

## DOUGLAS COUNTY

for the payment, redemption or other retirement whereof cash shall be deposited with the corporate Trustee hereunder prior to or coincidentally with such application, and excepting also Bonds authenticated and delivered in lieu of lost, stolen or destroyed Bonds as provided in Section 14 hereof and (b) the Bonds whose authentication and delivery is then applied for and (c) all indebtedness, if any, secured by lien upon the trust estate, or any part thereof, prior to the lien of this Indenture, outstanding at the date of said certificate, excepting, however, any such indebtedness deposited with the corporate Trustee hereunder or with the trustee or mortgagee of some other prior lien upon the trust estate, or for the payment, redemption or other retirement whereof cash shall at the time be deposited with the corporate Trustee hereunder or with the trustee or mortgagee of either of such prior liens;

(3) that the amount of the net earnings of the Company set forth as provided by Clause 1 of this Paragraph C have been at least equal to one and three-quarters (1 3/4) times the aggregate amount of the annual interest charges upon the Company's secured bonded debt, as set forth as provided by Clause (2) of this Paragraph C; and

(4) that such net earnings have been computed and ascertained as hereinafter in Section 18 provided.

The Company covenants and agrees that if the annual interest charges upon its secured bonded debt shall be increased after the date of the earnings certificate hereinabove in this Paragraph C described, and before the authentication and delivery of the Bonds then applied for, the Company will file with the corporate Trustee a new earnings certificate showing the amount of said annual interest charges as so increased - it being the intention hereof that no Bonds shall be authenticated and delivered under the provisions of this Article Four, unless the amount of the net earnings of the Company hereinabove referred to shall have been at least equal to one and three-quarters (1 3/4) times the aggregate amount of the annual interest charges upon the secured bonded debt of the Company as constituted at the time of the authentication and delivery of such Bonds; but the corporate Trustee shall be entitled to assume, in the absence of such new earnings certificate, that the aggregate amount of the annual interest charges on the secured bonded debt of the Company as constituted at the time of the authentication and delivery of the Bonds then applied for is as stated in the earnings certificate filed with the corporate Trustee as aforesaid.

D. THE MORTGAGES, DEEDS, CONVEYANCES, ASSIGNMENTS, TRANSFERS AND INSTRUMENTS OF FURTHER ASSURANCE AND THE CERTIFICATE OR CERTIFICATES AND OTHER EVIDENCE, if any, specified in the opinion of counsel as provided by Clauses (2), (5) and (6) of the following Paragraph E.

E. AN OPINION OR OPINIONS OF COUNSEL:

(1) stating that the instruments which have been or are therewith delivered to the corporate Trustee conform to the requirements of this Indenture and constitute sufficient authority under this Indenture for the corporate Trustee to authenticate and deliver the Bonds applied for, and that, upon the basis of the acquisition of the additional property described in the certificate delivered to the corporate Trustee pursuant to Paragraph B. of this Section 17, Bonds may be lawfully authenticated and delivered under this Article Four;

(2) specifying the mortgages, deeds, conveyances, assignments, transfers and instruments of further assurance which will be sufficient to subject to the direct lien of this Indenture the additional property described in said certificate, or stating that said additional property is then subject to the direct lien of this Indenture and that no such mortgage, deed, conveyance, assignment, transfer or instrument of further assurance is necessary for such purpose;

(3) stating that the Company has acquired a valid legal title (as hereinafter in Section 18 defined) to said additional property, and that the same and every part thereof is free and clear of all liens, charges or encumbrances prior to the lien of this Indenture, except taxes or assessments not delinquent, undetermined liens or charges, if any, incidental to construction, and easements and other similar encumbrances which, in the opinion of such counsel, do not impair the use of such additional property by the Company, and except also the prior liens, if any, mentioned in the certificate referred to in Paragraph B of this Section 17 and in such case that the nature, extent and amount of such prior liens are correctly stated in said certificate;

(4) stating that the Company has lawful power to acquire, own and use said additional property in its business;

(5) specifying the certificate or other evidence which will be sufficient to show compliance with the requirements, if any, of any mortgage recording tax law or other tax law applicable to the issuance of the Bonds then applied for, or stating that there are no such legal requirements; and

(6) specifying the certificate or other evidence which will be sufficient to show the authorization, approval or consent of or to the issuance of the Bonds then applied for, by any public service commission or other governmental body at the time having jurisdiction in the premises, or stating that no such authorization, approval or consent is required.

F. In case any of the additional property described in the certificate delivered to the corporate Trustee pursuant to Paragraph B of this Section 17 consists of a new plant or system either

(1) a CERTIFICATE dated not more than 90 days prior to the application for the authentication and delivery of such Bonds, signed by an independent engineer (which may be an individual engineer or a partnership or a corporation engaged in an engineering business, and which may be under retainer from the Company) selected by the Board of Directors of the Company and acceptable to the corporate Trustee, stating the fair value, in his, their or its opinion, to the Company, at the date of said certificate, of the additional property constituting and comprising such new plant or system, or

(2) a CERTIFICATE, ORDER OR OTHER DOCUMENT showing an appraisal or valuation of the additional property constituting and comprising such new plant or system, at a date not more than 90 days prior to such application, made by any public service commission or other governmental body at the time having jurisdiction in the premises.

SECTION 18. The terms hereinbelow in this Section 18 mentioned shall, for the purposes of this Indenture, be taken to have the meanings hereinafter set forth.

A. "Additional property" shall be taken to mean and comprise any property of a permanent nature and permanent physical betterments, improvements and additions of, upon and to the property of the Company, purchased, constructed or otherwise acquired by the Company subsequent to December 31, 1935, and used of useful for public utility purposes and which the Company, under its charter and the laws of the state or states wherein such property shall be situated, shall be lawfully authorized to own and use in the business in connection with which such property is used or shall be used by it, including (without in any way limiting the generality of the foregoing) real estate, buildings, plants, systems, stations, mains, pipes, machinery, gathering systems, transmission lines, distribution systems, easements, rights-of-way, and equipment, fixtures, fittings, appliances and apparatus of all kinds and description.

The term "additional property", however, shall not be deemed to include, and no Bonds shall be authenticated and delivered under the provisions of this Article Four upon the basis of the acquisition or construction of:

(1) any property, improvement, addition or betterment acquired or constructed by the Company prior to January 1, 1936; or