

UG-121329-SF

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August 10, 2012

Dave Danner
Washington Utilities and Transportation Commission
1300 So. Evergreen Park Drive SW
Olympia, WA 98504-7250

Re: Docket UG-_____ : NW Natural's Statement and Request for Written Order Establishing Compliance With RCW 80.08.040 With Respect to the Proposed Issuance and Sale of Not More Than \$50,000,000 of First Mortgage Bonds.

RECEIVED
PROJECTS MANAGEMENT
2012 AUG 13 AM 8:59
STATE OF WA
UTIL. AND TRAN.
COMMISSION

Dear Mr. Danner:

Transmitted herewith for filing with the Washington Utilities and Transportation Commission (the "Commission") is a Statement complying with RCW 80.08.040 and WAC 480-90-242, and a Request for a Written Order confirming such compliance by Northwest Natural Gas Company (the "Company") with respect to the Company's proposed issuance and sale of up to \$50,000,000 principal amount of its First Mortgage Bonds.

Also transmitted herewith is a draft proposed order of the Commission for use in connection with the processing of the Company's Statement and Request for Written Order.

If you have any questions, or if you require additional information in support of this Statement and Request for Written Order, please give me a call at 503-220-2435 or e-mail at smf@nwnatural.com, or contact Steve Feltz, our Treasurer and Controller at 503-220-2345 or spf@nwnatural.com.

Upon completion, please forward to me at this address, five certified copies of the Order of the Commission in this Docket along with an electronic copy at the above email address.

Sincerely,

Shawn M. Filippi

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

)
 In the Matter of the Statement and)
 Request For a Written Order of)
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)
 NORTHWEST NATURAL GAS COMPANY)
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)
 Establishing Compliance With)
 RCW 80.08.040 With Respect to the Proposed)
 Issuance and Sale of Not More Than)
 \$50,000,000 Principal Amount)
 of First Mortgage Bonds)

DOCKET NO. UG-_____

STATEMENT AND
 REQUEST FOR
 WRITTEN ORDER

STATE OF WASH
 UTIL. AND TRANSP
 COMMISSION

2012 AUG 13 AM 8:59

RECEIVED
 ECONOMIC MANAGEMENT

Northwest Natural Gas Company (“NW Natural” or the “Company”) hereby files this Statement complying with RCW 80.08.040 for the issuance and sale of \$50,000,000 of secured notes (First Mortgage Bonds) through a private placement offering. Further, the Company requests a written order confirming that the Company has so complied. A form of proposed order is attached as Exhibit A.

NW Natural now respectfully requests in this Statement that the WUTC enter an order establishing compliance with RCW 80.08.040 and WAC 480-90-242 with respect to the Company's proposed issuance and sale of up to \$50,000,000 principal amount of First Mortgage Bonds. The following is the information required in RCW 80.08.040:

- (1) **A description of the purposes for which the issuance will be made, including a certification by an officer authorized to do so, that the proceeds from any such financing is for one or more of the purposes allowed by RCW 80.08.030.**

The Company will use the proceeds from the First Mortgage Bonds for the acquisition of property, or the construction, completion, extension or improvement of its facilities, or the improvement or maintenance of its service, or the discharge or refunding of its obligations, or the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the Company not secured by or obtained from the issue of stock or stock certificates or other evidence of interest or ownership, or bonds, notes or other evidence of indebtedness of the Company for any of the aforesaid purposes except maintenance of service, or to refund the Company's short-term debt incurred in connection with the acquisition of property or the construction, completion, extension or improvement of the Company's facilities, or the improvement or maintenance of service, or the refunding of other long-term debt, or the reimbursement of the Company's treasury for any of the aforementioned purposes except maintenance of service. The Company keeps its accounts and vouchers for such expenditures in such manner as to enable the WUTC to ascertain the amount of money so expended and the purpose for which the expenditure was made. Such purposes are permitted by RCW 80.08.030.

In accordance with WAC 480-90-242, the Company will, within 60 days after the issuance of any First Mortgage Bonds, file with the WUTC a verified statement (a) outlining the final terms and conditions of the transaction; and (b) setting forth actual proceeds from the issuance and, to the extent known, the disposition of proceeds stating the final amount to be used for each purpose allowed by RCW 80.08.030.

(2) A description of the proposed issuance, including the terms of financing.

(a) Type and nature of securities

The Company will issue the First Mortgage Bonds under its Mortgage and Deed of Trust, dated as of July 1, 1946, as heretofore amended and supplemented by 21 Supplemental Indentures, including the 21st Supplemental Indenture to be entered into in connection with the issuance of the First Mortgage Bonds, (the "Mortgage"), with Deutsche Bank Trust Company Americas (formerly Bankers Trust Company) and R.G. Page (Stanley Burg, successor), Trustees, which is attached hereto as Exhibit B. The Mortgage constitutes a first mortgage lien on substantially all of the utility property now owned and hereafter acquired by the Company. The First Mortgage Bonds will be issued through a Bond Purchase Agreement, which is attached hereto as Exhibit C.

The First Mortgage Bonds will be sold on a private placement basis in a negotiated transaction and will be unregistered securities. The Company signed the Bond Purchase Agreement on July 12, 2012, and will close the Bond Purchase Agreement by selling the First Mortgage Bonds and receiving proceeds on or before October 31, 2012. The bonds will have a term of 30 years.

(b) Amount of Securities

The Company makes this filing to comply with the requirements of RCW 80.08.040 and WAC 480-90-242 with respect to the issuance and sale of an aggregate principal amount of \$50,000,000 of First Mortgage Bonds.

(c) Interest Rate

The interest rate on the First Mortgage Bonds will be fixed and payable semi-annually in arrears, beginning on February 15, 2013. The interest rate for the First Mortgage Bonds is determined at the point of sale based on individual negotiations between individual investors, through a placement agent, and the Company, based on prevailing rates at the time for U.S. Treasury debt securities of comparable maturities and spreads over those rates reflecting the risk premium for corporate debt with the Company's credit ratings. Pursuant to the Bond Purchase Agreement, the interest rate (i.e. coupon rate) for the First Mortgage Bonds will be 4.00 percent.

(d) Date of Issuance and Maturity

Pursuant to the Bond Purchase Agreement, the Company expects to issue \$50,000,000 of First Mortgage Bonds on or before October 31, 2012. The First Mortgage Bonds will be issued on a private placement basis through privately negotiated transactions as reflected in the Bond Purchase Agreement, and will be unregistered securities. The First Mortgage Bonds will have a 30-year maturity.

(e) Method of Sale

The First Mortgage Bonds will be issued and sold with the services of Wells Fargo Securities, LLC as Sole Lead Placement Agent and Merrill Lynch, Pierce, Fenner & Smith Incorporated as co-agent.

(f) Fees for Services. Upon execution of the Bond Purchase Agreement, the Company will pay a fee equal to 0.60 percent of the aggregate principal amount of the First Mortgage Bonds sold to investors (Placement Fee). The Placement Fee will be allocated 75 percent to Wells Fargo Securities, LLC and 25 percent to the

Merrill Lynch, Pierce, Fenner & Smith, Incorporated. The Placement Fee is a customary fee for such services in arm's-length transactions.

(g) Price and Proceeds. The following are the estimated fees and expenses the Company expects to incur in connection with the issuance of the First Mortgage Bonds.

Estimated Fees and Expenses

<u>Item</u>	<u>Amount</u>
1. Principal amount or Par Value	\$50,000,000
2. Plus Premium or Less Discount	None
3. Gross proceeds estimated	<u>50,000,000</u>
4. Agents' Commissions	300,000
5. Securities and Exchange Commission registration fee	None
6. State mortgage registration tax	None
7. New York Stock Exchange fee	None
8. State Commission fee	None
9. Fees for recording indenture	3,000
10. United States document tax	None
11. Printing and engraving expenses	None
12. Trustee's or Registrar's fees	20,000
13. Counsel's fees	250,000
14. Accountants' fees	None
15. Bond Rating Agency fees	None
16. Miscellaneous expenses	<u>10,000</u>
17. Total estimated commissions and expenses	<u>583,000</u>
18. Net estimated amount to be realized	\$49,417,000

(h) Corporate Authority

The Company's management and Board of Directors have concluded that the Company will have an opportunity to achieve the most favorable terms, e.g. lowest cost of money with desired issuance maturity and redemption provisions and timing of issuance through a delayed takedown with the issuance of the First Mortgage Bonds as contemplated in the Bond Purchase Agreement.

The Board of Directors has authorized the issuance of up to \$300,000,000 of secured notes under the Mortgage through public or private placement and has authorized the officers of the Company to seek OPUC and WUTC approval for such issuances. In addition, the Board of Directors has delegated to the Finance Committee of the Board the authority to issue and sell up to an aggregate principal amount of \$300,000,000 of secured notes, including through a private placement. A copy of Certified Board Resolutions is attached hereto as Exhibit D. The Finance Committee of the Board of Directors has approved the sale of the First Mortgage Bonds through the Bond Purchase Agreement, and has authorized the officers of the Company to seek WUTC approval for such issuances. A copy of the Certified Finance Committee Resolutions are attached hereto as Exhibit E. The OPUC has issued an order that permits the Company to issue the First Mortgage Bonds.

(i) Other Matters

The First Mortgage Bonds to be issued as proposed herein will not be issued *pro rata* to existing holders of securities of the Company pursuant to any preemptive right or in connection with any liquidation or reorganization. None of the First Mortgage Bonds will have voting privileges.

(j) Consistency with Company Financing Plan

The financing plan described in this Statement is consistent with NW Natural's objectives to maintain a long-term capital structure consisting of approximately 50 percent common stock equity and approximately 50 percent long-term debt, and to maintain investment-grade credit ratings. As of the date of this Statement and Request, the Company's secured debt is rated "A1" by Moody's Rating and "A+" by Standard &

Poor's (S&P), and the Company's unsecured debt is rated "A3" by Moody's, with a stable credit outlook by Moody's and a stable credit outlook by S&P.

The following table sets forth the Company's capital structure at June 30, 2012, along with its pro forma capital structure assuming the issuance of the full \$50,000,000 of the First Mortgage Bonds.

	Capital Structure at June 30, 2012 (\$000)	Percent of Total	Pro Forma Financings (\$000) ²	Pro Forma Capital Structure with Financings ⁽¹⁾	Percent of Total
Common Equity	737,570	49.4%		737,570	49.4%
Long-Term debt ³	641,700	43.0%	50,000	691,700	46.3%
Long-Term debt due within one year	0	0%		0	0%
Short-term notes payable	113,200	7.6%	(49,417)	63,733	4.3%
Total ¹	1,492,470	100.00%	583	1,493,003	100.0%

¹ The pro forma capital structure set forth in the table above is not a projection of the Company's actual capital structure at June 30, 2012; it is for demonstrative purposes only and is presented on a consolidated basis. The Universal Shelf Registration that the Company maintains for its Medium-Term Note Program allows for issuance of equity as well as debt securities. The Company will seek approval for equity issuances under the Universal Shelf Registration in a separate application to the WUTC at the appropriate time. The Company intends to seek approval for and issue sufficient equity to maintain a capital structure with a total common equity level of 45 to 50 percent.

² Reduced the debt issuance to reflect issuance fees and costs.

³ Includes \$40 million of Gill Ranch Storage, LLC debt that is nonrecourse to the Company.

(3) A Statement as to why the transaction is in the public interest.

The advantages of the First Mortgage Bond issuance in a private placement offering is that it enables the Company to: (1) issue a small tranche of debt at a rate that generally would be below that which could be obtained in a larger publicly underwritten issue; (2) negotiate customized terms and delayed settlement dates to take advantage of current favorable yield and credit spread market conditions; (3) obtain more attractive pricing on smaller-sized transactions; (4) manage its financing program in light of market changes; (5) balance the maturities of its debt securities; and (6) achieve a lower average interest cost while managing interest rate risk. In short, the

First Mortgage Bonds give the Company flexibility to take advantage of the current favorable markets and attractive debt terms while delaying the higher cost of long-term debt to a later point in time to better balance the Company's debt portfolio.

The market for our First Mortgage Bonds is comprised of a broad mix of money center and regional institutions. These represent money market and corporate bond investors including banks, bank trust departments, insurance companies, investment companies, municipalities, pension funds and others, including individual investors. The depth of the market is significant. For more than 15 years, utilities and other corporate issuers have found a strong acceptance for their debt securities in this market.

NW Natural believes that the facts set forth herein show that the proposed issuance and sale of the First Mortgage Bonds is for a lawful object within the corporate purposes of the Company and is compatible with the public interest; that said object is necessary or appropriate for or consistent with the proper performance by the Company of service as a public utility; and that the issuance and sale of the First Mortgage Bonds is reasonably necessary or appropriate for such purpose.

As a public utility, the Company is obligated to secure sufficient gas supplies and maintain sufficient distribution capacity to serve its customers reliably at the lowest reasonable cost. The Company believes that the First Mortgage Bonds described herein will further enable the Company to effectively manage the overall financing costs and risks associated with the Company's public utility obligations. Therefore, the Company believes that the First Mortgage Bonds are for a lawful object within the corporate purposes of the Company; are compatible with the public interest; that said object is necessary or appropriate for and consistent with the proper performance by the Company of service as a public utility; will not impair the

Company's ability to perform such service; and is reasonably appropriate for such purposes.

Accordingly, this filing satisfies the Company's obligations under RCW 80.08.040. In addition, and pursuant to RCW 80.08.040(4), the Company respectfully requests a written order establishing the Company's compliance with RCW 80.08.040 and WAC 480-90-242.

The undersigned hereby states, "I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct."

DATED at Portland, Oregon this 10th day of August, 2012.

NORTHWEST NATURAL GAS COMPANY

By 
Stephen P. Feltz
Treasurer and Controller

EXHIBITS

- Exhibit A Proposed Form of Order
- Exhibit B Copy of the Mortgage and Deed of Trust, dated as of July 1, 1946, as heretofore amended and supplemented by 21 Supplemental Indentures, to Deutsche Bank Trust Company Americas (formerly Bankers Trust Company) and R.G. Page (Stanley Burg, successor), Trustees
- Exhibit C Form of Bond Purchase Agreement
- Exhibit D A certified excerpt of minutes of the Board of Directors meeting held December 20, 2007 delegating to the Finance Committee of the Board of Directors, the authority to approve the issuance of certain securities, including mortgage bonds, and to approve the forms of the agreements establishing and selling such securities
- Exhibit E A certified excerpt of the minutes of the Finance Committee of the Board of Directors meeting held July 10, 2012 approving the sale of the First Mortgage bonds, approving the Bond Purchase Agreement, and approving the 21st Supplemental Indenture
- Exhibit F A copy of the Company's Restated Article of Incorporation, as amended.
- Exhibit G A copy of the Company's Bylaws, as amended.

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Statement and Request for Written Order)	DOCKET NO. UG-_____
)	
NORTHWEST NATURAL GAS COMPANY,)	ORDER NO.____
)	
Applicant,)	
)	
Establishing Compliance with RCW 80.08.040, with Respect to its Proposal to Issue and Sell up to \$50,000,000 Principal Amount of First Mortgage Bonds)	ORDER ESTABLISHING COMPLIANCE WITH RCW 80.08.040
.....)	

BACKGROUND

1. On August ____, 2012, Northwest Natural Gas Company (“NW Natural” or the “Company”) filed a Statement and Request for Written Order (“Statement”) with the Washington Utilities and Transportation Commission (the “Commission”). In its Statement, the Company requested an order affirming that it has complied with the requirements of RCW 80.08.040 for the proposed issuance and sale of up to \$50,000,000 principal amount of first mortgage bonds under its Mortgage and Deed of Trust, dated as of July 1, 1946, as heretofore amended and supplemented by 21 Supplemental Indentures (First Mortgage Bonds). These First Mortgage Bonds will be issued on a private placement basis in a privately negotiated transaction and will be unregistered securities. The Statement is filed pursuant to Chapter 80.08 RCW and the requirements of WAC 480-90-242.

2. According to the Statement and supporting materials filed by the Company, the proceeds of the financings are for one or more of the purposes allowed by RCW 80.08.030. The Company expects to use the proceeds of the Note issuance

FINDINGS AND CONCLUSIONS

3. (1) NW Natural is engaged in the business of natural gas service within the state of Washington. As a public service company, it is subject to the jurisdiction of the Commission under the provisions of Chapter 80.08 RCW.
4. (2) As to form, the Statement and Request for Written Order herein meets the requirements of Chapter 80.08 RCW and the rules and regulations of the Commission adopted pursuant thereto. Chapter 480-90 WAC.
5. (3) The Company's Statement and Request for Written Order in this Docket contains:
(a) a description of the purposes for which the issuance will be made, including a certification by an officer authorized to do so, that the proceeds from any such financing is for one or more of the purposes allowed by RCW 80.08.030; (b) a description of the proposed issuances, including the approximate terms of financing; and (c) a statement as to why the proposed transaction is in the public interest.

PORTLAND GAS & COKE COMPANY

TO

BANKERS TRUST COMPANY

AND

R. G. PAGE,
TRUSTEES.

Mortgage and Deed of Trust

Dated as of July 1, 1946.

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INDENTURE, dated as of the 1st day of July, 1946, made and entered into by and between **PORTLAND GAS & COKE COMPANY**, a corporation of the State of Oregon, whose post office address is Public Service Building, Portland, Oregon (hereinafter sometimes called the Company), party of the first part, and **BANKERS TRUST COMPANY**, a corporation of the State of New York, whose post office address is 16 Wall Street, New York, New York (hereinafter sometimes called the Corporate Trustee), and **R. G. PAGE**, whose post office address is 735 Belvidere Avenue, Plainfield, New Jersey (hereinafter sometimes called the Co-Trustee), as Trustees, parties of the second part (the Corporate Trustee and the Co-Trustee being hereinafter together sometimes called the Trustees);

WHEREAS, the Company has deemed it necessary to borrow money for its corporate purposes and to issue its bonds therefor from time to time in one or more series, and to mortgage and pledge its property hereinafter described or mentioned to secure the payment of the same, such bonds to be coupon bonds and/or fully registered bonds, authenticated by the certificate of the Corporate Trustee and issuable as in this Indenture hereinafter provided, such coupon bonds, coupons, fully registered bonds and Corporate Trustee's authentication certificate to be substantially in the forms following, respectively, with such insertions, omissions and variations as the Board of Directors of the Company may determine in accordance with the provisions of this Indenture:

[GENERAL FORM OF COUPON BOND]

PORTLAND GAS & COKE COMPANY

..... **MORTGAGE BOND**

No. Series \$.....

PORTLAND GAS & COKE COMPANY, a corporation of the State of Oregon (hereinafter called the Company), for value received, hereby promises to pay to the bearer, or, if this bond be registered, to the

registered owner hereof, on _____, _____, at the office or agency of the Company in _____,

_____ dollars in such coin or currency of the United States of America as at the time of payment is legal tender for public and private debts, and to pay interest thereon from the date hereof at the rate of _____ per centum per annum in like coin or currency at such office or agency on _____ and _____ in each year, until the Company's obligation with respect to the payment of such principal shall have been discharged. The interest accrued on the principal hereof prior to such principal's becoming due and payable shall be paid only upon presentation and surrender of the interest coupons therefor hereto attached as they severally mature.

This bond is one of an issue of bonds of the Company issuable in series and is one of a series known as its _____ Mortgage Bonds, _____ Series _____, all bonds of all series issued and to be issued under and equally secured (except in so far as any sinking or other fund, established in accordance with the provisions of the Mortgage hereinafter mentioned, may afford additional security for the bonds of any particular series) by a Mortgage and Deed of Trust (herein, together with any indenture supplemental thereto, called the Mortgage), dated as of July 1, 1946, executed by the Company to Bankers Trust Company and R. G. Page, as Trustees. Reference is made to the Mortgage for a description of the property mortgaged and pledged, the nature and extent of the security, the rights of the holders of the bonds and of the Trustees in respect thereof, the duties and immunities of the Trustees, the terms and conditions upon which the bonds are and are to be secured, and the circumstances under which additional bonds may be issued. With the consent of the Company and to the extent permitted by and as provided in the Mortgage, the rights and obligations of the Company and/or the rights of the holders of the bonds and/or coupons and/or the terms and provisions of the Mortgage may be modified or altered by affirmative vote of the holders of at least seventy per centum (70%) in principal amount of the bonds then outstanding under the Mortgage and, if the rights of the holders of one or more, but less than all, series of bonds then outstanding are to be affected, then also by affirmative vote of the holders of at least seventy per centum (70%) in principal amount of the bonds then outstanding of each series of bonds so to be affected (excluding

*refer
indent*

*file for
mortgage
as if
bondholders*

in any case bonds disqualified from voting by reason of the Company's interest therein as provided in the Mortgage); provided that, without the consent of the holder hereof, no such modification or alteration shall, among other things, impair or affect the right of the holder to receive payment of the principal of (and premium, if any) and interest on this bond, on or after the respective due dates expressed herein, or permit the creation of any lien equal or prior to the lien of the Mortgage or deprive the holder of the benefit of a lien on the mortgaged and pledged property.

No impairment of current bondholder's.

The principal hereof may be declared or may become due prior to the maturity date hereinbefore named on the conditions, in the manner and at the time set forth in the Mortgage, upon the occurrence of a default as in the Mortgage provided.

Default acc'd. payment.

This bond is negotiable and shall pass by delivery unless registered as to principal at the office or agency of the Company in _____, and such registration noted hereon, after which no valid transfer hereof can be made, except at such office or agency, until after registered transfer to bearer, but after such registered transfer to bearer this bond shall be again transferable by delivery. Such registration, however, shall not affect the negotiability of the coupons, which shall always remain payable to bearer and transferable by delivery. The Company and the Trustees may deem and treat the bearer of this bond if it be not registered as to principal, or, if this bond is registered as herein authorized, the person in whose name the same is registered, as the absolute owner hereof, and the bearer of any coupon hereunto appertaining as the absolute owner thereof, whether or not this bond or such coupon shall be overdue, for the purpose of receiving payment and for all others purposes, and neither the Company nor the Trustees shall be affected by any notice to the contrary.

Negotiable

As provided in the Mortgage, the Company shall not be required to make transfers or exchanges of bonds of any series for a period of ten days next preceding any interest payment date for bonds of such series, or next preceding any designation of bonds of such series to be redeemed, and the Company shall not be required to make transfers or exchanges of any bonds designated in whole or in part for redemption.

Transfers

No recourse shall be had for the payment of the principal of or interest on this bond against any incorporator or any past, present or future subscriber to the capital stock, stockholder, officer or director

Release of incorp. for Recourse

of the Company or of any predecessor or successor corporation, as such, either directly or through the Company or any predecessor or successor corporation, under any rule of law, statute or constitution or by the enforcement of any assessment or otherwise, all such liability of incorporators, subscribers, stockholders, officers and directors being released by the holder or owner hereof by the acceptance of this bond and being likewise waived and released by the terms of the Mortgage.

Neither this bond nor the coupons hereto attached shall become obligatory until Bankers Trust Company, the Corporate Trustee under the Mortgage, or its successor thereunder, shall have signed the form of authentication certificate endorsed hereon.

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nd

IN WITNESS WHEREOF, PORTLAND GAS & COKE COMPANY has caused this bond to be signed in its corporate name by its President or one of its Vice-Presidents and its corporate seal to be impressed or imprinted hereon and attested by its Secretary or one of its Assistant Secretaries, and interest coupons bearing the facsimile signature of its Treasurer to be attached hereto, as of _____,

PORTLAND GAS & COKE COMPANY,

By _____

Attest:

President.

Secretary.

[GENERAL FORM OF COUPON]

No. _____

\$ _____

On _____, _____, unless the bond hereafter mentioned shall have previously become due and payable, PORTLAND GAS & COKE COMPANY will pay to bearer, upon surrender of this coupon, at its office or agency in _____, _____ dollars in such coin or currency of the United States of America as at the time of payment is legal tender for public and private debts, being six months' interest then due on its _____ Mortgage Bond, _____ Series _____, No. _____

Treasurer.

[GENERAL FORM OF FULLY REGISTERED BOND]

PORTLAND GAS & COKE COMPANY

..... MORTGAGE BOND

No. SERIES \$.....

PORTLAND GAS & COKE COMPANY, a corporation of the State of Oregon (hereinafter called the Company), for value received, hereby promises to pay to or registered assigns, on, at the office or agency of the Company in

..... dollars in such coin or currency of the United States of America as at the time of payment is legal tender for public and private debts, and to pay to the registered owner hereof interest thereon from the or next preceding the date of this bond, at the rate of per centum per annum in like coin or currency at such office or agency on and in each year, until the Company's obligation with respect to the payment of such principal shall have been discharged.

This bond is one of an issue of bonds of the Company issuable in series and is one of a series known as its Mortgage Bonds, Series, all bonds of all series issued and to be issued under and equally secured (except in so far as any sinking or other fund, established in accordance with the provisions of the Mortgage hereinafter mentioned, may afford additional security for the bonds of any particular series) by a Mortgage and Deed of Trust (herein, together with any indenture supplemental thereto, called the Mortgage), dated as of July 1, 1946, executed by the Company to Bankers Trust Company and R. G. Page, as Trustees. Reference is made to the Mortgage for a description of the property mortgaged and pledged, the nature and extent of the security, the rights of the holders of the bonds and of the Trustees in respect thereof, the duties and immunities of the Trustees, the terms and conditions upon which the bonds are and are to be secured, and the circumstances

under which additional bonds may be issued. With the consent of the Company and to the extent permitted by and as provided in the Mortgage, the rights and obligations of the Company and/or the rights of the holders of the bonds and/or coupons and/or the terms and provisions of the Mortgage may be modified or altered by affirmative vote of the holders of at least seventy per centum (70%) in principal amount of the bonds then outstanding under the Mortgage and, if the rights of the holders of one or more, but less than all, series of bonds then outstanding are to be affected, then also by affirmative vote of the holders of at least seventy per centum (70%) in principal amount of the bonds then outstanding of each series of bonds so to be affected (excluding in any case bonds disqualified from voting by reason of the Company's interest therein as provided in the Mortgage); provided that, without the consent of the holder hereof, no such modification or alteration shall, among other things, impair or affect the right of the holder to receive payment of the principal of (and premium, if any) and interest on this bond, on or after the respective due dates expressed herein, or permit the creation of any lien equal or prior to the lien of the Mortgage or deprive the holder of the benefit of a lien on the mortgaged and pledged property.

The principal hereof may be declared or may become due prior to the maturity date hereinbefore named on the conditions, in the manner and at the time set forth in the Mortgage, upon the occurrence of a default as in the Mortgage provided.

This bond is transferable as prescribed in the Mortgage by the registered owner hereof in person, or by his duly authorized attorney, at the office or agency of the Company in _____, upon surrender and cancellation of this bond, and upon payment, if the Company shall require it, of the transfer charges provided for in the Mortgage, and, thereupon, a new fully registered bond of the same series for a like principal amount will be issued to the transferee in exchange herefor as provided in the Mortgage. The Company and the Trustees may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment and for all other purposes, and neither the Company nor the Trustees shall be affected by any notice to the contrary.

As provided in the Mortgage, the Company shall not be required to make transfers or exchanges of bonds of any series for a period of ten days next preceding any interest payment date for bonds of such series, or next preceding any designation of bonds of such series to be redeemed, and the Company shall not be required to make transfers or exchanges of any bonds designated in whole or in part for redemption.

No recourse shall be had for the payment of the principal of or interest on this bond against any incorporator or any past, present or future subscriber to the capital stock, stockholder, officer or director of the Company or of any predecessor or successor corporation, as such, either directly or through the Company or any predecessor or successor corporation, under any rule of law, statute or constitution or by the enforcement of any assessment or otherwise, all such liability of incorporators, subscribers, stockholders, officers and directors being released by the holder or owner hereof by the acceptance of this bond and being likewise waived and released by the terms of the Mortgage.

This bond shall not become obligatory until Bankers Trust Company, the Corporate Trustee under the Mortgage, or its successor thereunder, shall have signed the form of authentication certificate endorsed hereon.

IN WITNESS WHEREOF, PORTLAND GAS & COKE COMPANY has caused this bond to be signed in its corporate name by its President or one of its Vice-Presidents and its corporate seal to be impressed or imprinted hereon and attested by its Secretary or one of its Assistant Secretaries on

PORTLAND GAS & COKE COMPANY,

By.....
President.

Attest:

.....
Secretary.

[FORM OF CORPORATE TRUSTEE'S AUTHENTICATION CERTIFICATE ON ALL BONDS]
CORPORATE TRUSTEE'S AUTHENTICATION CERTIFICATE.

This bond is one of the bonds, of the series herein designated, described or provided for in the within-mentioned Mortgage.

BANKERS TRUST COMPANY,
as Corporate Trustee,

By-----

and

WHEREAS, all things necessary to make this Indenture a valid, binding and legal instrument for the security of such bonds have been performed, and the issuance of such bonds, subject to the terms of this Indenture, has been in all respects duly authorized;

Now, THEREFORE, THIS INDENTURE WITNESSETH: That Portland Gas & Coke Company, in consideration of the premises and of One Dollar (\$1) to it duly paid by the Trustees at or before the ensembling and delivery of these presents, the receipt whereof is hereby acknowledged, and in order to secure the payment of both the principal of and interest and premium, if any, on the bonds from time to time issued hereunder, according to their tenor and effect and the performance of all the provisions hereof (including any instruments supplemental hereto and any modification made as in this Indenture provided) and of said bonds, hath granted, bargained, sold, released, conveyed, assigned, transferred, mortgaged, pledged, set over and confirmed and by these presents doth grant, bargain, sell, release, convey, assign, transfer, mortgage, pledge, set over and confirm (subject, however, to Excepted Encumbrances as defined in Section 6 hereof) unto R. G. Page and (to the extent of its legal capacity to hold the same for the purposes hereof) to Bankers Trust Company, as Trustees, and to their successor or successors in said trust, and to said Trustees and their successors and assigns forever, all the properties of the Company specifically described in Article XXI hereof.

