

## MORTGAGE RECORD 83

page which constitutes a lien superior to the lien hereof on any part of the properties of the Company (as evidenced by a certificate, satisfactory in form and substance to the Trustee, of any trustee or mortgagee under any such mortgage, or of any counsel therefor), and a check for the amount of any loss covered by any insurance on any property subject to any such mortgage is drawn by an insurer, payable to the order, among others, of the Trustee hereunder and the trustee or mortgagee under any such mortgage, the Trustee hereunder shall endorse said check, without recourse, and deliver the same so endorsed to the appropriate trustee or mortgagee under any such mortgage; provided, however, that if such mortgage requires the application of such insurance moneys to the payment of the bonds or other obligations secured by such mortgage, any balance of such insurance moneys not so applied shall, subject to the provisions of such mortgage, be repaid to the Trustee hereunder by the trustee or mortgagee holding the same.

SECTION 7. That it will at all times maintain, preserve and keep its property mortgaged hereunder, with the appurtenances and every part and parcel thereof, in thorough repair, working order and condition and equipped with suitable equipment and appliances, and from time to time will make all needful and proper repairs, renewals and replacements thereof, so that at all times the value of the security for the bonds issued hereunder and the efficiency of the property of the Company hereby mortgaged shall be fully preserved and maintained, and subject to the provisions hereof, will maintain and preserve all the rights, powers, privileges and franchises by it owned.

Nothing herein contained shall be construed to prevent the Company from ceasing to operate any of its plants or any other property if in the judgment of the Company it is advisable not to operate the same for the time being, or, if the Company intends to sell or otherwise dispose of the same and within a reasonable time endeavors to effectuate such a sale; nor in any such event to prevent the Company from taking such action with respect to such plant or such other property as is proper and customary under the circumstances.

SECTION 8. That if it shall fail to perform any of the covenants contained in Section 5, 6 and 7 of this Article, the Trustee, or any receiver appointed hereunder, as herein provided, may make advances to perform the same in its behalf; and it hereby agrees to repay, upon demand, all sums so advanced in its behalf with interest, from the date advanced, at the rate of six per centum (6%) per annum, and all sums so advanced with interest as aforesaid shall be secured hereby, having the benefit of the lien hereby created, in priority to the indebtedness evidenced by said bonds and coupons; but no such advance shall be deemed to constitute a waiver of any default hereunder.

SECTION 9. That, so long as any bonds of Series A are outstanding under this Indenture, it will not acquire any property of a value in excess of Three Hundred Thousand Dollars (\$300,000) which at the time of the acquisition thereof shall be subject to any lien prior to the lien of this Indenture (other than the lien of current taxes), unless at the date of the acquisition of such property the principal amount of obligations outstanding under and secured by such lien shall not exceed seventy per centum of the value of bondable property so acquired and unless the net earnings (determined as provided in Section 5 of Article 11 of this Indenture) derived from the operation of such property during a period of twelve consecutive calendar months ending within sixty days next preceding the date of its acquisition, shall have been at least twice the interest charges for one year on all obligations outstanding under and secured by such prior lien at the time of the acquisition of such property, except obligations for the payment or redemption of which the necessary funds have been deposited with the trustee under such prior lien or with the Trustee hereunder; and that it will cause to be closed all mortgages existing at the time of acquisition on any property hereafter acquired by the Company and will permit no additional bonds to be issued thereunder nor any additional indebtedness in any manner to be secured thereby; but nothing herein contained shall prevent the issuance of bonds under any such mortgage to replace any mutilated, lost or destroyed bonds or to effect exchanges of bonds of different denominations, as may be permitted in the mortgage securing the same.

SECTION 10. That it will cause this Indenture and every additional instrument which shall be executed pursuant to the terms hereof at all times to be recorded and filed in such manner and in such places as may be provided by law in order to preserve the lien of the same as a mortgage both real and of personal property and of all the mortgaged property and in order fully to preserve and protect the security of the bondholders and all rights of the Trustee, and will furnish satisfactory evidence of the recording and filing of every additional instrument which, in the opinion of counsel, shall be necessary and effectual to preserve the lien of this Indenture upon the mortgaged property until the principal and interest of the bonds hereby secured shall have been paid; and that it will do and perform all matters or things necessary or expedient to be done or observed by reason of any law of the United States of America, or of any state or states thereof, or any other competent authority, for the purpose of creating, performing and maintaining the trust hereby created for the security of the payment of said bonds and coupons thereto attached, and to perform all the obligations hereby imposed upon the Company.

SECTION 11. That it will, upon reasonable request, execute and deliver such further instruments and do such further acts as may be necessary or proper to carry out more effectually the purposes of this Indenture, especially to make subject to the lien hereof any property now owned or hereafter acquired by it which it is herein provided shall be subject to the lien hereof, and to transfer to any new trustee the estate, powers, instruments and funds held in trust hereunder.

SECTION 12. That, except as herein otherwise provided or permitted, either expressly or by implication, it will at all times do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence, rights, permits and franchises; that it will comply with all the laws of the United States of America and/or of any state or states thereof applicable to the Company and to the right of the Company to transact business under any such laws, and with all law, rules, orders and regulations of any commission, board or public authority having jurisdiction in the premises, in such form and manner as counsel may advise; provided, that the Company may amend, surrender, abandon or otherwise terminate any right, permit, privilege or franchise, whenever the Company shall contemporaneously, or as a part of the same transaction, obtain or shall previously have obtained a new and, in the opinion of a majority of the Board of Directors of the Company, an equally advantageous right, permit, privilege or franchise under which the Company may continue to perform the service and conduct the business theretofore performed or conducted under or by virtue of the right, permit, privilege or franchise amended, surrendered, abandoned or terminated, or whenever the right, permit, privilege or franchise to be amended, surrendered, abandoned or terminated can no longer be profitably exercised or availed of or shall not be essential to the maintenance and continued use of the rest of the properties mortgaged hereunder, and consequently the security afforded by this Indenture would not be substantially impaired.

SECTION 13. That the Company will keep its books, records and accounts in accordance with the valid rules and regulations of the State Corporation Commission of the State of Kansas or other regulatory bodies that may from time to time have jurisdiction in respect thereof; and that it will file or cause to be filed with the Trustee hereunder annually, within a reasonable time after the delivery thereof to the Company, a copy of the annual audit of the Company for the preceding fiscal year, certified by an independent firm of certified public accountants selected by the Company and satisfactory to the Trustee.

#### ARTICLE IV Conversion into Capital Stock or other Bonds

SECTION 1. The Board of Directors of the Company shall have the right, in the manner provided in Section 1 of Article 1 hereof, to provide that the bonds of any series (other than Series A) to be issued hereunder may, in the manner provided in this Article, be converted into capital stock