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July 3, 2023

Ms. Luly Massaro, Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

**Re: *Docket No. 22-47-WW- The Narragansett Bay Commission
General Rate Filing***

Dear Ms. Massaro:

Enclosed please find an original and nine copies of the following:

1. The Narragansett Bay Commission's Response to the Rhode Island Public Utilities Commission's Hearing Record Request.

Please note that an electronic copy of this document has been provided to the service list.
Thank you for your attention to this matter.

Sincerely,



Joseph A. Keough, Jr.

cc: Docket 22-47-WW Service List (*via electronic mail*)

DOCKET 22-47-WW
The Narragansett Bay Commission's Response
To the Rhode Island Public Utilities Commission's
Hearing Record Requests

Comm. RR-1: Please provide a full copy of NBC's Trust Indenture.

Response: Please see attached.

Prepared by: Karen Giebink

TRUST INDENTURE

Between

NARRAGANSETT BAY COMMISSION

and

J.P. MORGAN TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee

securing

WASTEWATER SYSTEM REVENUE BONDS

Dated as of April 15, 2004

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TRUST INDENTURE

THIS TRUST INDENTURE (the "Indenture") dated as of April 15, 2004 is made by and between the NARRAGANSETT BAY COMMISSION (the "Commission"), a public corporation organized and existing under the laws of the State of Rhode Island, and J.P. MORGAN TRUST COMPANY, NATIONAL ASSOCIATION (the "Trustee"), a national banking association duly organized and validly existing under the laws of the United States of America authorized to exercise corporate trust powers:

W I T N E S S E T H:

WHEREAS, pursuant to the Act (defined below), the Commission is authorized to issue its revenue bonds, for the purpose of financing the Cost of Projects within the meaning of the Act and as defined below; and

WHEREAS, the Commission intends to issue its revenue bonds, potentially in several series (each a "Series of Bonds"), to provide funds to the Commission to finance, among other things, the Cost of Projects; and

WHEREAS, the Commission has determined that, in the issuance and sale of the Bonds, it will be acting to further the public purposes of the Act; and

WHEREAS, each Series of Bonds will be issued pursuant to a Supplemental Indenture (defined below) which will provide for the terms of such Series of Bonds; and

WHEREAS, all things necessary to make the Bonds (defined below), when issued, executed and delivered by the Commission and authenticated by the Trustee, to the extent required pursuant to this Indenture, the valid, binding and legal general obligations of the Commission, and to constitute this Indenture as a valid assignment and pledge of the Revenues herein pledged to the payment of the Principal Amount (defined below) and Redemption Price (defined below) of, if any, and interest on the Bonds and a valid assignment and pledge of certain rights of the Commission has been done and performed, and the creation, execution and delivery of this Indenture, and the execution, issuance and delivery of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that to secure the payment of Principal Amount and Redemption Price of, if any, and interest on the State Obligations (defined below), the Bonds according to their true intent and meaning, and all other amounts due from time to time under this Indenture, including those due to the Trustee and the Bond Insurer, if any, to secure the performance and observance of all of the covenants, agreements, obligations and conditions contained in the Bonds and in this Indenture, and to declare the terms and conditions upon and subject to which the Bonds are and are intended to be issued, held, secured and enforced and in consideration of the premises and the acceptance by the Trustee of the trusts created herein and of the purchase and acceptance of the Bonds by the Bondholders and for other good and valuable consideration, the receipt of which is acknowledged, the Commission has

executed and delivered this Indenture and absolutely and irrevocably pledges and assigns to the Trustee and to its successors in trust, on the basis set forth herein, and its and their assigns, all right, title and interest of the Commission in and to the Trust Estate as defined in Article I;

TO HAVE AND TO HOLD unto the Trustee and its successors in trust and its and their assigns forever;

BUT IN TRUST, NEVERTHELESS, and subject to the provisions hereof,

(a) for the equal and proportionate benefit, security and protection of all Bonds,

(b) for the enforcement of the payment of the Principal Amount and Redemption Price of, if any, and interest on the Bonds, and all other amounts due from time to time under this Indenture, including those due to the Trustee, when payable, according to the true intent and meaning thereof and of this Indenture, and

(c) to secure the performance and observance of and compliance with the covenants, agreements, obligations, terms and conditions of this Indenture,

in each case, without preference, priority or distinction, as to lien or otherwise except as provided herein, of any one Bond over any other by reason of designation, number, date of the Bonds or of authorization, issuance, sale, execution, authentication, delivery or maturity thereof, or otherwise, so that each Bond and all Bonds shall have the same right, lien and privilege under this Indenture and shall be secured equally and proportionately by this Indenture, it being intended that the lien and security of this Indenture shall take effect from the date hereof, without regard to the date of the actual issue, sale or disposition of the Bonds, as though upon that date all of the Bonds were actually issued, sold and delivered to purchasers for value; provided, however, that, upon satisfaction of and in accordance with the provisions of Article XI, the rights assigned hereby shall cease, determine and be void to the extent described therein; otherwise, such rights shall be and remain in full force and effect;

PROVIDED, FURTHER, that the pledge of the right, title and interest of the Commission in and to the Trust Estate is given subject to the right of the Commission to issue Additional Bonds secured on a parity basis with the Bonds by the Trust Estate; and

IT IS DECLARED that all Bonds issued under and secured by this Indenture are to be issued, authenticated and delivered, and that all Revenues (defined herein) assigned or pledged hereby are to be dealt with and disposed of under, upon and subject to, the terms, conditions, stipulations, covenants, agreements, obligations, trusts, uses and purposes provided in this Indenture; and the Commission has agreed and covenanted, and agrees and covenants with the Trustee, the Bond Insurer, if any, and with each and all Bondholders, as follows:

ARTICLE I
DEFINITIONS

Section 101. Definitions. In this Indenture, unless a different meaning clearly appears from the context:

"Act" shall mean the applicable provisions of Chapter 25 of Title 46 of the General Laws of Rhode Island (1956) as amended from time to time and any other statute now or hereafter enacted, which by its general or specific terms authorizes the Commission to issue debt to finance the System or otherwise affects the terms of such debt;

"Additional Security" shall have the meaning given such term in Section 208 hereof;

"Advance-Refunded Municipal Bonds" shall mean obligations the interest on which is excluded from gross income for purposes of federal income taxation that have been advance-refunded prior to their maturity and that are fully and irrevocably secured as to principal and interest by obligations described in clause (i) of the definition of Permitted Investments and that are rated in the highest rating category by each rating agency rating such obligations;

"Agency" means the Rhode Island Clean Water Finance Agency established pursuant to Chapter 12.2 of Title 46 of the General Laws of Rhode Island (1956) as amended;

"Agency Bonds" shall mean any bonds of the Commission issued to the Agency prior to the date of this Indenture and any Series of Bonds issued pursuant to Section 203(1)(v) of this Indenture;

"Agency Loan Agreement" shall mean any loan agreement between the Agency and the Commission pertaining to a loan made to the Commission pursuant to Chapter 12.2 of the General Laws of Rhode Island (1956), as amended, and any bond purchase agreement between the Agency and the Commission relating to the purchase of Bonds issued pursuant hereto by the Agency in accordance with said Chapter 12.2 of Title 46;

"Annual Budget" shall have the meaning given such term in Section 608 hereof;

"Assumed Variable Rate" means in the case of:

(a) Outstanding Bonds in the form of Variable Rate Bonds, the greater of (1) the average interest rate on such Bonds for the most recently completed sixty (60) month period or the period such Variable Rate Bonds has been outstanding if it is less than sixty (60) months, or (2) the rate to be determined pursuant to clause (b) below assuming the Outstanding Variable Rate Bonds were being issued on the date of calculation; and

(b) proposed Bonds in the form of Variable Rate Bonds either

(1) to be issued on the basis that, in the opinion of bond counsel to be delivered at the time of the issuance thereof, interest on such Variable Rate Bonds would be excluded from gross income for federal income tax purposes, the greater of the (i) the average of the Bond Market Association Swap Index ("BMA Index") for the twelve (12) month period ending seven (7) days preceding the date of calculation plus 100 basis points, or (ii) the average of the Bond Market Association Swap Index ("BMA Index") for the sixty (60) month period ending seven (7) days preceding the date of calculation plus 100 basis points, or

(2) to be issued as Variable Rate Bonds not described in clause (1), the greater of the (i) average of the London Interbank Offered Rate ("LIBOR") for the time period most closely resembling the reset period for the Variable Rate Bonds for the twelve (12) month period ending seven (7) days preceding the date of calculation plus 100 basis points, or (ii) average of LIBOR for the time period most closely resembling the reset period for the Variable Rate Bonds for the sixty (60) month period ending seven (7) days preceding the date of calculation plus 100 basis points; and provided that if the BMA Index or LIBOR shall cease to be published, the index to be used in its place shall be that index which the Commission in consultation with the Financial Advisor determines most closely replicates such index, as set forth in a certificate of an Authorized Officer of the Commission filed with the Trustee. Notwithstanding the foregoing, in no event shall the Assumed Variable Rate be in excess of the maximum interest rate allowed by law on obligations of the Commission.

"Authorized Officer" shall mean the Chairperson, the Vice Chairperson, the Executive Director, the Deputy Director, the Treasurer, the Secretary, the Director of Administration and Finance, or the Controller of the Commission, when used in reference to an act or document, shall also mean any other person authorized by resolution of the Commission to perform such act or sign such document;

"Authenticating Agent" shall mean, for the Bonds of a Series or any portion thereof, the Trustee and, where authorized by the applicable Supplemental Indenture, the Paying Agent or Paying Agents for the Bonds of such Series;

"Bond" or "Bonds" shall mean any of the Wastewater System Revenue Bonds of the Commission authenticated and delivered under the Indenture (and, unless expressly stated to the contrary, shall not include Subordinated Bonds; provided that the provisions of Article III, Article IV, Article VIII, Article IX, Article XI and Article XII shall be applicable to Subordinated Bonds). The term shall also include Agency Bonds and obligations of the Commission under any Qualified Swap Agreement (but only to the extent of Qualified Swap Payments);

"Bond Anticipation Notes" shall mean notes of the Commission issued pursuant to Section 45-25-58 of the Act and Section 207 and 607 of this Indenture with a final maturity of not longer than ten (10) years (or such longer period as may be permitted by the Act) in anticipation of the receipt of proceeds of a Series of Bonds;

"Bondholder" or "Holder" or any similar term, when used with reference to a Bond or a Subordinated Bond, shall mean the registered owner of the Bond or the Subordinated Bond, respectively but shall not include any Counterparty under a Qualified Swap Agreement or any other party contracting with the Commission in connection with a Qualified Swap Agreement;

"Bond Insurer" shall have the meaning ascribed in each Supplemental Indenture authorizing an issue of Bonds;

"Business Day" shall mean, except as provided in any Supplemental Indenture, any day other than a Saturday, a Sunday or any other day on which any Fiduciary is authorized or required by law to be closed for business;

"Capital Improvements" shall mean extensions, improvements, enlargements, betterments, alterations, renewals and replacements of the System (including land, equipment and other real or personal properties), which (i) are used or useful in connection with the System or any part thereof and (ii) are properly chargeable (whether or not so charged by the Commission), under generally accepted accounting principles, as additions to capital accounts;

"Capital Improvements Budget" shall mean a capital budget for each Fiscal Year which identifies the Capital Improvements to be undertaken by the Commission during such Fiscal Year, the nature of the work, the estimated completion date of each Capital Improvement, the estimated Costs expected to be expended therefor in such Fiscal Year, and estimated disbursements from any Project Account or Operating Capital Account in the Project Fund and, to the extent provided by the Commission, any other fund or account under or outside the Indenture, as well as the sources of moneys projected to be available to pay such estimated Costs in such Fiscal Year;

"Capitalized Interest Account" shall mean the account, if any, in the Debt Service Fund so designated and created pursuant to Section 506;

"Commission" shall mean the Narragansett Bay Commission or any body, agency, political subdivision, or instrumentality of the State which shall hereafter assume ownership or control of the System;

"Commission Counsel" shall mean the General Counsel of the Commission or any other attorney so designated by an Authorized Officer;

"Compound Interest Bonds" shall have the meaning given such term in Section 203(5) hereof;

"Consulting Engineer" shall mean an independent consultant or engineer or firm of consultants or engineers having a national reputation for expertise in such matters with respect to properties similar to those of the System selected by the Commission; provided that for the

purposes of Section 503(3) the Consulting Engineer may be an engineer regularly in the employ of the Commission;

"Cost", as applied to any Capital Improvement to be constructed or acquired by or on behalf of the Commission shall mean all or any part of the cost, paid by or on behalf of or reimbursable by or to the Commission of construction, acquisition, alteration, reconstruction and remodeling of such Capital Improvement, all lands, real and personal property, rights-of-way, water rights, air rights, franchises, easements and interests necessary or convenient therefor, the cost of any demolitions or relocations necessary in connection therewith, the cost of all machinery and equipment, financing charges, including Costs of Issuance not funded from the proceeds of Bonds, interest on Bonds and Notes issued in whole or in part to finance such construction prior to, during and for such period as the Commission shall determine after the period of construction of such Capital Improvement, architectural, engineering, financial and legal services, plans, specifications, appraisals, surveys, inspections, estimates of costs and revenues, and other expenses necessary or incident to determining the feasibility or practicality of such work, organizational, administrative, Operating Expenses and other expenses prior to the commencement of and during such work, advance training of operating personnel and other expense, including initial working capital, of completing such work and placing the same in operation, and any other item of "Cost" attributable to the construction, acquisition, alteration, reconstruction and remodeling of such Capital Improvement and placing the same in operation; the word "Cost" as applied to any Capital Improvement which the Commission may be authorized to acquire shall also mean the amount of the purchase price or the amount of a condemnation award in connection with the acquisition of such Capital Improvement, and shall include the cost of acquiring all of the capital stock and of discharging any liabilities of a corporation owning such Capital Improvement, if such be the case, in order to vest title to such Capital Improvement in the Commission;

"Cost of Issuance" shall mean all items of expense directly or indirectly payable by or reimbursable to the Commission and related to the authorization, sale and issuance of Bonds, Subordinated Bonds and Notes, including, but not limited to, printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of the Fiduciaries, legal fees and charges, fees and disbursements of consultants and professionals, costs and expenses of refunding, accrued interest and other costs payable upon or with respect to the initial investment of the proceeds of Bonds, Subordinated Bonds or Notes, premiums for the insurance of the payment of Bonds, Subordinated Bonds or Notes, fees and expenses payable in connection with any Additional Security or Reserve Deposits, unless designated as an Operating Expense, fees and expenses payable in connection with any remarketing agreements or interest rate indexing agreements and any other cost, charge or fee in connection with the original issuance of Bonds, Subordinated Bonds or Notes;

"Counsel's Opinion" shall mean an opinion signed by an attorney or firm of attorneys selected by the Commission and not unsatisfactory to the Trustee;

"Counterparty" means an entity who is a counterparty to a Qualified Swap Agreement. Such entity shall be a member of the International Swap Dealers Association and meet the requirements of applicable laws of the State and the applicable policies and procedures established by the Commission from time to time, provided that the senior unsecured debt of such counterparty shall be in one (1) of the three (3) highest rating categories without regard to gradations within such categories by each of the Rating Agencies at the time of execution of a Qualified Swap Agreement.

