

MORTGAGE RECORD No. 79

this Mortgage contained, however, shall be deemed to prohibit the Company from consolidating or merging with any corporation of whose capital stock a majority shall at any time be pledged or deposited hereunder or subject to the lien of this Mortgage, provided such merged or consolidated corporation shall assume by appropriate instruments in writing the obligations of this Mortgage and the bonds secured thereby.

ARTICLE VIII.

POSSESSION, USE AND PARTIAL RELEASE OF MORTGAGED PROPERTY.

Section 1. Unless some event of default as defined in Article X hereof shall have occurred and be then continuing (a) the Company shall be suffered and permitted to possess, manage, develop, operate and enjoy the mortgaged property, and to take and use any income, rents, issues and profits thereof in the same manner, to the same extent and with the same effect except as herein provided, as if this Mortgage had not been made, and to sell, free from the lien hereof, in the usual course of trade with its customers, such merchandise as is commonly dealt in by corporations engaged in a similar business; (b) the Company may at any time, without the consent of the Trustee, sell or otherwise dispose of parts of its personal property which are neither necessary to nor useful for the operation of its business or the operation of its gas distribution system or which have become depleted, worn out or damaged or otherwise unsuitable for its purpose, provided that it shall substitute therefor, within six months from the date of such sale or other disposition, subject to the lien of this Mortgage and free from prior liens or charges other than the lien of current taxes, property or cash of equal value so that the security of the bonds issued hereunder shall not by such sale or disposition be in any way reduced or impaired, provided that the Company shall not, while any bonds are outstanding hereunder, in any given period of twelve months, without the written consent of the Trustee, sell or dispose of such property under this clause (b) exceeding in value \$5,000.00, and shall not sell or dispose of any of the main pipelines of the Company.

Any disposition of property made pursuant to the terms of this Section 1 of this Article may be effected without the necessity for any compliance with the provisions of the succeeding Section 2.

Section 2. The Company may also, while not in default hereunder, sell, exchange or otherwise dispose of any other property (other than underlying bonds at any time pledged with the Trustee hereunder) at any time subject to the lien hereof, and the Trustee shall release the same from the lien hereof upon receipt by him of (a) a certified copy of a resolution adopted by the Board of Directors of the Company requesting such release and describing the property to be sold and exchanged and setting forth the consideration in cash or other property to be paid or received therefor; (b) a certificate signed and verified by the President or by any Vice-President of the Company and by an engineer appointed by the board of directors of the Company and approved by the Trustee, and made and dated not more than thirty days prior to the date of the application for such release setting forth: (1) that the retention of such property by the Company is no longer necessary or advantageous to the conduct of the business of the Company; (2) that the Company has sold or contracted to sell, or to exchange for other property, the property to be released, specifying the property to be released and setting forth the price to be paid therefor, if such property is to be sold or exchanged, or the fair value of the property to be received in exchange; that the property realized or to be realized from the sale of the property to be released is the full fair value thereof, or that the fair value of the property to be received in exchange is at least equal to the fair value of the property to be released; that the sale or other disposition by the Company of the property to be released will not injuriously affect the conduct of the business of the Company; (3) in case of exchange of property, that the property so to be in exchange is necessary or advantageous to the conduct of the business of the Company and is free from any mortgage or other lien.

Section 3. All moneys received by the Trustee as compensation for any property subject to this Mortgage taken by the exercise of eminent domain, unless otherwise provided in this Mortgage, shall be applied by the Trustee to the redemption of bonds in accordance with Article VI herein. For the purposes of effecting redemption with such moneys, the Trustee is hereby empowered as the agent of the Company to do in its name and on its behalf, any and all things that may be necessary to effect the redemption of bonds.

Section 4. In the ordinary course of business the Company shall have the power from time to time to make any changes in the location of any of its plants, machinery, equipment, pipe lines or apparatus, as in the judgment of the Company may become expedient.

ARTICLE IX.

PLEGDED SECURITY.

Section 1. Until an event of default shall have occurred hereunder, the Company may vote all of the shares of capital stock pledged hereunder, and may retain and use any dividends (except stock dividends) thereon, but upon the happening of any such event of default the Trustee may cause the same to be transferred to it or to its nominee, and either vote or cause said stock to be voted.

Section 2. The Company, with the written consent of the Fiscal Agent, may extend, renew, or exchange any bond of Central West Utility Company of Missouri and any note of Erndt Oil & Gas Company at any time pledged hereunder for new bonds or notes or other securities of Central West Utility Company of Missouri or Erndt Oil & Gas Company. Until an event of default shall have occurred hereunder, the Company may retain and use all of the income from the securities mentioned in this paragraph.

Section 3. Any of the securities of Central West Utility Company of Missouri pledged hereunder may from time to time be sold or exchanged by the Company in the same manner and upon the same conditions as are provided for the sale, exchange or other disposition of property under Article IX hereof.

ARTICLE X.

DEFAULTS AND REMEDIES THEREON.

Section 1. All rights of action in respect of this Mortgage shall be exercised only by the Trustee, and no holder of any bond or interest coupon issued hereunder shall have any right to institute any suit, action or proceeding at law or in equity for the foreclosure of this Mortgage, or for the appointment of a receiver, or for any other remedy hereunder, unless and until the Trustee shall have received the written request of the holders of twenty-five (25%) in principal amount of the bonds then outstanding hereunder and shall have been offered reasonable indemnity and shall have refused, or for thirty (30) days thereafter neglected, to institute such suit, action or proceedings, and it is hereby declared that the making of such request and the furnishing of such indemnity are in every case conditions precedent to the execution and enforcement by any bondholder or bondholders of the powers and remedies given to the Trustee hereunder, and to the institution and maintenance by any bondholder or bondholders of any action or cause of action for foreclosure, or for the appointment of a receiver, or for any other remedy hereunder, but the Trustee, in its discretion may and when thereunto duly requested in writing by the holder or holders of twenty-five per cent (25%) in principal amount of the bonds then outstanding hereunder and furnished indemnity satisfactory to it against expenses and charges and liability, shall forthwith take such appropriate action, by judicial proceedings or otherwise, in respect of any existing default on the part of the Company hereunder as the Trustee may deem expedient in the interests of the holders of bonds issued hereunder.

Section 2. If any one or more of the following events, hereby defined as, and hereinafter called, "events of default", shall happen, that is to say:

(a) Default shall be made in the payment of any interest on any bond or bonds, when the same shall become due and payable as therein expressed, and such default shall continue for a period of sixty (60) days; or

(b) Default shall be made in the payment of the principal of any bond when the same shall become due and payable by lapse of time, or by call for redemption or by declaration or otherwise; or