

## MORTGAGE RECORD 85

For all purposes of this Indenture all Capital Additions which shall have been specified or described in any Engineer's Certificate or Independent Engineer's Certificate delivered to the Trustee in connection with an application for the authentication and delivery of bonds or for the withdrawal of cash or for the release of property under any provision of this Indenture (which application shall not have been withdrawn prior to the authentication and delivery of the bonds or the withdrawal of the cash or the release of the property so applied for), and also all Capital Additions which shall have been specified or described in an Engineer's Certificate or an Independent Engineer's Certificate delivered to the Trustee for the purpose of taking a credit to the Maintenance Fund provided for in Article IV (which credit has been allowed), shall be deemed to have been made the basis for or used as a basis for the authentication and delivery of bonds or the issue of bonds or for the withdrawal of cash or for the release of property or to have been taken as a credit to the Maintenance Fund, as the case may be.

Section 12. The term "Retired Property" shall mean all physical property owned by the Corporation on March 31, 1941, subject to the lien hereof and all Capital Additions purchased, constructed, or otherwise acquired by the Corporation subsequent to March 31, 1941, which shall have been sold, exchanged or otherwise disposed of by the Corporation or taken through exercise of the power of eminent domain, or lost or destroyed by fire or other casualty, or which shall have become obsolete or unfit for use or which is no longer reasonably required for use in the operation and maintenance of the property subject to the lien hereof, or which shall have been otherwise abandoned, and which for any reason shall have been removed from the fixed capital accounts of the Corporation, or which should have been so removed in accordance with sound accounting practice, subsequent to March 31, 1941, excluding from Retired Property, however, Capital Additions which at the time of the retirement thereof constituted Available Capital Additions.

Section 13. The term "Amount of Net Property Retirements" shall mean the amount, if any, by which the aggregate Cost, as herein defined, of all Retired Property exceeds the sum of (i) the amount or amounts received on account of insurance on any such Retired Property, and (ii) the amount of credits to the Maintenance Fund taken under the provisions of paragraphs (b), (c) and (d) of Section 1 of Article IV of this Indenture and of cash paid to the Trustee for such Maintenance Fund, and (iii) the amount or amounts received by the Corporation for any such Retired Property taken through the exercise of the power of eminent domain, and (iv) the amount or amounts of the consideration received by the Corporation for any such Retired Property sold, exchanged or otherwise disposed of by the Corporation, taking as the amount of any such consideration consisting of obligations secured by purchase money mortgage or of other property and received for property released from the lien of this Indenture, the fair value of such obligations secured by purchase money mortgage or of such other property as stated in the pertinent Engineer's Certificate or Independent Engineer's Certificate delivered to the Trustee to obtain the release of the property released, and (v) the amount or amounts of cash supplied by the Corporation to obtain the release of property deposited with the Trustee under the provisions of Section 3 of Article VII of this Indenture.

Section 14. The term "Amount of Available Capital Additions" as applied to any particular Available Capital Additions described in any certificate delivered to the Trustee under any provision of this Indenture requiring the certification to the Trustee of Available Capital Additions for the purpose of obtaining the authentication and delivery of bonds, the withdrawal of cash, or of taking a credit to the Maintenance Fund pursuant to paragraph (d) of Section 1 of Article IV hereof, shall mean the Cost or Fair Value, whichever shall be less, of the Available Capital Additions described or included in such certificate after deducting therefrom the Amount of Net Property Retirements, if any, computed to a date not more than sixty (60) days preceding the authentication and delivery of bonds or the withdrawal of cash applied for in the accompanying application or the date of filing the certificate in which such credit to the Maintenance Fund is taken; provided that the Amount of Net Property Retirements so deducted in any such certificate shall correspondingly reduce the Amount of Net Property Retirements deductible in any succeeding such certificate.

In case the Cost or Fair Value, whichever shall be less, of the Available Capital Additions (after deducting the Amount of Net Property Retirements, if any, hereinabove provided for), described or included in any certificate stating an Amount of Available Capital Additions delivered to the Trustee for the purpose of obtaining the authentication and delivery of bonds or the withdrawal of cash under any provision of this Indenture or of taking a credit to the Maintenance Fund provided for in Article IV of this Indenture, shall be in excess of the amount required by the provisions of this Indenture for such authentication and delivery of bonds or withdrawal of cash or the taking of such credit, then the balance represented by such excess may be included in the Amount of Available Capital Additions in the next succeeding such certificate delivered to the Trustee.

Section 15. The term "Permitted Liens" shall mean and include:

- (a) Mortgage or other liens upon or claims against real estate, and rights in and relating to real estate, acquired for right-of-way purposes, where the indebtedness secured by such mortgage or other liens or claims has not been assumed by the Corporation, and where the Corporation does not customarily pay interest charges upon them;
- (b) Undetermined liens and charges incidental to construction, except such as may result from any delinquent obligation on the Corporation for payment of money on account of such construction;
- (c) The lien of taxes for the then current year;
- (d) The lien of taxes, assessments or governmental charges of any sort not delinquent;
- (e) The lien of taxes, assessments, or governmental charges due, or to become due, the validity of which is being contested at the time by the Corporation in good faith and (if necessary) by appropriate legal proceedings, provided that the Corporation shall have made such provision as may be required by the Trustee for the payment of any amount or the giving of any security which shall be required by the Trustee, in its judgment, to prevent the loss or forfeiture of any of the mortgaged or pledged property, or as may be required by the Trustee in its discretion for the payment of the amount of any such taxes, assessments, or other governmental charges as may ultimately be determined to be due and payable; and
- (f) Prepaid Liens.

Section 16. The term "Prepaid Liens" shall mean and include any lien upon any of the mortgaged property prior to or on a parity with the lien of this Indenture, where such lien secured indebtedness for which have been deposited in the manner provided in this Section moneys for the payment, satisfaction or redemption. In case at any time there shall be outstanding any indebtedness which is secured by lien on any of the mortgaged property prior to or on a parity with the lien of this Indenture, the Corporation may deposit in trust with the Trustee for it to hold in trust until used or applied in the manner hereinafter provided, or in trust with such other banking institution and in such manner as may be satisfactory to the Trustee, a sum of money sufficient either:

- (i) To pay the principal of such indebtedness and the premium (if any) and the interest thereon to its maturity; or
- (ii) To effect the redemption of such indebtedness before maturity if it is subject to redemption, with interest to the date of such redemption.

Upon any such deposit being made, such indebtedness shall, for all purposes of this Indenture, except the application of such deposit as provided hereinbefore in this Section, be deemed to have been paid and shall not be deemed further to be outstanding; provided, that in case of deposit to effect a redemption a sufficient call for such redemption, or provision satisfactory to the Trustee for making such call, shall first be made. Any such money so deposited shall be applied by the institution with whom it shall have been deposited from time to time to the payment of the principal and interest, or to the redemption of such indebtedness, or shall be repaid to the Corporation proportionately as such indebtedness shall be otherwise paid or reduced, or shall be ascertained by judicial determination or otherwise to be in whole or in part invalid, upon the filing by the Corporation with the depository institution and with