"Credit Facility" shall mean, with respect to a Series of Bonds, the irrevocable letter of credit, line of credit, municipal bond insurance, or other form of credit enhancement or liquidity support, if any, for such Series of Bonds, provided for in the applicable Supplemental Indenture, including any alternate Credit Facility with respect to such Series of Bonds delivered in accordance with provisions of the Supplemental Indenture providing for the issuance of such Series of Bonds and including any Credit Facility in connection with a Qualified Swap Agreement.

"Cross-over Date" means with respect to Cross-over Refunding Bonds, the date on which the principal portion of the related Cross-over Refunded Bonds is to be paid or redeemed from the proceeds of such Cross-over Refunding Bonds.

"Cross-over Refunded Bonds" means Bonds or other obligations refunded by Cross-over Refunding Bonds.

"Cross-over Refunding Bonds" means Bonds issued for the purpose of refunding Bonds or other obligations upon the irrevocable deposit of the proceeds of such Cross-over Refunding Bonds in escrow in satisfaction of the requirements of this Indenture or any Supplemental Indenture, as applicable to the Cross-over Refunded Bonds, to secure the payment on an applicable redemption date or maturity date of the Cross-over Refunded Bonds (subject to possible use to pay principal of the Cross-over Refunding Bonds under certain circumstances) and the earnings on such escrow deposit are required to be applied to pay interest on the Cross-over Refunding Bonds until the Cross-over Date.

"Debt Service Assistance" shall mean any money received by or on behalf of the Commission under or pursuant to any agreement or on account of a grant or contribution, heretofore or hereafter made, in aid of, with respect to, or on account of debt service on debt incurred with respect to the System excluding any interest subsidies received from the Agency on account of any of its leveraged loan programs;

"Debt Service Assistance Account" shall mean the account in the Debt Service Fund so designated and created pursuant to Section 502;

"Debt Service Fund" shall mean the fund so designated and created by Section 502;

"Debt Service Fund Requirement" shall mean, as of any particular date of computation, the amount of money obtained by (i) aggregating the several sums, computed with respect to the State Obligations and the Bonds of each Series Outstanding, of (A) any unpaid interest due on such State Obligations or Bonds at or before said date and all interest on such Bonds accrued but not due at said date, plus interest expected to accrue during the next ensuing month, calculated, in the case of a Bond bearing interest at a variable rate, for the remainder of the current interest rate period, at the current interest rate, and for subsequent interest rate periods if any, at the maximum rate applicable to the Bonds, (B) the Principal Amount of any such State Obligations or Bonds matured and unpaid at or before said date, and (C) with respect to any Principal Installment of any State Obligations or Bonds not included in (B) above, but payable on the next succeeding Principal Installment payment date other than by reason of acceleration or redemption at the option of the Commission or the Holder of any Bonds, that portion of such Principal Installment determined by multiplying such Principal Installment by a fraction, the numerator of which shall be the number of days elapsed from and including the immediately preceding Principal Installment payment date, or if there be no such date with respect to such Bonds, the date of issuance thereof, to the date of such calculation and the denominator of which shall be the number of days from and including the immediately preceding Principal Installment payment date, or if there be no such date with respect to such Bonds, the date of issuance thereof, to such next succeeding Principal Installment payment date and (ii) deducting amounts on deposit in the Debt Service Fund and Debt Service Assistance Account available to make such payments on such Bonds; provided, that for purposes of any such computation, the Principal Installments of and interest on the Bonds in any period shall, in the case of any Series of Agency Bonds, be limited to the Required Debt Service Fund Deposits set forth for such period in the applicable Supplemental Indenture.

For the purpose of calculating the Debt Service Fund Requirement for any period, the Trustee, at the direction of the Commission, may direct the use of any one or more of the following special rules:

- (i) when calculating the amount of such required deposits during such Fiscal Year for any Series of Variable Rate Bonds with respect to which a Qualified Swap Agreement is in effect pursuant to which the Commission has agreed to pay a Counterparty an amount based on a fixed interest rate, the Debt Service Fund Requirement for such series of Variable Rate Bonds shall include the interest payable on such Series of Bonds, calculated assuming the Assumed Variable Rate, less amounts to be received by the Commission under such Qualified Swap Agreement plus the amount of the payments to be made by the Commission under the Qualified Swap Agreement; provided that such effective fixed rate may be utilized only if such Qualified Swap Agreement does not result in a reduction or withdrawal of any rating then in effect with respect to the Bonds and so long as such Qualified Swap Agreement is contracted to

remain in full force and effect through the stated maturity date of the Variable Rate Bonds;

- (ii) when calculating the amount of such required deposits during such Fiscal Year for any Series of Bonds with respect to which a Qualified Swap Agreement is in effect pursuant to which the Commission has agreed to pay to a Counterparty an amount based on a variable or floating interest rate, the Debt Service Fund Requirement shall include the interest payable on such Series of Bonds, less fixed amounts to be received by the Commission under such Qualified Swap Agreement plus the amount of the floating payments (estimated applying the Assumed Variable Rate, unless another method of estimation is more appropriate, in the opinion of the Commission's financial advisor, underwriter or similar agent, for such floating payments) to be made by the Commission under the Qualified Swap Agreement; provided that the above described calculation of the Debt Service Fund Requirement may be utilized only if such Qualified Swap Agreement does not result in a reduction or withdrawal of any rating then in effect with respect to the Bonds and so long as such Qualified Swap Agreement is contracted to remain in full force and effect through the stated maturity date of the such Series of Bonds;
- (iii) when calculating the amount of such required deposits during such Fiscal Year with respect to any Capital Appreciation Bonds, all amounts payable on a Capital Appreciation Bond shall be considered a principal payment in the year it becomes due;

provided further, however, that there shall be excluded from the calculation of the amount of such required deposits (x) interest on Bonds (including Cross-over Refunding Bonds or Cross-over Refunded Bonds) to the extent that Escrowed Interest or capitalized interest is available to pay such interest and (y) principal on Cross-over Refunded Bonds to the extent that the proceeds of Cross-over Refunding Bonds are irrevocably deposited in escrow in satisfaction of the requirements of this Indenture, and such proceeds or the earnings thereon are required to be applied to pay such principal (subject to the possible use to pay the principal of the Cross-over Refunding Bonds under certain circumstances) and such amounts so required to be applied are sufficient to pay such principal.:-

"Debt Service Requirement" shall mean, for any period of calculation, (i) all interest payable on all State Obligations and Bonds Outstanding during such period, plus (ii) the Principal Installment or Installments payable on State Obligations and on such Bonds during such period, less (iii) amounts available to pay Principal Installments and interest becoming due in such Fiscal Year on State Obligations and Bonds Outstanding as of the first day of such Fiscal Year, including but not limited to (A) amounts on deposit in the Debt Service Assistance Account or Debt Service Assistance certified by an Authorized Officer of the Commission as

reasonably expected to be received and deposited to the Debt Service Assistance Account on or before the last day of the Fiscal Year during which the applicable Debt Service Requirement calculation is to be made if such Debt Service Assistance has been appropriated by the applicable governmental entity, if any, or is payable pursuant to an agreement constituting a valid general obligation of the grantor and (B) the amount, if any, of Bond proceeds available or projected to be available to pay Principal Installments and interest becoming due in such Fiscal Year on Bonds Outstanding; provided that the interest and Principal Installments payable on any Series of Agency Bonds during such period shall be limited to the Required Debt Service Fund Deposits for such period set forth in the applicable Supplemental Indenture; and provided, further, for purposes of demonstrating compliance with Section 603(2) (as contemplated by Section 603(4) hereof), that the amount of Debt Service Assistance deducted from such calculation pursuant to clause (iii) above shall include only Debt Service Assistance actually received by the Commission during or on account of such period and deposited in the Debt Service Assistance Account or amounts in anticipation thereof transferred from the Revenue Fund or from general funds of the Commission and deposited in such account. The Debt Service Requirement in respect of a Series of Bonds that constitute Variable Rate Bonds, shall be computed by applying the Assumed Variable Rate.

The Debt Service Requirement for any Series of Bonds with respect to which a Qualified Swap Agreement is in effect or for Capital Appreciation Bonds may, at the direction of the Commission, with the consent of the Bond Insurer, if any, insuring such Series of Bonds, be computed using any of the special rules set forth under the definition of Debt Service Fund Requirement.

"Debt Service Reserve Fund" shall mean the fund so designated and created by Section 502;

"Debt Service Reserve Fund Requirement" shall mean, as of any date of calculation, an amount equal to the lesser of (A) 10% of the original principal amount of such Series of Bonds, (B) one hundred twenty-five percent (125%) of the average annual Debt Service Requirement on a Series of Bonds in any current or future Fiscal Year or other appropriate twelve month period on such Series of Bonds, (C) the maximum aggregate Debt Service Requirement on a Series of Bonds in any current or future Fiscal Year or other appropriate twelve month period on such Series of Bonds, or (D) the maximum amount permitted by federal tax law to be funded from Bond proceeds without requiring yield restriction. The Debt Service Reserve Fund Requirement, in respect of a Series of Bonds that constitute Variable Rate Bonds, shall be computed by applying the Assumed Variable Rate. In computing the Debt Service Reserve Fund Requirement in respect of a Series of Variable Rate Bonds with respect to which a Qualified Swap Agreement is in effect pursuant to which the Commission has agreed to pay a Counterparty an amount based on a fixed interest rate, such Series of Variable Rate Bonds shall be deemed to bear interest at an effective rate equal to the fixed interest rate payable by the Commission under such Qualified Swap Agreement; provided that such effective fixed rate may be utilized only if such Qualified Swap Agreement does not result in a reduction or withdrawal of any rating then in effect (without

regard to any credit enhancement) with respect to the Bonds and so long as such Qualified Swap Agreement is contracted to remain in full force and effect through the stated maturity date of the Variable Rate Bonds. The Commission may, by Supplemental Indenture, establish a different Debt Service Reserve Fund Requirement for a subaccount of a Debt Service Reserve Account that is established to secure one or more, but less than all Series of Bonds issued under this Indenture. There shall be no Debt Service Reserve Fund Requirement for any Series of Agency Bonds Outstanding on the date of this Indenture.

"Depository" shall mean any bank or trust company selected in accordance with Section 803 hereof as a depository of moneys to be held under the provisions of this Indenture, and may include the Trustee;

"Discount Bonds" shall have the meaning given such term in Section 203(5) hereof;

"Fiduciary" shall mean the Trustee, any Paying Agent, any Depository or any Authenticating Agent;

"Financial Advisor" shall mean an attorney or firm or firms of national recognition experienced in matters relating to the planning and marketing of obligations similar in nature to the Bonds.

"Fiscal Year" shall mean the period beginning on July 1 of any calendar year and ending on June 30 of the next succeeding calendar year or such other period of twelve calendar months as may be authorized as the fiscal year of the Commission;

"Fixed Rate Bonds" shall have the meaning given such term in Section 203(2) hereof;

"Government Obligations", except as provided in any Supplemental Indenture in connection with the issuance of a Series of Bonds, shall mean (i) direct general obligations of the United States of America and bonds, notes or other obligations which as to both principal and interest are unconditionally guaranteed by the United States of America and (ii) any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state (a) which are not callable at the option of the obligor or otherwise prior to maturity or as to which irrevocable notice has been given by the obligor to call such bonds or obligations on the date specified in the notice, (b) which are fully secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or bonds or other obligations of the character described in clause (i) hereof which fund may be applied only to the payment of interest when due, principal of and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (c) as to which the principal of and interest on the bonds and obligations of the character described in clause (i) hereof which have been deposited in such fund along with any cash on deposit in such fund is sufficient to pay interest when due, principal of and redemption premium, if any, on the Bonds or

other obligations described in this clause (ii) on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in subclause (a) of this clause (ii), as appropriate;

The terms "herein", and "hereunder", "hereby", "hereof", and any similar terms, refer to the Indenture as a whole; the term "heretofore" shall mean before the effective date of the Indenture, and the term "thereafter" shall mean after the effective date of the Indenture;

"Indenture" shall mean this Trust Indenture as the same may be amended or supplemented in accordance herewith;

"Insurance Reserve Fund" shall mean the fund so designated and created pursuant to Section 502;

"Insurance Reserve Fund Requirement" shall have the meaning given to such term in Section 606;

"Net Revenues" shall mean, for any period of computation, all Revenues (excluding Debt Service Assistance deposited in the Debt Service Assistance Account and any proceeds of insurance, condemnation or the sale or other disposition of any part of the System deposited in the Revenue Fund during such period, but including unrestricted fund balance on the books of the System) received by the Commission during such period and deposited in the Revenue Fund plus (i) the amount of any Reserved Revenues directed by the Commission to be withdrawn from the Stabilization Account and transferred from the Stabilization Account in accordance with Section 506, less (ii) all amounts withdrawn from the Revenue Fund during such period and (iii) deposited in the Operation and Maintenance Fund, the Rebate Fund and the Stabilization Account or (iv) required to be deposited in the Debt Service Reserve Fund during such period;

