

**SIDLEY & AUSTIN**  
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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January 5, 2000

Surface Transportation Board  
Office of the Secretary  
1925 K Street Northwest, Suite 700  
Washington, D.C. 20423  
Attn: Taledia Stokes

RECORDATION NO. 18716-K FILED  
JAN 12 '00 12:41 PM  
SURFACE TRANSPORTATION BOARD

Re: Release and Termination Agreement

Dear Secretary:

I have enclosed an original and one counterpart of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the United States Code.

This document is a Release and Termination Agreement, a secondary document, dated the 13th day of December, 1999.

The primary document to which this secondary document is connected is recorded under Recordation No. 18716.

The names and addresses of the parties to the documents are as follows:

Lessor: Hero Leasing, Limited Partnership  
c/o ML Leasing Equipment Corp.,  
Project and Lease Finance Group  
North Tower - 27th Floor  
World Financial Center  
250 Vesey Street  
New York, New York 10281-1327

SIDLEY & AUSTIN

CHICAGO

Transportation  
January 5, 2000  
Page 2

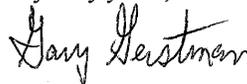
Lessee: Commonwealth Edison Company  
37th Floor - East  
Bank One Plaza  
10 South Dearborn Street  
Chicago, IL 60603

A description of the equipment covered by the Release and Termination Agreement is as follows: One (1) 121-Ton, Aluminum Rotary Dump Gondola "Coalporter" Cars bearing the following identification mark: CWEX 2589.

A fee of \$26.00 is enclosed. Please return the original and any extra copies not needed by the commission for recordation to Gary Gerstman (attorney for Commonwealth Edison Company) at Sidley & Austin, Bank One Plaza, Chicago, IL 60603. A self-addressed envelope is enclosed herewith.

A short summary of the document to appear in the index follows: Release and Termination Agreement dated December 13, 1999 covering one 121-ton, aluminum rotary dump gondola "coalporter" cars bearing the following mark: CWEX 2589.

Very truly yours,



Gary D. Gerstman

Enclosures

JAN 12 '00 12:41 PM



RELEASE AND TERMINATION AGREEMENT

THIS RELEASE AND TERMINATION AGREEMENT, dated December 13, 1999, between Hero Leasing, Limited Partnership, as Lessor ("Lessor"), and Commonwealth Edison Company, as Lessee ("Lessee").

**WITNESSETH:**

WHEREAS, Lessor and Lessee have heretofore entered into a Lease Agreement dated as of February 1, 1994 and an amendment thereto dated as of March 8, 1994 (as so amended, the "Lease") (capitalized terms used herein without definitions having the respective meanings set forth in the Lease);

WHEREAS, in accordance with Section 15(c) of the Lease, Lessee on the Effective Date (as defined in paragraph 6 hereof) has paid to Lessor the Adjusted Acquisition Cost in respect of a certain item of Equipment;

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

1. The item of Equipment subject to this Release and Termination Agreement (the "Railcar") is identified on Schedule 1 hereto. The parties hereto hereby agree to release the Railcar from the coverage of the Lease and any other documents recorded with a governmental body under Applicable Law.
2. Lessor acknowledges either compliance by Lessee with Section 15(c) of the Lease or hereby waives compliance by Lessee with Section 15(c) of the Lease; accordingly, Lessor agrees to sell, assign, transfer, convey and deliver unto Lessee, without recourse or warranty, all right, title and interest of Lessor in and to (a) the Railcar (including all appliances, parts, instruments, appurtenances, accessories, furnishings, and/or other equipment or property installed on or attached thereto) and all manufacturer's warranties relating thereto and (b) all other warranties and indemnities relating to the Railcar held by Lessor pursuant to that certain Bill of Sale dated February 16, 1994 delivered by Johnstown America Corporation to Lessor, by executing a Bill of Sale dated as of the Effective Date substantially in the form of Exhibit A hereto.
3. The Lessee shall record this Release and Termination Agreement with the United States Surface Transportation Board.
4. Each party hereto will, at Lessee's cost and expense, promptly and duly execute and deliver such further documents to, make such further assurances for and take such further action reasonably requested by any party hereto, all as may be necessary to carry out more effectively the intent and purpose of this Release and Termination Agreement.
5. This Release and Termination Agreement 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.

6. The parties hereto agree that this Release and Termination Agreement shall become effective on December 13, 1999 (the "Effective Date") upon Lessor's receipt of the Adjusted Acquisition Cost in respect of the Railcars.