Also all other property, real, personal and mixed, of the kind or nature specifically mentioned in Article XXI hereof or of any other kind or nature (except any herein expressly excepted), now owned or, subject to the provisions of subsection (I) of Section 87 hereof, hereafter acquired by the Company (by purchase, consolidation, merger, donation, construction, erection or in any other way) and wheresoever situated, including (without in anywise limiting or impairing by the enumeration of the same the scope and intent of the foregoing or of any general description contained in this Indenture) all lands, gas plants, by-product plants, gas holders, gas mains and pipes; all power sites, water rights, reservoirs, canals, raceways, dams, aqueducts, and all other rights or means for appropriating, conveying, storing and supplying water; all rights of way and roads; all plants for the generation of electricity by steam, water and/or other power; all power houses, street lighting systems, standards and other equipment incidental thereto, telephone, radio, television and air-conditioning systems and equipment incidental thereto, water works, water systems, steam heat and hot water plants, substations, lines, service and supply systems, bridges, culverts, tracks, ice or refrigeration plants and equipment, offices, buildings and other structures and the equipment thereof; all machinery, engines, boilers, dynamos, gas, electric and other machines, regulators, meters, transformers, generators, motors, gas, electrical and mechanical appliances, conduits, cables, gas, water, steam heat or other pipes, service pipes, fittings, valves and connections, pole and transmission lines, wires, cables, tools, implements, apparatus, furniture and chattels; all franchises, consents or permits; all lines for the transmission and distribution of gas, electric current, steam heat or water for any purpose including mains, pipes, conduits, towers, poles, wires, cables, ducts and all apparatus for use in connection therewith; all real estate, lands, easements, servitudes, licenses, permits, franchises, privileges, rights of way and other rights in or relating to public or private property, real or personal, or the occupancy of such property and (except as herein expressly excepted)

all right, title and interest the Company may now have or may hereafter acquire in and to any and all property of any kind or nature wheresoever situated.

TOGETHER WITH all and singular the tenements, hereditaments, prescriptions, servitudes and appurtenances belonging or in anywise appertaining to the aforementioned property or any part thereof, with the reversion and reversions, remainder and remainders and (subject to the provisions of Section 57 hereof) the tolls, rents, revenues, issues, earnings, income, product and profits thereof, and all the estate, right, title and interest and claim whatsoever, at law as well as in equity, which the Company now has or may hereafter acquire in and to the aforementioned property and franchises and every part and parcel thereof.

IT IS HEREBY AGREED by the Company that, subject to the provisions of subsection (I) of Section 87 hereof, all the property, rights, and franchises acquired by the Company (by purchase, consolidation, merger, donation, construction, erection or in any other way) after the date hereof, except any herein expressly excepted, shall be and are as fully granted and conveyed hereby and as fully embraced within the Lien hereof as if such property, rights and franchises were now owned by the Company and were specifically described herein and conveyed hereby.

PROVIDED that the following are not and are not intended to be now or hereafter granted, bargained, sold, released, conveyed, assigned, transferred, mortgaged, pledged, set over or confirmed hereunder and are hereby expressly excepted from the lien and operation of this Indenture, viz.: (1) cash, shares of stock, bonds, notes and other obligations and other securities not hereafter specifically pledged, paid, deposited, delivered or held hereunder or covenanted so to be; (2) merchandise, equipment, apparatus, materials or supplies held for the purpose of sale or other disposition in the usual course of business; fuel, oil and similar materials and supplies consumable in the operation

of any of the properties of the Company; all aircraft, tractors, rolling stock, trolley coaches, buses, motor coaches, automobiles, motor trucks, and other vehicles and materials and supplies held for the purpose of repairing or replacing (in whole or part) any of the same; (3) bills, notes and accounts receivable, judgments, demands and choses in action, and all contracts, leases and operating agreements not specifically pledged hereunder or hereinafter covenanted so to be; (4) the last day of the term of any lease or leasehold which may be or become subject to the Lien hereof; (5) gas, petroleum, carbon, chemicals, light oils, tar products, electric energy, steam, water, ice, and other materials or products manufactured, stored, generated, produced, purchased or acquired by the Company for sale, distribution or use in the ordinary course of its business; all timber, minerals, mineral rights and royalties and all Natural Gas and Oil Production Property, as defined in Section 4 hereof; and (6) the Company's franchise to be a corporation; provided, however, that the property and rights expressly excepted from the lien and operation of this Indenture in the above subdivisions (2) and (3) shall (to the extent permitted by law) cease to be so excepted in the event and as of the date that either or both of the Trustees or a receiver or trustee shall enter upon and take possession of the Mortgaged and Pledged Property in the manner provided in Article XIII hereof by reason of the occurrence of a Default as defined in Section 65 hereof.

TO HAVE AND TO HOLD all such properties, real, personal and mixed, granted, bargained, sold, released, conveyed, assigned, transferred, mortgaged, pledged, set over or confirmed by the Company as aforesaid, or intended so to be, unto R. G. Page and (to the extent of its legal capacity to hold the same for the purposes hereof) to Bankers Trust Company, as Trustees, and their successors and assigns forever.

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth, for the equal pro rata benefit and security of all and every of the bonds and coupons issued and to be issued hereunder, or any of them, in

accordance with the terms of this Indenture, without preference, priority or distinction as to lien of any of said bonds and coupons over any others thereof by reason of priority in the time of the issue or negotiation thereof, or otherwise howsoever, except in so far as any sinking or other fund established by, or in accordance with the provisions of, this Indenture, may afford additional security for the bonds of any particular series, and subject to the provisions hereinafter set forth in reference to extended, transferred or pledged coupons and claims for interest; it being intended that, subject as aforesaid, the lien and security of all of said bonds and coupons of all series issued or to be issued hereunder shall take effect from the execution and delivery of this Indenture, and that the lien and security of this Indenture shall take effect from the date of execution and delivery hereof as though all of the said bonds of all series were actually authenticated and delivered and issued upon such date.

PROVIDED, HOWEVER, and these presents are upon the condition that if the Company, its successors or assigns, shall pay or cause to be paid, the principal of and interest on said bonds, together with the premium, if any, payable on such of said bonds as may have been called for redemption prior to maturity, or shall provide, as permitted hereby, for the payment thereof by depositing with the Corporate Trustee the entire amount due or to become due thereon for principal, interest and premium, if any, and if the Company shall also pay or cause to be paid all other sums payable hereunder by it, then this Indenture and the estate and rights hereby granted shall cease, determine and be void, otherwise to be and remain in full force and effect.

IT IS HEREBY COVENANTED, DECLARED AND AGREED by and between the parties hereto that all such bonds and coupons are to be authenticated, delivered and issued, and that all property subject or to become subject hereto is to be held subject to the further covenants, conditions, uses and trusts hereinafter set forth, and the Company, for itself and its successors and assigns, does hereby covenant and agree to and with

the Trustees and their successor or successors in such trust, for the benefit of those who shall hold said bonds and interest coupons, or any of them, as follows:

ARTICLE I.

Definitions.

SECTION 1. The terms defined in the next succeeding six Sections hereof, numbered from 2 to 7, both inclusive, shall (except as herein otherwise expressly provided) for all purposes of this Indenture, and of any indenture supplemental hereto, have the respective meanings in such Sections specified. Any term defined in Section 303 of the Trust Indenture Act of 1939 and not defined in this Indenture shall have the meaning assigned to such term in such Section 303 as in force on the date of the execution of this Indenture.

SECTION 2. The term "the Company" shall mean the party of the first part hereto, PORTLAND GAS & COKE COMPANY, and, subject to the provisions of Article XVI hereof, shall also include its successors and assigns. For the purposes of (i) clause (2) of subdivision (c) of Section 35 hereof, (ii) the second paragraph of Section 71 hereof, (iii) the second and third paragraphs of Section 78 hereof, (iv) Section 98 hereof, (v) Section 99 hereof, and (vi) paragraph (3) of subdivision (a) of Section 100 hereof, the word "Company" shall be deemed to mean and refer to the Company and any other obligor on the bonds secured hereby.

The term "the Trustees" shall mean the parties of the second part hereto, Bankers Trust Company and R. G. Page, and, subject to the provisions of Article XVII hereof, shall also include their respective successors and assigns.

The term "the Corporate Trustee" shall mean Bankers Trust Company, and, subject as aforesaid, shall also include its successors and assigns. The term "the Co-Trustee" shall mean R. G. Page, and,

subject as aforesaid, shall also include his successors and assigns. The term "Trustee", when used in the singular, shall mean the Corporate Trustee or the Co-Trustee, or any separate trustee or co-trustee appointed as in this Indenture provided. The term "the Original Corporate Trustee" shall mean Bankers Trust Company. The term "the Original Co-Trustee" shall mean R. G. Page.

The term "this Indenture" or "the Mortgage" (the latter being referred to in the general forms of bonds) shall mean this instrument and all indentures supplemental hereto.

The terms "the Lien hereof" and "the Lien of this Indenture" shall mean the lien created by these presents (including the after-acquired property clauses hereof) and the lien created by any subsequent conveyance or delivery to or pledge with the Trustees or either of them hereunder (whether made by the Company or any other corporation or any individual or co-partnership) effectively constituting any property a part of the security held by the Trustees or either of them upon the terms and trusts and subject to the covenants, conditions and uses specified in this Indenture.

The term "the Mortgaged and Pledged Property" shall mean as of any particular time the property (including securities and other personal property) which at said time is subject or intended to be subject to the Lien of this Indenture, whether such lien be created by these presents (including the after-acquired property clauses hereof) or by subsequent conveyance or delivery to or pledge with the Trustees or either of them hereunder or otherwise.

The term "Outstanding", subject to the provisions of Sections 71 and 113 hereof, shall mean as of any particular time with respect to bonds issued or issuable under this Indenture all bonds which theretofore shall have been authenticated and delivered by the Corporate Trustee under this Indenture, except (a) bonds theretofore paid, retired, redeemed, discharged or canceled, or bonds for the purchase, payment or redemption of which money in the necessary amount shall

have been deposited with or shall then be held by the Corporate Trustee with irrevocable direction so to apply the same, provided that, in the case of redemption, the notice required by Article X hereof shall have been given or have been provided for to the satisfaction of the Corporate Trustee; (b) bonds deposited with or held in pledge by the Corporate Trustee under any of the provisions of this Indenture, including any so held under any sinking or other fund; and (c) bonds authenticated and delivered hereunder, upon transfer of which or in exchange or substitution for and/or in lieu of which other bonds have been authenticated and delivered under any of the provisions of this Indenture. Notwithstanding the foregoing provision of this paragraph, for the purpose of determining the right of bondholders to annul a declaration and destroy its effect under Section 67 hereof and for the purpose of determining the right of bondholders to direct the Trustees under Section 71 hereof, and under other provisions of this Indenture relating to the right of bondholders to direct the Trustees, and solely for such purposes, bonds in exchange or substitution for and/or in lieu of which other bonds have been authenticated and delivered under Section 16 hereof and which have not been surrendered to the Corporate Trustee for cancellation, shall be deemed to be Outstanding.

The term "Daily Newspaper" shall mean a newspaper usually published at least five days a week.

SECTION 3. The term "Resolution" shall mean a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors of the Company and to be in full force and effect on the date certified.

The term "Engineer" shall mean an individual who is an engineer or a co-partnership or a corporation engaged in an engineering business, who or which, unless required to be independent, may be regularly employed by the Company.

The term "Officers' Certificate" shall mean a certificate signed by the President or a Vice-President and the Treasurer or an Assistant

Treasurer of the Company. If and to the extent required by the provisions of Section 121 hereof, each such certificate shall include the statements provided for in said Section.

The term "Engineer's Certificate" shall mean a certificate signed by the President or a Vice-President of the Company and by an Engineer (who may be an employee of the Company) appointed by the Board of Directors of the Company, provided, however, if any property or securities are to be released from the Lien of this Indenture, the Engineer's Certificate as to the fair value of such property or securities and as to matters referred to in clause (f) of subdivision (3) of Section 59 hereof shall be made by an independent Engineer, appraiser, or other expert, if the fair value of such property or securities and of all other property or securities released since the commencement of the then current calendar year, as set forth in the certificates required by this Indenture, is ten per centum (10%) or more of the aggregate principal amount of the bonds at the time Outstanding; but such a certificate of an independent Engineer, appraiser, or other expert shall not be required in the case of any release of property or securities, if the fair value thereof as set forth in the certificates required by this Indenture is less than Twenty-five Thousand Dollars (\$25,000) or less than one per centum (1%) of the aggregate principal amount of the bonds at the time Outstanding. If and to the extent required by the provisions of Section 121 hereof, each such certificate shall include the statements provided for in said Section.

The term "independent", when applied to any accountant, Engineer, appraiser or other expert, shall mean such a person who is in fact independent, selected by the Company and approved by the Corporate Trustee in the exercise of reasonable care.

The term "Independent Engineer's Certificate" shall mean a certificate signed by an independent Engineer appointed by the Board of Directors of the Company and approved by the Corporate Trustee in the exercise of reasonable care. If and to the extent required by the

provisions of Section 121 hereof, each such certificate shall include the statements provided for in such Section.

The term "Opinion of Counsel" shall mean an opinion in writing signed by counsel (who may be of counsel to the Company) appointed by the Board of Directors of the Company. If and to the extent required by the provisions of Section 121 hereof, each such opinion shall include the statements provided for in said Section.

The acceptance by the Corporate Trustee of any document the signer of which is required by some provision hereof to be approved by the Corporate Trustee, shall be sufficient evidence of its approval of the signer within the meaning of this Indenture.

The term "Responsible Officers" of any Trustee shall mean and include the chairman of the board of directors, the chairman and vice-chairman of the executive committee of the board of directors, the president, every vice-president, every assistant or second vice-president, the secretary, every assistant secretary, the cashier, every assistant cashier, the treasurer, every assistant treasurer, every trust officer and assistant trust officer, and every officer and assistant officer of such Trustee, other than those specifically above mentioned, to whom any corporate trust matter is referred because of his knowledge of, and familiarity with, a particular subject; and the term "Responsible Officer" shall mean and include any of said officers.

The term "Proceeds of Released Property" shall mean the aggregate of the cash deposited with or received by the Corporate Trustee pursuant to the provisions of Section 59, Section 60, Section 61 (except such cash as is to be paid over to the Company under the provisions of Section 61), or Section 62 hereof.

SECTION 4. (I) The term "Property Additions" shall mean plants, lines, pipes, mains, cables, machinery, boilers, transmission lines, pipe lines, distribution systems, service systems and supply systems and other property, real or personal, and improvements, extensions, additions, renewals or replacements, acquired by the Company by pur-

chase, consolidation, merger, donation, construction, erection or in any other way whatsoever, subsequent to March 31, 1946, or in the process of construction or erection in so far as actually constructed or erected subsequent to March 31, 1946, and used or useful or to be used in or in connection with the business of generating, manufacturing, producing, transmitting, transporting, distributing or supplying gas or electricity for heat, power, refrigeration, light or other purposes, or steam or hot water for power, heat or other purposes or in the gas by-product business. The term "Property Additions" shall not, however, include (1) any shares of stock, bonds, notes or other obligations or other securities or contracts, leases, or operating agreements, bills, notes, accounts receivable or choses in action, or (2) except as herein otherwise specifically provided, going value, good will, franchises or governmental permits or licenses, as such, granted to or acquired by the Company separately and distinctly from the property operated thereunder or in connection therewith or incident thereto, or (3) any merchandise, equipment, apparatus, materials or supplies held for the purpose of sale or other disposition in the usual course of business; fuel, oil or similar materials or supplies consumable in the operation of any of the properties of the Company; or aircraft, tractors, rolling stock, trolley coaches, buses, motor coaches, automobiles, motor trucks or other vehicles, or materials and supplies held for the purpose of repairing or replacing (in whole or part) any of the same; or timber, minerals, mineral rights or royalties or Natural Gas and Oil Production Property, or (4) any property which is located outside of the limits of the States of Oregon, Washington, Idaho and California, and states contiguous thereto, as the same may be now or hereafter constituted, unless such property shall be connected by pipe line, transmission, distribution or other line owned by the Company with a system, line, plant or power house owned or operated by the Company which is located within such limits or shall be auxiliary to property so located or connected, or (5) any property which is located outside of the limits of the United States of America, or (6) any

natural gas transmission lines (other than lines replacing artificial gas transmission lines between distribution systems) or other works or property used primarily and principally in the transmission of natural gas up to the point of connection with any distribution system, or (7) any property, the cost of acquiring, making or constructing which is chargeable under accepted principles of accounting to operating expenses.

The term "Natural Gas and Oil Production Property" shall mean all leases, consolidated leases and operating agreements, fee lands and other mineral interests, gas and oil rights, wells, field compressors, equipment and other properties and rights whether producing or non-producing, used or useful primarily and principally for the production and gathering of natural gas up to the point of connection with any gas transmission or distribution system or used or useful primarily and principally for the production or gathering of oil.

(II) When any Property Additions are certified to the Corporate Trustee in any certificate in any application under any of the provisions of this Indenture as the basis either of the authentication and delivery of bonds or of the release of property or the withdrawal of cash (except in the case of the release of property, or the withdrawal of cash representing the proceeds of insurance on or of the release of property or payment of or on account of obligations secured by purchase money mortgages, in each case on the basis of Property Additions acquired or constructed within ninety (90) days prior to the date of application for such release, or to the receipt by the Corporate Trustee of such cash, or subsequent to such application or receipt of cash, and except under the provisions of Section 39 hereof),

(A) there shall be deducted from the Cost or fair value thereof to the Company, as the case may be (as of the date so certified), an amount equal to the Cost (or as to Property Additions of which the fair value to the Company at the time the same became Funded Property was less than the Cost as determined pursuant to this Section, then such fair value in lieu of Cost)

of all Funded Property of the Company retired subsequent to March 31, 1946 (other than the Funded Property, if any, in connection with the application for the release of which such certificate is filed) and not theretofore deducted from the Cost or fair value to the Company of Property Additions theretofore certified to the Corporate Trustee, and

(B) there may, at the option of the Company, be added to such Cost or fair value, as the case may be, the sum of

(a) the principal amount of any obligations secured by purchase money mortgages and any cash (other than proceeds of such purchase money obligations), not theretofore so added and which the Company then elects so to add, received by the Corporate Trustee or the trustee or other holder of any Qualified Lien, in either case representing the proceeds of insurance on, or of the release or other disposition of, Funded Property retired;

(b) the principal amount of any bond(s) or fraction of a bond, not theretofore so added and which the Company then elects so to add, the right to the authentication and delivery of which under the provisions of Section 26 or Section 29 hereof shall have been waived as the basis of the release of Funded Property retired;

(c) the fair value, not theretofore so added and which the Company then elects so to add, at the time of its release of any Funded Property released from the Lien hereof to the extent that such release has been made on the basis of Property Additions and which Funded Property has been retired on the books of the Company;

(d) unless all bonds of the First Series shall have ceased to be Outstanding, the Cost or fair value (whichever is less) to the Company of any Property Additions, not theretofore so added and which the Company then elects so to add, which shall have been made the basis of a credit under the provisions of clause (3) or clause (b) of subsection (I) of Section 39 hereof;

(e) unless all bonds of the First Series shall have ceased to be Outstanding, the aggregate principal amount of bonds issued hereunder, not theretofore so added and which the Company then

elects so to add, which bonds shall have been purchased or redeemed with cash deposited pursuant to the provisions of Section 39 hereof, or the right to the authentication and delivery of which bonds the Company has made the basis of a credit under clause (4) or clause (c) of subsection (I) of said Section 39; and

(f) the Cost to the Company of any Property Additions not theretofore so added and which the Company then elects so to add, to the extent that the same shall have been substituted (otherwise than under the release or cash withdrawal provisions hereof) for Funded Property retired;

provided, however, that the aggregate of the amounts added under clause (B) above shall in no event exceed the amounts deducted under clause (A) above and provided further, that neither any reduction in the Cost or book value of property recorded in the plant account of the Company nor the transfer of any amounts appearing in such account to intangible and/or adjustment accounts otherwise than in connection with actual retirements of physical property abandoned, destroyed, released or disposed of, or retired from plant account, subsequent to March 31, 1946, shall be deemed to be Funded Property retired for the purposes of this Section.

(III) The term "Cost" with respect to Property Additions made the basis under any of the provisions of this Indenture of the authentication and delivery of bonds, or the withdrawal of cash or the release of property or the basis of a credit under the provisions of Section 39 or Section 40 hereof shall mean the sum of (i) any cash forming a part of such Cost, (ii) an amount equivalent to the fair market value in cash (as of the date of delivery) of any securities delivered in payment therefor or for the acquisition thereof, (iii) the principal amount of any prior lien bonds secured by prior lien upon such Property Additions, outstanding at the time of their acquisition, unless the Engineer's Certificate in subdivision (3) of Section 28 hereof provided for shall state that the required amount has theretofore been deducted in compliance with the provisions of Section 26 hereof when other Property

Additions subject to such prior lien shall have been made the basis under any of the provisions of this Indenture of the authentication and delivery of bonds or the withdrawal of cash or the release of property or the basis of a credit under the provisions of Section 39 or Section 40 hereof, and (iv) the principal amount of any other indebtedness incurred or assumed as all or part of the Cost to the Company of such Property Additions; provided, however, that, notwithstanding any other provision of this Indenture, in any case where Property Additions shall have been acquired (otherwise than by construction) by the Company without any consideration consisting of cash, property or securities or the incurring or assumption of indebtedness, no determination of Cost shall be required, and wherever in this Indenture provision is made for Cost or fair value, the Cost, in such case, shall mean an amount equal to the fair value thereof.

If any Property Additions are shown by the Engineer's Certificate provided for in subdivision (3) of Section 28 hereof to include property which has been used or operated by others than the Company in a business similar to that in which it has been or is to be used or operated by the Company, the Cost thereof may include the amount of cash or the value of any portion of the securities paid or delivered for any rights and intangible property simultaneously acquired for which no separate or distinct consideration shall have been paid or apportioned, and in such case the term Property Additions as defined herein may include such rights and intangible property.

For the purposes of the deductions required by this Section, the Cost and/or the fair value to the Company of Funded Property retired shall be determined as follows: (aa) in the case of property which was owned by Portland Gas & Coke Company on March 31, 1946, the Cost thereof shall be the Cost as shown on the books of the Company or, if not so separately shown, the Cost as estimated by the Company; and (bb) in the case of Property Additions retired, the Cost or the fair value thereof to the Company shall be the Cost or the fair value thereof to the Company as shown by the Engineer's Certificate or

Independent Engineer's Certificate furnished to the Corporate Trustee at the time such Property Additions became Funded Property, or, if not separately shown in such certificate, shall be such portion of the Cost or the fair value to the Company of Property Additions shown in such certificate as shall be allocated to such Property Additions retired in any Engineer's Certificate subsequently delivered to the Corporate Trustee; and in case such Property Additions shall not have been included in any Engineer's Certificate or Independent Engineer's Certificate theretofore furnished to the Corporate Trustee, the Cost or the fair value thereof to the Company shall be as shown, as of the time when they became Funded Property, in an Engineer's Certificate then delivered to the Corporate Trustee.

SECTION 5. The term "Funded Property" shall mean:

(1) all property, except property expressly excepted from the Lien of this Indenture, owned by Portland Gas & Coke Company on March 31, 1946;

(2) all Property Additions to the extent that the same shall have been made the basis of the authentication and delivery of bonds under this Indenture;

(3) all Property Additions to the extent that the same shall have been made the basis of the release of property from the Lien of this Indenture, subject, however, to the provisions of Section 59 hereof;

(4) all Property Additions to the extent that the same shall have been substituted (otherwise than under the release or cash withdrawal provisions hereof) for Funded Property retired;

(5) all Property Additions to the extent that the same shall have been made the basis of the withdrawal of any Funded Cash, as hereinafter defined, held by the Corporate Trustee hereunder or by the trustee or other holder of a Qualified Lien as hereinafter defined, subject, however, to the provisions of Section 37 hereof and clause (a) of Section 61 hereof, and except to the extent that any such Property Additions shall no longer be deemed to be Funded Property in accordance with the provi-

sions of clause (b) of Section 61 hereof or clause (d) of this Section; and

(6) unless all bonds of the First Series shall have ceased to be Outstanding, all Property Additions to the extent that the same shall have been made the basis of a credit under the provisions of clause (3), clause (b) or clause (ii) of subsection (I) of Section 39 hereof or under the provisions of Section 40 hereof.

In the event that, in any certificate filed with the Corporate Trustee in connection with any of the transactions referred to in clauses (2), (3), (5) and (6) of this Section, only a part of the Cost or fair value of the Property Additions described in such certificate shall be required for the purposes of such certificate, then such Property Additions shall be deemed to be Funded Property only to the extent so required for the purposes of such certificate.

All Funded Property that shall be retired on the books of the Company from plant account or abandoned, destroyed or released or otherwise disposed of shall for the purpose of Section 4 hereof be deemed Funded Property retired and for other purposes of this Indenture shall thereupon cease to be Funded Property but as in this Indenture provided may at any time thereafter again become Funded Property.

The term "Funded Cash" shall mean:

(a) cash, held by the Corporate Trustee hereunder or by the trustee or other holder of a Qualified Lien as hereinafter defined, to the extent that it represents the proceeds of insurance on or the release of or the taking by eminent domain of property, or the proceeds of property purchased by any governmental body or agency or its designee upon exercise of any right which it may have to purchase the same or designate a purchaser thereof, or the proceeds of the release of obligations secured by purchase money mortgage which obligations have been delivered to the Corporate Trustee or to the trustee or other holder of a Qualified Lien pursuant to Article XI hereof and used as a credit in any application for the release of property hereunder, or the proceeds of payment to the Corporate Trustee or to such other trus-

tee or holder on account of the principal of obligations secured by purchase money mortgage which obligations have been delivered to it pursuant to Article XI hereof and used as a credit in any application for the release of property hereunder;

(b) cash held at any time in any sinking or improvement fund or other similar device for the retirement of bonds of one or more series issued hereunder (other than cash deposited pursuant to Section 64 hereof), but when all bonds of such one or more series shall have ceased to be Outstanding hereunder, such cash shall no longer be deemed to be or to have been Funded Cash;

(c) any cash deposited with the Corporate Trustee under Sections 30 and/or 46 hereof;

(d) subject to the provisions of Section 61 hereof, any cash deposited with the Corporate Trustee pursuant to the provisions of Section 64 hereof, including cash deposited with the Corporate Trustee solely by reason of the Company's obligation under Section 64 to replace an equivalent amount of cash theretofore withdrawn from the Corporate Trustee on the basis of Property Additions; provided, however, that from and after the making of such deposit of cash with the Corporate Trustee solely by reason of the Company's obligation under Section 64 as aforesaid, and after the Company has irrevocably directed the Corporate Trustee to apply such cash to the retirement of bonds pursuant to the provisions of said Section 64, any Property Additions so made the basis of such withdrawal of cash shall no longer be deemed to be Funded Property, except to the extent of any amount which shall, at the time such Property Additions were made the basis of such withdrawal, have been deducted from the Cost or fair value of such Property Additions pursuant to the provisions of clause (A) of Section 4 hereof less any amount which shall then have been added thereto pursuant to the provisions of clause (B) of said Section 4, and except to the extent of any amount which shall then have been deducted in respect of Qualified Liens on such Property Additions pursuant to Section 26 hereof; and

(e) any cash deposited with the Corporate Trustee under Section 39 (subject to the provisions of said Section 39 permitting

bonds purchased or redeemed by application of cash pursuant to the provisions of said Section 39 to cease to be deemed to have been purchased or redeemed with Funded Cash) or Section 40 hereof, but when all bonds of the First Series shall have ceased to be Outstanding hereunder, such cash shall no longer be deemed to be or to have been Funded Cash.

SECTION 6. The term "Excepted Encumbrances" shall mean as of any particular time any of the following:

(a) liens for taxes, assessments or governmental charges not then delinquent, and liens for workmen's compensation awards and similar obligations not then delinquent, and undetermined liens or charges incidental to construction, and liens for taxes, assessments or governmental charges then delinquent but the validity of which is being contested at the time by the Company in good faith as provided in Section 36 hereof;

(b) any liens securing indebtedness, neither assumed nor guaranteed by the Company nor on which it customarily pays interest, existing upon real estate or rights in or relating to real estate acquired by the Company for substation, transmission line, transportation line, distribution line or right of way purposes;

(c) rights reserved to or vested in any municipality or public authority by the terms of any right, power, franchise, grant, license or permit, or by any provision of law, to terminate such right, power, franchise, grant, license or permit or to purchase or recapture or to designate a purchaser of any of the property of the Company;

(d) rights reserved to or vested in others to take or receive any part of the power, gas, oil or other minerals or timber generated, developed, produced, manufactured, pumped or stored by, or grown on, or acquired with, any property of the Company;

(e) easements, restrictions, exceptions or reservations in any property and/or rights of way of the Company for the purpose of roads, pipe lines, transmission lines, distribution lines, removal of coal or other minerals or timber, and other like purposes, or for the joint or common use of real property, rights

of way, facilities and/or equipment, and defects, irregularities and deficiencies in titles of any property and/or rights of way, which do not materially impair the use of such property and/or rights of way for the purposes for which such property and/or rights of way are held by the Company;

(f) rights reserved to or vested in any municipality or public authority to control or regulate any property of the Company, or to use such property in a manner which does not materially impair the use of such property for the purposes for which it is held by the Company; or

(g) any obligations or duties, affecting the property of the Company, to any municipality or public authority with respect to any franchise, grant, license or permit.

