

96454

Vol. m89 Page 1515

024

PACIFICORP,
An Oregon Corporation

TO

MORGAN GUARANTY TRUST COMPANY
OF NEW YORK,
A New York Corporation

Trustee

Mortgage and Deed of Trust
Dated as of January 9, 1989

This Instrument Grants a Security Interest
By a Transmitting Utility

This Instrument Contains After-Acquired
Property Provisions

RETURN TO:
Property Management Dept.
Pacific Power & Light Co.
920 S.W Sixth Avenue
Portland, OR 97204

89 JAN 25 AM 9 25

PACIFICORP,
An Oregon Corporation
TO
MORGAN GUARANTY TRUST COMPANY OF NEW YORK,
A New York Corporation, Trustee
Mortgage and Deed of Trust

TABLE OF CONTENTS*

	<u>PAGE</u>
PARTIES	1
RECITALS	1
GRANTING CLAUSES	1
AGREEMENT AS TO AFTER-ACQUIRED PROPERTY	3
PROPERTIES EXCEPTED FROM LIEN OF INDENTURE	3
HABENDUM	4
GRANT IN TRUST	5
DEFEASANCE CLAUSE	5
COVENANT CLAUSE	5

ARTICLE I
Definitions

SEC. 1.01	Explanatory statement	6
	Construction of accounting terms	6
	Evidence of approval of signer	6
	Requests and applications to be accompanied by certificates and opinions	6
SEC. 1.02	"Adjusted Net Earnings" defined in Section 1.07 hereof ..	6
	"Annual Interest Requirements" defined in Section 1.07 hereof	6

* The Table of Contents was not a part of the Mortgage and Deed of Trust as executed.

	<u>PAGE</u>
"Authorized Executive Officer of the Company"	7
"Authorized Financial Officer of the Company"	7
"Authorized Purposes"	7
"Board of Directors"	7
"Class "A" Bonds"	7
"Class "A" Mortgage"	7
"Company"	7
"Cost" defined in Section 1.04(III) hereof	7
"Daily Newspaper"	8
"Defaults" defined in Section 15.01 hereof	8
"Engineer"	8
"Engineer's Certificate"	9
"Excepted Encumbrances" defined in Section 1.06 hereof ..	9
"Federal Bankruptcy Act"	9
"Fuel Transportation Facilities"	9
"Funded Bonds" defined in Section 1.05 hereof	9
"Funded Cash" defined in Section 1.05 hereof	9
"Funded Property" defined in Section 1.05 hereof	9
"Independent"	9
"Independent Engineer's Certificate"	9
"Investment Securities"	10
"Lien hereof" and "Lien of this Indenture"	10
"Mortgage" or "this Indenture"	10
SEC. 1.03 "Mortgaged and Pledged Property"	10
"Net Earning Certificate" defined in Section 1.07 hereof ..	10
"Officers' Certificate"	11
"Opinion of Counsel"	11
"Original Trustee"	11
"Outstanding"	11
"Outstanding" with respect to Class "A" Bonds	11
"Outstanding" with respect to Qualified Lien Bonds defined in Section 1.06 hereof	11
"Pacific Mortgage"	11
"Proceeds of Released Property"	12
"Property Additions" defined in Section 1.04 hereof	12
"Qualified Lien" defined in Section 1.06 hereof	12
"Qualified Lien Bonds" defined in Section 1.06 hereof	12
"Resolution"	12
"Responsible Officers"	12
"Retired Bonds"	12

	<u>PAGE</u>
"Space Satellites"	12
"Trust Indenture Act"	12
"Trustee"	13
"underwriter" defined in Section 19.12 hereof	13
"Utah Mortgage"	13
"Wyodak Facility"	13
SEC. 1.04 (I) "Property Additions"	15
(II) Provisions for netting Property Additions	16
(III) "Cost"	17
SEC. 1.05 "Funded Property"	19
"Funded Bonds"	19
"Funded Cash"	20
SEC. 1.06 "Excepted Encumbrances"	21
"Qualified Lien"	21
"Qualified Lien Bonds"	21
"Outstanding"	22
SEC. 1.07 "Net Earning Certificate"	26
Construction of phrases relating to property retirement	26
Interest payments in foreign coin or currency	26

ARTICLE II

Forms, Execution, Registration, Exchange and Other General Provisions as to Issuance of Bonds

SEC. 2.01	Aggregate principal amount of bonds unlimited	26
SEC. 2.02	Company free to determine price and other terms of issuance of bonds	27
SEC. 2.03	Bonds issuable in series; establishment of terms, conditions and provisions of each such series	27
SEC. 2.04	One or more series may be expressed in one or more foreign languages—English text shall prevail	30
SEC. 2.05	Kinds and denominations of bonds	30
SEC. 2.06	Date of and interest on fully registered bonds	30
	Dates and designation of coupon bonds	31
SEC. 2.07	Legends on bonds	31
SEC. 2.08	Surrender of bonds upon exchange	31
	Authentication and issuance of new bonds	31
	Charges for exchanges and transfers of bonds	32
SEC. 2.09	Registration and transfer books	

	<u>PAGE</u>
SEC. 2.10 Execution of bonds	32
Matured coupons to be detached before authentication of bonds	32
SEC. 2.11 Temporary bonds	33
SEC. 2.12 Replacement of stolen, lost, destroyed or mutilated bonds .	33
Indemnity and charges	33
SEC. 2.13 Trustee's certificate on bonds	34

ARTICLE III

First Series of Bonds

SEC. 3.01 Bonds of the First Series	34
(I) Redemption of Bonds of the First Series	34
(II) Exchange of Bonds of the First Series	34
(III) Delivery of Bonds of the First Series	34

ARTICLE IV

Issuance of Bonds Upon Deposit of Class "A" Bonds With Trustee

SEC. 4.01 (I) Additional bonds issuable based upon deposit of Class "A" Bonds	35
(II) No Net Earning Certificate required in certain cases	36

ARTICLE V

Issuance of Bonds on the Basis of Property Additions

SEC. 5.01 Additional bonds issuable on basis of Property Additions ..	37
SEC. 5.02 No bonds issuable under Article V on basis of Funded Property	37
SEC. 5.03 Bonds issuable under Article V to specified percentage of Cost or fair value of Property Additions after making certain deductions and additions	37
SEC. 5.04 Qualified Liens on Property Additions deducted from princi- pal amount of bonds otherwise issuable—exception	37
Bonds issuable on Property Additions subject to Qualified Lien and Qualified Lien Bonds limited to specified percent- age of all bonds including Qualified Lien Bonds	37
SEC. 5.05 Net Earning requirements for issue on Property Additions	41
SEC. 5.06 Bond application papers for issue on Property Additions .	41
Determination of Cost, fair value and fair market value .	46

ARTICLE VI
Issuance of Bonds Upon Retirement of
Bonds Previously Outstanding Hereunder

	<u>PAGE</u>
SEC. 6.01 Bond application papers for issues in refunding certain Retired Bonds	46
Net Earning Certificate in certain cases	47
SEC. 6.02 No bonds may be issued under Section 6.01 in certain cases	48

ARTICLE VII
Issuance of Bonds Upon Deposit of Cash With Trustee

SEC. 7.01 Bond application papers for issues against deposited cash	48
SEC. 7.02 Withdrawal of cash deposited under Section 7.01	49
SEC. 7.03 Company may direct application of cash deposited under Section 7.01 to purchase, pay or redeem bonds	49

ARTICLE VIII
Amendments to the Trust Indenture Act

SEC. 8.01 Reservation of right to comply with or conform to the Trust Indenture Act	50
---	----

ARTICLE IX
Particular Covenants of the Company

SEC. 9.01 Possession	51
Maintenance of Lien	51
Right to mortgage	51
SEC. 9.02 Payment of principal and interest	51
Cancellation of paid coupons	51
SEC. 9.03 (a) Appointment of qualified Trustee	51
(b) Office or agency for presentation of bonds, coupons, notices, etc.	52
Results of failure to maintain such offices	52
(c) Duty of paying agent other than Trustee	52
(d) Duty of Company acting as paying agent	53
(e) Delivery to Trustee of sums held by other paying agent	53
(f) All sums to be held subject to Section 22.03	53
SEC. 9.04 Payments of taxes, etc.	53

	<u>PAGE</u>
SEC. 9.05 (I) Insurance on property	54
(II) Application of insurance proceeds	55
(III) Use of money not applied to rebuilding or renewal within eighteen months	56
(IV) Deductible provision	56
SEC. 9.06 (I) Maintenance of Mortgaged and Pledged Property ..	56
(II) Permanent discontinuance of operation or reduction of capacity of any plants or property	57
(III) Independent Engineer's Certificate on maintenance of Mortgaged and Pledged Property	57
(IV) Company objection in writing to findings of inde- pendent Engineer; arbitration	58
(V) Grace period regarding compliance	59
(VI) Company shall cure deficiency; independent Engi- neer or arbitrators shall report to Trustee	59
(VII) Company deemed to have defaulted in covenants of this Section unless Trustee advised deficiency has been cured	59
(VIII) Expenses	59
(IX) Relief of Company from certain covenants by order or regulation of regulatory authority	59
(X) Retirement from plant account of property no longer useful in business	60
SEC. 9.07 Covenant as to dividends	60
SEC. 9.08 Maintenance of corporate existence and franchises	60
SEC. 9.09 Recording, filing, etc.	60
Annual Opinion of Counsel	61
Instruments of further assurance	61
SEC. 9.10 (a) Company to furnish Trustee information as to names and addresses of bondholders	62
(b) Preservation by Trustee of such information	62
(c) Trustee shall make such information available or mail communications to bondholders in certain circumstances	62
(d) Trustee and paying agent not accountable by reason of disclosing or mailing material pursuant to subdivision (c)	64
SEC. 9.11 (1) Company agrees to file with Trustee copies of annual reports which the Company may be required to file with the Securities and Exchange Commission ...	64

	<u>PAGE</u>
(2) Company agrees to file with Trustee and Securities and Exchange Commission certain additional information with respect to compliance with certain conditions and covenants of Indenture	64
(3) Company agrees to transmit to bondholders summaries of such information as may be required by Securities and Exchange Commission	65
SEC. 9.12 Books of record and account	65
Faithful performance of covenants, conditions, etc.	65
SEC. 9.13 Company to advise Trustee promptly after any failure to pay principal of or interest on Qualified Lien Bonds or Class "A" Bonds	65
Upon cancellation of Qualified Lien Company will	
(a) cause Qualified Lien Bonds to be cancelled or deposited hereunder	65
(b) deposit hereunder all Funded Cash, etc., held thereunder	66
Not permit the amount of Qualified Lien Bonds to be increased—exceptions	66
Disposition of cash received on discharge of prior liens ..	67
SEC. 9.14 Annual Certificate of No Default	68

ARTICLE X

Concerning Bonds Secured by Lien Prior to the Lien Hereof Deposited with Trustee

SEC. 10.01 Requirements upon deposit of bonds secured by lien prior hereto	68
SEC. 10.02 Disposition of principal and interest on bonds secured by lien prior hereto	69
SEC. 10.03 Surrender of bonds secured by lien prior hereto	70
Extension of maturity, etc., of bond secured by lien prior hereto	71
SEC. 10.04 Trustee's rights on Default hereunder as holder of bonds secured by lien prior hereto	71

ARTICLE XI

Concerning Class "A" Bonds and Additional Class "A" Mortgages

SEC. 11.01 Trustee to notify trustees of Class "A" Mortgages of Default and payments to be made on held Class "A" Bonds	72
---	----

ARTICLE XI
Concerning Class "A" Bonds and
Additional Class "A" Mortgages

	<u>PAGE</u>
SEC. 11.02 Form of deposited Class "A" Bonds	72
SEC. 11.03 Trustee to vote all Class "A" Bonds Outstanding with respect to any amendments or modification of Class "A" Mortgage	72
SEC. 11.04 Limitation on issuance of Class "A" Bonds	73
SEC. 11.05 Limitation on issuance of Class "A" Bonds under a Class "A" Mortgage	73
SEC. 11.06 (I) Designation of Additional Class "A" Mortgages ..	73
(II) Status of Additional Class "A" Mortgages and Additional Class "A" Bonds	75

ARTICLE XII

Redemption or Purchase of Bonds

SEC. 12.01 Which bonds redeemable	76
SEC. 12.02 Redemption of a part only of bonds	76
Notice of redemption	76
Mailing notice	77
SEC. 12.03 Bonds due on redemption date if price deposited and notice given	78
SEC. 12.04 Redemption money held in trust until paid to holders on surrender of bonds	78
When bonds cease to bear interest	78
Partial redemption of registered bonds	78
SEC. 12.05 Purchase of bonds with cash held by Trustee	78
Company may designate series	79
Solicitation of offers to sell	79
SEC. 12.06 Bonds paid, purchased or redeemed hereunder to be cancelled	79
Destruction of bonds and coupons	79

ARTICLE XIII

**Possession, Use and Release of Mortgaged
and Pledged Property**

SEC. 13.01 Company's possession and enjoyment	80
SEC. 13.02 What Company may do without release or consent by Trustee	80
(1) Replacement of machinery, equipment, tools, etc. . .	80
(2) Cancellation of rights of way	80
(3) Surrender or assent to modification of franchises, etc.	80

	<u>PAGE</u>
SEC. 13.03 Release of property	81
(1) Officers' Certificate	81
(2) Engineer's Certificate	81
(3) Cash equal to amount by which Cost or fair value of property released exceeds the sum of:	82
(a) Purchase money obligations received	82
(b) Cost or fair value of Property Additions made basis of release	83
(c) Principal amount of bonds which Company waives right to issue	83
(d) Purchase money obligations delivered to holder of Qualified Lien	83
(e) Principal amount of bonds delivered to Trustee	83
(f) Taxes and expenses	84
(4) Opinion of Counsel on Property Additions	84
(5) Opinion of Counsel on purchase money mortgage, etc.	85
(6) Opinion of Counsel if franchise to be released	85
(7) Opinion of Counsel on conditions and covenants	85
Assignment, filing and recordation of purchase money mortgages; Opinion of Counsel	85
Conditions if release based on Property Additions, etc. ...	86
When Property Additions made basis of release do not become Funded Property	86
Disposition of consideration received upon release	88
Substituted property to become subject to Lien	88
SEC. 13.04 Release of property which is not Funded Property	89
(1) Officers' Certificate	89
(2) Engineer's Certificate	90
(3) Further Engineer's Certificate	90
(4) Opinion of Counsel	90
SEC. 13.05 Release of real estate unimproved for Company's business Any consideration received by Company to be deposited hereunder	91
SEC. 13.06 Withdrawal or application of moneys received for releases, etc.	91
Such moneys may be:	
(1) Withdrawn on basis of Property Additions	91
(2) Withdrawn on basis of right to issue bonds	92
(3) Applied to purchase bonds	92
(4) Applied to redeem bonds	92

x

	PAGE
Requirements for withdrawal of moneys	92
When withdrawal does not represent Funded Property ..	94
Release of purchase money mortgage obligations	95
Principal and interest on purchase money mortgage obligations	95
Disposition of bonds deposited under this Section	96
SEC. 13.07 Release of property or subordination to interests taken by eminent domain or purchased by governmental body ..	96
Application of proceeds	96
SEC. 13.08 If Mortgaged and Pledged Property in hands of receiver or trustee, it may exercise powers conferred on Company	97
Notwithstanding default, Trustee may release Mortgaged and Pledged Property	97
Purchaser in good faith not put on inquiry	97
SEC. 13.09 Alternative method of release of certain Mortgaged and Pledged Property	98
SEC. 13.10 Quitclaim of property not subject to Lien	98

ARTICLE XIV

Discharge of Class "A" Mortgage

SEC. 14.01 Discharge of Class "A" Mortgage if no bonds are Outstanding thereunder (excluding Class "A" Bonds held by the Trustee)	99
---	----

ARTICLE XV

Remedies of Trustee and Bondholders Upon Default

SEC. 15.01 Definition of "Defaults"	99
SEC. 15.02 Trustee to give bondholders and trustees under Class "A" Mortgages notice of defaults	101
SEC. 15.03 Declaration of principal and accrued interest due upon Default	102
Holders of specified percentage of bonds may annul declaration	102
SEC. 15.04 Trustee may take possession and operate Mortgaged and Pledged Property on Default	103
When Trustee shall surrender possession to Company ...	103
SEC. 15.05 Power of Trustee to sell all the Mortgaged and Pledged Property	103
SEC. 15.06 Judicial proceedings by Trustees	104
Remedies cumulative	104
Delay, etc., not a waiver of rights	104
Waiver of Default not to extend to subsequent Defaults	104

	<u>PAGE</u>
SEC. 15.07 Holders of specified percentage of bonds may direct judicial proceedings by Trustee	104
Bonds owned by Company or affiliates not included in determining percentages for certain purposes	105
SEC. 15.08 Appointment of receiver	105
SEC. 15.09 All bonds to become due and payable upon sale of property	106
SEC. 15.10 Purchase by bondholders at sale of property	106
SEC. 15.11 Receipt of Trustee or officer making sale to be a discharge to purchaser	106
Effect of sale on rights of Company	107
SEC. 15.12 Disposition of proceeds of sale	107
Order of application	107
SEC. 15.13 Waiver by Company of advantage of any appraisalment, valuation, stay, extension or redemption laws, and of rights to marshal assets	108
SEC. 15.14 Payment of principal and interest to Trustee upon occurrence of certain defaults	109
Proofs of claim	109
Judgment may be taken by Trustee	110
Lien of Indenture not to be affected by judgment or levy of execution by Trustee	110
Application of moneys collected by Trustee	110
SEC. 15.15 Possession of bonds unnecessary in action by Trustee ...	110
Bondholders not necessary parties to action	111
SEC. 15.16 Limitation upon right of bondholders to institute certain legal proceedings	111
Right of bondholders to receive and enforce payment not impaired	112
SEC. 15.17 Company may waive period of grace	112
If enforcement proceedings abandoned, status quo ante restored	112

ARTICLE XVI

Evidence of Rights of Bondholders and Ownership of Bonds

SEC. 16.01 Execution of instruments by bondholders	112
Proof of execution	112
(a) Acknowledgment	112
(b) Certificate of trust company, bank, etc.	112
Consent or vote binding on future holder of bond	113

	<u>PAGE</u>
SEC. 16.02 Evidence of ownership of temporary or coupon bonds . . .	113
Evidence of ownership of registered bonds	113
Inspection of bonds	114

ARTICLE XVII

Immunity of Incorporators, Subscribers to the Capital Stock, Shareholders, Officers and Directors

SEC. 17.01 Liability of officers, etc. released and waived	114
--	-----

ARTICLE XVIII

Effect of Merger, Consolidation, Etc.

SEC. 18.01 Company may merge, consolidate, etc., upon certain terms	115
Covenant against impairment of Lien thereby	115
Assumption of obligation by successor	115
SEC. 18.02 Rights of successor corporation	115
Execution of indenture	116
Issuance of bonds, etc., on basis of Property Additions by successor corporation	116
SEC. 18.03 Extent of Lien of this Indenture upon property of successor corporation	117

ARTICLE XIX

Concerning the Trustee

SEC. 19.01 Qualification of Trustee	119
Acceptance of trust—duties in general	119
SEC. 19.02 Extent of Trustee's liability—in general	119
SEC. 19.03 Recitals deemed made by Company	121
SEC. 19.04 Trustee not liable for debts incurred in operating property	121
Trustee, etc., may own bonds	121
SEC. 19.05 Trustee may give notices incidental to action by it	121
SEC. 19.06 Notice by Trustee to Company—mailing	121
SEC. 19.07 Trustee protected in relying on Certificates, etc.	122
Trustee may consult counsel	122
Responsibility in selection of experts	122
SEC. 19.08 Moneys deposited with Trustee to be held in trust	122
Interest on moneys with Trustee	122
SEC. 19.09 Compensation of Trustee—lien therefor	123

	<u>PAGE</u>
SEC. 19.10 Trustee may rely on facts established by certificate from Company	124
SEC. 19.11 Action to be taken by Trustee who becomes creditor of Company	124
SEC. 19.12 Action to be taken by Trustee acquiring conflicting interest	129
Definition of conflicting interest	130
SEC. 19.13 Trustee to transmit certain reports to bondholders	135
Copies of reports to be filed with stock exchanges and Securities and Exchange Commission	137
SEC. 19.14 Resignation or removal of Trustee	137
SEC. 19.15 Appointment of successor Trustee	138
SEC. 19.16 Appointment of additional trustees or co-trustees	139
Conditions affecting such appointment	140
Notice by bondholders to Trustee, notice to all trustees ..	141
Contents, filing, etc. of instrument appointing trustee ...	141
Incapacity, etc., of separate trustee or co-trustee	141
SEC. 19.17 Acceptance by successor trustee	141
Requirements of predecessor trustee upon retiring	142
SEC. 19.18 Merger or consolidation of Trustee	142
Delivery of bonds authenticated by predecessor Trustee ..	142
Authentication by successor Trustee	142
SEC. 19.19 Appointment of successor Trustee by Company	143
SEC. 19.20 Appointment of authenticating agent	143

ARTICLE XX

Discharge of Mortgage

SEC. 20.01 Execution of requisite deeds and instruments	145
SEC. 20.02 Bonds for payment of which money or obligations of the United States are deposited are deemed paid—provisos ..	146
SEC. 20.03 Discharge of obligation to comply with covenants	147

ARTICLE XXI

Meetings and Consents of Bondholders

SEC. 21.01 Modifications of Indenture—in general	147
SEC. 21.02 Call and notice of meeting of bondholders	147
Place when called by Trustee	147
Written notice	148
Publication	148
When notice not required	148

	<u>PAGE</u>
SEC. 21.03 Attendance at meetings	148
Trustee may make regulations as to deposits of bonds ..	148
Certificate in lieu of production of unregistered bonds ...	149
SEC. 21.04 Persons entitled to vote at meetings	150
When production of bonds and further proof necessary ..	150
Proxies—Acknowledgment	150
SEC. 21.05 Temporary Chairman and Secretary	150
Permanent Chairman and Secretary	150
Inspectors of Votes	150
SEC. 21.06 Quorum	151
Notice of adjournment	151
SEC. 21.07 Vote necessary for modification, alteration, etc., of	
Indenture	152
Limitations on right of modification	152
Bonds owned, held by, or for account of Company not	
counted	153
SEC. 21.08 Record of meeting	153
Conclusiveness of record	153
Copy of resolution to be mailed to bondholders	153
Proof of mailing to be filed with Trustee	153
Effect of failure to mail	153
Approval of resolution by Company	154
Effective date of resolution	154
SEC. 21.09 Notation of action taken may be made on bonds	154
New bonds	154
When supplemental instruments may be executed	154
SEC. 21.10 (A) Trustee may receive written consent of bondholders in	
lieu of holding a meeting	155
(B) Acknowledgment of written consent	155
(C) Revocation of consent	156

