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BRADON J. SMITH
(312) 252-1516
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March 23, 2021

301802

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20024

ENTERED
Office of Proceedings
March 23, 2021
Part of
Public Record

Re: **FD 36491**
The Cincinnati Railway Company — Modified Rail
Certificate

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is the **Notice of The Cincinnati Railway Company for a Modified Certificate of Public Convenience and Necessary Pursuant to 49 C.F.R. § 1150.23** and a **Motion for Protective Order**, dated March 23, 2021. The appropriate filing fee has been tendered via Pay.gov.

If you have any questions regarding this filing, please feel free to contact me.
Thank you for your assistance on this matter.

Respectfully submitted,



Bradon J. Smith
Attorney for The Cincinnati Railway Company

Cc: Association of American Railroads

BJS:bs

Enclosures

FILED
March 23, 2021
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
March 23, 2021
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36491

THE CINCINNATI RAILWAY COMPANY —
MODIFIED RAIL CERTIFICATE

**NOTICE OF THE CINCINNATI RAILWAY COMPANY FOR A
MODIFIED CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
PURSUANT TO 49 C.F.R. § 1150.23**

Bradon J. Smith
Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606
(312) 252-1500

**ATTORNEYS FOR THE CINCINNATI
RAILWAY COMPANY**

Dated: March 23, 2021

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36491

THE CINCINNATI RAILWAY COMPANY —
MODIFIED RAIL CERTIFICATE

**NOTICE OF THE CINCINNATI RAILWAY COMPANY FOR A
MODIFIED CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
PURSUANT TO 49 C.F.R. § 1150.23**

The Cincinnati Railway Company (“CNRY”) hereby files this notice for a modified certificate of public convenience and necessity (the “Notice”) pursuant to 49 C.F.R. Part 1150 Subpart B to operate the northern portion of the Blue Ash Secondary Track owned by the City of Lebanon, Ohio (the “City”) extending approximately 5.6 miles between milepost 1.10 at Lebanon southerly to milepost 6.70 at Hageman Junction, all in Warren County, Ohio (referenced further here by its designation in the Final System Plan as United States Railway Administration (“USRA”) Line No. 525) (“Line 525”). A geographical diagram and description of Line 525 from the Final System Plan is attached Exhibit A. Line 525 was formerly operated by the Indiana & Ohio Railway Company. *Indiana & Ohio Railway Company — Discontinuance of Service Exemption — in Warren County, Ohio*, Docket No. AB 1297X (STB served Feb. 28, 2020) (“*IORY Discontinuance*”).

In accordance with the requirements of 49 C.F.R. § 1150.23(b), CNRY submits the following information:

Information Regarding Operator: 49 C.F.R. § 1150.23(b)(1)

The Cincinnati Railway Company
400 Murray Road Suite 1
Cincinnati, OH 45217

- (i) Articles of Incorporation are attached as Exhibit B.
- (ii) Officers and directors may be contacted at CNRY's address.

Brian Collins, Chief Executive Officer; Director

Harry Davis III, Director

Ray Kammer, President; Director

Robert Morgan, Director

The officers and directors have no present affiliation with any other current rail carrier.

- (iii) Sufficient information establishing the financial responsibility of the operator is attached as Exhibit C.

Information About Prior Abandonment: 49 C.F.R. § 1150.23(b)(2)

Line 525 was formerly a part of the larger "Blue Ash Secondary" line of the Penn Central Corporation ("PC"), as successor to assets of the historic Pennsylvania Railroad system.¹ The USRA did not designate Line 525 in the Final System Plan for transfer to the then-nascent Consolidated Rail Corporation.² Thus Line 525 was "approved for abandonment."³ With that approval, the PC conveyed the Line to the City in 1981,⁴ and the City has owned it continuously

¹ UNITED STATES RAILWAY ASSOCIATION, *Final System Plan*, Vol. II, 349 (1975).

² *Id.* at 350 ("This portion of the Blue Ash Secondary Track is *not* designated for transfer to Consolidated Rail Corp. and is available for subsidy pursuant to section 304 of the Act. [Ed. The Regional Rail Reorganization Act of 1973, Pub. L. No. 93-2360, the "3R Act"]") (emphasis in original).

³ See *East Penn Railway, Inc. — Modified Certificate*, FD 34618 (STB served Dec. 21, 2004).

