

# Southern Pacific Transportation Company

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THORMUND A. MILLER RECORDATION NO. 6050 F  
VICE PRESIDENT AND GENERAL COUNSEL Filed 1425

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JUN 13 1984 - 2 15 PM  
June 12, 1984

INTERSTATE COMMERCE COMMISSION

4-165A121

Mr. James H. Bayne  
Secretary  
Interstate Commerce Commission  
Twelfth Street & Constitution Avenue, N.W.  
Washington, D.C. 20423

RE: Agreement of Conditional Sale dated as of  
January 1, 1969, among Southern Pacific  
Company, First Pennsylvania Bank, N.A.,  
and General Motors Corporation (Electro-  
Motive Division) -- Declaration of Full  
Payment

Dear Mr. Bayne:

There are enclosed for recording, pursuant to the provisions of Title 49, United States Code, Section 11303, the original and three (3) fully executed counterparts of Declaration of Full Payment dated as of May 15, 1984, between Southern Pacific Transportation Company, as successor by merger to former Southern Pacific Company, and First Pennsylvania Bank, N.A., for the above-entitled Agreement of Conditional Sale and Agreement and Assignment dated as of January 1, 1969, together with voucher in payment of the recording fee.

The following documents have been recorded with the Commission under Section 11303 (former Section 20c) in this matter:

Temporary Agreement of Conditional Sale dated as of January 1, 1969, among Southern Pacific Company, First Pennsylvania Bank, N.A., and General Motors Corporation (Electro-Motive Division), recorded on January 30, 1969, at 11:00 AM, assigned Recordation No. 6050;

Agreement of Conditional Sale dated as of January 1, 1969, recorded on February 5, 1969, at 1:45 PM, assigned Recordation No. 6050-A;

Mr. James H. Bayne  
Page Two  
June 12, 1984

Agreement and Assignment dated as of November 26, 1969, recorded on December 22, 1969, at 11:05 AM, assigned Recordation No. 6050-B;

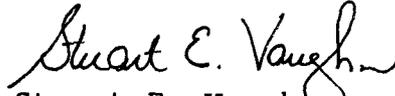
First Supplemental Agreement dated as of February 12, 1982, recorded on March 3, 1982, at 1:25 PM, assigned Recordation No. 6050-C;

Second Supplemental Agreement dated as of November 15, 1983, recorded on December 6, 1983, at 2:40 PM, assigned Recordation No. 6050-D; and

Assignment and Transfer of Certain Road Equipment dated as of November 15, 1983, recorded on January 9, 1984, at 3:00 PM, assigned Recordation No. 6050-E.

When the recording of the Declaration of Full Payment has been completed, will you kindly endorse, with the pertinent recording information, all executed counterparts thereof which are presented to you by our representative herewith, and return three (3) counterparts to her.

Very truly yours,

  
Stuart E. Vaughn

Enclosures

cc: Mr. D. A. Smith  
(Attn: Mr. L. S. Vollmer)  
Mr. E. L. Johnson  
(Attn: Mr. G. J. Reilly  
Mr. S. Jackovich)

RECORDATION NO. 6056 Filed & Recorded

JAN 2, 1969 - 1 20 PM

INTERSTATE COMMERCE COMMISSION

RECEIVED

JAN 2 1 05 PM '69

I. C. C.

FEE OPERATION BR.

OWNERS' EQUIPMENT CONSTRUCTION ACCOUNT 691

J. P. WASSLER AND R. J. YOUNG

RAILROAD EQUIPMENT LEASE

THIS AGREEMENT dated as of December 1, 1968, between J. P. WASSLER of 101 Plymouth Road, Springfield, Pennsylvania, and R. J. YOUNG of 342 Maple Avenue, North Hills, Pennsylvania (hereinafter called the "Lessors") and PENN CENTRAL COMPANY, a Pennsylvania corporation (hereinafter called the "Lessee");

WITNESSETH THAT:

WHEREAS, the Lessors have entered into an Agreement for Construction of Railroad Equipment of even date herewith (hereinafter called the "Construction Agreement") with Penn Central Company relating to the building of the railroad cars which are the subject of this Lease; and

WHEREAS, the Lessors intend to sell and deliver to Lessee, or such other purchaser as may be approved by Lessee, the railroad equipment being constructed under the Construction Agreement, pursuant to a conditional sale agreement, equipment trust agreement or other permanent financial arrangement (such arrangement is hereinafter called the "Conditional Sale Agreement");

WHEREAS, some or all of the railroad equipment will be manufactured and ready for delivery prior to the execution and delivery of the Conditional Sale Agreement; and

WHEREAS, Lessee for the efficient conduct of its business is in need of said railroad equipment for use in connection with interstate commerce and has requested Lessors to enter into a temporary lease of the railroad equipment pending completion and execution of the Conditional Sale Agreement; and the Lessors are willing to execute said temporary lease;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto, each intending to be legally bound hereby, agree as follows:

SECTION 1. Term of Lease. The Lessors hereby lease to Lessee, and the Lessee hereby leases from Lessors, all or any portion of the railroad cars (hereinafter collectively called "cars" or separately a "car") described in Schedule A attached hereto, which cars may be delivered to and accepted by the Lessors from the builder thereof during the term of this Lease. The term of this Lease shall commence as to each car with its delivery to an authorized representative of the Lessee and acceptance thereof by the Lessee under the terms of this Lease. The leasing of the cars under the terms of this

instrument shall terminate with respect to the particular units (a) as and when the Conditional Sale Agreement including such cars has been made effective by execution and delivery thereof by all parties thereto and by recordation thereof with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act, and such cars shall have become subject to the terms of said Conditional Sale Agreement, or (b) upon purchase of the cars by the Lessee on March 31, 1970 pursuant to Section 11 hereof. Such termination of leasing under this Lease may be confirmed by an appropriate instrument executed by Lessors and/or Lessee.

At all times during the continuance of this Lease, no title to the cars shall be vested in Lessee. Delivery of possession of the cars to Lessee and Lessee's possession thereof shall constitute a lending or bailment.

SECTION 2. Delivery and Acceptance of Cars. Upon tender for delivery of each car to the Lessor by the builder thereof, the Lessors will cause each car to be inspected by its authorized representative and if the car is found in good order and ready for service, and marked with the identifying legend provided for in Section 5 hereof, Lessors will cause such representative to accept delivery of such car on its behalf as owner. Thereupon Lessors, as owners, will deliver each car to the authorized representative of the Lessee for acceptance on behalf of the Lessee under this Lease. The Lessee

agrees to accept all cars so delivered and to acknowledge such acceptance by an appropriate certificate of acceptance executed by such authorized representative, certifying that such car has been received by Penn Central Company and approved and accepted by it as Lessee under this Lease; all such cars so delivered to the Lessee shall be subject thereafter to all of the terms and conditions of this Lease. It is agreed that the Lessors shall not be liable for any delay in the delivery of the cars nor for any defect in the cars nor shall anything herein be construed as a warranty or representation in respect to value thereof.

SECTION 3. Rent. Lessee shall pay to Lessors as rental for the use of the cars during the term of this Lease the sum of Five Dollars (\$5.00). Lessee agrees to pay, in addition to the rent, all costs, charges, taxes (as provided in Section 4 hereof), fees and other expenses borne or incurred by Lessors or to which they may be subjected by reason of, or in connection with, this Lease.

All payments to be made to the Lessors shall be made to the Lessors at 101 Plymouth Road, Springfield, Pennsylvania, or at such other place as the Lessors may designate.

SECTION 4. Taxes. The Lessee agrees that, during the continuance of this Lease, it will promptly pay, or reimburse the Lessors for, all taxes, assessments and other governmental charges levied or assessed upon the interest of either

the Lessors or the Lessee in the cars, or any thereof, or upon the use or operation thereof or the earnings arising therefrom, including any sales or similar taxes payable on account of the leasing of the cars hereunder; but the 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 the Lessors, the rights or interest of the Lessors will be materially endangered.

SECTION 5. Identification of Cars. Upon or before the delivery to the Lessee of each of the cars, Lessee shall cause to be plainly, distinctly, permanently and conspicuously marked on each side of each car, in letters not less than one inch in height, an ownership legend, in accordance with instructions from the Lessors. If, during the continuance of this Lease, such mark shall at any time be removed, defaced or destroyed on any car, the Lessee shall immediately cause the same to be restored or replaced. The Lessee shall not allow the name of any person, association or corporation to be placed on any cars as a designation which might be interpreted as indicating a claim of ownership thereof by any person, association or corporation other than the Lessors, but the Lessee may letter the cars with the names or initials or other insignia used by Lessee on its equipment to identify the service in which the cars are used and for convenience of identification

of the right of the Lessee to use and operate the cars under this Lease and to interchange the same with other railroad companies, or to use the cars in joint facility operations with other carriers.

Lessee shall not place any cars which shall have been delivered to it hereunder in operation unless each side of such unit shall have been marked as required herein.

SECTION 6. Numbering. At or prior to the time of delivery of each car to the Lessee it will be numbered with a car number set forth in Schedule A hereof. At all times thereafter during the continuance of this Lease, the Lessee will cause each car to bear the number so assigned to it.

SECTION 7. Maintenance, Payment for Lost, Destroyed or Damaged Cars. Lessee shall maintain and keep the cars in good order and repair at all times at its own cost and expense. In case any car shall become lost, destroyed or damaged beyond repair during the continuance of this lease, the Lessee covenants and agrees to pay to Lessors in cash the final cost of such car as determined under the Construction Agreement pursuant to which such car was constructed, and Lessee shall be entitled to any scrap or salvage or sums payable by any other person in respect of the car.

SECTION 8. Recording. Lessee, without expense to Lessors, shall cause this Lease to be filed with the Interstate Commerce Commission for recordation under Section 20c of the Interstate

Commerce Act. In addition, Lessee shall do such other acts as may be required by law, or reasonably requested by Lessors, for the protection of Lessors' title to and interest in the cars.