The term "Qualified Lien" shall mean any mortgage or other lien (not included in the term Excepted Encumbrances) prior to the Lien of this Indenture, existing at any particular time upon any Property Additions (so long as such Property Additions remain subject to the Lien hereof) then or theretofore made the basis under any of the provisions of this Indenture for the authentication and delivery of bonds or the withdrawal of cash or the release of property or the basis of a credit under the provisions of Section 39 or Section 40 hereof. The term "Qualified Lien Bonds" shall mean bonds, obligations or other principal indebtedness secured by a Qualified Lien.

The term "Outstanding" with respect to Qualified Lien Bonds shall mean as of any particular time all Qualified Lien Bonds theretofore authenticated and delivered by the trustee or other holder of the Qualified Lien securing the same and/or, if there be no such trustee or other holder, all Qualified Lien Bonds theretofore made and delivered by the maker (or his successor) of such Qualified Lien, except (A) Qualified Lien Bonds theretofore paid, retired, redeemed, discharged or canceled, (B) Qualified Lien Bonds held hereunder, (C) Qualified Lien Bonds held by the trustee or other holder of a Qualified Lien (under conditions such that no transfer of ownership or possession of such Qualified Lien Bonds

by the trustee or other holder of such Qualified Lien is permissible thereunder except upon a default thereunder or except to the Corporate Trustee hereunder to be held subject to the provisions of Article IX hereof or to the trustee or other holder of a Qualified Lien for cancellation or to be held uncanceled under the terms of a Qualified Lien under like conditions), (D) Qualified Lien Bonds for the purchase, payment or redemption of which moneys in the necessary amount shall have been deposited with or be held, with irrevocable direction so to apply, by the Corporate Trustee hereunder or by the trustee or other holder of a Qualified Lien (provided that, in the case of redemption, the notice required therefor shall have been given or have been provided for to the satisfaction of the Corporate Trustee), and (E) Qualified Lien Bonds upon transfer of which or in exchange or substitution for and/or in lieu of which other Qualified Lien Bonds have been authenticated and delivered or made and delivered under any of the provisions of the Qualified Lien securing such Qualified Lien Bonds.

SECTION 7. The term "Net Earning Certificate" shall mean a certificate signed by the President or a Vice-President of the Company and an accountant, who unless required to be independent, may be an officer or employee of the Company, stating

(A) the Adjusted Net Earnings of the Company for a period of twelve (12) consecutive calendar months within the fifteen (15) calendar months immediately preceding the first day of the month in which the application for the authentication and delivery under this Indenture of bonds then applied for is made, specifying:

(1) its operating revenues, with the principal divisions thereof;

(2) its operating expenses, with the principal divisions thereof, including, but without limitation, all expenses and accruals for repairs and maintenance and all appropriations out of income for property retirement not only in respect of the Mortgaged and Pledged Property but also in respect of all other property owned by the Company; provided, however, that, in lieu of including in such operating expenses the amounts actually

appropriated out of income for depreciation and retirement of the Mortgaged and Pledged Property used primarily and principally in the gas, electric, steam and/or hot water utility business or gas by-product business and of the automotive equipment of the Company used in the operation of such property, there shall be included in such operating expenses an amount for each full calendar month included in such period of twelve (12) consecutive calendar months equal to (i) one-twelfth (1/12th) of Four Hundred Thousand Dollars (\$400,000), plus (ii) one-twelfth (1/12th) of two per centum (2%) of the gross charges to plant account for additions to the depreciable property included in the Mortgaged and Pledged Property, used primarily and principally in the gas, electric, steam, and/or hot water utility business or gas by-product business, made subsequent to March 31, 1946, and prior to the beginning of the calendar year within which such calendar month is included, less (iii) one-twelfth (1/12th) of two per centum (2%) of the gross credits to plant account for retirement of the depreciable property included in the Mortgaged and Pledged Property, used primarily and principally in the gas, electric, steam and/or hot water utility business or gas by-product business, made subsequent to March 31, 1946, and prior to the beginning of the calendar year within which such calendar month is included, in each case, excluding from plant account any amounts included in utility plant acquisition adjustment accounts or utility plant adjustment accounts or in any accounts for similar purposes;

(3) the amount remaining after deducting the amount required to be stated in such certificate by clause (2) of this Section from the amount required to be stated therein by clause (1) of this Section;

(4) its rental expenses for plants or systems not otherwise deducted from revenues or from other income in such certificate;

(5) the balance remaining after deducting such rental expenses from the amount required to be stated in such certificate by clause (3) of this Section;

(6) its rental revenues from plants or systems not otherwise included in revenues, or in other income (net), in such certificate;

(7) the sum of the amounts required to be stated in such certificate by clauses (5) and (6) of this Section;

(8) its other income (net);

(9) the sum of the amounts required to be stated in such certificate by clauses (7) and (8) of this Section;

(10) the amount, if any, by which the aggregate of (a) such other income (net) and (b) that portion of the amount required to be stated in such certificate by clause (7) of this Section which, in the opinion of the signers, is directly derived from the operations of property (other than paving, grading and other improvements to, under or upon public highways, bridges, parks or other public properties of analogous character) not subject to the Lien of this Indenture at the date of such certificate, exceeds fifteen per centum (15%) of the sum required to be stated by clause (9) of this Section; provided, however, if the amount required to be stated in such certificate by clause (7) of this Section includes revenues from the operation of property not subject to the Lien of this Indenture, there shall be included in the calculation to be made pursuant to this clause (10) such reasonable interdepartmental or interproperty revenues and expenses between the Mortgaged and Pledged Property and the property not subject to the Lien hereof as shall be allocated to such respective properties by the Company, and

(11) the Adjusted Net Earnings of the Company for such period of twelve (12) consecutive calendar months (being the amount remaining after deducting in such certificate the amount required to be stated by clause (10) of this Section from the sum required to be stated by clause (9) of this Section);

(B) the Annual Interest Requirements, being the interest requirements for twelve (12) months upon:

(i) all bonds Outstanding hereunder at the date of such certificate, except any for the refunding of which the bonds applied for are to be issued;

(ii) all bonds then applied for in pending applications, including the application in connection with which such certificate is made;

(iii) all Qualified Lien Bonds which will be Outstanding immediately after the authentication of the bonds then applied for in pending applications, including the application in connection with which such certificate is made; and

(iv) the principal amount of all other indebtedness (except indebtedness for the payment of which the bonds applied for are to be issued and indebtedness for the purchase, payment or redemption of which moneys in the necessary amount shall have been deposited with or be held by the Corporate Trustee or the trustee or other holder of a Qualified Lien or lien prior to the Lien of this Indenture upon property subject to the Lien of this Indenture with irrevocable direction so to apply the same; provided that, in the case of redemption, the notice required therefor shall have been given or have been provided for to the satisfaction of the Corporate Trustee), outstanding in the hands of the public on the date of such certificate and secured by lien prior to the Lien of this Indenture upon property subject to the Lien of this Indenture, if said indebtedness has been assumed by the Company or if the Company customarily pays the interest upon the principal thereof.

In calculating such Adjusted Net Earnings, all the Company's expenses for taxes (other than income, profits and other taxes measured by, or dependent on, net income), assessments, rentals and insurance and expenses for current repairs and maintenance shall be included in its operating expenses, or otherwise deducted from its revenues and income; provided, however, that no expenses or provisions for interest on any of its indebtedness or for the amortization of debt discount and expense or for other amortization or for any improvement or sinking fund or other device for the retirement of any indebtedness, shall be required to be included in operating expenses to be deducted from, or shall be otherwise required to be deducted from, its revenues or its other income.

If any of the property of the Company owned by it at the time of the making of any Net Earning Certificate shall have been acquired during or after any period for which Adjusted Net Earnings of the

Company are to be computed, the Adjusted Net Earnings of such property (computed in the manner in this Section provided for the computation of the Adjusted Net Earnings of the Company) during such period or such part of such period as shall have preceded the acquisition thereof, to the extent that the same have not otherwise been included and unless such property shall have been acquired in exchange or substitution for property the earnings of which have been included, may, at the option of the Company, be included in the Adjusted Net Earnings of the Company for all purposes of this Indenture, and shall be included if such property has been operated as a separate unit or if the earnings therefrom are readily ascertainable.

In any case where a Net Earning Certificate is required as a condition precedent to the authentication and delivery of bonds, such certificate shall also be made and signed by an independent public accountant selected or approved by the Corporate Trustee in the exercise of reasonable care, if the aggregate principal amount of bonds then applied for plus the aggregate principal amount of bonds authenticated and delivered hereunder since the commencement of the then current calendar year (other than those with respect to which a Net Earning Certificate is not required, or with respect to which a Net Earning Certificate made and signed by an independent public accountant has previously been furnished to the Corporate Trustee) is ten per centum (10%) or more of the aggregate amount of the bonds at the time Outstanding; but no Net Earning Certificate need be made and signed by any person other than the President or a Vice-President and an accountant, as to dates or periods not covered by annual reports required to be filed by the Company, in the case of conditions precedent which depend upon a state of facts as of a date or dates or for a period or periods different from that required to be covered by such annual reports.

Each such certificate shall include the statements required by Section 121 hereof.

The phrase "appropriations out of income for property retirement"; and other phrases of similar import shall be deemed to include

not only charges made upon a retirement accounting theory but also charges made on any depreciation or other accounting theory intended to provide for retirement of property.

The accounting terms used in this Indenture shall be construed either in accordance with generally accepted accounting principles and practices in use at the time by companies operating like properties or, at the option of the Company, in accordance with generally accepted accounting principles and practices in use at the date of this Indenture.

ARTICLE II.

Form, Execution, Registration and Exchange of Bonds.

SECTION 8. At the option of the Company, the bonds issued hereunder may be issued in one or more series, the bonds of each series (other than the First Series, hereinafter in Section 19 described) maturing on such date or dates and bearing interest at such rate or rates as the Board of Directors of the Company prior to the authentication thereof may determine. Subject to the provisions of Section 19 hereof as to the First Series, the form of each series of bonds issued hereunder and of the coupons to be attached to the coupon bonds of such series shall be established by Resolution of the Board of Directors of the Company. The bonds and coupons of any one or more series may be expressed in one or more foreign languages, if also expressed in the English language. The English text shall govern the construction thereof and both or all texts shall constitute but a single obligation. The English text of the coupon bonds, coupons, fully registered bonds and the Corporate Trustee's authentication certificate shall be respectively substantially of the tenor and purport hereinbefore recited; provided, however, that the form of each series, as established by the Board of Directors, shall specify the descriptive title of the bonds (which shall contain the words "Mortgage Bond"), the designation of the series, the date of the coupon bonds of that

series, the rate or rates of interest to be borne by the bonds of that series, the coin or currency in which payable, the date or dates of maturity, the dates for the payment of interest, and a place or places for the payment of principal and interest. Subject to the provisions of Section 19 hereof with respect to the First Series, any series of bonds may also contain such provisions not inconsistent with the provisions of this Indenture as the Board of Directors may, in its discretion, cause to be inserted therein:

(a) specifying any additional place or places, either in the United States of America or, subject to the provisions of Section 18 hereof, elsewhere, for the payment of principal and/or interest and/or a place or places for the registration of bonds and/or the transfer of bonds;

(b) expressing any obligation of the Company for the payment of the principal of the bonds of that series or the interest thereon, or both, without deduction for taxes and/or for the reimbursement of taxes in case of payment by the bondholders, it being agreed that such obligation may be limited to taxes imposed by any taxing authorities of a specified class and may exclude from its operation or be limited to any specified tax or taxes or any portion thereof; and/or expressing any obligation of the Company for the creation of a sinking fund or other analogous device for the bonds of that series, and/or expressing any obligation of the Company to permit the conversion of bonds of that series into capital stock of the Company or of any other corporation of any designated class or classes;

(c) permitting the bondholders to make, at a specified place or places, any or all of the following exchanges, viz.: exchanges of coupon bonds for fully registered bonds; exchanges of fully registered bonds for coupon bonds; exchanges of coupon bonds for coupon bonds of other authorized denominations; exchanges of fully registered bonds for fully registered bonds of other authorized denominations; and exchanges of bonds of one series for bonds of another series; and such privilege of exchange may in any case be made subject to such conditions, limitations or restrictions as the Board of Directors may determine and the

privilege of exchange may in any case be conferred upon the holders of bonds of one or more denominations and withheld from the holders of bonds of other denominations of the same series and may in any case be conferred on the holders of fully registered bonds and withheld from the holders of coupon bonds or vice versa;

(d) reserving to the Company the right to redeem all or any part of the bonds of that series before maturity at a time or times and at a redemption price or prices to be specified in the form of bond; and/or

(e) in any other respect expressing or referring to the terms and conditions upon which such bonds are to be issued and/or secured under this Indenture.

SECTION 9. Any series of bonds may be executed, authenticated and delivered originally as coupon bonds and/or as fully registered bonds, of such denomination or denominations as the Board of Directors of the Company may from time to time authorize.

SECTION 10. Every fully registered bond shall be dated as of the date of authentication (except that if any fully registered bond of any series shall be authenticated upon any interest payment date for that series, it shall be dated as of the day following) and shall bear interest from the beginning of the current interest period for that series; provided, however, that if any fully registered bond shall be authenticated and delivered upon a transfer of, or in exchange for or in lieu of, any bond or bonds upon which interest is in default, it shall be dated so that such bond shall bear interest from the last preceding date to which interest shall have been paid on the bond or bonds in respect of which such fully registered bond shall have been delivered. The coupon bonds of each series of bonds issued hereunder shall be dated as of such date as may be determined by the Board of Directors of the Company and designated in the form established for such series.

SECTION 11. Any bond may have imprinted thereon or included therein any legend or legends required in order to comply with any law

or with any rules or regulations made pursuant thereto or with the rules or regulations of any stock exchange or to conform to usage, and the Board of Directors of the Company by Resolution may at any time amend the form of any legend to be used on bonds then Outstanding so as to comply with any such law, rule or regulation, or so as to conform to usage.

SECTION 12. In all cases in which the privilege of exchanging bonds exists and is exercised, the bonds to be exchanged shall be surrendered at such place or places as shall be designated by the Board of Directors of the Company for the purpose, with all unmatured coupons appertaining thereto (in the case of coupon bonds) and the Corporate Trustee shall authenticate and the Company shall deliver in exchange therefor the bond or bonds which the bondholder making the exchange shall be entitled to receive, having attached thereto, in the case of coupon bonds, all unmatured coupons appertaining thereto. In case at the time of any such exchange, interest on the bonds of such series is in default, all coupon bonds of such series surrendered for exchange and delivered in exchange shall have attached thereto all matured coupons in default. All bonds so surrendered for exchange shall be in bearer form or, if registered, accompanied by a written instrument or instruments of transfer, if required by the Company duly executed by the registered owner or his duly authorized attorney. All bonds so surrendered for exchange and the coupons appertaining thereto shall be canceled by the Corporate Trustee. Upon any transfer of bonds as permitted by the next succeeding Section, and upon any exchange of bonds, the Company may make a charge therefor sufficient to reimburse it for any tax or taxes or other governmental charge and in addition may charge a sum not exceeding Two Dollars (\$2) for each bond authenticated and delivered upon any such transfer or exchange, which shall be paid by the party requesting such transfer or exchange as a condition precedent to the exercise of the privilege of making such transfer or exchange. The Company shall not be required to make transfers or exchanges of bonds of any series for a

period of ten (10) days next preceding any interest payment date of such series, or next preceding any designation of bonds of such series to be redeemed. The Company shall not be required to make transfers or exchanges of any bonds designated in whole or in part for redemption.

SECTION 13. The Company shall keep, at such place or places as shall be designated for the purpose, books for the registration and transfer of bonds issued hereunder, which, at all reasonable times, shall be open for inspection by the Corporate Trustee; and upon presentation for such purposes at any such place or places, the Company will register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as it may prescribe, any bonds issued under this Indenture and entitled to registration or transfer at such office. Upon the registration of any coupon bond as to principal, the fact of such registration shall be noted on such bond. Upon the transfer of any fully registered bond, the Corporate Trustee shall authenticate and the Company shall issue in the name of the transferee or transferees a new fully registered bond or new fully registered bonds of the same series for a like principal amount. All fully registered bonds so surrendered for transfer shall be cancelled by the Corporate Trustee.

SECTION 14. All bonds authenticated and delivered hereunder shall, from time to time, be executed on behalf of the Company by its President or one of its Vice-Presidents and its corporate seal shall be thereon impressed or imprinted and attested by its Secretary or one of its Assistant Secretaries. The coupons to be attached to coupon bonds shall bear the facsimile signature of the present or any future Treasurer of the Company. In case any of the officers who shall have signed any bonds or attested the seal thereon, or whose facsimile signature appears on any coupon, shall cease to be such officers of the Company before the bonds so signed and/or sealed shall have been actually authenticated and delivered by the Corporate Trustee or issued by the Company, such bonds nevertheless may be authenticated, delivered

and/or issued with the same force and effect as though the person or persons who signed such bonds and/or attested the seal thereon and/or whose facsimile signature appears on any coupon had not ceased to be such officer or officers of the Company. Before authenticating any coupon bonds, the Corporate Trustee shall cut off and cancel all matured coupons thereto attached (except as otherwise provided or permitted in Sections 12 and 16 hereof).

SECTION 15. There may be authenticated and delivered and issued from time to time in lieu of (or in exchange for) any definitive bond or bonds issued or issuable under this Indenture one or more temporary typewritten, printed, lithographed or engraved bonds substantially of the tenor of the bonds hereinbefore described, with or without one or more coupons, and with or without the privilege of registration as to principal only, or as to both principal and interest, and with or without a recital of specific redemption prices, and such temporary bond or bonds may be in such denomination or denominations as the Board of Directors of the Company may determine. Definitive bonds may be in the form of fully engraved bonds, or lithographed bonds or (in the case of fully registered bonds) printed bonds on engraved borders. Until a definitive bond or bonds secured hereby are delivered in exchange therefor, each such temporary bond or bonds shall be entitled to the Lien and benefit of this Indenture. Upon the exchange by the Company of definitive coupon bonds or definitive fully registered bonds for temporary bonds (which exchange the Company shall make on request of, and without charge to, the holder, when definitive bonds are ready for delivery) such temporary bond or bonds and any unmatured coupons appertaining thereto shall be canceled by the Corporate Trustee. When and as interest is paid upon any unregistered temporary bond without coupons, the fact of such payment shall be noted thereon and interest due on any temporary bond which is represented by a coupon shall be paid only upon presentation and surrender of such coupon for cancellation. Temporary bonds without coupons of any series shall bear interest from the beginning of the current

interest period for bonds of that series in which such temporary bonds without coupons shall be authenticated. The holder of one or more temporary bonds may exchange the same on the surrender thereof, for cancellation, in bearer form with all unmatured coupons, if any, appertaining thereto, or, if registered, accompanied by a written instrument or instruments of transfer, if required by the Company, duly executed by the registered owner or by his duly authorized attorney, at the office or agency of the Company, and shall be entitled to receive a temporary bond or bonds of the same series of like aggregate principal amount of such other denominations as the Board of Directors of the Company may determine to issue in exchange.

SECTION 16. Upon receipt by the Company and the Corporate Trustee of evidence satisfactory to them of the loss, destruction or mutilation of any bond Outstanding hereunder and/or the coupons appertaining thereto, and of indemnity satisfactory to them, and upon payment, if the Company or the Corporate Trustee shall require it, of a reasonable charge and upon reimbursement to the Company and the Corporate Trustee of all reasonable expense incident thereto, and upon surrender and cancellation of such bond, if mutilated, and the coupons appertaining thereto, if any, the Company may execute, and the Corporate Trustee shall thereupon authenticate and deliver a new bond of like tenor and of the same series with all unpaid coupons, if any, appertaining thereto in lieu of such lost, destroyed or mutilated bond and coupons, if any, or if any such bond or any coupon shall have matured or be about to mature, instead of issuing a substituted bond or coupon the Company may pay the same without surrender thereof. Any indemnity bond shall name as obligees the Company, the Trustees, and if requested by the Company, any paying agent.

SECTION 17. No bond shall be secured hereby unless there shall be endorsed thereon the certificate of the Corporate Trustee, substantially in the form hereinbefore recited, that it is one of the bonds (or temporary bonds) of the series therein designated, herein described or pro-

vided for; and such certificate on any such bond shall be conclusive evidence that such bond has been duly authenticated and delivered by the Corporate Trustee and when delivered by the Company will be secured hereby.

SECTION 18. The Company may provide for the collection of principal of and/or interest on bonds of any series at one or more places in foreign countries, provided that the payment to be so collected shall be only the stated amount of such principal and/or interest in such coin or currency of the United States of America as at the time of payment is legal tender for public and private debts, or the equivalent thereof in the appropriate local foreign currency at the current buying rate for similar obligations payable in New York, at the time of presentation for such collection of bonds and/or coupons, of the bank, bankers, or authorized dealer in foreign exchange appointed by the Company for such purpose.

SECTION 19. Notwithstanding any other provisions hereof, there shall be a series of bonds designated "3 $\frac{1}{8}$ % Series due 1976" (herein sometimes referred to as the "First Series"), each of which shall also bear the descriptive title First Mortgage Bond, and the form thereof and of any appurtenant coupons, which shall be established by Resolution of the Board of Directors of the Company, or by officers of the Company pursuant to authority delegated by such Board of Directors, shall contain suitable provisions with respect to the matters hereinafter in this Section specified. Bonds of the First Series shall mature on July 1, 1976, and shall be issued as coupon bonds in the denomination of One Thousand Dollars, registerable as to principal, and as fully registered bonds in denominations of One Thousand Dollars and Ten Thousand Dollars and, at the option of the Company, as to either coupon bonds or fully registered bonds, in the denomination of One Hundred Dollars or in any multiple or multiples thereof (the exercise of such option to be evidenced by the execution and delivery thereof); they shall bear interest at the rate of three and one-eighth per centum

(3 $\frac{1}{8}$ %) per annum, payable semi-annually on January 1 and July 1 of each year; the principal of and interest on each said bond to be payable at the office or agency of the Company in the Borough of Manhattan, The City of New York, in such coin or currency of the United States of America as at the time of payment is legal tender for public and private debts. Coupon bonds of the First Series shall be dated as of July 1, 1946, and fully registered bonds of the First Series shall be dated as in Section 10 hereof provided.

(I) Bonds of the First Series shall be redeemable either at the option of the Company or pursuant to the requirements of this Indenture in whole at any time, or in part from time to time, prior to maturity, upon notice published as provided in Section 52 hereof, once on at least four different days before the date fixed for redemption, unless notice by publication shall not be required as provided in Section 52 hereof, in which event notice shall be given by mailing, the first publication, or mailing, as the case may be, to be at least thirty (30) days prior to the date fixed for redemption, at the following general redemption prices, expressed in percentages of the principal amount of the bonds to be redeemed:

GENERAL REDEMPTION PRICES

If redeemed during 12 months period ending June 30,

1947.....	104.46%	1957.....	102.93%	1967.....	101.39%
1948.....	104.31%	1958.....	102.77%	1968.....	101.24%
1949.....	104.16%	1959.....	102.62%	1969.....	101.08%
1950.....	104.00%	1960.....	102.47%	1970.....	100.93%
1951.....	103.85%	1961.....	102.31%	1971.....	100.77%
1952.....	103.70%	1962.....	102.16%	1972.....	100.62%
1953.....	103.54%	1963.....	102.00%	1973.....	100.47%
1954.....	103.39%	1964.....	101.85%	1974.....	100.31%
1955.....	103.23%	1965.....	101.70%	1975.....	100.16%
1956.....	103.08%	1966.....	101.54%	1976.....	100.00%

in each case, together with accrued interest to the date fixed for redemption.

(II) Bonds of the First Series shall also be redeemable in whole at any time, or in part from time to time, prior to maturity, upon like

notice, by the application (either at the option of the Company or pursuant to the requirements of this Indenture) of cash deposited with the Corporate Trustee pursuant to the provisions of Section 39, Section 40, Section 64 or Section 87 hereof or with the Proceeds of Released Property; provided, however, that in the case of application of cash deposited with the Corporate Trustee pursuant to the provisions of Section 40 hereof, if the date fixed for such redemption shall be prior to January 1 of the calendar year in which such deposit of cash shall become due under the provisions of Section 40 hereof, they shall be redeemable at the general redemption prices set forth in subdivision (I) of this Section, together with accrued interest to the date fixed for redemption; and provided further, that

(1) in the case of application of cash deposited with the Corporate Trustee pursuant to the provisions of Section 40 hereof if the date fixed for such redemption shall be on or after January 1 of the calendar year in which such deposit of cash shall become due, or

(2) in the case of redemption by the application of cash deposited with the Corporate Trustee pursuant to the provisions of Section 39, Section 64 or Section 87 hereof or with the Proceeds of Released Property,

they shall be redeemable at the following special redemption prices, expressed in percentages of the principal amount of the bonds to be redeemed:

SPECIAL REDEMPTION PRICES

If redeemed during 12 months period ending June 30,

1947.....	101.47%	1957.....	101.12%	1967.....	100.65%
1948.....	101.44%	1958.....	101.08%	1968.....	100.59%
1949.....	101.41%	1959.....	101.04%	1969.....	100.53%
1950.....	101.38%	1960.....	100.99%	1970.....	100.47%
1951.....	101.34%	1961.....	100.95%	1971.....	100.41%
1952.....	101.31%	1962.....	100.90%	1972.....	100.35%
1953.....	101.27%	1963.....	100.85%	1973.....	100.29%
1954.....	101.24%	1964.....	100.80%	1974.....	100.22%
1955.....	101.20%	1965.....	100.75%	1975.....	100.15%
1956.....	101.16%	1966.....	100.70%	1976.....	100.00%

in each case, together with accrued interest to the date fixed for redemption.

(III) At the option of the holder, any coupon bonds of the First Series, upon surrender thereof with all unmatured coupons appertaining thereto at the office or agency of the Company in the Borough of Manhattan, The City of New York, shall (subject to the provisions of Section 12 hereof) be exchangeable for a like aggregate principal amount of fully registered bonds of the same series of authorized denominations. All such coupon bonds to be exchanged as aforesaid shall be in bearer form or, if registered, accompanied by a written instrument of transfer, if required by the Company, duly executed by the registered owner or by his duly authorized attorney. At the option of the registered owner, any fully registered bonds of the First Series, upon surrender thereof, for cancellation, at said office or agency of the Company, together with a written instrument of transfer, if required by the Company, duly executed by the registered owner or by his duly authorized attorney, shall (subject to the provisions of Section 12 hereof) be exchangeable for a like aggregate principal amount of coupon bonds of the same series, with all unmatured coupons attached, or for a like aggregate principal amount of fully registered bonds of the same series of other authorized denominations.

The holder of any coupon bond of the First Series may have the ownership thereof registered as to principal at the office or agency of the Company in the Borough of Manhattan, The City of New York, and such registration noted on such bond. After such registration no transfer of such bond shall be valid unless made at said office or agency by the registered owner in person or by his duly authorized attorney and similarly noted on such bond; but (subject to the provisions of Section 12 hereof) the same may be discharged from registration by being in like manner transferred to bearer and thereupon transferability by delivery shall be restored; but such bond may again from time to time be registered or transferred to bearer in accordance with

the above procedure. Such registration, however, shall not affect the negotiability of the coupons appertaining to such bonds, but every such coupon shall continue to be transferable by delivery merely and shall remain payable to bearer. Fully registered bonds of the First Series shall also be transferable (subject to the provisions of Section 12 hereof) at said office or agency of the Company.

ARTICLE III

General Provisions as to Issuance of Bonds.

SECTION 20. The aggregate principal amount of bonds which may be secured by this Indenture shall be such aggregate principal amount as may now or hereafter from time to time be authenticated and delivered under the provisions hereof. The parties to the obligations to be secured hereby shall be the Company, the Trustees hereunder (to the extent and as provided in this Indenture) and the respective owners of the bonds and coupons issued or to be issued hereunder.

SECTION 21. Nothing in this Indenture contained shall limit the power of the Board of Directors of the Company (in conformity with applicable law) to fix the price at which the bonds authenticated and delivered under any of the provisions of this Indenture may be issued, exchanged, sold or disposed of, but any or all of such bonds may be issued, exchanged, sold or disposed of upon such terms and for such considerations as the Board of Directors of the Company may deem fit.

ARTICLE IV.

Initial Issue of Bonds.