ARTICLE XXII

Miscellaneous

SEC. 22.01 Benefits restricted to parties hereto and to holders of bonds	
and coupons	156
SEC. 22.02 Investment of cash by Trustee in certain securities	157
Such securities held by Trustee as part of Mortgaged and	
Pledged Property	157
Retirement of bonds with funds in excess of specified	
amount held by Trustee for specified period	157

	<u>PAGE</u>
SEC. 22.03 Deposits for bonds and coupons not claimed for specified period to be returned to Company on demand	158
SEC. 22.04 Rights may be waived or surrendered by Company	158
Company may enter into further covenants for benefit of one or more series of bonds	158
Trustee may join with Company in execution of instruments	159
SEC. 22.05 Formal requirements of certificates and opinions hereunder	159
SEC. 22.06 Concerning court costs and counsel fees in certain suits hereunder	160
SEC. 22.07 Successors and assigns	160
SEC. 22.08 Addresses of the parties hereto	160
SEC. 22.09 In event of conflict, Trust Indenture Act provisions herein to control	161
SEC. 22.10 Reference is to Trust Indenture Act in force on the date of execution hereof—exceptions	161
SEC. 22.11 Titles of Articles of Indenture, marginal sectional, marginal Article references and table of contents not part thereof	161
SEC. 22.12 Execution in counterparts	161
TESTIMONIUM	162
SIGNATURES AND SEALS	162
ACKNOWLEDGMENTS	163
EXHIBIT X	164
EXHIBIT Y	167
EXHIBIT Z	170

INDENTURE, dated as of the ninth day of January, 1989, made and entered into by and between PACIFICORP, an Oregon corporation (the "Company"), and MORGAN GUARANTY TRUST COMPANY OF NEW YORK, a New York corporation, as trustee hereunder (the "Trustee");

Parties*

WHEREAS, the Company deems it necessary to borrow money for its corporate purposes and to issue its bonds therefor from time to time in one or more series, and to mortgage and pledge its property hereinafter described or mentioned to secure the payment of the same; and

Recitals

WHEREAS, all acts necessary to make this Indenture a valid, binding and legal instrument for the security of such bonds have been performed, and the issue of such bonds, subject to the terms of this Indenture, has been in all respects duly authorized;

Compliance with legal requirements

NOW, THEREFORE, THIS INDENTURE WITNESSETH: That PACIFICORP, an Oregon corporation, in consideration of the premises and of good and valuable consideration to it duly paid by the Trustee at or before the ensembling and delivery of these presents, the receipt and sufficiency whereof is hereby acknowledged, and in order to secure the payment of both the principal of and interest and premium, if any, on the bonds from time to time issued hereunder, according to their tenor and effect and the performance of all provisions hereof (including any instruments supplemental hereto and any modification made as in this Indenture provided) and of such bonds, has mortgaged, pledged and granted a security interest in, and by these presents does mortgage, pledge and grant a security interest in (subject, however, to Excepted Encumbrances as defined in Section 1.06 hereof), unto Morgan Guaranty Trust Company of New York, as Trustee, and to its successor or successors in said trust, and to said Trustee and its successors and assigns forever, those certain parcels of real property described in Exhibit Z attached hereto and by this reference made a part hereof, and all other properties of the Company real, personal and mixed, of the kind or nature specifically mentioned herein or of any other kind or nature (except any hereinbefore or hereinafter expressly excepted), now owned or, subject to the provisions of Section 18.03 hereof, hereafter acquired by the Company (by purchase, consolidation, merger, donation, construction, erection or in any other way) and wherescever situated, including (without limitation) all real

Granting clauses

General and after-acquired property clauses

* The margin notes and headings were not a part of the Mortgage and Deed of Trust as executed.

estate, lands, easements, servitudes, licenses, permits, franchises, privileges, rights of way and other rights in or relating to real estate or the occupancy of the same; all power sites, flowage rights, water rights, water locations, water appropriations, ditches, flumes, reservoirs, reservoir sites, canals, raceways, waterways, dams, dam sites, aqueducts, and all other rights or means for appropriating, conveying, storing and supplying water; all rights of way and roads; all plants for the generation of electricity and other forms of energy (whether now known or hereafter developed) by steam, water, sunlight, chemical processes and/or (without limitation) all other sources of power (whether now known or hereafter developed); all power houses, gas plants, street lighting systems, standards and other equipment incidental thereto; all telephone, radio, television and other communications, image and data transmission systems, air-conditioning systems and equipment incidental thereto, water wheels, water works, water systems, steam and hot water plants, substations, lines, service and supply systems, bridges, culverts, tracks, ice or refrigeration plants and equipment, offices, buildings and other structures and the equipment thereof; all machinery, engines, boilers, dynamos, turbines, electric, gas and other machines, prime movers, regulators, meters, transformers, generators (including, but not limited to, engine-driven generators and turbogenerator units), motors, electrical, gas and mechanical appliances, conduits, cables, water, steam, gas or other pipes, gas mains and pipes, service pipes, fittings, valves and connections, pole and transmission lines, towers, overhead conductors and devices, underground conduits, underground conductors and devices, wires, cables, tools, implements, apparatus, storage battery equipment, and all other fixtures and personalty; all municipal and other franchises, consents or permits; all lines for the transmission and distribution of electric current and other forms of energy, gas, steam, water or communications, images and data for any purpose including towers, poles, wires, cables, pipes, conduits, ducts and all apparatus for use in connection therewith and (except as hereinbefore or hereinafter expressly excepted) all the right, title and interest of the Company in and to all other property of any kind or nature appertaining to and/or used and/or occupied and/or enjoyed in connection with any property hereinbefore described;

Appurtenances, etc.

TOGETHER WITH all and singular the tenements, hereditaments, prescriptions, servitudes and appurtenances belonging or in anywise

appertaining to the aforesaid property or any part thereof, with the reversion and reversions, remainder and remainders and (subject to the provisions of Section 13.01 hereof) the tolls, rents, revenues, issues, earnings, income, product and profits thereof, and all the estate, right, title and interest and claim whatsoever, at law as well as in equity, which the Company now has or may hereafter acquire in and to the aforesaid property and franchises and every part and parcel thereof.

IT IS HEREBY AGREED by the Company that, subject to the provisions of Section 18.03 hereof, all the property, rights and franchises acquired by the Company (by purchase, consolidation, merger, donation, construction, erection or in any other way) after the date hereof, except any hereinbefore or hereinafter expressly excepted, shall be and are as fully mortgaged and pledged hereby and as fully embraced within the Lien hereof as if such property, rights and franchises were now owned by the Company and were specifically described herein and mortgaged hereby.

Agreement as to
after-acquired
property

PROVIDED THAT the following are not and are not intended to be now or hereafter mortgaged or pledged hereunder, nor is a security interest therein hereby granted or intended to be granted, and the same are hereby expressly excepted from the Lien hereof and the operation of this Indenture, namely: (1) cash, shares of stock, bonds, notes and other obligations and other securities not hereinbefore or hereafter specifically pledged, paid, deposited, delivered or held hereunder or covenanted so to be; (2) merchandise, equipment, apparatus, materials or supplies held for the purpose of sale or other disposition in the usual course of business or for the purpose of repairing or replacing (in whole or part) any rolling stock, buses, motor coaches, automobiles or other vehicles or aircraft or boats, ships, or other vessels, and any fuel, oil and similar materials and supplies consumable in the operation of any of the properties of the Company; rolling stock, buses, motor coaches, automobiles and other vehicles and all aircraft; boats, ships and other vessels; all crops (both growing and harvested), timber (both growing and harvested), minerals (both in place and severed), and mineral rights and royalties; (3) bills, notes and other instruments and accounts receivable, judgments, demands, general intangibles and choses in action, and all contracts, leases and operating agreements not specifically pledged hereunder or hereafter covenanted so to be; (4) the last day of the term of any lease or leasehold which may hereafter become subject to the Lien hereof; (5)

Properties excepted
from Lien of
Indenture

electric energy, gas, water, steam, ice, and other materials, forms of energy or products generated, manufactured, produced or purchased by the Company for sale, distribution or use in the ordinary course of its business; (6) any natural gas wells or natural gas leases or natural gas transportation lines or other works or property used primarily and principally in the production of natural gas or its transportation, primarily for the purpose of sale to natural gas customers or to a natural gas distribution or pipeline company, up to the point of connection with any distribution system; (7) the Company's franchise to be a corporation; (8) any interest (as lessee, owner or otherwise) in the Wyodak Facility, including, without limitation, any equipment, parts, improvements, substitutions, replacements or other property relating thereto; and (9) all properties that PacifiCorp, a Maine corporation, and/or Utah Power & Light Company, a Utah corporation, have contracted to dispose of and that have been released from the liens of the Pacific Mortgage and the Utah Mortgage, respectively, prior to the date hereof, but title to which properties had not passed to the grantee(s) thereof as of said date; provided, however, that the property and rights expressly excepted from the Lien and operation of this Indenture in the above subdivisions (2) and (3) shall (to the extent permitted by law) cease to be so excepted in the event and as of the date that the Trustee or a receiver for the Trustee shall enter upon and take possession of the Mortgaged and Pledged Property in the manner provided in Article XV hereof by reason of the occurrence of a Default;

**Subordination of
Lien of Indenture**

AND PROVIDED FURTHER, that as to any property of the Company that is now or hereafter becomes subject to the lien of a Class "A" Mortgage pursuant to the after-acquired property provisions thereof, the Lien hereof shall at all times be junior and subordinate to the lien of such Class "A" Mortgage;

Habendum

TO HAVE AND TO HOLD all such properties, real, personal and mixed, mortgaged and pledged hereby, or in which a security interest has been granted by the Company as aforesaid, or intended so to be (subject, however, to Excepted Encumbrances as defined in Section 1.06 hereof), unto Morgan Guaranty Trust Company of New York, as Trustee, and its successors and assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth, for the equal pro rata benefit and security of all and each of the bonds and coupons issued and to be issued hereunder, or any of them, in accordance with the terms of this Indenture, without preference, priority or distinction as to the lien of any of said bonds and coupons over any others thereof by reason of priority in the time of the issue or negotiation thereof, or otherwise howsoever, subject to the provisions hereinafter set forth in reference to extended, transferred or pledged coupons and claims for interest; it being intended that, subject as aforesaid, the lien and security of all of said bonds and coupons of all series issued or to be issued hereunder shall take effect from the execution and delivery of this Indenture, and that the Lien and security of this Indenture shall take effect from the date of execution and delivery hereof as though all of the said bonds of all series were actually authenticated and delivered and issued upon such date.

Grant in Trust

PROVIDED, HOWEVER, that these presents are upon the condition that if the Company, its successors or assigns, shall pay or cause to be paid the principal of and interest on said bonds, together with the premium, if any, payable on such of said bonds as may have been called for redemption prior to maturity, or shall provide, as permitted hereby, for the payment of the entire amount due or to become due thereon for principal, interest and premium, if any, and if the Company shall also pay or cause to be paid all other sums payable hereunder by it, then this Indenture and the lien and rights hereby created shall cease, determine and be void, otherwise to be and remain in full force and effect.

Defeasance clause

IT IS HEREBY COVENANTED, DECLARED AND AGREED by and between the parties hereto that all such bonds and coupons are to be authenticated, delivered and issued, and that all property subject or to become subject hereto is to be held subject to the further covenants, conditions, uses and trusts hereinafter set forth, and the Company, for itself and its successors and assigns, does hereby covenant and agree to and with the Trustee and its successor or successors in such trust, for the benefit of those who shall hold said bonds and interest coupons, or any of them, as follows:

Covenant clause

Art. I; §§1.01, 1.02

ARTICLE I**Definitions****Explanatory
statement**

SECTION 1.01. The terms defined in the next six Sections hereof, numbered from 1.02 to 1.07, both inclusive, shall (except as in this Indenture or in any indenture supplemental hereto otherwise expressly provided) for all purposes of this Indenture, and of any indenture supplemental hereto, have the respective meanings in such Sections specified. Subject to Section 8.01 hereof, any term defined in Section 303 of the Trust Indenture Act and not defined in this Indenture shall have the meaning assigned to such term in such Section 303 as in force on the date of the execution of this Indenture.

**Construction of
accounting terms**

The accounting terms used in this Indenture shall be construed in accordance with generally accepted accounting principles and practices in use at the time by companies operating like properties or, at the option of the Company, from time to time, in accordance with generally accepted accounting principles and practices in use at the date of this Indenture or at the date of any Class "A" Mortgage, as hereinafter defined, so long as such Class "A" Mortgage is in effect.

**Evidence of
Trustee's approval
of signer**

The acceptance by the Trustee of any document the signer of which is required by some provision hereof to be approved by the Trustee, shall be sufficient evidence of its approval of the signer within the meaning of this Indenture.

**Requirement for
Officers' Certificate
and Opinion of
Counsel**

Every request or application by the Company for action by the Trustee under any of the provisions of this Indenture shall be accompanied by the Officers' Certificate and the Opinion of Counsel provided for in Section 22.05 hereof.

A Resolution delivered to the Trustee shall be sufficient evidence of the Board of Directors' actions set forth therein.

**"Adjusted Net
Earnings"**

SECTION 1.02. The term "Adjusted Net Earnings" is defined in Section 1.07 hereof.

**"Annual Interest
Requirements"**

The term "Annual Interest Requirements" is defined in Section 1.07 hereof.

The term "Authorized Executive Officer of the Company" shall mean its Chairman of the Board, Chief Executive Officer, Chief Operating Officer, President or any Vice-President.

"Authorized Executive Officer of the Company"

The term "Authorized Financial Officer of the Company" shall mean its Chief Financial Officer, Chief Accounting Officer, Controller, Comptroller, Treasurer or any Assistant Treasurer.

"Authorized Financial Officer of the Company"

The term "Authorized Purposes" shall mean the authentication and delivery of bonds, the release of property and/or the withdrawal of cash under any of the provisions of this Indenture.

"Authorized Purposes"

The term "Board of Directors" shall mean either the board of directors of the Company or any duly constituted committee authorized by Resolution to act for said board hereunder.

"Board of Directors"

The term "Class "A" Bonds" shall mean bonds now or hereafter issued and outstanding under (1) the Pacific Mortgage, (2) the Utah Mortgage and/or (3) any other Class "A" Mortgage or Mortgages.

"Class "A" Bonds"

The term "Class "A" Mortgage" shall mean the Pacific Mortgage, the Utah Mortgage and each other mortgage or deed of trust or similar indenture entered into by any corporation that is subsequently merged into or consolidated with the Company and hereafter designated an additional Class "A" Mortgage in a supplemental indenture to be executed and recorded as provided in Section 11.06 hereof.

"Class "A" Mortgage"

The term "Company" shall mean PacifiCorp, an Oregon corporation, and subject to the provisions of Article XVIII hereof, shall also include its successors and assigns. For the purposes of (i) clause (2) of subdivision (c) of Section 9.03 hereof, (ii) the second paragraph of Section 15.07 hereof, (iii) the second and third paragraphs of Section 15.14 hereof, (iv) Section 19.11 hereof, (v) Section 19.12 hereof and (vi) paragraph (3) of subdivision (a) of Section 19.13 hereof, the word "Company" shall be deemed to mean and refer to the Company and any other obligor on the bonds secured hereby.

"Company"

The term "Cost" with respect to Property Additions is defined in Section 1.04(III) hereof.

"Cost"

The term "Daily Newspaper" shall mean a newspaper of general circulation, printed in the English language and customarily published

"Daily Newspaper"

§1.02

on each business day, whether or not published on Saturdays, Sundays or holidays; or, in the alternative, shall mean such form of communication as may have come into general use for the dissemination of information of similar import. In the event that successive weekly publications in a Daily Newspaper are required hereunder they may be made (unless otherwise expressly provided herein) on the same or different days of the week and in the same or in different Daily Newspapers. In case, by reason of the suspension of publication of any Daily Newspaper, or by reason of any other cause, it shall be impractical without extraordinary expense to make publication of any notice in a Daily Newspaper as required by this Indenture, then such method of publication or notification as shall be made with the approval of the Trustee shall be deemed the equivalent of the required publication of such notice in a Daily Newspaper.

"Defaults"

The term "Defaults" is defined in Section 15.01 hereof.

"Engineer"

The term "Engineer" shall mean an individual who is an engineer, or a co-partnership or a corporation engaged in an engineering business, who or which, unless required to be independent, may be employed by the Company.

"Engineer's Certificate"

The term "Engineer's Certificate" shall mean a certificate signed by an Authorized Executive Officer of the Company and by an Engineer appointed by the Board of Directors; provided, however, if any property or securities are to be released from the Lien of this Indenture, the Engineer's Certificate as to the fair value of such property or securities and as to matters referred to in clause (f) of subdivision (2) of Section 13.03 and clause (y) of Section 13.04(2)(a) hereof shall be made by an independent Engineer, appraiser, or other expert (who or which may be appointed by an Authorized Executive Officer of the Company), if the fair value of such property or securities and of all other property or securities released since the commencement of the then current calendar year, as set forth in the certificates required by this Indenture, is ten per centum (10%) or more of the aggregate principal amount of the bonds at the time Outstanding; but such a certificate of an independent Engineer, appraiser, or other expert shall not be required in the case of any release of property or securities, if the fair value thereof as set forth in the certificates required by this Indenture is less than Twenty-five Thousand Dollars (\$25,000) or less than one per centum (1%) of the aggregate amount of (x) the principal amount of the bonds at the time Outstanding and (y) the principal amount of the Class A Bonds at the time Outstanding other than

Class A Bonds delivered to and held by the Trustee hereunder. Each such certificate shall include the statements provided for in Section 22.05 hereof.

The term "Excepted Encumbrances" is defined in Section 1.06 hereof.

"Excepted
Encumbrances"
"Federal
Bankruptcy Act"

The term "Federal Bankruptcy Act" shall mean the Bankruptcy Reform Act of 1978, any amendments thereto, or any law substituted therefor.

The term "Fuel Transportation Facilities" shall mean railroad cars, conveyors, barges and other transportation equipment (other than trucks) used or to be used primarily for the transportation of coal, oil, nuclear fuel or other fuel.

"Fuel
Transportation
Facilities"

The term "Funded Bonds" is defined in Section 1.05 hereof.

"Funded Bonds"

The term "Funded Cash" is defined in Section 1.05 hereof.

"Funded Cash"

The term "Funded Property" is defined in Section 1.05 hereof.

"Funded Property"

The term "independent", when applied to any accountant, Engineer, appraiser or other expert, shall mean such a person who (a) is in fact independent, (b) does not have any direct material financial interest in the Company or in any other obligor upon the bonds or in any affiliate of the Company or of such other obligor and (c) is not connected with the Company or such other obligor as an officer, employee, promoter, underwriter, trustee, partner, director or any person performing similar functions, selected by an Authorized Executive Officer of the Company and who is approved by the Trustee in the exercise of reasonable care.

"independent"

The term "Independent Engineer's Certificate" shall mean a certificate signed by an independent Engineer. Each such certificate shall include the statements provided for in Section 22.05 hereof.

"Independent
Engineer's
Certificate"

The term "Investment Securities" shall mean any of the following obligations or securities on which neither the Company nor any of its subsidiaries or its affiliates is the obligor: (a) bonds or other obligations of the United States of America; (b) interest bearing deposit accounts (which may be represented by certificates of deposit) in national or state banks (which may include the Trustee) having a combined capital and surplus of not less than Ten Million Dollars (\$10,000,000), or savings and loan associations having total assets of not less than Forty Million Dollars

"Investment
Securities"

§§1.02. 1.03

(\$40,000,000); (c) bankers' acceptances drawn on and accepted by commercial banks (which may include the Trustee) having a combined capital and surplus of not less than Ten Million Dollars (\$10,000,000); (d) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, any State of the United States of America, the District of Columbia or the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing, which are rated in any of the three highest rating categories without regard to modifiers by a nationally recognized rating agency; (e) bonds or other obligations of any agency or instrumentality of the United States of America; (f) commercial or finance company paper which is rated in any of the two highest rating categories without regard to modifiers by a nationally recognized rating agency; (g) corporate debt securities rated in any of the three highest rating categories without regard to modifiers by a nationally recognized rating agency; (h) repurchase agreements with banking or financial institutions having a combined capital and surplus of not less than Ten Million Dollars (\$10,000,000) (which may include the Trustee) with respect to any of the foregoing obligations or securities; and (i) any other obligations or securities which may lawfully be purchased by the Trustee.

"Lien hereof"
and "Lien of this
Indenture"

The terms "Lien hereof" and "Lien of this Indenture" shall mean the lien created by these presents (including the after-acquired property clauses hereof) and the lien created by any subsequent mortgage, pledge, grant of a security interest or delivery to the Trustee that effectively constitutes any property as a part of the security held by the Trustee upon the terms and trusts and subject to the covenants, conditions and uses specified in this Indenture.

"Mortgage" or
"this Indenture"

The terms "Mortgage" or "this Indenture" shall mean this instrument and all indentures supplemental hereto.

"Mortgaged and
Pledged Property"

SECTION 1.03. The term "Mortgaged and Pledged Property" shall mean as of any particular time the property which at said time is subject to the Lien of this Indenture.

"Net Earning
Certificate"

The term "Net Earning Certificate" is defined in Section 1.07 hereof.

"Officers'
Certificate"

The term "Officers' Certificate" shall mean a certificate signed by an Authorized Executive Officer of the Company, and by the Secretary or an Assistant Secretary or an Authorized Financial Officer of the

Company. Each such certificate shall include the statements provided for in Section 22.05 hereof. §1.03

The term "Opinion of Counsel" shall mean an opinion in writing signed by counsel (who may be an employee of or of counsel to the Company) appointed by an Authorized Executive Officer of the Company. Each such opinion shall include the statements provided for in Section 22.05 hereof. "Opinion of Counsel"

The term "Original Trustee" shall mean Morgan Guaranty Trust Company of New York. "Original Trustee"

The term "Outstanding", subject to the provisions of Sections 15.07 and 21.07 hereof, shall mean as of any particular time with respect to bonds issued or issuable under this Indenture all bonds which theretofore shall have been authenticated and delivered by the Trustee under this Indenture, except (a) bonds theretofore paid, retired, redeemed, discharged or cancelled, or bonds for the purchase, payment or redemption of which money in the necessary amount shall have been deposited with or shall then be held by the Trustee with irrevocable direction so to apply the same, provided that, in the case of redemption, the notice required by Article XII hereof shall have been given or have been provided for to the satisfaction of the Trustee, (b) bonds deposited with or held in pledge by the Trustee under any of the provisions of this Indenture, including any so held under any sinking or other fund, and (c) bonds authenticated and delivered hereunder, upon transfer of which or in exchange or substitution for and/or in lieu of which other bonds have been authenticated and delivered under any of the provisions of this Indenture. "Outstanding"

The term "Outstanding" with respect to Class "A" Bonds shall have the same meaning as it has with respect to such Class "A" Bonds under the applicable Class "A" Mortgage. "Outstanding" (with respect to Class "A" Bonds)

The term "Outstanding" with respect to Qualified Lien Bonds is defined in Section 1.06 hereof. "Outstanding" (with respect to Qualified Lien Bonds)

The term "Pacific Mortgage" shall mean the Mortgage and Deed of Trust, dated as of July 1, 1947, between Pacific Power & Light Company and Guaranty Trust Company of New York and Oliver R. Brooks, as Trustees, as heretofore or hereafter amended or supplemented. "Pacific Mortgage"

The term "Proceeds of Released Property" shall mean the aggregate of the cash deposited with or received by the Trustee pursuant to the "Proceeds of Released Property"

§1.03

provisions of Section 13.03, Section 13.05 (except such cash as is to be paid over to the Company under the provisions of Section 13.06), or Section 13.07 hereof.

