

person similarly appointed) shall report in writing to the Trustee that such deficiency has been made good.

If such deficiency shall not have been made good within one year, or such longer period as may be reported by such engineer or other person to be reasonably necessary for the purpose, the Trustee may, and upon proper request of the holders of at least fifty-one per centum (51%) in principal amount of the Bonds at the time outstanding and due indemnification, shall, in accordance with the provisions of Article 10, proceed to enforce the covenant of the Company, so far as the same relates to the maintenance and repair of the mortgaged properties, contained in § 5.12, and in any such proceedings said report or reports of such engineer shall be conclusive evidence against the Company of the existence of the facts and conditions therein set forth, and the Trustee shall be fully protected in relying thereon.

The Company further covenants and agrees that if any such report shall state that there has not been recorded as retired on the books of the Company public utility property which is no longer used or useful in the Company's business, it will forthwith make appropriate entries on its books recording the retirement of such property and will file with the Trustee a certificate of the Company stating that such entries have been made and containing the statements required by § 5.14.

All expense incurred under this § 5.16 shall be borne by the Company, except that if, by reason of a request of the bondholders, more than one (1) report is furnished in any five (5) year period, the bondholders requesting such excess reports shall pay the cost of each such excess report.

§ 5.17. That, whenever necessary to avoid or fill a vacancy in the office of the Trustee, the Company will, in the manner provided in § 16.18, appoint a Trustee so that

there shall at all times be a Trustee hereunder which shall at all times be a bank or trust company having its principal office and place of business in the City of Kansas City, Missouri, or in City of Chicago, Illinois, if there be such a bank or trust company willing and able to accept the trust upon reasonable or customary terms, and which shall at all times be a corporation organized and doing business under the laws of the United States or of any State or Territory or of the District of Columbia, with a capital and surplus of at least One Million Dollars (\$1,000,000), and authorized under such laws to exercise corporate trust powers and subject to supervision or examination by Federal, State, Territorial or District of Columbia authority.

§ 5.18. The Company covenants and agrees that as and for a maintenance and depreciation fund during each calendar year beginning with the calendar year 1947, so long as any bonds issued under and secured by this Indenture shall be outstanding, amounts aggregating not less than twenty-five per centum (25%) of the total operating revenues derived during such calendar year from the operation of the telephone utility properties of the Company upon which this Indenture is or shall be a lien (after deducting from such revenues an amount equal to the sinking fund payment made during the pertinent calendar year in satisfaction of the requirements of Section 2.02(C) hereof, and an amount equal to any other sinking fund payment made during the pertinent calendar year in satisfaction of the requirements of any other sinking fund hereafter created pursuant to the terms of this Indenture) shall, except as hereinafter in this section otherwise provided; be expended for one or more of the following purposes:

(a) The maintenance and repair of the telephone utility properties of the Company upon which this Indenture is or shall be a lien;

(b) The construction or acquisition of additional property (as defined in § 1.01 of Article 1 hereof) upon which this Indenture is a first lien subject only to permitted liens and refundable liens (as those terms are defined in § 1.01);

(c) The retirement, through purchase, payment or redemption, of any bonds issued under and secured by this Indenture.

If in any such calendar year the total expenditures for some one or more of the foregoing purposes shall be in excess of the amount required, as aforesaid, to be expended in such year, the Company shall be entitled to be credited to the extent of such excess on account of amounts required under the provisions of this section to be expended in any subsequent calendar year or years.

No expenditures which shall have been made the basis for the authentication of bonds, or the withdrawal of deposited cash or any other moneys, or the release of property, under any provision of this Indenture, or which shall have been made with moneys applied pursuant to any provision of this section or of § 3.06 of Article 3 or of Article 7 of this Indenture or which shall have been made out of any insurance moneys or moneys received from the condemnation, sale or other disposition of any of the Company's property subject to the lien of this Indenture or out of moneys withdrawn under any provision of this Indenture, and no expenditures which shall have been previously used or certified to comply with this section or with 4.09 (C) of Article 2 or with the provisions respecting any sinking fund or analogous fund created hereafter pursuant to the terms of this Indenture or to comply with any other provision of this Indenture shall be certified or be applied for the purpose of complying with this section.

On or before the first day of April in each year, beginning with the year 1948, the Company shall deliver to the Trustee a certificate signed in the name of the Company by its President or one of its Vice-Presidents and by its Treasurer or an Assistant Treasurer, setting forth in reasonable detail (1) the amount of gross operating revenues, derived as aforesaid, of the Company for the calendar year next preceding and the amount of the Company's obligation for such year pursuant to the provisions of this section; and (2) the amounts expended during such calendar year for any one or more of the purposes specified in this section which the Company desires to have applied to the requirements of this section for such year; and (3) such excess amounts, if any, as may have been expended for any one or more of such purposes in any preceding calendar year or years (not prior to January 1, 1947), which the Company desires to have applied to the requirements of this section for the calendar year next preceding the date of such certificate; and stating that no part of the amounts so expended which the Company desires to have applied to the requirements of this section for such year has been made the basis for the authentication of bonds, or the withdrawal of deposited cash or any other moneys, or the release of property, under any provision of this Indenture, or has been made with moneys applied pursuant to any provision of this section or of § 3.06 of Article 3 or of Article 7 of this Indenture or has been made out of any insurance moneys or moneys received from the condemnation, sale or other disposition of any of the Company's property subject to the lien of this Indenture or out of moneys withdrawn under any provision of this Indenture or has been previously used or certified or applied to comply with the provisions of this section or § 2.02 of Article 2 or with the provisions of any sinking fund or analogous fund created hereafter pursuant to the