⁴ Exhibit D, Deed from Penn Central Corporation to the City.

since then. The City has engaged various carriers to operate Line 525, including, most recently (and for the longest period), the Indiana & Ohio Railway Company (“IORY”), and its related corporate predecessor, the Indiana & Ohio Railroad Company (“IORR”) (generally referred to herein, collectively, as “I&O”).⁵

The regulatory record for Line 525⁶ – including the City’s ownership of it after it was designated for abandonment– is at times inaccurate and imprecise. But the facts, when accurately presented, as here, demonstrate that Line 525 is eligible for modified certificate operations. Prior filings have indicated I&O “acquired” Line 525,⁷ which, in turn, appears to have left the Interstate Commerce Commission (the “ICC”) and the Board with the mistaken impression that I&O owned Line 525, when, in fact, the City owned the line (I&O never did), and I&O merely acquired a less-than fee operating interest.⁸ Regardless of I&O’s past

⁵ *IORY Discontinuance; Indiana & Ohio Railway Company — Acquisition — Indiana & Ohio Railroad Company*, FD 30960 (ICC filed January 2, 1987), 3 at n. 1 (“1987 IORY Notice”).

⁶ All of which was presented to the Board and its predecessor by third parties.

⁷ *1987 IORY Notice*. IORY incorrectly had claimed that IORR acquired an interest in Line 525 pursuant to abandonment proceeding initiated by Conrail under Docket No. AB-107 (sic, should be AB- 167) (Sub-Nos. 727N and 943N). *Id.* However, the abandonment proceedings IORY had cited in *1987 IORY Notice* involve other, nearby railroad line segments, and not Line 525. *See Conrail Abandonment — Middletown Secondary Track and Mason Secondary Track in Butler and Warren Counties, Ohio*, Docket No. AB-167 (Sub-No. 727N) (ICC served Oct. 2, 1984) (involving segments nearby Line 525), and *Conrail Abandonment — Blue Ash Secondary Track in Hamilton County, Ohio*, Docket No. AB -167 (Sub-No. 943N) (ICC served Nov. 18, 1986) (involving a different line segment located in Hamilton County, Ohio). This mistake was sustained in subsequent proceedings, including in *IORY Discontinuance*. In its February 10, 2020 exemption filing in that proceeding, IORY correctly characterized its interest in Line 525 as a non-ownership operating right. But the Board, evidently relying on I&O’s previous factual misstatements, incorrectly assumed that I&O had in 1987 acquired an ownership in Line 525, and also incorrectly concluded that the City’s subsequent acquisition of Line 525 (which actually had happened in 1981, by way of a purchase from the Penn Central Trustee – I&O never having owned Line 525) needed to be, but had not been, agency-authorized. *I&O Discontinuance*, 1, n.1.

⁸ *1987 I&O Notice*. IORY’s past non-modified certificate operation of Line 525 does not prohibit subsequent, eligible operators to invoke the Board’s modified certificate procedures.

misperception, IORY's operation of Line 525 has since ceased and IORY no longer has a common carrier status with respect to it.

When the facts are properly established, it is clear that Line 525 is eligible for modified certificate operation. Line 525 was authorized for abandonment but was never abandoned; it was acquired from the abandoning carrier in 1981 by the City, a state subdivision;⁹ and the City is permitting CNRY¹⁰ to operate the Line.

Dates of Operation: 49 C.F.R. § 1150.23(b)(3)

Consistent with the regulations governing modified certificates, CNRY will endeavor to consummate operations as soon as feasible upon the filing of this Notice. CNRY's agreement with the City (filed as Confidential Exhibit E, and subject to a concurrently-filed motion for a protective order) permits operation until January 28, 2025.

Description of Service: 49 C.F.R. § 1150.23(b)(4)

- (i) CNRY will provide common carrier service on Line 525, as the line is described above.
- (ii) Connection will be with IORY at Hageman Junction.
- (iii) CNRY has a claims-made "Commercial Railroad Liability" policy with Aspen Specialty Insurance Company under Policy No. RL00J6420.
- (iv) No preconditions, except those consistent with the Board's general regulation of common carrier service (e.g., reasonable demand), shall be required.

49 C.F.R. § 1150.21 ("An operator has the option of applying for a modified certificate . . . or a common carrier certificate . . .").

⁹ Exhibit D.

¹⁰ Confidential Exhibit E.

Information Regarding Subsidizers: 49 C.F.R. § 1150.23(b)(5)

Not applicable. No entity will subsidize CNRY's operations on Line 525.

Financial Responsibility of Subsidizers: 49 C.F.R. § 1150.23(b)(6)

Not applicable. No entity will subsidize CNRY's operations on Line 525.

Tariffs: 49 C.F.R. § 1150.23(c)

CNRY will publish common carrier rates (or "tariffs") in accordance with the Board's rules upon its commencement of service.