"Property
Additions"
"Qualified Lien"

The term "Property Additions" is defined in Section 1.04 hereof.

The term "Qualified Lien" is defined in Section 1.06 hereof.

"Qualified Lien
Bonds"
"Resolution"

The term "Qualified Lien Bonds" is defined in Section 1.06 hereof.

The term "Resolution" shall mean a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date certified.

"Responsible
Officers"

The term "Responsible Officers" of the Trustee shall mean any officers of the Trustee assigned by the Trustee to administer its corporate trust business; and the term "Responsible Officer" shall mean and include any of said officers.

"Retired Bonds"

The term "Retired Bonds" shall mean any bonds authenticated and delivered under this Indenture (and not having been made the basis under any of the provisions of this Indenture of one or more Authorized Purposes, subject to the provisions of Section 13.03 and Section 13.06 hereof permitting the revocation of the waiver of the right to the authentication and delivery of bonds) that shall have been purchased, paid, retired, redeemed or cancelled or surrendered to the Trustee for cancellation or for the purchase, payment or redemption of which moneys held by the Trustee with irrevocable direction so to apply the same in the necessary amount shall have been deposited with or shall then be held by the Trustee with irrevocable direction so to apply the same (provided that any such purchase, payment, retirement, redemption, cancellation or surrender of bonds shall have been, or is to be, effected otherwise than with cash which, after giving effect to the provisions of Sections 1.05 and 13.06 hereof, is then deemed to be or to have been Funded Cash, and, in the case of redemption, the notice required therefor shall have been given or have been provided for to the satisfaction of the Trustee).

"Space Satellites"

The term "Space Satellites" shall mean any form of communications satellites, solar power satellites, space satellites, space stations and other analogous facilities whether or not in the Earth's atmosphere.

"Trust Indenture
Act"

The term "Trust Indenture Act" shall mean the Trust Indenture Act of 1939, as amended and as in effect as of the date hereof, except as provided in Sections 8.01 and 21.09 hereof.

The term "Trustee" shall mean Morgan Guaranty Trust Company of New York and, subject to the provisions of Article XIX, shall also include its successors and assigns.

"Trustee"

The term "underwriter" is defined in Section 19.12 hereof.

"underwriter"

The term "Utah Mortgage" shall mean the Mortgage and Deed of Trust, dated as of December 1, 1943, between Utah Power & Light Company and Guaranty Trust Company of New York and Arthur E. Burke, as Trustees, as heretofore or hereafter amended or supplemented.

"Utah Mortgage"

The term "Wyodak Facility" shall mean that certain coal-fired, direct cycle, air-cooled steam electric generating station having a name-plate rating of 330,000 kilowatts located at Wyodak, Wyoming, including the real property on which such station is located and the coal supply system, water supply facilities and related real property easements, permits and rights-of-way, as more fully described in the Lease Agreement dated as of June 8, 1978 between PacifiCorp, a Maine corporation (formerly Pacific Power & Light Company) and Black Hills Corporation (formerly Black Hills Power and Light Company), as lessees, and The Wyoming National Bank Casper (formerly The Wyoming National Bank of Casper N.A.), as owner trustee and lessor, as amended.

"Wyodak Facility"

SECTION 1.04. (I) The term "Property Additions" shall mean all real estate, lands, easements, servitudes, licenses, permits, franchises, privileges, rights of way and other rights in or relating to real estate or the occupancy of the same; all power sites, flowage rights, water rights, water locations, water appropriations, ditches, flumes, reservoirs, reservoir sites, canals, raceways, waterways, dams, dam sites, aqueducts, and all other rights or means for appropriating, conveying, storing and supplying water; all rights of way and roads; all plants for the generation of electricity and other forms of energy (whether now known or hereafter developed) by steam, water, sunlight, chemical processes and/or (without limitation) all other sources of power (whether now known or hereafter developed), all distribution systems; all service systems; all supply systems; Fuel Transportation Facilities; all power houses, gas plants, Space Satellites, street lighting systems, standards and other equipment incidental thereto; all telephone, radio, television and other communication and data transmission systems, air-conditioning systems and equipment incidental thereto, water wheels, water works, water systems, steam heat and hot water plants, substations, lines, service and supply systems, bridges, culverts, tracks, ice or refrigeration plants and equipment, offices, buildings and other structures and the equipment

"Property Additions"

§1.04

thereof; all machinery, engines, boilers, dynamos, turbines, electric, gas and other machines, prime movers, regulators, meters, transformers, generators (including, but not limited to, engine driven generator and turbogenerator units), motors, electrical, gas and mechanical appliances, conduits, cables, water, steam heat, gas or other pipes, and pipe lines (including, but not limited to, pipe lines for supplying fuel to the Company's plants), gas mains and pipes, service pipes, fittings, valves and connections, pole and transmission lines, towers, overhead conductors and devices, underground conduits, underground conductors and devices, wires, cables, tools, implements, apparatus, storage battery equipment and all other fixtures and personalty; all municipal and other franchises, consents or permits; all lines for the transmission and distribution of electric current and other forms of energy, gas, steam heat, water or communications and data for any purpose including towers, poles, wires, cables, pipes, conduits, ducts and all apparatus for use in connection therewith; and other property, real or personal, and improvements, extensions, additions, renewals or replacements, acquired by the Company by purchase, consolidation, merger, donation, construction, erection or in any other way whatsoever, or in the process of construction or erection and used or usable or to be used in or in connection with the business or businesses of generating, manufacturing, exploring for and developing, producing, transmitting, transporting, distributing, supplying or managing the use of energy or fuel in any form, including, without limitation, electricity or gas for light, heat, power, refrigeration or other purposes or of generating, manufacturing, producing, transmitting, transporting, distributing or supplying water for drinking, power, heat or other purposes or steam or hot water for power, heat or other purposes.

Property not included as Property Additions

The term "Property Additions" shall not, however, include (1) any shares of stock, bonds, notes or other obligations or other securities or contracts, leases, or operating agreements, bills, notes and other instruments, accounts receivable, general intangibles or choses in action, or (2) except as herein otherwise specifically provided, going value, goodwill, franchises or governmental permits or licenses granted to or acquired by the Company, as such, separate and distinct from the property operated thereunder or in connection therewith or incident thereto, or (3) any merchandise, equipment, apparatus, materials or supplies held for the purpose of sale or other disposition in the usual course of business or for the purpose of repairing or replacing (in whole or in part) any rolling stock, buses, motor coaches, automobiles or other

vehicles or aircraft, and fuel, oil and similar materials and supplies consumable in the operation of any of the properties of the Company; or rolling stock, buses, motor coaches, automobiles or other vehicles, or any aircraft (other than Fuel Transportation Facilities and Space Satellites), or (4) any natural gas wells or natural gas leases or natural gas transportation lines or other works or property used primarily and principally in the production of natural gas or its transportation, primarily for the purpose of sale to natural gas customers or to a natural gas distribution or pipeline company, up to the point of connection with any distribution system, or timber, minerals, mineral rights and royalties, or (5) any property, the cost of acquiring, making or constructing of which is chargeable to operating expenses.

(II) When any Property Additions are certified to the Trustee in any certificate in any application under any of the provisions of this Indenture as the basis of one or more Authorized Purposes (except in the case of the release of property, or the withdrawal of cash representing the proceeds of insurance on damaged or destroyed property or Proceeds of Released Property or payment of or on account of obligations secured by purchase money mortgages, in each case on the basis of Property Additions acquired or constructed within ninety (90) days prior to the date of the application for such release, or to the receipt by the Trustee of such cash, or subsequent to such application or receipt of cash),

Provisions for net-
ting Property
Additions

(A) there shall be deducted from the Cost or fair value thereof to the Company, as the case may be (as of the date so certified), an amount equal to the Cost (or as to Property Additions of which the fair value to the Company at the time the same became Funded Property was less than the Cost as determined pursuant to this Section, then such fair value in lieu of Cost) of all Funded Property of the Company retired (other than the Funded Property, if any, in connection with the application for the release of which such certificate is filed) and not theretofore deducted from the Cost or fair value to the Company of Property Additions theretofore certified to the Trustee, and

(B) there may, at the option of the Company, be added to such Cost or fair value, as the case may be, the sum of

(a) the principal amount of any obligations secured by purchase money mortgages and any cash (other than proceeds

§1.04

of such purchase money obligations), not theretofore so added and which the Company then elects so to add, received by the Trustee or the trustee or other holder of any Qualified Lien, in either case representing the proceeds of insurance on, or of the release or other disposition of, Funded Property retired;

(b) ten-sevenths (10/7ths) of the principal amount of any bond(s) or fraction of a bond, not theretofore so added and which the Company then elects so to add, the right to the authentication and delivery of which under the provisions of Section 4.01, Section 5.04 or Section 6.01 hereof shall have been waived as the basis of the release of Funded Property retired; and

(c) the Cost to the Company of any Property Additions (including Property Additions subject to the lien of a Class "A" Mortgage) not theretofore so added and which the Company then elects so to add, to the extent that the same shall have been substituted for Funded Property retired (including Funded Property subject to the lien of a Class "A" Mortgage);

provided, however, that the aggregate of the amounts added under clause (B) above shall in no event exceed the amounts deducted under clause (A) above and provided further, that neither any reduction in the Cost or book value of property recorded in the plant account of the Company nor the transfer of any amounts appearing in such account to intangible and/or adjustment accounts otherwise than in connection with actual retirements of physical property abandoned, destroyed, released or disposed of, or retired from plant account, shall be deemed to be Funded Property retired for the purposes of this Section.

"Cost"

(III) The term "Cost" with respect to Property Additions made the basis under any of the provisions of this Indenture of one or more Authorized Purposes shall mean, in the case of Property Additions subject to a Class "A" Mortgage at the time of acquisition by the Company, and so long as such Class "A" Mortgage is in effect, the "Cost" for similar purposes under such Class "A" Mortgage and, in the case of any other Property Additions, the sum of (i) any cash forming a part of such Cost, (ii) an amount equivalent to the fair market value in cash (as of the date of delivery) of any securities delivered in payment therefor or for the acquisition thereof, (iii) the principal amount of any prior lien bonds secured by prior lien (other than a Class "A" Mortgage) upon such Property Additions, outstanding at the time of their acquisition, unless

the Engineer's Certificate in subdivision (3) of Section 5.06 hereof provided for shall state that the required amount has theretofore been deducted in compliance with the provisions of Section 5.04 hereof when other Property Additions subject to such prior lien shall have been made the basis under any of the provisions of this Indenture of one or more Authorized Purposes, and (iv) the principal amount of any other indebtedness incurred or assumed as all or part of the Cost to the Company of such Property Additions; provided, however, that, notwithstanding any other provision of this Indenture, in any case where Property Additions shall have been acquired (otherwise than by construction) by the Company without any consideration consisting of cash, property or securities or the incurring or assumption of indebtedness, no determination of Cost shall be required, and wherever in this Indenture provision is made for Cost or fair value, the Cost, in such case, shall mean an amount equal to the fair value thereof.

If any Property Additions are shown by the Engineer's Certificate provided for in subdivision (3) of Section 5.06 hereof to include property which has been used or operated by others than the Company in a business similar to that in which it has been or is to be used or operated by the Company, the Cost thereof may include the amount of cash or the value of any portion of the securities paid or delivered for any rights and intangible property simultaneously acquired for which no separate or distinct consideration shall have been paid or apportioned, and in such case the term Property Additions as defined herein may include such rights and intangible property.

For the purposes of the deductions required by this Section, the Cost and/or the fair value to the Company of Funded Property retired shall be determined as follows: (aa) in the case of property which at any time is or was Funded Property under a Class "A" Mortgage, the Cost thereof shall be the "Cost" for similar purposes under such Class "A" Mortgage; and (bb) in the case of any other Property Additions retired, the Cost or the fair value thereof to the Company shall be the Cost or the fair value thereof to the Company at the time such Property Additions became Funded Property.

SECTION 1.05. The term "Funded Property" shall mean:

(1) all property, except property expressly excepted from the Lien of this Indenture, owned by Pacific Power & Light Company on July 1, 1947, or owned by Utah Power & Light Company on December 1, 1943; and any property subject to any other Class "A"

"Funded Property"

§1.05

Mortgage that was funded (i.e., not available for Authorized Purposes) under such Class "A" Mortgage immediately after such Class "A" Mortgage came into existence;

(2) all Property Additions to the extent that the same shall have been made the basis of the authentication and delivery of bonds under this Indenture;

(3) all Property Additions to the extent that the same shall have been made the basis of the release of property from the Lien of this Indenture, subject, however, to the provisions of Section 13.03 hereof;

(4) all Property Additions to the extent that the same shall have been substituted (otherwise than under the release or cash withdrawal provisions hereof) for Funded Property retired;

(5) all Property Additions to the extent that the same shall have been made the basis of the withdrawal of any Funded Cash, as hereinafter defined, held by the Trustee hereunder or by the trustee or other holder of a Qualified Lien as hereinafter defined, subject, however, to the provisions of subdivision (III) of Section 9.05 hereof and clause (a) of Section 13.06 hereof, and except to the extent that any such Property Additions shall no longer be deemed to be Funded Property in accordance with the provisions of clause (b) of Section 13.06 hereof;

(6) all property to the extent that the same shall have been made the basis of the authentication and delivery of Outstanding Class "A" Bonds, or that shall have been made the basis of the authentication and delivery of retired Class "A" Bonds that were utilized to issue Outstanding Class "A" Bonds (e.g., as contemplated by Section 29 of the Pacific Mortgage or Section 29 of the Utah Mortgage);

(7) all property to the extent that the same shall have been made the basis of the release, or substituted for cash made the basis of the release, from the lien of a Class "A" Mortgage of property that had been made the basis of the authentication and delivery of Outstanding Class "A" Bonds, or retired Class "A" Bonds that were utilized to issue Outstanding Class "A" Bonds, or that had been substituted for such property; and

(8) all property to the extent that (a) the same shall have been made the basis of the authentication and delivery of either Class "A" Bonds held by the Trustee hereunder as specified in an Officers' Certificate pursuant to clause (b) of Section 14.01 hereof, or retired

Class "A" Bonds that were utilized to issue the Class "A" Bonds specified in such an Officers' Certificate, or (b) the same shall have been made the basis of the release, or substitution for cash made the basis of the release, from the lien of a Class "A" Mortgage of property that had been the basis of the authentication and delivery of Class "A" Bonds specified in such Officers' Certificate, or that had been substituted for such property.

In the event that in any certificate filed with the Trustee in connection with any of the transactions referred to in clauses (2), (3), (5), (6) and (7) of this Section, only a part of the Cost or fair value of the Property Additions described in such certificate shall be required for the purposes of such certificate, then such Property Additions shall be deemed to be Funded Property only to the extent so required for the purpose of such certificate.

All Funded Property that shall be retired on the books of the Company from plant account or abandoned, destroyed, released or otherwise disposed of shall for the purpose of Section 1.04 hereof be deemed Funded Property retired and for other purposes of this Indenture shall thereupon cease to be Funded Property but as in this Indenture provided may at any time thereafter again become Funded Property.

The term "Funded Bonds" shall mean Class "A" Bonds deposited hereunder.

"Funded Bonds"

The term "Funded Cash" shall mean:

"Funded Cash"

(a) cash, held by the Trustee hereunder, or by the trustee or other holder of a Qualified Lien as hereinafter defined, to the extent that it represents the proceeds of insurance on or the release of or the taking by eminent domain of property, or the proceeds of the release of obligations secured by purchase money mortgage which obligations have been delivered to the Trustee or to the trustee or other holder of a Qualified Lien pursuant to Article XIII hereof and used as a credit in any application for the release of property hereunder, or the proceeds of payment to the Trustee or to such other trustee or holder on account of the principal of obligations secured by purchase money mortgage which obligations have been delivered to it pursuant to Article XIII hereof and used as a credit in any application for the release of property hereunder;

§§1.05, 1.06

(b) any cash deposited with the Trustee under Section 7.01 and/or 9.13 hereof; and

(c) any cash received by the Trustee from the purchase, redemption, or payment at maturity of Funded Bonds.

"Excepted
Encumbrances"

SECTION 1.06. The term "Excepted Encumbrances" shall mean as of any particular time any of the following:

(a) liens for taxes, assessments or governmental charges not then delinquent and liens for worker's compensation awards and similar obligations not then delinquent and undetermined liens or charges incidental to construction, and liens for taxes, assessments or governmental charges then delinquent but the validity of which is being contested at the time by the Company in good faith as provided in Section 9.04 hereof;

(b) any liens securing indebtedness, neither assumed nor guaranteed by the Company nor on which it customarily pays interest, existing upon real estate or rights in or relating to real estate acquired by the Company for substation, transmission line, transportation line, distribution line or right of way purposes;

(c) rights reserved to or vested in any municipality or public authority by the terms of any right, power, franchise, grant, license or permit, or by any provision of law, to terminate such right, power, franchise, grant, license or permit or to purchase or recapture or to designate a purchaser of any of the property of the Company;

(d) rights reserved to or vested in others to take or receive any part of the power, gas, oil or other minerals or timber generated, developed, manufactured or produced by, or grown on, or acquired with, any property of the Company;

(e) easements, restrictions, exceptions or reservations in any property and/or rights of way of the Company for the purpose of roads, pipe lines, transmission lines, distribution lines, removal of coal or other minerals or timber, and other like purposes, or for the joint or common use of real property, rights of way, facilities and/or equipment, and defects, irregularities and deficiencies in titles of any property and/or rights of way, whether in effect at the time the Company acquired such property or right of way or thereafter created or suffered by the Company, which do not materially impair the use of such property and/or rights of way for the purposes for which such property and/or rights of way are held by the Company;

(f) rights reserved to or vested in any municipality or public authority to control or regulate any property of the Company, or to use such property in a manner which does not materially impair the use of such property for the purposes for which it is held by the Company;

(g) any obligations or duties, affecting the property of the Company, to any municipality or public authority with respect to any franchise, grant, license or permit; and

(h) any controls, liens, restrictions, regulations, easements, exceptions or reservations of any governmental authority applying to the property or facilities of the Company, including, without limiting the generality of the foregoing, those which apply particularly to Space Satellites.

The term "Qualified Lien" shall mean any mortgage or other lien (not included in the term Class "A" Mortgage nor in the term Excepted Encumbrances) prior to the Lien of this Indenture, existing at any particular time upon any Property Additions (so long as such Property Additions remain subject to the Lien hereof) then or theretofore made the basis under any of the provisions of this Indenture for one or more Authorized Purposes.

"Qualified Lien"

The term "Qualified Lien Bonds" shall mean bonds, obligations or other principal indebtedness secured by a Qualified Lien and payable in United States dollars.

"Qualified Lien Bonds"

The term "Outstanding" with respect to Qualified Lien Bonds shall mean as of any particular time all Qualified Lien Bonds theretofore authenticated and delivered by the trustee or other holder of the Qualified Lien securing the same and/or, if there be no such trustee or other holder, all Qualified Lien Bonds theretofore made and delivered by the maker (or his, her or its successor) of such Qualified Lien, except (A) Qualified Lien Bonds theretofore paid, retired, redeemed, discharged or cancelled, (B) Qualified Lien Bonds held hereunder, (C) Qualified Lien Bonds held by the trustee or other holder of a Qualified Lien (under conditions such that no transfer of ownership or possession of such Qualified Lien Bonds by the trustee or other holder of such Qualified Lien is permissible thereunder except upon a default thereunder or to the Trustee hereunder to be held subject to the provisions of Article X hereof or to the trustee or other holder of a Qualified Lien for cancellation or to be held

"Outstanding" (with respect to Qualified Lien Bonds)

§§1.06, 1.07

uncancelled under the terms of a Qualified Lien under like conditions), (D) Qualified Lien Bonds for the purchase, payment or redemption of which moneys in the necessary amount shall have been deposited with or be held, with irrevocable direction so to apply, by the Trustee hereunder or by the trustee or other holder of a Qualified Lien; provided that, in the case of redemption, the notice required therefor shall have been given or have been provided for, and (E) Qualified Lien Bonds upon transfer of which or in exchange or substitution for and/or in lieu of which other Qualified Lien Bonds have been authenticated and delivered or made and delivered under any of the provisions of the Qualified Lien securing such Qualified Lien Bonds.