SECTION 22. Bonds of the First Series for the aggregate principal amount of Ten Million Dollars (\$10,000,000) shall forthwith be executed by the Company and delivered to the Corporate Trustee and shall be authenticated by the Corporate Trustee, and delivered (whether

before or after the filing or recording hereof), in accordance with the order or orders of the Company, evidenced by a writing or writings signed by the Company by its President or one of its Vice-Presidents and its Treasurer or one of its Assistant Treasurers. Upon the delivery of this Indenture, bonds of the First Series for such aggregate principal amount of Ten Million Dollars (\$10,000,000) are to be issued forthwith.

ARTICLE V.

Issuance of Bonds Upon the Basis of Property Additions.

SECTION 23. Bonds in addition to those provided for in other Sections hereof and of any one or more series may from time to time be executed by the Company and delivered to the Corporate Trustee, and shall be authenticated by the Corporate Trustee and delivered from time to time in accordance with the written order or orders of the Company signed by its President or a Vice-President and its Treasurer or an Assistant Treasurer upon the basis of Property Additions, but only in accordance with and subject to the conditions, provisions and limitations set forth in the next succeeding five Sections of this Indenture, numbered from 24 to 28, both inclusive.

SECTION 24. No bonds shall be authenticated and delivered at any time under the provisions of this Article V upon the basis of Funded Property.

SECTION 25. Bonds of any one or more series may be authenticated and delivered under the provisions of this Article V upon the basis of Property Additions for a principal amount not exceeding sixty per centum (60%) of the balance of the Cost or of the fair value thereof to the Company (whichever shall be less) after making any deductions and any additions pursuant to Section 4 hereof.

SECTION 26. In all cases in which it shall appear, from the certificate hereinafter in Section 28 hereof provided for, that Property

Additions proposed to be made the basis of the authentication and delivery of bonds or the withdrawal of cash or the release of property or the basis of a credit under the provisions of Section 39 or Section 40 hereof are subject to Qualified Lien, the principal amount of the then Outstanding Qualified Lien Bonds secured by Qualified Lien thereon (in the case of the authentication and delivery of bonds under the provisions of this Article V or the withdrawal of cash under Section 31 hereof or the withdrawal of cash or other use as a credit under the provisions of Section 40 hereof) or ten-sixths (10/6ths) of such principal amount (in the case of the release of property under any provisions hereof or the withdrawal of cash under Section 39 or Section 61 hereof or other use as a credit under Section 39) shall be deducted from the principal amount of bonds which might otherwise be authenticated or from the amount of cash which might otherwise be withdrawn or from the fair value of property which might otherwise be released or from the amount for which the Company might otherwise be entitled to a credit, unless such certificate shall also state that the required amount has theretofore been deducted pursuant to the provisions of this Section when other Property Additions subject to such Qualified Lien have theretofore been made the basis under any of the provisions of this Indenture of the authentication and delivery of bonds or the withdrawal of cash or the release of property or the basis of a credit under the provisions of Section 39 or Section 40 hereof, and that since the date of such deduction property subject to the Lien of this Indenture has continued to be subject to such Qualified Lien.

If, at any time after an amount equal to the principal amount of any Outstanding Qualified Lien Bonds shall have been, in accordance with the provisions of this Section, deducted from the principal amount of bonds which might otherwise be authenticated and delivered hereunder, or the required amount shall have been deducted in connection with the withdrawal of cash or the release of property or the taking of a

credit under the provisions of Section 39 or Section 40 hereof, the Company shall either

(A) deposit with the Corporate Trustee any such Qualified Lien Bonds to be held and dealt with by the Corporate Trustee in the manner and subject to the conditions and provisions set forth in Article IX hereof; or

(B) file with the Corporate Trustee an Officers' Certificate to the effect that the principal amount of such Outstanding Qualified Lien Bonds, (1) has been reduced, or concurrently with the action requested will be reduced, by payment, or by the irrevocable deposit with the trustee or other holder of the Qualified Lien securing the same, of moneys in the necessary amount for the purchase, payment or redemption thereof, or otherwise reduced, and that such reduction has not been, and will not be, effected by the use, by the trustee or other holder of such Qualified Lien, of cash which (after giving effect to the provisions of Sections 5 and 61 hereof) is then deemed to be or to have been Funded Cash; provided that, in the case of redemption, the notice required therefor shall have been given or have been provided for to the satisfaction of the Corporate Trustee, or (2) has been ascertained by final judicial determination or otherwise to the satisfaction of the Corporate Trustee to be in whole or in part invalid, and specifying the amount of reduction or the extent of the invalidity, as the case may be, supported by an Opinion of Counsel;

then, and in either such case, the Company shall be entitled to the authentication and delivery of further bonds to a principal amount equivalent to and on the basis of the principal amount of the Qualified Lien Bonds so deposited with the Corporate Trustee, or (as the case may be) equivalent to and on the basis of the amount by which the principal amount of such Qualified Lien Bonds shall be certified to have been and/or to be reduced or to have been ascertained to be invalid, but not exceeding in the aggregate a principal amount equivalent to the aggregate of the respective principal amounts of Qualified Lien

Bonds Outstanding under each respective Qualified Lien immediately after such lien shall have become a Qualified Lien and in respect of which bonds the deductions required by the provisions of this Section shall have been made.

Notwithstanding any other provisions herein contained, it shall not be necessary to comply with the provisions of Section 27 hereof or to furnish any Net Earning Certificate in connection with the authentication and delivery of bonds under the foregoing provisions of this Section.

No bonds shall be authenticated and delivered under the provisions of this Section by reason of the deposit of any Qualified Lien Bonds or the payment, reduction or ascertainment of invalidity thereof to the extent that such deposit or payment, reduction or ascertainment of invalidity shall theretofore have been used as a basis, under the provisions of this Section, of the authentication and delivery of bonds or to the extent that a waiver by the Company of its right to the authentication and delivery of bonds on the basis of any such deposit, payment, reduction or ascertainment of invalidity is then in effect, or by reason of the deposit of any Qualified Lien Bonds with respect to which deposit the Company shall have certified that it elects not to have any bonds authenticated hereunder on the basis thereof, or by reason of the deposit of any Qualified Lien Bonds with the Corporate Trustee under the provisions of Section 46 hereof.

No bonds shall be authenticated and delivered under the provisions of this Article V (nor Funded Cash be withdrawn nor Funded Property be released under any of the provisions of this Indenture nor credit taken under the provisions of Section 39 or Section 40 hereof) upon the basis of any Property Additions subject to Qualified Lien unless it shall be stated in an Engineer's Certificate accompanying the application that

- (a) the principal amount of all bonds theretofore authenticated and delivered by the Corporate Trustee (including any bonds for the authentication and delivery of which application

is then made) under the provisions of this Article V upon the basis of such Property Additions subject to Qualified Lien as shall have continued to be subject to Qualified Lien or upon the basis of a reduction in the principal amount of Outstanding Qualified Lien Bonds on such Property Additions as shall have continued to be subject to Qualified Lien,

(b) the total amount of Funded Cash deposited with the Corporate Trustee under the provisions of Section 30 hereof (and unless all bonds of the First Series have ceased to be Outstanding, the total amount of Funded Cash deposited with the Corporate Trustee under the provisions of Section 40 hereof) and theretofore withdrawn (including any such Funded Cash for the withdrawal of which application is then made) under any of the provisions of this Indenture upon the basis of such Property Additions subject to Qualified Lien as shall have continued to be subject to Qualified Lien,

(c) sixty per centum (60%) of all Funded Cash deposited with the Corporate Trustee under any of the provisions of this Indenture (other than the provisions of Section 30 or Section 40 hereof) and theretofore withdrawn (including any such Funded Cash for the withdrawal of which application is then made) under any of the provisions of this Indenture upon the basis of such Property Additions subject to Qualified Lien as shall have continued to be subject to Qualified Lien,

(d) sixty per centum (60%) of the Cost or of the fair value to the Company, whichever is less (at the date of the Engineer's Certificate in which such Property Additions shall have been made the basis of the release or credit hereinafter in this clause (d) mentioned), of such Property Additions subject to Qualified Lien as shall have continued to be subject to Qualified Lien, used as a basis for the release from the Lien of this Indenture of Funded Property or, unless all bonds of the First Series have ceased to be Outstanding, used as the basis of a credit under the provisions of Section 39 or of credit (other than as mentioned in subdivision (b) above) under the provisions of Section 40 hereof, and

(e) the principal amount of all Qualified Lien Bonds to be Outstanding upon the granting of such application,

do not in the aggregate exceed fifteen per centum (15%) of the aggregate principal amount of (1) all bonds to be Outstanding under this Indenture upon the granting of such application, including those applied for, and (2) all Qualified Lien Bonds to the extent that such Qualified Lien Bonds shall be Outstanding upon the granting of such application.

No bonds shall be authenticated and delivered under the provisions of this Article V (nor Funded Cash be withdrawn, nor Funded Property be released under any of the provisions of this Indenture, nor credit taken under the provisions of Section 39 or Section 40 hereof) upon the basis of any Property Additions subject to Qualified Lien, in any case unless (a) it shall be stated in an Engineer's Certificate accompanying the application that the aggregate principal amount of Outstanding Qualified Lien Bonds secured by Qualified Lien on such Property Additions does not exceed in principal amount fifty per centum (50%) of the Cost (which shall be computed as in Section 4 hereof provided) or of the then fair value to the Company (whichever shall be less) of the Property Additions subject to such Qualified Lien or (b) such certificate shall show that the required amount has theretofore been deducted in compliance with the provisions of this Section when other Property Additions subject to such Qualified Lien shall have theretofore been made the basis under any of the provisions of this Indenture for the authentication and delivery of bonds or the withdrawal of cash or the release of property or the basis of a credit under the provisions of Section 39 or Section 40 hereof and that since the date of such deduction property subject to the Lien of this Indenture has continued to be subject to such Qualified Lien.

Subject to the provisions of Sections 88 and 89 hereof, the Corporate Trustee may assume that any Property Additions subject to Qualified Lien which shall have formed the basis, under any of the

provisions of this Indenture, for the authentication and delivery of bonds or the withdrawal of Funded Cash or the release of Funded Property or the basis of a credit under the provisions of Section 39 or Section 40 hereof have continued to be subject to a Qualified Lien until the Corporate Trustee shall have received an Officers' Certificate (accompanied by a concurring Opinion of Counsel) to the contrary.

If at any time and from time to time, by reason either of the discharge of any Qualified Lien or of an increase in the aggregate amount of bonds authenticated and delivered under this Indenture, there shall be a change in the aggregate principal amount of bonds which may be authenticated and delivered within the limitations prescribed by this Section, then any bonds, which before such change were not permitted to have been authenticated and delivered by reason of such limitations, may be authenticated and delivered subject to such limitations as fixed by such change.

No bonds shall be authenticated and delivered under the provisions of this Section unless the Corporate Trustee at the time of the application for such authentication and delivery shall receive a Resolution, Officers' Certificate and Opinion of Counsel such as are described in subdivisions (1), (2) and (8) of Section 28 hereof, together with the officially authenticated certificates or other documents, if any, specified in such Opinion of Counsel, and, in case the bonds are to be authenticated and delivered under the provisions of the next preceding paragraph of this Section by reason of an increase in the aggregate principal amount of bonds authenticated and delivered under this Indenture having increased the aggregate principal amount of bonds which may be authenticated and delivered within the limitations prescribed by this Section, a Net Earning Certificate showing the Adjusted Net Earnings of the Company to be as required by Section 27 hereof.

SECTION 27. No bonds shall be authenticated and delivered upon the basis of Property Additions unless, as shown by a Net Earning Certificate, the Adjusted Net Earnings of the Company for the period

therein referred to shall have been in the aggregate at least equivalent to twice the Annual Interest Requirements as shall be specified, pursuant to the provisions of subdivision (B) of Section 7 hereof, in such Net Earning Certificate.

SECTION 28. No bonds shall be authenticated or delivered hereunder by the Corporate Trustee upon the basis of Property Additions, until the Corporate Trustee shall have received:

(1) a Resolution requesting the Corporate Trustee to authenticate and deliver bonds, (a) specifying the principal amount of bonds called for, the series thereof and any other matters with respect thereto required by this Indenture, and (b) specifying the officer or officers of the Company to whom, or upon whose written order, such bonds shall be delivered;

(2) an Officers' Certificate stating that the Company is not to the knowledge of the signers in default under this Indenture;

(3) an Engineer's Certificate made and dated not more than ninety (90) days prior to the date of such application,

(a) describing in reasonable detail the Property Additions made the basis of the application;

(b) stating that all the Property Additions made the basis of the application are Property Additions as defined in Section 4 hereof;

(c) stating that such Property Additions are desirable for use in the proper conduct of the business of the Company;

(d) stating that such Property Additions, to the extent of the Cost or fair value thereof (whichever is less) to the Company made the basis of the application, do not consist of Funded Property;

(e) stating, except as to Property Additions acquired, made or constructed wholly through the delivery of securities, that the amount of cash forming all or part of the Cost thereof was equal to or more than an amount to be stated therein;

(f) briefly describing, with respect to any Property Additions acquired, made or constructed in whole or in part through the delivery of securities, the securities so delivered and stating the date of such delivery;

(g) stating what part, if any, of such Property Additions includes property which within six months prior to the date of acquisition thereof by the Company has been used or operated by others than the Company in a business similar to that in which it has been or is to be used or operated by the Company and showing whether or not the fair value thereof to the Company is less than Twenty-five Thousand Dollars (\$25,000) and whether or not the fair value thereof to the Company is less than one per centum (1%) of the aggregate principal amount of the bonds at the time Outstanding hereunder;

(h) stating, except as to Property Additions in respect to the fair value to the Company of which a statement is to be made in an Independent Engineer's Certificate as provided for in subdivision (4) of this Section, that the fair value to the Company as of the date of such certificate of such Property Additions is a specified amount;

(i) stating the amount required to be deducted under the provisions of subdivision (A) of Section 4 hereof and the amounts elected to be added under the provisions of clauses (a), (b), (c), (d), (e) and (f) of subdivision (B) of Section 4 hereof in respect of Funded Property retired of the Company;

(j) specifying the nature and extent of any Qualified Lien existing upon any of such Property Additions and the principal amount of all Outstanding Qualified Lien Bonds secured thereby;

(k) stating whether or not the required amount has therefore been deducted in compliance with the provisions of Section 26 hereof when other Property Additions subject to such Qualified Lien were made the basis under any of the provisions of this Indenture of the authentication and delivery of bonds or the withdrawal of cash or the release of property or the basis of a credit under the provisions of Section 39 or Sec-

tion 40 hereof and, if so, when such deduction was made and whether since the date of such deduction property subject to the Lien of this Indenture has continued to be subject to such Qualified Lien;

(l) making such other statements, if any, as may be required to be stated in an Engineer's Certificate by the provisions of Section 26 hereof; and

(m) stating that the easements, restrictions, exceptions, reservations or rights, if any, of the character mentioned in clauses (e) and (f) of Section 6 hereof, to which any property or rights of way included in such Property Additions are subject, and the defects, irregularities and deficiencies in titles of the character mentioned in said clauses of any property or rights of way included in such Property Additions do not materially impair the use of such property or rights of way for the purposes for which the same are held by the Company;

(4) in case any Property Additions are shown by the Engineer's Certificate provided for in subdivision (3) above to include property which within six months prior to the date of acquisition thereof by the Company, has been used or operated by others than the Company in a business similar to that in which it has been or is to be used or operated by the Company and such certificate does not show the fair value thereof to the Company, as of the date of such certificate, to be less than Twenty-five Thousand Dollars (\$25,000) or less than one per centum (1%) of the aggregate principal amount of the bonds at the time Outstanding hereunder, a further certificate consisting of an Independent Engineer's Certificate stating as to such Property Additions which have been so used or operated and (at the option of the Company) as to any other Property Additions included in the Engineer's Certificate provided for in subdivision (3) of this Section that the then aggregate fair value thereof to the Company, as of the date of such Independent Engineer's Certificate, in the opinion of the signer is a specified amount; and in the case of the authentication and delivery of bonds, the fair value to the Company in the opinion of the signer, of any property so used or operated which has been subjected to

the Lien of this Indenture since the commencement of the then current calendar year as the basis for the authentication and delivery of bonds, and to which an Independent Engineer's Certificate has not previously been furnished to the Corporate Trustee;

(5) in case any Property Additions are shown by the Engineer's Certificate provided for in subdivision (3) above to have been acquired, made or constructed in whole or in part through the delivery of securities, a written appraisal of an engineer, appraiser or other expert person, firm or corporation to be selected by the Board of Directors of the Company and approved by the Corporate Trustee, stating in the opinion of the signer the fair market value in cash of such securities at the time of delivery thereof in payment for or for the acquisition of such Property Additions;

(6) a Net Earning Certificate showing the Adjusted Net Earnings of the Company to be as required by Section 27 hereof;

(7) an Opinion of Counsel stating the signer's opinion to the effect:

(a) that (except as to paving, grading and other improvements to, under or upon public highways, bridges, parks or other public property of analogous character) this Indenture is, or upon the delivery of, and/or the filing and/or recording in the proper places and manner of, the instruments of conveyance, assignment or transfer, if any, specified in said opinion, will be, a lien on all the Property Additions made the basis of such application, subject to no lien thereon prior or equal to the Lien of this Indenture, except Qualified Liens and Excepted Encumbrances and that the Company has the right to remove any such Property Additions which are located on any leasehold or which are on property as to which the Company has an easement, prior to or upon the termination of such leasehold or easement, without compensation or other remuneration and free of any lien prior or equal to the Lien of this Indenture, except Qualified Liens and Excepted Encumbrances;

(b) that the Company has corporate authority and all necessary permission from governmental authorities to operate the

Property Additions in respect to which such application is made;
and

(c) that the general nature and extent of Qualified Liens, and the principal amount of the then Outstanding Qualified Lien Bonds secured thereby, if any, mentioned in the accompanying Engineer's Certificate, are correctly stated;

(8) an Opinion of Counsel stating the signer's opinion to the effect that the issue of the bonds has been duly authorized by the Company and by any and all governmental authorities the consent of which is requisite to the legal issue of such bonds, specifying any officially authenticated certificates, or other documents, by which such consent is or may be evidenced, or that no consent of any governmental authorities is requisite, and further stating the signer's opinion to the effect that the Company has sold or contracted to sell or to issue for value such bonds, or contracted to pledge such bonds to secure indebtedness of a principal amount not less than seventy-five per centum (75%) of the principal amount of such bonds;

(9) the instruments of conveyance, assignment and transfer, if any, specified in the Opinion of Counsel provided for in subdivision (7) above; and

(10) the officially authenticated certificates, or other documents, if any, specified in the Opinion of Counsel provided for in subdivision (8) above.

If, in order to render the Opinion of Counsel provided for in subdivision (7) or subdivision (8) above, the signer thereof shall deem it necessary that additional facts or matters be stated in the Engineer's Certificate provided for in subdivision (3) above, then in such event the Engineer's Certificate may state all such additional facts or matters as the signer of such Opinion of Counsel may request.

The amount of the Cost of any Property Additions and the fair value thereof to the Company and the fair market value in cash of any securities so delivered in payment therefor or for the acquisition thereof

and the amount of any deductions and any additions made pursuant to Section 4 hereof shall be determined for the purposes of this Article V by the appropriate certificate provided for in this Section. In the case of Property Additions subject to a Qualified Lien, the fair value of such Property Additions shall be determined as if such Property Additions were free of such Qualified Lien.

ARTICLE VI

Issuance of Bonds Upon Retirement of Bonds Previously Outstanding Hereunder.

SECTION 29. The Corporate Trustee shall from time to time upon the written request of the Company signed by its President or a Vice-President and its Treasurer or an Assistant Treasurer authenticate and deliver bonds hereunder of any one or more series of a principal amount equal to and on the basis of the principal amount of any bonds theretofore authenticated and delivered under this Indenture (and not theretofore made the basis under any of the provisions of this Indenture of the authentication and delivery of bonds, the withdrawal of cash, other than under the provisions of Section 39 or Section 40 hereof, or the release of property, or, unless all bonds of the First Series shall have ceased to be Outstanding, the basis of the withdrawal of cash or of another credit under the provisions of Section 39 or Section 40 hereof, subject to the provisions of Section 39, Section 59 and Section 61 hereof permitting the revocation of the waiver of the right to the authentication and delivery of bonds) that shall have been purchased, paid, retired, redeemed or canceled or surrendered to the Corporate Trustee for cancellation or for the purchase, payment, retirement or redemption of which moneys in the necessary amount shall have been deposited with or shall then be held by the Corporate Trustee with irrevocable direction so to apply the same (provided that any such purchase, payment, retirement, redemption, cancellation or surrender of bonds shall have been, or is to be, effected otherwise than with cash

which, after giving effect to the provisions of Sections 5 and 61 hereof, is then deemed to be or to have been Funded Cash, and, in the case of redemption, the notice required therefor shall have been given or have been provided for to the satisfaction of the Corporate Trustee), but only after the Corporate Trustee shall have received:

(1) a Resolution such as is described in subdivision (1) of Section 28 hereof;

(2) an Officers' Certificate such as is described in subdivision (2) of Section 28 hereof;

(3) an Officers' Certificate stating that bonds theretofore authenticated and delivered under this Indenture of a specified principal amount (not less than the principal amount of bonds for which such request for authentication and delivery is made under this Section), which bonds have theretofore been sold or issued for value or pledged to secure indebtedness of a principal amount not less than seventy-five per centum (75%) of the principal amount of such bonds, have been purchased, paid, retired, redeemed or canceled or concurrently with the authentication and delivery of the bonds requested will be surrendered to the Corporate Trustee for cancellation (otherwise than upon exchanges or transfers of bonds) and/or that cash (other than cash which, after giving effect to the provisions of Sections 5 and 61 hereof, is then deemed to be Funded Cash) in the necessary amount for the purchase, payment, retirement or redemption thereof is then held by or will be deposited with the Corporate Trustee, with irrevocable direction so to apply the same (provided that, in the case of redemption, the notice required by Article X hereof shall have been given or have been provided for to the satisfaction of the Corporate Trustee), prior to or concurrently with the authentication and delivery of the bonds so requested, and further stating that no part of such principal amount of bonds has been theretofore made the basis under any of the provisions of this Indenture of the authentication and delivery of bonds, the withdrawal of cash (other than under the provisions of Section 39 or Section 40 hereof) or the release of property, or, unless all bonds of the First Series shall have

ceased to be Outstanding, the basis of the withdrawal of cash or of another credit under the provisions of Section 39 or Section 40 hereof, subject to the provisions of Sections 39, 59 and 61 hereof, permitting the revocation of the waiver of the right to the authentication and delivery of bonds, and that none of the bonds so retired and made the basis of such application has been retired by the use of cash which (after giving effect to the provisions of Sections 5 and 61 hereof) is then deemed to be or to have been Funded Cash;

(4) an Opinion of Counsel such as is described in subdivision (8) of Section 28 hereof; and

(5) the officially authenticated certificates, or other documents, if any, specified in the Opinion of Counsel provided for in subdivision (4) of this Section.

In case (i) an application for the authentication and delivery of bonds under any of the provisions of this Indenture, which shall have contained a Net Earning Certificate, shall have been made to the Corporate Trustee subsequent to the delivery to the Corporate Trustee of an irrevocable direction to apply moneys to any such purchase, payment, retirement and/or redemption of, or subsequent to the cancellation or surrender for cancellation of, any bonds on the basis of which other bonds are to be authenticated and delivered pursuant to the provisions of this Article VI, and in such Net Earning Certificate the annual interest requirements on any such bonds to be authenticated and delivered shall not have been included, or (ii) the bonds on the basis of which other bonds are to be so authenticated and delivered mature by their terms at a date more than two years after the date of authentication and delivery of the bonds applied for and bear a lower interest rate than the bonds applied for, then the Corporate Trustee shall in either such case also receive a Net Earning Certificate showing the Adjusted Net Earnings to be as required by Section 27 hereof.

Any and all coupon bonds delivered to the Corporate Trustee pursuant to this Article shall have attached thereto all unmatured coupons appertaining thereto.

ARTICLE VII.

Issuance of Bonds Upon Deposit of Cash with Corporate Trustee.

SECTION 30. The Corporate Trustee shall from time to time upon the written request of the Company signed by its President or a Vice-President and its Treasurer or an Assistant Treasurer authenticate and deliver bonds hereunder of any one or more series upon deposit with the Corporate Trustee by the Company of cash equal to the aggregate principal amount of the bonds so requested to be authenticated and delivered but only after the Corporate Trustee shall have received:

- (1) a Resolution such as is described in subdivision (1) of Section 28 hereof;
- (2) an Officers' Certificate such as is described in subdivision (2) of Section 28 hereof;
- (3) a Net Earning Certificate showing the Adjusted Net Earnings of the Company to be as required by Section 27 hereof;
- (4) an Opinion of Counsel such as is described in subdivision (8) of Section 28 hereof; and
- (5) the officially authenticated certificates, or other documents, if any, specified in the Opinion of Counsel provided for in subdivision (4) of this Section.

SECTION 31. All cash deposited with the Corporate Trustee under the provisions of the next preceding Section hereof shall be held by the Corporate Trustee as a part of the Mortgaged and Pledged Property, and may be withdrawn from time to time by the Company, upon application of the Company to the Corporate Trustee evidenced by a Resolution, in an amount equal to the principal amount of each bond or fraction of a bond to the authentication and delivery of which the Company shall be entitled under any of the provisions of this Indenture

by virtue of compliance with all applicable provisions of this Indenture (except as hereinafter in this Section otherwise provided).

Upon any such application for withdrawal the Company shall comply with all applicable provisions of this Indenture relating to the authentication and delivery of such bond(s) or fraction of a bond except that the Company shall not be required to comply with any earning requirement or to deliver to the Corporate Trustee any Resolution, Net Earning Certificate or Opinion of Counsel such as is described in subdivisions (1), (6) and (8) of Section 28 hereof.

Any withdrawal of cash under this Section shall operate as a waiver by the Company of its right to the authentication and delivery of the bond(s) or fraction of a bond on which it is based and such bond(s) or fraction of a bond may not thereafter be authenticated and delivered hereunder, and any Property Additions which have been made the basis of any such right to the authentication and delivery of bond(s) or fraction of a bond so waived shall have the status of Funded Property and shall be deemed to have been made the basis of the withdrawal of such cash, and any bonds or Qualified Lien Bonds which have been made the basis of any such right to the authentication and delivery of bond(s) or fraction of a bond so waived shall be deemed to have been made the basis of the withdrawal of such cash.

SECTION 32. If at any time the Company shall so direct, any sums deposited with the Corporate Trustee under the provisions of Section 30 hereof may be used or applied to the purchase, payment or redemption of bonds in the manner and subject to the conditions provided in subdivisions (3) and (4) of Section 61 hereof; provided, however, that none of such cash shall be applied to the payment of more than the principal amount of any bonds so purchased, paid or redeemed, except to the extent that the aggregate principal amount of all bonds theretofore, and of all bonds then to be purchased, paid and/or redeemed with cash deposited under Section 30 hereof shall have exceeded the aggregate cost for principal, interest, brokerage and premium, if any,

on all bonds theretofore, and on all bonds then to be, purchased, paid and/or redeemed with cash so deposited.

ARTICLE VIII

Particular Covenants of the Company.

SECTION 33. The Company covenants that it is lawfully possessed of all the aforesaid Mortgaged and Pledged Property; that it will maintain and preserve the Lien of this Indenture so long as any of the bonds issued hereunder are Outstanding; and that it has good right and lawful authority to mortgage and pledge the Mortgaged and Pledged Property, as provided in and by this Indenture.

SECTION 34. The Company covenants that it will duly and punctually pay the principal of and interest and premium, if any, on all bonds Outstanding hereunder, according to the terms thereof; and that as the coupons appertaining to said bonds are paid they will be canceled.

SECTION 35. (a) The Company covenants that, whenever necessary to avoid or fill a vacancy in the office of Corporate Trustee, the Company will in the manner provided in Section 102 hereof appoint a Corporate Trustee so that there shall at all times be a Corporate Trustee hereunder which shall at all times be a bank or trust company having its principal office and place of business in the Borough of Manhattan, The City of New York, if there be such a bank or trust company willing and able to accept the trust upon reasonable or customary terms, and which shall at all times be a corporation organized and doing business under the laws of the United States or of any State or Territory or of the District of Columbia, with a combined capital and surplus of at least Five Million Dollars (\$5,000,000), and authorized under such laws to exercise corporate trust powers and subject to supervision or examination by Federal, State, Territorial or District of Columbia authority.

(b) The Company covenants that it will keep an office or agency, while any of the bonds issued hereunder are Outstanding, at any and all places at which the principal of or interest on any of said bonds shall be payable, where notices, presentations and demands to or upon the Company in respect of such bonds or coupons as may be payable at such places or in respect of this Indenture may be given or made, and for the payment of the principal thereof and interest and premium, if any, thereon. The Company will from time to time give the Corporate Trustee written notice of the location of such office or offices or agency or agencies, and in case the Company shall fail to maintain such office or offices or agency or agencies or to give the Corporate Trustee written notice of the location thereof, then in addition to any other remedy or right arising as a result of the violation of the covenants contained in this Section, the Company agrees that any such notice, presentation or demand in respect of said bonds or coupons or of this Indenture may be given or made, unless other provision is expressly made herein, to or upon the Corporate Trustee at its principal office, and the Company hereby authorizes such presentation and demand to be made to and such notice to be served on the Corporate Trustee in either of such events and the principal of and interest and premium, if any, on said bonds shall in such event be payable at said office of the Corporate Trustee.