Respectfully submitted,

By: 
Bradon J. Smith
Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

**ATTORNEYS FOR THE CINCINNATI
RAILWAY COMPANY**

Dated: March 23, 2021

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36491

**THE CINCINNATI RAILWAY COMPANY —
MODIFIED RAIL CERTIFICATE**

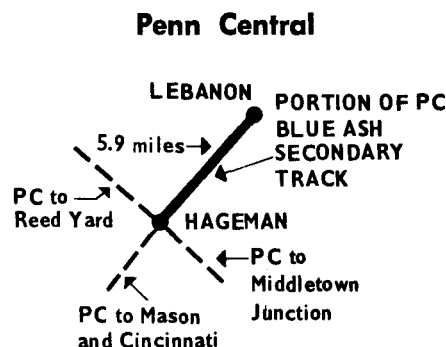
EXHIBIT A

**FINAL SYSTEM PLAN DESCRIPTION AND
DIAGRAM OF LINE 525**

purposes if rail service is discontinued. For line-specific recommendation, see section C of this appendix.

PORTION OF BLUE ASH SECONDARY TRACK

USRA Line No. 525



This portion of the Blue Ash Secondary Track, formerly part of the Pennsylvania RR, extends from *Lebanon* (Milepost 25.5) to *Hageman, Ohio* (Milepost 31.4), a distance of 5.9 miles, in Warren County, Ohio. This line is the northern end of the Blue Ash Secondary Track which runs south to Mason. It connects at Hageman with the Middletown Secondary Track.

Traffic and Operating Information

Stations (with their 1973 carloads) served by this line:	
Lebanon	314
Total carloads generated by the line.....	
314	
Average carloads per week.....	6.0
Average carloads per mile.....	65.4
Average carloads per train.....	3.1
1973 operating information:	
Number of round trips per year.....	100
Estimated time per round trip (hours).....	2.5
Locomotive horsepower.....	1,500
Train crew size.....	4

Public Comments on Preliminary System Plan

Agri-Urban, which serves the needs of 600 farmers, reported that only 20 percent of the material it receives could be moved by truck.

Dave Steel Corp. stated that its incoming shipments of steel, which arrive in 60-foot lengths, cannot be shipped by truck due to highway restrictions and prohibitive costs. Stock of heavy structural steel under 60 feet results in higher wastage costs and less flexibility of usage.

Artyle Industries reported that one of its Canadian suppliers ships only by rail. If service were discontinued, Artyle would be cut off from this supplier.

Lebanon Distribution Warehouse reported that it is negotiating storage contracts with two large firms in which the rail siding in Lebanon is a necessity. Without this line, Lebanon Distribution would lose these two accounts.

Brant's, Inc., reported that without rail service it would be forced to stop selling its coal, fence, and some brick.

Vistron reported that discontinued service on this line would either force it to shut down its plant or charge higher prices for its fertilizer. In 1974, Vistron paid \$39,306 to its 6 employees.

Several firms reported that future rail use should increase and that past rail use would have been greater had service been better.

According to the Lebanon Chamber of Commerce, both Agri-Urban and Vistron were handicapped by low load limits for rail cars and an insufficient supply of cars. There is a load limit of 50 tons and Vistron reported a 30-car shortage of 50-ton cars.

Reported Traffic:

Company	Carloads	
	1973	1974
Agri Urban.....	46	51
Artyle Industries.....	8	0
Brants, Inc.....	10	2
Brittain Lumber.....	16	16
Dave Steel Corp.....	124	140
Green Thumb, Inc.....	5	4
Lebanon Lumber.....	21	10
Vistron	14	37
Steininger	70	100
Valley Kitchens.....	24	30
Total	338	390

The estimated cost for upgrading this line to FRA Class I standards should be reviewed. The available information on the line indicates that the tie replacement estimate may be high.

Information for Line-Transfer Decision

Revenue received by PC.....	\$81,180
Average revenue per carload.....	\$258
Variable (avoidable) cost of continued service:	
Cost incurred on the branch line.....	58,815
Cost of upgrading branch line to FRA Class I: (1/10 of total upgrading cost) ..	17,476
Cost incurred beyond the branch line.....	51,243
Total variable (avoidable) cost.....	127,534
Net contribution (loss): total.....	(46,404)
Average per carload.....	(148)

This line would require upgrading to meet the requirements of the Federal Railroad Administration's minimum safety standards (Class I track, which has a