"Net Earning
Certificate"

SECTION 1.07. The term "Net Earning Certificate" shall mean a certificate signed by an Authorized Executive Officer of the Company and an accountant, who unless required to be independent, may be an officer or employee of the Company, stating:

Adjusted Net
Earnings

(A) the Adjusted Net Earnings of the Company for a period of twelve (12) consecutive calendar months within the fifteen (15) calendar months immediately preceding the first day of the month in which the application for the authentication and delivery under this Indenture of bonds then applied for is made, specifying:

(1) its operating revenues (which may include revenues of the Company subject when collected to possible refund at a future date) with the principal divisions thereof;

(2) its operating expenses, with the principal divisions thereof, including, without limitation, all expenses and accruals for repairs and maintenance plus the lesser of (x) two per centum (2%) of the average amount for such period of twelve (12) consecutive calendar months in plant account representing depreciable property owned by the Company or (y) all appropriations out of income for property retirement in respect of all property owned by the Company;

(3) the amount remaining after deducting the amount required to be stated in such certificate by clause (2) of this Section from the amount required to be stated therein by clause (1) of this Section;

(4) its rental revenues (net) not otherwise included in such certificate;

\$1.07

(5) the sum of the amounts required to be stated in such certificate by clauses (3) and (4) of this Section;

(6) its other income (net);

(7) the sum of the amounts required to be stated in such certificate by clauses (5) and (6) of this Section;

(8) the amount, if any, by which the aggregate of (a) such other income (net) and (b) that portion of the amount required to be stated in such certificate by clause (5) of this Section which, in the opinion of the signers, is directly derived from the operations of property (other than paving, grading and other improvements to, under or upon public highways, bridges, parks or other public properties of analogous character) not subject to the Lien of this Indenture at the date of such certificate, exceeds fifteen per centum (15%) of the sum required to be stated by clause (7) of this Section; provided, however, if the amount required to be stated in such certificate by clause (5) of this Section includes revenues from the operation of property not subject to the Lien of this Indenture, there shall be included in the calculation to be made pursuant to this clause (8) such reasonable interdepartmental or interproperty revenues and expenses between the Mortgaged and Pledged Property and the property not subject to the Lien hereof as shall be allocated to such respective properties by the Company; and

(9) the Adjusted Net Earnings of the Company for such period of twelve (12) consecutive calendar months (being the amount remaining after deducting in such certificate the amount required to be stated by clause (8) of this Section from the sum required to be stated by clause (7) of this Section);

(B) the Annual Interest Requirements, being the interest requirements, if any, for twelve (12) months upon:

Annual Interest
Requirements

(i) all bonds Outstanding hereunder at the date of such certificate, except any for the payment of which the bonds applied for are to be issued; provided that, if any such series of Outstanding bonds bears interest at varying rates, then the interest on such series of bonds shall be computed at the current rate then in effect; and if such Outstanding bonds have been issued after the end of such twelve (12) consecutive calendar months, then computed at the initial rate upon issuance;

§1.07

(ii) all bonds then applied for in pending applications, including the application in connection with which such certificate is made, computed at the initial rate upon issuance;

(iii) all Qualified Lien Bonds which will be Outstanding immediately after the authentication of the bonds then applied for in pending applications, including the application in connection with which such certificate is made; provided that, if any Qualified Lien Bonds bear interest at varying rates, then the interest on such Qualified Lien Bonds shall be computed at the current rate then in effect; and if such Qualified Lien Bonds have been issued after the end of such twelve consecutive calendar months, then computed at the initial rate upon issuance;

(iv) all Class "A" Bonds Outstanding under Class "A" Mortgages at the date of such certificate, except any held hereunder and except any for the payment of which the bonds applied for are to be issued; provided that, if any Class "A" Bonds bear interest at varying rates, then the interest on such Class "A" Bonds shall be computed at the current rate then in effect; and, if Class "A" Bonds have been issued after the end of such twelve consecutive calendar months, then computed at the initial rate upon issuance; and

(v) the principal amount of all other indebtedness (except Class "A" Bonds held hereunder and except indebtedness for the payment of which the bonds applied for are to be issued and indebtedness for the purchase, payment or redemption of which moneys in the necessary amount shall have been deposited with or be held by the Trustee or the trustee or other holder of a Qualified Lien or lien prior to the Lien of this Indenture upon property subject to the Lien of this Indenture with irrevocable direction so to apply the same; provided that, in the case of redemption, the notice required therefor shall have been given or have been provided), outstanding in the hands of the public on the date of such certificate and secured by lien prior to the Lien of this Indenture upon property subject to the Lien of this Indenture, if said indebtedness has been assumed by the Company or if the Company customarily pays the interest upon the principal thereof.

\$1.07

In calculating such Adjusted Net Earnings, all the Company's expenses for taxes (other than income, profits and other taxes measured by, or dependent on, net income), assessments, rentals and insurance shall be included in its operating expenses, or otherwise deducted from its revenues and income; provided, however, that no expenses or provisions for interest on any of its indebtedness or for the amortization of debt discount, premium and expense, or loss on reacquired debt, amortization of property (other than depreciation or other similar provisions for property retirement), or for other amortization, or for any other extraordinary charge to income of whatever kind or nature, or for refunds of revenues previously collected by the Company subject to possible refund, or for any improvement or sinking fund or other device for the retirement of any indebtedness, shall be required to be included in operating expenses to be deducted from, or shall be otherwise required to be deducted from, its revenues or its other income and no extraordinary items of any kind or nature shall be included in calculating such Adjusted Net Earnings.

Calculation of operating expenses to be deducted

If any of the property of the Company owned by it at the time of the making of any Net Earning Certificate shall have been acquired during or after any period for which Adjusted Net Earnings of the Company are to be computed, the Adjusted Net Earnings of such property (computed in the manner in this Section provided for the computation of the Adjusted Net Earnings of the Company) during such period or such part of such period as shall have preceded the acquisition thereof, to the extent that the same have not otherwise been included and unless such property shall have been acquired in exchange or substitution for property the earnings of which have been included, may, at the option of the Company, be included in the Adjusted Net Earnings of the Company for all purposes of this Indenture, and shall be included if such property has been operated as a separate unit or if the earnings therefrom are readily ascertainable.

Adjusted Net Earnings of property acquired during or after earnings period

In any case where a Net Earning Certificate is required as a condition precedent to the authentication and delivery of bonds, such certificate shall also be made and signed by an independent public accountant, if the aggregate principal amount of bonds then applied for plus the aggregate principal amount of bonds authenticated and delivered hereunder since the commencement of the then current calendar year (other than those with respect to which a Net Earning Certificate is not required, or with respect to which a Net Earning Certificate made and

Requirement for independent public accountant

81.07; Art. II, §2.01

signed by an independent public accountant has previously been furnished to the Trustee) is ten per centum (10%) or more of the aggregate amount of the bonds at the time Outstanding; but no Net Earning Certificate need be made and signed by any person other than an Authorized Executive Officer of the Company and an accountant, as to dates or periods not covered by annual reports required to be filed by the Company, in the case of conditions precedent which depend upon a state of facts as of a date or dates or for a period or periods different from that required to be covered by such annual reports.

Each such certificate shall include the statements required by Section 22.05 hereof.

"appropriations out of income for property retirement"

The phrase "appropriations out of income for property retirement", and other phrases of similar import shall be deemed to include not only charges made upon a retirement accounting theory but also charges made on any depreciation or other accounting theory intended to provide for retirement of property.

Calculation of Annual Interest Requirements of bonds if interest payable solely in foreign coin or currency

Unless otherwise specifically provided with respect to a series of bonds, if interest on any bonds Outstanding hereunder is payable solely in the coin or currency of a foreign nation, then the Annual Interest Requirements for such bonds shall be the Company's United States dollar obligation therefor in the applicable currency exchange agreement required by subsection 2.03 (16) hereof or, if such exchange agreement is not in effect, then the Annual Interest Requirements for such bonds shall be based upon the Federal noon buying rate (on a date within 10 days prior to the date of the application for the authentication and delivery under this Indenture of bonds in connection with which such Net Earning Certificate is delivered) of such foreign coin or currency in The City of New York, New York (or, if no such noon buying rate is, after reasonable inquiry, determinable by the signers of such certificate, then such other rate as they shall reasonably determine).

ARTICLE II

Forms, Execution, Registration, Exchange and Other General Provisions as to Issue of Bonds

SECTION 2.01. The aggregate principal amount of bonds which may be authenticated and delivered from time to time under this Indenture is unlimited.

Amount of bonds which may be secured hereby

§82.02, 2.03

SECTION 2.02. Nothing in this Indenture shall limit the power of the Board of Directors (in conformity with applicable law) to fix the price at which the bonds authenticated and delivered under any of the provisions of this Indenture may be issued, exchanged, sold or disposed of, but any or all of said bonds may be issued, exchanged, sold or disposed of upon such terms and for such consideration as the Board of Directors may deem fit.

Board of Directors
may fix terms and
consideration for is-
sue, etc. of bonds

SECTION 2.03. The bonds may be issued in one or more series pursuant to Articles IV, V, VI and VII hereof. Other than the First Series of bonds issued pursuant to Article III hereof, each such series of bonds, the form or forms thereof, the terms and conditions thereof, and the following other matters in connection therewith shall be established in or pursuant to one or more Resolutions and (to the extent not set forth in such Resolutions) detailed in an accompanying Officers' Certificate (which shall also certify all actions taken pursuant to such Resolutions), and/or shall be established in one or more indentures supplemental hereto, prior to the initial issuance of bonds of such series:

Series of bonds and
establishment
thereof

Matters to be
established:

(1) the title of the bonds and the series in which such bonds shall be included (which shall distinguish the bonds of the series from all other bonds);

(1) Title and series

(2) any limit upon the aggregate principal amount of the bonds of that series which may be authenticated and delivered under this Indenture (except for bonds authenticated and delivered upon registration of, transfer of, or in exchange for, or in lieu of, other bonds of that series pursuant to Section 2.08, 2.09, 2.11, 2.12, 12.04 or 21.09 hereof);

(2) Limit on aggre-
gate principal
amount

(3) the date or dates on which the principal of the bonds of that series is payable or the manner of determining the same;

(3) Maturity date
or dates

(4) the rate or rates at which the bonds of that series shall bear interest, if any, or the manner of determining the same, the date or dates from which such interest shall accrue, or the manner of determining the same, the date or dates on which such interest shall be payable and the date or dates for the determination of persons to whom interest shall be payable on any such date, and the basis upon which interest shall be calculated if other than that of a 360-day year of twelve 30-day months;

(4) Interest rate
or rates, etc.

(5) the place or places where the principal of (and premium, if any) and interest, if any, on the bonds of that series shall be payable;

(5) Place or places
for payment

§2.03

- (6) Optional redemption or prepayment

(6) the period or periods within which, the price or prices at which and the terms and conditions upon which the bonds of that series may be redeemed or prepaid, in whole or in part, or the manner of determining the same, at the option of the Company;
- (7) Mandatory redemption, prepayment or purchase

(7) the obligation, if any, of the Company to redeem, prepay or purchase bonds of that series pursuant to any mandatory redemption, sinking fund or analogous provisions or at the option of a holder thereof; and the period or periods within which, the price or prices at which and the terms and conditions upon which bonds of that series shall be redeemed, prepaid or purchased, in whole or in part, or the manner of determining the same, pursuant to such obligation;
- (8) Denominations if not a multiple of \$1,000

(8) if other than denominations of \$1,000 and any multiple thereof, the denominations in which the bonds of that series shall be issuable;
- (9) Portion of series payable upon acceleration if other than principal amount

(9) if other than the principal amount thereof, the portion of the principal amount of the bonds of that series which shall be payable upon declaration of acceleration of the maturity thereof pursuant to Section 15.03 hereof;
- (10) Additional events of default

(10) any event of default with respect to the bonds of that series if not set forth in Article XV hereof;
- (11) Defeasance terms

(11) terms relating to the defeasance of bonds of that series, if any;
- (12) Obligation of Company regarding payment without tax deduction and/or reimbursement; creation of sinking fund; conversion of bonds

(12) any obligation of the Company for the payment of the principal of the bonds of that series or the interest thereon, or both, without deduction for taxes and/or for the reimbursement of taxes in case of payment by the bondholders, it being agreed that such obligation may be limited to taxes imposed by any taxing authorities of a specified class and may exclude from its operation or be limited to any specified tax or taxes or any portion thereof; and/or expressing any obligation of the Company for the creation of a sinking fund or other analogous device for the bonds of that series; and/or expressing an obligation of the Company to permit the conversion of bonds of that series into capital stock of the Company or of any other corporation of any designated class or classes;
- (13) Exchange privileges

(13) any privilege of the bondholders of that series to make, at a specified place or places, any or all of the following exchanges, namely, exchanges of coupon bonds for fully registered bonds; exchanges of fully registered bonds for coupon bonds; exchanges of coupon bonds for coupon bonds of other authorized denominations; exchanges of fully registered bonds for fully registered bonds of

other authorized denominations; exchanges of bonds of one series for bonds of another series; and such privilege of exchange may in any case be made subject to such conditions, limitations or restrictions as the Board of Directors or officers of the Company pursuant to authority delegated by the Board of Directors may determine and the privilege of exchange may in any case be conferred upon the holders of bonds of one or more denominations and withheld from the holders of bonds of other denominations of the same series and may in any case be conferred on the holders of fully registered bonds and withheld from the holders of coupon bonds or vice versa;

(14) provisions acceptable to the Trustee for fully registered bonds of that series that may be registered as to the payment of principal to one holder and to the payment of interest to another holder, and for different rights of such holders with respect to redemption of such bonds, voting rights, remedies upon default and other matters;

(15) provisions for compliance with any law or with any rules or regulations made pursuant thereto or with the rules or regulations of any stock exchange or conforming to usage;

(16) the coin or currency (which need not be coin or currency of the United States of America) in which the principal of and interest on such bonds shall be paid; provided, however, and notwithstanding any provision in this Indenture to the contrary, no bonds shall be issued hereunder which the Company shall be required to pay in a coin or currency other than that of the United States of America unless the Company shall have deposited with the Trustee, to be held as part of the Mortgaged and Pledged Property, a currency exchange agreement with an entity having, at the time of such deposit, at least as good financial rating as that of the Company that, in the opinion of an independent accountant, appraiser or other expert as certified in writing to the Trustee, gives the Company at least as much protection against currency exchange fluctuation as is usually obtained by similarly situated borrowers;

(For purposes of calculations under this Indenture (including calculations of principal amount under Articles IV, V, VI and VII), the principal amount of any bonds Outstanding hereunder payable in a foreign coin or currency shall be the Company's United States dollar obligation therefor in the applicable currency exchange agreement entered into pursuant to the foregoing subsection (16).

(14) Splitting of interest and principal payments

(15) Compliance with laws, rules, regulations or usage

(16) Coin or currency in which principal and interest paid; currency exchange agreement

Calculation of principal of bonds payable in foreign coin or currency

§§2.03, 2.04, 2.05, 2.06

(17) Uncertificated system of registration

(17) any uncertificated system of registration utilized for the bonds of that series; and/or

(18) Other terms

(18) any other terms of the bonds of that series (which terms shall not be inconsistent with the provisions of this Indenture).

Bonds of same series substantially identical

All bonds of any one series shall be substantially identical except as otherwise established in accordance with this Section 2.03. All bonds of any one series need not be issued at the same time, and, unless otherwise established in accordance with this Section 2.03, a series may be reopened and the aggregate principal amount of bonds of that series which may be authenticated and delivered under this Indenture increased for issuances of additional bonds of that series.

Bonds of same series may be issued at different times; series may be reopened and aggregate principal amount increased

Bonds and coupons expressed in one or more foreign languages

SECTION 2.04. The bonds and coupons of any series may be expressed in one or more foreign languages, if also expressed in the English language. The English text shall govern the construction thereof and both or all texts shall constitute but a single obligation.

Kinds and denominations of bonds

SECTION 2.05. Any series of bonds may be executed, authenticated and delivered originally as coupon bonds and/or as fully registered bonds in such denomination or denominations as established in accordance with Section 2.03 with respect to a series of bonds.

Dates, interest, etc. of registered bonds

SECTION 2.06. Unless otherwise established in accordance with Section 2.03 with respect to a series of bonds, fully registered bonds shall be dated as of the date of authentication. Unless other provisions (including, but not limited to, provisions establishing record dates for the payment of interest) are specifically provided with respect to a series of bonds, fully registered bonds shall bear interest from the beginning of the current interest period for that series; provided, however, that if any fully registered bond shall be authenticated and delivered upon a transfer of, or in exchange for or in lieu of, any bond or bonds upon which interest is in default, it shall bear interest from the last preceding date to which interest shall have been paid on the bond or bonds in respect of which such fully registered bond shall have been delivered, unless otherwise specifically provided as aforesaid with respect to a series of bonds.

Coupon bonds shall be dated as of such date as may be established in accordance with Section 2.03 with respect to a series of bonds and as designated in the form established for such series of coupon bonds.

SECTION 2.07. Any bond may have imprinted thereon or included therein any legend or legends required in order to comply with any law or with any rules or regulations made pursuant thereto or with the rules or regulations of any stock exchange or to conform to usage, and the Board of Directors by Resolution may at any time amend the form of any legend to be used on bonds then Outstanding so as to comply with any such law, rule or regulation, or so as to conform to usage.

Legends on bonds

SECTION 2.08. Unless otherwise established in accordance with Section 2.03 with respect to a series of bonds, in all cases in which the privilege of exchanging bonds exists and is exercised, the bonds to be exchanged shall be surrendered at such place or places as shall be designated by the Board of Directors by Resolution for that purpose, with all unmatured coupons appertaining thereto (in the case of coupon bonds) and the Trustee shall authenticate and the Company shall deliver in exchange therefor the bond or bonds which the bondholder making the exchange shall be entitled to receive, having attached thereto, in the case of coupon bonds, all unmatured coupons appertaining thereto. In case at the time of any such exchange, interest on the bonds of such series is in default, all coupon bonds of such series surrendered for exchange and delivered in exchange shall be accompanied by all matured coupons in default unless such coupons have heretofore been previously surrendered. All bonds so surrendered for exchange shall be in bearer form, or if registered, accompanied by a written instrument or instruments of transfer wherever required by the Company duly executed by the registered owner or his, her or its duly authorized attorney. All bonds so surrendered for exchange and the coupons appertaining thereto shall be cancelled by the Trustee. Upon any transfer of bonds as permitted by the next succeeding Section, and upon any exchange of bonds, the Company may make a charge therefor sufficient to reimburse it for any tax or taxes or other governmental charge and in addition may charge a sum not exceeding a sum, if any, provided as a term of such series of bonds for each bond authenticated and delivered upon any such transfer or exchange, which sum shall be paid by the party requesting such transfer or exchange as a condition precedent to the exercise of the privilege of making such transfer or exchange. The Company shall not be required to make transfers or exchanges of bonds of any series for a period of fifteen (15) days next preceding any interest payment date of said series (unless such series has a record date for the payment of interest), or next preceding any designation of bonds of said series to be

Surrender and cancellation of bonds upon exchange

Authentication and delivery of bonds

Charges

§§2.08, 2.09, 2.10

redeemed. The Company shall not be required to make transfers or exchanges of any bonds designated in whole or in part for redemption.

Books for registra-
tion and transfer of
bonds

SECTION 2.09. The Company shall keep, at such place or places as shall be designated for the purpose, books for the registration and transfer of bonds issued hereunder, which, at all reasonable times, shall be open for inspection by the Trustee; and upon presentation of bonds duly endorsed for such purpose at any such place or places, the Company will register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as it may prescribe, any bonds issued under this Indenture and entitled to registration or transfer at such office. Upon the registration of any coupon bond as to principal, the fact of such registration shall be noted on such bond. Upon the transfer of any fully registered bond, the Trustee shall authenticate and the Company shall issue in the name of the transferee or transferees a new fully registered bond or new fully registered bonds of the same series for a like principal amount in authorized denominations. All fully registered bonds so surrendered for transfer shall be cancelled by the Trustee.

Registration of
coupon bonds

Transfer of fully
registered bonds

Cancellation of reg-
istered bonds

Execution of bonds

SECTION 2.10. All bonds authenticated and delivered hereunder shall, from time to time, be executed on behalf of the Company by an Authorized Executive Officer of the Company, whose signature may be facsimile, and its corporate seal shall be thereon impressed or imprinted and attested by its Secretary or one of its Assistant Secretaries, whose signature may be facsimile. The coupons to be attached to coupon bonds shall bear the facsimile signature of an Authorized Financial Officer of the Company. In case any of the officers who shall have signed any bonds or attested the seal thereon, or whose facsimile signature appears on any coupon, shall cease to be such officers of the Company before the bonds so signed and/or sealed shall have been actually authenticated and delivered by the Trustee or issued by the Company, such bonds nevertheless may be authenticated, delivered and/or issued with the same force and effect as though the person or persons who signed such bonds and/or attested the seal thereon and/or whose facsimile signature appears on any coupon had not ceased to be such officer or officers of the Company. Before authenticating any coupon bonds, the Trustee shall cut off and cancel all matured coupons thereto attached (except as otherwise provided or permitted in Sections 2.08 and 2.12 hereof).

Execution by former
officers

Matured coupons
may be detached be-
fore authentication
of bonds

§§2.11, 2.12

SECTION 2.11. There may be authenticated and delivered and issued from time to time in lieu of (or in exchange for) any definitive bond or bonds issued or issuable under this Indenture one or more temporary bonds substantially of the tenor of the bonds hereinbefore established, with or without one or more coupons, and with or without the privilege of registration as to principal only, or as to both principal and interest, and such temporary bond or bonds may be in such denomination or denominations as the Board of Directors may determine. Until a definitive bond or bonds secured hereby are delivered in exchange therefor, each such temporary bond or bonds shall be entitled to the Lien and benefit of this Indenture. Upon the exchange by the Company of definitive coupon bonds or definitive fully registered bonds for temporary bonds (which exchange the Company shall make on request of, and without charge to, the holder, when definitive bonds are ready for delivery) such temporary bond or bonds and any unmatured coupons appertaining thereto shall be cancelled by the Trustee. When and as interest is paid upon presentation of any unregistered temporary bond without coupons, the fact of such payment shall be noted by the Trustee or a paying agent thereon and interest due on any temporary bond which is represented by a coupon shall be paid only upon presentation and surrender of such coupon for cancellation. Unregistered temporary bonds without coupons of any series shall bear interest from the beginning of the current interest period for bonds of that series in which such unregistered temporary bonds without coupons shall be authenticated.

Temporary bonds may be issued

Temporary bonds are secured hereby

Cancellation of temporary bonds

Payment of interest on unregistered temporary bonds

SECTION 2.12. Upon receipt by the Company and the Trustee of evidence satisfactory to them of the theft, loss, destruction or mutilation of any bond Outstanding hereunder and/or the coupons appertaining thereto, and of indemnity satisfactory to them, and upon payment, if the Company or the Trustee shall require it, of a reasonable charge and upon reimbursement to the Company and the Trustee of all reasonable expense incident thereto, and upon surrender and cancellation of such bond, if mutilated, and the coupons appertaining thereto, if any, the Company may execute, and the Trustee shall thereupon authenticate and deliver, a new bond of like tenor and of the same series with all unpaid coupons, if any, appertaining thereto in lieu of such stolen, lost, destroyed or mutilated bond and coupons, if any, or if any such bond or any coupon shall have matured or be about to mature, and upon the holder's compliance with the provisions of this Section, the Company may pay the same without surrender thereof instead of issuing a substituted bond or coupon. Any indemnity bond shall name as obligees the Company, the Trustee, and, if requested by the Company, any paying agent.

Bonds issuable to replace stolen, lost, destroyed or mutilated bonds

§2.13; Art. III, §3.01

Trustee's certificate

SECTION 2.13. No bond shall be secured hereby unless there shall be endorsed thereon the certificate of the Trustee that it is one of the bonds (or temporary bonds) of the series therein designated, herein provided for; and such certificate on any such bond shall be conclusive evidence that such bond has been duly authenticated and delivered by the Trustee.

ARTICLE III

First Series of Bonds

Bonds of the First Series

SECTION 3.01. There shall be a series of bonds in the principal amount of \$500,000 designated "10.45% Series due January 9, 1990" (herein sometimes referred to as the "First Series"), each of which shall also bear the descriptive title "First Mortgage and Collateral Trust Bond". The form, terms and conditions thereof shall be established in or pursuant to a Resolution. Bonds of the First Series shall mature on January 9, 1990, and shall be issued as fully registered bonds; they shall bear interest at the rate of ten and forty-five hundredths per centum (10.45%) per annum, payable on July 9, 1989 and at maturity; the principal of and interest on each said bond to be payable at the office or agency of the Company in the Borough of Manhattan, The City of New York, New York, in such coin or currency of the United States of America as at the time of payment is legal tender for public and private debts. Bonds of the First Series shall be dated as in Article II hereof provided.