SECTION 9. Compliance with Laws and Rules. The Lessee agrees to comply in all respects with all laws of the jurisdiction in which its operations involving the cars may extend and with all lawful rules of the Interstate Commerce Commission, the Department of Transportation and any other legislative, executive, administrative, or judicial body exercising any power or jurisdiction over the cars, to the extent that such laws and rules affect the operation or use of the cars.

SECTION 10. Prohibition Against Liens. The Lessee will pay or set aside and discharge any and all sums claimed by any party by, through or under the Lessee and its successors or assigns which, if unpaid, might become a lien or a charge upon the cars but shall not be required to pay or discharge any such claim as long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner which will not affect the title of the Lessors in and to the cars.

SECTION 11. Indemnity and Default. The Lessee hereby agrees to indemnify, reimburse and hold the Lessors harmless from all costs, charges, expenses, fees, losses, damages,

liabilities, claims or demands whatsoever which they may incur or which may be asserted against them or against the cars, by reason of or in connection with the acquisition or acceptance by Lessors of the cars or the leasing of the cars to the Lessee, or by reason of or in connection with the operation or use of the cars by any person, including any damages or injuries (including death) occurring to persons or property.

In the event the Conditional Sale Agreement shall not have been effectuated and this Lease terminated as to all cars described in Section 1 hereof on or before March 31, 1970 pursuant to clause (a) of the second sentence of said Section 1, or in the event the Lessee shall default in the observance or performance of any of the covenants, conditions and agreements on its part herein contained, the Lessee will purchase and pay for the cars or such number of units of said cars which shall not have been purchased pursuant to the Conditional Sale Agreement, such purchase and payment to be made in cash and to be an amount equal to the final cost of the cars as determined under the Construction Agreement pursuant to which the cars were constructed, such payment to be made on March 31, 1970 or promptly after the determination of the final cost as aforesaid, whichever is earlier.

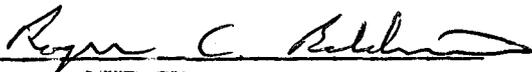
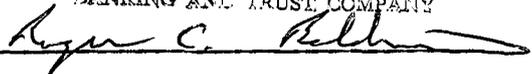
SECTION 12. Assignments. The Lessors may assign their rights hereunder, but this Lease shall be binding on the

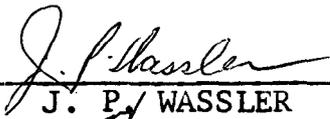
successors, legal representatives and assigns of the Lessors. The Lessee may not assign its rights and obligations under the Lease, provided, however, that the Lessee may interchange the cars and use them in joint facility operations as provided in Section 5 hereof (provided, however, that the cars so interchanged or used shall remain subject to the terms of this Lease.)

SECTION 13. Miscellaneous. Any other provision contained in the Lease to the contrary notwithstanding, it is hereby agreed that the provisions of Section 11 hereof shall survive the termination of the leasing of cars under the terms of this Lease.

IN WITNESS WHEREOF, the Lessors have hereunto set their respective hands, and the Lessee has caused this instrument to be executed in its name and its corporate seal to be hereunto affixed, duly attested all as of the day and year first above written.

Witnesses:

  
\_\_\_\_\_  
THE FIRST PENNSYLVANIA  
BANKING AND TRUST COMPANY  
  
\_\_\_\_\_

  
\_\_\_\_\_  
J. P. WASSLER  
  
\_\_\_\_\_  
R. J. YOUNG

ATTEST:

  
\_\_\_\_\_  
ASSISTANT SECRETARY

PENN CENTRAL COMPANY  
By:   
\_\_\_\_\_

COMMONWEALTH OF PENNSYLVANIA (   
 ( ss.   
 COUNTY OF PHILADELPHIA (

On this 30<sup>th</sup> day of December, 1968, before me personally appeared J. P. WASSLER and R. J. YOUNG to me known to be the persons described in and who executed the foregoing instrument, and each of them acknowledged that he executed the same as his free act and deed.

*Catherine D Burns*

CATHERINE D. BURNS, Notary Public  
PHILADELPHIA, COUNTY OF PHILADELPHIA, PA.  
My Commission Expires Nov. 10, 1969



\_\_\_\_\_   
 I am not an officer, director or   
 shareholder of the above corporation.



<u>Quantity</u>	<u>Description</u>	<u>Numbered</u>	<u>Unit Cost</u>	<u>Total Cost</u>
87	50' 70-Ton Box Cars	266655 to 266741, incl.	\$18,900.00	\$ 1,644,300.
32	50' 70-Ton Box Cars	266590 to 266621, incl.	18,900.00	606,800.
25	50' 70-Ton Box Cars	265536 to 265560, incl.	17,900.00	447,500.
220	60' 70-Ton High Cube Box Cars	278729 to 278948, incl.	23,000.00	5,060,000.
128	60' 100-Ton Auto Box Cars	275068 to 275137, incl. 279470 to 279494, incl. 279017 to 279049, incl.	23,447.00	3,001,216.
10	60' 100-Ton Auto Box Cars	Numbers to be supplied by amendment	22,500.00	234,470.
				<u>\$10,994,286.</u>