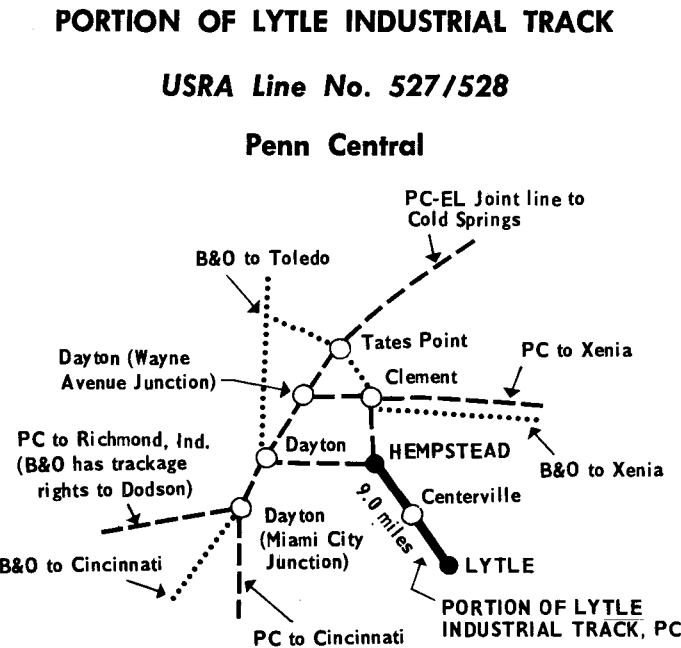
maximum safe operating speed of 10 m.p.h.). Based on available information, this upgrading would include the replacement of a total of 2,592 crossties (an average of 540 crossties per mile).

Ohio PUC suggested combining this line with Line No. 560. Both failed to pass the viability criteria individually, and, also failed when combined.

Service to this line generated a loss of \$46,404 in 1973. Recovery of this loss would require approximately a twofold increase in traffic or a 57-percent rate increase. Although the shippers served by this line have provided information indicating some traffic growth, the projected traffic level is significantly less than that required for viability.

Disposition

This portion of the Blue Ash Secondary Track is *not* designated for transfer to Consolidated Rail Corp. and is available for subsidy pursuant to section 304 of the Act. Public officials have recommended that certain rail rights-of-way be used for other public purposes if rail service is discontinued. For line-specific recommendations, see section C of this appendix.



This portion of the Lytle Industrial Track, formerly part of the Pennsylvania RR, extends from *Hempstead* (Milepost 7.0) to *Lytle, Ohio* (Milepost 16.0), a distance of 9.0 miles, in Montgomery and Warner Counties, Ohio. This is an industrial line which runs southwest from Dayton (see Line No. 526). It also connects at Hempstead with the Lytle Running Track to Clement (see Line No. 529).

Traffic and Operating Information

Stations (with their 1973 carloads) served by this line:	
Lytle	91
Centerville	659
Total carloads generated by the line.....	
750	
Average carloads per week.....	14.4
Average carloads per mile.....	83.3
Average carloads per train.....	7.5
1973 operating information:	
Number of round trips per year.....	100
Estimated time per round trip (hours).....	3
Locomotive horsepower.....	1,500
Train crew size.....	4

Public Comments on Preliminary System Plan

According to Centerville Councilman Charles A. McQueeney, MacMillan Bloedel Containers, Inc., which generated 603 carloads in 1973, would be forced to relocate if this line were abandoned. MacMillan Bloedel is Centerville's largest industry, employing 245 people and providing the city with \$18,000 in tax revenues during 1973. If the company did remain in Centerville, it estimates that it would be forced to spend \$200,000 to alter its facilities to accommodate truck use. This action would increase its transportation costs by approximately \$1 million per year.

Smokey, Inc., which generated 43 cars in 1974, reported its transportation costs would have increased by \$100,000-\$130,000 during 1974 had it been forced to use all truck shipments.

The Dayton Chamber of Commerce reported that up to 500 jobs could be affected by abandonment of this line.

MacMillan Bloedel estimates its rail traffic will increase to 1,120 carloads per year.

Additional rail traffic could come from Snyder Concrete Products which now receives 36,000 tons of brick by truck due to PC's poor service. Furthermore, over 400 acres of land have been zoned for industrial use with an expected 24,000 cars per year.

The Miami Valley Regional Transit Authority has requested funding to institute Dayton Area Rapid Transit (DART) service over part of this line to shuttle passengers between Dayton and Centerville during the day while freight traffic would move over the line at night.

The Montgomery County Transportation and Development Program in Dayton reported that there are 800 carloads generated along this line.