Date of maturity
Interest rate

Date of issue

Redemption

Exchangeability

(I) Bonds of the First Series shall not be redeemable prior to maturity.

(II) At the option of the registered owner, any bonds of the First Series, upon surrender thereof for cancellation, at the office or agency of the Company in the Borough of Manhattan, The City of New York, New York, shall (subject to the provisions of Article II hereof) be exchangeable for a like aggregate principal amount of bonds of the same series of other authorized denominations.

(III) Bonds of the First Series in the aggregate principal amount of Five Hundred Thousand Dollars (\$500,000) shall be executed by the Company and delivered to the Trustee and shall be authenticated by the Trustee, and delivered (whether before or after the filing or recording hereof), in accordance with the written order or orders of the Company signed by an Authorized Executive Officer of the Company, and by its Secretary or an Assistant Secretary or an Authorized Financial Officer of the Company.

ARTICLE IV

**Issuance of Bonds upon Deposit of
Class "A" Bonds with Trustee**

SECTION 4.01. (I) The Trustee shall, from time to time, upon the written order or orders of the Company signed by an Authorized Executive Officer of the Company, and by its Secretary or an Assistant Secretary or an Authorized Financial Officer of the Company, authenticate and deliver bonds hereunder of one or more series of a principal amount not exceeding the principal amount of Class "A" Bonds delivered to the Trustee hereunder and maturing on the maturity date of the bonds being issued hereunder on the basis of such Class "A" Bonds, but only after the Trustee shall have received the following:

(1) the Resolution provided for in subdivision (1) of Section 5.06 hereof;

(2) the Officers' Certificate provided for in subdivision (2) of Section 5.06 hereof and, in the case of bonds being issued to refund bonds issued hereunder, in Section 11.05 hereof;

(3) subject to the provisions of subdivision (II) of this Section 4.01, a Net Earning Certificate showing the Adjusted Net Earnings of the Company to be as required by Section 5.05 hereof;

(4) the Opinion of Counsel provided for in subdivision (8) of Section 5.06, and stating the signer's opinion to the effect that the Class "A" Bonds being made the basis for the authentication and delivery of the bonds then applied for are legal, valid and binding obligations of the Company enforceable in accordance with their terms, except as limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of mortgagees' and other creditors' rights and by general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law), and such Class "A" Bonds are entitled to the benefit of the security afforded by the corresponding Class "A" Mortgage;

(5) copies of the certificates, or other documents, if any, specified in the Opinion of Counsel provided for in subdivision (4) of this Section; and

(6) the Class "A" Bonds being made the basis for the authentication and delivery of the bonds then applied for (whether then or theretofore delivered to the Trustee).

Bonds issuable on basis of Class "A" Bonds

Requirements:

(1) Resolution

(2) Officers' Certificate

(3) Net Earning Certificate

(4) Opinion of Counsel

(5) Further certificates, etc.

(6) Deposit of Class "A" Bonds

§4.01

Class "A" Bonds delivered to the Trustee pursuant to the provisions of this Section 4.01 need not contain identical or similar terms as to interest rates, redemption rights or other terms (other than maturity dates) as the bonds being issued hereunder on the basis of such Class "A" bonds.

Class "A" Bonds delivered to the Trustee pursuant to the provisions of this Section 4.01 shall be held by the Trustee in accordance with the provisions of Article X hereof.

Conditions when
no Net Earning
Certificate required

(II) No Net Earning Certificate shall be required if an Officers' Certificate is delivered, making the statements provided for in Section 11.05 hereof relating to the authentication and delivery of the bonds then being requested in the written order or orders of the Company under this Section 4.01 and indicating that no Net Earning Certificate is required hereunder pursuant to this subsection 4.01(II), unless one of the following conditions exists:

(i) an application for the authentication and delivery of bonds under any of the provisions of this Indenture, which shall have contained a Net Earning Certificate, shall have been made to the Trustee subsequent to the delivery to the trustee of a Class "A" Mortgage of an irrevocable direction to apply moneys to the purchase, payment, retirement and/or redemption of, or subsequent to the cancellation or surrender for cancellation of, any Class "A" Bonds on the basis of which other Class "A" Bonds are to be authenticated and delivered pursuant to the provisions of Section 29 of the Pacific Mortgage or Section 29 of the Utah Mortgage (as the case may be), as then in effect, or pursuant to the corresponding provisions of another Class "A" Mortgage, and in such Net Earning Certificate the Annual Interest Requirements on the bonds to be authenticated and delivered pursuant to the provisions of this Section 4.01 shall not have been included, or

(ii) the Class "A" Bonds on the basis of which other Class "A" Bonds are to be authenticated and delivered mature by their terms at a date more than two years after the date of authentication and delivery of the bonds applied for pursuant to this Section 4.01 and bear a lower interest rate than the bonds applied for,

in either of which cases the Trustee shall receive a Net Earning Certificate showing the Adjusted Net Earnings to be as required by Section 5.05 hereof.

ARTICLE V

Issuance of Bonds on the Basis of Property Additions

SECTION 5.01. The Trustee shall, from time to time, upon the written order or orders of the Company signed by an Authorized Executive Officer of the Company, and by its Secretary or an Assistant Secretary or an Authorized Financial Officer of the Company, authenticate and deliver bonds hereunder of one or more series upon the basis of Property Additions, but only in accordance with and subject to the conditions, provisions and limitations set forth in this Article V.

Bonds issuable on basis of Property Additions

SECTION 5.02. No bonds shall be authenticated and delivered at any time under the provisions of this Article V, upon the basis of Funded Property.

No bonds issuable on basis of Funded Property

SECTION 5.03. Bonds of any one or more series may be authenticated and delivered under the provisions of this Article V upon the basis of Property Additions for a principal amount not exceeding seventy per centum (70%) of the balance of the Cost or of the fair value thereof to the Company (whichever shall be less) after making any deductions and any additions pursuant to Section 1.04 hereof.

Cost or fair value of Property Additions as limiting amount of bonds issuable

SECTION 5.04. In all cases in which it shall appear, from the Engineer's Certificate hereinafter in Section 5.06 hereof provided for, that Property Additions proposed to be made the basis of one or more Authorized Purposes are subject to a Qualified Lien, the principal amount of the then Outstanding Qualified Lien Bonds secured by a Qualified Lien thereon (in the case of the authentication and delivery of bonds under the provisions of this Article V or the withdrawal of cash under Section 7.02 hereof) or ten-sevenths (10/7ths) of such principal amount (in the case of the release of property under any provisions hereof or the withdrawal of cash under Section 13.06 hereof) shall be deducted from the principal amount of bonds which might otherwise be authenticated or from the amount of cash which might otherwise be withdrawn or from the fair value of property which might otherwise be released or from the amount for which the Company might otherwise be entitled to a credit, unless such certificate shall also state that the required amount has theretofore been deducted pursuant to the provisions of this Section when other Property Additions subject to such Qualified Lien have theretofore been made the basis under any of the provisions of this Indenture of one or more Authorized Purposes, and that since the date of such deduction

Issuance of bonds on basis of Property Additions subject to Qualified Lien

§5.04

property subject to the Lien of this Indenture has continued to be subject to such Qualified Lien.

Refunding of Quali-
fied Lien Bonds

If, at any time after an amount equal to the principal amount of any Outstanding Qualified Lien Bonds shall have been, in accordance with the provisions of this Section, deducted from the principal amount of bonds which might otherwise be authenticated and delivered hereunder, or the required principal amount shall have been deducted in connection with the withdrawal of cash or the release of property, the Company shall either:

(A) deposit with the Trustee any such principal amount of Qualified Lien Bonds to be held and dealt with by the Trustee in the manner and subject to the conditions and provisions set forth in Article X hereof; or

(B) file with the Trustee an Officers' Certificate to the effect that the principal amount of such Outstanding Qualified Lien Bonds to the extent of the principal amount deducted as aforesaid, (1) has been reduced, or concurrently with the action requested will be reduced, by payment, or by the irrevocable deposit with the trustee or other holder of the Qualified Lien securing the same, of moneys in the necessary amount for the purchase, payment or redemption thereof, or otherwise reduced, and that such reduction has not been, and will not be, effected by the use, by the trustee or other holder of such Qualified Lien, of cash which (after giving effect to the provisions of Sections 1.05 and 13.06 hereof) is then deemed to be or to have been Funded Cash; provided that, in the case of redemption, the notice required therefor shall have been given or have been provided for, or (2) has been ascertained by final judicial determination or otherwise to the satisfaction of the Trustee to be in whole or in part invalid, and specifying the amount of reduction or the extent of the invalidity, as the case may be, supported by an Opinion of Counsel;

then, and in either such case, the Company shall be entitled to the authentication and delivery of further bonds up to a principal amount equivalent to and on the basis of the principal amount of the Qualified Lien Bonds so deposited with the Trustee, or (as the case may be) equivalent to and on the basis of the amount by which the principal amount of such Qualified Lien Bonds shall be certified to have been and/or to be reduced or to have been ascertained to be invalid, but not exceeding in the aggregate a principal amount equivalent to the aggregate of the

respective principal amounts of Qualified Lien Bonds Outstanding under each respective Qualified Lien immediately after such lien shall have become a Qualified Lien and in respect of which bonds the deductions required by the provisions of this Section shall have been made.

Notwithstanding any other provisions herein contained, it shall not be necessary to comply with the provisions of Section 5.05 hereof or to furnish any Net Earning Certificate in connection with the authentication and delivery of bonds under the foregoing provisions of this Section unless the Qualified Lien Bonds on the basis of which bonds are to be so authenticated and delivered, mature by their terms at a date more than two years after the authentication and delivery of the bonds applied for and bear a lower interest rate than the bonds applied for.

No bonds shall be authenticated and delivered under the provisions of this Section by reason of the deposit of any Qualified Lien Bonds or the payment, reduction or ascertainment of invalidity thereof to the extent that such deposit or payment, reduction or ascertainment of invalidity shall theretofore have been used as a basis, under the provisions of this Section, of the authentication and delivery of bonds or to the extent that a waiver by the Company of its right to the authentication and delivery of bonds on the basis of any such deposit, payment, reduction or ascertainment of invalidity is then in effect, or by reason of the deposit of any Qualified Lien Bonds with respect to which deposit the Company shall have certified that it elects not to have any bonds authenticated hereunder on the basis thereof, or by reason of the deposit of any Qualified Lien Bonds with the Trustee under the provisions of Section 9.13 hereof.

Limit on bond authentication based on property subject to Qualified Lien

No bonds shall be authenticated and delivered under the provisions of this Article V (nor Funded Cash be withdrawn nor Funded Property be released under any of the provisions of this Indenture) upon the basis of any Property Additions subject to a Qualified Lien unless it shall be stated in an Engineer's Certificate accompanying the application that:

Additional limit on bond authentication based on property subject to Qualified Lien

(a) the principal amount of all bonds theretofore authenticated and delivered by the Trustee (including any bonds for the authentication and delivery of which application is then made) under the provisions of this Article V upon the basis of such Property Additions subject to a Qualified Lien as shall have continued to be subject to a Qualified Lien or upon the basis of a reduction in the principal amount of Outstanding Qualified Lien Bonds on such Property Additions as shall have continued to be subject to a Qualified Lien,

(b) the total amount of Funded Cash deposited with the Trustee under the provisions of Section 7.01 hereof and theretofore withdrawn (including any such Funded Cash for the withdrawal of which application is then made) under any of the provisions of this Indenture upon the basis of such Property Additions subject to a Qualified Lien as shall have continued to be subject to a Qualified Lien,

(c) seventy per centum (70%) of all Funded Cash deposited with the Trustee under any of the provisions of this Indenture (other than the provisions of Section 7.01 hereof) and theretofore withdrawn (including any such Funded Cash for the withdrawal of which application is then made) under any of the provisions of this Indenture upon the basis of such Property Additions subject to a Qualified Lien as shall have continued to be subject to a Qualified Lien,

(d) seventy per centum (70%) of the Cost or the fair value to the Company, whichever is less (at the date of the Engineer's Certificate in which such Property Additions shall have been made the basis of the release hereinafter in this clause (d) mentioned), of such Property Additions subject to a Qualified Lien as shall have continued to be subject to a Qualified Lien, used as a basis for the release from the Lien of this Indenture of Funded Property, and

(e) the principal amount of all Qualified Lien Bonds to be Outstanding upon the granting of such application,

do not in the aggregate exceed fifteen per centum (15%) of the aggregate principal amount of (1) all bonds to be Outstanding under this Indenture upon the granting of such application, including those applied for, and (2) all Qualified Lien Bonds to the extent that such Qualified Lien Bonds shall be Outstanding upon the granting of such application.

Subject to the provisions of Sections 19.01 and 19.02 hereof, the Trustee may assume that any Property Additions subject to a Qualified Lien which shall have formed the basis, under any of the provisions of this Indenture, for the authentication and delivery of bonds or the withdrawal of Funded Cash or the release of Funded Property have continued to be subject to a Qualified Lien until the Trustee shall have received an Officers' Certificate (accompanied by a concurring Opinion of Counsel) to the contrary.

If at any time and from time to time, by reason either of the discharge of any Qualified Lien or of any increase in the aggregate amount of bonds authenticated and delivered under this Indenture, there shall be a change in the aggregate principal amount of bonds which may be authenticated and delivered within the limitations prescribed by this Section, then any bonds, which before such change were not permitted to have been authenticated and delivered by reason of such limitations, may be authenticated and delivered subject to such limitations as fixed by such change.

No bonds shall be authenticated and delivered under the provisions of this Section unless the Trustee at the time of the application for such authentication and delivery shall receive a Resolution, Officers' Certificate and Opinion of Counsel such as are described in subdivisions (1), (2) and (8) of Section 5.06 hereof, together with copies of the officially authenticated certificates or other documents, if any, specified in such Opinion of Counsel, and, in case the bonds are to be authenticated and delivered under the provisions of the next preceding paragraphs of this Section by reason of an increase in the aggregate principal amount of bonds authenticated and delivered under this Indenture having increased the aggregate principal amount of bonds which may be authenticated and delivered within the limitations prescribed by this Section, a Net Earning Certificate showing the Adjusted Net Earnings of the Company to be as required by Section 5.05 hereof.

Documents received
by Trustee

SECTION 5.05. No bonds other than the bonds of the First Series (as set forth in Article III hereof) shall be authenticated and delivered upon the basis of Property Additions unless, as shown by a Net Earning Certificate, the Adjusted Net Earnings of the Company for the period therein referred to shall have been in the aggregate at least equivalent to twice the Annual Interest Requirements as shall be specified, pursuant to the provisions of subdivision (B) of Section 1.07 hereof, in such Net Earning Certificate. No Net Earning Certificate is required as to the authentication and delivery of said bonds of the First Series.

Requirements as to
net earnings

SECTION 5.06. No bonds shall be authenticated or delivered hereunder by the Trustee upon the basis of Property Additions until the Trustee shall have received the following:

Requirements for
issuance of bonds
upon basis of
Property Additions:

(1) a Resolution requesting the Trustee to authenticate and deliver bonds, (a) specifying the principal amount of bonds called for and the series thereof, (b) specifying or setting forth a method by

(1) Resolution

§5.06

which all other matters with respect thereto as required by this Indenture (including those terms and conditions described in Section 2.03 hereof) are to be established, and (c) specifying the officer or officers of the Company to whom, or upon whose written order, such bonds shall be delivered;

(2) Officers' Certificate

(2) an Officers' Certificate complying with the requirements of Section 22.05 hereof (a) detailing the matters required to be set forth therein as provided in Section 2.03 hereof, and (b) stating that to the knowledge of the signers none of the events which itself or with a lapse of time would constitute a Default of the type specified in subdivisions (a) through (h) of Section 15.01 hereof has occurred and is continuing;

(3) Engineer's Certificate

(3) an Engineer's Certificate made and dated not more than ninety (90) days prior to the date of such application,

(a) describing in reasonable detail the Property Additions made the basis of the application;

(b) stating that all the Property Additions made the basis of the application are Property Additions as defined in Section 1.04 hereof;

(c) stating that such Property Additions are desirable for use in the proper conduct of the business of the Company;

(d) stating that such Property Additions, to the extent of the Cost or fair value thereof (whichever is less) to the Company made the basis of the application, do not consist of Funded Property;

(e) stating, except as to Property Additions acquired, made or constructed wholly through the delivery of securities, that the amount of cash forming all or part of the Cost thereof was equal to or more than an amount to be stated therein;

(f) briefly describing, with respect to any Property Additions acquired, made or constructed in whole or in part through the delivery of securities, the securities so delivered and stating the date of such delivery;

(g) stating what part, if any, of such Property Additions includes property (other than property acquired from PacifiCorp, a Maine corporation, and from Utah Power & Light Company, a Utah corporation, upon the merger of those corporations into

the Company) which within six months prior to the date of acquisition thereof by the Company has been used or operated by others than the Company in a business similar to that in which it has been or is to be used or operated by the Company and showing whether or not the fair value thereof to the Company is less than Twenty-five Thousand Dollars (\$25,000) and whether or not the fair value thereof to the Company is less than one per centum (1%) of the aggregate amount of (x) the principal amount of the bonds at the time Outstanding and (y) the principal amount of the Class A Bonds at the time Outstanding other than Class A Bonds delivered to and held by the Trustee hereunder;

(h) stating, except as to Property Additions with respect to the fair value to the Company of which a statement is to be made in an Independent Engineer's Certificate as provided for in subdivision (4) of this Section, that the fair value to the Company as of the date of such certificate of such Property Additions is a specified amount;

(i) stating the amount required to be deducted under the provisions of subdivision (A) of Section 1.04 hereof and the amount elected to be added under the provisions of clauses (a), (b) and (c) of subdivision (B) of Section 1.04 hereof in respect of Funded Property retired of the Company;

(j) stating whether or not the required amount has theretofore been deducted in compliance with the provisions of Section 5.04 hereof when other Property Additions subject to a Qualified Lien, referred to in the Opinion of Counsel provided for in subdivision (7) of this Section, were made the basis under any of the provisions of this Indenture of one or more Authorized Purposes and, if so, when such deduction was made and whether since the date of such deduction property subject to the Lien of this Indenture has continued to be subject to such Qualified Lien;

(k) making such statements, if any, as may be required to be stated in an Engineer's Certificate by the provisions of Section 5.04 hereof; and

(l) stating that the easements, restrictions, exceptions, reservations or rights, if any, of the character mentioned in clauses (e) and (f) of Section 1.06 hereof, to which any property or rights of way included in such Property Additions are subject,

§5.06

and the defects, irregularities and deficiencies in titles of the character mentioned in said clauses of any property or rights of way included in such Property Additions do not materially impair the use of such property or rights of way for the purposes for which the same are held by the Company;

(4) Independent
Engineer's
Certificate

(4) in case any Property Additions are shown by the Engineer's Certificate provided for in subdivision (3) above to include property (other than property acquired from PacifiCorp, a Maine corporation, and Utah Power & Light Company, a Utah corporation, upon the merger of those corporations into the Company) which within six months prior to the date of acquisition thereof by the Company, has been used or operated by others than the Company in a business similar to that in which it has been or is to be used or operated by the Company and such certificate does not show the fair value thereof to the Company, as of the date of such certificate, to be less than Twenty-five Thousand Dollars (\$25,000) or less than one per centum (1%) of the aggregate principal amount of the bonds at the time Outstanding hereunder, a further certificate consisting of an Independent Engineer's Certificate stating as to such Property Additions which have been so used or operated and (at the option of the Company) as to any other Property Additions included in the Engineer's Certificate provided for in subdivision (3) of this Section that the then aggregate fair value thereof to the Company, as of the date of such Independent Engineer's Certificate, in the opinion of the signer is a specified amount; and in the case of the authentication and delivery of bonds, the fair value to the Company in the opinion of the signer of any property so used or operated which has been subjected to the Lien of this Indenture since the commencement of the then current calendar year as the basis for the authentication and delivery of bonds, and as to which an Independent Engineer's Certificate has not previously been furnished to the Trustee;

(5) Written appraisal
in certain cases

(5) in case any Property Additions are shown by the Engineer's Certificate provided for in subdivision (3) above to have been acquired, made or constructed in whole or in part through the delivery of securities, a written appraisal of an engineer, appraiser or other expert person, firm or corporation, stating in the opinion of the signer the fair market value in cash of such securities at the time of delivery thereof in payment for or for the acquisition of such Property Additions;

§5.06

(6) except in the case of the authentication of the bonds of the First Series, a Net Earning Certificate showing the Adjusted Net Earnings of the Company to be as required by Section 5.05 hereof;

(6) Net Earning
Certificate

(7) an Opinion of Counsel stating the signer's opinion:

(7) Opinion of
Counsel

(a) to the effect that (except as to paving, grading and other improvements to, under or upon public highways, bridges, parks or other public property of analogous character) this Indenture is, or upon the delivery of, and/or the filing and/or recording in the proper places and manner of, the instruments of conveyance, assignment or transfer, if any, specified in said opinion, will be, a lien on all the Property Additions made the basis of such application, subject to no lien thereon prior or equal to the Lien of this Indenture except Qualified Liens and Excepted Encumbrances and that the Company has the right to remove any such Property Additions which are located on any leasehold or which are on property as to which the Company has an easement, prior to or upon the termination of such leasehold or easement, without compensation or other remuneration and free of any lien prior or equal to the Lien of this Indenture, except Qualified Liens and Excepted Encumbrances;

(b) to the effect that the Company has corporate authority to operate the Property Additions with respect to which such application is made; and

(c) as to the general nature and extent of any Qualified Liens existing upon any of such Property Additions, and the principal amount of the then Outstanding Qualified Lien Bonds secured thereby, if any;

(8) an Opinion of Counsel complying with the requirements of Section 22.05 hereof and stating the signer's opinion to the effect that:

(8) Further
Opinion of
Counsel

(a) the issue of the bonds has been duly authorized by the Company and has been established in accordance with Section 2.03 hereof;

(b) the issue of the bonds has been duly authorized by any and all governmental authorities the consent of which is requisite to the legal issue of such bonds, specifying any officially authenticated certificates, or other documents, by which such consent is or may be evidenced, or that no consent of any governmental authorities is requisite; and

§5.06; Art. VI, §6.01

(c) the Company has contracted to pledge such bonds to secure other indebtedness of a principal amount not less than seventy-five per centum (75%) of the principal amount of such bonds or has sold or contracted to sell or to issue for value such bonds;

(9) Instruments of conveyance

(9) copies of the instruments of conveyance, assignment and transfer, if any, specified in the Opinion of Counsel provided for in subdivision (7) above; and

(10) Further certificates, etc.

