

for the uncalled part of any fully registered Bond called only in part) no Bonds shall be authenticated and delivered in lieu thereof or to refund the same so long as any of the Bonds of the 1983 Series shall remain outstanding.

ARTICLE V.

AMENDMENTS OF INDENTURE.

SECTION 5.01. The Original Indenture is hereby amended by deleting § 1.04(i) thereof as heretofore amended and inserting in lieu thereof the following:

“(i) So long as any Bonds of the 1976 Series, of the 1977 Series, of the 1981 Series or of the 1983 Series are outstanding, the term ‘minimum provision for depreciation’ for any period subsequent to March 31, 1952 shall mean the greater of (a) the amount of depreciation on the books of the Company for such period determined in accordance with sound accounting practice, or (b) the amount of depreciation computed for such period at the rate of 2½% per annum of the average gross book value of depreciable property of the Company, determined upon the basis of the gross book value of such depreciable property at the beginning and end of the initial period (which initial period shall be from April 1, 1952 to the end of the calendar year 1952) and thereafter at the beginning and end of each calendar year, or if any period covering a fraction of a year is involved in any such determination, at the beginning and end of such fractional period of a year. The gross book value of the depreciable property acquired from Duke Power Company or any other operating gas utility shall mean the gross book value thereof as shown on the books of Duke Power Company or such other operating gas utility on the date of acquisition by the Company, and shall mean as to any other property, the cost thereof to the Company. Fractions of a calendar month shall be disregarded in making any calculation of minimum depreciation for any period of time.

After all of the Bonds of the 1976 Series, the 1977 Series, the 1981 Series and the 1983 Series shall have ceased to be outstanding, the term ‘minimum provision for depreciation’ shall have such meaning as may be provided in an indenture supplemental hereto establishing the terms and provisions of a subsequent series of the Bonds.”

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SECTION 5.02. The Original Indenture is hereby amended by adding at the end of Article I thereof the following § 1.10:

“§ 1.10. The term ‘Combined Capitalization’ shall mean, as at any time, the aggregate, computed on a consolidated basis for the Company and all subsidiaries, of the following items:

(a) the par value of, or the stated capital represented by, all outstanding shares of capital stock of all classes of the Company and all premiums paid thereon;

(b) all amounts, if any, attributable in consolidation to minority interests in subsidiaries;

(c) the earned surplus (or deficit), capital surplus, paid-in surplus, and any other surplus of the Company and all subsidiaries, whether or not available for the payment of dividends; and

(d) the aggregate principal amount of all indebtedness of the Company and all subsidiaries maturing more than one year after the date of creation thereof.

Combined Capitalization shall be determined in accordance with generally accepted accounting principles and practices and, when appropriate, shall be determined on a pro forma basis in such a manner as to give effect to all relevant transactions occurring in connection with (i) any proposed merger or consolidation of the Company with or into any other corporation, authority or legal entity, or any proposed merger of any thereof into the Company, (ii) any proposed acquisition by the Company of all or any part of the properties of any other corporation, authority or legal entity, and (iii) any proposed acquisition by the Company of shares of the capital stock or other securities of any other corporation, authority or legal entity.”

SECTION 5.03. The Original Indenture is hereby amended by deleting item (8) of subparagraph (b) of § 1.07 thereof as heretofore amended and inserting in lieu thereof the following:

“(8) so long as any of the Bonds of the 1976 Series or of the 1977 Series or of the 1981 Series or of the 1983 Series shall be outstanding, such amount of Bonds as shall be used to satisfy the provisions of, or retired through the operation of the sinking fund for the Bonds of the 1976 Series or of the 1977 Series or of the 1981 Series or of the 1983 Series;”