

as an entirety or substantially as an entirety to any corporation lawfully entitled to acquire or lease and operate the same; or to prevent successive similar consolidations, mergers, conveyances, transfers and leases to which the Company or its successor or successors shall be a party or parties; *provided, however*, and the Company covenants and agrees, that every such consolidation, merger, conveyance, transfer or lease shall be upon such terms as fully to preserve and in no respect to impair the lien, efficiency or security of this Indenture, *or* any of the rights or powers of the Trustees or the bondholders hereunder; *and provided further* that any such lease shall be made expressly subject to immediate termination by the Company or by the Trustees at any time during the continuance of a default hereunder, *and* also by the purchaser of the property so leased at any sale thereof hereunder, whether such sale be made under the power of sale hereby conferred or under judicial proceedings; *and provided further* that, upon any such consolidation, merger, conveyance or transfer, or upon any such lease the term of which extends beyond the date of maturity of any of the bonds then outstanding hereunder, the due and punctual payment of the principal of and interest on all of said bonds according to their tenor, and the due and punctual performance and observance of all the covenants and conditions of this Indenture to be kept or performed by the Company, shall be assumed by the corporation formed by such consolidation or into which such merger shall have been made, or acquiring the mortgaged property as aforesaid, or by the lessee under any such lease the term of which extends beyond the date of maturity of the bonds secured hereby; *and provided further*, that no such consolidation, merger, conveyance, transfer or lease shall be made except upon such terms as shall fully preserve and protect the then existing franchises of the Company, subject, however, to the provisions of subdivision (4) of § 4.03.

§ 12.02. In case the Company, pursuant to § 12.01, shall be consolidated with or merged into any other corporation, or shall convey or transfer, subject to the lien of this Indenture, the mortgaged property as aforesaid, the successor corporation formed by such consoli-

with the terms of this Indenture as if all of said bonds had been authenticated and delivered at the date of the execution hereof. *Provided, however*, that as a condition precedent to the execution by such successor corporation and the right of such successor corporation to procure the authentication and delivery by the Principal Trustee of any such additional bonds in respect of the construction or acquisition by the successor corporation of improvements, extensions and additions to the mortgaged property or plants or properties additional thereto, the supplemental Indenture with the Trustees to be executed and caused to be recorded by the successor corporation as in this § 12.03 provided shall contain a conveyance or transfer and mortgage in terms sufficient to include and subject to the lien of this Indenture the properties and franchises described in subdivisions (1), (2) and (3) of § 12.03, *and provided further*, that the lien created thereby shall have similar force, effect and standing as the lien of this Indenture would have if the Company should not be consolidated with or merged into such corporation or should not convey or transfer, subject to this Indenture, the mortgaged property as aforesaid, to such successor corporation and should itself acquire or construct all said property and request the authentication and delivery of bonds under the provisions of this Indenture in respect thereof; but the inclusion in said supplemental Indenture of such conveyance or transfer and mortgage shall not (except as may be required in any opinion of counsel called for by the applicable provisions hereof) be a condition precedent to the exercise hereunder by such successor corporation of the other powers and rights conferred upon the Company, including the right to procure the withdrawal of cash or the release of property upon the basis of property additions.

Subject to the provisions of § 12.03 and § 12.02, the Trustees may require an opinion of counsel, as conclusive evidence that any such supplemental Indenture, or any such merger, consolidation, conveyance, transfer or lease, complies with the conditions and provisions of this Article.

§ 12.03. In case the Company, pursuant to § 12.01, shall be consolidated with or merged into any other corporation, or shall convey

tion, or into which the Company shall have been merged, or which shall have received a conveyance or transfer as aforesaid — upon executing and causing to be recorded a supplemental Indenture with the Trustees, satisfactory to the Trustees, whereby such successor corporation shall assume and agree to pay, duly and punctually, the principal and interest of the bonds issued hereunder in accordance with the provisions of said bonds and coupons and this Indenture, and shall agree to perform and fulfill all the covenants and conditions of this Indenture binding upon the Company — shall succeed to and be substituted for the Company, with the same effect as if it had been named herein as the mortgagor; company, and without prejudice to the generality of the foregoing, such successor corporation thereupon may cause to be executed, authenticated and delivered, either in its own name or in the present name of the Company or its name as lawfully changed, such bonds as could or might have been executed, issued and delivered by the Company under any provision of this Indenture, and upon the order of such successor corporation in lieu of the Company, and subject to all the terms, conditions and restrictions in this Indenture prescribed, concerning the authentication and delivery of bonds, the Principal Trustee shall authenticate and deliver any of such bonds which shall have been previously signed and delivered by the officers of the Company to the Principal Trustee for authentication, and any of such bonds which such successor corporation shall thereafter, in accordance with the provisions of this Indenture, cause to be executed and delivered to the Principal Trustee for such purpose and such successor corporation shall have and may exercise in respect of the issue of bonds on the basis of property additions, cash, bonds, or prior lien bonds and subject to all the terms, conditions and restrictions in this Indenture prescribed applicable thereto, whether as to withdrawal of cash or otherwise, the same powers and rights which the Company might or could exercise had it acquired such property additions, cash, bonds, or prior lien bonds, by purchase or after the date of such consolidation, merger, conveyance or transfer and had such consolidation, merger, conveyance or transfer not occurred. All the bonds so issued shall in all respects have the same legal right and security as the bonds theretofore issued in accordance

or transfer, subject to this Indenture, the mortgaged property as aforesaid, neither this Indenture nor the supplemental Indenture with the Trustees to be executed and caused to be recorded as provided in § 12.02, shall become and be a lien upon any of the properties and franchises of the successor corporation except the mortgaged property acquired by it from the Company and except:

(1) All betterments, extensions, improvements, additions, repairs, renewals, replacements, substitutions and alterations to, upon, for and of the mortgaged property and all property (including rights, franchises, licenses, easements, leases and contracts) held or acquired for use or used upon or in connection with or appertaining to the mortgaged property or any part thereof;

(2) All property made the basis of the authentication of bonds, the withdrawal of cash or the release of property from the lien of this Indenture, and all property acquired or constructed with the proceeds of any insurance on any part of the mortgaged property or with the proceeds of any part of the mortgaged property released from the lien of this Indenture or taken by the exercise of the power of eminent domain; and

(3) All property acquired in pursuance of the covenants herein contained to maintain and preserve and keep the mortgaged property in good repair, working order and condition, or in pursuance of some other covenant or agreement herein contained to be kept or performed by the Company.

§ 12.04. The word "Company" whenever used in this Indenture shall include such successor corporation as complying with the provisions hereof, and in such case the certificate or resolutions of the Board of Directors or officers of the Company required by the provisions of this Indenture may be made by like officials of such successor corporation.

Any net earnings certificate, as provided in § 2.03, executed on behalf of such successor corporation shall, however, relate and be limited to the earnings of the mortgaged property, and the provisions of § 4.10 shall relate and be limited to the mortgaged property and the earnings thereof.