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fair value to the Company of the property replaced, renewed or improved, and if

(1) within six months prior to the date of acquisition by the Company of the property (used to repair, replace or improve the property so damaged or destroyed), 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

(2) the fair value to the Company of the property (used to repair, replace or improve the property so damaged or destroyed) as set forth in such Engineer's Certificate is not less than $25,000 and not less than 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 repaired, replaced or improved is subject to the lien of this Indenture to the same extent as was the property so damaged or destroyed.

Any such moneys not so applied within 18 months after their receipt by the Trustee, or in respect of which notice in writing of intention to apply the same to the work of repair, replacement or improvement then in progress and uncompleted shall not have been given to the Trustee by the Company within 18 months, or which the Company shall at any time notify the Trustee is not to be so applied, shall thereafter be withdrawn or applied in the manner, to the extent and for the purposes and subject to the conditions provided in §9.02 or §9.07.

§5.07. The Company will at all times make or cause to be made such expenditures by means of renewals, replacements, repairs, maintenance or otherwise as shall be necessary to maintain, preserve and keep the mortgaged property at all times in good repair, physical condition, working order and condition and in a state of good operating efficiency, except that the Company may abandon any property as provided in §8.02(b). The Company covenants that it will promptly retire on its books of account all property included in plant account