Information for Line-Transfer Decision

Revenue received by PC.....	\$161,507
Average revenue per carload.....	\$215

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36491

**THE CINCINNATI RAILWAY COMPANY —
MODIFIED RAIL CERTIFICATE**

EXHIBIT B

ARTICLES OF INCORPORATION

Prescribed by **J. Kenneth Blackwell**

Please obtain fee amount and mailing instructions from the **Forms Inventory List** (using the 3 digit form # located at the bottom of this form). To obtain the **Forms Inventory List** or for assistance, please call Customer Service:

Central Ohio: (614)-466-3910 Toll Free: 1-877-SOS-FILE (1-877-767-3453)

Expedite this form

☒ Yes

2001 MAY 24 AM 10:26
CLIENT SERVICE CENTER

CERTIFICATE OF AMENDMENT BY SHAREHOLDERS TO ARTICLES OF

THE INDIANA & OHIO RAIL PASSENGER CORPORATION

(Name of Corporation)

703942

(charter number)

Thomas B. McOwen, who is the President/Treasurer
(name) (title)

of the above named Ohio corporation organized for profit, does hereby certify that: (Please check the appropriate box and complete the appropriate statements.)

☒ a meeting of the shareholders was duly called and held on _____, at which meeting a quorum the shareholders was present in person or by proxy, and that by the affirmative vote of the holders of shares entitling them to exercise _____ % of the voting power of the corporation,

☒ in a writing signed by all the shareholders who would be entitled to notice of a meeting held for that purpose, the following resolution to amend the articles was adopted:

RESOLVED, that Article First of the Articles of Incorporation be, and it hereby is, amended in its entirety to read as follows:

FIRST: The name of the corporation shall be THE CINCINNATI
RAILWAY COMPANY.

IN WITNESS WHEREOF, the above named officer, acting for and on behalf of the corporation, has hereunto subscribed his name on April 30, 2001.
(his/her) (date)

Signature: Thomas B. McOwen

Title: President/Treasurer



DATE:	DOCUMENT ID	DESCRIPTION	FILING	EXPED	PENALTY	CERT	COPY
05/25/2001	200114500954	DOMESTIC/AMENDMENT TO ARTICLES (AMD)	35.00	.00	.00	.00	.00

Receipt

This is not a bill. Please do not remit payment.

DINSMORE & SHOHL LLP
175 SOUTH THIRD ST
10TH FLOOR
COLUMBUS, OH 43215

STATE OF OHIO**Ohio Secretary of State, J. Kenneth Blackwell**

703942

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

THE CINCINNATI RAILWAY COMPANY

and, that said business records show the filing and recording of:

Document(s)

DOMESTIC/AMENDMENT TO ARTICLES

Document No(s):

200114500954

United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of
the Secretary of State at Columbus,
Ohio this 24th day of May, A.D.
2001.

J. Kenneth Blackwell
Ohio Secretary of State



State of Ohio
Department of State

Sherrod Brown
Secretary of State

Date 7/01/87

Number 703942

Receipt No. 382

~~G186-1314~~ 0382

Received of DINSMORE & SHOHL
or filed by

The sum of \$ 75.00 for filing ARF of

THE INDIANA & OHIO RAIL PASSENGER CORPORATION

Returned to:
DINSMORE & SHOHL
ATT: S.R. ARNOLD
511 WALNUT ST.
CINCINNATI, OH 45202-3172

382

ARF \$ 75.00

RECEIPT

Name:
THE INDIANA & OHIO RAIL PASSENGER CORPORATION

Total Fee: \$ 75.00



Department of State

The State of Ohio

Sherrod Brown

Secretary of State

G186-1314

703942

Certificate

It is hereby certified that the Secretary of State of Ohio has custody of the Records of Incorporation and Miscellaneous Filings; that said records show the filing and recording of ARF

of:

THE INDIANA & OHIO RAIL PASSENGER CORPORATION

United States of America
State of Ohio
Office of the Secretary of State

Recorded on Roll G186 at Frame 1516 of
the Records of Incorporation and Miscellaneous Filings

Witness my hand and the seal of the Secretary of State, at the
City of Columbus, Ohio, this 29TH day of JUNE,

A.D. 19 87.
Sherrod Brown

Secretary of State

60186-1313
ARTICLES OF INCORPORATION
 OF
THE INDIANA & OHIO RAIL PASSENGER CORPORATION

APPROVED

By.....*[Signature]*.....
 Date.....*6-29-87*.....
 Amount.....*\$25.00*.....

The undersigned, desiring to form a corporation for profit, under the General Corporation Law of Ohio, does hereby certify:

FIRST: The name of the corporation shall be THE INDIANA & OHIO RAIL PASSENGER CORPORATION.

SECOND: The place in Ohio where its principal office is to be located is Union Township, Butler County, Ohio.