"Notes" shall mean any obligations (other than Bonds or Subordinated Bonds) issued or incurred by the Commission to finance the Costs of Capital Improvements or Operating Expenses;

"Operating Capital Account" shall mean the accounts so designated in the Project Fund and created in accordance with Section 503;

"Operation and Maintenance Fund" shall mean the fund so designated and created by Section 502;

"Operating Expenses" shall mean any expenses incurred by or for the account of the Commission or reimbursable by or to the Commission for operation, maintenance, renewal and repair of the System including, without limiting the generality of the foregoing, administrative expenses, financial, legal and auditing expenses, insurance premiums, payments on claims against the Commission to the extent monies are unavailable therefor in the Insurance Reserve

Fund or to the extent such claims shall fall within such reasonable deductible limits as may be determined by the Commission, if any, payments in lieu of taxes, taxes, if any, payments of rates, assessments or other charges to the Commission with respect to the System, legal and engineering expenses relating to operation and maintenance, payments and reserves for pension, retirement, health, hospitalization and sick leave benefits for Commission employees allocable to the System and any other similar expenses required to be paid by the Commission, all to the extent properly and directly attributable to the System, and the expenses, liabilities and compensation of the Fiduciaries required to be paid under the Indenture, but does not include the Cost of any Capital Improvement or any provision for interest, depreciation, amortization or similar charges on any indebtedness except for (i) interest paid on notes, and renewals thereof, issued in accordance with Section 607(2) (to the extent not included in the Cost of any Project), and (ii) payments made with respect to any indebtedness represented by leases, mortgages, security interests and other encumbrances permitted by Section 604(3);

"Operation and Maintenance Reserve Fund" shall mean the fund so designated and created by Section 502;

"Operation and Maintenance Reserve Fund Requirement" shall have the meaning given to such term in Section 608;

"Outstanding", when used with reference to Bonds or Subordinated Bonds, shall mean as of any particular date, all Bonds or Subordinated Bonds theretofore and thereupon being authenticated and delivered except (1) any Bond or Subordinated Bond canceled by the Trustee, or proven to the satisfaction of the Trustee to have been canceled by the Commission or by any other Fiduciary, at or before said date, (2) any Bond or Subordinated Bond for the payment or redemption of which moneys equal to the Principal Amount or Redemption Price thereof, as the case may be, with interest to the maturity or redemption date, shall have theretofore been deposited with the Trustee in trust (whether upon or prior to maturity or the redemption date of such Bond or Subordinated Bond) and, except in the case of a Bond or Subordinated Bond to be paid at maturity, of which notice of redemption shall have been given or provided for in accordance with Article IV, (3) any Bond or Subordinated Bond in lieu of or in substitution for which another Bond shall have been delivered pursuant to Article III, Section 406 or Section 1006, and (4) any Bond or Subordinated Bond deemed to have been paid as provided in Section 1101;

"Paying Agent" shall mean any paying agent or co-paying agent for Bonds or Subordinated Bonds of any Series appointed pursuant to the Indenture or an applicable Supplemental Indenture and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the Indenture;

"Permitted Investments" shall mean, except as provided in any Supplemental Indenture in connection with a Series of Bonds, and include any of the following securities, if and to the extent the same are at the time legal for investment of the funds held pursuant to this Indenture:

- (i) any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any Federal agency or corporation which has been or may hereafter be created pursuant to an act of Congress as an agency or instrumentality of the United States of America to the extent unconditionally guaranteed by the United States of America, and any certificates or receipts representing direct ownership of future interest or principal payments in such bonds or other obligations;
- (ii) public housing bonds issued by public agencies or municipalities and fully guaranteed as to the payment of both principal and interest by the United States of America; temporary notes, preliminary loan notes or project notes issued by public agencies or municipalities, in each case fully secured as to the timely payment of both principal and interest by a requisition or payment agreement with the United States of America, or obligations issued by any state or any public agencies or municipalities which at the time of purchase are rated in either of the two highest rating categories by each Rating Agency then maintaining a rating on such obligations;
- (iii) direct and general obligations of any state of the United States to the payment of the principal of and interest on which the full faith and credit of such state is pledged, and direct and general obligations of any political subdivision of any such state to the payment of which the full faith and credit and unlimited ad valorem taxing power of such political subdivision is pledged, provided that at the time of their purchase under the Indenture such obligations are rated in either of the two highest rating categories by a nationally recognized bond rating agency;
- (iv) commercial paper rated in the highest category by each Rating Agency then maintaining a rating on such commercial paper;
- (v) investments in a money market fund or other fund the investments of which consist exclusively of obligations described in clause (i) above;
- (vi) bank time deposits evidenced by certificates of deposit issued by banks or savings and loan institutions (which may include any Fiduciary) having at the time of purchase a combined capital and surplus of not less than \$50,000,000 which are members of the Federal Deposit Insurance Corporation; provided that any such time deposits in excess of applicable federally insured limits are fully secured by obligations described in clause (i) above, which such obligations at all times have a market value

(exclusive of accrued interest) at least equal to such bank time deposits so secured, including interest;

- (vii) repurchase agreements relating to securities of the type specified in clause (i) above with banks or trust companies having a combined capital and surplus of not less than \$50,000,000 or with government bond dealers reporting to, trading with, and recognized as a primary dealer by, the Federal Reserve Bank of New York; provided that the market value of such securities is at the time of entering into such agreement at least one hundred three percent (103%) of the repurchase price specified in the agreement; and provided further that such securities are delivered to or held by the Trustee or a depository satisfactory to the Trustee in such manner as may be required to provide a perfected security interest in such securities;
- (viii) investment contracts with, or guaranteed by, banks or other financial institutions whose long-term unsecured debt or claims-paying ability at the time of purchase is rated in one of the three highest rating categories for such debt or claims-paying ability by each Rating Agency then maintaining a rating on such banks or other financial institutions;
- (ix) bonds, notes or other evidences of indebtedness issued or guaranteed by the Federal Banks for Cooperatives, Federal Intermediate Credit Bank, Federal Home Loan Mortgage Corporation, Federal Home Loan Bank System, Federal Land Banks, Export-Import Bank of the United States, Federal National Mortgage Association, Government National Mortgage Association or any agency or Instrumentality of or corporation wholly owned by the United States of America; and
- (x) Advance-Refunded Municipal Bonds.

"Principal Amount," with respect to any Bond or Subordinated Bond, shall mean the stated principal thereon or such other amount payable on any Compound Interest Bond or Discount Bond designated as the Principal Amount thereof pursuant to the applicable Supplemental Indenture;

"Principal Installment" shall mean, as of any particular date of computation and with respect to State Obligations, Bonds or Subordinated Bonds of a particular Series, an amount of money equal to the aggregate of (i) the Principal Amount of State Obligations, Outstanding Bonds or Subordinated Bonds of said Series which mature on such date, reduced by the aggregate Principal Amount of such State Obligations, Outstanding Bonds or Subordinated Bonds which would at or before said date be retired by reason of the payment when due and application in accordance with the Indenture of Sinking Fund Payments payable at or before said

date for the retirement of such State Obligations, Outstanding Bonds or Subordinated Bonds, plus (ii) the amount of any Sinking Fund Payment payable on said date for the retirement of any State Obligations, Outstanding Bonds or Subordinated Bonds of said Series;

"Principal Office," when used with respect to a Fiduciary, shall mean the office where such Fiduciary maintains its principal office or, where different, its principal corporate trust office;

"Project" shall mean a Capital Improvement, all or a portion of the Cost of which is financed by Bonds;

"Project Account" shall mean one of the accounts so designated in the Project Fund created by Section 503;

"Project Fund" shall mean the fund so created by Section 502;

"PUC" shall mean the Public Utilities Commission of the State of Rhode Island created pursuant to Chapter 39-1 of the General Laws of Rhode Island, as amended from time to time;

"Purchase Fund" shall mean the fund so designated by Section 502 and created by any Supplemental Indenture;

"Purchase Price" shall mean, except as provided in any Supplemental Indenture, the price at which a Series of Bonds is purchased;

"Qualified Swap Agreement" shall mean (a) an agreement between the Commission or the Trustee (at the written direction of the Commission) and Counterparty which is an Interest Rate Swap, forward rate agreement, commodity swap, interest rate option, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, embedded cap, cross-currency rate swap agreement, currency option, any other similar agreement (including any option to enter into any of the foregoing), (b) any combination of the foregoing, or (c) a master agreement for any of the foregoing together with all supplements. If at the time the Commission enters into a Qualified Swap Agreement payable from the Trust Estate a Rating Agency rates any Series of Bonds (without regard to credit enhancement) below "A-", then the approval of the Bond Insurer must be obtained prior to the entry into such Qualified Swap Agreement.

"Qualified Swap Payments" means as of each payment date specified in a Qualified Swap Agreement, the amount, if any, payable to the Counterparty by the Commission or the Trustee on behalf of the Commission, but excluding any payments due from the Commission or the Trustee on behalf of the Commission, as a cost, expense or fee under the Qualified Swap Agreement, including, but not limited to, any swap termination payment or indemnification of the Counterparty.

"Qualified Swap Receipts" means as of each payment date specified in a Qualified Swap Agreement, the amount, if any, payable to the Commission or the Trustee for the account of the Commission by the Counterparty.

"Rates and Charges" shall mean, except as otherwise expressly provided herein, all fees, rates, rents, assessments and other charges established by or on behalf of the Commission for the services, facilities and commodities furnished or supplied by it from the operation of the System;

"Rating Agency" shall mean Fitch, Moody's Investors Service or Standard & Poor's and their respective successors and assigns and shall also include any other rating agency nationally recognized for skill and expertise in rating the credit of obligations such as the Bonds or Subordinated Bonds;

"Rebate Fund" shall mean the fund so designated by any Supplemental Indenture;

"Redemption Fund" shall mean the fund so designated and created by Section 502;

"Redemption Price" shall mean, with respect to any Bond or Subordinated Bond or portion thereof, the Principal Amount thereof or of such portion, or such other amount as may be provided in the applicable Supplemental Indenture, plus the premium, if any, payable upon redemption thereof;

"Refunding Bonds" shall mean any of the Bonds authorized by Section 206;

"Reimbursement Obligation" shall have the meaning given such term in Section 208;

"Remarketing Agent" shall mean any agent appointed pursuant to the applicable Supplemental Indenture to remarket Tender Bonds as defined in Section 203(4);

"Renewal and Replacement Reserve Fund" shall mean the fund so designated and created by Section 502;

"Renewal and Replacement Reserve Fund Requirement" shall have the meaning given such term by Section 609;

"Required Debt Service Fund Deposits" shall mean, with respect to each Series of Agency Bonds, the amounts so designated pursuant to Section 205(1)(ix) of this Indenture and the applicable Supplemental Indenture;

"Reserve Deposits," except as set forth in any Supplemental Indenture, shall mean one or more of the following:

- (i) irrevocable, unexpired letters of credit issued by banking institutions the senior long-term debt obligations of which (or of the holding company of such banking institution) have (at the time of issue of such letter of credit) a rating within the two highest rating categories generally available to banking institutions by each Rating Agency rating such debt without regard to any gradations within such categories; or
- (ii) irrevocable and unconditional policies of insurance in full force and effect issued by municipal bond insurers the obligations insured by which are eligible for a rating at the time of issuance of such policies within the two highest rating categories available to insurers generally issuing such insurance by each Rating Agency rating such insurance without regard to any gradations within such categories.

in each case providing for the payment of sums for the payment of Principal Installments and interest on Bonds in the manner provided under Section 508;

"Reserved Revenues" shall mean, as of any date of calculation, the amount then on deposit in the Stabilization Account of the Debt Service Fund;

"Revenue Anticipation Notes" shall mean Notes issued in accordance with Section 607 hereof in anticipation of user fees or the receipt of state or federal funds;

"Revenue Fund" shall mean the "Narragansett Bay Commission Water Quality Management District Commission Fund" so designated and created in accordance with the Act as described in Section 502;

"Revenues" shall mean and include (except as otherwise expressly provided herein) (i) all income, revenues, receipts, and other moneys, including any unrestricted fund balance attributable to the operation of the System, (a) derived by the Commission from its ownership and operation of the System (including collections by or on behalf of the Commission on account of services and commodities furnished or supplied by the System prior to the effective date of the Indenture) or (b) derived from any other source, to the extent such moneys are deposited or required to be deposited to the Revenue Fund by the Commission from time to time pursuant to a Supplemental Indenture (provided that any such moneys shall not be considered Revenues for purposes of Section 603(2) of this Indenture unless at the time of the deposit thereof to the Revenue Fund an Authorized Officer shall have submitted to the Trustee a certificate designating such moneys as Revenues for such purpose) and (ii) all accounts, general intangibles and contract or other rights to receive the Revenues described in clause (i), whether existing at the effective date of the Indenture or thereafter coming into existence and whether held by the Commission at the effective date of the Indenture or thereafter acquired, and the proceeds thereof, including, without limiting the generality of the foregoing, receipts from Rates and Charges and from the earnings on the investment of any moneys held under the Indenture by the Trustee, a Depository

or the Commission or remitted to the Commission by the Agency (other than moneys held in the Rebate Fund, the Purchase Fund, if any, and the Unrestricted Fund), receipts from fees, rates, assessments and other charges to any political subdivision of the State for services or commodities furnished or supplied by the System, proceeds of any grant or appropriation for or on account of Operating Expenses received by the Commission from the United States or the State or from any agency, instrumentality or political subdivision of either thereof, Debt Service Assistance and except to the extent otherwise provided herein, proceeds of the sale or other disposition of all or any part of the System and of insurance and condemnation awards received with respect to the System or any part thereof and Qualified Swap Receipts, but not including (i) any amounts not deemed "Revenues" pursuant to Section 515 hereof, (ii) the proceeds of the \$87,700,000 Narragansett Bay Water Quality Management District Commission Loan of 1980 and any premium or premiums and accrued interest received for such loan, and (iii) proceeds received by the Commission pursuant to any Agency Loan Agreement;

"Series" when used with respect to less than all of the Bonds or Subordinated Bonds, shall mean or refer to all of the Bonds or Subordinated Bonds authenticated and delivered on original issuance in a simultaneous transaction, regardless of variations in maturity, interest rate or other provisions and may also mean, if appropriate, a lot or subseries of any Series if, for any reason, the Commission should determine to divide any Series into two or more lots or subseries;

