor to the Locomotives or which might have the effect of altering in any way the rights of Lessor in such Locomotives under this Lease; Lessee shall not be required to pay or discharge any such debt, tax, charge, assessment, or obligation or claim so long as the validity or amount thereof shall be contested in good faith and by appropriate legal or administrative proceedings, unless such contest will, in the judgment of Lessor, materially endanger the rights or interests of Lessor.

9.0 Loss and Damage

- 9.1 Lessee shall bear the entire risk of loss (including theft) or damage to any Locomotive from the date of delivery through redelivery to Lessor as provided herein, regardless of cause, except to the extent caused directly by the negligence or willful misconduct of Lessor.
- 9.2 Lessee shall notify Lessor immediately of any accident, collision, loss, theft or damage involving any Locomotive, to be followed promptly by a written report to Lessor. Lessee shall provide all assistance reasonably requested by Lessor in the investigation, defense or prosecution of any resulting claims or suits.
- 9.3 In the event one or more Locomotives be lost or damaged beyond repair, Lessee shall so notify Lessor. Within thirty days of such notification, Lessee shall pay Lessor the daily rental charges through the date of notification and the casualty value of such Locomotives, which for the purpose of this Lease shall be equal to such Locomotives' fair market value. Upon payment of the foregoing amounts, Lessor will pass title to the lost or damaged Locomotives to Lessee, and this Lease will terminate with respect to such Locomotives.
- 9.4 In the event a Locomotive is partly damaged or destroyed, Lessee shall promptly elect, after consultation with Lessor, whether to repair the Locomotive or consider it damaged beyond repair. If Lessee elects to repair the Locomotive, it shall do so (or have the repairs done) at its own expense. It is understood that the Locomotive so repaired must be restored to good operating condition, reasonable wear and tear excepted. Moreover, during the period such repairs are being made, Lessee's obligation to pay rent shall continue.
- 9.5 Lessee shall, at all times at its own expense, cause to be carried and maintained (and shall furnish to Lessor, upon request therefor, a certificate evidencing) (I) all risk insurance on the Locomotives and (II) public liability insurance with respect to third party personal injury and property damage, in such amounts (subject to customary and prudent deductible) and against such risks and with such insurance companies as is consistent with prudent railroad industry practices; provided, however, that, if Lessee customarily self-insures against such risks, Lessee may self-insure to the extent that such self-insurance is consistent with prudent railroad industry practices. Any such policies of insurance carried will name Lessor as an additional insured, provide that they will not be cancelled or materially altered without thirty days prior written notice to Lessor, and will contain such other appropriate provisions as are agreed upon by the parties.

10. Indemnity

Lessee agrees to indemnify, defend, and hold Lessor (and any assignee or successor in interest of Lessor) harmless from any and all losses, costs (including reasonable attorney's fees), claims, actions, suits and judgments whatsoever (hereinafter referred to as the "Liabilities") arising on account of, or caused in any way by, the Locomotives or the use or operation thereof, except to the extent caused directly by the negligence or willful misconduct of Lessor. Lessee will notify Lessor immediately of any Liabilities and permit Lessor to appear in any proceeding to defend its interests.

11. Liability of Lessor

- 11.1 Lessor's liability arising out of the furnishing or use of any Locomotive under this Lease, based on contract, warranty, tort (including negligence) or otherwise, will in no case exceed the cost of correcting defects to the Locomotives.
- 11.2 In no case, whether arising under contract, warranty, tort (including negligence) or otherwise, will Lessor's liability include special, incidental, indirect or consequential damages, including, but not limited to, loss of revenue or profits, damage to freight, loss of use of any equipment, cost of capital, downtime costs, or claims of Lessee's customers for such damages.
- 11.3 The provisions of 11.1 and 11.2 above shall not apply to claims of third parties (except Lessee's customers) for personal injury (including death) or property damage to the extent such injury or damage is caused directly by Lessor's negligence or willful misconduct.