(10) copies of the certificates, or other documents, if any, specified in the Opinion of Counsel provided for in subdivision (8) above.

If, in order to render the Opinion of Counsel provided for in subdivision (7) or subdivision (8) above, the signer thereof shall deem it necessary that additional facts or matters be stated in the Engineer's Certificate provided for in subdivision (3) above, then in such event the Engineer's Certificate may state all such additional facts or matters as the signer of such Opinion of Counsel may request.

The amount of the Cost of any Property Additions and the fair value thereof to the Company and the fair market value in cash of any securities so delivered in payment therefor or for the acquisition thereof and the amount of any deductions and any additions made pursuant to Section 1.04 hereof shall be determined for the purposes of this Article V by the appropriate certificate provided for in this Section. In the case of Property Additions subject to a Qualified Lien, the fair value of such Property Additions shall be determined as if such Property Additions were free of such Qualified Lien.

ARTICLE VI

Issuance of Bonds upon Retirement of Bonds Previously Outstanding Hereunder

Bonds issuable on basis of retirement of bonds previously outstanding

SECTION 6.01. Subject to the provisions of Section 6.02 hereof, the Trustee shall, from time to time, upon the written order or orders of the Company signed by an Authorized Executive Officer of the Company, and by its Secretary or an Assistant Secretary or an Authorized Financial Officer of the Company, authenticate and deliver bonds hereunder of one or more series of a principal amount equal to and on the basis of the

principal amount of any Retired Bonds, but only after the Trustee shall have received the following:

Requirements:

- (1) the Resolution provided for in subdivision (1) of Section 5.06 hereof; (1) Resolution
- (2) the Officers' Certificate provided for in subdivision (2) of Section 5.06 hereof; (2) Officers' Certificate
- (3) an Officers' Certificate stating that Retired Bonds, specified by series (in an aggregate principal amount not less than the aggregate principal amount of bonds in respect of which such written order or orders for authentication and delivery is or are made under this Section 6.01) have theretofore been pledged to secure indebtedness of a principal amount not less than seventy-five per centum (75%) of the principal amount of such Retired Bonds or sold or issued for value and are the basis for such written order or orders; (3) Further Officers' Certificate
- (4) the Opinion of Counsel provided for in subdivision (8) of Section 5.06 hereof; and (4) Opinion of Counsel
- (5) copies of the certificates, or other documents, if any, specified in the Opinion of Counsel provided for in subdivision (4) of this Section. (5) Further certificates, etc.

In case (i) an application for the authentication and delivery of bonds under any of the provisions of this Indenture, which shall have contained a Net Earning Certificate, shall have been made to the Trustee subsequent to the delivery to the Trustee of an irrevocable direction to apply moneys to any such purchase, payment, retirement and/or redemption of, or subsequent to the cancellation or surrender for cancellation of, any bonds on the basis of which other bonds are to be authenticated and delivered pursuant to the provisions of this Article VI, and in such Net Earning Certificate the Annual Interest Requirements on any such bonds to be authenticated and delivered shall not have been included, or (ii) the Bonds on the basis of which other bonds are to be so authenticated and delivered mature by their terms at a date more than one year after the date of authentication and delivery of the bonds applied for and bear a lower interest rate than the bonds applied for, then the Trustee shall in either such case also receive a Net Earning Certificate showing the Adjusted Net Earnings to be as required by Section 5.05 hereof.

Net Earning Certificate in certain cases

§§6.01, 6.02; Art. VII, §7.01

Any and all coupon bonds delivered to the Trustee pursuant to this Article shall be accompanied by all unmatured coupons appertaining thereto.

Requirement as to
discharge of Class
"A" Mortgage

SECTION 6.02. No bonds shall be authenticated or delivered hereunder pursuant to the provisions of Section 6.01 hereof on the basis of the principal amount of any Retired Bonds theretofore authenticated and delivered under Section 4.01 hereof until the Class "A" Mortgage under which the Class "A" Bonds made the basis for the authentication and delivery of the Retired Bonds has been discharged pursuant to the provisions of Section 106 of the Pacific Mortgage, or of Section 116 of the Utah Mortgage, or of a comparable section of another Class "A" Mortgage (as the case may be), as then in effect.

ARTICLE VII

Issuance of Bonds upon Deposit of Cash with Trustee

Bonds issuable on
basis of cash de-
posited with the
Trustee

SECTION 7.01. The Trustee shall, from time to time, upon the written order or orders of the Company signed by an Authorized Executive Officer of the Company, and by its Secretary or an Assistant Secretary or an Authorized Financial Officer of the Company, authenticate and deliver bonds hereunder of one or more series upon deposit with the Trustee by the Company of cash equal to the aggregate principal amount of the bonds so requested to be authenticated and delivered but only after the Trustee shall have received:

Requirements:

- (1) Resolution
hereof;
- (2) Officers' Certificate
provided for in subdivision (2) of
Section 5.06 hereof;
- (3) Net Earning Certificate
showing the Adjusted Net Earn-
ings of the Company to be as required by Section 5.05 hereof;
- (4) Opinion of Counsel provided for in subdivision (8) of
Section 5.06 hereof; and
- (5) copies of the certificates, or other documents, if any, specified
in the Opinion of Counsel provided for in subdivision (4) of this
Section.

(5) Further certifi-
cates, etc.

SECTION 7.02. All cash deposited with the Trustee under the provisions of the next preceding Section hereof shall be held by the Trustee as a part of the Mortgaged and Pledged Property, and may be withdrawn from time to time by the Company, upon application of the Company to the Trustee evidenced by a Resolution, in an amount equal to the aggregate principal amount of bonds to the authentication and delivery of which the Company shall be entitled under any of the provisions of this Indenture by virtue of compliance with all applicable provisions of this Indenture (except as hereinafter in this Section otherwise provided).

§§7.02, 7.03

Withdrawal
of cash in
lieu of
bonds

Upon any such application for withdrawal the Company shall comply with all applicable provisions of this Indenture relating to the authentication and delivery of such bonds except that the Company shall not be required to comply with any earning requirement or to deliver to the Trustee any Resolution, Net Earning Certificate or Opinion of Counsel such as is described in subdivisions (1), (6) and (8) of Section 5.06 hereof.

Compliance
with provisions
of Indenture

Any withdrawal of cash under this Section shall operate as a waiver by the Company of its right to the authentication and delivery of the bonds on which it is based and such bonds may not thereafter be authenticated and delivered hereunder, and any Property Additions which have been made the basis of any such right to the authentication and delivery of bonds so waived shall have the status of Funded Property and shall be deemed to have been made the basis of the withdrawal of such cash, and any bonds or Qualified Lien Bonds which have been made the basis of any such right to the authentication and delivery of bonds so waived shall be deemed to have been made the basis of the withdrawal of such cash and any Class "A" Bonds which have been made the basis of any such right to the authentication and delivery of bonds shall be deemed to have been made the basis of the withdrawal of such cash.

Effect of
cash with-
drawal on
right to
issue bonds

SECTION 7.03. If at any time the Company shall so direct, any sums deposited with the Trustee under the provisions of Section 7.01 hereof may be used or applied to the purchase, payment or redemption of bonds in the manner and subject to the conditions provided in subdivisions (3) and (4) of Section 13.06 hereof; provided, however, that, none of such cash shall be applied to the payment of more than the principal amount of any

Application
of cash to
retire bonds

§7.03; Art. VIII, §8.01

bonds so purchased, paid or redeemed, except to the extent that the aggregate principal amount of all bonds theretofore, and of all bonds then to be, purchased, paid and/or redeemed with cash deposited under Section 7.01 hereof shall have exceeded the aggregate cost for principal, interest, brokerage and premium, if any, on all bonds theretofore, and on all bonds then to be, purchased, paid and/or redeemed with cash so deposited.

ARTICLE VIII

Amendments to the Trust Indenture Act

Reservation
of right to
amend
Indenture
as necessary
or desirable
based on
amendments
to Trust
Indenture
Act

SECTION 8.01. The Company reserves the right, without any consent or other action by holders of bonds, to make such amendments to this Indenture (a) as shall be necessary from time to time in order to qualify this Indenture under the Trust Indenture Act as in force on the date of the making of any such amendment, and/or (b) as may in the judgment of the Company (as set forth in a Resolution) from time to time be desirable and as may hereafter become permitted by virtue of amendments to the Trust Indenture Act in force on the date of such amendment to this Indenture; provided that no such amendment shall, without the consent of the holder of any bond issued under this Indenture affected thereby, impair or affect the right of such holder to receive payment of the principal of (and premium, if any) and interest on such bond, on or after the respective due dates expressed in such bond, or to institute suit for the enforcement of any such payment on or after such respective dates, or permit the creation of any lien ranking prior to, or on a parity with, the Lien of this Indenture with respect to any of the property mortgaged and pledged thereunder or permit the deprivation of such bondholder of a lien upon the Mortgaged and Pledged Property for the security of his, her or its bonds (subject only to the lien of taxes for the then current year, the lien of taxes, assessments or governmental charges not then due and delinquent and to any mortgage or other liens existing upon said property which are prior to this Indenture at the time of such amendment), and holders of any bonds Outstanding under this Indenture by acceptance of such bonds, agree and consent to the making of any such amendments.

ARTICLE IX

Particular Covenants of the Company

SECTION 9.01. The Company hereby covenants that on the day hereof it is lawfully possessed of all the Mortgaged and Pledged Property; that it will maintain and preserve the Lien of this Indenture so long as any of the bonds issued hereunder are Outstanding; that (subject to the provisions of Section 18.03 hereof) all property of the Company hereafter acquired, made or constructed and wheresoever situated, except any hereinbefore or hereinafter expressly excepted, shall be subject to the Lien of this Indenture just as though said property was now owned by the Company and described herein; and that it has good right and lawful authority to mortgage and pledge the Mortgaged and Pledged Property, as provided in and by this Indenture.

Possession;
maintenance
of Lien;
Lien extends
to all property
unless expressly
excepted

SECTION 9.02. The Company hereby covenants that it will duly and punctually pay the principal of and interest and premium, if any, on all bonds Outstanding hereunder, according to the terms thereof; and that as the coupons appertaining to said bonds are paid they will be cancelled.

Payment of
principal and
interest; can-
cellation of
coupons

SECTION 9.03. (a) The Company hereby covenants that, whenever necessary to avoid or fill a vacancy in the office of Trustee, the Company will in the manner provided in Section 19.15 hereof appoint a Trustee so that there shall be at all times a Trustee hereunder which shall at all times be a bank or trust company having its principal office and place of business in the United States of America, 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 (provided, however, that if Section 310(a) of the Trust Indenture Act or the rules and regulations of the Securities and Exchange Commission under the Trust Indenture Act at any time permit a corporation organized and doing business under the laws of any other jurisdiction to serve as trustee of an indenture qualified under the Trust Indenture Act, this Section 9.03 shall be automatically amended to permit a corporation organized and doing business under the laws of any such other jurisdiction to serve as Trustee hereunder), with a combined capital and surplus of at least Five Million Dollars (\$5,000,000) or the foreign currency equivalency thereof, and authorized under such laws to exercise corporate trust powers and

Appointment
of Trustee

Automatic
amendment

89.03

subject to supervision or examination by a supervisory or examining authority.

Company to
maintain office
or agency

Results of
failure to
maintain
such office
or agency

(b) The Company hereby covenants that it will keep an office or agency, while any of the bonds issued hereunder are Outstanding, at any and all places at which the principal of or interest on any of said bonds and coupons appurtenant thereto shall be payable, where bonds entitled to be registered, transferred, exchanged or converted may be presented or surrendered for registration, transfer, exchange or conversion, where notices, presentations and demands to or upon the Company in respect of such bonds or coupons as may be payable at such places or in respect of this Indenture may be given or made, and for the payment of the principal thereof and interest and premium, if any, thereon. The Company will from time to time give the Trustee written notice of the location of such office or offices or agency or agencies, and in case the Company shall fail to maintain such office or offices or agency or agencies or to give the Trustee written notice of the location thereof, then in addition to any other remedy or right arising as a result of the violation of the covenants contained in this Section, the Company agrees that any such notice, presentation or demand in respect of said bonds or coupons or of this Indenture may be given or made, unless other provision is expressly made herein, to or upon the Trustee at its corporate trust office, and the Company hereby authorizes such presentation and demand to be made to and such notice to be served on the Trustee in either of such events and the principal of and interest and premium, if any, on said bonds shall in such event be payable at said office of the Trustee.

Duty of
paying agent
other than
Trustee

(c) The Company hereby covenants that, if it shall appoint a paying agent other than the Trustee, it will cause such paying agent to execute and deliver to the Trustee an instrument in which it shall agree with the Trustee, subject to the provisions of this Section, (1) that such paying agent shall hold in trust for the benefit of the bondholders or the Trustee all sums held by such paying agent for the payment of the principal of or interest on the bonds (and premium, if any); and (2) that such paying agent shall give the Trustee notice of any default by the Company in the making of any deposit with it for the payment of the principal of or interest on the bonds (and premium, if any), and of any default by the Company in the making of any such payment. Such paying agent shall not be obligated to segregate such sums from other funds of such paying agent except to the extent required by law.

§§9.03, 9.04

(d) The Company hereby covenants that, if the Company acts as its own paying agent, it will, on or before each due date of each installment of principal or interest on the bonds, set aside and segregate and hold in trust for the benefit of the bondholders or the Trustee a sum sufficient to pay such principal or interest so becoming due on the bonds (and premium, if any) and will notify the Trustee of such action, or of any failure to take such action.

Duty of
Company acting
as paying
agent

(e) Anything in this Section to the contrary notwithstanding, the Company may at any time, for the purpose of obtaining a release or satisfaction of this Indenture or for any other reason, pay or cause to be paid to the Trustee all sums held in trust by it or any paying agent as required by this Section, such sums to be held by the Trustee upon the trusts in this Indenture contained.

Delivery to
Trustee of
sums held by
other paying
agent

(f) Anything in this Section to the contrary notwithstanding, the holding of sums in trust as provided in this Section is subject to the provisions of Section 22.03 hereof.

All sums to
be held
subject to
Section 22.03

SECTION 9.04. The Company hereby covenants that it will pay all taxes and assessments and other governmental charges lawfully levied or assessed upon the Mortgaged and Pledged Property, or upon any part thereof, or upon the interest of the Trustee in the Mortgaged and Pledged Property, before the same shall become delinquent, and will duly observe and conform to all valid requirements of any governmental authority relative to any of the Mortgaged and Pledged Property, and all covenants, terms and conditions upon or under which any of the Mortgaged and Pledged Property is held; that it will not suffer any lien to be hereafter created upon the Mortgaged and Pledged Property, or any part thereof, or the income therefrom, prior or equal to the Lien hereof, other than Excepted Encumbrances, and other than, in the case of property hereafter acquired, vendors' liens, purchase money mortgages and any lien thereon at the time of the acquisition thereof (including but not limited to a Class "A" Mortgage), and within four months after any lawful claim or demand for labor, materials, supplies or other objects has become delinquent which if unpaid would or might by law be given precedence over the Lien of this Indenture as a lien or charge upon any of the Mortgaged and Pledged Property, or the income therefrom, it will pay or cause to be discharged or make adequate provisions to satisfy or discharge the same; provided, however, that nothing in this Section contained shall require the Company to observe or conform to any

Payment of
taxes, etc.,
discharge of
liens

§§9.04, 9.05

requirement of governmental authority or to cause to be paid or discharged, or to make provision for, any such lien or charge, or to pay any such tax, assessment or governmental charge so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings; and provided that nothing in this Section contained shall require the Company to pay, discharge or make provisions for any tax, assessment or other governmental charge, the validity of which shall not be so contested if adequate security for the payment of such tax, assessment or other governmental charge and for any damages which may reasonably be anticipated from failure to pay the same shall be given to the Trustee; and that, save as aforesaid, it will not suffer any matter or thing whereby the Lien hereof might or could be impaired in contravention of the provisions hereof.

Insurance
on property

SECTION 9.05. (I) The Company hereby covenants that it will keep or cause to be kept all the property subject to the Lien hereof insured against fire, to the extent that property of similar character is usually so insured by companies similarly situated and operating like properties, to a reasonable amount, by reputable insurance companies, any loss, except as to materials and supplies and except as to any particular loss less than the greater of Four Million Dollars (\$4,000,000) or two per centum (2%) of the bonds Outstanding hereunder on the date of such particular loss, to be made payable to the Trustee as the interest of the Trustee may appear, to the trustee of a Class "A" Mortgage, or to the trustee or other holder of any mortgage or other lien constituting a Qualified Lien or any other lien prior hereto upon property subject to the Lien hereof, if the terms thereof require losses so to be made payable or that it will, in lieu of or supplementing such insurance in whole or in part, adopt some other method or plan of protection against loss by fire at least equal in protection to the method or plan of protection against loss by fire of companies similarly situated and operating properties subject to similar fire hazards or properties on which an equal primary fire insurance rate has been set by reputable insurance companies, and that if it shall adopt such other method or plan, it will, except as to materials and supplies and except as to any particular loss less than the greater of Four Million Dollars (\$4,000,000) or two per centum (2%) of the bonds Outstanding hereunder on the date of such particular loss, pay to the Trustee on account of any loss sustained by reason of the destruction or damage of such property by fire, an amount of cash equal to such loss less any amounts otherwise paid to the Trustee, to the trustee of a Class

Other method
or plan of
protection
against loss
by fire

"A" Mortgage, or to the trustee or other holder of any mortgage or other lien constituting a Qualified Lien or any other lien prior hereto upon property subject to the Lien hereof, if the terms thereof require losses so to be paid. Any amounts of cash so required to be paid by the Company pursuant to any such method or plan shall for the purposes of this Indenture be deemed to be proceeds of insurance. In case of the adoption of such other method or plan of protection, the Company shall also furnish to the Trustee a certificate of an actuary or other qualified person appointed by the Company with respect to the adequacy of such method or plan.

(II) All moneys paid to the Trustee by the Company in accordance with this Section or received by the Trustee as proceeds of any insurance against loss by fire shall, subject to the requirements of a Class "A" Mortgage, any mortgage constituting a Qualified Lien or any other lien prior hereto upon property subject to the Lien hereof, be held by the Trustee and, subject as aforesaid, shall be paid by it to the Company to reimburse the Company for an equal amount expended or committed for expenditure in the rebuilding or renewal of the property destroyed or damaged, upon receipt by the Trustee of (1) an Officers' Certificate requesting such reimbursement, (2) an Engineer's Certificate stating the amounts so expended or committed for expenditure and the nature of such rebuilding or renewal and the fair value to the Company of the property rebuilt or renewed or to be rebuilt or renewed and if

Application
of insurance
proceeds

(A) within six months prior to the date of acquisition thereof by the Company, such property has been used or operated, by a person or persons other than the Company, in a business similar to that in which it has been or is to be used or operated by the Company, and

(B) the fair value to the Company of such property as set forth in such Engineer's Certificate is not less than Twenty-five Thousand Dollars (\$25,000) and not less than one per centum (1%) of the aggregate principal amount of the bonds at the time Outstanding under this Indenture,

the Engineer making such certificate shall be an independent Engineer, and (3) an Opinion of Counsel that the property so rebuilt or renewed or to be rebuilt or renewed is or will be subject to the Lien hereof to the same extent as was the property so destroyed or damaged, provided, however, that to the extent that moneys paid by the Trustee to the

§§9.05, 9.06

Company for reimbursement, as aforesaid, shall represent the proceeds of property that was not Funded Property destroyed or damaged by fire, the property so rebuilt or renewed (for which reimbursement is so made), shall not be deemed to be Funded Property.

Use of money
not applied
to rebuilding
or renewal
within eighteen
months

(III) Any such money not so applied within eighteen (18) months after its receipt by the Trustee, or in respect of which notice in writing of intention to apply the same to the work of rebuilding or renewal then in progress and uncompleted shall not have been given to the Trustee by the Company within such eighteen (18) months, or which the Company shall at any time notify the Trustee is not to be so applied, shall thereafter be withdrawn, used or applied in the manner, to the extent and for the purposes and subject to the conditions provided in Section 13.06 hereof.

Fire insurance
policies;
provision
for maximum
deductible
amount and/or
co-insurance
or self insurance
provisions
with maximum
dollar amount

(IV) Anything in this Indenture to the contrary notwithstanding, the Company may have fire insurance policies with (a) a deductible provision in a dollar amount per occurrence not exceeding the greater of Five Million Dollars (\$5,000,000) or three per centum (3%) of the bonds Outstanding hereunder on the date such policy goes into effect and/or (b) co-insurance or self insurance provisions with a dollar amount per occurrence not exceeding 30% of the loss proceeds otherwise payable; provided, however, the dollar amount described in clause (a) above may be exceeded to the extent such dollar amount per occurrence is below the deductible amount in effect as to fire insurance (x) on property of similar character insured by companies similarly situated and operating like property or (y) on property as to which an equal primary fire insurance rate has been set by reputable insurance companies.

Maintenance
of Mortgaged
and Pledged
Property

SECTION 9.06. (I) The Company will not, except as herein permitted, do or suffer any act or thing whereby the Mortgaged and Pledged Property might or could be materially impaired, and it will at all times maintain, preserve and keep the Mortgaged and Pledged Property, as an operating system or systems capable of engaging in all or any of the businesses described in the first sentence of subdivision (I) of Section 1.04 hereof, in good repair, working order and condition. The Company will from time to time make all needful and proper repairs, replacements, additions, betterments and improvements, so that the operations and business of and pertaining to the Mortgaged and Pledged Property, as an operating system or systems, shall at all times be conducted properly and advantageously; and whenever any portion of the Mortgaged and Pledged Property shall have been worn out or destroyed

\$9.06

or shall have become obsolete or otherwise unfit for use, the Company will procure substitutes of at least equal utility and efficiency, so that at all times the efficiency of the Mortgaged and Pledged Property, as an operating system or systems, shall be fully maintained.

(II) Nothing herein contained, however, shall be held to prevent the Company from permanently discontinuing the operation of or reducing the capacity of any of its plants or properties, if, in the judgment of the Company, any such action which affects the Mortgaged and Pledged Property is necessary or desirable in the conduct of the business of the Company, or if the Company is ordered so to do by regulatory authority having jurisdiction in the premises, or if the Company intends to sell or dispose of the same and within a reasonable time shall endeavor to effectuate such sale; nor shall anything herein contained be construed to prevent the Company from taking such action with respect to the use of its plants and properties as is proper under the circumstances; including the cessation or omission to exercise rights, permits, licenses, privileges or franchises which, in the judgment of the Company, can no longer be profitably exercised or availed of; provided, however, the Company covenants that it will, within sixty (60) days after its determination permanently to discontinue the operation of any of its plants or properties subject to the Lien of this Indenture of a Cost, determined as provided in Section 1.04 hereof, in any one case in excess of Five Million Dollars (\$5,000,000) or in the aggregate in any period of twelve (12) consecutive calendar months in excess of Ten Million Dollars (\$10,000,000), furnish the Trustee for information purposes with an Officers' Certificate setting forth the Cost, as so determined, to the Company of the plants, or properties, the operation of which the Company shall have determined so to discontinue.

