

BOOK 1479 ... 80

Section 12.23. All parties to this Indenture agree, and each Holder of any Bond by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustees, or either of them, for any action taken or omitted by them, it or him, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but to the extent permitted by law the provisions of this Section 12.23 shall not apply to any suit instituted by the Trustees, or either of them, to any suit instituted by any Bondholder or group of Bondholders holding in the aggregate more than 10% in aggregate principal amount of the Outstanding Bonds, or to any suit instituted by any Bondholder for the enforcement of the payment of the principal of, premium, if any, or interest on any Bond on or after the respective Stated Maturities expressed in such Bond (or, in the case of redemption, on or after the Redemption Date).

Section 12.24. To the extent that any provision of this Article 12 may be invalid or unenforceable under any applicable law with respect to any of the Mortgaged and Pledged Property, such provision shall be deemed inoperative and inapplicable and shall not be included in the terms of this Indenture.

Section 12.25. The Company and any Consolidated Subsidiary may waive any period of grace provided for in this Article 12.

Section 12.26. In case the Trustees or any Bondholder shall have proceeded to enforce any right or remedy under this Indenture by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustees or to such Bondholder, then and in every such case the Company, the Trustees and the Bondholders, subject to any determination in such proceedings, shall be restored severally and respectively to their former positions and rights hereunder, and thereafter all rights, remedies and powers of the Trustees and Bondholders shall continue as if no such proceedings had been instituted.

Section 12.27. The Holders of not less than the required percentage in principal amount of the Outstanding Bonds specified in Section 12.03 hereof may on behalf of the Holders of all the Bonds waive any past Default hereunder and its consequences, except a Default

(1) in the payment of the principal of (or premium, if any) or interest on any Bond, or

(2) in respect of a covenant or provision hereof which under Article 19 cannot be modified or amended without the consent of the Holder of each Outstanding Bond affected.

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