(c) The Company covenants that, if it shall appoint a paying agent other than the Corporate Trustee, it will cause such paying agent to execute and deliver to the Corporate Trustee an instrument in which it shall agree with the Corporate Trustee, subject to the provisions of this Section, (1) that such paying agent shall hold in trust for the benefit of the bondholders or the Corporate Trustee all sums held by such paying agent for the payment of the principal of or interest on the bonds (and premium, if any); and (2) that such paying agent shall give the Corporate Trustee notice of any default by the Company in the making of any deposit with it for the payment of the principal of or interest on the bonds (and premium if any), and of any default by the Com-

pany in the making of any such payment. Such paying agent shall not be obligated to segregate such sums from other funds of such paying agent except to the extent required by law.

(d) The Company covenants that, if the Company acts as its own paying agent, it will, on or before each due date of each instalment of principal or interest on the bonds, set aside and segregate and hold in trust for the benefit of the bondholders or the Corporate Trustee a sum sufficient to pay such principal or interest so becoming due on the bonds (and premium, if any) and will notify the Corporate Trustee of such action, or of any failure to take such action.

(e) Anything in this Section to the contrary notwithstanding, the Company may at any time, for the purpose of obtaining a release or satisfaction of this Indenture or for any other reason, pay or cause to be paid to the Corporate Trustee all sums held in trust by it or any paying agent as required by this Section, such sums to be held by the Corporate Trustee upon the trusts in this Indenture contained.

(f) Anything in this Section to the contrary notwithstanding, the holding of sums in trust as provided in this Section is subject to the provisions of Section 119 hereof.

SECTION 36. The Company covenants that it will pay all taxes and assessments and other governmental charges lawfully levied or assessed upon the Mortgaged and Pledged Property, or upon any part thereof or upon any income therefrom or upon the interest of the Trustees in the Mortgaged and Pledged Property, before the same shall become delinquent, and will duly observe and conform to all valid requirements of any governmental authority relative to any of the Mortgaged and Pledged Property, and all covenants, terms and conditions upon or under which any of the Mortgaged and Pledged Property is held; that it will not suffer any lien to be hereafter created upon the Mortgaged and Pledged Property, or any part thereof, or the income therefrom, prior to the Lien hereof, other than Excepted Encumbrances, and other than, in the case of

property hereafter acquired, vendors' liens, purchase money mortgages and any lien thereon at the time of the acquisition thereof; and within four months after any lawful claim or demand for labor, materials, supplies or other objects has become delinquent which if unpaid would or might by law be given precedence over the Lien of this Indenture as a lien or charge upon any of the Mortgaged and Pledged Property, or the income therefrom, it will pay or cause to be discharged or make adequate provision to satisfy or discharge the same; provided, however, that nothing in this Section contained shall require the Company to observe or conform to any requirement of governmental authority or to cause to be paid or discharged, or to make provision for, any such lien or charge, or to pay any such tax, assessment or governmental charge so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings; and provided that nothing in this Section contained shall require the Company to pay, discharge or make provision for any tax, assessment or other governmental charge the validity of which shall not be so contested if adequate security for the payment of such tax, assessment or other governmental charge and for any damages which may reasonably be anticipated from failure to pay the same shall be given to the Corporate Trustee; and that, save as aforesaid, it will not suffer any matter or thing whereby the Lien hereof might or could be impaired.

SECTION 37. The Company covenants that it will keep or cause to be kept all the property subject to the Lien hereof insured against fire to the extent that property of similar character is usually so insured by companies similarly situated and operating like properties, to a reasonable amount, by reputable insurance companies, any loss, except as to materials and supplies and except as to any particular loss less than Fifty Thousand Dollars (\$50,000), to be made payable to the Corporate Trustee as the interest of the Trustees may appear, or to the trustee or other holder of any mortgage or other lien constituting a Qualified Lien or a lien prior hereto upon property subject to the Lien hereof, if the terms thereof

require losses so to be made payable; or that it will, in lieu of or supplementing such insurance in whole or part, adopt some other method or plan of protection against loss by fire at least equal in protection to the method or plan of protection against loss by fire of companies similarly situated and operating properties subject to similar fire hazards or on which properties an equal primary fire insurance rate has been set by reputable insurance companies, and that if it shall adopt such other method or plan, it will, except as to materials and supplies and except as to any particular loss less than Fifty Thousand Dollars (\$50,000), pay to the Corporate Trustee on account of any loss sustained by reason of the destruction or damage of such property by fire, an amount of cash equal to such loss less any amounts otherwise paid to the Corporate Trustee or to the trustee or other holder of any mortgage or other lien constituting a Qualified Lien or a lien prior hereto upon property subject to the Lien hereof, if the terms thereof require losses so to be paid. Any amounts of cash so required to be paid by the Company pursuant to any such method or plan shall for the purposes of this Indenture be deemed to be proceeds of insurance. In case of the adoption of such other method or plan of protection, the Company shall also furnish to the Corporate Trustee a certificate of an actuary or other qualified person appointed by the Company with respect to the adequacy of such method or plan. There shall be delivered to the Corporate Trustee, once in each year and also whenever the Corporate Trustee shall make a request therefor, a detailed statement, signed by the Treasurer or an Assistant Treasurer of the Company, of any fire insurance policies then outstanding and in force upon the aforesaid property, or any part thereof, including, or by reference to former statements including, the names of the insurance companies which have issued the policies and the amounts and expiration dates thereof, together with a detailed statement, signed by the Treasurer or an Assistant Treasurer of the Company, of such other method or plan, if any.

All moneys paid to the Corporate Trustee by the Company in accordance with this Section or received by the Corporate Trustee as proceeds of any insurance against loss by fire shall, subject to the requirements of any mortgage constituting a Qualified Lien or a lien prior hereto upon property subject to the Lien hereof, be held by the Corporate Trustee and, subject as aforesaid, shall be paid by it to the Company to reimburse the Company for an equal amount spent in the rebuilding or renewal of the property destroyed or damaged, upon receipt by the Corporate Trustee of (1) a Resolution requesting such reimbursement, (2) an Engineer's Certificate stating the amount so expended and the nature of such rebuilding or renewal and the fair value to the Company of the property rebuilt or renewed and if

(A) within six months prior to the date of acquisition thereof by the Company, such property has been used or operated, by a person or persons other than the Company, in a business similar to that in which it has been or is to be used or operated by the Company, and

(B) the fair value to the Company of such property as set forth in such Engineer's Certificate is not less than Twenty-five Thousand Dollars (\$25,000) and not less than one per centum (1%) of the aggregate principal amount of the bonds at the time Outstanding under this Indenture,

the Engineer making such certificate shall be an independent Engineer, and (3) an Opinion of Counsel that the property so rebuilt or renewed is subject to the Lien hereof to the same extent as was the property so destroyed or damaged; provided, however, that to the extent that moneys paid by the Corporate Trustee to the Company for reimbursement, as aforesaid, shall represent the proceeds of property that was not Funded Property destroyed or damaged by fire, the property so rebuilt or renewed (for which reimbursement is so made), shall not be deemed to be Funded Property.

Any such money not so applied within eighteen (18) months after its receipt by the Corporate Trustee, or in respect of which notice in

writing of intention to apply the same to the work of rebuilding or renewal then in progress and uncompleted shall not have been given to the Corporate Trustee by the Company within such eighteen (18) months, or in respect of which the Company shall at any time notify the Corporate Trustee is not to be so applied, shall thereafter be withdrawn, used or applied in the manner, to the extent and for the purposes and subject to the conditions provided in Section 61 hereof.

SECTION 38. The Company will not, except as herein permitted, do or suffer any act or thing whereby the Mortgaged and Pledged Property might or could be impaired, and it will at all times maintain, preserve and keep the Mortgaged and Pledged Property, as an operating system or systems, in good repair, working order and condition. The Company will from time to time make all needful and proper repairs, replacements, additions, betterments and improvements, so that the operations and business of and pertaining to the Mortgaged and Pledged Property, as an operating system or systems, shall at all times be conducted properly and advantageously; and whenever any portion of the Mortgaged and Pledged Property shall have been worn out or destroyed or shall have become obsolete or otherwise unfit for use, the Company will procure substitutes of at least equal utility and efficiency, so that at all times the efficiency of the Mortgaged and Pledged Property, as an operating system or systems, shall be fully maintained.

Nothing herein contained, however, shall be held to prevent the Company from permanently discontinuing the operation of or reducing the capacity of any of its plants or properties, if, in the judgment of the Board of Directors of the Company, any such action which affects the Mortgaged and Pledged Property is necessary or desirable in the conduct of the business of the Company, or if the Company is ordered so to do by regulatory authority having jurisdiction in the premises, or if the Company intends to sell or dispose of the same and within a reasonable time shall endeavor to effectuate such sale; nor shall anything herein contained be construed to prevent the Company from

taking such action with respect to the use of its plants and properties as is proper under the circumstances, including the cessation or omission to exercise rights, permits, licenses, privileges or franchises which, in the judgment of the Company, can no longer be profitably exercised or availed of.

The Company covenants that it will, within sixty (60) days after its determination permanently to discontinue the operation of any of its plants or properties subject to the lien of this Indenture of a Cost, determined as provided in Section 4 hereof, in any one case in excess of Five Hundred Thousand Dollars (\$500,000) or in the aggregate in any period of twelve (12) consecutive calendar months in excess of One Million Dollars (\$1,000,000), furnish the Corporate Trustee for information purposes with an Officers' Certificate setting forth the Cost, as so determined, to the Company of the plants or properties, the operation of which the Company shall have determined so to discontinue.

Whenever (but not oftener than once in any period of five (5) years) the holders of at least twenty-five per centum (25%) in principal amount of the bonds Outstanding hereunder shall deliver to the Corporate Trustee and to the Company a written statement that they have reasonable grounds to believe that the Mortgaged and Pledged Property has not been adequately maintained, as an operating system or systems, in good repair, working order and condition and request the Company to furnish to the Corporate Trustee an Independent Engineer's Certificate stating whether or not the Mortgaged and Pledged Property, as an operating system or systems, has been maintained in good repair, working order and condition, and whether or not there is any property subject to the lien of this Indenture which should be retired on the books of the Company as having ceased permanently to be used or useful in the business of the Company and which has not been so retired, the Company shall cause such Independent Engineer's Certificate to be furnished to the Corporate Trustee within a reasonable time after such request. If such independent Engineer shall report that the Mortgaged and Pledged Property, as an operating system or

systems, has not been maintained in good repair, working order and condition, he shall state clearly in his report the character and extent of, and, if longer than one year, the time reasonably necessary to make good such deficiency and, if he shall report that there is a property subject to the lien of this Indenture which should be retired on the books of the Company as having ceased permanently to be used or useful in the business of the Company and which has not been so retired, his report shall briefly describe such property. Said report shall be placed on file by the Corporate Trustee and shall be open to inspection by any bondholder at any reasonable time.

Notwithstanding any provision of this Indenture, the Company shall not be required to incur expense in excess of Ten Thousand Dollars (\$10,000) during any period of five years in connection with furnishing the Independent Engineer's Certificate and reports referred to above in this Section and all obligations of the Company under this Section with respect to such certificates and reports shall be contingent upon its ability to furnish such certificates and reports without incurring expense in excess of such amount.

If the Company, within thirty (30) days after the filing of the report of such independent Engineer, objects in a writing delivered to the Corporate Trustee to the findings of such independent Engineer as to the character and extent of such maintenance deficiency and/or to the property which should be retired upon the books of the Company, then the character and extent of such maintenance deficiency, if any, and/or the property, if any, so to be retired upon the books of the Company shall be forthwith referred to three arbitrators selected in the following manner: The Corporate Trustee, within ten (10) days after the receipt of such objections, shall name one arbitrator and give notice of such selection to the Company. Within ten (10) days after receipt of such notice, the Company shall name one arbitrator and give notice of such selection to the Corporate Trustee, and failure so to do shall entitle the Corporate Trustee to name an arbitrator to represent the Company. The two thus selected shall,

within ten (10) days after the appointment of the arbitrator representing the Company, select a third arbitrator, but if said arbitrators are unable, within said ten (10) days, to agree upon such third arbitrator, then, upon the election of either the Company or the Corporate Trustee, any District Judge of the United States of America for the District in which the Corporate Trustee has its principal place of business may appoint such third arbitrator, upon application to said District Judge by either party after five days' notice thereof to the other party. The written decision of a majority of such arbitrators shall be filed as soon as practicable with the Corporate Trustee and a copy thereof delivered to the Company, and shall be binding upon the Trustees, the Company and the bondholders.

Within one year from the date of the report of such independent Engineer or the date of such decision of arbitrators, whichever is later, or such longer period as may be reported by such independent Engineer or the arbitrators, as the case may be, to be reasonably necessary to make good any such deficiency, no statement contained in any report of any independent Engineer filed with the Corporate Trustee, as hereinbefore in this Section provided, shall be deemed to be in any way evidence or proof of a failure to comply with the provisions of this Section.

The Company shall, with all reasonable speed, do or cause to be done such maintenance work as may be necessary to make good any such maintenance deficiency as shall have been determined to exist as hereinabove provided at the time of the report of such independent Engineer or at the time of such decision of arbitrators, as the case may be, whereupon such independent Engineer or such arbitrators, as the case may be (or, in case of his or their refusal or inability to act, some other independent Engineer), shall report in writing to the Corporate Trustee whether such deficiency has been made good.

Unless the Corporate Trustee shall be so advised in writing by such independent Engineer or arbitrators, as the case may be, within one year from the date of the report of such independent Engineer

or the date of such decision of arbitrators, as the case may be, or such longer period as may be reported by such independent Engineer or the arbitrators, as the case may be, to be reasonably necessary for the purpose, that such deficiency has been made good, the Company shall be deemed to have defaulted in the due performance of the covenants of this Section, so far as concerns the maintenance of the Mortgaged and Pledged Property; and in any proceedings consequent upon such default, said report or reports of such independent Engineer or said decision or decisions of such arbitrators, as the case may be, shall be conclusive evidence against the Company of the existence of the facts and conditions therein set forth.

All expenses incurred pursuant to this Section shall be borne by the Company.

In the event that any regulatory authority having jurisdiction over the Company shall determine that the expenditures for repairs and maintenance necessary to make good any such maintenance deficiency as shall have been so determined would be excessive and shall, by order or regulation, prohibit, in whole or in part, such expenditures for repairs and maintenance, then, upon filing with the Corporate Trustee a certified copy of such order or a copy of such regulation, as the case may be, the Company shall, so long as such order or such regulation remains in effect, be relieved from compliance with the covenants contained in this Section in regard to the maintenance of the Mortgaged and Pledged Property, to the extent that such expenditures for repairs and maintenance shall have been held excessive and shall be prohibited.

The Company covenants that it will promptly retire on its books of account any of the Mortgaged and Pledged Property included in plant account (except real estate held for the purpose of sale or resale) that has, in the opinion of the Company, ceased permanently to be used or useful in its business or which pursuant to the provisions of this Section any independent Engineer has reported to the Company more than thirty (30) days prior thereto (without written objection thereto having been delivered to the Corporate Trustee by the Com-

pany), or any arbitrators have determined, should be retired on the books of the Company as having ceased permanently to be used or useful in the business of the Company.

SECTION 39. (I) The Company covenants that, so long as any bonds of the First Series remain Outstanding, it will, within ninety (90) days after the close of the calendar year 1947 and of each calendar year thereafter, file with the Corporate Trustee an Officers' Certificate (hereinafter called an "Officers' Certificate of Replacements"), stating the following:

(1) for the period of eighteen (18) calendar months beginning July 1, 1946, and ending December 31, 1947, Six Hundred Thousand Dollars (\$600,000); and for each calendar year thereafter, the amount which is equal to (x) Four Hundred Thousand Dollars (\$400,000), plus (y) two per centum (2%) of the gross charges to plant account for additions to the depreciable property included in the Mortgaged and Pledged Property, used primarily and principally in the gas, electric, steam and/or hot water utility business or gas by-product business, made subsequent to March 31, 1946, and prior to the beginning of the calendar year next preceding such filing, less (z) two per centum (2%) of the gross credits to plant account for retirement of the depreciable property included in the Mortgaged and Pledged Property, used primarily and principally in the gas, electric, steam and/or hot water utility business or gas by-product business, made subsequent to March 31, 1946, and prior to the beginning of the calendar year next preceding such filing, in each case, excluding from plant account any amounts included in utility plant acquisition adjustment accounts or utility plant adjustment accounts or in any accounts for similar purposes;

(2) the amount which is equal to the aggregate amounts deducted pursuant to the provisions of clause (A) of Section 4 hereof from the Cost or fair value of Property Additions in respect of Funded Property retired less the aggregate amounts added pursuant to the provisions of items (a), (b), (c), (d) and

(e) of clause (B) of said Section 4 in any Engineer's Certificate or Engineer's Certificates theretofore delivered to the Corporate Trustee pursuant to any of the provisions of this Indenture, which amounts shall not theretofore have been made the basis of a credit under this subsection (I) and which the Company then elects to make the basis of a credit under this subsection (I);

(3) the Cost or fair value to the Company, whichever is less, as shall be stated in an Engineer's Certificate and/or Independent Engineer's Certificate delivered to the Corporate Trustee, of any (gross) Property Additions which are not then Funded Property (without making any of the deductions and additions provided for in subsection (II) of Section 4 hereof) and which Property Additions the Company then elects to make the basis of a credit under this subsection (I);

(4) the principal amount of each bond to the authentication and delivery of which the Company shall then be entitled under the provisions of Section 26 or Section 29 hereof by virtue of compliance with all applicable provisions of said Section 26 or Section 29, as the case may be (except as hereinafter in this Section otherwise provided) and the right to the authentication and delivery of which the Company then elects to make the basis of a credit under this subsection (I);

(5) expenditures subsequent to March 31, 1946, for gross additions to automotive equipment of the Company used (in the operation of the Mortgaged and Pledged Property) in the gas, electric, steam and/or hot water utility business or gas by-product business, which expenditures shall not theretofore have been made the basis of a credit under this subsection (I) and which expenditures the Company then elects to make the basis of a credit under this subsection (I);

(6) the amount, if any, required to be stated by clause (7) below in the next preceding Officers' Certificate of Replacements, if any;

(7) the amount, if any, by which the aggregate of the amounts required to be stated by clauses (2) to (6), both in-

clusive, of this subsection (I) in the certificate then being made exceeds the amount require to be stated by clause (1) hereof in such certificate; and

(8) the amount, if any, by which the aggregate of the amounts required to be stated in clauses (2) to (6), both inclusive, of this subsection (I) in the certificate then being made is less than the amount required to be stated by clause (1) hereof in such certificate.

The Company covenants to deposit with the Corporate Trustee in cash within ninety (90) days after the close of such period of eighteen (18) calendar months and of each calendar year thereafter an amount equal to any amount required to be stated by clause (8) above in the Officers' Certificate of Replacements required to be filed within such ninety (90) day period.

Any cash deposited with the Corporate Trustee under the provisions of this subsection (I) shall be held by it as part of the Mortgaged and Pledged Property and

(a) may be withdrawn by the Company in an amount equal to the aggregate amounts deducted pursuant to the provisions of clause (A) of Section 4 hereof from the Cost or fair value of Property Additions in respect of Funded Property retired less the aggregate amounts added pursuant to the provisions of items (a), (b), (c), (d) and (e) of clause (B) of said Section 4 in any Engineer's Certificate or Engineer's Certificates theretofore delivered to the Corporate Trustee pursuant to any of the provisions of this Indenture, which amounts shall not theretofore have been made the basis of a credit under this subsection (I) and which amounts the Company then elects in an Officers' Certificate filed with the Corporate Trustee to make the basis of a credit under this subsection (I) against such withdrawal of cash;

(b) may be withdrawn by the Company in an amount equal to the Cost or fair value to the Company whichever is less, as shall be stated in any Engineer's Certificate or Independent

Engineer's Certificate delivered to the Corporate Trustee, of any (gross) Property Additions which are not then Funded Property (without making any of the deductions or additions provided for in Section 4 hereof) and which Property Additions the Company then elects to make the basis of a credit under this subsection (I) against such withdrawal of cash;

(c) may be withdrawn from time to time by the Company in an amount equal to the principal amount of each bond to the authentication and delivery of which the Company shall then be entitled under the provisions of Section 26 or Section 29 hereof by virtue of compliance with all applicable provisions of said Section 26 or Section 29, as the case may be (except as hereinafter in this Section otherwise provided), and the right to the authentication and delivery of which the Company then elects to make the basis of a credit under this subsection (I) against such withdrawal of cash;

(d) may, upon the request of the Company, be used by the Corporate Trustee for the purchase of bonds issued hereunder in accordance with the provisions of Section 55 hereof; or

(e) may, upon the request of the Company, be applied by the Corporate Trustee to the redemption of any bonds issued hereunder which are, by their terms, redeemable of such series as may be designated by the Company, such redemption to be in the manner and as provided in Article X hereof.

Such moneys shall, from time to time, be paid out or used or applied by the Corporate Trustee, as aforesaid, upon the request of the Company evidenced by a Resolution.

Unless all bonds of the First Series shall have ceased to be Outstanding, any Property Additions which shall have been made the basis of a credit for any purpose under this subsection (I) shall have the status of Funded Property. Unless all bonds of the First Series shall have ceased to be Outstanding any election of a credit for any purpose under this subsection (I) based upon the right to the authentication and delivery of any bond or fraction of a bond shall operate as a waiver by

the Company of its right to the authentication and delivery of such bond or fraction of a bond and such bond or fraction of a bond may not thereafter be authenticated and delivered hereunder and any bond or Qualified Lien Bond which has been made the basis of any such right to the authentication and delivery of any bond or fraction of a bond so waived shall be deemed to have been made the basis of a credit under this subsection (I); and all bonds purchased or redeemed by application of cash pursuant to the provisions of this Section shall be deemed to have been purchased or redeemed with Funded Cash; provided, however, that (notwithstanding the Company may have, as permitted by the provisions of clause (e) of subdivision (B) of Section 4 hereof, elected to have added any or all bonds purchased or redeemed by application of cash deposited pursuant to the provisions of this Section) if at any time and from time to time after such an election or application of cash and prior to the time when all bonds of the First Series shall have ceased to be Outstanding, the Company shall file with the Corporate Trustee an Officers' Certificate referring to such election and stating:

(i) the amount which is equal to the aggregate amounts deducted pursuant to the provisions of clause (A) of Section 4 hereof from the Cost or fair value of Property Additions in respect of Funded Property retired less the aggregate amounts added pursuant to the provisions of items (a), (b), (c), (d) and (e) of clause (B) of said Section 4 in any Engineer's Certificate or Engineer's Certificates theretofore delivered to the Corporate Trustee pursuant to any of the provisions of this Indenture, which amounts shall not theretofore have been made the basis of a credit under this subsection (I) and which amounts the Company then elects to make the basis of a credit under this subsection (I) in lieu of an equal principal amount of bonds, the right to the authentication and delivery of which has theretofore been waived pursuant to the provisions of this subsection (I), or which shall have been purchased or redeemed by the application of cash pursuant to the provisions of this Section; or

(ii) the Cost or fair value to the Company whichever is less, as shall be stated in an Engineer's Certificate or Independent

Engineer's Certificate delivered to the Corporate Trustee of any (gross) Property Additions which are not then Funded Property (without making any of the deductions and additions provided for in subdivision (II) of Section 4 hereof) and which Property Additions the Company then elects to make the basis of a credit under this subsection (I) in lieu of an equal principal amount of bonds, the right to the authentication and delivery of which has theretofore been waived pursuant to the provisions of this subsection (I), or which have been purchased or redeemed by application of cash pursuant to the provisions of this Section;

then, and in that event, notwithstanding any other provisions of this Indenture, the Company's waiver made by such election of the right to the authentication and delivery of bonds in the aggregate principal amount specified in the Officers' Certificate filed pursuant to this proviso shall forthwith cease to be effective and the waiver of such right shall no longer be deemed to have been made, or, as the case may be, bonds in the aggregate principal amount specified in the Officers' Certificate filed pursuant to this proviso shall forthwith cease to be deemed to have been purchased or redeemed with Funded Cash.

In every case in which any credit under this subsection (I) is, in whole or in part, based upon Property Additions as permitted under clause (3), clause (b) or clause (ii) of this subsection (I), the Company shall comply with all applicable provisions of this Indenture (except subsection (II) of Section 4 hereof) as if such Property Additions were made the basis of an application for the authentication and delivery of bonds thereon (equivalent in principal amount to sixty per centum (60%) of the credit so to be based on such Property Additions), except that in no such case shall the Company be required to comply with any earning requirements or to deliver to the Corporate Trustee any Resolution, Officers' Certificate, Net Earning Certificate or Opinion of Counsel, such as is described in subdivisions (1), (2), (6) and (8) of Section 28 hereof.

In every case in which any credit under this subsection (I) is to be based in whole or in part upon the right to the authentication and

delivery of bonds, as permitted under clause (4) or clause (c) of this subsection (I), the Company shall comply with all applicable provisions of Section 26 or Section 29 hereof, as the case may be, relating to such authentication and delivery, except that in no such case shall the Company be required to comply with any earning requirements or to deliver to the Corporate Trustee any Resolution, Officers' Certificate, Net Earning Certificate or Opinion of Counsel such as is described in subdivisions (1), (2), (6) and (8) of Section 28 hereof.

(II) If at any time cash in excess of Fifty Thousand Dollars (\$50,000) shall have remained on deposit with the Corporate Trustee under the provisions of subsection (I) of this Section for a period of five years, with respect to which the Company shall not have made a proper request for the withdrawal, use or application of the same as in said subsection (I) provided, all cash so remaining on deposit shall be applied by the Corporate Trustee to the purchase or redemption of bonds in accordance with the provisions of Article X hereof.

(III) So long as any of the bonds of the First Series remain Outstanding, the Company will not declare or pay dividends (other than dividends payable solely in shares of its common stock) on or make any other distribution on or acquire (unless acquired without cost to the Company) any shares of its common stock unless the provisions for depreciation and retirement of property (but excluding any provisions for amortization of any amounts included in utility plant acquisition adjustment accounts or utility plant adjustment accounts or in any accounts for similar purposes) during the period from July 1, 1946, to the date of the proposed payment of said dividends or making of such distribution or acquisition, plus earned surplus of the Company (including as earned surplus current net income available to be transferred to earned surplus) remaining:

(a) after payment of such dividends or making of such distribution or acquisition; and

(b) after deducting any remainder of the amount of the earned surplus of the Company as of June 30, 1946, after deducting from such amount the charges to earned surplus subsequent to June 30, 1946, other than charges occasioned by dividends (other than dividends payable solely in shares of its common stock) on shares of its common stock or occasioned by other distributions on or acquisitions of shares of its common stock and other than charges to earned surplus with corresponding credits to reserves for depreciation and retirement of property;

shall be at least equal to the aggregate amounts required to be stated for such period in the Officers' Certificates of Replacements by the provisions of subdivision (1) of subsection (I) of this Section (including proportionate amounts calculated as provided in such subdivision (1) for any portions of the period elapsed since June 30, 1946, not theretofore included in any such Officers' Certificates of Replacements).

SECTION 40. The Company covenants that, so long as any of the bonds of the First Series shall remain Outstanding, it will, on or before October 1, 1952, and on or before October 1 of each year thereafter, to and including the year 1975, deliver to (or deposit with) the Corporate Trustee:

(A) An Officers' Certificate which shall state:

(a) the greatest principal amount of all bonds of the First Series prior to January 1 of such year at any one time Outstanding;

(b) the aggregate principal amount of all bonds of the First Series retired prior to the date of such Officers' Certificate pursuant to the provisions of subdivision (3) or subdivision (4) of Section 61 hereof by use or application of the proceeds of insurance on, the release or other disposition of, or the taking by eminent domain of, property, or pursuant to the provisions of Section 64 hereof;

(c) the aggregate principal amount of bonds the right to the authentication and delivery of which (on the basis of the

retirement of bonds of the First Series) shall have been waived prior to the date of such Officers' Certificate pursuant to the provisions of clause (c) of subdivision (4) of Section 59 hereof as the basis of the release of property or pursuant to the provisions of subdivision (2) of Section 61 hereof as the basis of the withdrawal of cash representing proceeds of insurance on, the release or other disposition of, or the taking by eminent domain of property;

(d) the amount remaining after deducting the sum of the amounts stated pursuant to clauses (b) and (c) above from the amount stated pursuant to clause (a) above;

(e) one and one-half per centum (1½%) of the amount required to be stated by clause (d) above in the Officers' Certificate due on or before October 1 in each of the years 1952 to 1975 (both inclusive) pursuant to the provisions of this Section; and

(f) an aggregate principal amount of bond(s) or fraction of a bond to the authentication and delivery of which the Company shall then be entitled on the basis of Property Additions or on the basis of the retirement of bonds of the First Series by virtue of compliance with all applicable provisions of this Indenture (except as hereinafter in this Section otherwise provided) if the Company elects to make its right to the authentication and delivery of such bond(s) or fraction of a bond the basis of a credit under this Section.

