

the following statement: "The powers hereby conferred shall not be exercised for any purpose inconsistent with the provisions of the First and Refunding Mortgage and Indenture of Trust of Empire Gas and Fuel Company, dated as of May 1, 1922". An opinion of counsel (who may be of counsel for the Company) that the purpose or purposes expressed in any power of attorney or proxy which the Trustee is requested to give in the form authorized by the foregoing clause (a) are not inconsistent with the provisions of this Indenture, shall be full protection to the Trustee in giving such power of attorney or proxy.

SECTION 4. Unless some default described in clauses (a), (b) or (c) of Section 1 of Article XI hereof, or one of the Events of Default as defined in said Section 1 of Article XI, shall have occurred, and in either case be then continuing, the Company or the proper Subsidiary Company shall, subject to the rights of the respective trustees of the underlying Mortgages, be entitled to receive all interest or dividends paid out of earnings (exclusive of profits realized from the sale of property other than current assets, including stores and supplies and oil and gas above ground as current assets) except that in the case of interest or dividends paid by a Subsidiary Company hereafter acquired the Company or the proper Subsidiary Company shall be entitled to receive only interest or dividends paid out of earnings derived since the date of acquisition; and from time to time upon the request of the Company the Trustee shall forthwith deliver to it, as they mature, the coupons for such interest in order that the Company may receive payment thereof for its own use, and shall deliver to the Company, if necessary, suitable orders in favor of the Company or its nominee or nominees for the payment of such interest and dividends, and the Company may collect such interest and dividends, and the Trustee shall at once pay over to the Company any such interest or dividends which may have been collected or received by it; provided, nevertheless, that

(1) The Company shall not sell, assign or transfer any coupon or right to interest or dividends delivered or assigned to it, other than to a Subsidiary Company.

(2) Neither it nor any Subsidiary Company shall collect any such coupons or interest by legal proceedings or by the enforcement of any security therefor without the prior written assent of the Trustee, nor in any manner which the Trustee shall deem prejudicial to the bonds issued hereunder.

(3) Until actually paid or discharged, every such coupon or right to interest or dividend shall in all respects remain subject to the lien of this Indenture.

(4) If any such coupons, so delivered to the Company, shall not be forthwith paid or cancelled, the Company shall return the same to the Trustee, subject to the right to have the same redelivered to the Company for payment or cancellation, and in case of payment or cancellation of any such coupon or claim for interest, the Company shall, upon demand furnish to the Trustee satisfactory evidence thereof.

The Trustee shall be entitled to assume that any interest received by it on any security, claim or indebtedness, or any dividend received on any share of stock, is paid out of earnings which the Company or the proper Subsidiary Company is entitled to receive, unless it is notified in writing to the contrary by holders of ten per cent. of the bonds of Series "A" (as long as bonds of Series "A" are outstanding) and in the absence of any such written notification it shall be conclusively presumed, as between the Trustee and the bondholders, that the Trustee in making any payments thereof to the Company acted in good faith.

SECTION 5. The Trustee shall be entitled to receive all moneys paid on account of the principal or any securities held in pledge by it, and all stock dividends on any shares of stock so held in pledge, and all cash dividends, other than dividends