"Series Debt Service Reserve Fund Requirement" shall mean, as of any date of calculation, the aggregate amount required to be deposited to the Debt Service Reserve Fund pursuant to the Supplemental Indenture applicable to a particular Series of Bonds;

"Sinking Fund Payment" shall mean, as of any particular date of computation and with respect to Bonds or Subordinated Bonds of a particular Series, the amount of money required by any Supplemental Indenture to be paid by the Commission on such date for the retirement of any Outstanding Bonds or Subordinated Bonds of said Series which mature after said date, but does not include any amount payable by the Commission by reason of the redemption of Bonds or Subordinated Bonds at the election of the Commission or the Holders of such Bonds;

"Stabilization Account" shall mean the account in the Debt Service Fund so designated and created in accordance with Section 502;

"State" shall mean the State of Rhode Island and Providence Plantations;

"State Obligations" shall mean obligations of the Commission to the State with respect to principal of, premium, if any, and interest on State debt required to be paid by the Commission under Rhode Island General Laws Section 46-25-5(9);

"State Obligations Reimbursement Account" shall mean the account so designated and created in the Debt Service Fund in accordance with Section 502;

"Subordinated Bonds" shall have the meaning given such term in Section 209 hereof;

"Supplemental Indenture" shall mean any indenture of the Commission amending or supplementing the Indenture adopted and becoming effective in accordance with the terms of Article IX;

"System" shall mean the wastewater system of the Commission, together with any Capital Improvements or other additions thereto and substitutions for any part thereof heretofore or hereafter acquired or made by or on behalf of the Commission, and all other properties of the Commission used in, or necessary or desirable for, the operation of such system;

"Trust Estate" means all right, title and interest of the Commission in and to (i) all Revenues, and (ii) all monies, securities and Reserve Deposits in all funds and accounts established by or pursuant to the Indenture, except the Operation and Maintenance Fund, the Rebate Fund, the Purchase Fund, if any, and the Unrestricted Fund, if established;

"Trustee" means the trustee appointed in accordance with Section 801, and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the Indenture; and

"Unrestricted Fund" shall mean the fund so designated and created by Section 502.

ARTICLE II

AUTHORIZATION AND ISSUANCE OF BONDS

Section 201. Authority for the Indenture. The Indenture is adopted pursuant to the Act and pursuant to Section 3 of Chapter 397 of the Rhode Island Public Laws of 1996 and the resolution of the Commission adopted on February 11, 2004.

Section 202. Indenture to Constitute Contract. In consideration of the transfer by the State of the Narragansett Bay Water Quality Management District Commission Fund to the Commission, and the purchase and acceptance of the Bonds and Subordinated Bonds by those who shall own the same from time to time, the Indenture shall constitute a contract between the Commission, the State, and the Holders from time to time of the Bonds and Subordinated Bonds, and the pledges made in the Indentures and the covenants and agreements therein set forth to be performed by or on behalf of the Commission shall be, subject to the provisions of Section 209, for the equal benefit, protection and security of the Holders of any and all of the State Obligations, the Bonds and Subordinated Bonds, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof, of any of the State Obligations over any other thereof, or of any of the Subordinated Bonds over any other thereof, except as expressly provided in or permitted by the Indenture.

Pursuant to the Act, the State has pledged to and agreed with the Holders of any Bonds or Notes issued pursuant to the Act and this Indenture, that the State will not limit or alter the rights of the Commission to fulfill the terms of this Indenture until such Bonds and Notes and the interest thereon are fully paid.

This Indenture shall replace and supercede the Trust Agreement between the Commission and Citizens Bank of Rhode Island, as Trustee dated as of July 1, 1997.

Section 203. Authorization of Bonds. (1) There is hereby authorized one or more Series of Bonds of the Commission to be designated as "Wastewater System Revenue Bonds," which Bonds may be issued as hereinafter provided from time to time, without limitation as to amount except as provided in the Indenture or as limited by law. Bonds may be issued in accordance with this Section for the purpose of (i) paying all or a portion of the Cost of any Project, (ii) the making of deposits in all funds and accounts, excluding the Unrestricted Fund, established hereunder, (iii) the payment of Costs of Issuance and the discount, if any, payable upon issuance of such Series of Bonds, (iv) the payment of the principal of and interest and premium, if any, on Notes issued in anticipation of such Bonds, (v) the securing of the Commission's repayment obligations with respect to, or sale to the Agency pursuant to, one or more Agency Loan Agreements or (vi) any combination of the foregoing. The Bonds may, if and when authorized by the Commission pursuant to one or more Supplemental Indentures, be issued in one or more Series, and within a Series, in one or more subseries or lots, and the designation thereof, in addition to the name "Wastewater System Revenue Bonds," may include such further appropriate designations added to or incorporated in such title for the Bonds of any particular Series, subseries or lots as the Commission may determine. The Bonds may be issued as Fixed Rate Bonds, Variable Rate Bonds, Tender Bonds, Compound Interest Bonds, Deferred Interest Bonds, Discount Bonds, Refunding Bonds, Cross-over Refunding Bonds, or any combination thereof in accordance with applicable provisions set forth below and the applicable Supplemental Indenture.

(2) The Commission may issue Bonds hereunder which bear a fixed rate or rates of interest during the term thereof ("Fixed Rate Bonds"). The applicable Supplemental Indenture shall specify the rate or rates of interest borne by such Bonds and the interest payment dates thereof.

(3) The Commission may issue Bonds ("Variable Rate Bonds") hereunder which provide for a variable, adjustable, convertible or other similar rates of interest, not fixed as to percentage at the date of issue thereof. Any Variable Rate Bond issued hereunder may be issued with provisions allowing conversion of such Bond, at the option of the Commission or the Holder thereof, into a Fixed Rate Bond or a Bond bearing a different Variable Rate. If any Variable Rate Bonds are issued hereunder, the applicable Supplemental Indenture shall specify:

- (i) a maximum interest rate (the "Variable Rate Ceiling") payable on such Bonds during the period while such Bonds shall be Variable Rate Bonds;

- (ii) the method or methods for determining the interest rate borne by such Bonds and the frequency of change thereof; and
- (iii) if deemed desirable by the Commission, provisions with respect to the conversion of such Bonds to Fixed Rate Bonds or Bonds in a different Variable Rate mode and the further conversion of such Fixed Rate Bonds to Variable Rate Bonds.

The method or methods for determining the interest rate on Variable Rate Bonds pursuant to (ii) above may include the selection of such rate by a Remarketing Agent as provided in an agreement between the Commission and such Remarketing Agent, the utilization of an index or indices as described in the applicable Supplemental Indenture, or such other standard or standards set forth by the Commission in the applicable Supplemental Indenture or any combination of the foregoing.

(4) The Commission may provide that Bonds issued as Variable Rate Bonds or Fixed Rate Bonds may include an option exercisable by the Holders thereof to have such Bonds ("Tender Bonds") either repurchased or redeemed prior to the maturity thereof. If any Tender Bonds are issued hereunder, the applicable Supplemental Indenture shall specify:

- (i) the period or periods during which and the circumstances under which such option may be exercised, including provisions for the variation of such periods;
- (ii) provisions as the Commission shall deem desirable, with respect to the repurchase of such Bonds and the remarketing thereof, including provisions with respect to the appointment of a Remarketing Agent therefor;
- (iii) provisions, as the Commission shall deem desirable, for the adjustment of the interest rate or maturity of such Bonds upon the exercise of any such option; and
- (iv) the Purchase Price.

Unless otherwise provided in the applicable Supplemental Indenture, any Tender Bonds which shall have been repurchased pursuant to any remarketing agreement or with the proceeds of a Reserve Deposit and not otherwise redeemed by the Commission shall continue to be Outstanding Bonds hereunder.

Any Variable Rate Bonds which contain an option to convert such Bonds to Fixed Rate Bonds shall be deemed Variable Rate Bonds hereunder until the date of such conversion and, unless such Bonds may be subsequently reconverted to Variable Rate Bonds, on and after such date such Bonds shall be deemed Fixed Rate Bonds.

(5) The Commission may issue Bonds which provide for the addition of all or any part of accrued and unpaid interest thereon to the principal due thereon upon such terms with respect thereto determined by an applicable Supplemental Indenture ("Compound Interest Bonds"). The Commission may issue Bonds which either bear a zero stated rate of interest or bear a stated rate of interest such that such Bonds are sold to the public on original issuance at a price less than the aggregate Principal Amount thereof in order to provide such yield thereon as deemed appropriate and desirable thereon by the Commission ("Discount Bonds"). In the applicable Supplemental Indenture for any Compound Interest Bonds or Discount Bonds, the Commission shall provide for the method of determination of the Principal Amount and "interest" payable on such Bonds as of any date of calculation and for the purposes hereof such terms with respect to such Bonds shall have the meanings given in such applicable Supplemental Indenture.

(6) The Commission may issue Deferred Interest Bonds. In the applicable Supplemental Indenture for any Deferred Interest Bonds, the Commission shall provide for the rate at which interest accrues on such Deferred Interest Bonds, the time period during which the Deferred Interest Bonds do not pay interest on a current basis, the amount by which the Principal Amount of such Deferred Interest Bond will increase when interest is not paid on a current basis, and the amount of interest payable annually, if any.

(7) For purposes of this Section, Bonds shall include Subordinated Bonds.

(8) The Commission may issue Refunding Bonds and Cross-over Refunding Bonds, as provided herein.

Section 204. [RESERVED].

Section 205. General Provisions for Issuance of Bonds: (1) Bonds of any Series shall be authorized by a Supplemental Indenture which shall specify:

- (i) the authorized Principal Amount, designation, manner of numbering and lettering and Series of such Bonds;
- (ii) the date of such Bonds and the date or dates of maturity thereof;
- (iii) the Redemption Price or Prices and the time or times and other terms of redemption, if any, of any of such Bonds;
- (iv) the amount and date of each Sinking Fund Payment, if any, required to be paid for the retirement of any of such Bonds of like maturity;
- (v) the manner in which the proceeds, if any, of such Bonds are to be applied;

- (vi) the Project or Projects, if any, to be financed by such Bonds and the designation of a Project Account, if any, for the Bonds of such Series;
- (vii) the form or forms of the Bonds of such Series;
- (viii) the Series Debt Service Reserve Fund Requirement, if any, applicable to the Bonds of such Series;
- (ix) if the Bonds are Agency Bonds, the Required Debt Service Fund Deposits to be made to the Debt Service Fund in compliance with the applicable Agency Loan Agreement, taking into account any principal or interest subsidies available to the Commission in connection with such Agency Loan Agreement;
- (x) the minimum denomination, if any, applicable to the Bonds of such Series; and
- (xi) any other provisions deemed advisable by the Commission not in conflict with the Indenture.

(2) The Bonds of each Series shall be executed by the Commission and delivered to the Authenticating Agent for such Series of Bonds and by it authenticated and delivered to or upon the order of the Commission, but only upon receipt by the Trustee of:

- (i) written order signed by an Authorized Officer of the Commission as to the authentication and delivery of such Bonds;
- (ii) a copy of the applicable Supplemental Indenture executed by an Authorized Officer;
- (iii) an amount of moneys or Reserve Deposits in a stated amount such that following the issuance of such Bonds and application of their proceeds, the amounts on deposit in and the aggregate stated and unpaid amount of all Reserve Deposits held as part of the Debt Service Reserve Fund shall equal the Debt Service Reserve Fund Requirement, if any; provided, however, that the applicable Supplemental Indenture may provide that the Series Debt Service Reserve Fund Requirement, if any, attributable to any Series of Agency Bonds may be funded in substantially equal monthly installments over a period of time after issuance as specified in the applicable Supplemental Indenture (which period shall not exceed 24 months);
- (iv) a certificate of a Consulting Engineer or Certified Public Accountant (a) setting forth the estimated annual Net Revenues for each of the three full

Fiscal Years following the issuance of such Bonds (including the Fiscal Year in which such Bonds are issued), after giving effect to any increases or decreases in Rates and Charges projected to be in effect for such period, and to the Series Debt Service Reserve Fund Requirement attributable to such Bonds and to any additional Revenues projected to be available during such period, and (b) showing for each of such Fiscal Years that the estimated annual Net Revenues for such Fiscal Year together with the amounts of Reserved Revenues, if any, available in such Fiscal Year (as calculated by an Authorized Officer at the time of the issuance of such Bonds) will be, except with respect to Agency Bonds, at least equal to one hundred twenty-five percent (125%) and with respect to Agency Bonds, at least equal to one hundred thirty-five percent (135%) of the Required Debt Service Fund Deposits for Agency Bonds (based on debt service net of any interest rate subsidy) for such Fiscal Year (or such higher amount as may be set forth in the Supplemental Indenture authorizing the issuance of such Series of Bonds) of (A) the Debt Service Requirement for such Fiscal Year less (B) the amount, if any, of Bond proceeds available or projected to be available to pay Principal Installments and interest becoming due in such Fiscal Year on Bonds Outstanding or projected to be Outstanding as of the first day of such Fiscal Year; provided that the Consulting Engineer's or Certified Public Accountant's certificate shall not project any increase in Rates and Charges during the first full Fiscal Year of the projection period which has not been adopted by the Commission for such Fiscal Year on or before the date of such certificate;

- (v) if on the date of issuance of such Series of Bonds the Commission has any outstanding obligation to replenish the Debt Service Reserve Fund under Section 508(4), evidence that the Commission has made at least one monthly payment with respect to such obligation on or before the date required thereunder;
- (vi) a certificate of an Authorized Officer stating that, as of the date of delivery of such Bonds, no Event of Default, as described in Section 701, has occurred and is continuing; and
- (vii) to the extent required by law, an order of the Division of Public Utilities approving the issuance of the Bonds.

Section 206. Special Conditions Precedent to the Delivery of Refunding Bonds. (1) One or more Series of Refunding Bonds or Cross-over Refunding Bonds may be issued in accordance with this Section for the purpose of refunding all or any part of the Bonds of one or more Series Outstanding.