12. Title, Identification, Recording

- 12.1 No right, title or interest in the Locomotives will vest in Lessee by reason of this Lease or by reason of the delivery to or use by Lessee of the Locomotives, except the right to use the Locomotives in accordance with the terms of this Lease.
- 12.2 Lessee will take all actions necessary to protect Lessor's rights and interest in the Locomotives and will take no action inconsistent with that obligation.
- 12.3 Prior to delivery of the Locomotives, Lessor shall cause to be conspicuously marked on each side of the Locomotives, at Lessor's expense, the following legend:

GENERAL ELECTRIC COMPANY, LESSOR
LEASE FILED WITH ICC

Lessee shall not permit such legend to be removed or altered and in the event such words are removed, defaced or destroyed, Lessee shall immediately replace such legend at its expense. Lessee will not allow the name of any persons, association or corporation to be placed on the Locomotives, but the Locomotives may be lettered with the initials or other insignia customarily used by Lessee on its equipment of the same or a similar type for convenience of identification of Lessee's right to use and operate the Locomotives under this Lease.

- 12.4 Prior to delivery of any Locomotive hereunder, Lessee, at the expense of Lessee, shall cause this Lease and any supplements hereto and any assignment and reassignment hereof to be filed with the Interstate Commerce Commission. In addition, Lessee shall do such other acts as may be required by Federal or state law, or reasonably requested by Lessor, for the proper protection of Lessor's title and interest in the Locomotives.

13. Assignment

- 13.1 Lessee shall not assign, transfer or encumber this Lease or any interest or right herein without the prior written consent of Lessor. Any such transfer, assignment or encumbrance, whether voluntary, by operation of law, or otherwise, without such prior written consent, shall be void and shall, at the option of Lessor, terminate this Lease.
- 13.2 Lessor, upon prior written notice to Lessee, may assign this Lease and all or any of the rights, benefits and advantages hereunder (including, but not limited to, title to any Locomotive) to any of Lessor's subsidiaries (of any tier) or affiliates as Lessor may select in its sole discretion.

14. Representations and Warranties

- 14.1 Lessor and Lessee each represent and warrant to the other that:
 - 14.1.1 It has the right to enter into this Lease;
 - 14.1.2 It is a duly organized and validly existing corporation in good standing under the laws of its state of incorporation, is qualified to do business in such jurisdictions as are necessary to carry out the transactions contemplated by this Lease, and has the power and authority to own its properties and carry on its business as now conducted;
 - 14.1.3 The execution and delivery of this Lease is within its corporate authority, has been authorized by proper corporate proceedings and will not contravene any provision of law or of its charter or by-laws nor contravene or constitute a default under the provisions of any agreement or other instrument binding upon it, and this Lease is a valid and binding obligation of it enforceable, subject to applicable insolvency, bankruptcy or moratorium laws, against it in accordance with its terms;
 - 14.1.4 No mortgage, security or trust agreement or other instrument binding upon it shall in any manner affect the right and interest of the other party hereto in and to the Locomotives hereunder;

14.1.5 No governmental authorizations, approvals or exemptions are required for the execution and delivery of this Lease or for the validity and enforceability thereof or the leasing of the Locomotives hereunder for the rentals and on the other terms and conditions provided for herein; or, if any such authorizations are required, they have been obtained, and if any such shall hereafter be required, they will promptly be obtained; and

14.1.6 No litigation or administrative proceedings are pending or threatened against it which would affect the validity of this Lease or the rights of the other party hereunder.

15. Default

15.1 If Lessee breaches any material provision of this Lease and such breach is not cured within fourteen (14) calendar days after written notice from Lessor, Lessor may, without prejudice to any other rights or remedies it may have under this Lease, at law or in equity, do any one or more of the following:

15.1.1 Proceed by court action either at law or in equity, to enforce performance by Lessee of the covenants of this Lease or to recover damages for the breach thereof;

15.1.2 Terminate this Lease immediately, whereupon Lessee shall promptly redeliver the Locomotives to Lessor at its Erie, Pennsylvania facility. Lessor shall, nevertheless, have the right to recover from Lessee any and all amounts which may then be due and owing or which become due and unpaid for the use of the Locomotives (including, but not limited to, rentals accruing on the Locomotives after the date of termination) and recover from Lessee amounts due pursuant to subparagraph 15.1.3 below; and

15.1.3 In the event Lessee fails promptly to redeliver the Locomotives under subparagraph 15.1.2, Lessor may enter upon the premises of Lessee or other premises where the Locomotives may be and take possession of all or any such Locomotives and thenceforth hold, possess and enjoy the same free from any right of Lessee, or its successors or assigns. Lessee shall pay to Lessor all costs associated with the repossession of the Locomotives.

