

MORTGAGE RECORD 85

not have been required to be paid to the New York Trustee pursuant to the provisions of Section 77; (5) All Property Additions previously certified to the New York Trustee to meet the requirements of any sinking, amortization, improvement or other analogous fund, if any, which may hereafter be created as provided in Section 6, but only if, and to the extent that, the supplemental indenture or other instrument creating such fund shall preclude the certification of such Property Additions as a basis for the authentication and delivery of Bonds under this Article.

L. "Unbonded Property" shall mean and include all property of the Company, other than Bonded Property and property of the character described in Subdivisions B, C, D, E and F of the definition of Excepted Property hereinabove set forth. Property which has been made the basis for the release from the lien of this Indenture of only Unbonded Property, or the withdrawal of only Unbonded Cash (otherwise than under Section 57) from the New York Trustee or from the trustee or other holder of a Prior Lien, shall not thereby become Bonded Property and such property may thereafter be certified to obtain the authentication and delivery of Bonds under this Article or to obtain the withdrawal of Deposited Cash under Section 31.

M. "Bonded Cash" shall mean and include:

(1) Cash deposited with the New York Trustee under Section 29;
(2) Cash (including the proceeds of purchase money obligations and governmental obligations) deposited or required to be deposited with the New York Trustee, to obtain the release of, or representing the proceeds of the taking by eminent domain or of the purchase by a public authority or of any other disposition of, or of insurance on, any Bonded Property;

(3) Cash held by the New York Trustee for any sinking, amortization, improvement or other analogous fund, if any, which may hereafter be created as provided in Section 6, but only to the extent that the supplemental indenture or other instrument creating such fund provides that such cash be Bonded Cash.

Cash, other than Bonded Cash, held by the New York Trustee or by the trustee or other holder of a Prior Lien is sometimes herein referred to as "Unbonded Cash."

N. "Additions Credit."

(1) If and whenever any Net Bondable Additions shall have been certified to the New York Trustee and been made the basis for the authentication and delivery of Bonds under this Article or the withdrawal of Deposited Cash under Article Five or the withdrawal of Trust Moneys under Section 57, up to an amount less than the full amount permitted by this Article or by Article Five or by Section 57, as the case may be, then such Net Bondable Additions shall be deemed to have been "used" only up to an amount equal to 150% of the aggregate principal amount of the Bonds so authenticated and delivered under this Article or of the Deposited Cash so withdrawn under Article Five, or 100% of the amount of Trust Moneys so withdrawn under Section 57, as the case may be; or

(2) If and whenever any Property Additions shall have been certified to the New York Trustee to obtain the release of any Bonded Property under Article Seven, or the withdrawal of Bonded Cash under Section 56, and the amount of such Property Additions is in excess of the amount so required for such purpose by Article Seven or Section 56, as the case may be, then such Property Additions shall be deemed to have been "used" only up to the amount then required to be certified to obtain such release of Bonded Property or such withdrawal of Bonded Cash, as the case may be; and, in any such case, the excess, which is sometimes hereinafter called an "Additions Credit", shall be available, as hereinafter provided, upon any subsequent application, as a basis for the authentication and delivery of Bonds under this Article or the withdrawal of Deposited Cash under Article Five.

O. The "Net Earnings Before Depreciation and Depletion" of the Company shall be computed and ascertained, in accordance with accepted accounting practice, by deducting from the total of the operating and net non-operating revenues of the Company all operating expenses, including therein (but without limitation) reasonable and proper charges for current repairs and current maintenance of its systems and properties (including any amounts which shall have been finally determined, pursuant to Section 73, to be required to be expended by the Company to make good any maintenance deficiency, which amounts shall be prorated over the entire period determined as provided in Section 73 to be reasonably necessary for the making of such expenditures), rentals, royalties, license charges, taxes (other than taxes measured by income, for the determination of liability in respect of which the amount payable by way of interest is a deductible item), insurance and interest charges upon all indebtedness, either of the Company or upon which the Company customarily pays interest, outstanding at the date of the Earnings Certificate referred to in Paragraph F of Section 25 which is secured by a lien upon the Trust Estate, or any part thereof, prior to the lien of this Indenture, other than a Prepaid Lien. The term "repairs" shall include all renewals and replacements which, in the ordinary practice of companies carrying on a business similar to that of the Company, are not charged to reserves but are charged to current repairs or maintenance or other operating expense account. No amounts need be deducted for appropriations or reserves for depreciation, retirements and/or depletion or for renewals and replacements, other than special reserves for renewals or replacements which, in such practice, are chargeable to current repairs or maintenance or other operating expense account. The "Net Earnings After Depreciation and Depletion" of the Company shall be ascertained and computed by deducting from the Net Earnings Before Depreciation and Depletion, for any particular period, the greater of either (a) an amount equal to the reasonable and proper charges for depreciation retirements and/or depletion as determined by the Company for said period, or (b) the aggregate amount which would have resulted from the following depreciation charges during said period, namely, (i) a minimum amount determined by making charges for depreciation, retirements and/or depletion at the rate of \$250,000 per annum during said period, plus (ii) such additional amount as would result from making charges for depreciation, retirements and/or depletion at the rate of 2% per annum during said period on the excess from time to time (determined monthly, but any fraction of a month to be prorated upon the basis of the excess existing at the end of the last preceding month) of the aggregate amount of additions subsequent to October 24, 1939 of depreciable property to the property account over the aggregate amount of retirements subsequent to October 24, 1939 of depreciable property from the property account, all as shown by the books of the Company. If any of the property of the Company shall have been owned by it during a part, but not during the whole, of any period for which said net earnings are to be computed, or shall have been acquired by the Company after the expiration of said period, and shall be subject to the direct lien of this Indenture, the net earnings of such property during such part of such period as shall have preceded the acquisition thereof by the Company shall be treated as net earnings of the Company for the purposes of this Paragraph, but such net earnings shall be ascertained and computed by the methods hereinabove in this Paragraph prescribed. In case, within or after the particular period for which the computation is made, (i) the Company shall have obtained the release of any property pursuant to the provisions of Section 41 of a Fair Value in excess of \$200,000 as shown by the Certificate of the Company provided for in Paragraph B or C of Section 41, or (ii) any property shall have been taken by the exercise of the power of eminent domain or purchased in the manner specified in Section 42 and the award for any such taking or the proceeds of any such purchase shall have exceeded \$200,000, then and in any such case the net earnings, estimated if necessary, of such property for the whole of such period shall be excluded from net earnings of the Company for the purposes of this Paragraph. "Net Operating Revenues from the Mortgaged Property" shall mean the net revenues derived from the operation of physical properties which are owned by the Company and are subject to the direct lien of this Indenture, and shall not include any non-operating revenue, or revenue from plants or systems in which the Company has only a leasehold interest, or income from stocks, bonds or other securities.

P. "Engineer" shall mean an individual or a co-partnership or a corporation engaged in the engineering profession. The term "Independent Engineer" shall mean an engineer of recognized standing in the profession not regularly engaged in the service of the Company or of any Related Company.