

176

subsequent waiver of such default, affect or impair the rights of the Trustee or either of them, or of such holders, in respect of any subsequent default on the part of the Company or impair any right resulting therefrom; and every right, power and remedy given by this Article 9 to the Trustee or either of them, or to the bondholders, respectively, may, subject to the provisions of § 2.16, be exercised from time to time and as often as may be deemed expedient by the Trustee or either of them, or by the bondholders.

All rights of action under this Indenture (including the making and filing of proofs of debt, and taking any action necessary or advisable in order to have the claims of bearers and registered owners of bonds allowed in any proceedings) may be enforced by the Trustee or either of them without the possession of any of the bonds or coupons or the production thereof on the trial or other proceedings, and any such suit or proceeding instituted by the Trustee or either of them shall be brought in its or their name or names.

§ 2.20. All of the rights, remedies and powers provided for in this Article 9 may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law in the premises, and all of the provisions of this Article 9 are intended to be subject to all applicable mandatory provisions of law that may be controlling in the premises and to be limited to the extent necessary in order that they shall not render this Indenture invalid or unenforceable in whole or in part or prevent the recording or filing thereof under the provisions of any applicable law.

ARTICLE 10

EVIDENCE OF RIGHTS OF BONDHOLDERS AND OWNERSHIP OF BONDS

§ 10.01. Any request, notice, declaration or other instrument, which this Indenture may require or permit to be signed and executed by the bondholders, may be in any number of concurrent instruments of similar tenor, and may be signed or executed by such bondholders in person or by attorney appointed in writing. Proof of the execution of any such request or other instrument, or of a writing appointing

177

any such attorney, or of the holding by any person of the bonds or coupons appertaining thereto, may be accepted by the Company, or by any Trustee, as sufficient for any purpose of this Indenture if made in the following manner:

(a) The fact and date of the execution by any person of such request or other instrument or writing may be proved by the certificate of any notary public, or other officer authorized to take acknowledgments of deeds to be recorded in the jurisdiction wherein he purports to act; that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution;

(b) The amount of bonds transferable by delivery held by any person executing such request or other instrument as a bondholder, and the series and serial numbers thereof and the date of his holding the same, may be proven by a certificate executed by any trust company, bank, banker or other depository wherever situated, if such certificate shall be deemed by the Principal Trustee to be satisfactory, showing that at the date therein mentioned such person had on deposit with such depository, the bonds described in such certificate, and such holding may be deemed by the Trustee and the Company to continue until written notice to the contrary is served upon the Principal Trustee. The Company and the Trustee may nevertheless in their separate discretion require further proof in cases where they deem further proof desirable. The ownership of registered bonds (whether fully registered, or registered as to principal only) shall be proved by the registry books.

Any request, notice, consent or vote of the holder of any bond shall bind all future holders of the same bond or any bond or bonds issued in lieu thereof, in respect of anything done or suffered by the Company or by any Trustee in pursuance thereof or in reliance thereon.

§ 10.02. The Company and the Trustee and any paying agent may deem and treat the bearer of any coupon bond outstanding hereunder, which shall not at the time be registered in the name of the owner thereof as hereinbefore authorized, and the bearer of any coupon for interest on any such bond, whether such bond shall be registered or not, as the absolute owner of such bond or coupon, as the case may

178

be, for the purpose of receiving payment thereof or on account thereof and for all other purposes, and neither the Company nor the Trustee shall be affected by any notice to the contrary.

The Company and the Trustee and any paying agent may deem and treat the person in whose name any fully registered bond outstanding hereunder shall be registered upon the books of the Company as hereinbefore provided, as the absolute owner of such bond for the purpose of receiving payment of or on account of the principal of and interest on such bond and for all other purposes, and they may deem and treat the person in whose name any coupon bond shall be registered as to principal as the absolute owner thereof for the purpose of receiving payment of or on account of the principal thereof and for all other purposes, except to receive payment of interest represented by outstanding coupons; and all such payments so made to any such registered owner or upon his order, shall be valid and effectual to satisfy and discharge the liability upon such bond, to the extent of the sum or sums so paid, and neither the Company nor the Trustee shall be affected by any notice to the contrary.

Neither the Company nor the Trustee shall be bound to recognize any person as the holder of a bond outstanding hereunder unless and until his bond is submitted for inspection, if required, and title thereto satisfactorily established, if disputed, except as may otherwise be provided by regulations made under § 15.05.

ARTICLE 11

IMMUNITY OF INCORPORATORS, STOCKHOLDERS, OFFICERS AND DIRECTORS

§ 11.01. No recourse under or upon any obligation, covenant or agreement contained in this Indenture, or in any bond or coupon hereby secured, for the payment of the principal of, premium, if any, or interest on, any of the bonds hereby secured, or for any claim based thereon, or otherwise in any manner in respect thereof, shall be had against any incorporator, stockholder, subscriber to capital stock, officer or director, as such, former, present or future, of the Company, or of

179

any successor corporation, either directly, or indirectly, through the Company or any predecessor or successor corporation or the Trustee, or either of them, by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution, statute, or otherwise (including, without limiting the generality of the foregoing, any proceeding to enforce any claimed liability of stockholders of the Company, based upon any theory of disregarding the corporate entity of the Company or upon any theory that the Company was and was the agent or instrumentality of the stockholders); it being expressly agreed and understood that this Indenture, and the obligations hereby secured, are solely corporate obligations, and that no personal liability whatsoever shall attach to, or be incurred by, the incorporators, stockholders, subscribers to capital stock, officers or directors, as such, of the Company, or of any successor corporation, or of any of them, on account of the indebtedness hereby authorized, or under or by reason of any of the obligations, covenants or agreements contained in this Indenture or in any of the bonds or coupons hereby secured, or implied therefrom, and that any and all such personal liability of every name and nature, and any and all such rights and claims against every such incorporator, stockholder, subscriber to capital stock, officer or director, as such, whether arising at common law, or in equity, or created by constitution, statute, contract of subscription, or otherwise, are expressly retained and waived as a condition of, and as part of the consideration for, the execution of this Indenture and the issue of the bonds and interest obligations secured hereby.

ARTICLE 12

EFFECT OF MERGER, CONSOLIDATION, ETC.

§ 12.01. Nothing in this Indenture or in any bond outstanding hereunder shall prevent any consolidation or merger of the Company or of any successor company with or into which it has been lawfully consolidated or merged, with or into any corporation having corporate authority to carry on the gas utility business, or any conveyance, transfer or lease, subject to this Indenture, of the mortgaged property