(2) A Series of Refunding Bonds or Cross-over Refunding Bonds shall be executed by the Commission and delivered to the Authenticating Agent for such Series of Bonds and by it authenticated and delivered to or upon the written order of the Commission, but only upon receipt by the Trustee of the documents required for the issuance of Bonds set forth in the Indenture, provided that in lieu of the certificate satisfying the conditions of Section 205(2)(iv) the Commission may deliver to the Trustee a certificate of an Authorized Officer setting forth the Debt Service Fund Requirement for each Fiscal Year in which Bonds are or will be Outstanding (a) computed immediately prior to the delivery of such Refunding Bonds and (b) computed immediately after the delivery of such Refunding Bonds, and stating that the Debt Service Fund Requirement in each Fiscal Year in which Bonds will be Outstanding as computed in clause (b) of this sentence will not be greater than the Debt Service Fund Requirement in each such Fiscal Year as computed in clause (a) of this sentence.

Section 207. Bond Anticipation Notes. Whenever the Commission shall authorize the issuance of a Series of Bonds, the Commission may by resolution pursuant to Rhode Island General laws § 46-25-58 and Section 607(b) hereof authorize the issuance of Bond Anticipation Notes (and renewals thereof) in anticipation of such Series. Except as otherwise provided in the Supplemental Indenture authorizing the same, the proceeds of such Bond Anticipation Notes shall be deposited in a Project Account established pursuant to Section 503(2) hereof. The principal of and interest on such Bond Anticipation Notes and renewals thereof shall be payable from any moneys of the Commission pledged therefor, from the proceeds of such Bond Anticipation Notes or from the proceeds of the sale of the Series of Bonds in anticipation of which such Bond Anticipation Notes are issued. The proceeds of such Bonds may be pledged for the payment of the principal of and interest on such Bond Anticipation Notes and any such pledge shall have a priority over any other pledge of such proceeds created by the Indenture. Subject to Section 607, the Commission may also pledge the Revenues to the payment of such Bond Anticipation Notes. A copy of the resolution of the Commission authorizing such Bond Anticipation Notes shall be delivered to the Trustee immediately following adoption, together with such other information concerning such Bond Anticipation Notes as the Trustee may reasonably request. The terms, conditions and details of the Bond Anticipation Notes shall be governed by the Act.

Section 208. Additional Security. In addition to the security provided for the Bonds hereunder, in connection with any Series of Bonds hereunder, the Commission may obtain or cause to be obtained letters of credit, lines of credit, insurance or similar obligations, agreements or instruments ("Additional Security") securing or providing for the payment of all or a portion of the Principal Installments or Redemption Price of, or interest due or to become due on, such Bonds or providing for the purchase of such Bonds or a portion thereof by the issuer or obligor of any such Additional Security. In connection therewith the Commission may enter into such agreements with the issuer or obligor on such Additional Security providing for, among other things, the payment of fees and expenses to such issuer or obligor for the issuance of such Additional Security, which fees and expenses may be Costs of Issuance or Operating Expenses as appropriate, the terms and conditions of such Additional Security and the Series of Bonds affected thereby, and the security, if any, to be provided for the issuance of such Additional

Security and the payments of such fees and expenses or the obligations of the Commission with respect thereto.

In addition to any security permitted hereunder, the Commission may secure its obligations with respect to any Additional Security by an agreement providing for the purchase of the Series of Bonds secured thereby with such adjustments to the rate of interest, method of determining interest, maturity, or redemption provisions as specified by the Commission in the applicable Supplemental Indenture. The Commission may also in an agreement with the issuer of or obligor on such Additional Security agree to directly reimburse ("Reimbursement Obligations") such issuer or obligor for amounts paid under the terms of such Additional Security, together with interest thereon. Such Reimbursement Obligations may be secured by a lien on Revenues which, upon payment of amounts payable under the terms of such Additional Security and application of such amounts as provided in the agreements providing therefor, may be on a parity with the lien created by Section 501 hereof. So long as no amounts shall be paid under such Additional Security and such Reimbursement Obligations shall remain contingent, such Reimbursement Obligations shall not be taken in account hereof under the provisions of Section 603, provided the issuer of or obligor on such Additional Security may be deemed a Holder hereunder, including the Holder of all Bonds secured thereby, for the purposes of voting, giving consents, receiving notices and otherwise as may be specified in the applicable Supplemental Indenture. Upon the payment of amounts under the Additional Security which results in a Reimbursement Obligation becoming due and payable, such Reimbursement Obligation shall be deemed a Bond Outstanding hereunder for the purposes of Section 603 and for such other purposes hereunder as may be specified in the applicable Supplemental Indenture.

Section 209. Subordinated Bonds.

(1) The Commission may, subject to the conditions set forth in this Section 209, from time to time issue bonds which shall be secured by a pledge of the Trust Estate that is subordinate to the pledge effected by Section 501 hereof for the benefit of Bonds. Such Subordinated Bonds shall contain an express statement to the effect that payment of the principal of and interest on such Subordinated Bonds is subordinate in all respects to the payment of the principal of and interest on Bonds and that the lien and security interest on the Trust Estate established for the benefit of such Subordinated Bonds is subordinate in all respects to the lien and security interest on the Trust Estate created for the benefit of Bonds. Funds on deposit in the Debt Service Reserve Fund shall be excluded from the Trust Estate pledged for the benefit of such Subordinated Bonds and shall not be applied to the payment of principal of or interest on such Subordinated Bonds. The Supplemental Indenture with respect to any Subordinated Bonds may establish separate reserves for the benefit of such Subordinated Bonds (which may be excluded from the Trust Estate pledged for the benefit of Bonds), shall specify the terms and conditions applicable to such Subordinated Bonds, and shall make such amendments to this Indenture as are certified by an Authorized Officer of the Commission to be necessary to provide for the issuance of Subordinated Bonds, the payment thereof and the default and remedies provisions applicable thereto and to effect the subordination of payments with respect to such Subordinated Bonds to payments due on the Bonds.

(2) In the event that one or more Series of Outstanding Bonds has been assigned a rating by any Rating Agency, no Subordinated Bonds shall be issued pursuant to this Section 209 unless the Commission has provided (i) evidence to the Trustee that either (a) each such Rating Agency has confirmed in writing that such issuance of Subordinated Bonds will not adversely affect the ratings on each such Series of Outstanding Bonds provided by such Rating Agency or (b) each such Rating Agency has issued a rating on such Subordinated Bonds which is no lower than the rating assigned by such Rating Agency to any Series of Outstanding Bonds (which rating in each case is not based on Additional Security, if any, provided for such Series of Subordinated Bonds or Series of Outstanding Bonds, as applicable) prior to such issuance or (ii) any other evidence satisfactory to the Trustee that such adjustment will not adversely affect the then current ratings, if any, assigned to any Outstanding Bonds by any Rating Agency.

ARTICLE III

GENERAL TERMS AND PROVISIONS OF BONDS

Section 301. Place and Medium of Payment, Form and Date.

(1) The Bonds of each Series shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts at the office of such Paying Agents as is specified in the applicable Supplemental Indenture. The interest on any Bonds may be paid by check, draft, wire transfer or other means as specified in the applicable Supplemental Indenture. The Commission may make provisions in the applicable Supplemental Indenture with respect to record dates for purposes of determining registered Holders for purposes of paying interest on any Bond.

(2) Unless otherwise provided in the applicable Supplemental Indentures the Bonds of each Series shall be issued in the form of fully registered bonds without coupons payable to a named person or registered assigns. All Bonds shall each be in the denomination of \$5,000 or any whole multiple thereof and shall be in the form provided in the applicable Supplemental Indenture. The Commission may provide in the applicable Supplemental Indenture for the issuance of the Bonds so authorized in book-entry form or in denominations less or more than \$5,000 upon the terms and conditions set forth therein together with such modifications to this Indenture as are necessary to the issuance of such Series of Bonds in such form.

(3) Bonds of each Series shall be dated as of the date or dates provided in the applicable Supplemental Indenture. Unless otherwise provided in the Supplemental Indenture, all Bonds of each Series shall bear interest from their date.

Section 302. Legends. The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of the Indenture as may be necessary or desirable to comply with custom, the rules of any securities

exchange, commission or board or brokerage board, or otherwise, as may be determined by the Commission prior to the authentication and delivery thereof.

Section 303. Execution and Authentication. (1) The Bonds shall be executed in the name of the Commission by the manual or facsimile signature of an Authorized Officer of the Commission and countersigned by an Authorized Officer of the Commission and its seal (or a facsimile thereof) shall be thereunto affixed, imprinted, engraved or otherwise reproduced. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed and sealed shall have been actually authenticated and delivered by the Authenticating Agent for such Bonds, such Bonds may, nevertheless, be authenticated and delivered as herein provided, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices. Any Bond of a Series may be signed and sealed on behalf of the Commission by such persons as at the actual time of the execution of such Bond shall be duly authorized or hold the proper office in the Commission, although at the date of the execution of the Bonds of such Series such persons may not have been so authorized or have held such office.

(2) The Bonds of each Series shall bear thereon a certificate of authentication, in substantially the following form, executed manually by the Authenticating Agent for such Series as specified in the applicable Supplemental Indenture. Only such Bonds as bear such certificate of authentication shall be entitled to any right or benefit under the Indenture and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee or such Authenticating Agent. Such certificate of the Authenticating Agent upon any Bond shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under the Indenture and the registered owner thereof is entitled to the benefits of the Indenture:

Certificate of Authentication

This bond is one of the Bonds described in the within-mentioned Indentures.

(Corporate name of Authenticating Agent)

By _____
Authorized Signatory

Section 304. Interchangeability of Bonds. Bonds, upon surrender thereof at the office of the Trustee, or, when authorized by the applicable Supplemental Indenture, any Paying Agent, with a written instrument of transfer satisfactory to the Trustee or such Paying Agent, duly executed by the Holder or his duly authorized attorney, may, at the option of the Holder thereof, be exchanged for an equal aggregate Principal Amount of Bonds of the same Series and maturity of any other authorized denomination.

Section 305. Negotiability, Transfer, and Registry. (1) All the Bonds issued under the Indenture shall be negotiable, subject to the provisions for registration and transfer contained in the Indenture and in the Bonds. So long as any of the Bonds shall remain Outstanding, the Commission shall maintain and keep, at the Principal Office of the Trustee, who shall be registrar for the Bonds, books for the registration and transfer of each Series of Bonds; and upon presentation thereof for such purpose at said office, or at the Principal Office of such other Paying Agent, if any, as may be specified in the applicable Supplemental Indenture, the Commission shall register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as it or the Trustee or Paying Agent may prescribe, any Bond entitled to registration or transfer.

(2) Unless otherwise specified in the applicable Supplemental Indenture, each Bond shall be transferable only upon the books of the Commission in the manner provided in the form of such Bonds. As to any Bond, the Commission and each Fiduciary may deem and treat the person in whose name the Bond shall be registered upon the books of the Commission as the absolute owner of such Bond, whether such Bond shall be overdue or not for the purpose of receiving payment of, or on account of, the Principal Amount or Redemption Price of and interest on such Bond and for all other purposes, and neither the Commission nor any Fiduciary shall be affected by any notice to the contrary. The Commission, to the extent permitted by law, agrees to indemnify and save each Fiduciary harmless from any and all loss, expense, judgment of liability incurred by it, acting in good faith and without gross negligence hereunder, in so treating such registered owner.

(3) All Bonds surrendered in any exchange or transfer of Bonds shall forthwith be canceled by the Authenticating Agent. For every such exchange or transfer of Bonds, whether temporary or definitive, the Commission, the Trustee or the Authenticating Agent for the Bonds of such Series may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or transfer. The Commission shall not be obligated to make any such exchange or transfer of Bonds of any Series during the 10 days next preceding an interest or Principal Installment payment date of the Bonds of such Series or, in the case of any proposed redemption of Bonds of such Series, next preceding the date of the mailing of notice of such redemption, and shall not be obligated to make any exchange or transfer of Bonds called for redemption except as provided in Section 406.

Section 306. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Commission shall execute, and thereupon the Authenticating Agent for the Bonds of such Series shall authenticate and deliver, a new Bond of like Series, maturity and Principal Amount as the Bond so mutilated, destroyed, stolen or lost, in cancellation and substitution for such mutilated Bond, (upon surrender and cancellation of such mutilated Bond) or in lieu of and substitution for the Bond destroyed, stolen or lost, (upon filing with the Authenticating Agent evidence satisfactory to the Commission and the Authenticating Agent that such Bond has been destroyed, stolen or lost and proof of ownership thereof) and upon furnishing the Commission, the Trustee and the Authenticating Agent with indemnity satisfactory to them and complying with such other reasonable regulations as the

Commission, the Trustee or such Authenticating Agent may prescribe and paying such fees and expenses as the Commission, the Trustee or such Authenticating Agent may incur including the expenses, if any, of printing and delivering such new Bond. All Bonds so surrendered shall be canceled by the Authenticating Agent. The Authenticating Agent shall advise the applicable Paying Agents of the issuance of substitute Bonds.

Section 307. Preparation of Definitive Bonds, Interim Receipts and Temporary Bonds. Subject to the applicable Supplemental Indenture, until the definitive Bonds of any Series are prepared, the Commission may execute and, upon the written request of the Commission, the Authenticating Agent for such Series shall authenticate and deliver, in lieu of definitive Bonds, one or more interim receipts, or one or more temporary Bonds, substantially of the tenor of such definitive Bonds, (but with such registration provisions as the Commission may provide) and with such omissions, insertions and variations as may be appropriate for temporary Bonds. The Commission at its own expense shall prepare and execute and, upon the surrender at the Principal Office of the Authenticating Agent of such interim receipts and of such temporary Bonds, for exchange and cancellation, the Authenticating Agent shall authenticate and, without charge to the registered owner thereof, deliver in exchange therefor, definitive Bonds, of the same aggregate Principal Amount and Series and maturity as the interim receipt or temporary Bonds surrendered. Until so exchanged, the interim receipt and temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds authenticated and issued pursuant to the Indenture. All interim receipts and all temporary Bonds surrendered in exchange for a definitive Bond or Bonds shall be forthwith canceled by the Authenticating Agent.

