

and caused to be recorded by the successor corporation as in this Section provided, or a subsequent indenture, shall contain a conveyance or transfer and mortgage in terms sufficient to subject such property to the Lien hereof; and provided further that the lien created thereby and the lien thereon shall have similar force, effect and standing as the Lien of this Indenture would have if the Company should not be consolidated with or merged into such other corporation or should not convey or transfer, subject to this Indenture, all or substantially all the Mortgaged and Pledged Property as an entirety, as aforesaid, to such successor corporation, and should itself on or after the date of such consolidation, merger, conveyance or transfer, acquire or construct such property, and in respect thereof should request the authentication and delivery of bonds or the withdrawal of cash or the release of property under the provisions of this Indenture or take a credit under Section 38 or Section 39 hereof.

The Trustees, subject to the provisions of Section 88 and Section 89 hereof, may receive an Opinion of Counsel as conclusive evidence that any such assumption and any such lien and any such indenture complies with the foregoing conditions and provisions of this Section.

SECTION 87. In case the Company, as permitted by Section 85 of this Indenture, shall be consolidated with or merged unto any other corporation, or shall convey or transfer, subject to this Indenture, all or substantially all the Mortgaged and Pledged Property as an entirety as aforesaid, neither this Indenture nor the indenture with the Trustees to be executed and caused to be recorded by the successor corporation as in Section 86 hereof provided, shall, unless such indenture shall otherwise provide, become or be a lien upon any of the properties or franchises of the successors corporation except (a) those acquired by it from the Company, and improvements, extensions and additions thereto and renewals and replacements thereof, (b) the property made and used by the successor corporation as the basis under any of the provisions of this Indenture for the authentication and delivery of additional bonds or the withdrawal of cash or the release of property or a credit under Section 38 or Section 39 hereof and (c) such franchises, repairs and additional property as may be acquired, made or constructed by the successor corporation (1) to maintain, renew and preserve the franchises covered by this Indenture, or (2) to maintain the property mortgaged and intended to be mortgaged hereunder as an operating system or systems in good repair, working order and condition, or (3) in pursuance of some covenant or agreement hereof to be kept or performed by the Company.

#### ARTICLE XVI

##### CONCERNING THE TRUSTEES.

SECTION 88. The Corporate Trustee shall at all times be a bank or trust company eligible under Section 35 hereof and have a combined capital and surplus of not less than Five Million Dollars (\$5,000,000). If the Corporate Trustee publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority referred to in Section 35 hereof, then for the purposes of this Section the combined capital and surplus of the Corporate trustee shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

Any Individual Trustee appointed in succession to Frederick G. Herbst shall always be an individual, a citizen of the United States of America, unless otherwise required by law.

The Trustees hereby accept the trust hereby created. The Trustees undertake, prior to Default, and after the curing of all Defaults which may have occurred, to perform such duties and only such duties as are specifically set forth in this Indenture, and in case of Default (which has not been cured) to exercise such of the rights and powers vested in them by this Indenture, and to use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

The Corporate Trustee, upon receipt of evidence furnished to it by or on behalf of the Company pursuant to any provision of this Indenture, will examine the same to determine whether or not such evidence conforms to the requirements of this Indenture.

SECTION 89. No provision of this Indenture shall be construed to relieve the Trustee or either of them from liability for their, its or his own negligent action, their, its or his own negligent failure to act, or their, its or his own wilful misconduct, except that

(a) prior to Default hereunder and after the curing of all Defaults which may have occurred, the Trustees or either of them shall not be liable except for the performance of such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustees or either of them but the duties and obligations of the Trustees or either of them, prior to Default and after the curing of all Defaults which may have occurred, shall be determined solely by the express provisions of this Indenture; and

(b) prior to Default hereunder and after the curing of all Defaults which may have occurred and in the absence of bad faith on the part of the Trustees or either of them, the Trustees or either of them may conclusively rely as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions conforming to the requirements of this Indenture; and

(c) The Trustee or either of them shall not be personally liable for any error of