THIRD: The purpose for which the corporation is formed is to operate a railroad and to engage in any other lawful act or activity for which corporations may be formed under Sections 1701.01 to 1701.98, inclusive, of the Ohio Revised Code.

FOURTH: The maximum number of shares which the corporation is authorized to have outstanding is Seven Hundred Fifty (750) shares, all of which shall be designated Common Shares and shall be without par value.

FIFTH: No holder of any share or shares of any class issued by the corporation shall be entitled as such, as a matter of right, at any time, to subscribe for or purchase (i) shares of any class issued by the corporation, now or hereafter authorized, (ii) securities of the corporation convertible into or exchangeable for shares of any class issued by the corporation, now or hereafter authorized, or (iii) securities of the corporation to which shall be attached or appertain any rights or options, whether by the terms of such securities or in the contracts, warrants or other instruments (whether transferable or non-transferable or separable or inseparable from such securities) evidencing such rights or options, entitling the holders thereof to subscribe for or purchase shares of any class issued by the corporation, now or hereafter authorized; it being the intent and is the effect of this Article Fifth to fully eliminate any and all pre-emptive rights with respect to the shares of any class issued by the corporation now or hereafter authorized.

SIXTH: The corporation shall have no stated capital with which it will begin business.

SEVENTH: When authorized by the affirmative vote of a majority of the Board of Directors, without the action or approval of the shareholders of this corporation, this corporation may redeem, purchase, or contract to purchase, at any time and from time to time, shares of any class issued by this corporation for such prices and upon and subject to such terms and conditions as the Board of Directors may determine.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 24 day of June, 1987.

[Signature]
 Frederick L. Stout III, Incorporator

G0186-1317

C-123 Prescribed by
SHERROD BROWN
Secretary of State

CONSENT FOR USE OF SIMILAR NAME

On the 10th day of June, 1987, the Board of
Directors of The Indiana & Ohio Railroad Corp., Charter or License
No. 650953, passed the following resolution:

533377

RESOLVED, that The Indiana & Ohio Rail Corp. gives its
consent to The Indiana & Ohio Rail Passenger Corporation to
use the name The Indiana & Ohio Rail Passenger Corporation.

Date: June 23, 1987

Signed: T. Jany M. McQueen

Secretary

~~or Assistant Secretary~~

of consenting corporation

NOTE: This document MUST BE SIGNED by the Secretary or Assistant Secretary of
the consenting corporation, pursuant to Section 1701.05(A) of the Ohio
Revised Code.

CONSENT

G0186-1314

ORIGINAL APPOINTMENT OF STATUTORY AGENT

The undersigned, being at least a majority of the incorporators of
The Indiana & Ohio Rail Passenger Corporation, hereby
 (Name of Corporation)

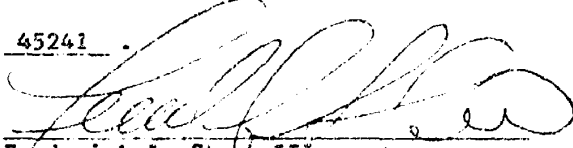
appoints Frederick L. Stout III to be statutory agent
 upon
 (Name of Agent)

whom any process, notice or demand required or permitted by statute to be
 served upon the corporation may be served.

The complete address of the agent is:

7142 Sprucewood Court, Union Township
 (Street) (City or Village)
Butler County, Ohio 45241

Date: June 24, 1987


 Frederick L. Stout III,
 (Incorporator)

 (Incorporator)

 (Incorporator)

INSTRUCTIONS

- 1) Profit and non-profit articles of incorporation must be accompanied by an original appointment of agent. R.C. 1701.04(C), 1702.04(C).
- 2) The statutory agent for a corporation may be (a) a natural person who is a resident of Ohio, or (b) an Ohio corporation or a foreign corporation licensed in Ohio which has a business address in this state and is explicitly authorized by its articles of incorporation to act as a statutory agent. R.C. 1701.07(A), 1702.06(A).
- 3) The agent's complete street address must be given; a post office box number is not acceptable. R.C. 1701.07(C), 1702.06(C).
- 4) An original appointment of agent form must be signed by at least a majority of the incorporators of the corporation. R.C. 1701.07(B), 1702.06(B).