Permanent
discontinuance
of operation
or reduction
of capacity
of any plants
or property

(III) Whenever (but not more often than once in any period of five (5) years) the holders of at least twenty-five per centum (25%) in principal amount of the bonds Outstanding hereunder shall deliver to the Trustee and to the Company a written statement that they have reasonable grounds to believe that the Mortgaged and Pledged Property has not been adequately maintained, as an operating system or systems, in good repair, working order and condition and request the Company to furnish to the Trustee an Independent Engineer's Certificate stating whether or not the Mortgaged and Pledged Property, as an operating system or systems, has been maintained in good repair, working order and condition, and whether or not there is any property subject to the Lien of this Indenture

Independent
Engineer's
Certificate
on mainten-
ance of
Mortgaged
and Pledged
Property

§9.06

which should be retired on the books of the Company as having ceased permanently to be used or useful in the business of the Company and which has not been so retired, the Company shall cause such Independent Engineer's Certificate to be furnished to the Trustee within a reasonable time after such request. If such independent Engineer shall report that the Mortgaged and Pledged Property, as an operating system or systems, has not been maintained in good repair, working order and condition, he or she shall state clearly in his or her report the character and extent of, and, if longer than one year, the time reasonably necessary to make good such deficiency and, if he or she shall report that there is property subject to the Lien of this Indenture which should be retired on the books of the Company as having ceased permanently to be used or useful in the business of the Company and which has not been so retired, his or her report shall briefly describe such property. Said report shall be placed on file by the Trustee and shall be open to inspection by any bondholder at any reasonable time.

Company
objection in
writing to
findings of
independent
Engineer;
arbitration

(IV) If the Company, within thirty (30) days after the filing of the report of such independent Engineer, objects in a writing delivered to the Trustee to the findings of such independent Engineer as to the character and extent of such maintenance deficiency and/or to the property which should be retired upon the books of the Company, then the character and extent of such maintenance deficiency, if any, and/or the property, if any, so to be retired upon the books of the Company shall be forthwith referred to three arbitrators selected in the following manner: The Trustee, within ten (10) days after the expiration of said period of thirty (30) days, shall name one arbitrator and give notice of such selection to the Company. Within ten (10) days after receipt of such notice, the Company shall name one arbitrator and give notice of such selection to the Trustee, and failure so to do shall entitle the Trustee to name an arbitrator to represent the Company. The two thus selected shall, within ten (10) days after the appointment of the arbitrator representing the Company, select a third arbitrator, but if said arbitrators are unable, within said ten (10) days, to agree upon such third arbitrator, then, upon the election of either the Company or the Trustee, any District Judge of the United States of America for the District in which the Trustee has its principal place of business may appoint such third arbitrator, upon application to said District Judge by either party after five (5) days' notice thereof to the other party. The written decision of a majority of such arbitrators shall be filed as soon as practicable with the Trustee and a copy thereof

delivered to the Company, and shall be binding upon the Trustee, the Company and the bondholders.

89.06

(V) Within one year from the date of the report of such independent Engineer or the date of such decision of arbitrators, whichever is later, or such longer period as may be reported by such independent Engineer or the arbitrators, as the case may be, to be reasonably necessary to cure any such deficiency, no statement contained in any report of any independent Engineer filed with the Trustee, as hereinbefore in this Section provided, shall be deemed to be in any way evidence or proof of a failure to comply with the provisions of this Section.

Grace period
regarding
compliance

(VI) The Company shall, with all reasonable speed, do or cause to be done such maintenance work as may be necessary to cure any such maintenance deficiency as shall have been determined to exist as hereinabove provided at the time of the report of such independent Engineer or at the time of such decision of arbitrators, as the case may be, whereupon such independent Engineer or such arbitrators, as the case may be (or, in case of his or her or their refusal or inability to act, some other independent Engineer), shall report in writing to the Trustee whether such deficiency has been cured.

Company
shall cure
deficiency;
independent
Engineer or
arbitrators
shall report
to Trustee

(VII) Unless the Trustee shall be so advised in writing by such independent Engineer or arbitrators, as the case may be, within one year from the date of the report of such independent Engineer or the date of such decision of arbitrators, as the case may be, or such longer period as may be reported by such independent Engineer or the arbitrators, as the case may be, to be reasonably necessary for the purpose, that such deficiency has in all material respects been cured, the Company shall be deemed to have defaulted in the due performance of the covenants of this Section, so far as concerns the maintenance of the Mortgaged and Pledged Property.

Company deemed
to have
defaulted in
covenants
of this Section
unless Trustee
advised
deficiency
has been
cured

(VIII) All expenses incurred pursuant to this Section shall be borne by the Company.

Expenses

(IX) In the event that any regulatory authority having jurisdiction over the Company shall determine that the expenditures for repairs and maintenance necessary to cure any such maintenance deficiency as shall have been so determined would be excessive or shall, by order or regulation, prohibit, in whole or in part, such expenditures for repairs and maintenance, then, upon filing with the Trustee a certified copy of

Relief of
Company from
certain
covenants
by order or
regulation
of regulatory
authority

§§9.06, 9.07, 9.08, 9.09

such order or a copy of such regulation, as the case may be, the Company shall, so long as such order or such regulation remains in effect, be relieved from compliance with the covenants contained in this Section, in regard to the maintenance of the Mortgaged and Pledged Property, to the extent that such expenditures for repairs and maintenance shall have been held excessive or shall be prohibited.

Retirement
from plant
account of
property no
longer useful
in business

(X) The Company covenants that it will promptly retire on its books of account any of the Mortgaged and Pledged Property included in plant account (except real estate held for the purpose of sale or resale) that has, in the opinion of the Company, ceased permanently to be used or useful in its business or which pursuant to the provisions of this Section any independent Engineer has reported to the Company more than thirty (30) days prior thereto (without written objection thereto having been delivered to the Trustee by the Company), or any arbitrators have determined, should be retired on the books of the Company as having ceased permanently to be used or useful in the business of the Company.

Covenant as
to common
dividends

SECTION 9.07. Other than dividends payable solely in shares of its common stock, the Company shall not declare and pay dividends in cash or property on any shares of its common stock if, after giving effect to such declaration or payment, the Company would not be able to pay its debts as they become due in the usual course of business.

Maintenance
of corporate
existence
and
franchises

SECTION 9.08. The Company hereby covenants that it will, subject to the provisions of Article XVIII hereof, at all times maintain its corporate existence and right to carry on business, and duly procure all renewals and extensions thereof, if and when any shall be necessary and, subject to the provisions of this Indenture, will use its best efforts to maintain, preserve and renew all the rights, powers, privileges and franchises owned by it, affecting the Mortgaged and Pledged Property.

Recording,
filing, etc.

SECTION 9.09. The Company hereby covenants that it will cause this Indenture and all indentures and instruments supplemental hereto (or notices, memoranda or financing statements as may be recorded or filed to place third parties on notice thereof) to be promptly recorded and filed and re-recorded and re-filed in such manner and in such places, as may be required by law in order fully to preserve and protect the security of the bondholders and all rights of the Trustee, and will furnish to the Trustee:

89.09

(a) Promptly after the execution and delivery of this Indenture and of each supplemental indenture, an Opinion of Counsel either stating that in the opinion of such counsel this Indenture or such supplemental indenture (or notice or memorandum thereof or financing statement in connection therewith) has been properly recorded and filed, so as to make effective the lien intended to be created hereby or thereby, and reciting the details of such action, or stating that in the opinion of such counsel no such action is necessary to make such lien effective. The Company shall be deemed to be in compliance with this subdivision (a) if (1) the Opinion of Counsel herein required to be delivered to the Trustee shall state that this Indenture or such supplemental indenture (or financing statement or notice or memorandum thereof) has been received for record or filing in each jurisdiction in which it is required to be recorded or filed and that, in the opinion of counsel (if such is the case), such receipt for record or filing makes effective the lien intended to be created by this Indenture or such supplemental indenture, and (2) such opinion is delivered to the Trustee within such time, following the date of the execution and delivery of this Indenture or such supplemental indenture, as shall be practicable having due regard to the number and distance of the jurisdictions in which this Indenture or such supplemental indenture is required to be recorded or filed.

Opinion of
Counsel on
recording
and filing

(b) On or before October 1 of each year, beginning October 1, 1989, an Opinion of Counsel either stating that in the opinion of such counsel such action has been taken, since the date of the most recent Opinion of Counsel furnished pursuant to this subdivision (b) or the first Opinion of Counsel furnished pursuant to subdivision (a) of this Section, with respect to the recording, filing, rerecording, and re-filing of this instrument and of each indenture supplemental to this instrument (or financing statement or notice or memorandum thereof), as is necessary to maintain the Lien hereof, and reciting the details of such action, or stating that in the opinion of such counsel no such action is necessary to maintain such lien.

Annual
Opinion of
Counsel on
maintenance
of Lien

The Company hereby covenants that it will execute and deliver such supplemental indenture or indentures and such further instruments and do such further acts as may be necessary or proper to carry out more effectually the purposes of this Indenture and to make subject to the Lien hereof any property hereafter acquired, made or constructed, intended

Instruments
of further
assurance

§§9.09, 9.10

to be subject to the Lien hereof, and to transfer to any new trustee or trustees or co-trustee or co-trustees, the estate, powers, instruments or funds held in trust hereunder.

Company to
furnish
Trustee list
of bondholders
semi-annually
unless
Trustee also
registrars
and transfer
agent

SECTION 9.10. (a) The Company covenants and agrees that it will furnish or cause to be furnished to the Trustee between February 15 and March 1 and between August 15 and September 1, in each year after the calendar year 1988, and at such other times as the Trustee may request in writing, a list in such form as the Trustee may reasonably require containing all the information in the possession or control of the Company or of its paying agents, as to the names and addresses of the holders of bonds obtained since the date as of which the next previous list, if any, was furnished. Any such list may be dated as of a date not more than fifteen (15) days prior to the time such information is furnished or caused to be furnished, and need not include information received after such date; and, provided, that the Company need not furnish or cause to be furnished any such list with respect to bonds with respect to which the Trustee maintains the books for the registration and transfer of bonds as provided for in Section 2.09 hereof.

Preservation
of bondholders
list

(b) The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the holders of bonds (1) contained in the most recent list, if any, furnished to it as provided in subdivision (a) of this Section, (2) received by it in the capacity of paying agent hereunder, and (3) filed with it within two preceding years pursuant to the provisions of paragraph (2) of subdivision (c) of Section 19.13 hereof. The Trustee may (1) destroy any list furnished to it as provided in subdivision (a) of this Section upon receipt of a new list so furnished; (2) destroy any information received by it as paying agent upon delivery to itself as Trustee, not earlier than forty-five (45) days after an interest payment date of the bonds, of a list containing the names and addresses of the holders of bonds obtained from such information since the delivery of the next previous list, if any; (3) destroy any list delivered to itself as Trustee which was compiled from information received by it as paying agent upon the receipt of a new list so delivered; and (4) destroy any information received by it pursuant to the provisions of paragraph (2) of subdivision (c) of Section 19.13 hereof, but not until two years after such information has been filed with it.

Bondholders
list to be
available
to bondholders

(c) In case three or more holders of bonds (hereinafter referred to as "Applicants") apply in writing to the Trustee, and furnish to the

Trustee reasonable proof that each such Applicant has owned a bond for a period of at least six months preceding the date of such application, and such application states that the Applicants desire to communicate with other holders of bonds with respect to their rights under this Indenture or under the bonds, and is accompanied by a copy of the form of proxy or other communication which such Applicants propose to transmit, then the Trustee shall, within five (5) business days after the receipt of such application, at its election either

(1) afford to such Applicants access to the information preserved at the time by the Trustee in accordance with the provisions of subdivision (b) of this Section; or

(2) inform such Applicants as to the approximate number of holders of bonds whose names and addresses appear in the information preserved at the time by the Trustee, in accordance with the provisions of subdivision (b) of this Section, and as to the approximate cost of mailing to such bondholders the form of proxy or other communication, if any, specified in such application.

If the Trustee shall elect not to afford to such Applicants access to such information, the Trustee shall, upon the written request of such Applicants, mail to each bondholder whose name and address appears in the information preserved at the time by the Trustee in accordance with the provisions of subdivision (b) of this Section, a copy of the form of proxy or other communication which is specified in such request, with reasonable promptness after a tender to the Trustee of the material to be mailed and of payment or provision for the payment of the reasonable expenses of mailing, unless within five days after such tender the Trustee shall mail to such Applicants and file with the Securities and Exchange Commission together with a copy of the material to be mailed a written statement to the effect that, in the opinion of the Trustee, 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 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 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

Trustee to
mail
communications to
bondholders

§§9.10, 9.11

and the renewal of such tender; otherwise the Trustee shall be relieved of any obligation or duty to such Applicants respecting their application.

(d) Neither the Trustee nor any paying agent shall be held accountable by reason of the disclosure of information as to names and addresses or the mailing of any material pursuant to any request made under subdivision (c) of this Section.

Filings
with
Trustee

SECTION 9.11. The Company covenants and agrees:

(1) to file with the Trustee within fifteen (15) days after the Company is required to file the same with the Securities and Exchange Commission, copies of the annual reports and of the information, documents, and other reports (or copies of such portions of any of the foregoing as such 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, as amended; or, if the Company is not required to file information, documents, or reports pursuant to either of such sections, 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, as amended, in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations;

(2) to file with the Trustee and the Securities and Exchange Commission, in accordance with the 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, in the case of annual reports, if required by such rules and regulations, certificates or opinions of independent public accountants, conforming to the requirements of Section 22.05 hereof, as to compliance with conditions or covenants, compliance with which is subject to verification by accountants, but no such certificate or opinion shall be required as to (A) dates or periods not covered by annual reports required to be filed by the Company, in the case of conditions precedent which depend upon a state of facts as of a date

or dates or for a period or periods different from that required to be covered by such annual reports, or (B) the amount and value of Property Additions, except as provided in Section 5.06 hereof, or (C) the adequacy of depreciation, maintenance, or repairs; and

(3) to transmit to the holders of bonds, in the manner and to the extent provided in subdivision (c) of Section 19.13 hereof with respect to reports pursuant to subdivision (a) of Section 19.13 hereof, such summaries of any information, documents and reports required to be filed by the Company pursuant to subdivisions (1) and (2) of this Section as may be required by the rules and regulations prescribed from time to time by the Securities and Exchange Commission.

Summaries
to
bondholders

SECTION 9.12. The Company hereby covenants that books of record and account will be kept in which full, true and correct entries will be made of all dealings of or transactions of, or in relation to, the plants, properties, business and affairs of the Company.

True and
correct
entries to
books of
record
and
account

The Company hereby covenants that it will not issue, or permit to be issued, any bonds hereunder in any manner other than in accordance with the provisions of this Indenture and that it will faithfully observe and perform all the conditions, covenants and requirements of this Indenture and of all indentures supplemental hereto and of the bonds issued hereunder.

SECTION 9.13. The Company hereby covenants that it will promptly advise the Trustee in writing of any failure to pay interest upon or principal (whether at maturity as therein expressed or by declaration, or otherwise) of any Outstanding Qualified Lien Bonds or Class "A" Bonds continuing beyond the period of grace, if any, specified in the Qualified Lien or Class "A" Mortgage securing the same.

Company to
advise Trustee
of certain
defaults on
Qualified
Lien or
Class "A"
Bonds

The Company hereby covenants that upon the cancellation and discharge of any Qualified Lien securing Qualified Lien Bonds it will (unless the Qualified Lien Bonds, cash, proceeds and other property mentioned in subdivisions (a) and (b) below are thereupon otherwise disposed of as required by another Qualified Lien) cause

Upon
discharge
of Qualified
Lien Company
will cause:

(a) any Qualified Lien Bonds deposited with and then held by the trustee or other holder of such Qualified Lien cancelled and discharged, to be cancelled and notification thereof to be given to the Trustee, or, at the option of the Company, to be delivered to and deposited with the Trustee hereunder; and

(a) Such
Qualified
Lien Bonds
to be
cancelled,
etc.

§9.13

(b) Transfer
of
deposits

(b) all cash which (after giving effect to the provisions of Section 13.06 hereof) is then deemed to be Funded Cash and all obligations secured by purchase money mortgages and all proceeds of insurance on, or of the release of, or the taking by eminent domain of, or the purchase by a governmental authority or its designee of, Funded Property, deposited with and then held by the trustee or other holder of such Qualified Lien cancelled and discharged (including as to all of the foregoing all proceeds of or substitutes for any thereof then held as aforesaid), to be paid and/or delivered to and/or deposited with the Trustee hereunder, to be held as part of the Mortgaged and Pledged Property;

any such Qualified Lien Bonds constituting a part thereof to be held and disposed of under the provisions of Article X hereof; any such cash and/or obligations secured by purchase money mortgages on property released (including any proceeds or substitutes therefor) constituting a part thereof to be paid over, withdrawn, used or applied, in the manner, to the extent, and for the purposes and subject to the conditions provided in Section 13.06 hereof and with respect to cash and obligations secured by purchase money mortgages deposited under the provisions of Section 13.03 hereof; any bonds issued hereunder deposited with and then held by the trustee or other holder of such Qualified Lien cancelled and discharged, to be cancelled by the Trustee; and any other property constituting a part thereof to be subject to use and release as provided with respect to such property in Article XIII hereof.

Company
will not
permit the
amount of
Qualified
Lien Bonds
to be
increased;
exceptions

The Company hereby covenants that it will not permit the amount of Qualified Lien Bonds to be increased by the issue of additional Qualified Lien Bonds unless (1) the Qualified Lien Bonds representing such increase shall be issued upon transfer of, or in exchange for, or in lieu of Outstanding Qualified Lien Bonds on the exercise by a holder or holders of such Outstanding Qualified Lien Bonds of the right granted by the Qualified Lien securing such Qualified Lien Bonds to have such bonds issued or (2) the Qualified Lien Bonds representing such increase shall be deposited with the Trustee to be held under the provisions of Article X hereof and/or unless such Qualified Lien Bonds representing such increase shall be deposited with the trustee or other holder of a Qualified Lien (under conditions such that no transfer of ownership or possession of such Qualified Lien Bonds representing such increase by the trustee or other holder of such Qualified Lien is permissible except upon a default

thereunder, or except to the Trustee hereunder to be held subject to the provisions of Article X hereof, or to the trustee or other holder of a Qualified Lien for cancellation, or to be held uncanceled under the terms of a Qualified Lien under like conditions); that it will not apply under any provision of this Indenture for the authentication and delivery of any bonds or the withdrawal of cash or the release of property by reason of the deposit with the Trustee of such Qualified Lien Bonds representing such increase; and that it will not apply under any provision of any Qualified Lien (i) for the withdrawal of cash (which, after giving effect to the provisions of Section 13.06 hereof, is then deemed to be Funded Cash) held by the trustee or other holder of such Qualified Lien on the basis of Funded Property, unless such cash so withdrawn shall be deposited with the Trustee hereunder, to be held as part of the Mortgaged and Pledged Property, and to be withdrawn, used or applied in the manner, to the extent, and for the purposes and subject to the conditions provided in Section 13.06 hereof with respect to cash deposited under the provisions of Section 13.03 hereof, or (ii) for the release of obligations secured by purchase money mortgage (the proceeds of which, after giving effect to the provisions of Section 13.06 hereof, would then be deemed to be Funded Cash) held by the trustee or other holder of such Qualified Lien on the basis of Funded Property, unless such obligations so released shall be delivered to the Trustee hereunder, to be held as part of the Mortgaged and Pledged Property, and to be released and otherwise dealt with, in the manner, to the extent, and for the purposes and subject to the conditions provided in Section 13.06 hereof with respect to obligations secured by purchase money mortgage received by the Trustee in consideration of the release of property.

Conditions
on withdrawal
of cash or
release of
obligations
held under
Qualified
Lien

The Company hereby covenants that, upon the cancellation and discharge of any other lien prior hereto (upon property subject to the Lien hereof), securing indebtedness, other than Qualified Lien Bonds, the Company will cause all cash, purchase money obligations and other property then held by the trustee or other holder of such lien, which were received by such trustee or other holder by reason of the release of, or the purchase by a governmental authority or its designee of, or which represents the proceeds of the taking by eminent domain of, or insurance on, any of the Mortgaged and Pledged Property (including all proceeds of or substitution for any thereof) to be paid and/or delivered to and/or deposited with the Trustee hereunder, to be held as part of the Mortgaged and Pledged Property, any such cash and/or purchase money obligations

Deposit
with Trustee
of certain
property
upon
discharge
of prior
lien

§§9.13, 9.14; Art. X, §10.01

constituting a part thereof to be paid over, withdrawn, used or applied in the manner, to the extent, and for the purposes and subject to the conditions provided in Section 13.06 hereof with respect to cash and purchase money obligations deposited under the provisions of Section 13.03 hereof, and any other property constituting a part thereof to be subject to use and release as provided with respect to such property in Article XIII hereof.

Nothing in this Indenture contained shall be deemed to limit the right of any successor to the Company under the provisions of Article XVIII hereof which shall not have caused this Indenture or any indenture executed as in Section 18.02 hereof provided to become a lien upon any of the properties or franchises of the successor corporation except as contemplated by clauses (a), (b) and (c) of Section 18.03 hereof to increase the indebtedness secured by lien upon any of its properties or franchises not subject to the Lien of this Indenture or of any such indenture executed as in Section 18.02 hereof provided.

Annual
Certificate
of No
Default

SECTION 9.14. The Company hereby covenants that it will deliver to the Trustee, on or before October 1, 1989 and each October 1 thereafter, a written statement (which need not comply with Section 22.05 hereof) signed by an Authorized Executive Officer of the Company, and by its Secretary or an Assistant Secretary or an Authorized Financial Officer of the Company, stating, as to each signer thereof, that, to the best of his or her knowledge, the Company has fulfilled all its obligations under this Indenture throughout the preceding calendar year, or, if there has been a default in the fulfillment of any such obligation, specifying each such default known to him or her and the nature and status thereof.

ARTICLE X

Concerning Bonds Secured by Lien Prior to the Lien Hereof Deposited with Trustee

Requirements
upon deposit
of prior
lien bonds

SECTION 10.01. Each bond secured by lien prior hereto, upon property subject to the Lien hereof, in coupon form deposited with the Trustee shall be accompanied by all unmatured coupons when so deposited, or shall be accompanied by evidence satisfactory to the Trustee (which may be a certificate of the mortgagee or trustee under the lien prior hereto securing the same) that the discharge of the lien securing such bond may be obtained without the production of any coupon or

coupons that may be missing; and each bond secured by any such lien prior hereto so deposited shall be uncanceled. Each bond secured by any such lien prior hereto deposited hereunder shall be in bearer form or accompanied by appropriate instruments of transfer; and the Trustee may cause any or all registered bonds deposited under this Article X to be registered in its name as Trustee, or otherwise, or in the name or names of its nominee or nominees.