7. THIS RELEASE AND TERMINATION AGREEMENT 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 OR PERFORMANCE.

8. The Lessor's obligations hereunder are intended to be the obligations of the limited partnership and of the corporation which is the general partner thereof only and no recourse for the payment of any amount due under this Release and Termination Agreement or for any claim based thereon or otherwise in respect thereof shall be had against any limited partner of the Lessor or any incorporator, shareholder, officer, director or Affiliate, as such, past, present or future of such corporate general partner or of any corporate limited partner or of any successor corporation to such corporate general partner or any corporate limited partner of the Lessor or any subsidiary or Affiliate of any such direct or indirect parent corporation or any incorporator, shareholder, officer or director, as such, past, present or future, of any such parent or other subsidiary or Affiliate, it being understood that the Lessor is a limited partnership formed for the purpose of the transactions involved in and relating to this Lease in the express understanding aforesaid.

[signature page follows]

IN WITNESS WHEREOF, Lessor and Lessee have caused this Release and Termination Agreement to be duly executed on the date and year set forth in the opening paragraph hereof, all of which shall become effective on the terms described in paragraph 6 hereof.

Lessor

HERO LEASING, LIMITED PARTNERSHIP  
by Hero Capital, Inc., its General Partner

By: Jean M. Tomaselli  
Name: Jean M. Tomaselli  
Title: Vice President

Lessee

COMMONWEALTH EDISON COMPANY

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

IN WITNESS WHEREOF, Lessor and Lessee have caused this Release and Termination Agreement to be duly executed on the date and year set forth in the opening paragraph hereof, all of which shall become effective on the terms described in paragraph 6 hereof.

Lessor

HERO LEASING, LIMITED PARTNERSHIP  
by Hero Capital, Inc., its General Partner

By: \_\_\_\_\_  
Name: Jean M. Tomaselli  
Title: Vice President

Lessee

COMMONWEALTH EDISON COMPANY

By: *Daniel E. Thone*  
Name: Daniel E. Thone  
Title: Assistant Treasurer

State of New York )  
 )  
 ) ss.:  
County of New York )

On the 14<sup>th</sup> day of November, 99 before me personally came JOAN M. TOMASELLI, to me known, who, being by me duly sworn, did depose and say that she resides in New York City; that she is the Vice President of Hero Capital, Inc., the corporation described in and which executed the foregoing instrument; and that she signed her name thereto by authority of the Board of Directors of said corporation.

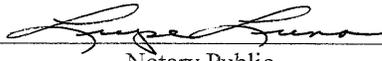
  
Notary Public

(SEAL)

**SUSAN M. ADINOLFI**  
Notary Public, State of New York  
No. 24-4616502  
Qualified in Suffolk County  
Comm. Expires December 31, 1999

STATE OF Illinois )  
 ) ss.:  
COUNTY OF Will )

On this 16<sup>th</sup> day of December, 1999, before me personally appeared DANIEL E. THONE to me personally known, who, being by me duly sworn, says that she is ASST. TREAS. of COMED, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

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

My Commission Expires: 11/9/01

(Notary Seal)



SCHEDULE 1  
to  
Release and Termination Agreement

Item of Equipment No Longer Covered By the Lease, Unit Leasing Record, Security Agreement and Amendment No. 1 to the Lease Having Been Assigned Recordation Numbers 18716, 18716-A, 18716-B and 18716-D, Respectively:

121-Ton, Aluminum Rotary Dump Gondola  
"Coalporter" Car Bearing  
The Following Identification Mark:

CWEX 2589

BILL OF SALE

Pursuant to Section 15(c) of the Lease Agreement dated as of February 1, 1994 (as amended, the "Lease Agreement") between Hero Leasing, Limited Partnership, as lessor (the "Lessor"), and Commonwealth Edison Company, as lessee, for good and valuable consideration the receipt of which is hereby acknowledged, the Lessor does hereby sell, assign, transfer, convey and deliver unto Commonwealth Edison Company, "as-is" and "where-is", without recourse or warranty, all right, title and interest of the Lessor in and to (a) the equipment described on Schedule 1 hereto, including all appliances, parts, instruments, appurtenances, accessories, furnishings, and/or other equipment installed on or attached to such railcars (the "Equipment"), and all manufacture's warranties relating thereto and (b) all other warranties and indemnities relating to the Equipment held by the Lessor pursuant to that certain Bill of Sale dated February 16, 1994 delivered by Johnstown America Corporation to the Lessor (the "Other Property").

IN WITNESS WHEREOF, the Lessor has caused this Bill of Sale to be duly executed and delivered as of this \_\_\_\_ day of December, 1999.

HERO LEASING, LIMITED PARTNERSHIP  
by Hero Capital, Inc., its General Partner

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

Schedule 1 to Bill of Sale

SCHEDULE OF EQUIPMENT TO BE DELIVERED

Items of Equipment

One 121-Ton, Aluminum-Sided,  
Rotary Dump Gondola  
"Coalporter" Car

Car Number

CWEX 2589