

Telegraph Agreement

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THIS AGREEMENT, made and entered into this first day of May, A.D. 1911, by and between the CHICAGO, MILWAUKEE & PUGET SOUND RAILWAY COMPANY, hereinafter called the "Railway Company", party of the first part, and the CONTINENTAL TELEGRAPH COMPANY, a corporation of the State of Montana, hereinafter called the "Telegraph Company", party of the second part, WITNESSETH:

WHEREAS, the Railway Company is the owner of a telegraph line on its right of way extending from Mobridge, South Dakota, to Tacoma and Seattle, Washington, with branches thereof in South Dakota, North Dakota, Montana, Idaho and Washington;

AND WHEREAS, the Telegraph Company desires to obtain the right to transact a commercial telegraph business over said lines of telegraph, and over any extension thereof, and the Railway Company is willing to grant such right upon the terms and conditions hereinafter specified;

NOW THEREFORE, in consideration of the premises and of their mutual and dependent covenants and agreements hereinafter contained, the parties hereto agree as follows:

FIRST: It is mutually understood and agreed that the Railway Company is the sole owner of all poles, wires, fixtures and instruments pertaining to the lines of telegraph embraced in this contract, excepting a line extending between Black River Junction and Tacoma Junction, in which it owns an undivided one-half interest.

SECOND: Subject to the limitations, conditions, covenants and agreements hereinafter set forth, the Railway Company hereby grants unto the Telegraph Company the right to use, for the purpose of transacting a commercial telegraph business, all the lines of telegraph, telegraph instruments, batteries and appurtenant property on and along the Railway Company's right of way and in its depots and station houses; and the like use of all

extensions and additions thereto made during the term hereof.

THIRD: The Railway Company will permit its employes to receive, transmit and deliver such commercial or public messages as may be offered at the tariff rates of the Telegraph Company, and will render to the Telegraph Company monthly statements of such business, and full accounts of all receipts derived therefrom. In the handling of commercial business, the operators of the Railway Company will give it preference over all railway business except train orders, which shall have preference over commercial business. The employes of the Railway Company, while engaged in transacting the commercial telegraph business shall be considered the employes of the Telegraph Company; and employes of the Telegraph Company while engaged in handling messages concerning the Railway Company's business shall be deemed employes of the Railway Company.

FOURTH: The Telegraph Company agrees that as part compensation for this contract, the Railway Company may retain two-thirds of the cash receipts of telegraph offices maintained and operated on its said lines of railway, after deducting commissions paid to operators, tolls on ocean cable messages and tolls due other telegraph companies. The remainder of such cash receipts, including said commissions, tolls on ocean cable messages, and tolls on foreign lines, shall be paid by the Railway Company to the Telegraph Company monthly, as soon as practicable after the close of the month in which collections were made.

FIFTH: If independent offices are established by the Telegraph Company for the transaction of commercial business in buildings not owned or leased by the Railway Company, the total expense of such offices will be paid by the Telegraph Company, and the Telegraph Company will also pay to the Railway Company one-third of the cash receipts after the deductions specified in the preceding paragraph shall have been made.

SIXTH: The Telegraph Company shall and will bear and pay the entire cost and expense of maintaining and keeping in good working order, all main and local batteries for the operation of the telegraph wires. It will pay one-half of all taxes levied upon and assessments made against said telegraph lines and one-half of all license fees imposed by state or municipal authorities. The Telegraph Company will also furnish at its expense, all signs, stationery and postage necessary for use in connection with the commercial telegraph business embraced in this contract.

SEVENTH: The Telegraph Company shall and will accept commercial telegraph business destined to telegraph stations off the lines of railway of the Railway Company; and will transmit and deliver telegrams for the Railway Company where necessary at all independent telegraph offices. Where it is necessary to employ messengers to handle the business of both parties hereto, the salaries of such messengers will be paid jointly by the parties hereto, in the same proportion hereinbefore specified for division of receipts, from the commercial telegraph business.

EIGHTH: It is a condition of this contract that the Railway Company is not to be responsible for, and the Telegraph Company hereby covenants and agrees to save the Railway Company harmless and indemnify it against any loss or damage of any kind arising from any injury to persons in the employ, or the property belonging to the Telegraph Company while being carried by the Railway Company under the provisions of this contract, or from any neglect or failure in the transmission or delivery of messages for any person doing business with the Telegraph Company; or the failure or default of any agent to account for or pay over any money received for or on account of the Telegraph Company, or on account of any public telegraph business; and the Telegraph Company shall not be responsible for, and the Railway Company agrees to indemnify and save harmless

the Telegraph Company against any loss or damage of any kind arising from or on account of any error, failure, delay or default in the transmission or delivery of messages sent for the Railway Company under this contract.

NINTH: The Railway Company shall have the right to the free use of any telegraph patent rights or new discoveries or inventions that the Telegraph Company now owns and uses in its general telegraphic business, or which it may hereafter own and use as aforesaid, so far as the same may be necessary to properly carry on the business of railroad telegraphing on the lines of railroad embraced in this contract.

TENTH: It is further agreed that the management of wires, the repair of all the lines of telegraph and the distribution of material, shall be under the supervision and control of a competent superintendent, who shall be appointed jointly by the parties to this contract, and whose salary, and the salaries of his clerks, shall be fixed by mutual agreement between the parties hereto, and shall be paid, one-half by each party. All other expenses of operation and maintenance not specifically provided for elsewhere in this contract, shall be paid by the parties hereto on the basis of two-thirds by the Railway Company and one-third by the Telegraph Company. Said superintendent shall be equally the servant of each party hereto, but shall be subordinate to and under control of the Telegraph Company so far as necessary to enforce said Company's rules and regulations, and its orders in regard to the operation, arrangement and management of the wires and the transmission of commercial business; and he shall assist said Telegraph Company in such matters as far as his duty to the Railway Company will permit, it being understood and agreed that he shall co-operate with both parties hereto in giving the utmost efficiency to the working of the telegraph lines

upon said Railway and the transaction of the railroad and commercial telegraph business. A suitable office and supply room for the said Superintendent shall be provided by the Railway Company.

ELEVENTH: The provisions of this contract shall take effect on the date hereof and continue in force and binding upon the parties hereto, their successors and assigns for and during the full term of Twenty-five (25) years.

TWELFTH: It is mutually agreed that this contract and all the rights and privileges hereby granted shall be, and are expressly made subject to the right of the Railway Company to create a lien thereon by a First Mortgage to be dated January 1, 1909, to be executed and delivered by the Railway Company to the United States Trust Company of New York and Edward W. Sheldon as Trustees, to secure an issue of First Mortgage Four Per Cent Gold Bonds of the Railway Company not to exceed in the aggregate the principal amounts of Two Hundred Million Dollars.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their proper officers thereunto duly authorized the day and year first above written.

CHICAGO, MILWAUKEE & PUGET SOUND RAILWAY COMPANY,

By E.D.Sewall, Vice President.

Attest:

E.W.Adams, Assistant Secretary.

CONTINENTAL TELEGRAPH COMPANY,

By H.B.Earling, Vice President.

Attest:

E.W.Adams, Assistant Secretary