Section 308. Cancellation of Bonds. All Bonds redeemed or paid by the Commission or any Fiduciary, or received by any Fiduciary on any transfer or exchange of Bonds, interim receipts or temporary Bonds, shall be canceled by it and delivered to the Trustee. Except as may be provided in the applicable Supplemental Indentures all Bonds purchased, redeemed or paid by any Fiduciary shall be canceled by it and delivered to the Trustee. No such Bonds shall be deemed Outstanding under the Indenture and no Bonds shall be issued in lieu thereof. All such canceled Bonds and all other Bonds canceled by any Fiduciary pursuant to the Indenture shall upon order of the Commission be destroyed by the Trustee and a certificate thereof delivered to the Commission.

ARTICLE IV

REDEMPTION OF BONDS

Section 401. Privilege of Redemption and Redemption Price. Bonds subject to redemption prior to maturity pursuant to a Supplemental Indenture shall be redeemable, upon mailed notice as provided in this Article IV, at such times, at such Redemption Prices and upon such terms (in addition to and consistent with the terms contained in this Article IV) as may be specified in the applicable Supplemental Indenture.

Section 402. Redemption at the Election of the Commission. In the case of any redemption of Bonds otherwise than as provided in Section 403, the Commission shall give written notice to the Trustee of its election so to redeem, of the redemption date, of the Series and of the Principal Amount of the Bonds of each maturity of such Series to be redeemed (which Series, maturities and Principal Amount shall be determined by the Commission in its sole discretion, subject to any limitations with respect thereto contained herein and in any Supplemental Indenture), provided that in the case of any redemption of the Bonds in whole, the Commission shall also give written notice to the Rating Agencies (if any) then rating the Bonds. Such notice shall be given at least forty-five (45) days prior to the redemption date or such shorter period as shall be acceptable to the Trustee. In the event notice of redemption shall have been given as provided in Section 405, the Trustee shall, on or before the redemption date, pay out of the moneys available therefor to the appropriate Paying Agent or Paying Agents an amount which, in addition to other moneys, if any, available therefor held by such Paying Agent or Paying Agents, will be sufficient to redeem on the redemption date at the Redemption Price thereof, all of the Bonds to be redeemed.

In the case of an optional redemption, the notice may state (1) that it is conditioned upon the deposit of moneys, in an amount equal to the amount necessary to effect the redemption, with the Trustee no later than the redemption date or (2) that the Commission retains the right to rescind such notice on or prior to the scheduled redemption date (in either case, a "Conditional Redemption"), and such notice and optional redemption shall be of no effect if such moneys are not so deposited or if the notice is rescinded as described in Section 405.

Section 403. Redemption Otherwise Than at Commission's Election. Whenever by the terms of the Indenture and the applicable Supplemental Indenture Bonds of a Series are required to be redeemed otherwise than at the election of the Commission, the Trustee shall select the Bonds to be redeemed, give the notice of redemption and pay out of the moneys available therefor the Redemption Price to the appropriate Paying Agents in accordance with the terms of this Article IV and, to the extent applicable, Section 506.

Section 404. Selection of Bonds to be Redeemed by Lot. Except as otherwise provided in a Supplemental Indenture with respect to a particular Series of Bonds, in the event of redemption of less than all the Outstanding Bonds of like Series and maturity, the Trustee shall select by lot, in such manner in its discretion as it shall deem appropriate and fair, the numbers of the Bonds to be redeemed and the portions of any thereof to be redeemed in part. Bonds of denominations of more than the applicable minimum denomination, if any, may be redeemed either as a whole or in part (which part must be in the amount of the applicable minimum denomination, if any, or an integral multiple thereof). For the purposes of this Section 404, Bonds, or portions thereof, which have theretofore been selected for redemption shall not be deemed Outstanding.

Section 405. Notice of Redemption. When the Trustee shall receive notice from the Commission of its election to redeem Bonds pursuant to Section 402, and when redemption of Bonds is required by the Indenture and the applicable Supplemental Indenture pursuant to

Section 403, the Trustee shall give notice, in the name of the Commission, of the redemption of such Bonds, which notice shall specify the Series and maturities of the Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable and, if less than all of the Bonds of any like Series and maturity are to be redeemed, the letters and numbers or other distinguishing marks of such Bonds so to be redeemed, and, in the case of Bonds to be redeemed in part only, the respective portions of the Principal Amount thereof to be redeemed. The notice shall further state that on such date there shall become due and payable upon each Bond to be redeemed the redemption price thereof, together with interest accrued to the redemption date, and that moneys therefor having been deposited with the Trustee, from and after such date, interest thereon shall cease to accrue and that the Bonds or portions thereof called for redemption shall cease to be entitled to any benefit under the applicable Supplemental Indenture except the right to receive payment of the redemption price. The Trustee shall mail a copy of such notice, postage prepaid, not less than 25 days before the redemption date (provided that, if the Commission notifies the Trustee in writing in connection with the redemption of Bonds issued to secure the Commission's repayment obligations with respect to one or more Agency Loan Agreements that notice of redemption must be mailed at a reasonable date, the Trustee shall mail such notice no later than the date specified by the Commission) to the Holders of any Bonds or portions of Bonds which are to be redeemed at their last address, if any, appearing upon the registration books for such Series of Bonds. Failure to so mail any such notice to any one Holder or any defect in such notice shall not affect the validity of the proceedings for the redemption of Bonds owned by any other Holder to whom the required notice has been given, nor shall the Trustee bear any liability therefor or in connection therewith.

Any Conditional Redemption may be rescinded in whole or in part at any time prior to the redemption date if the Commission delivers an Authorized Officer's certificate to the Trustee instructing the Trustee to rescind the redemption notice. The Trustee shall give prompt notice of such rescission to the affected Bondholders. Any Bonds subject to Conditional Redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an Event of Default. Further, in the case of a Conditional Redemption, the failure of the Commission to make funds available in part or in whole on or before the redemption date shall not constitute an Event of Default, and the Trustee shall give immediate notice to the securities depository or the affected Bondholders that the redemption did not occur and that the Bonds called for redemption and not so paid remain Outstanding.

Section 406. Payment of Redeemed Bonds. Notice having been given in the manner provided in Section 405, the Bonds or portions thereof so called for redemption shall become due and payable on the redemption date so designated at the Redemption Price, plus interest, if any, accrued and unpaid to the redemption date, and, upon presentation and surrender thereof at the office specified in such notice, such Bonds, or portions thereof, shall be paid at the Redemption Price plus interest, if any, accrued and unpaid to the redemption date. If there shall be called for redemption less than all of a Bond, the Commission shall execute and the Authenticating Agent for such Bonds shall authenticate and deliver, upon the surrender of such Bond, without charge to the Holder thereof, for the unredeemed balance of the Principal Amount of the Bond so surrendered, Bonds of like Series and maturity in any of the authorized denominations. If, on the

redemption date, sufficient moneys for the redemption of all the Bonds or portions thereof to be redeemed, together with interest to the redemption date, shall be held by the Paying Agents so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then, from and after the redemption date interest on the Bonds or portions thereof so called for redemption shall cease to accrue and become payable. If said moneys shall not be available on the redemption date, such Bonds or portions thereof shall continue to accrue interest until paid at the same rate or yield, as applicable, and in the same manner as they would have borne had they not been called for redemption.

ARTICLE V

ESTABLISHMENT OF FUNDS AND APPLICATION THEREOF

Section 501. The Pledge Effected by the Indenture. There are pledged pursuant to the Indenture for the payment of the Principal Amount and Redemption Price of and interest on the State Obligations, the Bonds and, to the extent provided in any Qualified Swap Agreement for the payment of Qualified Swap Payments pursuant to Qualified Swap Agreements and all other amounts due from time to time under this Indenture and, subject to the provisions of Section 209, Subordinated Bonds, in each case, subject to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture, (i) subject to Section 207, the proceeds of sale of the Bonds, (ii) all Revenues, and (iii) all moneys, securities and Reserve Deposits in all funds and accounts established by or pursuant to the Indenture except the Operation and Maintenance Fund, the Rebate Fund, the Purchase Fund, if any, and the Unrestricted Fund. The Bonds and Subordinated Bonds shall be general obligations of the Commission and the full faith and credit of the Commission are hereby pledged for the payment of the Principal Amount and Redemption Price and interest on the Bonds and Subordinated Bonds. Neither the State nor any political subdivision thereof or city or town therein, other than the Commission, shall be obligated to pay the Bonds or Subordinated Bonds and neither the faith and credit nor the taxing power of the State or any political subdivision thereof or city or town therein is pledged to the payment of the Bonds or Subordinated Bonds.

Section 502. Establishment of Funds and Accounts. The following funds and accounts shall be established to be held by the Trustee, except the Operation and Maintenance Fund, the Insurance Reserve Fund, and the Unrestricted Fund, which shall be held by the Commission in the custody of one or more banks selected by the Commission (including but not limited to the Trustee or any Depository) and the Revenue Fund, which, prior to the occurrence of any Event of Default hereunder, shall be under the exclusive control of the Commission, and which shall be held by the Trustee upon the occurrence of any Event of Default hereunder:

- (i) Project Fund
 - (a) Project Accounts
 - (b) Operating Capital Accounts
 - (c) Grants and Project Reimbursements Account
 - (d) Cost of Issuance Accounts

- (ii) Revenue Fund (the "Narragansett Bay Water Quality Management District Commission Fund")
 - (a) Narragansett Bay Environmental Enforcement Fund
- (iii) Operation and Maintenance Fund
- (iv) Debt Service Fund
 - (a) State Obligations Reimbursement Account
 - (b) Debt Service Payment Account
 - (c) Debt Service Assistance Account
 - (d) Stabilization Account
- (v) Redemption Fund
- (vi) Debt Service Reserve Fund
- (vii) Operation and Maintenance Reserve Fund
- (viii) Insurance Reserve Fund
- (ix) Renewal and Replacement Reserve Fund
- (x) Rebate Fund
- (xi) Unrestricted Fund

There shall be established within the Debt Service Fund a separate account to be known as the Debt Service Assistance Account. The Commission may establish a special account to be held by the Trustee or its agent and to be called the Purchase Fund. Such Purchase Fund and the amounts therein shall only be applied to the purposes thereof as set forth in a Supplemental Indenture. The Commission may establish, in connection with the issuance of one or more Series of Bonds or Subordinated Bonds or pursuant to an order of the PUC, additional funds or accounts hereunder to be held for the benefit of one or more Series of Bonds or Subordinated Bonds and subaccounts within the funds and accounts established hereunder, as set forth in Supplemental Indentures. Any fund or account established pursuant to an order of the PUC may be closed with approval of the PUC.

Section 503. Project Fund. (1) The Supplemental Indenture for any Series of Bonds or Subordinated Bonds issued in whole or in part to pay the Cost of any Project may establish within the Project Fund one or more separate accounts (herein called "Project Accounts") for such Series of Bonds or Subordinated Bonds.

(2) There shall be deposited in each Project Account (i) the amount, if any, provided in the applicable Supplemental Indenture to be deposited therein to pay the Costs of the Projects financed by such Series, (ii) the proceeds of any Bond Anticipation Notes (or renewals thereof which were issued to pay the cost of any Project financed in whole or in part by such Bonds, (iii) the proceeds of insurance on any such Project received by the Commission during the period of construction pursuant to Section 606(2), and (iv) any other amounts (not required by the Indenture to be otherwise deposited), as determined by the Commission, including without limitation the proceeds of any loan made or bonds sold under any Agency Loan Agreement which the Commission elects to deposit in the Project Account pending disbursement thereof to the extent permitted by the Agency.

(3) Amounts in any Project Account shall be disbursed to or upon the order of the Commission to be applied to the Cost of the Projects financed in whole or in part by such Series upon receipt by the Trustee of one or more requisitions, in form annexed to and incorporated into the Supplemental Indenture, subject to any additional requirements imposed by the applicable Supplemental Indenture, signed by an Authorized Officer (who for purposes of this Section 503 shall be the Executive Director of the Commission or such other person as the Commission may authorize). Upon completion of any Project the Costs of which are payable from a Project Account, the Commission shall file with the Trustee a certificate of an Authorized Officer, approved by a Consulting Engineer, setting forth the final Cost of such Project and stating (i) that such Project has been completed to the satisfaction of the Commission and (ii) that all amounts withdrawn from the applicable Project Account with respect to such Project have been applied to the Cost of such Project. Such certificate shall further set forth the balance, if any, remaining in the applicable Project Account not required for the payment of Costs of such Project. Any such balance shall be applied by the Trustee, at the written direction of an Authorized Officer of the Commission and subject to the requirements of any Supplemental Indenture (i) to the Cost of other Projects payable from such Project Account, (ii) to the Cost of other Capital Improvements, including Projects, by deposit of such amount in another and separate Project Account or (iii) to the redemption of the Bonds or Subordinated Bonds of the Series for which such Project Account was established by deposit of such amount in the Redemption Fund; provided that, in the case of proceeds of any Series of Agency Bonds, such amount shall be applied as provided in Section 503(3)(iii) unless the Commission shall have received the written approval of the Agency of another use permitted under this subsection. Notwithstanding the foregoing, if at any time the amount on deposit and available therefor in the Debt Service Fund, including the Debt Service Assistance Account, Redemption Fund and Debt Service Reserve Fund Accounts is insufficient to pay the Principal Installments and Redemption Price of and interest on the Bonds then due, the Trustee shall transfer from any unencumbered moneys on deposit in the Project Accounts (in such order of priority as the Commission by certificate of an Authorized Officer shall direct) to the Debt Service Fund the amount necessary to meet the deficiency.

(4) Upon the determination by the Commission that a Project undertaken or to be undertaken has been or should be delayed and that no further amounts or significantly reduced amounts are required therefor from the applicable Project Account, the Commission may, subject to the requirements of any Supplemental Indenture and to the delivery to the Trustee of an opinion of Bond Counsel to the effect that such transfer or application will not have an adverse effect on the excludability of interest on Bonds of the Series for purposes of computing the federal income taxes of the Holder thereof for which such Project Account was established, direct the Trustee in writing to transfer or apply amounts then on deposit in the applicable Project Account (i) to the payment of Costs of other Projects payable from such Project Account, (ii) to another and separate Project Account or Operating Capital Account, (iii) to the Renewal and Replacement Reserve Fund, or (iv) to the Redemption Fund for application to the redemption of Bonds or Subordinated Bonds of the Series for which such Project Account was established; provided that, in the case of proceeds of any Series of Agency Bonds, such amount shall be applied as provided in Section 503(4)(iv) unless the Commission shall have received the written approval of the Agency of another use permitted under this subsection.