(B) An amount in cash and/or principal amount of bonds of the First Series equivalent to the amount stated in the Officers' Certificate (due on or before October 1 of such year) provided for by this Section pursuant to the requirements of clause (e) of subdivision (A) of this Section; provided, however, that, against the amount of cash or bonds payable or deliverable pursuant to this paragraph (B), there shall be credited the principal amount of the bonds which shall be stated in such Officers' Certificate pursuant to the requirements of clause (f) of subdivision (A) of this Section.

Such cash together with any bonds delivered to the Corporate Trustee under the provisions of this Section shall be dealt with as provided for by this Section.

Notwithstanding any other provisions of this Indenture, (i) the Company shall be permitted from time to time to anticipate in whole or in part the requirements of this Section becoming due on October 1 of the then current year or any subsequent year or years by depositing cash and/or a principal amount of bonds of the First Series with the Corporate Trustee in full satisfaction or in partial satisfaction of the requirements of this Section and (ii) any cash so deposited, whether in full satisfaction or in partial satisfaction of the requirements of this Section whether becoming due on October 1 of the then current year or of a subsequent year, may be from time to time withdrawn, used or applied in the manner, to the extent, for the purposes and subject to the conditions provided in Section 31 hereof or in subdivisions (3) and/or (4) of Section 61 hereof; provided, however, that the retirement of no bonds of any series other than the First Series shall be made the basis of the withdrawal of cash deposited under this Section and, provided further that no bonds of any series other than the First Series shall be purchased or redeemed with cash deposited under the provisions of this Section and that no bonds of the First Series shall be purchased with cash deposited under this Section at such price (including accrued interest and brokerage) that the cost thereof to the Company is in excess of the cost of redeeming such bonds on a date forty (40) days after the date of such purchase (including premium, if any, and accrued interest from the interest date next preceding the date of purchase to such redemption date in such cost).

In case credit under the provisions of this Section is applied for in whole or in part upon the basis of the right to the authentication and delivery of bonds, the Company shall comply with all applicable provisions of this Indenture relating to such authentication and delivery; except that the Company shall not be required to comply with any earning requirements or to deliver to the Corporate Trustee any Res-

olution, Officers' Certificate, Net Earning Certificate or Opinion of Counsel such as is described in subdivisions (1), (2) (6) and (8) of Section 28 hereof.

So long as any bonds of the First Series shall remain Outstanding, any election by the Company pursuant to clause (f) of subdivision (A) of this Section to make its right to the authentication and delivery of any bond(s) or fraction of a bond the basis of a credit under this Section shall operate as a waiver by the Company of its right to the authentication and delivery of such bond(s) or fraction of a bond and such bond(s) or fraction of a bond may not thereafter be authenticated and delivered hereunder, and any Property Additions which have been made the basis of any such right to the authentication and delivery of bond(s) or fraction of a bond so waived shall have the status of Funded Property and shall be deemed to have been made the basis of a credit under this Section.

Any bonds issued under this Indenture delivered to, deposited with or purchased or redeemed by, the Corporate Trustee pursuant to the provisions of this Section, shall forthwith be canceled by the Corporate Trustee.

The Company shall forthwith from time to time on demand of the Corporate Trustee make further payments pursuant to the provisions of this Section on account of accrued interest, brokerage and premium, if any, on bonds purchased or redeemed or then to be purchased or redeemed but not in excess of

(AA) the aggregate cost for principal, interest, brokerage and premium, if any, on all bonds theretofore, or then to be, purchased and/or redeemed pursuant to the provisions of this Section;

after deducting therefrom

(BB) the aggregate principal amount of all bonds theretofore, and of all bonds then to be purchased and/or redeemed pursuant to the provisions of this Section plus the aggregate of

all such further payments theretofore made pursuant to the provisions of this Section on account of accrued interest, brokerage and/or premium, if any.

SECTION 41. The Company covenants that it will, subject to the provisions of Article XVI hereof, at all times maintain its corporate existence and right to carry on business, and duly procure all renewals and extensions thereof, if and when any shall be necessary and, subject to the provisions of this Indenture, will use its best efforts to maintain, preserve and renew all the rights, powers, privileges and franchises owned by it, affecting the Mortgaged and Pledged Property.

SECTION 42. The Company covenants that it will cause this Indenture and all indentures and instruments supplemental hereto to be promptly recorded and filed and re-recorded and refiled in such manner and in such places as may be required by law in order fully to preserve and protect the security of the bondholders and all rights of the Trustees, and will furnish to the Corporate Trustee

(a) Promptly after the execution and delivery of this Indenture and of each supplemental indenture, an Opinion of Counsel either stating that in the opinion of such counsel this Indenture or such supplemental indenture has been properly recorded and filed, so as to make effective the lien intended to be created thereby, and reciting the details of such action, or stating that in the opinion of such counsel no such action is necessary to make such lien effective. It shall be a compliance with this subdivision (a) if (1) the Opinion of Counsel herein required to be delivered to the Corporate Trustee shall state that this Indenture or such supplemental indenture has been received for record or filing in each jurisdiction in which it is required to be recorded or filed and that, in the opinion of counsel (if such is the case), such receipt for record or filing makes effective the lien intended to be created by this Indenture or such supplemental indenture, and (2) such opinion is delivered to the Corporate Trustee within such time, following the date of the

execution and delivery of this Indenture or such supplemental indenture, as shall be practicable having due regard to the number and distance of the jurisdictions in which this Indenture or such supplemental indenture is required to be recorded or filed.

(b) Annually after the execution and delivery of this instrument, an Opinion of Counsel either stating that in the opinion of such counsel such action has been taken, since the date of the most recent Opinion of Counsel furnished pursuant to this subdivision (b) or the first Opinion of Counsel furnished pursuant to subdivision (a) of this Section, with respect to the recording, filing, re-recording, and re-filing of this instrument and of each indenture supplemental to this instrument, as is necessary to maintain the Lien hereof, and reciting the details of such action, or stating that in the opinion of such counsel no such action is necessary to maintain such lien. Such Opinion of Counsel shall be delivered to the Corporate Trustee within three (3) months after each anniversary of the execution and delivery of this instrument.

The Company covenants that it will execute and deliver such supplemental indenture or indentures and such further instruments and do such further acts as may be necessary or proper to carry out more effectually the purposes of this Indenture and to make subject to the Lien hereof any property hereafter acquired, made or constructed, intended to be subject to the Lien hereof, and to transfer to any new trustee or trustees or co-trustee or co-trustees, the estate, powers, instruments or funds held in trust hereunder.

SECTION 43. (a) The Company covenants and agrees that it will furnish or cause to be furnished to the Corporate Trustee after January 1, 1947, between February 15 and March 1 and between August 15 and September 1, in each year, and at such other times as the Corporate Trustee may request in writing, a list in such form as the Corporate Trustee may reasonably require containing all the information in the possession or control of the Company or of its paying agents, as to the

names and addresses of the holders of bonds obtained since the date as of which the next previous list, if any, was furnished. Any such list may be dated as of a date not more than fifteen (15) days prior to the time such information is furnished or caused to be furnished, and need not include information received after such date.

(b) The Corporate Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the holders of bonds (1) contained in the most recent list furnished to it as provided in subdivision (a) of this Section, (2) received by it in the capacity of paying agent hereunder and (3) filed with it within two preceding years pursuant to the provisions of paragraph (2) of subdivision (c) of Section 100 hereof. The Corporate Trustee may (1) destroy any list furnished to it as provided in subdivision (a) of this Section upon receipt of a new list so furnished; (2) destroy any information received by it as paying agent upon delivering to itself as Corporate Trustee, not earlier than forty-five (45) days after an interest payment date of the bonds, a list containing the names and addresses of the holders of bonds obtained from such information since the delivery of the next previous list, if any; (3) destroy any list delivered to itself as Corporate Trustee which was compiled from information received by it as paying agent upon the receipt of a new list so delivered; and (4) destroy any information received by it pursuant to the provisions of paragraph (2) of subdivision (c) of Section 100 hereof, but not until two years after such information has been filed with it.

(c) In case three or more holders of bonds (hereinafter referred to as "Applicants") apply in writing to the Corporate Trustee, and furnish to the Corporate Trustee reasonable proof that each such Applicant has owned a bond for a period of at least six months preceding the date of such application, and such application states that the Applicants desire to communicate with other holders of bonds with respect to their rights under this Indenture or under the bonds, and is

accompanied by a copy of the form of proxy or other communication which such Applicants propose to transmit, then the Corporate Trustee shall, within five business days after the receipt of such application, at its election, either

(1) afford to such Applicants access to the information preserved at the time by the Corporate Trustee in accordance with the provisions of subdivision (b) of this Section; or

(2) inform such Applicants as to the approximate number of holders of bonds whose names and addresses appear in the information preserved at the time by the Corporate Trustee, in accordance with the provisions of subdivision (b) of this Section, and as to the approximate cost of mailing to such bondholders the form of proxy or other communication, if any, specified in such application.

If the Corporate Trustee shall elect not to afford to such Applicants access to such information, the Corporate Trustee shall, upon the written request of such Applicants, mail to each bondholder whose name and address appears in the information preserved at the time by the Corporate Trustee in accordance with the provisions of subdivision (b) of this Section, a copy of the form of proxy or other communication which is specified in such request, with reasonable promptness after a tender to the Corporate Trustee of the material to be mailed and of payment or provision for the payment of the reasonable expenses of mailing, unless within five days after such tender the Corporate Trustee shall mail to such Applicants and file with the Securities and Exchange Commission together with a copy of the material to be mailed a written statement to the effect that, in the opinion of the Corporate Trustee, such mailing would be contrary to the best interests of the holders of bonds, or would be in violation of applicable law. Such written statement shall specify the basis of such opinion. If said Commission, after opportunity for a hearing upon the objections specified in the written statement so filed, shall enter an order refusing to sustain any of such

objections or if, after the entry of an order sustaining one or more of such objections, said Commission shall find, after notice and opportunity for a hearing, that all the objections so sustained have been met and shall enter an order so declaring, the Corporate Trustee shall mail copies of such material to all such bondholders with reasonable promptness after the entry of such order and the renewal of such tender; otherwise the Corporate Trustee shall be relieved of any obligation or duty to such Applicants respecting their application.

(d) Neither the Trustees nor any paying agent shall be held accountable by reason of the disclosure of information as to names and addresses or the mailing of any material pursuant to any request made under subdivision (c) of this Section.

SECTION 44. The Company covenants and agrees

(1) to file with the Corporate Trustee within fifteen (15) days after the Company is required to file the same with the Securities and Exchange Commission, copies of the annual reports and of the information, documents, and other reports (or copies of such portions of any of the foregoing as such Commission may from time to time by rules and regulations prescribe) which the Company may be required to file with such Commission pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934; or, if the Company is not required to file information, documents, or reports pursuant to either of such sections, then to file with the Corporate Trustee and the Securities and Exchange Commission, in accordance with rules and regulations prescribed from time to time by said Commission, such of the supplementary and periodic information, documents, and reports which may be required pursuant to Section 13 of the Securities Exchange Act of 1934 in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations;

(2) to file with the Corporate Trustee and the Securities and Exchange Commission, in accordance with the rules and regulations prescribed from time to time by said Commission,

such additional information, documents and reports with respect to compliance by the Company with the conditions and covenants provided for in this Indenture as may be required from time to time by such rules and regulations, including, in the case of annual reports, if required by such rules and regulations, certificates or opinions of independent public accountants, conforming to the requirements of Section 121 hereof, as to compliance with conditions or covenants, compliance with which is subject to verification by accountants, but no such certificate or opinion shall be required as to (A) dates or periods not covered by annual reports required to be filed by the Company, in the case of conditions precedent which depend upon a state of facts as of a date or dates or for a period or periods different from that required to be covered by such annual reports, or (B) the amount and value of Property Additions, except as provided in Section 28 hereof, or (C) the adequacy of depreciation, maintenance, or repairs;

(3) to transmit to the holders of bonds, in the manner and to the extent provided in subdivision (c) of Section 100 hereof with respect to reports pursuant to subdivision (a) of Section 100 hereof, such summaries of any information, documents and reports required to be filed by the Company pursuant to subdivisions (1) and (2) of this Section as may be required by the rules and regulations prescribed from time to time by the Securities and Exchange Commission; and

(4) to furnish to the Corporate Trustee (a) with or as a part of each annual report and each other document or report filed with the Corporate Trustee pursuant to subdivision (1) or subdivision (2) of this Section, an Officers' Certificate stating that in the opinion of the signers such annual report or other document or report complies with the requirements of such subdivision (1) or subdivision (2), and (b), after the Company shall have transmitted to the holders of bonds any summary of information, documents or reports pursuant to subdivision (3) of this Section, an Officers' Certificate stating that in the opinion of the signers such summary complies with the requirements of such subdivision (3).

The Company covenants that it will file with the Corporate Trustee, on or before October 1 of each year beginning with the year 1947, an officers' Certificate stating that, except as may be set forth to the contrary in such certificate, the Company has complied with all of the provisions of this Indenture and as of the date of the certificate is not in default with respect to any of its covenants contained in this Indenture.

Each certificate furnished to the Corporate Trustee pursuant to the provisions of this Section shall conform to the requirements of Section 121 hereof.

SECTION 45. The Company covenants that books of record and account will be kept in which full, true and correct entries will be made of all dealings or transactions of, or in relation to, the plants, properties, business and affairs of the Company.

The Company covenants that it will not issue, or permit to be issued, any bonds hereunder in any manner other than in accordance with the provisions of this Indenture and that it will faithfully observe and perform all the conditions, covenants and requirements of this Indenture and of all indentures supplemental hereto and of the bonds issued hereunder.

SECTION 46. The Company covenants that it will promptly advise the Corporate Trustee in writing of any failure to pay interest upon or principal (whether at maturity as therein expressed or by declaration, or otherwise) of any Outstanding Qualified Lien Bonds continued beyond the period of grace, if any, specified in the Qualified Lien securing the same.

The Company covenants that upon the cancellation and discharge of any Qualified Lien securing Qualified Lien Bonds it will (unless the Qualified Lien Bonds, cash, proceeds and other property mentioned in subdivisions (a) and (b) below are thereupon otherwise disposed of as required by another Qualified Lien) cause

(a) any Qualified Lien Bonds deposited with and then held by the trustee or other holder of such Qualified Lien canceled and

discharged, to be canceled and notification thereof to be given to the Corporate Trustee, or, at the option of the Company, to be delivered to and deposited with the Corporate Trustee hereunder; and

(b) all cash which (after giving effect to the provisions of Section 61 hereof) is then deemed to be Funded Cash and all obligations secured by purchase money mortgages and all proceeds of insurance on, or of the release of, or the taking by eminent domain of, or the purchase by a governmental authority or its designee of, Funded Property, deposited with and then held by the trustee or other holder of such Qualified Lien canceled and discharged (including as to all of the foregoing all proceeds of or substitutes for any thereof then held as aforesaid), to be paid and/or delivered to and/or deposited with the Corporate Trustee hereunder, to be held as part of the Mortgaged and Pledged Property;

any such Qualified Lien Bonds constituting a part thereof to be held and disposed of under the provisions of Article IX hereof; any such cash and/or obligations secured by purchase money mortgages on property released (including any proceeds or substitutes therefor) constituting a part thereof to be paid over, withdrawn, used or applied, in the manner, to the extent, and for the purposes and subject to the conditions provided in Section 61 hereof with respect to cash and obligations secured by purchase money mortgages deposited under the provisions of Section 59 hereof; any bonds issued hereunder deposited with and then held by the trustee or other holder of such Qualified Lien canceled and discharged, to be canceled by the Corporate Trustee; and any other property constituting a part thereof to be subject to use and release as provided with respect to such property in Article XI hereof.

The Company covenants that it will not permit the amount of Qualified Lien Bonds to be increased by the issue of additional Qualified Lien Bonds unless (1) the Qualified Lien Bonds representing such increase shall be issued upon transfer of or in exchange for or in lieu of Outstanding Qualified Lien Bonds on the exercise by a holder or holders of such Outstanding Qualified Lien Bonds

of the right granted by the Qualified Lien securing such Qualified Lien Bonds to have such bonds issued or unless (2) the Qualified Lien Bonds representing such increase shall be deposited with the Corporate Trustee to be held under the provisions of Article IX hereof and/or unless such Qualified Lien Bonds representing such increase shall be deposited with the trustee or other holder of a Qualified Lien (under conditions such that no transfer of ownership or possession of such Qualified Lien Bonds representing such increase by the trustee or other holder of such Qualified Lien is permissible except upon a default thereunder, or except to the Corporate Trustee hereunder to be held subject to the provisions of Article IX hereof, or to the trustee or other holder of a Qualified Lien for cancellation, or to be held uncanceled under the terms of a Qualified Lien under like conditions); that it will not apply under any provision of this Indenture for the authentication and delivery of any bonds or the withdrawal of cash or the release of property or for a credit under the provisions of Section 39 or Section 40 hereof by reason of the deposit with the Corporate Trustee of such Qualified Lien Bonds representing such increase; and that it will not apply under any provisions of any Qualified Lien (i) for the withdrawal of cash (which, after giving effect to the provisions of Section 61 hereof, is then deemed to be Funded Cash) held by the trustee or other holder of such Qualified Lien on the basis of Funded Property, unless such cash so withdrawn shall be deposited with the Corporate Trustee hereunder, to be held as part of the Mortgaged and Pledged Property, and to be withdrawn, used or applied in the manner, to the extent, and for the purposes and subject to the conditions provided in Section 61 hereof with respect to cash deposited under the provisions of Section 59 hereof, or (ii) for the release of obligations secured by purchase money mortgage (the proceeds of which, after giving effect to the provisions of Section 61 hereof, would then be deemed to be Funded Cash) held by the trustee or other holder of such Qualified Lien on the basis of Funded Property, unless such obligations so released shall be delivered to the Corporate Trustee hereunder, to be held as part of the Mortgaged and Pledged Property,

and to be released and otherwise dealt with, in the manner, to the extent, and for the purposes and subject to the conditions provided in Section 61 hereof with respect to obligations secured by purchase money mortgage received by the Corporate Trustee in consideration of the release of property.

The Company covenants that, upon the cancellation and discharge of any other lien prior hereto (upon property subject to the Lien hereof), securing indebtedness, other than Qualified Lien Bonds, the Company will cause all cash, purchase money obligations and other property then held by the trustee or other holder of such lien, which were received by such trustee or other holder by reason of the release of, or the purchase by a governmental authority or its designee of, or which represents the proceeds of the taking by eminent domain of, or insurance on, any of the Mortgaged and Pledged Property (including all proceeds of or substitution for any thereof) to be paid and/or delivered to and/or deposited with the Corporate Trustee hereunder, to be held as part of the Mortgaged and Pledged Property, any such cash and/or purchase money obligations constituting a part thereof to be paid over, withdrawn, used or applied in the manner, to the extent and for the purposes and subject to the conditions provided in Section 61 hereof with respect to cash and purchase money obligations deposited under the provisions of Section 59 hereof, and any other property constituting a part thereof to be subject to use and release as provided with respect to such property in Article XI hereof.

Nothing in this Indenture contained shall be deemed to limit the right of any successor to the Company under the provisions of Article XVI hereof, which shall not have caused this Indenture or the indenture executed as in Section 86 hereof provided to become a lien upon any of the properties or franchises of the successor corporation except as contemplated by clauses (a), (b) and (c) of subsection (I) of Section 87 hereof, to increase the indebtedness secured by lien upon any of its properties or franchises not subject to the Lien of this Indenture or of such indenture executed as in Section 86 hereof provided.

ARTICLE IX.

Concerning Qualified Lien Bonds and Bonds Secured by Lien Prior to the Lien Hereof Deposited with Corporate Trustee.

SECTION 47. Each Qualified Lien Bond or bond secured by lien prior hereto, upon property subject to the Lien hereof, in coupon form deposited with the Corporate Trustee shall have all unmatured coupons attached when so deposited, or shall be accompanied by evidence satisfactory to the Corporate Trustee (which may be a certificate of the mortgagee or trustee under the Qualified Lien or lien prior hereto securing the same) that the discharge of the lien securing such bond may be obtained without the production of any coupon or coupons that may be missing; and each Qualified Lien Bond or bond secured by any such lien prior hereto so deposited shall be uncanceled. Each Qualified Lien Bond or bond secured by any such lien prior hereto deposited hereunder shall be in bearer form or accompanied by appropriate instrument of transfer; and the Corporate Trustee may cause any or all registered bonds deposited under this Article IX to be registered in its name as Corporate Trustee, or otherwise, or in the name or names of its nominee or nominees.

SECTION 48. All Qualified Lien Bonds and bonds secured by lien prior hereto, upon property subject to the Lien hereof, received by the Corporate Trustee for the purpose of this Article IX, shall be held by the Corporate Trustee, as part of the Mortgaged and Pledged Property and without impairment of the lien thereof, for the protection and further security of the bonds issued hereunder. Except during the continuance of a Default defined in Section 65 of this Indenture, no payment by way of principal, interest or otherwise on any of the Qualified Lien Bonds or bonds secured by any such lien prior hereto held by the Corporate Trustee shall be made or demanded and the coupons thereto appertaining as they mature shall be canceled by the Corporate Trustee and delivered so canceled to the Company, unless the Company shall,

by an instrument in writing, signed by its President or a Vice-President or its Treasurer or an Assistant Treasurer, and delivered to the Corporate Trustee, elect, with respect to any of such bonds, to have such payments made and demanded, in which event the Company shall, subject to the provisions hereinafter in this Section contained, be entitled to receive all such payments. In any event, except during the continuance of a Default as aforesaid, all cash received by the Corporate Trustee (a) on account of the principal of or interest or premium on said bonds, or (b) by reason of the sale or delivery of any of said bonds to the sinking fund or other similar device for the retirement of bonds provided for in any lien securing the same (as to both (a) and (b) above, to the extent that an Officers' Certificate delivered to the Corporate Trustee shall state that such cash is not cash which, after giving effect to the provisions of Section 61 hereof, is then deemed to be Funded Cash), shall be paid over by the Corporate Trustee to or upon the order of the Company; provided that, in the absence of such statement, the same shall be retained by the Corporate Trustee and held as part of the Mortgaged and Pledged Property, to be withdrawn, used or applied, in the manner, to the extent, and for the purposes, and subject to the conditions provided in Section 61 hereof with respect to cash deposited under the provisions of Section 59 hereof.

SECTION 49. Except during the continuance of a Default defined in Section 65 hereof, the Corporate Trustee, on the written request of the Company, signed by its President or a Vice-President and its Treasurer or an Assistant Treasurer, shall cause any Qualified Lien Bonds and/or bonds secured by lien prior hereto upon property subject to the Lien hereof, held by it under this Article IX, to be canceled, and the obligation thereby evidenced to be satisfied and discharged, provided, however, that it shall have received notice from the trustee or other holder of the lien securing the same that such trustee or other holder, on receipt of the bonds so held by the Corporate Trustee, will cause the lien securing the same to be satisfied and discharged of record,

and provided, further, that the Corporate Trustee shall not be required to cause any bonds so held by it to be canceled or to be surrendered for cancellation pursuant to the foregoing provisions of this Section, unless and until the Corporate Trustee shall have received an Opinion of Counsel to the effect that there is no outstanding lien (other than Excepted Encumbrances) covering any part of the Mortgaged and Pledged Property upon which such lien exists junior to such lien and senior to the Lien hereof. Upon similar request the Corporate Trustee shall sell (on such terms as the Company shall designate) or surrender any bonds held by it subject to this Article IX to the trustee or other holder of the lien securing the same to be held uncanceled for the purposes of any improvement or sinking fund or other similar device for the retirement of bonds for which provision may have been made in the lien securing the bonds so sold or surrendered, or for cancellation, provided, however, that no such bonds shall be so sold or surrendered except for cancellation as aforesaid until the Corporate Trustee shall have received an Opinion of Counsel to the effect (a) that the provisions of the lien securing the bonds so to be sold or surrendered are such that no transfer of ownership or possession of such bonds by the trustee or other holder of such lien is permissible thereunder except upon default thereunder or except to the Corporate Trustee hereunder, to be held subject to the provisions of this Article IX, or to the trustee or other holder of any such lien prior hereto, for cancellation or to be held uncanceled under the terms of a lien prior hereto upon property subject to the Lien hereof, under like conditions, or (b) that all of the property subject to the lien, with respect to which such bonds have been deposited with the Corporate Trustee, has been released from the Lien of this Indenture, which shall be stated in any event if such be the fact; and provided further that if all of the property subject to any lien securing bonds deposited under this Article IX shall have been released from the Lien of this Indenture, such bonds as shall thereupon cease to be bonds secured by property subject to the Lien of this Indenture shall be surrendered forthwith by the Corporate Trustee to the Com-

pany upon its written request signed by its President or a Vice-President and its Treasurer or an Assistant Treasurer.

Prior to any sale or surrender of bonds by the Corporate Trustee in accordance with the foregoing provisions of this Section, there shall be delivered to the Corporate Trustee, an Engineer's Certificate, made and dated not more than ninety (90) days prior to the date of the Company's request for such sale or surrender, stating the fair value, in the opinion of the signers, of the bonds to be sold or surrendered, and stating that, in the opinion of the signers, the release thereof will not impair the security under this Indenture in contravention of the provisions hereof.

On the request of the Company evidenced by a Resolution, the Corporate Trustee shall permit the extension of the maturity of and/or any other modification of any bonds held by the Corporate Trustee subject to the provisions of this Article IX and/or any modification of a Qualified Lien or lien prior to the Lien hereof.

SECTION 50. Upon the occurrence of any Default defined in Section 65 hereof, the Corporate Trustee may exercise any and all rights of a bondholder with respect to the bonds then held by it under this Article IX or may take any other action which shall in its judgment be desirable or necessary to avail itself of the security created for such bonds by the liens securing the same.

ARTICLE X.

Redemption or Purchase of Bonds.

SECTION 51. Such of the bonds of any series issued hereunder as are, by their terms, redeemable before maturity, may, at the option of the Company, be redeemed at such times, in such amounts and at such prices as may be specified therein and in accordance with the provisions of the three next succeeding Sections numbered from 52 to 54, both inclusive.

SECTION 52. (A) In case of a redemption of a part only of any series of said bonds, of which series more than fifty per centum (50%) in principal amount of all bonds then Outstanding are Group B Bonds, as hereinafter in this Section defined, the particular bonds so to be redeemed shall be designated by the Corporate Trustee by lot, according to such method as it shall deem proper in its discretion. In any such designation by lot the designation may be made from the numbers of the bonds of such series then Outstanding (1) in groups of consecutive numbers (including or excluding, for the purpose of such grouping, the numbers of bonds previously called for redemption or otherwise retired), or (2) individually from the numbers of all such bonds not previously called for redemption or otherwise retired, or (3) if there is any portion to be called which is but a fraction of a group, individually by lot from the several individual numbers in any such group so designated by lot.

(B) In case of the redemption of a part only of any series of said bonds of which series not less than fifty per centum (50%) in principal amount of all bonds then Outstanding are Group A Bonds, as hereinafter in this Section defined,

(1) the Corporate Trustee shall first prorate the principal amount of bonds to be redeemed between Group A Bonds and Group B Bonds in proportion to the principal amount of Group A Bonds and the principal amount of Group B Bonds at the time Outstanding;

(2) the Corporate Trustee shall then designate for redemption in the manner provided in subsection (A) of this Section particular Group B Bonds to be redeemed of the principal amount prorated to Group B Bonds pursuant to subdivision (1) of this subsection (B);

(3) the Corporate Trustee shall then prorate the principal amount of Group A Bonds to be redeemed, as determined pursuant to subdivision (1) of this subsection (B), among all registered owners of Group A Bonds in proportion to the principal

amount of Group A Bonds registered in the name of each registered owner, and shall then designate with respect to each registered owner, according to such method, which need not be by lot, as it shall deem proper in its discretion, particular Group A Bonds or portions of Group A Bonds to be redeemed of the principal amount so prorated to such registered owner.

In any prorating pursuant to subdivision (1) or subdivision (3) of this subsection (B) the Corporate Trustee shall, according to such method, which need not be by lot, as it shall deem proper in its discretion, make such adjustments, by increasing or decreasing by not more than One Thousand Dollars (\$1,000) the amount which would be allocable on the basis of exact proportion to Group A Bonds or to Group B Bonds or to any one or more registered owners of Group A Bonds, as may be necessary to the end that the principal amount so prorated shall be One Thousand Dollars (\$1,000) or a multiple thereof.

The term "Group A Bond" shall mean any bond or a series then Outstanding hereunder, whether in temporary or definitive form, registered as to payment of both principal and interest in the name of an owner, in whose name bonds of such series at the time are registered as to both principal and interest of an aggregate principal amount of not less than One Hundred Thousand Dollars (\$100,000).

The term "Group B Bond" shall mean any bond of a series then Outstanding hereunder not included within the definition of Group A Bond.

