

such mailing would be contrary to the best interests of the holders of Bonds or would be in violation of applicable law. Such written statement shall specify the basis of such opinion. If at the time the Trustee shall mail to such applicants a written statement to the effect that in the opinion of the Trustee the mailing of the material then requested to be mailed would be contrary to the best interests of the holders of the Bonds or would be in violation of applicable law, or that the Securities and Exchange Commission shall have jurisdiction over the matters and things set out in this § 9.02, whether by reason of the qualification of this Indenture under the Trust Indenture Act of 1939 or otherwise, then the Trustee shall file with the Securities and Exchange Commission an executed counterpart of its said written statement, together with a copy of the material then requested to be mailed. Whenever any such statement and material shall be filed with the Securities and Exchange Commission by reason of the fact that said Commission has at the time jurisdiction over the matters and things set out in this § 9.02, if said Commission, after opportunity for a hearing upon the objections specified in the written statement so filed, shall enter an order refusing to sustain any of such objections, or if, after the entry of an order sustaining one or more of such objections, said Commission shall find, after notice and opportunity for a hearing, that all the objections so sustained have been met, and shall enter an order so declaring, the Trustee shall mail copies of such material to all such bondholders with reasonable promptness after the entry of such order and the renewal of such tender, otherwise the Trustee shall be relieved of any obligation or duty to such applicants respecting their application.

(c) The Trustee shall not be held accountable by reason of the mailing of any material pursuant to any request

enants required to be made pursuant to § 5.14, which is subject to verification by accountants; and

(3) to transmit to the holders of Bonds in the manner and to the extent provided in subsection (c) of § 9.04, with respect to reports pursuant to subsection (a) of said § 9.04, such summaries of any information, documents and reports required to be filed by the Company pursuant to subsections (1) and (2) of this § 9.03 as may be required by the rules and regulations prescribed from time to time by the Securities and Exchange Commission.

§ 9.04. (a) The Trustee shall transmit, on or before April 1 in each year beginning with the year 1947, to the bondholders as hereinafter in this Section provided, a brief report dated as of January 1 of each such year, with respect to

(1) its eligibility and its qualifications under § 5.17, § 16.01 and § 16.14, or in lieu thereof, if to the best of its knowledge it has continued to be eligible and/or qualified under such Sections, a written statement to such effect;

(2) the character and amount of any advances (and if the Trustee elects so to state, the circumstances surrounding the making thereof) made by the Trustee, as such, which remain unpaid on the date of such report, and for the reimbursement of which it claims or may claim a lien or charge, prior to that of the Bonds on the trust estate, or on property or funds held or collected by it as Trustee, if such advances so remaining unpaid aggregate more than one-half of 1% of the principal amount of the Bonds outstanding on the date of such report;

(3) the amount, interest rate, and maturity date of all other indebtedness owing by the Company to the Trustee in its individual capacity on the date of such report, with a brief description of any property held as collateral security therefor, except an indebtedness based upon a creditor relationship arising in any manner described in paragraphs (2), (3), (4) or (6) of subsection (b) of § 16.15 hereof;

made under subsection (b) of this § 9.02. Notwithstanding the provisions of subsection (b) of this § 9.02 the Trustee shall not be required to do any of the acts provided in said subsection (b) if such act would be unlawful.

§ 9.03. The Company covenants and agrees

(1) to file with the Trustee, within 30 days after the Company is required to file the same with the Securities and Exchange Commission, copies of its annual report and of the information, documents, and other reports (or copies of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) which the Company may be required to file with such Commission pursuant to Section 13 or Section 15 (d) of the Securities Exchange Act of 1934; or, if the Company is not required to file information, documents, or reports pursuant to either of such sections of the Securities Exchange Act of 1934, then to file with the Trustee and the Securities and Exchange Commission, in accordance with rules and regulations prescribed from time to time by said Commission, such of the supplementary and periodic information, documents and reports which may be required pursuant to Section 13 of the Securities Exchange Act of 1934 in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time by such rules and regulations;

(2) to file with the Trustee and the Securities and Exchange Commission, in accordance with rules and regulations prescribed from time to time by said Commission, such additional information, documents and reports with respect to compliance by the Company with the conditions and covenants provided for in this Indenture as may be required from time to time by such rules and regulations, including, unless required to be filed pursuant to subsection (1) of this § 9.03, or unless contrary to such rules and regulations, a copy of the annual audit of the Company for the preceding fiscal year, certified by an independent public accountant selected by the Company and approved by the Trustee, which certificate shall contain the statements as to compliance with the conditions and cov-

(4) the property and funds physically in the possession of the Trustee, as such Trustee, or of a depository for it, on the date of such report;

(5) any release of property subject to the lien of the Indenture (and the consideration therefor, if any) which it has not previously reported; provided, however, that to the extent that the aggregate value as shown by the release papers of any or all of such released properties does not exceed an amount equal to 1% of the principal amount of Bonds then outstanding, the report need only indicate the number of such releases, the total value of property released as shown by the release papers, and the aggregate amount of cash received as shown by the release papers;

(6) any additional issue of Bonds which it has not previously reported; and

(7) any action taken by the Trustee in the performance of its duties under this Indenture which it has not previously reported and which in its opinion materially affects the Bonds or the trust estate, except action in respect of a default, notice of which has been or is to be withheld by the Trustee in accordance with the provisions of § 10.02 hereof.

(b) The Trustee shall transmit to the bondholders as hereinafter provided, within 90 days after the making of any release or advance as hereinafter specified, a brief report with respect to—

(1) the release of property subject to the lien of this Indenture (and the consideration therefor, if any) unless the fair value of such property, as set forth in the certificate or opinion required by § 6.02 or by Subdivision III of § 7.02, is less than 10% of the principal amount of Bonds outstanding under this Indenture at the time of such release; and

(2) the character and amount of any advances (and if the Trustee elects so to state, the circumstances surrounding the making thereof) made by the Trustee, as such, since the date of the last report transmitted pursuant to the provisions of subsection (a) of this § 9.04 (or if no such report has yet been so transmitted