

(iii) that, so far as is known to the signers, the Company is not, and by the making or granting of the application will not be, in default in the performance of any of the terms and covenants of this Indenture; and

(iv) the aggregate fair value of such property to be released and of all property released from the lien of this Indenture pursuant to this § 8.03 during the then current calendar year.

(c) In case the fair value of such property to be released and of all other property released from the lien of this Indenture since the commencement of the then current calendar year, as shown by certificates filed pursuant to *Subdivision (b)* of this § 8.03 or this *Subdivision (c)*, is 10% or more of the aggregate principal amount of Bonds outstanding at the time of the application then being made, an Independent Engineer's Certificate, dated within 30 days prior to the date of such application, stating in substance:

(i) the fair value as of the date of the Certificate, in the opinion of the signer, of the property to be released and the amount of cash and the fair value of any other consideration received or to be received by the Company from the sale or other disposition of the property to be released; and

(ii) that such release, in the opinion of the signer, will not impair the security under this Indenture;

provided, however, that no Independent Engineer's Certificate need be delivered to the Trustee in the case of any release of property if the fair value thereof, as shown by the Certificate filed pursuant to *Subdivision (b)* of this § 8.03, is less than \$250,000.

(d) In the case of the release of property other than purchase money obligations of the nature specified in this *Subdivision (d)*, cash, which shall be received and applied by the Trustee as part of the trust estate, in an amount at least equal to the amount by which the greater of (i) the fair value of the property to be released or (ii) the sum of the cash and the fair value of any other consideration received or to be received by the Company, in either case as specified in the Engineer's Certificate or Independent Engineer's Certificate, exceeds an amount equal to the lesser of the aggregate principal amount or fair value of obligations secured by a closed purchase money lien on the property to be released deposited with the Trustee and mortgaged and pledged hereunder; provided, however, that the Company shall not be entitled