15.2 The remedies and powers in this Lease in favor of Lessor shall not be deemed exclusive, but shall be cumulative and in addition to all other remedies and powers existing at law or in equity, and each and every remedy and power may be exercised from time to time and as often and in such order as may be deemed expedient by Lessor. Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. No delay or omission of Lessor in the exercise of any remedy or power, no granting of an extension of time for the making of any payment due hereunder or other indulgence, and no exercise of any remedy or power shall impair any such remedy or power or the rights under this Lease or shall constitute a waiver of any breach or default or an acquiescence therein. In the event that Lessor brings suit and is entitled to judgment hereunder, then Lessor shall be entitled to recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

15.3 As used in this Section, a breach of a material provision of this Lease shall include, but not be limited to, the following:

15.3.1 Failure to pay any amounts when due;

15.3.2 Lessee's making or suffering, voluntarily, by operation of law or otherwise, any unauthorized assignment, lien, encumbrance or transfer of this Lease or any interest herein or any right granted hereunder, if Lessee shall fail or refuse to cause such assignment, lien, encumbrance or transfer to be cancelled by agreement of all parties having any interest therein;

15.3.3 Any proceedings commenced by or against Lessee for relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments or indebtedness, reorganizations, arrangements, compositions or extensions; and

15.3.4 Failure to satisfy the insurance requirements under paragraph 9.5.

16. Term

- 16.1 The term of this Lease shall commence upon delivery of the Locomotives described in Annex 1 and shall terminate on the date set forth in Annex 1, unless sooner terminated by the mutual consent of both parties hereto, or as provided in Section 9 or 15. Locomotives returned to Lessor, whether at the end of the term, pursuant to a termination under Section 15, or otherwise, will be returned at Lessee's expense to Lessor's facility in Erie, Pennsylvania with a full complement of consumables, including fuel, oil and sand. Lessee and Lessor may by mutual oral or written agreement extend the term hereof without filing any notice of such extension. THIRD PARTIES WHICH MAY REVIEW THIS LEASE ARE THEREFORE PLACED ON NOTICE THAT THE AFOREMENTIONED TERMINATION DATE MAY NOT BE RELIED UPON AS THE ACTUAL TERMINATION DATE OF THIS LEASE.
- 16.2 It is understood and agreed that any termination will not relieve either party of any obligation arising prior to or upon such termination, including but not limited to the obligations of Lessee under Sections 9, 10 and 12, and any obligation to pay any rent or other sums due and owing to Lessor at the time of any such termination or as a result of any such termination.
- 16.3 Lessee acknowledges that some or all of the Locomotives leased hereunder may be the subject of master leases (in which Lessor herein is the lessee) or financing agreements. Such leases and financing agreements, if any, may require return of specific equipment, including the Locomotives leased hereunder, upon certain events. Lessee agrees to return to Lessor any Locomotive upon Lessor's written notice of return, in which event Lessor will endeavor to provide a substantially similar replacement Locomotive to Lessee at a place and time reasonably convenient to Lessee. Expenses of delivery of any such Locomotive will be for Lessor's account.

17. General

17.1 Subject Headings

The subject headings on this Lease have been placed thereon for the convenience of the parties and shall not be considered in any interpretation or construction of this Lease.

17.2 Waiver

The failure of either party to enforce at any time or for any period of time any provision of this Lease shall not be construed as a waiver of such provision or of the rights of such party thereafter to enforce such provision.

17.3 Notice

All notices required or permitted hereunder shall be in writing and shall be deemed duly given when personally delivered or sent by registered or certified mail, return receipt requested, postage prepaid, or by cable confirmed by letter as aforesaid.

17.4 Execution in Counterparts

This Lease may be executed in counterparts, each of which shall be deemed to be an original and together shall constitute but one and the same instrument.

17.5 Applicable Law

Except as Federal law may be applicable, the terms and conditions of this Lease and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania, but Lessor and any assignee hereof shall be entitled to such additional rights arising out of the filing or recording hereof, or of any assignment hereof, as shall be conferred by the laws of any jurisdiction in which this Lease or any such assignment shall be filed or recorded.

17.6 Entire Agreement

This Lease, its Annexes 1 and 2, and any written amendments and riders hereto which are duly signed by Lessor and Lessee, contain the entire and only agreement between the parties concerning the subject matter hereof, and there are merged herein all prior and collateral representations, promises or conditions in connection with the subject matter hereof, and any representation, promises or condition not incorporated herein and made a part hereof shall not be binding upon either party. No modification, renewal, extension, termination or waiver of this Lease or any of the provisions herein contained shall be binding upon either party unless made in writing by a duly authorized representative of such party.