Arnold we do not agree
to accept
any part of the
11/20/87. The
company was
tax collector
4-30-87
during the

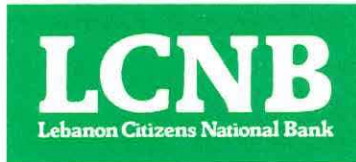
**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36491

**THE CINCINNATI RAILWAY COMPANY —
MODIFIED RAIL CERTIFICATE**

EXHIBIT C

**LETTER FROM
LEBANON CITIZENS NATIONAL BANK**



March 11, 2021

Cynthia T. Brown
Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
Washington, DC 20423-0001

Re: FD 36491
*Cincinnati Railway Company — Modified Rail Certificate
— in Warren County, Ohio*

Dear Ms. Brown:

LCNB National Bank is pleased to support and advise the Cincinnati Railway Company (the "Company"). Formerly known as the Indiana & Ohio Rail Passenger Corporation, the directors, officers, and managers of the Company are familiar with the financial requirements of operating "short-line" railroads.

The Company is a client in good standing with LCNB National Bank, soundly established, and has consistently met its financial obligations to LCNB National Bank. Based on information available to LCNB National Bank, the Company appears to be adequately capitalized for the endeavor it seeks to undertake in this matter.

Sincerely,
A handwritten signature in blue ink, appearing to read "Whitney Roark", is written over the word "Sincerely,".

Whitney Roark
Lead Relationship Banker
LCNB National Bank
Main Office
2 N. Broadway, Lebanon, OH 45036
(513) 932-1414 Ext. 10201
Wroark330@gmail.com

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36491

**THE CINCINNATI RAILWAY COMPANY —
MODIFIED RAIL CERTIFICATE**

**EXHIBIT D
DEED**

(MC)

33180

KNOW ALL MEN BY THESE PRESENTS

That THE PENN CENTRAL CORPORATION, a Pennsylvania corporation, having an office at 1700 Market Street, Philadelphia, Pennsylvania 19103, hereinafter referred to as the Grantor, for the consideration of THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$375,000.00)----- received to its full satisfaction of CITY OF LEBANON, a municipal corporation, with a mailing address of City Building, Broadway at Main Street, Lebanon, Ohio 45036. hereinafter referred to as the Grantee, does remise, release and forever quitclaim unto the said Grantee, all the right, title and interest of the said Grantor of, in and to the premises described in Schedule "A" attached hereto and made a part hereof.

12-14-502.001
 12-15-502.001
 12-15-502.002
 12-09-502.001
 12-10-502.002
 12-11-502.001
 12-11-502.002
 12-11-502.003
 12-05-502.001
 12-05-502.002
 13-35-502.001
 13-36-502.001
 13-36-502.002
 13-36-502.003
 13-36-502.004

NOTICE

This property was acquired with Federal assistance under grant Agreement No. PR-OH-80 (02) and its use and disposition is subject to the terms of that Agreement and of Circular No. A-102.

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*Sam/Am
6-10-81*

SCHEDULE "A"

ALL THAT PROPERTY situate in the City of Lebanon, in the Township of Union and Turtle Creek, County of Warren and State of Ohio, being parts of Section 14, 15, 9, 10, 11 and 5 in Township 4 East, Range 3 North and Sections 35 and 36 in Township 5 East, Range 3 North, and being all the right, title and interest of The Penn Central Corporation of, in and to all those pieces or parcels of land or premises, easements, rights-of-way or other rights appurtenant thereto or used in conjunction therewith on and along a portion of the railroad of said corporation (formerly of The Connecting Railway Company) known as the Blue Ash Secondary Track, said portion being described as follows:

BEGINNING in said Union Township at the lateral cut line described on page B-4 of the deed from The Connecting Railway Company to Consolidated Rail Corporation, identified as Document No. CONN-CRC-RP-21, dated March 30, 1976 and recorded in the Office for the Recording of Deed in and for said County of Warren in Volume 525 at Page 270, said line being the Northeasterly right-of-way line of the Middletown Secondary Track formerly of said The Connecting Railway Company, said line passes through a point in the centerline of said Blue Ash Secondary Track at valuation survey station 1315+90, more or less;

THENCE extending in a general Northeasterly direction along said right-of-way of Blue Ash Secondary Track, approximately 5.8 miles, to the Southwesterly line of Parcel No. 9 containing 4.1221 acres, more or less, conveyed by said The Connecting Railway Company to L.C.T., Incorporated by deed dated August 16, 1961, the place of ending in said Township of Turtle Creek, said Southwesterly line passes through valuation survey station 1622+06 in said centerline of the Blue Ash Secondary Track.

TOGETHER with the roadbed, track, bridges, culverts and all other railroad appurtenances.

EXCEPTING THEREOUT AND THEREFROM parcels of land in said City of Lebanon adjacent to the right-of-way and identified as Parcel No. OHJ100 38-9, Parcel No. OHJ100 39-2 and Parcel No. OHJ100 40-3, all in the vicinity of Main and Mound Streets.

