

MORTGAGE RECORD 75

(a) Copy of a directors' resolution authorizing the execution of such Bonds and stating the amount thereof to be issued and directing authentication thereof by the Corporate Trustee and stating all details with respect to such Bonds specified in Sec. 4.09; and

(b) A certificate signed and sworn to by the President or a Vice President of the Company and by its Treasurer or Assistant Treasurer under the corporate seal, which shall describe briefly the property additions on account of which the authentication and delivery of said Bonds is requested and shall state the cost thereof and character of consideration entering into such cost (which cost shall be not less than 142-5/7 per cent of the principal amount of the Bonds applied for) and shall further state that there is not included as a part of such property additions (1) any items properly constituting repairs or maintenance, or (2) any items representing replacements or renewals, except to the amount by which the cost thereof exceeds the cost of the property renewed or replaced, or (3) any property additions paid for or payable out of insurance moneys or the proceeds of the sale or released property under the provisions of this Indenture; and shall further state that such property additions do not include any property owned on December 31, 1928, by the Company or any predecessor in title named in Sec. 1.12, that such property additions were charged to the fixed capital accounts of the Company after December 31, 1928, and that none thereof have previously been made the basis for the issuance of Bonds or the withdrawal of deposited money under this Article or under any other provisions of this Indenture; and

(c) A certificate of an engineer stating (1) that the description of the property additions included in the certificate referred to in paragraph (b) of this Section is accurate, (2) that such property additions are in his opinion property additions as defined in Sec. 1.12, and (3) the fair value of such property additions (which fair value shall be not less than 142-5/7 per cent of the principal amount of the Bonds applied for) provided however, that in any case where such property additions shall consist of a complete new property, plant or system acquired by the Company (as distinguished from additions, improvements, betterments, developments, extensions or enlargements to, of or upon the properties, plants or systems owned by the Company prior to such acquisition) such certificate shall be made by an independent engineer; and

(d) The officially authenticated certificates or other documents evidencing any action by governmental authorities specified in the opinion of counsel provided for in the following subdivision (e) as being requisite to the legal issue of the Bonds applied for; and

(e) An opinion of counsel stating (1) that the Company has good title to the property additions described in the certificate referred to in paragraph (b), (2) that this Indenture constitutes or upon the filing for record of the supplemental conveyance mentioned in paragraph (f) of this Section will constitute a valid first lien thereon, subject only to the lien of current taxes (3) that the issuance of the Bonds applied for has been duly authorized by the Company, (4) that all mortgage registration and/or other like taxes in respect to the Bonds applied for have been paid or that no such payment is required by law, (5) that the issue of Bonds applied for and/or mortgaging of the property additions made the basis of the application have been duly consented to by any and all governmental authorities if and to the extent that such consent is required by law, or that no consent of any governmental authority is requisite to the legal issue of such Bonds or the mortgaging of such property additions, and (6) that such counsel has examined the certificates and other documents constituting the application (naming them) that the same are in due form and that upon receipt of said certificates, documents and such opinion of counsel the Corporate Trustee will be duly authorized under the provisions of this Indenture to authenticate and deliver the Bonds applied for. Unless such opinion shall show that no consent of any governmental authority is requisite to the legal issue of the Bonds applied for or the mortgaging of the property additions made the basis of the application, it shall specify and/or officially authenticated certificate or other document by which such consent is or may be evidenced; and

(f) Such instruments of conveyance as in the opinion of counsel mentioned in paragraph (e) of this Section shall be necessary to subject to the lien of this Indenture (subject only to the lien of current taxes) such property additions unless the opinion of such counsel shall state that no such conveyance is necessary; and

(g) Evidence of the consolidated net earnings of the Company as required by Sec. 4.03.

Sec. 4.05. Bonds shall be authenticated and delivered by the Corporate Trustee upon an order signed by the President or a Vice President and the Treasurer or Assistant Treasurer of the Company on the basis specified in subdivision (2) of Sec. 4.02 upon receipt by the Corporate Trustee of the following:

(a) A directors' resolution, as specified in paragraph (a) of Sec. 4.04, authorizing the issue of Bonds of the Company on the basis of subsidiary first mortgage bonds, and stating further that in the opinion of the board of directors it is necessary or advisable and to the interest of the Company that the fixed properties of the subsidiary issuing such first mortgage bonds be owned and operated by such subsidiary rather than by the Company, because of local conditions existing in the State or States where such properties shall be located or because of provisions of the laws of such State or States;

(b) Subsidiary first mortgage bonds (as defined in Sec. 1.07) in a principal amount not less than the principal amount of the Bonds applied for under this Section and bearing interest at a rate per annum not less than that borne by the Bonds so applied for; provided, however, that there shall also be delivered or have been delivered to the Trustee the documents and instruments described in subdivisions (1) to (4) inclusive of Sec. 1.05, and that there shall be delivered or have been delivered to the Trustee the opinion of counsel and certificate required by paragraphs (a) and (b) of Sec. 1.07; and

(c) The officially authenticated certificates or other documents evidencing any action by governmental authorities specified in the opinion of counsel provided for in the following subdivision (d) as being requisite to the legal issue of the Bonds applied for; and

(d) An opinion of counsel stating (1) that the issuance of the Bonds applied for has been duly authorized by the Company, (2) that all mortgage registration and/or other like taxes in respect to the Bonds applied for have been paid or that no such payment is required by law, (3) that the issue of Bonds applied for has been duly consented to by any and all governmental authorities if and to the extent that such consent is required by law or that no consent of any governmental authority is requisite to the legal issue of such Bonds, and (4) that such counsel has examined the certificates and other documents constituting the application (naming them), that the same are in due form and that upon receipt of said certificates, documents and such opinion of counsel the Corporate Trustee will be duly authorized under the provisions of this Indenture to authenticate and deliver the Bonds applied for. Unless such opinion shall show that no consent of any governmental authority is requisite to the legal issue of the Bonds applied for it shall specify and/or officially authenticated certificate or other document by which such consent is or may be evidenced; and

(e) Evidence of the consolidated net earnings of the Company as required by Sec. 4.03.

The Company covenants that it will not apply for the authentication of Bonds, as provided in this Section on the basis specified in subdivision (2) of Sec. 4.02, except in cases where, in the opinion of the board of directors, as specified in the resolution referred to in paragraph (a) of this Section, it shall be necessary or advisable and to the interest of the Company that fixed properties, because of local conditions existing in the State or States where such properties shall be located or because of provisions of the laws of such State or States, be owned and operated by a subsidiary rather than by the Company. Sec. 4.06. Bonds shall be authenticated and delivered by the Corporate Trustee upon an order signed by the President or a Vice President and the Treasurer or Assistant Treasurer of the Company on the basis specified in subdivision (3) of Sec. 4.02 upon receipt by the Corporate Trustee of the following:

(a) A directors' resolution as specified in paragraph (a) of Sec. 4.04; and

(b) Bonds previously authenticated and delivered under this Indenture, with all coupons (if any) thereunto appertaining then unmaturing, in bearer form or accompanied by proper instruments of assignment and transfer (whether at, before or after the maturity thereof and whether acquired by purchase or upon the redemption or payment thereof but excluding Bonds not refundable under this Indenture as specified in subdivision (3) of Sec. 4.02) in an aggregate principal amount equal to the principal amount of the Bonds applied for, or an amount of money sufficient to pay at maturity a principal amount