(5) At any time that the Commission determines to undertake Capital Improvements to be financed by Revenues, the Commission may direct the Trustee in writing to establish within the Project Fund one or more separate accounts (herein called "Operating Capital Accounts") for such Capital Improvements. There shall be deposited in any such Operating Capital Account (i) any amounts withdrawn from the Revenue Fund for deposit therein pursuant to Section 504 and (ii) any amounts withdrawn from the Renewal and Replacement Reserve Fund for deposit therein pursuant to Section 512; (iii) any amounts transferred from the Stabilization Account pursuant to Section 506(6)(v) and (iv) any other amounts (not required by the Indenture to be otherwise deposited) as determined by the Commission and certified in writing to the Trustee. Amounts in a Operating Capital Account shall be disbursed to or upon the order of the Commission to be applied to the Cost of the Capital Improvements for which such account was established upon receipt by the Trustee of one or more requisitions, in form as attached or annexed to the Supplemental Indenture and incorporated therein by reference, signed by an Authorized Officer. Upon completion of such Capital Improvements, or upon a determination by the Commission that a Capital Improvement undertaken or to be undertaken has been or should be abandoned or delayed and that no further amounts or significantly reduced amounts are required therefore from the applicable Operating Capital Account, the Commission may direct the Trustee in writing to transfer amounts then on deposit in the applicable Operating Capital Account (i) to another and separate Operating Capital Account or (ii) to the Revenue Fund. Notwithstanding the foregoing, if at any time the amount on deposit and available therefore in the Debt Service Fund, including the Debt Service Assistance Account, Redemption Fund and Debt Service Reserve Fund, is insufficient to pay the Principal Installments and Redemption Price of and interest on the Bonds then due, the Trustee shall transfer from any unencumbered moneys on deposit in the Operating Capital Accounts (in such order of priority as the Commission by certificate of an Authorized Officer shall direct) to the Debt Service Fund, the amount necessary to meet the deficiency.

(6) There shall be deposited in the Grants and Project Reimbursements Account (i) any amounts received as grants or reimbursement from the federal or State government or any agency or department of the federal or State governments, and (ii) any amounts withdrawn from the Renewal and Replacement Reserve Fund for deposit therein pursuant to Section 512 and (iii) any other amounts (not required by the Indenture to be otherwise deposited) as determined by the Commission and certified in writing to the Trustee. Amounts in the Grants and Project Reimbursements Account shall be disbursed to or upon the order of the Commission to be applied to the Cost of the Capital Improvements or Operating Expenses upon receipt by the Trustee of one or more requisitions, in form as attached or annexed to the Supplemental Indenture and incorporated therein by reference, signed by an Authorized Officer. The Commission may direct the Trustee in writing to transfer amounts on deposit in the Revenue Fund. Notwithstanding the foregoing, if at any time the amount on deposit and available therefore in the Debt Service Fund, including the Debt Service Assistance Account, Redemption Fund and Debt Service Reserve Fund, is insufficient to pay the Principal Installments and Redemption Price of and interest on the Bonds then due, the Trustee shall transfer from any unencumbered moneys on deposit in the Grants and Project Reimbursements Account to the Debt Service Fund, the amount necessary to meet the deficiency.

(7) The Commission may establish in the Supplemental Indenture for any Series of Bonds or Subordinated Bonds a separate account (herein called "Cost of Issuance Account") within the Project Fund and shall deposit in the Cost of Issuance Account for such Series any proceeds of such Series as directed by such Supplemental Indenture and any other moneys not otherwise directed to be applied by the Indenture. Amounts in a Cost of Issuance Account shall be disbursed to or upon the written order of the Commission without requisition to be applied to Costs of Issuance of the applicable Series of Bonds or Subordinated Bonds. Any balance remaining in a Cost of Issuance Account upon payment of or provision for all Costs of Issuance to be paid therefrom shall be transferred by the Trustee, upon the written direction of an Authorized Officer of the Commission, to (i) one or more Project Accounts established for the applicable Series of Bonds or Subordinated Bonds or (ii) the Revenue Fund.

Section 504. Revenue Fund. (1) All Revenues, except (i) proceeds of insurance and condemnation to the extent provided in Section 606, (ii) proceeds of any sale or other disposition of any part of the System to the extent provided in Section 604, (iii) earnings on investment of the funds and accounts hereunder to the extent provided in Section 514 hereof and (iv) Debt Service Assistance deposited in the Debt Service Assistance Account as provided in Section 506, shall be collected by or for the account of the Commission and deposited by or on behalf of the Commission as promptly as practicable in the Revenue Fund. There shall also be deposited in the Revenue Fund any other moneys so directed by the Indenture and any other moneys of the Commission which the Commission may in its discretion determine to so apply unless required to be otherwise applied by the Indenture.

There shall be established in the Revenue Fund, a Narragansett Bay Environmental Enforcement Fund. There shall be deposited in the Narragansett Bay Environmental Enforcement Fund such sums as the Commission may, from time to time, deposit, or sums recovered by any administrative or civil enforcement action brought under the authority of the Act. All sums shall be expended for emergency response activities, enforcement activities, additional activities and the retirement of Bonds as provided in Rhode Island General Laws Section 46-25-38.1, as amended.

(2) On the third day prior to the last Business Day of each calendar month, the Commission (or during such times as the Trustee shall hold the Revenue Fund, the Trustee) shall apply amounts available in the Revenue Fund to the following purposes and in the following order:

- (i) To the Commission for deposit in the Operation and Maintenance Account of the Operation and Maintenance Fund, the amount specified by an Authorized Officer in accordance with Section 608; provided that if no amount has been specified by such Authorized Officer, the Operating Expenses for such month shall be deemed to be 125% of the Operating Expenses expended in the same calendar month in the preceding year or such lesser amount as an Authorized Officer shall certify in writing to the Trustee, but in no event less than 100% of such amount;

- (ii) To the Debt Service Fund, an amount, which together with other amounts on deposit in such Fund, will equal the Debt Service Fund Requirement as of the first day of the next ensuing month and;
- (iii) To the Rebate Fund, the amount which together with the amounts on deposit therein, will equal the Rebate Requirement as of such day;
- (iv) Subject to Section 508, to the Debt Service Reserve Fund, an amount which, together with the amounts on deposit therein, will equal the Debt Service Reserve Fund Requirement as of the first day of the next ensuing month;
- (v) To the Debt Service Assistance Account in the Debt Service Fund an amount specified by an Authorized Officer in a certificate delivered to the Trustee, as amended from time to time;
- (vi) To the Stabilization Account of the Debt Service Fund the amount, if any, designated by the Commission as further provided in Section 504(4);
- (vii) To make deposits and payments with respect to obligations secured by the Revenues junior and subordinate to the Bonds as required pursuant to this Indenture, including but not limited to, swap termination payments provided that following any swap termination payment the Commission shall have funds as necessary to make the next succeeding Debt Service Payment for each Series of Bonds, or any indenture or instrument pursuant to which such obligations are issued;
- (viii) Subject to Section 608, to the Operation and Maintenance Reserve Fund, an amount necessary for such Fund to equal the Operation and Maintenance Reserve Fund Requirement as of such day;
- (ix) To the Commission for deposit in the Insurance Reserve Fund, the amount, if any, determined by the Commission pursuant to Section 606(3) as necessary to maintain such Fund at the Insurance Reserve Fund Requirement;
- (x) Subject to Section 609, to the Renewal and Replacement Reserve Fund, an amount, which together with the amounts on deposit therein, will equal the Renewal and Replacement Reserve Fund Requirement as of such day;
- (xi) To the one or more Operating Capital Accounts of the Project Fund, such amount as requested by the Commission but only upon receipt by the Trustee of (a) a copy of the resolution of the Commission approving the Capital Improvements to be funded in whole or in part from such

Accounts, certified by an Authorizing Officer and (b) a certificate of an Authorized Officer stating that such deposit will not impair the ability of the Commission to either (A) meet the requirements of the Revenue Fund in the succeeding months of such Fiscal Year based on the then current Annual Budget prepared in accordance with Section 608 or (B) satisfy the requirements of Section 603 in the current or next succeeding Fiscal Year;

- (xii) To such other funds or accounts as shall be required by any Supplemental Indenture; and
- (xiii) To such other funds or accounts established by the Commission in compliance with applicable law or as required by any order of the PUC, including, but not limited to, transfers to an Operating Capital Account in accordance with Section 503(5) hereof.

(3) On the last Business Day of each Fiscal Year, the Commission shall, after making the deposits required by Sections 504(2), apply amounts available in the Revenue Fund to the Unrestricted Fund, the amount, if any, directed to be deposited therein in writing by an Authorized Officer.

Any balance remaining in the Revenue Fund following the above payments shall be retained in the Revenue Fund to be available for payments therefrom in the succeeding months, provided that if the Commission shall have issued Notes in accordance with Section 607(2)(i) or (iii), amounts in the Revenue Fund remaining after the above payments have been made may be used by the Commission to pay the principal of such notes at maturity or upon earlier redemption.

(4) Notwithstanding the foregoing, in the event that any order of the PUC requires that Revenues be held in a restricted account, the Commission shall request the Trustee to make such transfers as may be required to comply with any rate order. In the event that Revenues must be restricted in an account for debt service, such monies shall be deposited by the Trustee into the Stabilization Account of the Debt Service Fund.

(5) If, on the last Business Day of any month, the amounts deposited pursuant to Section 504(2)(ii) are, as of such date of calculation, less than the amounts required to be deposited therein, the Trustee shall promptly notify the Agency of any such deficit.

Section 505. Operation and Maintenance Fund. Amounts in the Operation and Maintenance Fund shall be applied by the Commission from time to time to pay Operating Expenses. Amounts in the Operation and Maintenance Fund which the Commission at any time determines in writing to be in excess of the requirements of such Fund shall be withdrawn and deposited in the Revenue Fund.

Section 506. Debt Service Fund. (1) The Trustee shall pay out of the Debt Service Fund, including the State Obligations Reimbursement Account, the Debt Service Payment Account and the Debt Service Assistance Account in accordance with a certificate of an Authorized Officer, to the respective Paying Agents (or in the case of State Obligations, the State's General Treasurer) (i) on each interest payment date the amount required for the interest and Principal Installments payable on such date and (ii) on each redemption date for any Bonds, other than a redemption date on account of Sinking Fund Payments, the amount required for the payment of interest on the Bonds then to be redeemed; provided that in each case the Commission may direct the Trustee in writing to make such payments to the Paying Agents on such date prior to the due date as the Commission determines. The Paying Agents shall apply such amounts to the payment of interest and Principal Installments on and after the due dates thereof. If on any interest payment date the amount accumulated in the Debt Service Fund, including the Debt Service Assistance Account, for either of the purposes specified above exceeds the amount required therefor, the Commission may direct the Trustee in writing to deposit such excess in the Redemption Fund or, in its discretion, in the Revenue Fund. The Trustee shall also pay out of the Debt Service Fund, including the Debt Service Assistance Account in accordance with a certificate of an Authorized Officer, accrued interest included in the purchase price of Bonds purchased for retirement under any provision of the Indenture.

(2) Amounts accumulated in the Debt Service Fund, including the Debt Service Assistance Account in accordance with a certificate of an Authorized Officer, with respect to any Sinking Fund Payment (together with amounts accumulated therein with respect to interest on the Bonds for which such Sinking Fund Payment was established), if so directed in writing by the Commission, shall be applied by the Trustee prior to the 45th day preceding the due date of such Sinking Fund Payment, to (i) the purchase of Bonds of the Series and maturity for which such Sinking Fund Payment was established, at prices not exceeding the applicable sinking fund Redemption Price plus interest on such Bonds to the first date on which such Bonds could be redeemed (or in the case of a Sinking Fund Payment due on the maturity date, the Principal Amount thereof plus interest to such date), such purchases to be made as directed in writing by the Commission or otherwise in such manner as the Trustee shall determine, or (ii) the redemption, pursuant to Section 402, of such Bonds then redeemable by their terms. The applicable Redemption Price or Principal Amount (in the case of maturing Bonds) of any Bonds so purchased or redeemed shall be deemed to constitute part of the Debt Service Fund until such Sinking Fund Payment date for the purpose of calculating the amount of such Fund. As soon as practicable after the 45th day preceding the due date of any such Sinking Fund Payment, the Trustee shall proceed (by giving notice as provided in Section 405) to call for redemption on such due date Bonds of the Series and maturity for which such Sinking Fund Payment was established (except in the case of Bonds maturing on a Sinking Fund Payment date) in such amount as shall be necessary to complete the retirement of the Principal Amount of the Bonds of such Series and maturity as specified for such Sinking Fund Payment in the applicable Supplemental Indenture, and whether or not the balance in the Debt Service Fund is sufficient to pay all such Bonds. The Trustee shall pay out of the Debt Service Fund, including the Debt Service Assistance Account in accordance with a certificate of an Authorized Officer, to the

appropriate Paying Agents, on or before such redemption date or maturity date, the amount required for the redemption of the Bonds so called for redemption or for the payment of such Bonds then maturing, and such amount shall be applied by such Paying Agents to such redemption or payment.

(3) In satisfaction, in whole or in part, of any amount required to be paid into the Debt Service Fund pursuant to Section 504(2)(iv) which is attributable to a Sinking Fund Payment, there may be delivered on behalf of the Commission to the Trustee, Bonds of the Series and maturity entitled to such payment. All Bonds so delivered to the Trustee in satisfaction of a Sinking Fund Payment shall reduce the amount thereof by the amount of the aggregate of the sinking fund Redemption Prices of such Bonds.

(4) Notwithstanding anything to the contrary contained in this Section, the Trustee shall not purchase or accept Bonds in lieu of any Sinking Fund Payment during the period of 45 days prior to the due date of any Sinking Fund Payment.

