

DOUGLAS COUNTY

equal to that of the property to be released, and setting forth the value to the Company as of the date of the execution of the certificate, of the property to be released;

(3) the amount of the obligations, if any, to be received by the Company as a part of the consideration and secured by a purchase money mortgage on the property being released and that such amount does not exceed 70% of the value of such property and that the total amount of purchase money obligations deposited with the Trustee (including those received or to be received for the property the release of which is being requested) does not exceed 20% of the outstanding Bonds of the Company;

(4) whether any part of such consideration consists of additional property, and if so, a brief description of such additional property as defined in Section 6.11 and the principal subdivisions of plant or capital account (or an account analogous to plant or capital account) to which the cost of such property has been charged shall be included in the certificate, and the certificate shall state that the same constitutes additional property as said term is hereinafter defined;

(5) whether such consideration includes any additional tract or parcel of real estate, and, if so, a separate description of such tract or parcel shall be included in the certificate; and

(6) that the Company is not, to the knowledge of the officers of the Company signing the certificate, in default in the performance of any of the covenants on its part to be performed under the provisions of this Indenture.

C. Any and all cash and/or obligations stated in said certificate to be the consideration for the property so to be released, (unless some other disposition, in the opinion of counsel referred to in the following Paragraph D, shall be required by some lien prior to the lien of this Indenture subject to the provisions of Section 6.09. The money and/or obligations so received by the Trustee shall be held and paid over or applied by the Trustee as provided in Article Seven hereof.

D. AN OPINION OR OPINIONS OF COUNSEL:

(1) stating that the instruments which have been or are therewith delivered to the Trustee conform to the requirements of this Indenture and constitute sufficient authority under this Indenture for the Trustee to execute and deliver the release requested, and that, upon the basis of the consideration described in the certificate delivered to the Trustee pursuant to Paragraph B hereof, the property so sold or exchanged may be released from the operation and lien of this Indenture;

(2) stating that any obligations included in the consideration for the property so to be released are valid obligations and are duly secured by a valid purchase money mortgage constituting a direct lien upon the property to be released, free and clear of all prior liens, except taxes or assessments not delinquent and any prior liens subject to which such property shall have been sold;

(3) in case the consideration for the property to be released, or any part thereof, consists of additional property, 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;

(4) in case the consideration for the property to be released, or any part thereof, consists of additional property, stating that the Company has acquired a valid legal title to such additional property, and that the same and every part thereof is free and clear of all lines, charges or encumbrances prior to the lien of this Indenture, except taxes or assessments not delinquent and any prior liens, charges or encumbrances to which the property to be released may at the time be subject, and except also, undetermined liens and charges, if any, incidental to construction, and easements and similar encumbrances which, in the opinion of such counsel, do not impair the use of such property by the Company; and

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

SECTION 6.03. So long as the Company is not in default hereunder to the knowledge of the Trustee, the Trustee shall from time to time upon the written request of the Treasurer or Assistant Treasurer of the Company release any of the mortgaged property which is subject to any prior lien upon receipt of a certificate of the Trustee or Mortgagee under any such prior lien that the Company has complied with all of the terms and conditions for the sale or exchange of such property under any such prior lien and that the property has been released by it thereunder. Such certificate shall be full authority to the Trustee for executing such release and it is expressly agreed and understood that no substitution of property or cash whatever shall be required to be made by the Company as a basis for the release under this Indenture if the aforesaid certificate shall be furnished to the Trustee. It is further expressly understood and agreed however, that the net proceeds derived from any such sale or exchange, either property or cash, shall be subject to the lien of this Indenture.

SECTION 6.04. Should any of the mortgaged property be taken by the exercise of the power of eminent domain the Trustee may release the property so taken and shall be fully protected in so doing upon being furnished with an opinion of counsel to the effect that such property has been duly taken by the exercise of the power of eminent domain; and unless, in the opinion of counsel, some other disposition be required by some lien prior to the lien of this Indenture, all moneys or other consideration payable as compensation for any part of the trust estate so taken shall be paid to the Trustee and shall be held and paid over or applied by the Trustee as provided in Article Seven hereof, and provided, that in the event all or substantially all of the mortgaged property shall be taken by the exercise of the power of eminent domain it will not accept any consideration other than cash and will use such cash solely for the retirement of the Bonds as provided in Paragraph B of Section 7.01 hereof.

SECTION 6.05. In case an event of default shall have happened and shall not have been remedied, the Company, while in possession of the mortgaged property, may do any of the things enumerated in Section 6.01 if the Trustee, in its uncontrolled discretion, or the holders of at least a majority in amount of the Bonds at the time outstanding, shall in writing expressly authorize or consent to such action. In case the Company shall be in default hereunder, the Company, while in possession of the mortgaged property, may do any of the things enumerated in Section 6.02, if the Trustee, in its uncontrolled discretion, or the holders of at least a majority in amount of the Bonds at the time outstanding, shall in writing expressly authorize or consent to such action in which event the certificate required by Paragraph B of Section 6.02 need not contain the statement required by Clause (6) of said Paragraph B.

SECTION 6.06. In case the mortgaged property shall be in the possession of a receiver lawfully appointed, or of a trustee in bankruptcy or in reorganization proceedings (including a trustee appointed under the provisions of an Act to establish a uniform system of bankruptcy throughout the United States, approved July 1, 1898 as amended) or of an assignee for the benefit of creditors, the powers hereinbefore in this Article Six conferred upon the Company with respect to the sale or exchange of the mortgaged property may be exercised by such receiver, trustee, or assignee, with the approval of the Trustee, regardless of whether or not the Company is in default hereunder, and in such event a written request signed by such receiver, trustee or assignee shall be deemed the equivalent of the resolution of the Board required by Paragraph A of Section 6.02, and a certificate signed by such receiver, trustee or assignee shall be deemed the equivalent of the certificate required by Paragraph B of said Section 6.02, and such certificate need not contain the statement required by Clause (6) of said Paragraph B; and if the Trustee shall be in possession of the mortgaged property under any provision of this Indenture, then such powers may be exercised by the Trustee in its uncontrolled discretion.

SECTION 6.07. No purchaser in good faith of property purporting to be released herefrom shall be bound to ascertain the authority of the Trustee to execute the release or to inquire as to the existence of any conditions required by the provisions hereof for the exercise of such authority. No action taken by the Company, and no release executed by the Trustee, under any of the provisions of this Article Six, shall affect in any manner, the liability of the Company for the payment of the indebtedness secured by this Indenture, or the security of this Indenture upon or the priority thereof on the remainder of the properties covered hereby.

SECTION 6.08. In case in the opinion of counsel, the provisions of any prior lien shall require the deposit with the trustee or mortgagee thereunder of the cash or obligations received in payment for any part of the trust estate released from such prior lien or taken by the exercise of the power of eminent domain, the Company may deposit the same with the trustee or mortgagee of such prior lien to the extent that the same may