SECTION 10.02. All bonds secured by lien prior hereto, upon property subject to the Lien hereof, received by the Trustee for the purpose of this Article X shall be held by the Trustee, as part of the Mortgaged and Pledged Property and without impairment of the lien thereof, for the protection and further security of the bonds issued hereunder. Except during the continuance of a Default, no payment by way of principal, interest or otherwise on any of the bonds secured by any such lien prior hereto held by the Trustee shall be made or demanded and the coupons (if any) thereto appertaining as they mature shall be cancelled by the Trustee and delivered so cancelled to the Company, unless the Company shall, by an instrument in writing, signed by an Authorized Executive Officer of the Company, and by its Secretary or an Assistant Secretary or an Authorized Financial Officer of the Company, and delivered to the Trustee, elect with respect to any of such bonds, to have such payments made and demanded, in which event the Company shall, subject to the provisions hereinafter in this Section contained, be entitled to receive all such payments. In any event, except during the continuance of a Default as aforesaid, all cash received by the Trustee (a) on account of the principal of or interest or premium on said bonds, or (b) by reason of the sale or delivery of any of said bonds to the sinking fund or other similar device for the retirement of bonds provided for in any lien securing the same (as to both (a) and (b) above, to the extent that an Officers' Certificate delivered to the Trustee shall state that such cash is not cash which, after giving effect to the provisions of Section 13.06 hereof, is then deemed to be Funded Cash), shall be paid over by the Trustee to or upon the order of the Company; provided that, in the absence of such statement, the same shall be retained by the Trustee and held as part of the Mortgaged and Pledged Property, to be withdrawn, used or applied, in the manner, to the extent, and for the purposes, and subject to the conditions provided in Section 13.06 hereof with respect to cash deposited under the provisions of Section 13.03 hereof.

Prior lien bonds deposited with Trustee part of Mortgaged and Pledged Property

No payment of principal or interest except in Default

§10.03

ditions
cancellation
ale of
r lien
ds by
stee

SECTION 10.03. Except during the continuance of a Default, the Trustee, on the written request of the Company, signed by an Authorized Executive Officer of the Company, and by its Secretary or an Assistant Secretary or an Authorized Financial Officer of the Company, shall cause any bonds secured by lien prior hereto, upon property subject to the Lien hereof, held by it under this Article X to be cancelled, and the obligation thereby evidenced to be satisfied and discharged; provided, however, that it shall have received notice from the trustee or other holder of the lien securing the same that such trustee or other holder, on receipt of the bonds so held by the Trustee, will cause the lien securing the same to be satisfied and discharged of record; and provided, further, that the Trustee shall not be required to cause any bonds so held by it to be cancelled or to be surrendered for cancellation pursuant to the foregoing provisions of this Section, unless and until the Trustee shall have received an Opinion of Counsel to the effect that there is no outstanding lien (other than Excepted Encumbrances) covering any part of the Mortgaged and Pledged Property upon which such lien exists junior to such lien and senior to the Lien hereof. Upon similar request the Trustee shall sell (on such terms as the Company shall designate) or surrender any bonds held by it subject to this Article X to the trustee or other holder of the lien securing the same to be held uncanceled for the purposes of any improvement or sinking fund or other similar device for the retirement of bonds for which provision may have been made in the lien securing the bonds so sold or surrendered, or for cancellation, provided, however, that no such bonds shall be sold or surrendered except for cancellation as aforesaid until the Trustee shall have received an Opinion of Counsel to the effect (a) that the provisions of the lien securing the bonds so to be sold or surrendered are such that no transfer of ownership or possession of such bonds by the trustee or other holder of such lien is permissible thereunder except upon default thereunder or except to the Trustee hereunder, to be held subject to the provisions of this Article X, or to the trustee or other holder of any such lien prior hereto, for cancellation or to be held uncanceled under the terms of a lien prior hereto, upon property subject to the Lien hereof, under like conditions, or (b) that all of the property subject to the lien, with respect to which such bonds have been deposited with the Trustee, has been released from the Lien of this Indenture, which shall be stated in any event if such be the fact; and provided further that if all of the property subject to any lien securing bonds deposited under this Article X shall have been released from the Lien of this Indenture, such bonds as shall thereupon

§§10.03, 10.04

cease to be bonds secured by property subject to the Lien of this Indenture shall be surrendered forthwith by the Trustee to the Company upon its written request signed by an Authorized Executive Officer of the Company, and by its Secretary or an Assistant Secretary or an Authorized Financial Officer of the Company.

Prior to any sale or surrender of bonds by the Trustee in accordance with the foregoing provisions of this Section, there shall be delivered to the Trustee an Engineer's Certificate, made and dated not more than ninety (90) days prior to the date of the Company's request for such sale or surrender, stating the fair value, in the opinion of the signers, of the bonds to be sold or surrendered, and stating that, in the opinion of the signers, the release thereof will not impair the security under this Indenture in contravention of the provisions hereof.

On the request of the Company evidenced by an Officers' Certificate, the Trustee shall permit the extension of the maturity of and/or any other modification of any bonds (other than Class "A" Bonds or any other bonds of which the Company is the obligor) held by the Trustee subject to the provisions of this Article X and/or any modification of a lien prior to the Lien hereof.

Modification
of terms
of prior
lien bonds

SECTION 10.04. Upon the occurrence of any Default, the Trustee may exercise any and all rights of a bondholder with respect to the bonds then held by it under this Article X (other than the right to sell or otherwise alienate Class "A" Bonds or other bonds of which the Company is the obligor so as to increase the aggregate of the Company's debt) or may take any other action which shall in its judgment be desirable or necessary to avail itself of the security created for such bonds by the liens securing the same.

Rights of
Trustee
upon
Default

Art. XI, §§11.01, 11.02, 11.03

ARTICLE XI

Concerning Class "A" Bonds and Additional Class "A" Mortgages

Concerning
payments on
Class "A" Bonds

SECTION 11.01. The Trustee shall notify the trustees of the Class "A" Mortgages securing Class "A" Bonds held hereunder that no payments are to be made on such held Class "A" Bonds unless a Default hereunder has occurred and is continuing and that the Trustee will notify such trustees of any such Default.

Concerning
deposit of
Class "A" Bonds

SECTION 11.02. Each Class "A" Bond deposited with the Trustee pursuant to Section 4.01 hereof shall be (1) in bearer form, (2) registered in the name of the Trustee or its nominee or (3) accompanied by appropriate instruments of transfer. Each such Class "A" Bond in coupon form so deposited shall be accompanied by all unmatured coupons when so deposited and each such Class "A" Bond so deposited shall be uncanceled. The Trustee may cause any or all registered Class "A" Bonds to be registered in the name of the Trustee, or in the name or names of its nominee or nominees.

Voting of
Class "A" Bonds
held by Trustee

SECTION 11.03. Unless the Company is in default in the payment of the interest on any bonds then Outstanding hereunder or one or more Defaults shall have occurred and be continuing:

(a) the Trustee shall vote all bonds issued under the Pacific Mortgage then held by it, or consent with respect thereto, in favor of any or all amendments or modifications of the Pacific Mortgage of substantially the same tenor and effect as any or all of those set forth in Exhibit X to this Indenture;

(b) the Trustee shall vote all bonds issued under the Utah Mortgage then held by it, or consent with respect thereto, in favor of any or all amendments or modifications of the Utah Mortgage of substantially the same tenor and effect as any or all of those set forth in Exhibit Y to this Indenture; and

(c) with respect to any other amendments or modifications of a Class "A" Mortgage, the Trustee shall vote all Class "A" Bonds Outstanding under said Mortgage and then held by it, or consent with respect thereto, proportionately with the vote or consent of the holders of all other Class "A" Bonds then voting in person or by proxy or consenting in writing under the Class "A" Mortgage (other than

§§11.03, 11.04, 11.05, 11.06

Class "A" Bonds similarly either deposited or pledged); provided, however, if the Class "A" Bonds held by the Trustee are more adversely affected than any Class "A" Bonds not so held, then the Trustee need not so vote without the consent in writing of the holders of a majority in principal amount of the bonds Outstanding hereunder.

SECTION 11.04. The Company covenants that it will not issue any additional Class "A" Bonds except to the Trustee hereunder or, as permitted by the provisions of the applicable Class "A" Mortgage, to replace Class "A" Bonds at the time Outstanding.

Concerning issue of additional Class "A" Bonds

SECTION 11.05. The Company covenants that it will not issue any additional Class "A" Bonds under any provision of any Class "A" Mortgage that permits the issuance of new first mortgage bonds on the basis of first mortgage bonds retired (e.g., Section 29 of the Pacific Mortgage or Section 29 of the Utah Mortgage), except for delivery to the Trustee pursuant to the provisions of Section 4.01 hereof as the basis for the authentication and delivery of bonds hereunder in connection with which an Officers' Certificate is delivered to the Trustee stating that such bonds are to be issued to refund bonds issued hereunder on the basis of such Class "A" Bonds retired, or to refund Class "A" Bonds issued by PacifiCorp, an Oregon corporation, or by its predecessors, PacifiCorp, a Maine corporation (earlier known as Pacific Power & Light Company), or Utah Power & Light Company, a Utah corporation, or its predecessor, Utah Power & Light Company, a Maine corporation, prior to the merger of those corporations into the Company, or to refund bonds hereinafter designated as Class "A" Bonds issued by any corporation prior to its merger into or consolidation with the Company hereafter.

Conditions for issuance of additional Class "A" Bonds

SECTION 11.06. (I) In the event that a corporation which was the mortgagor under a mortgage or deed of trust or similar indenture qualified under the Trust Indenture Act is hereafter merged into or consolidated with the Company, such mortgage, deed of trust or similar indenture may be designated an additional Class "A" Mortgage hereunder, upon delivery to the Trustee of the following:

Designation of additional Class "A" Mortgages

Requirements:

(a) a Resolution authorizing the designation of such mortgage, deed of trust or similar indenture as an additional Class "A" Mortgage hereunder;

(a) Resolution

S11.06

(b) Officers' Certificate

(b) an Officers' Certificate complying with the requirements of Section 22.05 hereof, (i) stating that the Company is not in default under such mortgage, deed of trust or similar indenture, (ii) reciting the aggregate principal amount of bonds theretofore issued under such mortgage, deed of trust or similar indenture and the aggregate principal amount of bonds then outstanding thereunder, and (iii) either (x) stating that all bonds outstanding under such mortgage, deed of trust or similar indenture that were issued on the basis of property additions were issued in principal amounts that did not exceed seventy per centum (70%) of the balance of the cost or fair value of such property additions to the issuer of such bonds (whichever was less) after making deductions and additions similar to those provided for in Section 1.04 hereof or in Section 4 of the Pacific Mortgage or in Section 4 of the Utah Mortgage, or (y) in the event that the foregoing clause (x) is not the case, stating that the Company has (by the certification of the requisite amounts of previously unfunded property additions as set forth in an Engineer's Certificate in the form prescribed by subsection 28(3) of the Pacific Mortgage or subsection 28(3) of the Utah Mortgage or the comparable section of such other mortgage, deed or trust or similar indenture) irrevocably waived its right to the authentication and delivery of further bonds under such mortgage, deed of trust or similar indenture in a principal amount equal to the difference between the aggregate dollar amount of property additions certified to the trustee under such mortgage, deed of trust or similar indenture as the basis for all bonds outstanding thereunder that were issued on the basis of property additions (and outstanding bonds issued on the basis of retirements of bonds issued on the basis of property additions) and ten-sevenths (10/7ths) of the aggregate principal amount of all such outstanding bonds; and

(c) Opinion of Counsel

(c) an Opinion of Counsel complying with the requirements of Section 22.05 hereof, stating the signer's opinion to the effect that: (i) the corporation that was the mortgagor under such mortgage, deed of trust or similar indenture has been duly and lawfully merged into or consolidated with the Company; (ii) such mortgage, deed of trust or similar indenture is qualified under the Trust Indenture Act; (iii) the Company has duly assumed and agreed to perform and pay the obligations of the mortgagor under such mortgage, deed of trust or similar indenture; (iv) such mortgage, deed of trust or similar

§11.06

indenture, when designated a Class "A" Mortgage pursuant to the provisions of this Section 11.06, will constitute a lien upon the property described therein prior to the Lien hereof; (v) the Lien hereof will constitute a lien on the property described in such mortgage, deed of trust or similar indenture subject to no lien thereon prior or equal to the Lien of this Indenture except Qualified Liens, Excepted Encumbrances and the lien of such mortgage, deed of trust or similar indenture; (vi) the terms of such mortgage, deed of trust or similar indenture as then in effect do not permit the further issuance of bonds thereunder except on the basis of cash, property additions of a character substantially similar to those described in Section 1.04 hereof or in Section 4 of the Pacific Mortgage or in Section 4 of the Utah Mortgage, or the retirement of outstanding bonds; (vii) the terms of such mortgage, deed of trust or similar indenture as then in effect do not permit the further issuance of bonds thereunder upon the basis of property additions in a principal amount exceeding seventy per centum (70%) of the balance of the cost or the fair value thereof to the issuer thereunder (whichever shall be less) after making deductions and additions similar to those provided for in Section 1.04 hereof or in Section 4 of the Pacific Mortgage or Section 4 of the Utah Mortgage; and (viii) that the indenture supplemental hereto referred to in subdivision (II) of this Section 11.06 complies with the requirements of clauses (i), (ii) and (iii) of said subdivision (II).

(II) At such time as the Company and the Trustee have executed, and the Company has caused to be recorded, an indenture supplemental hereto (i) in which such mortgage, deed of trust or similar indenture has been designated as an additional Class "A" Mortgage, (ii) by which the Company has imposed the Lien of this Indenture upon properties (of the character defined in Section 1.04 hereof as Property Additions) acquired by the Company from such corporation by virtue of the merger or consolidation (and later improvements, extensions and additions thereto and renewals and replacements thereof) as contemplated by Section 18.03 hereof, and (iii) by which such mortgage, deed of trust or similar indenture has been amended to provide that a default thereunder shall include the existence of any "Default," as defined under the Pacific Mortgage, or the existence of any "Default," as defined under the Utah Mortgage, or the existence of any default under another Class "A"

Status of
additional
Class "A" Mortgages
and additional
Class "A" Bonds

§11.06; Art. XII, §§12.01, 12.02

Mortgage, which then permits the declaration of the principal of all of the bonds secured by such Class "A" Mortgage and the interest accrued thereupon due and payable (provided that if such default or Default under such Class "A" Mortgage shall be remedied or cured by the Company or waived by the holders of such indebtedness, then the default under such mortgage, deed of trust or similar indenture by reason thereof shall be deemed likewise to have been thereupon remedied, cured or waived without further action upon the part of any party), then such mortgage, deed of trust or similar indenture and all bonds issued and outstanding thereunder shall for all purposes hereof be treated as a Class "A" Mortgage and as Class "A" Bonds to the full and same extent as if specifically identified in Section 1.02 hereof.

ARTICLE XII

Redemption or Purchase of Bonds

What bonds
redeemable

SECTION 12.01. Such of the bonds of any series issued hereunder as are, by their terms, redeemable before maturity, may, at the option of the Company or pursuant to the requirements of this Indenture be redeemed at such times, in such amounts and at such prices as may be specified therein and in accordance with the provisions of the three next succeeding Sections numbered from 12.02 to 12.04, both inclusive.

Redemption of part
of any series;
selection

SECTION 12.02. If less than all the Outstanding bonds of any series are to be redeemed, the particular bonds to be redeemed shall be selected by the Trustee from the Outstanding bonds of such series which have not previously been called for redemption by such method as the Trustee shall deem fair and appropriate. Notwithstanding the foregoing, special provisions for the selection of the particular bonds to be redeemed within a particular series may be provided by a supplemental indenture to this Indenture.

Notice

Unless otherwise established in accordance with Section 2.03 with respect to a particular series of bonds, notice of redemption to owners and/or holders of any bonds which are not registered as to both principal and interest or as to only principal shall be given, by or on behalf of the Company, by publication in one Daily Newspaper of general circulation in the Borough of Manhattan, The City of New York, and in one Daily Newspaper of general circulation in the City of Portland, Oregon, once before the date fixed for redemption, the publication to be at least thirty

(30) days prior to the date fixed for redemption. If less than all bonds of any particular series are to be redeemed, unless otherwise provided as to a particular series of bonds, the numbers of any bonds to be redeemed which are not so registered shall be included in such notice and may be stated: individually; in groups from one number to another number, both inclusive, except such as shall have been previously called for redemption or otherwise retired; or in any other way satisfactory to the Trustee.

Unless otherwise so provided as to a particular series of bonds, notice of redemption to the registered owner of any bond registered as to principal and interest or as to principal only which is to be redeemed in whole or part shall be mailed by or on behalf of the Company, not less than thirty (30) days before the date fixed for redemption, to him, her or it, at his, her or its last address appearing upon the registry books.

Notice to be mailed
at least thirty days
before redemption

Failure duly to give such notice by publication and/or by mailing to the owner or holder of any bond designated for redemption in whole or in part shall not affect the validity of the proceedings for the redemption of any other bond.

Failure to give
notice does not
effect validity

Unless otherwise so provided as to a particular series of bonds, if at the time of publication or mailing of any notice of redemption the Company shall not have deposited with the Trustee and/or irrevocably directed the Trustee to apply, from money held by it available to be used for the redemption of bonds, an amount in cash sufficient to redeem all of the bonds called for redemption, including accrued interest to such date fixed for redemption, such notice shall state that it is subject to the receipt of the redemption moneys by the Trustee before the date fixed for redemption (unless such redemption is mandatory) and such notice shall be of no effect unless such moneys are so received before such date.

Redemption may be
conditional on
deposit of moneys

The Trustee, upon the request of the Company evidenced by a Resolution delivered to the Trustee at least fifteen (15) days prior to the date on which notice of redemption must first be published or mailed (unless a shorter notice shall be accepted by the Trustee as sufficient) shall, for and on behalf of and in the name of the Company, call for redemption bonds secured hereby (whether or not the Trustee shall hold at the time of such call cash sufficient for such redemption) provided that, if cash sufficient for such purpose is not so held and such redemption is not mandatory, the notice shall state that it is subject to the receipt of the redemption moneys by the Trustee before the date fixed for

§§12.02, 12.03, 12.04, 12.05

redemption and such notice shall be of no effect unless such moneys are so received before such date.

Deposit of
redemption price
with Trustee

SECTION 12.03. Publication of the notice of redemption, if required, having been completed as above provided, or if mailing is required, notice of redemption having been mailed, as in Section 12.02 hereof provided, and the Company having before the redemption date specified in the notice of redemption deposited with the Trustee (and/or having irrevocably directed the Trustee to apply, from money held by it available to be used for the redemption of bonds) an amount in cash sufficient to redeem all of the bonds called for redemption, including accrued interest, the bonds called for redemption shall become due and payable on such redemption date.

Moneys to be paid
to respective holders
upon surrender of
bonds and
unmatured coupons

SECTION 12.04. All moneys held by the Trustee for the redemption of bonds shall, subject to the provisions of Section 22.03 hereof, be held in trust for account of the holders of the bonds so to be redeemed, and shall be paid to them, respectively, upon presentation and surrender of said bonds, with (if required by the Company) all unmatured coupons, if any, appertaining thereto. Coupons maturing on or prior to the date fixed for redemption shall remain payable in accordance with their terms. On and after such date fixed for redemption, if the moneys for the redemption of the bonds to be redeemed shall be held by the Trustee for the purpose, such bonds shall cease to bear interest and shall cease to be entitled to the Lien of this Indenture and the coupons for interest, if any, maturing subsequent to the date fixed for redemption shall be void.

Bonds cease to
bear interest

Redemption of
portion of
registered bond

If any fully registered bond shall be called for redemption in part only, the notice of redemption shall specify the principal amount thereof to be redeemed, and such fully registered bond shall be presented for cancellation properly endorsed for transfer (if required by the Company) at or after the date fixed for the redemption of said bonds so called for redemption, and thereupon the payment with respect to said bond shall be made upon surrender of said bond so endorsed (if required), and coupon bonds or fully registered bonds for the unpaid balance of the principal amount of the fully registered bond so presented and surrendered shall to the extent authorized be executed by the Company and authenticated and delivered by the Trustee without charge therefor to the holder thereof.

Purchase of bonds
by Trustee

SECTION 12.05. At any time, upon the request of the Company, expressed by an Officers' Certificate, the Trustee shall, to the extent that

§§12.05, 12.06

such bonds are available for such purchase, apply all or any part of the cash held by it under any provision of this Indenture, subject to the provisions of Sections 7.03 and 12.04 hereof, or any cash deposited with it by the Company for the purpose, to the purchase (including a purchase from the Company) of bonds then Outstanding hereunder of such series as the Company may designate. Before making any such purchase the Trustee may, and upon request of the Company shall, by notice mailed in accordance with the provisions of subdivision (c) of Section 19.13 hereof if all of the bonds then Outstanding hereunder of such series are registered or the addresses of the holders thereof are on file, otherwise published once in one Daily Newspaper of general circulation in the Borough of Manhattan, The City of New York, and in one Daily Newspaper of general circulation in the City of Portland, Oregon, advertise for written proposals (to be received by it on or before a specified date) to sell to it on or before a subsequent specified date bonds of the series designated by the Company then Outstanding hereunder; and the Trustee, to the extent, as nearly as is possible, of such funds then in its hands and requested by the Company to be so applied, shall purchase the bonds so offered at the price or prices most favorable to the Company, and reasonable notice shall be mailed by the Trustee to the holder or holders of the bonds whose proposals shall have been accepted. The Trustee shall, upon request of the Company, invite offers of bonds for sale to it in any other usual manner. The Trustee in its discretion may reject any or all proposals in whole or in part, and shall reject any or all proposals in whole or in part if on the same day after opening said proposals it has actual knowledge that it can purchase the requisite amount of such bonds or any part thereof at a price more favorable to the Company than it could by accepting said proposals. All offers by holders shall be subject to acceptance of a portion thereof unless otherwise expressed in the offers and all advertisements for written proposals shall so state. Nothing herein contained shall be deemed to prohibit the Company from purchasing or otherwise acquiring Outstanding bonds in any manner it may deem appropriate.

Notice

SECTION 12.06. All bonds issued hereunder paid, retired or redeemed under any of the provisions of this Indenture or purchased by the Trustee as provided in Section 12.05 hereof and all appurtenant coupons, if any, shall forthwith be cancelled by the Trustee. Unless the Company otherwise directs in writing, the Trustee shall periodically destroy any such cancelled coupon bonds and deliver to the Company a certificate of such destruction, and shall deliver any such cancelled fully registered bonds to the Company.

Retired bonds to
be cancelled