Notice of intention to redeem to owners and/or holders of any bonds which are not registered as to principal and interest or principal only shall be given, by or on behalf of the Company, by publication as to the bonds of the First Series, in one Daily Newspaper, printed in the English language, and of general circulation in the Borough of Manhattan, The City of New York, once on at least four different days before the date fixed for redemption as is specified in Section 19 hereof, provided, however, that each successive publication of any such notice may

be in the same Daily Newspaper in which such notice shall have been first published or in one or more other Daily Newspapers, and as to the bonds of any other series, in such newspaper(s) and for such period(s) as may be fixed for the bonds of such other series by the Resolutions establishing such series of bonds, or if no such newspaper(s) and/or period(s) be fixed, then once on at least four different days before the date fixed for redemption, the first publication to be at least thirty (30) days prior to the date fixed for redemption, in such a Daily Newspaper as is required with respect to publication in the case of the bonds of the First Series. If less than all bonds of any particular series are to be redeemed, the numbers of any bonds to be redeemed which are not so registered shall be included in such notice and may be stated in any one or more of the following ways: individually; in groups from one number to another number, both inclusive; in groups from one number to another number, both inclusive, except such as shall have been previously called for redemption or otherwise retired.

Notice of intention to redeem to the registered owner of any bond registered as to principal and interest or as to principal only which is to be redeemed in whole or part shall be mailed by or on behalf of the Company, not less than thirty (30) days before the date fixed for redemption, to him at his last address appearing upon the registry books.

Failure duly to give such notice by publication and/or by mailing to the owner or holder of any bond designated for redemption in whole or part shall not affect the validity of the proceedings for the redemption of any other bond.

If at the time of publication or mailing of any notice of redemption the Company shall not have deposited with the Corporate Trustee and/or irrevocably directed the Corporate Trustee to apply, from moneys held by it available to be used for the redemption of bonds, an amount in cash sufficient to redeem all of the bonds called for redemption, including accrued interest to such date fixed for redemption, such

notice shall state that it is subject to the receipt of the redemption moneys by the Corporate Trustee before the date fixed for redemption and such notice shall be of no effect unless such moneys are so received before such date.

The Corporate Trustee, upon the request of the Company evidenced by a Resolution delivered to the Corporate Trustee at least ten (10) days prior to the date on which notice of redemption must first be published or mailed (unless a shorter notice shall be accepted by the Corporate Trustee as sufficient) shall, for and in behalf of and in the name of the Company, call for redemption bonds secured hereby (whether or not for the sinking fund and whether or not the Corporate Trustee shall hold at the time of such call cash sufficient for such redemption) provided that, if cash sufficient for such purpose is not so held, the notice shall state that it is subject to the receipt of the redemption moneys by the Corporate Trustee before the date fixed for redemption and such notice shall be of no effect unless such moneys are so received before such date.

SECTION 53. Publication of the notice of redemption, if required, having been completed as above provided, or if mailing is required, notice of redemption having been mailed, as in Section 52 hereof provided, and the Company having before the redemption date specified in the notice of redemption deposited with the Corporate Trustee (and/or having irrevocably directed the Corporate Trustee to apply, from moneys held by it available to be used for the redemption of bonds) an amount in cash sufficient to redeem all of the bonds called for redemption, including accrued interest, the bonds called for redemption shall become due and payable on such redemption date.

SECTION 54. All moneys held by the Corporate Trustee for the redemption of bonds shall, subject to the provisions of Section 119 hereof, be held in trust for account of the holders of the bonds so to be redeemed, and shall be paid to them respectively, upon presentation and

surrender of such bonds, with all unmatured coupons, if any appertaining thereto. Coupons maturing on or prior to the date fixed for redemption shall remain payable in accordance with their terms. On and after such date fixed for redemption, if the moneys for the redemption of the bonds to be redeemed shall be held by the Corporate Trustee for the purpose, such bonds shall cease to bear interest and shall cease to be entitled to the benefit of the Lien of this Indenture and the coupons for interest, if any, maturing subsequent to the date fixed for redemption shall be void.

If any fully registered bond of a denomination larger than One Thousand Dollars (\$1,000) shall be called for redemption in part only, the notice of redemption shall specify the principal amount thereof to be redeemed, and such fully registered bond shall be presented for cancellation properly endorsed for transfer at or after the date fixed for the redemption of said bond so called for redemption, and thereupon the payment with respect to said bond shall be made upon surrender of said bond so endorsed, and coupon bonds or fully registered bonds for the unpaid balance of the principal amount of the fully registered bond so presented and surrendered shall be executed by the Company and authenticated and delivered by the Corporate Trustee without charge therefor to the holder thereof or, in the case of any fully registered bond of a denomination larger than Ten Thousand Dollars (\$10,000), if the registered owner shall not so surrender such fully registered bond for cancellation, the Corporate Trustee shall upon presentation of such bond at its office for such purpose make notation thereon of the payment of the portion of the principal amount of such bond so called for redemption in part and of the number or numbers, if any, of the coupon bonds theretofore endorsed upon or reserved for such fully registered bond which are canceled upon such payment. On and after the date fixed for such redemption, interest shall be payable only on the portion of each such fully registered bond not so called

for redemption and only such portion shall continue to be entitled to the benefit of the Lien of this Indenture.

SECTION 55. At any time, upon the request of the Company, expressed by Resolution, the Corporate Trustee shall, to the extent that such bonds are available for such purchase, apply all or any part of the cash held by it under any provision of this Indenture, subject to the provisions of Sections 32, 40, 54, 64 and 87 hereof, or any cash deposited with it by the Company for the purpose, to the purchase (including a purchase from the Company) of bonds then Outstanding hereunder of such series as the Company may designate at such price (including accrued interest and brokerage) that the cost thereof to the Company will not exceed the cost of redeeming, on a date forty (40) days after the date of such purchase (including premium, if any, and accrued interest from the interest date next preceding the date of purchase to such redemption date in such cost), such bonds as shall be by their terms redeemable, or at not more than one hundred and five per centum (105%) of the principal of bonds not so redeemable, plus accrued interest. Before making any such purchase the Corporate Trustee may, and upon request of the Company shall, by notice published on two different days in one Daily Newspaper, printed in the English language, and of general circulation in the Borough of Manhattan, The City of New York, advertise for written proposals (to be received by it on or before a specified date) to sell to it on or before a subsequent specified date bonds of the series designated by the Company then Outstanding hereunder; and the Corporate Trustee, to the extent, as nearly as is possible, of such funds then in its hands and requested by the Company to be so applied, shall purchase the bonds so offered at the price or prices most favorable to the Company, not exceeding the maximum amounts specified above, and reasonable notice shall be mailed by the Corporate Trustee to the holder or holders of the bonds whose proposals shall have been accepted. The Corporate Trustee shall, upon request of the Company, invite offers of bonds for sale to

it in any other usual manner. The Corporate Trustee in its discretion may reject any or all proposals in whole or in part, and shall reject any or all proposals in whole or in part if on the same day after opening said proposals it can purchase the requisite amount of such bonds or any part thereof at a price more favorable to the Company than it could by accepting said proposals. All offers by holders shall be subject to acceptance of a portion thereof unless otherwise expressed in the offers and all advertisements for written proposals shall so state.

SECTION 56. All bonds issued hereunder paid, retired or redeemed under any of the provisions of this Indenture or purchased by the Corporate Trustee as provided in Section 55 hereof and all appurtenant coupons, if any, shall forthwith be canceled by the Corporate Trustee, and the Corporate Trustee may periodically cremate any such canceled coupon bonds and deliver to the Company a certificate of such cremation and deliver any such canceled fully registered bonds to the Company.

ARTICLE XI.

Possession, Use and Release of Mortgaged and Pledged Property.

SECTION 57. Unless one or more of the Defaults defined in Section 65 hereof shall have occurred and be continuing, the Company shall be suffered and permitted to possess, use and enjoy the Mortgaged and Pledged Property (except such cash as is expressly required to be deposited with the Corporate Trustee and except, to the extent not herein otherwise provided, such securities as are expressly required to be deposited with the Corporate Trustee), and to receive, use and dispose of the tolls, rents, revenues, issues, earnings, income, product and profit thereof, with power in the ordinary course of business, freely and without let or hindrance on the part of the Trustees or either of them or of the bondholders, except as herein otherwise

expressly provided to the contrary, to exercise any and all rights under choses in action, contracts, franchises and claims.

SECTION 58. Unless the Company is in default in the payment of the interest on any of the bonds then Outstanding hereunder or one or more of the Defaults defined in Section 65 hereof shall have occurred and be continuing, the Company may at any time and from time to time, without any release or consent by, or report to, the Trustees or either of them:

(1) sell or otherwise dispose of, free from the Lien of this Indenture, any machinery, apparatus, equipment, mains, pipe, frames, towers, poles, wire, tools, implements and furniture, then subject to the Lien hereof, which shall have become old, inadequate, obsolete, worn out, unfit, unadapted, unserviceable, undesirable or unnecessary for use in the operations of the Company upon replacing the same by or substituting for the same machinery, apparatus, equipment, mains, pipe, frames, towers, poles, wire, tools, implements or furniture of at least equal value to that of the property sold or otherwise disposed of and subject to the Lien hereof subject to no liens prior hereto except liens to which the property sold or otherwise disposed of was subject;

(2) cancel or make changes or alterations in or substitutions of any and all right of way grants; and

(3) surrender or assent to the modification of any right, power, franchise, license, governmental consent or permit under which it may be operating, provided that, in the opinion of the Board of Directors of the Company (such opinion to be stated in a Resolution to be filed with the Corporate Trustee), any such surrender or modification which affects the Mortgaged and Pledged Property is necessary or desirable in the conduct of the business of the Company.

Release of Property Generally

SECTION 59. Unless the Company is in default in the payment of the interest on any bonds then Outstanding hereunder or one or more of the Defaults defined in Section 65 hereof shall have occurred and be

continuing, the Company may obtain the release of any of the Mortgaged and Pledged Property, except cash then held by the Corporate Trustee (provided, however, that Qualified Lien Bonds deposited with the Corporate Trustee shall not be released except as provided in Article IX hereof and obligations secured by purchase money mortgage deposited with the Corporate Trustee shall not be released except as provided in Section 61 hereof), and the Trustees or the Corporate Trustee shall release all the right, title and interest of the Trustees in and to the same from the Lien hereof upon the application of the Company and receipt by the Corporate Trustee of

(1) a Resolution describing in reasonable detail the property to be released and requesting such release;

(2) an Officers' Certificate stating that the Company is not in default in the payment of the interest on any bonds then Outstanding hereunder and that none of the Defaults defined in Section 65 hereof has occurred and is continuing;

(3) an Engineer's Certificate, made and dated not more than ninety (90) days prior to the date of such application, stating:

(a) that the Company has sold, exchanged, dedicated or otherwise disposed of, or agreed to sell, exchange, dedicate or otherwise dispose of, or that a governmental body or agency has exercised a right to order the Company to divest itself of, the property to be released; (b) the fair value, in the opinion of the signers, of the property (or securities) to be released; (c) the fair value, in the opinion of the signers, of any portion thereof that is Funded Property; (d) that (except in any case where a governmental body or agency has exercised a right to order the Company to divest itself of such property) such release is in the opinion of the signers desirable in the conduct of the business of the Company; (e) the amount of cash and/or principal amount of obligations secured by purchase money mortgage received or to be received for any portion of said property sold to any Federal, State, County, Municipal or other governmental bodies or agencies or public or semi-public

corporations, districts or authorities or for any portion of said property as to which a governmental body or agency has exercised a right to order the Company to divest itself of property and which has been or is to be sold by the Company pursuant to such order; and (f) that in the opinion of the signers such release will not impair the security under this Indenture in contravention of the provisions hereof;

(4) an amount in cash, to be held by the Corporate Trustee as part of the Mortgaged and Pledged Property, equivalent to the amount, if any, by which the fair value of the property to be released, as specified in the Engineer's Certificate provided for in subdivision (3) above, exceeds the aggregate of the following items:

(a) the principal amount, subject to the limitations stated below in this subdivision (4), of any obligations delivered to the Corporate Trustee, to be held as part of the Mortgaged and Pledged property, consisting of obligations secured by purchase money mortgage upon the property released;

(b) the Cost or fair value to the Company (whichever is less) of any Property Additions made the basis of the application which are not then Funded Property (after making any deductions and any additions pursuant to the provisions of Section 4 hereof) as shown by a further Engineer's Certificate (made and dated not more than ninety (90) days prior to the date of such application) delivered to the Corporate Trustee; provided, however, that no such application for release may be based in whole or in part upon Property Additions acquired, made or constructed more than five years prior to the last day of the calendar month immediately preceding the date of such application, and provided, further, that Property Additions acquired, made or constructed within ninety (90) days prior to the date of such application for release, or subsequently thereto, may, at the option of the Company, not have deducted therefrom the deductions nor added thereto the additions pursuant to Section 4 hereof;

(c) the principal amount of each bond or fraction of a bond to the authentication and delivery of which the Company shall be entitled under the provisions of Section 26 or Section 29 hereof, by virtue of compliance with all applicable provisions of said Section 26 or Section 29, as the case may be (except as hereinafter in this Section otherwise provided); provided, however, that (except as hereinafter in this Section otherwise provided) the application for such release shall operate as a waiver by the Company of such right to the authentication and delivery of each such bond or fraction thereof on the basis of which right such property is released and to such extent no such bond or fraction thereof may thereafter be authenticated and delivered hereunder, and any bonds or Qualified Lien Bonds which have been made the basis of any such right to the authentication and delivery of bond(s) or fraction of a bond so waived shall be deemed to have been made the basis of the release of such property;

(d) the principal amount, subject to the limitations stated below in this subdivision (4), of any obligations secured by purchase money mortgage upon the property to be released and/or any amount in cash, that is evidenced to the Corporate Trustee by a certificate of the trustee or other holder of a Qualified Lien or a lien prior hereto, as the case may be, to have been received by it in accordance with the provisions of such Qualified Lien or lien prior hereto in consideration for the release of such property or any part thereof from such Qualified Lien or lien prior hereto; and

(e) any taxes and expenses incidental to such sale, exchange, dedication or disposal;

provided, however, that (i) no obligations secured by purchase money mortgage upon any property being released from the Lien hereof shall be used as a credit in any application for such release unless all obligations secured by such purchase money mortgage shall be delivered to the Corporate Trustee or to the trustee or other holder of a Qualified Lien or lien prior hereto; (ii) in case the total principal amount of obligations secured by


purchase money mortgage upon property being released shall exceed seventy-five per centum (75%) of the fair value of such property, as specified in the Engineer's Certificate provided for in subdivision (3) above, the aggregate credit which may be used pursuant to clause (a) and clause (d) of this subdivision (4) in respect of such obligations shall not exceed seventy-five per centum (75%) of the fair value of the property to be released, as specified in such Engineer's Certificate; and (iii) no obligations secured by purchase money mortgage shall be used as a credit in any application for the release of property hereunder, if the aggregate credit in respect of such obligations to be used by the Company pursuant to clause (a) and clause (d) of this subdivision (4) plus the aggregate credits used by the Company pursuant to said clause (a) and clause (d) in all applications for the release of property theretofore released from the Lien hereof on the basis of purchase money obligations theretofore delivered to and then held by the Corporate Trustee or the trustee or other holder of a Qualified Lien or a lien prior hereto, shall, immediately after the release then being applied for, exceed fifteen per centum (15%) of the aggregate principal amount of bonds at such time Outstanding under this Indenture;

(5) in case any obligations secured by purchase money mortgage upon the property to be released are included in the consideration for such release and are delivered to the Corporate Trustee or to the trustee or other holder of a Qualified Lien or a lien prior hereto in connection with any release of such property, an Opinion of Counsel stating that, in his or their opinion, such obligations are valid obligations, and that the purchase money mortgage securing the same is sufficient to afford a valid purchase money lien upon the property to be released, subject to no lien prior thereto except such liens, if any, as shall have existed thereon just prior to such release as Qualified Liens or liens prior to the Lien of this Indenture; and

(6) in case any franchise is to be so released, an Opinion of Counsel stating that in his or their opinion such release will not impair the right of the Company to operate any of its remaining properties.

All purchase money obligations and the mortgages securing the same delivered to the Corporate Trustee pursuant to this Section shall be duly assigned to the Trustees. The Company shall cause any such purchase money mortgage and the assignment thereof to be promptly recorded and filed in such place or places as shall be required by law in order fully to preserve and protect the security afforded thereby and shall furnish to the Corporate Trustee an Opinion of Counsel stating that in the opinion of such counsel such purchase money mortgage and the assignment thereof have been properly recorded and filed so as to make effective the lien intended to be created thereby. Should any re-recording or re-filing be necessary at any time or from time to time, the Company shall likewise cause the same to be duly effected and shall in each case furnish to the Corporate Trustee an Opinion of Counsel similar to the foregoing. The Corporate Trustee shall deliver to the Company any purchase money mortgage and/or assignment thereof whenever required for the purpose of recording or filing or re-recording or re-filing, as evidenced by an Opinion of Counsel, and the same shall be promptly returned to the Corporate Trustee when such purpose shall have been accomplished.

In case the release of property is, in whole or in part, based upon Property Additions (as permitted under the provisions of clause (b) of subdivision (4) of this Section), the Company shall, subject to the provisions of said clause (b), comply with all applicable provisions of this Indenture (including but not limited to the furnishing of the Engineer's Certificate provided for in subdivision (3) of Section 28 hereof and, in case the provisions of subdivision (4) of Section 28 hereof are applicable, the Independent Engineer's Certificate provided for in said subdivision (4) of Section 28 hereof) as if such Property Additions were made the basis of an application for the authentication and delivery of bonds thereon (equivalent in principal amount to sixty per centum (60%) of the fair value of that portion of the property to be released which is to be released on the basis of such Property Additions, as shown by the Engineer's Certificate in subdivision (3) of this Section



provided for), and in case the release of property is in whole or in part based upon the right to the authentication and delivery of bonds (as permitted under the provisions of clause (c) of subdivision (4) of this Section) the Company shall comply with all applicable provisions of Section 26 or Section 29 hereof, as the case may be, relating to such authentication and delivery, except that in no such case shall the Company be required to comply with any earning requirements or to deliver to the Corporate Trustee any Resolution, Officers' Certificate, Net Earning Certificate or Opinion of Counsel such as is described in subdivisions (1), (2), (6) and (8) of Section 28 hereof; provided, however, that the Cost of any Property Additions received or to be received by the Company in whole or in part as consideration in exchange for the property to be released shall for all purposes of this Indenture be deemed to be the amount stated in the Engineer's Certificate provided for in subdivision (3) of this Section to be the fair value of the property to be released (a) plus the amount of any cash and the fair value of any other consideration, further to be stated in such Engineer's Certificate, paid and/or delivered or to be paid and/or delivered by, and the amount of any obligations assumed or to be assumed by, the Company in connection with such exchange as additional consideration for such Property Additions or (b) less the amount of any cash and the fair value to the Company of any other consideration, which shall also be stated in such Engineer's Certificate, received or to be received by the Company in connection with such exchange in addition to such Property Additions.

For all purposes of this Article XI, the fair value of property subject to a Qualified Lien shall be determined as if such property were free of such Qualified Lien and the fair value of property subject to a lien prior to the Lien hereof, which has not theretofore or is not then to become a Qualified Lien, shall be the fair value thereof less the principal amount of any obligations secured by such lien thereon if it will thereafter cease to be a lien on any property subject to the Lien hereof.

Notwithstanding any of the other provisions of this Indenture,

(A) to the extent that any property to be released is not Funded Property and the Property Additions made the basis of such release shall (as evidenced by a statement to such effect in an Engineer's Certificate) have been acquired in exchange or consideration for, or acquired, made or constructed in anticipation of, the release of property (and shall never previously have been used as the basis of the release of property under the provisions of clause (b) of subdivision (4) of this Section or as the basis of the withdrawal of cash under subdivision (1) of Section 61 or under a Qualified Lien), said Property Additions shall not have the status of Funded Property except to the extent of any amount which shall, at the time such Property Additions were made the basis of such release, have been deducted from the Cost or fair value of such Property Additions pursuant to the provisions of clause (A) of Section 4 hereof less any amount which shall then have been added thereto pursuant to the provisions of clause (B) of said Section 4, and except to the extent of any amount which shall then have been deducted in respect of Qualified Liens on such Property Additions pursuant to the provisions of Section 26 hereof, and

(B) to the extent that any property released shall not have been Funded Property just prior to its release,

(i) any Property Additions made the basis of such release of property shall not be deemed to be Funded Property except to the extent of any amount which shall, at the time such Property Additions were made the basis of such release, have been deducted from the Cost or fair value of such Property Additions pursuant to the provisions of clause (A) of Section 4 hereof less any amount which shall then have been added thereto pursuant to the provisions of clause (B) of said Section 4, and except to the extent of any amount which shall then have been deducted in respect of Qualified Liens on such Property Additions pursuant to the provisions of Section 26 hereof, and

(ii) any waiver of the right to the authentication and delivery of bonds made the basis of such release of property shall be revoked and cease to be effective and shall no longer be deemed to have been made,

if the Company shall within two years after the release of such property file with the Corporate Trustee such Officers' Certificates, Engineer's Certificates, Independent Engineer's Certificates, Opinions of Counsel and other papers (other than any Resolution, Net Earning Certificate or Opinion of Counsel such as is described in subdivisions (1), (6) and (8) of Section 28 hereof) as under the provisions of Article V hereof would entitle the Company, on the basis of Property Additions acquired, made or constructed subsequent to the application for the release of such property, to the authentication and delivery of bonds (equal in principal amount to sixty per centum (60%) of the fair value of such property so released), and the inclusion of such subsequently acquired Property Additions in any such Officers' Certificate, Engineer's Certificate, Independent Engineer's Certificate, Opinion of Counsel or other papers shall not make such subsequently acquired Property Additions Funded Property.

Any bonds Outstanding under this Indenture deposited with the Corporate Trustee, pursuant to the provisions of this Section, shall forthwith be canceled by the Corporate Trustee, and any Qualified Lien Bonds deposited with the Corporate Trustee pursuant to the provisions of this Section shall be held by the Corporate Trustee subject to the provisions of Article IX hereof and any moneys and/or obligations secured by purchase money mortgage and/or other property and/or the proceeds of any thereof and/or substitutes therefor received by the Corporate Trustee under this Section shall be held as part of the Mortgaged and Pledged Property and such moneys and/or obligations secured by purchase money mortgage shall be paid over, withdrawn, used or applied, in the manner, to the extent, and for the purposes and subject to the conditions provided in Section 61 hereof.

Any property acquired by the Company by exchange or purchase to take the place of any property released under any provisions of this Article shall forthwith and without further conveyance become subject to the Lien of and be covered by this Indenture as a part of the Mortgaged and Pledged Property, subject to no lien except Qualified

Liens and Excepted Encumbrances and any liens existing thereon just prior to the acquisition thereof.

Release of Real Estate Unimproved for Company's Business

SECTION 60. Unless the Company shall be in default in the payment of the interest on any bonds then Outstanding hereunder or one or more of the Defaults defined in Section 65 hereof shall have occurred and be continuing, the Trustees or the Corporate Trustee shall whenever from time to time requested by the Company (such request to be evidenced by a Resolution) and without requiring compliance with any of the provisions of Section 59 hereof, release from the Lien hereof all the right, title and interest of the Trustees in and to any real estate unimproved for use in the conduct of the business of the Company, provided the Company has sold, exchanged, dedicated or disposed of such real estate, or has agreed to sell, exchange, dedicate or dispose of such real estate, or, as evidenced by a Resolution, has authorized its officers to endeavor to sell such real estate, and provided the aggregate value of the interest of the Company in such real estate so released without such compliance in any period of twelve (12) consecutive calendar months shall not exceed the sum of Fifty Thousand Dollars (\$50,000). Prior to the granting of any such release, there shall be delivered to the Corporate Trustee an Engineer's Certificate stating the fair value of the property to be released and that in the opinion of the signers the release thereof will not impair the security under this Indenture in contravention of the provisions hereof and setting forth any other facts required to be known by it as a condition precedent to action by it under this Section. The Company covenants that it will deposit with the Corporate Trustee, to be dealt with in the manner provided in Section 61 hereof, the net consideration, if any, received by it upon the sale or other disposition of any such real estate so released (to the extent that the same shall not have been paid or delivered to the trustee or other holder of a Qualified Lien or a lien prior to the Lien of this Indenture in accordance with the provisions thereof and an Officers' Certificate to that effect shall have been furnished to the Corporate

Trustee), or if no consideration be received therefor or results therefrom to the Mortgaged and Pledged Property the Company will so deposit the fair value thereof.

SECTION 61. Unless the Company shall be in default in the payment of the interest on any bonds then Outstanding hereunder or one or more of the Defaults defined in Section 65 hereof shall have occurred and be continuing, any money received by the Corporate Trustee in consideration of any release under this Article XI, including payment on account of the principal of any obligations secured by purchase money mortgage which obligations have been delivered to the Corporate Trustee, shall be held by the Corporate Trustee and, subject to the provisions of Section 64 hereof, such money and any money which may be applied as in this Section provided,

(1) may be withdrawn from time to time by the Company to the extent of the Cost or the fair value to the Company (whichever is less) of Property Additions not then Funded Property after making any deductions and additions pursuant to the provisions of Section 4 hereof; provided, however, that no such withdrawal of cash representing the proceeds of insurance on or the release of property or securities or payment of or on account of obligations secured by purchase money mortgages may be based in whole or in part upon Property Additions acquired, made or constructed more than five years prior to the last day of the calendar month immediately preceding the receipt by the Corporate Trustee of such cash, and provided further, that Property Additions acquired, made or constructed within ninety (90) days prior to the date of the receipt by the Corporate Trustee of such cash representing the proceeds of insurance on or the release of property (including securities and other personal property, if any), or payment of or on account of obligations secured by purchase money mortgages, or subsequent to such receipt of cash, may, at the option of the Company, not have deducted therefrom the deductions or added thereto the additions pursuant to Section 4 hereof;

(2) may be withdrawn from time to time by the Company in an amount equal to the principal amount of each bond or fraction of a bond to the authentication and delivery of which the Company shall be entitled under the provisions of Section 26 or Section 29 hereof, by virtue of compliance with all applicable provisions of said Section 26 or Section 29, as the case may be (except as hereinafter in this Section otherwise provided); provided, however, that (except as hereinafter in this Section otherwise provided) the application for such withdrawal of cash shall operate as a waiver by the Company of such right to the authentication and delivery of each such bond or fraction thereof, on the basis of which right such cash is withdrawn, and any bonds or Qualified Lien Bonds which have been made the basis of any such right to the authentication and delivery of bond(s) or fraction of a bond so waived shall be deemed to have been made the basis of the withdrawal of such cash;

(3) may, upon the request of the Company, be used by the Corporate Trustee for the purchase of bonds issued hereunder in accordance with the provisions of Section 55 hereof; or

(4) may, upon the request of the Company, be applied by the Corporate Trustee to the payment at maturity of any bonds issued hereunder or to the redemption of any bonds issued hereunder which are, by their terms, redeemable and of such series as may be designated by the Company, such redemption to be in the manner and as provided in Article X hereof.

Such moneys shall, from time to time, be paid out or used or applied by the Corporate Trustee, as aforesaid, upon the request of the Company evidenced by a Resolution, and upon receipt by the Corporate Trustee of an Officers' Certificate stating that the Company is not in default in the payment of the interest on any bonds then Outstanding hereunder and that none of the Defaults defined in Section 65 hereof has occurred and is continuing. In case the withdrawal of cash is, in whole or in part, based upon Property Additions (as permitted under the provisions of clause (1) of this Section), the Company shall, sub-

ject to the provisions of said clause (1), comply with all applicable provisions of this Indenture (including but not limited to the furnishing of the Engineers' Certificate provided for in subdivision (3) of Section 28 hereof and, in case the provisions of subdivision (4) of Section 28 hereof are applicable, the Independent Engineer's Certificate provided for in said subdivision (4) of Section 28 hereof) as if such Property Additions were made the basis of an application for the authentication and delivery of bonds thereon equivalent in principal amount to sixty per centum (60%) of the cash to be withdrawn on such basis; or in case the withdrawal of cash is, in whole or in part, based upon the right to the authentication and delivery of bonds (as permitted under the provisions of clause (2) of this Section) the Company shall comply with all applicable provisions of Section 26 or Section 29 hereof, as the case may be, relating to such authentication and delivery; except that in no such case shall the Company be required to comply with any earning requirements or to deliver to the Corporate Trustee any Resolution, Officers' Certificate, Net Earning Certificate or Opinion of Counsel such as is described in subdivisions (1), (2), (6) and (8) of Section 28 hereof.

