

or other minerals, and other like purposes, or for the joint or common use of real property, facilities and equipment, and minor defects and irregularities in titles of any property, which respectively do not materially impair the use of such property for the purposes for which it is 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, as shown by an

Engineer's Certificate, does not materially impair the use of such property for the purposes for which it is held by the Company; or

(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.

The term "Prior Lien" shall mean any mortgage or other lien (not included in the term Excepted Encumbrances as defined in this Section) 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 the authentication and delivery of bonds or the withdrawal of cash or the release of property or the basis of a credit under the provisions of Section 38 or Section 39 hereof.

The term "Prior Lien Bonds" shall mean bonds, obligations or other principal indebtedness secured by Prior Lien. The term "Outstanding" with respect to Prior Lien Bonds shall mean as of any particular time all Prior Lien Bonds theretofore authenticated and delivered by the trustee or other holder of the Prior Lien securing the same and/or, if there be no such trustee or other holder, all Prior Lien Bonds theretofore made and delivered by the maker (or his successor) of such Prior Lien, except (a) Prior Lien Bonds theretofore paid, retired, redeemed, discharged or canceled, (b) Prior Lien Bonds held hereunder, (c) Prior Lien Bonds held by the trustee or other holder of a Prior Lien (under conditions such that no transfer of ownership or possession of such Prior Lien Bonds by the trustee or other holder of such Prior Lien is permissible thereunder except upon a default thereunder or except to the Corporate Trustee hereunder to be held subject to the provisions of Article IX hereof or to the trustee or otherholder of a Prior Lien for cancellation or to be held uncanceled under the terms of a Prior Lien under like conditions) (d) Prior 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 Corporate Trustee hereunder or by the trustee or other holder of a Prior Lien; provided that, in the case of redemption, the notice required therefor shall have been given or have been provided for to the satisfaction of the Corporate Trustee, and (e) Prior Lien Bonds upon transfer of which or in exchange or substitution for and/or in lieu of which other Prior Lien Bonds have been authenticated and delivered or made and delivered under any of the provisions of the Prior Lien securing such Prior Lien Bonds.

SECTION 7. The Term "Net Earning Certificate" shall mean a certificate and verified by the President or a Vice-President and the Treasurer or an Assistant Treasurer of the Company, stating

(A) the 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, with the principal divisions thereof;

(2) its operating expenses, with the principal divisions thereof, including, but without limitation, all expenses and accruals for repairs and maintenance and all appropriations out of income for property retirements not only in respect of the Mortgaged and Pledged Property but also in respect of all other property owned or held under lease and operated by the Company; provided, however, that, in lieu of including in such operating expenses the amounts actually expended or accrued for repairs and maintenance of property owned by the Company and used in its electric public utility business and the amounts actually appropriated out of income for retirement of such property there shall be included in such operating expenses an amount equal to fifteen per centum (15%) of the Gross Operation Revenues of the Company (as in this Section defined) during such period of twelve (12) consecutive calendar months, after there shall have been deducted from such amount equal to such fifteen per centum (15%) any amount thereof applicable to such period, or any part thereof, which is in excess of the amount the Company is permitted (by any regulatory authority having jurisdiction for the purpose) to include in operating expenses (in calculating the return on the Mortgaged and Pledged Property and on the automotive equipment used primarily in its electric utility business), or to charge against income, in either case for maintenance of and for provision for property retirement in respect of the Mortgaged and Pledged Property and automotive equipment used primarily in the electric utility business of 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 expenses for plants or systems not otherwise deducted from revenues or from other income in such certificate;