WHEREFORE, the parties hereto, intending to be legally bound hereby, have executed this Lease as of the date first written above.

UNION PACIFIC RAILROAD COMPANY

GENERAL ELECTRIC COMPANY

By: _____

By: _____

Title _____

J. R. Malone,
Title : Manager, North American Locomotive
Marketing and Sales

Date _____

Date : November 9, 1990

ANNEX 1

A. Fifty (50) General Electric Model Dash 8-40CW diesel electric locomotives (the "Locomotives") bearing the following road numbers and being placed into Lessee's service on the following dates:

<u>Road Numbers</u>	<u>Estimated Delivery Date</u>
9406-9455	By February 28, 1991

B. The daily rent to be paid for the first forty-five (45) Locomotives delivered during the term of the Locomotive Lease Agreement to which this Annex 1 is attached shall be \$475.00. There shall be no rent due with respect to the last five (5) Locomotives so delivered.

C. The term of the Locomotive Lease Agreement to which this Annex 1 is attached shall expire on July 3, 1991, unless sooner terminated pursuant to the provisions of said Lease or any amendment thereto.

ANNEX 2

LEASE ACCEPTANCE CERTIFICATE

I, the duly authorized representative for Union Pacific Railroad Company ("Lessee") under a Locomotive Lease Agreement dated as of October 31, 1990 with General Electric Company ("Lessor"), do certify that I inspected and accepted delivery thereunder of the following General Electric Model Dash 8-40CW diesel electric locomotive(s) (the "Locomotive(s)") on the following date(s):

Road Number

Date Accepted

I do further certify that the Locomotive(s) are in good order and condition, and conform to the specifications, requirements and standards applicable thereto as provided in the above referenced Locomotive Lease Agreement between Lessee and Lessor.

UNION PACIFIC RAILROAD COMPANY

By: _____

Title _____

Date _____

Rider to Locomotive Lease Agreement

The Locomotive Lease Agreement between Union Pacific Railroad Company and General Electric Company dated as of October 31, 1990, to which this Rider is attached, is amended as set forth below:

1. Section 2.2 is amended by deleting the word "priorities".

2. Section 5.2 is superseded in its entirety by the following:

"5.2 During the term of this Lease, Lessee, at its expense but subject to Lessor's warranty obligations under that certain Multi-year Locomotive Proposal between Lessee and Lessor dated July 8, 1988, as amended through the date of the Lease to which this Rider is attached (the "Purchase Agreement"), will keep the Locomotives in good repair and operating condition, applying the manufacturer's recommended normal maintenance. Except for any repairs which are covered by Lessor's warranty, Lessee shall be solely responsible for maintaining the Locomotives."

3. The first sentence of Section 5.3.1 is superseded in its entirety by the following:

"Lessor warrants that the Locomotives shall be free from defects in materials and workmanship under normal use and service during the term of this Lease and, as of the date of delivery to Lessee, comply with applicable FRA regulations."

4. Section 5.3.2 is amended by adding the following at the end thereof:

"However, if Lessor fails to ship any needed replacement or repair parts within 48 hours of receipt of Lessee's order, then rent shall be abated for the number of days shipment is delayed; replacement or repair parts needed to repair accident damage not caused by a defect in materials or workmanship shall not be included in this provision."

5. Section 9.3 is amended by designating the fair market value of each Locomotive to be \$1,569,960.

6. Section 12.3 is amended by changing the legend to read as follows:

OWNERSHIP SUBJECT TO A SECURITY
INTEREST FILED WITH THE
INTERSTATE COMMERCE COMMISSION

7. Section 16.3 is deleted in its entirety.
8. To the following sections add the words "or from defects in materials and/or workmanship of the Locomotives":
 - (a) Section 9.1, at the end thereof;
 - (b) Section 10, at the end of the first sentence thereof; and
 - (c) Section 11.3, at the end thereof.

**UNION PACIFIC RAILROAD
COMPANY**

By: _____

Title _____

November __, 1990

GENERAL ELECTRIC COMPANY

By: _____
J. R. Malone, Manager, North
American Locomotive Marketing
and Sales

November 9, 1990