Notwithstanding any of the other provisions of this Indenture,

(a) to the extent that any cash to be withdrawn under the provisions of this Section or of a Qualified Lien represents the proceeds of property that was not Funded Property released, taken by eminent domain or purchased by any governmental body or agency or its designee upon exercise of any right which it may have to purchase the same or designate a purchaser thereof or damaged or destroyed by fire, or represents payment on account of principal of, or consideration for the release of, obligations secured by purchase money mortgage which shall have been deposited with the Corporate Trustee or with the trustee or other holder of a Qualified Lien as the basis of the release of property that was not Funded Property, and the application for the withdrawal of such cash is based upon Property Additions (which shall never previously have been used

as the basis of the withdrawal of cash under subdivision (1) of this Section or under a Qualified Lien or as the basis of the release of property under the provisions of clause (b) of subdivision (4) of Section 59 hereof) acquired, made or constructed or to be acquired, made or constructed with such cash, or acquired, made or constructed in anticipation of the release of property or the withdrawal of cash (as evidenced by a statement to such effect in an Engineer's Certificate), then such Property Additions shall not have the status of Funded Property, except to the extent of any amount which shall, at the time such Property Additions were made the basis of such withdrawal of cash, have been deducted from the Cost or fair value of such Property Additions pursuant to the provisions of clause (A) of Section 4 hereof less any amount which shall then have been added thereto pursuant to the provisions of clause (B) of said Section 4 and except to the extent of any amount which shall then have been deducted in respect of Qualified Liens on such Property Additions pursuant to Section 26 hereof, and

(b) to the extent that any cash withdrawn, used or applied under the provisions of this Section or of a Qualified Lien shall have represented the proceeds of property that was not Funded Property released, taken by eminent domain or so purchased or damaged or destroyed by fire or shall have represented payment on account of principal of, or consideration for the release of, obligations secured by purchase money mortgage which shall have been deposited with the Corporate Trustee or the trustee or other holder of a Qualified Lien as the basis of the release of property that was not Funded Property,

(i) such cash shall no longer be deemed to be, or to have been at the time of such withdrawal, use or application, Funded Cash;

(ii) any Property Additions made the basis of such withdrawal of cash shall not be deemed to be Funded Property except to the extent of any amount which shall, at the time such Property Additions were made the basis of such withdrawal of cash, have been deducted from the Cost or fair value of such Property Additions pursuant to the provisions of

clause (A) of Section 4 hereof less any amount which shall then have been added thereto pursuant to the provisions of clause (B) of said Section 4, and except to the extent of any amount which shall then have been deducted in respect of Qualified Liens on such Property Additions pursuant to Section 26 hereof; and

(iii) any waiver of the right to the authentication and delivery of bonds, made the basis of such withdrawal of cash, shall be revoked and cease to be effective and shall no longer be deemed to have been made,

if the Company shall, within two years after the withdrawal, use or application of such cash, file with the Corporate Trustee such Officers' Certificates, Engineer's Certificates, Independent Engineer's Certificates, Opinions of Counsel and other papers (other than any Resolution, Net Earning Certificate or Opinion of Counsel such as is described in subdivisions (1), (6) and (8) of Section 28 hereof) as, under the provisions of Article V hereof, would entitle the Company, on the basis of Property Additions acquired, made or constructed subsequently to the receipt by the Corporate Trustee or the trustee or other holder of a Qualified Lien of such cash, to the authentication and delivery of bonds equal in principal amount to sixty per centum (60%) of such cash so withdrawn, used or applied, and the inclusion of such subsequently acquired Property Additions in any such Officers' Certificate, Engineer's Certificate, Independent Engineer's Certificate, Opinion of Counsel or other papers shall not make such subsequently acquired Property Additions Funded Property.

Any release of property or withdrawal of cash (representing the proceeds of insurance on or the release or condemnation of property) under this Article XI based upon the right to the authentication and delivery of any bond or fraction of a bond shall operate as a waiver by the Company of its right to the authentication and delivery of such bond or fraction of a bond and such bond or fraction of a bond may not thereafter be authenticated and delivered hereunder and any bond or Qualified Lien Bond which has been made the basis of any such right to the authentication and delivery of any bond or fraction of a bond so

waived shall be deemed to have been made the basis of a credit under this Article XI and all bonds purchased or redeemed by application of cash pursuant to the provisions of this Section shall be deemed to have been purchased or redeemed with Funded Cash; provided, however, that (notwithstanding the Company may have, as permitted by the provisions of clause (a) of subdivision (B) of Section 4 hereof, elected to have added any cash used or applied to the purchase or redemption of any or all such bonds), if at any time and from time to time thereafter the Company shall file with the Corporate Trustee an Officers' Certificate referring to such election and stating the Cost or fair value to the Company whichever is less, as shall be stated in an Engineer's Certificate or Independent Engineer's Certificate delivered to the Corporate Trustee of any (gross) Property Additions (acquired, made or constructed subsequent to the date of the receipt by the Corporate Trustee of such cash representing the proceeds of insurance on or the release or condemnation of property), which are not then Funded Property (without making any of the deductions and additions provided for in subsection (II) of Section 4 hereof) and which Property Additions the Company then elects to make the basis of such release of property or withdrawal of cash in lieu of an equal principal amount of bonds, the right to the authentication and delivery of which has theretofore been waived pursuant to the provisions of this Article XI, or which have been purchased or redeemed with cash (representing the proceeds of insurance on or release or condemnation of property); then such Property Additions shall thereupon be deemed to have been made the basis of the release of property or the withdrawal of cash, as the case may be, and then, and in that event, notwithstanding any other provisions of this Indenture, the Company's waiver made by such election of the right to the authentication and delivery of bonds in the aggregate principal amount specified in the Officers' Certificate filed pursuant to this proviso shall forthwith cease to be effective and the waiver of such right shall no longer be deemed to have been made or, as the case may be, bonds in the aggregate principal amount specified in the Officers' Certificate filed pursuant to this proviso shall forthwith cease to be deemed to

have been purchased or redeemed with Funded Cash (whether or not such cash shall have been deposited or applied pursuant to the provisions of Section 64 hereof); provided, further, that the aggregate principal amount of bonds the right to the authentication and delivery of which has been so waived and revoked plus the aggregate principal amount of bonds no longer so deemed to have been purchased or redeemed with Funded Cash pursuant to the provisions of this paragraph shall not exceed thirty per centum (30%) of the greatest principal amount of Bonds at any one time theretofore Outstanding hereunder.

In every case in which any Property Additions are certified for the purposes of the preceding paragraph, the Company shall comply with all applicable provisions of this Indenture (except subsection (II) of Section 4 hereof) as if such Property Additions were made the basis of an application for the authentication and delivery of bonds thereon (equivalent in principal amount to sixty per centum (60%) of the credit so to be based on such Property Additions), except that in no such case shall the Company be required to comply with any earning requirements or to deliver to the Corporate Trustee any Resolution, Officers' Certificate, Net Earning Certificate or Opinion of Counsel, such as is described in subdivisions (1), (2), (6) and (8) of Section 28 hereof.

Any obligation secured by purchase money mortgage received or to be received by the Corporate Trustee under any of the provisions of this Indenture in consideration of the release of any property may be released at any time upon payment by the Company to the Corporate Trustee of all or the unpaid portion of the principal of such obligation, provided, however, at any time after the Corporate Trustee shall have received on account of the principal of any obligations secured by purchase money mortgage on a specified property (from the Company, the obligor or otherwise), an amount in cash equal to the aggregate principal amount of such obligations to the extent made the basis of a credit in the application for the release from the Lien hereof of such property, the Corporate Trustee shall deliver to the

Company on the written request of the President or a Vice-President and the Treasurer or an Assistant Treasurer of the Company, the purchase money mortgage on such property and all obligations secured thereby then held by the Corporate Trustee including, but not limited to, any such obligations delivered to the Corporate Trustee as required by subdivision (4) of Section 59 hereof but not used as a credit thereunder.

The principal of and interest on any such obligations secured by purchase money mortgage held by the Corporate Trustee shall be collected by the Corporate Trustee as and when the same become payable. Unless the Company is in default in the payment of the interest on any of the bonds then Outstanding hereunder or one or more of the Defaults defined in Section 65 hereof shall have occurred and be continuing, the interest received by the Corporate Trustee on any such obligations shall be paid over to the Company, and any payments received by the Corporate Trustee on account of the principal of any such obligations in excess of the amount of credit used by the Company in respect of such obligations upon the release of any property from the Lien hereof shall also be paid over to the Company.

The Corporate Trustee shall have and may exercise all the rights and powers of an owner of such obligations and of all substitutions therefor and, without limiting the generality of the foregoing, may collect and receive all insurance moneys payable to it under any of the provisions thereof and apply the same in accordance with the provisions thereof, may consent to extensions thereof at a higher or lower rate of interest, may join in any plan or plans of voluntary or involuntary reorganization or readjustment or rearrangement and may accept and hold hereunder new obligations, stocks or other securities issued in exchange therefor under any such plan. Any discretionary action which the Corporate Trustee may be entitled to take in connection with any such obligations or substitutions therefor shall be taken, so long as no Default as defined in Section 65 hereof shall exist, in accordance with the request of the Company, evidenced by a Resolution, and during

the existence of a Default as defined in Section 65 hereof in its own discretion.

Any bonds issued under this Indenture received by the Corporate Trustee pursuant to the provisions of this Section shall forthwith be canceled by the Corporate Trustee, and any Qualified Lien Bonds deposited with the Corporate Trustee, pursuant to the provisions of this Section shall be held by the Corporate Trustee subject to the provisions of Article IX hereof.

SECTION 62. Should any of the Mortgaged and Pledged Property be taken by exercise of the power of eminent domain or should any governmental body or agency, at any time, exercise any right which it may have to purchase or designate a purchaser of any part of the Mortgaged and Pledged Property, the Trustees or the Corporate Trustee shall, upon request of the Company, evidenced by a Resolution, release from the Lien hereof all the right, title and interest of the Trustees in and to the property so taken or purchased upon being furnished with an Opinion of Counsel to the effect that such property has been taken by exercise of the power of eminent domain, or purchased in the exercise of a right which a governmental body or agency had to purchase or designate a purchaser of the same. Such Opinion of Counsel shall state the amount of net proceeds received or to be received for such property so taken or purchased and the amount so stated shall be deemed to be the fair value of such property for the purpose of subdivision (b) of Section 100 hereof. An amount equal to the net proceeds of all property so taken or purchased (which proceeds shall, in either event, be required to be entirely in the form of cash) shall be paid over to the Corporate Trustee (unless the same shall have been paid or delivered to the trustee or other holder of a mortgage or other lien constituting a Qualified Lien or lien prior hereto, in accordance with the provisions thereof and a certificate of such trustee or other holder to that effect shall have been furnished to the Corporate Trustee), and (if paid over to the Corporate Trustee hereunder) may,

subject to the provisions of Section 64 hereof, thereafter be withdrawn, used or applied in the manner, to the extent and for the purposes and subject to the conditions provided in Section 61 hereof.

SECTION 63. In case the Mortgaged and Pledged Property shall be in the possession of a receiver or trustee, lawfully appointed, the powers hereinbefore conferred upon the Company with respect to the sale or other disposition of the Mortgaged and Pledged Property or the withdrawal of cash may be exercised, with the approval of the Corporate Trustee, by such receiver or trustee, notwithstanding the Company may be in default and any request, certificate, appointment or approval made or signed by such receiver or trustee for such purposes shall be as effective as if made by the Company or its Board of Directors or any of its officers or appointees in the manner herein provided; and if the Trustees or either of them shall be in possession of the Mortgaged and Pledged Property under any provision of this Indenture, then such powers may be exercised by the Trustees in their discretion notwithstanding the Company may be in default.

Notwithstanding the existence of a default in the payment of interest on any bonds Outstanding hereunder or the existence of a Default defined in Section 65 hereof, the Trustees, or the Corporate Trustee, in their or its discretion, may release from the Lien hereof any part of the Mortgaged and Pledged Property or permit the withdrawal of cash, upon compliance with the other conditions specified in this Article in respect thereof.

No purchaser in good faith of property purporting to have been released hereunder shall be bound to ascertain the authority of the Trustees, or either of them, to execute the release, or to inquire as to any facts required by the provisions hereof for the exercise of such authority; nor shall any purchaser or grantee of any property or rights permitted by this Article to be sold, granted, exchanged, dedicated or otherwise disposed of, be under obligation to ascertain or inquire into the authority of the Company to make any such sale, grant, exchange, dedication or other disposition.

ARTICLE XII.

Special Provision for Retirement of Bonds.

SECTION 64. (I) If during any twelve (12) months' period, any of the Mortgaged and Pledged Property is taken by the exercise of the power of eminent domain and/or any governmental body or agency exercises any rights which it may have to purchase or designate a purchaser of any part of such property and/or any of such property is sold by the Company to one or more Federal, State, County, Municipal or other governmental bodies or agencies or public or semi-public corporations, districts or authorities and/or any of such property is sold by the Company pursuant to the exercise by a governmental body or agency of its right to order the Company to divest itself of any of such property, with the result that (during such period) the Company receives or becomes entitled to receive (during such period or otherwise) proceeds, in cash and/or a principal amount of obligations secured by purchase money mortgage, aggregating not less than One Million Dollars (\$1,000,000), at a time or times when any bonds Outstanding hereunder are, by their express terms, redeemable by the application of cash deposited pursuant to the provisions of this Section, the Company covenants that (to the extent that any cash received by the Company for such property, or in payment on account of principal of such obligations, including cash proceeds from the disposition of any such obligations or of property received by the Company in exchange for any of such obligations, has not theretofore been applied to the purchase or redemption of bonds secured hereby, or is not paid or delivered by the Company to the trustee or other holder of a Qualified Lien or a lien prior hereto, under circumstances in which such cash may not be withdrawn and may not be applied for any purpose except to retire Qualified Lien Bonds or bonds secured by a lien prior hereto), the Company will deposit cash in an amount equal to the cash (less any taxes and expenses incidental to such taking or sale

and the principal amount of bonds the right to the authentication and delivery of which pursuant to the provisions of Section 26 or Section 29 hereof shall have been waived as the basis of the release of said property or the basis of the withdrawal of the proceeds of the release of said property, and, at the option of the Company, evidenced by a Resolution, an amount not exceeding ten per centum (10%) of the proceeds of the property so taken, purchased or sold, as an arbitrary allowance for severance damage incident to such taking, purchase or sale, provided, however, the foregoing clause shall not be construed as relieving the Company from compliance with all applicable provisions of Article XI hereof in respect of such property or in respect of the proceeds thereof, including such ten per centum (10%) of the proceeds of such property) theretofore or then received by the Company for said property (including cash equivalent to any proceeds of said property theretofore withdrawn under the provisions of subdivision (1) of Section 61 hereof on the basis of Property Additions which cash shall for the purposes of this Indenture be deemed to be cash replaced—and including cash received on account of principal of such obligations as aforesaid) with the Corporate Trustee under the provisions of this Section and (to the extent that such cash is not paid or delivered to the trustee or other holder of a Qualified Lien or lien prior hereto, as aforesaid) will deposit, when and as received, all cash thereafter received for said property, including cash received on account of principal of such obligations as aforesaid, with the Corporate Trustee under the provisions of this Section (all of which deposits shall be deemed to have been made pursuant to the provisions of this Section), and, subject to Section 119 hereof, will (to the extent that any cash so deposited is not applied, within four months after the date deposited, to the purchase or redemption of bonds Outstanding hereunder, pursuant to the provisions of Article X hereof) irrevocably direct the Corporate Trustee to apply the cash so deposited with the Corporate Trustee to the redemption of bonds Outstanding hereunder pursuant to the provisions of Article X hereof to the extent that bonds then Outstanding hereunder are, by

their express terms, redeemable by the application of cash deposited pursuant to the provisions of this Section.

For the purpose of this Section, cash at any time remaining on deposit with the Corporate Trustee representing payment to it on account of principal of any of such obligations secured by purchase money mortgage upon the property taken or sold as aforesaid, or representing consideration deposited by the Company in connection with the release of any of such obligations or representing amounts originally deposited pursuant to the provisions of Section 59 or Section 62 hereof by the Company in connection with the release of any property taken or sold as aforesaid, may, at the option of the Company (evidenced by a notice in writing signed by its President or a Vice-President and its Treasurer or an Assistant Treasurer delivered to the Corporate Trustee), be deemed to have been deposited (as of the time of delivery of such notice) by the Company pursuant to the provisions of this Section and shall thereupon be credited against any amount required to be deposited by the Company pursuant to the provisions of this Section.

The Company shall in no event be required to deposit cash pursuant to the provisions of this Section nor shall any cash be required to remain on deposit pursuant to the provisions of this Section at a time when no bonds Outstanding hereunder are, by their express terms, redeemable with cash deposited pursuant to the provisions of this Section, and unless any such cash then on deposit is required to be held by the Corporate Trustee under some other provisions of this Indenture any cash remaining on deposit solely pursuant to the provisions of this Section shall be paid to the Company upon the written order of its President or a Vice-President and its Treasurer or an Assistant Treasurer.

(II) If the principal of the bonds hereby secured shall be declared due as provided in Section 67 hereof and if

(a) the Corporate Trustee shall then hold any cash which shall be deemed to have been deposited pursuant to the provisions of this Section or the Company shall then be obligated to deposit cash pursuant to the provisions of this Section; or

(b) the Company shall then hold or be entitled to receive or the Corporate Trustee shall then hold any obligations secured by purchase money mortgage the proceeds of payment of which would (except for such declaration), if paid, be required to be deposited pursuant to this Section; or

(c) property of the Company shall have been taken by exercise of the power of eminent domain or proceedings for such taking shall have been commenced or are about to be commenced or the Company shall have sold or agreed to sell or shall then contemplate the sale of any of its property under circumstances which in any such case (assuming the completion of such taking or sale) would (except for such declaration) require the deposit of cash pursuant to the provisions of this Section or result in the receipt by the Company of obligations secured by purchase money mortgage, the proceeds of payment of which would (except for such declaration) be required to be deposited pursuant to the provisions of this Section;

then, to the extent that bonds then Outstanding would (except for such declaration) by their express terms be redeemable by the application of cash deposited pursuant to the provisions of this Section, the Corporate Trustee shall designate, in the manner provided in Section 52 hereof, such amount of bonds so redeemable as could be redeemed by the application of an amount of cash equal to the aggregate amount of cash and obligations (taken at their principal amount) referred to in clauses (a), (b) and (c) above, and the bonds so designated shall be deemed to have been called for redemption at the respective redemption prices then applicable in the case of the redemption of bonds with cash deposited pursuant to this Section and to have become due and payable by the Company at such redemption prices on the date upon which the principal thereof shall have been declared due and payable.

(III) The Company hereby irrevocably empowers the Corporate Trustee, in the event that any redemption is required pursuant to this Section, to give or cause to be given all requisite notices of redemption and to take all such action as may be necessary to effect such redemption.

Except as otherwise expressly provided in this Section, no cash deposited with the Corporate Trustee pursuant to this Section shall be withdrawn, used or applied for any purpose other than the purchase, payment or redemption of bonds Outstanding under this Indenture, but shall continue to be held by the Corporate Trustee until such time as such cash may be applied to the purchase, payment or redemption of bonds as permitted by this Section.

ARTICLE XIII

Remedies of Trustees and Bondholders Upon Default.

SECTION 65. The following events are hereby defined for all purposes of this Indenture (except where the term is otherwise defined for specific purposes) as "Defaults":

(a) Failure to pay the principal of any bond hereby secured when the same shall become due and payable, whether at maturity, as therein expressed, or by declaration or otherwise;

(b) Failure to pay interest upon any bond hereby secured for a period of sixty (60) days after such interest shall have become due and payable;

(c) Failure to pay interest upon or principal (whether at maturity as therein expressed or by declaration, or otherwise) of any Outstanding Qualified Lien Bonds continued beyond the period of grace, if any, specified in the Qualified Lien securing the same;

(d) Failure to pay any instalment of any fund required to be applied to the purchase or redemption of any of the bonds

hereby secured for a period of sixty (60) days after the same shall have become overdue and payable;

(e) The expiration of a period of ninety (90) days following:

(1) the adjudication of the Company as a bankrupt by any court of competent jurisdiction;

(2) the entry of an order approving a petition seeking reorganization or arrangement of the Company upon the basis of insolvency or inability to pay debts as they mature under the Federal Bankruptcy Laws or any other applicable law or statute of the United States of America, or of any State thereof; or

(3) the appointment upon the basis of insolvency or inability to pay debts as they mature of a trustee or a receiver of all or substantially all of the property of the Company;

unless during such period such adjudication, order or appointment of a trustee or receiver shall be vacated or shall be stayed on appeal or otherwise or shall have otherwise ceased to continue in effect;

(f) The filing by the Company of a voluntary petition in bankruptcy or the making of an assignment for the benefit of creditors; the consenting by the Company to the appointment of a receiver or trustee of all or any part of its property upon the basis of insolvency or inability to pay debts as they mature; the filing by the Company of a petition or answer seeking reorganization or arrangement upon the basis of insolvency or inability to pay debts as they mature under the Federal Bankruptcy Laws, or any other applicable law or statute of the United States of America, or of any State thereof; or the filing by the Company of a petition to take advantage of any insolvency act; and

(g) The expiration of a period of ninety (90) days after the mailing by the Corporate Trustee to the Company of a written demand (citing this provision), or by the holders of fifteen per centum (15%) in principal amount of the bonds at the time

Outstanding hereunder (determined as provided in Section 71 hereof) to the Company and to the Corporate Trustee of a written demand, that the Company perform a specified covenant or agreement contained herein or in any indenture supplemental hereto or in any bond secured hereby, which specified covenant or agreement the Company shall have failed to perform prior to such mailing, unless the Company during such period shall have performed such specified covenant or agreement. The Corporate Trustee may, and, if requested in writing so to do by the holders of a majority in principal amount of the bonds then Outstanding, shall, make such demand.

SECTION 66. The Trustees and, if a separate or co-trustee is appointed pursuant to Section 103 hereof, such separate or co-trustee shall, within ninety (90) days after the occurrence thereof, give to the bondholders, in the manner and to the extent provided in subdivision (c) of Section 100 hereof, notice of all defaults known to the Trustees or to such separate or co-trustee, as the case may be, unless such defaults shall have been cured before the giving of such notice (the term "defaults" for the purposes of this Section being hereby defined to be the events specified in subdivisions (a), (b), (c), (d), (e), (f) and (g) of Section 65 hereof not including any periods of grace provided for in said subdivisions) but in the case of any default as specified in subdivision (g) of Section 65 hereof, no such notice shall be given until at least sixty (60) days after the occurrence thereof; provided that, except in the case of default in the payment of the principal of or interest on any of the bonds hereby secured, or in the payment of any sinking or purchase fund instalment, the Corporate Trustee shall be protected in withholding such notice if and so long as the board of directors, executive committee, or a trust committee of directors and/or Responsible Officers, of the Corporate Trustee in good faith determine that the withholding of such notice is in the

interests of the bondholders and the Co-Trustee shall be protected in withholding such notice if and so long as the Co-Trustee in good faith determines that the withholding of such notice is in the interests of the bondholders and the separate or co-trustee shall be protected in withholding such notice if and so long as such separate or co-trustee in good faith determines that the withholding of such notice is in the interest of the bondholders.

SECTION 67. Upon the occurrence of a Default as defined in Section 65 hereof, the Corporate Trustee may, and upon the written request of the holders of a majority in principal amount of the bonds then Outstanding (determined as provided in Section 71 hereof) shall, and the holders of twenty-five per centum (25%) in principal amount of the bonds at the time Outstanding hereunder may, by notice in writing given to the Company (and to the Corporate Trustee if such notice be given by bondholders) declare the principal of all of the bonds hereby secured and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable; subject, however, to the right of the holders of a majority in principal amount of all Outstanding bonds (determined as provided in Section 71 hereof), by written notice to the Company and to the Trustees, thereafter to annul such declaration and destroy its effect at any time before any sale hereunder, if, before any such sale, all covenants with respect to which Default shall have been made shall be fully performed or made good, and all arrears of interest upon all bonds Outstanding hereunder and the reasonable expenses and charges of the Trustees, their agents and (to the extent permitted by law) their attorneys, and all other indebtedness secured hereby, except the principal of any bonds not then due by their terms and except interest accrued on such bonds since the last interest payment date, shall be paid, or the amount thereof shall be paid to the Corporate Trustee for the benefit of those entitled thereto.

SECTION 68. Upon the occurrence of one or more Defaults, as defined in Section 65 hereof, the Company, upon demand of the Trustees or either of them, shall (if at the time such action shall be lawful and may then lawfully be demanded by the Trustees) forthwith surrender to the Corporate Trustee or to both the Corporate Trustee and the Co-Trustee, or to the Co-Trustee to the extent that the Corporate Trustee is not legally qualified to take possession, as it or they may demand, the actual possession of, and (if at the time such action shall be lawful) the Corporate Trustee, or the Corporate Trustee and the Co-Trustee, or the Co-Trustee to the extent that the Corporate Trustee is not legally qualified to act in the premises, as shall be specified in such demand, by such officer or agent as it or they may appoint, may take possession of, all the Mortgaged and Pledged Property (with the books, papers and accounts of the Company) and hold, operate and manage the same, and from time to time make all needful repairs and such extensions, additions and improvements as to the Corporate Trustee, or the Corporate Trustee and the Co-Trustee, or the Co-Trustee to the extent that the Corporate Trustee is not legally qualified to act in the premises, shall seem wise; and receive the tolls, rents, revenues, issues, earnings, income, products and profits thereof, and out of the same pay all proper costs and expenses of so taking, holding, managing and operating the same, including reasonable compensation to the Trustees, their agents and (to the extent permitted by law) their attorneys, and any charges of the Trustees hereunder, and any taxes and assessments and other charges prior to the Lien of this Indenture which the Trustee or Trustees in possession may deem it wise to pay, and all expenses of such repairs, extensions, additions and improvements, and apply the remainder of the moneys so received by the Corporate Trustee, or the Corporate Trustee and the Co-Trustee, or the Co-Trustee to the extent that the Corporate Trustee is not legally qualified to act in the premises, subject to the provisions of Section 76 hereof with respect to extended, transferred or pledged coupons or claims for interest, first to the payment of the instalments of interest

which are due and unpaid, in the order of their maturity, and next, if the principal of any said bonds is due, to the payment of the principal and accrued interest thereon at the same rates as are expressed in the bonds pro rata without any preference or priority whatever, except as aforesaid. Whenever all that is due upon such bonds and instalments of interest and under any of the terms of this Indenture, shall have been paid and all Defaults, as defined in Section 65 hereof, made good, the Trustee or Trustees in possession shall surrender possession to the Company, its successors or assigns; the same right of entry, however, to exist upon any subsequent Default, as defined in Section 65 hereof.

SECTION 69. Upon the occurrence of one or more Defaults, as defined in Section 65 hereof, the Trustees, by such officer or agent as they may appoint, with or without entry, may, if at the time such action shall be lawful, sell all the Mortgaged and Pledged Property as an entirety, or in such parcels as the holders of a majority in principal amount of the bonds Outstanding hereunder (determined as provided in Section 71 hereof) shall in writing request, or in the absence of such request, as the Trustees may determine, at public auction, at some convenient place in the City of Portland, Oregon, or such other place or places as may be required by law, having first given notice of such sale by publication in at least one Daily Newspaper, printed in the English language, and of general circulation in the City of Portland, Oregon (if there be such a Daily Newspaper), once on at least four different days preceding such sale, the first publication to be made not less than twenty (20) days prior to the date of such sale, and by like publication in at least one Daily Newspaper, printed in the English language, and of general circulation in the Borough of Manhattan, The City of New York, and any other notice which may be required by law, and from time to time may (to the extent permitted by law) adjourn such sale in their discretion by announcement at the time and place fixed for such sale without further notice, and upon such sale may make

and deliver to the purchaser or purchasers a good and sufficient instrument or instruments of conveyance, assignment or transfer for the same, which sale shall, to the extent then permitted by law, be a perpetual bar, both at law and in equity, against the Company and all persons, firms and corporations lawfully claiming or who may claim by, through or under it.

SECTION 70. In case of the breach of any of the covenants or conditions of this Indenture, the Trustees shall have the right and power to take appropriate judicial proceedings for the enforcement of their rights and the rights of the bondholders hereunder. In case of a Default, as defined in Section 65 hereof, the Trustees may either after entry, or without entry, proceed by suit or suits at law or in equity to enforce payment of the bonds then Outstanding hereunder and to foreclose this Indenture and to sell the Mortgaged and Pledged Property under the judgment or decree of a court or courts of competent jurisdiction.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustees or either of them (or to the bondholders), is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any Default, as defined in Section 65 hereof, shall impair any such right or power or shall be construed to be a waiver of any such Default or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any Default, as defined in Section 65 hereof shall extend to or shall affect any subsequent default or shall impair any rights or remedies consequent thereon.

SECTION 71. The holders of not less than a majority in principal amount of the bonds at the time Outstanding hereunder may direct the time, method, and place of conducting any proceeding for any remedy available to the Trustees, or either of them, or exercising any trust or power conferred upon the Trustees, or either of them, provided, however, that such direction shall not be otherwise than in accordance with the provisions of law and this Indenture and that, subject to the provisions of Sections 88 and 89 hereof, the Trustees shall have the right to decline to follow any such direction if the Corporate Trustee in good faith shall by Responsible Officers determine that the action or proceeding so directed would involve the Trustees or either of them in personal liability or be unjustifiably prejudicial to nonassenting bondholders or that they will not be sufficiently indemnified for any expenditures in any action or proceeding so directed.

For the purposes of this Section and of Sections 65, 67, 69, 89, 101, 102, 108, and 122 hereof, and for the purpose of waiving, in accordance with any of the provisions of Section 113 hereof any past Default, defined in Section 65 hereof, of the Company and the consequences thereof, in determining whether the holders of the required percentage of the principal amount of bonds have concurred or participated in any direction or consent, (a) bonds for the purchase of which money in the necessary amount shall have been deposited with or shall then be held by the Corporate Trustee with irrevocable direction to apply the same to the purchase thereof shall be deemed Outstanding and (b) bonds owned by the Company, or by any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company (unless all bonds at the time Outstanding hereunder are then so owned), shall be disregarded, except that for the purpose of determining whether the Trustees, or either of them, shall be protected in relying on any such direction or consent, only bonds which the Trustees know, or such Trustee knows, are so owned, shall be so disregarded. Bonds so owned which have