SUBJECT, however, to any state of facts that an accurate survey or personal inspection of the premises may disclose.

THIS INSTRUMENT is executed, delivered and accepted upon the understanding and agreement:

- (1) That the within conveyance is made without covenants of title or warranties, express or implied; and
- (2) That should a claim to the premises, or any part thereof, adverse to that of the Grantor be asserted or proved, no recourse shall be had against the Grantor.

TO HAVE AND TO HOLD said premises with the privileges and appurtenances thereunto belonging unto the said Grantee, the heirs or successors and assigns of the said Grantee forever.

THE words "Grantor" and "Grantee" used herein shall be construed as if they read "Grantors" and "Grantees", respectively, whenever the sense of this instrument so requires and whether singular or plural, such words shall be deemed to include in all cases the heirs or successors and assigns of the respective parties.

IN WITNESS WHEREOF, the Grantor has caused this Deed to be executed this 10th day of June A.D. 1981.

SIGNED AND ACKNOWLEDGED
in the presence of:

Janice Mitchell

Regina Rowan

THE PENN CENTRAL CORPORATION

By: Paul W. Olson
PAUL W. OLSON - Director, Rail
Corridor Sales & Marketing

Attest: Christina
ASSISTANT Secretary

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STATE OF PENNSYLVANIA :
:SS
COUNTY OF PHILADELPHIA:

BEFORE ME, a Notary Public, in and for the Commonwealth of Pennsylvania, personally appeared PAUL W. OLSON and known to me to be the Director, Rail Corridor Sales & Marketing and respectively, of THE PENN CENTRAL CORPORATION, the corporation which executed the foregoing instrument, and they did acknowledge that they did sign said instrument in the name and on behalf of the corporation, that the same is their free act and deed as such officers and the free act and deed of said corporation, duly authorized by its Board of Directors, and that the seal affixed to said instrument is the corporate seal of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal at Philadelphia, Pennsylvania this 18th day of June A.D, 1981.

Mildred C. Oruska
Notary Public

MILDRED C. ORUSKA
Notary Public, Phila., Phila. Co.
My Commission Expires May 26, 1984

THIS INSTRUMENT PREPARED BY:

George W. Heim
1700 Market Street, 31st Floor
Philadelphia, Pennsylvania 19103

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THE PENN CENTRAL CORPORATION
CERTIFICATE OF AUTHORITY

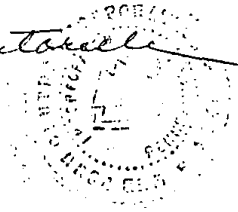
I, A. V. Martorelli, the Assistant Secretary
of The Penn Central Corporation HEREBY CERTIFY as
follows:

(1) The sale by The Penn Central Corporation
(Corporation) of Blue Ash secondary track to the
City of Lebanon, Ohio for a consideration of \$375,000
has been duly authorized on behalf of the Corporation.

(2) Paul W. Olson is Director, Rail Corridor
Sales and Marketing, of this Corporation, and as such
officer is authorized to execute on behalf of the Cor-
poration original agreements, contracts, deeds, leases,
licenses, or other documents necessary or desirable to
effectuate the foregoing sale.

(3) The authorization described in the foregoing
paragraphs (1) and (2) are in full force and effect.

WITNESS my hand and the corporate
seal of said THE PENN CENTRAL
CORPORATION, at Philadelphia,
PA, this 11th day of June, 1981.

A. V. Martorelli


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WARREN COUNTY

95-386

PAGE 6 OF 6

3.50 *per*

CASE NO. 83543

33180

DEED

JUN 19 3 41 PM '81

THE PENN CENTRAL CORPORATION

to

CITY OF LEBANON

Premises:
City of Lebanon
Township of Union and Turtle
Creek
County of Warren
State of Ohio

TRANSFERRED
SEC. 319.202 COMPLIED WITH
LESLIE SPAETH, Auditor
WARREN COUNTY, OHIO

Approved: *[Signature]*
[JUN 21 9 1981] *ES*

RECEIVED AND RECORDED

3:41 PM
JUN 19 1981
VOL. *95* PAGE *386*
FEE *4.00*
EDNA L. BOWYER
WARREN COUNTY RECORDER, LEBANON, OHIO

9.00 Day & Evening
Bo

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36491

**THE CINCINNATI RAILWAY COMPANY —
MODIFIED RAIL CERTIFICATE**

CONFIDENTIAL EXHIBIT E

**AGREEMENT BETWEEN
CITY OF LEBANON, OHIO
AND
THE CINCINNATI RAILWAY COMPANY**