(5) The Commission may establish in any Supplemental Indenture a separate account (herein called "Capitalized Interest Account") within the Debt Service Fund and may deposit in the Capitalized Interest Account any proceeds of Bonds as directed by such Supplemental Indenture and any other moneys not otherwise directed to be applied by the Indenture. Amounts in the Capitalized Interest Account shall be applied to the payment of interest on the Bonds and as otherwise provided in the applicable Supplemental Indenture.

(6) Amounts in the Stabilization Account shall be invested in Permitted Investments at a yield not in excess of the yield permitted by nationally recognized bond counsel or in Permitted Investments described in paragraph (iv) of the definition thereof the interest on which is excluded from income for purposes of federal income taxation and not subject to the alternative minimum tax.

The Trustee shall apply monies on deposit in the Stabilization Account as follows:

- (i) to any shortfall in the Debt Service Account of the Debt Service Fund after deposit of monies from the Revenue Fund but before transfers from the Debt Service Reserve Fund, on the Business Day prior to the date on which any payment of principal or interest on any Bonds is due and payable;
- (ii) to any shortfall in the Debt Service Reserve Fund;
- (iii) to fund capitalized interest and to fund the Debt Service Reserve Fund Requirement on any future Series of Bonds, as requested by the Commission;

- (iv) to the Redemption Fund, as requested by the Commission; and
- (v) to such other purposes as the Commission may direct, not inconsistent with any order of the PUC.

(7) The Commission shall deposit Debt Service Assistance to the Debt Service Assistance Account in the Debt Service Fund to be applied by the Trustee in accordance with a certificate of an Authorized Officer, as amended from time to time. Notwithstanding anything herein to the contrary, amounts received by the Commission on account of Debt Service Assistance shall be spent in accordance with any appropriation or agreement governing such assistance. To the extent that the Commission has transferred monies to the Debt Service Assistance Account from the Revenue Fund in anticipation of the receipt of Debt Service Assistance pursuant to Section 504(2)(v), once the Debt Service Assistance is received, an amount equal to such Debt Service Assistance received, but not in excess of the amount which has been so transferred to the Debt Service Assistance Account pursuant to Section 504(2)(v), shall be redeposited to the Revenue Fund.

(8) The Commission also may, from time to time, deposit general funds of the Commission to the Debt Service Assistance Account in the Debt Service Fund in anticipation of Debt Service Assistance to be received to be applied by the Trustee in accordance with a certificate of an Authorized Officer, as amended from time to time; provided that such certificate also shall state that the amount of such deposit, together with other amounts deposited therein in anticipation of Debt Service Assistance not yet received, does not exceed the amount reasonably expected to be received as Debt Service Assistance. Once the anticipated Debt Service Assistance is received, an amount equal to such Debt Service Assistance received, but not in excess of the amount which has been transferred to the Debt Service Assistance Account pursuant to this Section 506(7), shall be transferred back to the Commission.

Section 507. Redemption Fund. (1) The Commission may deposit in the Redemption Fund any moneys, including Revenues, not otherwise required by the Indenture to be deposited or applied elsewhere.

(2) If at any time the amount on deposit and available therefor in the Debt Service Fund, including the Debt Service Assistance Account, is insufficient to pay the Principal Installments and Redemption Price of and interest on the Bonds then due, the Trustee shall withdraw from the Redemption Fund and deposit in the Debt Service Fund the amount necessary to meet the deficiency (other than amounts held therein for the redemption of Bonds for which a notice of redemption shall have already been given by the Trustee). Subject to the foregoing, if at any time the amount on deposit and available therefor in the Operation and Maintenance Fund is insufficient to pay Operating Expenses when due, the Trustee shall withdraw from the Redemption Fund and deposit in the Fund the amount necessary to meet the deficiency (other than amounts held therein for the redemption of Bonds for which a notice of redemption shall already have been given by the Trustee). Subject to the foregoing, amounts in the Redemption

Fund may be applied by the Commission to the redemption of Bonds in accordance with Section 402 and the applicable Supplemental Indenture or, in lieu thereof, to the purchase of Bonds at prices not exceeding the applicable Redemption Prices (plus accrued interest) had such Bonds been redeemed (or, if not then subject to redemption, at the applicable Redemption Prices when next subject to redemption), such purchases to be made by the Trustee at such times and in such manner as directed in writing by the Commission.

Section 508. Debt Service Reserve Fund. (1) Except as provided in any Supplemental Indenture amounts in each Account in the Debt Service Reserve Fund shall be used to pay debt service on the related Series of Bonds on the date such debt service is due when insufficient moneys for that purpose are available in the Debt Service Fund; provided, however that all amounts in an Account in the Debt Service Reserve Fund shall be used, together with other amounts available for such purpose hereunder, to provide for payment of the related Series of Bonds when the aggregate of such amounts is sufficient for such purpose. Amounts in each Account of the Debt Service Reserve Fund shall be pledged only to Holders of Bonds of the related Series; provided, however, if so provided in a Supplemental Indenture, upon the issuance of a Series of Refunding Bonds to advance refund a portion of a Series of Outstanding Bonds, amounts in the related Account of the Debt Service Reserve Fund securing the Outstanding Bonds may be pledged to the unrefunded Series of Outstanding Bonds and the Holders of the Series of Refunding Bonds on a pro rata basis. If at any time the amounts on deposit and available therefor in the Debt Service Fund, including the Debt Service Assistance Account, after transfers from the Redemption Fund are insufficient to pay the Principal Installments and Redemption Price of and interest on the Bonds then due, the Trustee shall withdraw from the Debt Service Reserve Fund and deposit in the Debt Service Fund the amount necessary to meet any such deficiency. Amounts so withdrawn shall be derived, first, from cash or Permitted Investments on deposit therein and, second, from draws or demands on Reserve Deposits held as a part thereof upon the terms and conditions set forth in the agreements applicable to any such Reserve Deposits or as otherwise set forth in the Supplemental Indenture providing for such Reserve Deposits.

(2) The Commission may from time to time provide Reserve Deposits to satisfy the Debt Service Reserve Fund Requirement. If on the last business day of any month or on any day when a new Reserve Deposit is deposited in the Debt Service Reserve Fund, the amount on deposit in the Debt Service Reserve Fund is in excess of the Debt Service Reserve Fund Requirement (calculated as of the first day of the next succeeding month) the Trustee, shall promptly notify the Commission and, acting in accordance with a certificate of an Authorized Officer, to the extent of such excess, either (i) transfer cash and Permitted Investments to any Fund or Account established hereunder or (ii) consent to the reduction of the stated amount of any Reserve Deposit or (iii) do any combination of the foregoing.

(3) The Trustee shall determine the amount of cash and Permitted Investments on deposit in the Debt Service Reserve Fund on the last day of the Fiscal Year of the Commission. Whenever the Trustee shall determine that the cash and Permitted Investments on deposit in the

Debt Service Reserve Fund together with all other funds available for the purpose is equal to or in excess of the Redemption Price of all Bonds Outstanding, the Trustee, at the written direction of the Commission, shall transfer the balance of such cash and Permitted Investments from the Debt Service Reserve Fund to the Redemption Fund in connection with the redemption of all Bonds Outstanding.

(4) Notwithstanding anything to the contrary in this Indenture or any Supplemental Indenture, if a cash withdrawal is made from the Debt Service Reserve Fund pursuant to Section 508(1) or in the event that the Commission shall not be in compliance with the Debt Service Reserve Fund Requirement, monthly deposits shall be made to the Debt Service Reserve Fund pursuant to Section 504(2)(iv) on the last Business Day of the calendar month in which the withdrawal is made and on the last Business Day of each of the five succeeding calendar months in an amount equal to one-sixth (1/6) of the amount of such withdrawal. In the event that the Debt Service Reserve Fund Requirement is satisfied in whole or in part by a Reserve Deposit and there shall have been a draw on such Reserve Deposit, the Commission shall (i) restore the Reserve Deposit within six months of such draw or (ii) deposit cash in the Debt Service Reserve Fund to replenish the Debt Service Reserve Requirement in accordance with the schedule set forth in the prior sentence. Unless and until the requirements of the preceding two sentences are not met, the difference between the amount of such withdrawals or draws and the amount redeposited or restored to the Debt Service Reserve Fund on account of such withdrawal or draws pursuant to the preceding sentences shall be deemed to be on deposit in the Debt Service Reserve Fund for purposes of calculating compliance with the Debt Service Reserve Fund Requirement. Monthly deposits pursuant to 504(2)(iv) shall be used first to restore the Reserve Deposit, thereby reinstating the Reserve Deposit, and second to replenish the cash in the Debt Service Reserve Fund.

Section 509. Rebate Fund. If any Series of Bonds or Subordinated Bonds is issued, or becomes, subject to the rebate requirement of Section 148(f) of the Internal Revenue Code of 1986, as amended, the Commission may, by Supplemental Indenture, activate the Rebate Fund established hereunder, and the Trustee shall then establish a separate Rebate Account within the Rebate Fund for such Series of Bonds or Subordinated Bonds. Funds on deposit in any Rebate Account shall be applied as set forth in the applicable Supplemental Indenture.

Section 510. Reserved.

Section 511. Operation and Maintenance Reserve Fund.

(a) If at any time the amount on deposit and available therefor in the Debt Service Fund, Redemption Fund, Debt Service Reserve Fund, Renewal and Replacement Reserve Fund and Operating Capital Accounts is insufficient to pay the Principal Installments and Redemption Price of and interest on the Bonds then due, the Trustee shall transfer from the Operation and Maintenance Reserve Fund to the Debt Service Fund the amount necessary to meet the deficiency.

(b) Subject to subsection (a) of this Section, if at any time the amount on deposit in the Operation and Maintenance Fund is insufficient to pay all Operation and Maintenance Expenses then payable, the Trustee, upon receipt of a certificate of an Authorized Officer to that effect, shall withdraw from the Operation and Maintenance Reserve Fund and pay to the Commission for deposit in the Operation and Maintenance Fund the amount specified in such certificate.

Section 512. Renewal and Replacement Reserve Fund.

(a) If at any time the amounts on deposit and available therefor in the Debt Service Fund, Redemption Fund and Debt Service Reserve Fund are insufficient to pay the Principal Installments and Redemption Price of and interest on the Bonds then due, the Trustee shall withdraw from the Renewal and Replacement Reserve Fund and deposit in the Debt Service Fund the amount necessary to meet the deficiency.

(b) Subject to subsection (a) of this Section 512, the Commission may apply amounts in the Renewal and Replacement Reserve Fund solely to the Cost of any Capital Improvements moneys for the payment of which are not available in any Project Account or any Operating Capital Account. The Trustee shall withdraw from such Fund and deposit in a Operating Capital Account established pursuant to Section 503(5), any amount requested by the Commission but only upon receipt of a certificate of an Authorized Officer (i) specifying the Capital Improvement to which such amount will be applied, its estimated Cost and estimated completion date and (ii) certifying (a) that such Capital Improvement is reasonably required for the continued operation of the System or the maintenance of Revenues, (b) that all or a portion of the Cost of such Capital Improvements was not financed in whole or in part from a Operating Capital Account theretofore established or from any Project Account, and (c) that only the Cost of such Capital Improvement that is in excess of the amounts available therefor in any Project Account or Operating Capital Account is being or has previously been requisitioned from the Renewal and Replacement Reserve Fund. Amounts deposited in any Operating Capital Account pursuant to this Section shall be applied by the Commission to the Cost of the Capital Improvement for which received. Upon completion of such Capital Improvement, any amount so deposited and not necessary to pay the Cost of such Capital Improvement shall be redeposited in the Renewal and Replacement Reserve Fund. Notwithstanding anything herein or in Section 503 to the contrary, if the Commission shall direct the Trustee to transfer from the Renewal and Replacement Reserve Fund to any Operating Capital Account amounts to be applied to the Cost of a Capital Improvement to be funded from the proceeds of Bonds or Notes not then issued, upon issuance of such Bonds or Notes an amount of proceeds thereof or other moneys of the Commission equal to the amount so transferred shall, unless otherwise provided in the applicable Supplemental Indenture, be redeposited in the Renewal and Replacement Reserve Fund.

(c) If at any time, the amounts on deposit in the Renewal and Replacement Reserve Fund is in excess of the Renewal and Replacement Reserve Fund Requirement, the Trustee, at

the direction of the Commission expressed in a certificate of an Authorized Officer, shall withdraw such excess and deposit it in the Revenue Fund.

Section 513. Unrestricted Fund. The Commission may make transfers to the Unrestricted Fund in accordance with Section 504(3), provided that (1) all funds and accounts established under this Indenture are funded in the amounts required as of the transfer date pursuant to the applicable provision of this Indenture, (2) the Commission is in compliance with the terms of Section 603 herein for the Fiscal Year then ended and (3) upon certification of an Authorized Officer of the Commission, such deposit will not adversely affect the ability of the Commission to comply with the terms of Section 603 hereof in the next ensuing Fiscal Year. Amounts on deposit in the Unrestricted Fund may be used for any lawful purpose of the Commission.

Section 514. Investments. (1) Except as otherwise provided in Section 1101 or subsection 2 of this Section, money held for the credit of any fund or account held by the Trustee under the Indenture shall, to the fullest extent practicable, be invested, either alone or jointly with moneys in any other fund or account, by the Trustee at the written direction of an Authorized Officer of the Commission in Permitted investments which shall mature or be redeemable at the option of the holder thereof, on such dates and in such amounts as may be necessary to provide moneys to meet the payments from such funds and accounts; provided that if moneys in two or more funds or accounts are commingled for purposes of investments, the Trustee shall maintain appropriate records of the Permitted Investments or portions thereof held for the credit of such fund or account. Except with respect to Reserve Deposits in the Debt Service Reserve Fund, and except as provided in any Supplemental Indenture, at least one-half of the moneys in the Debt Service Reserve Fund shall be invested in Permitted Investments (a) maturing no later than ten (10) years from the date such Permitted Investment is acquired by the Trustee or (b) subject to liquidation at par or at the amortized cost thereof, as applicable, at any time application of the moneys so invested is required under the terms of the Indenture. Unless otherwise directed by any Supplemental Indenture, Permitted Investments purchased as an investment of moneys in any fund or account shall be deemed at all times to be a part of such fund or account and all income thereon shall accrue to and be deposited in such fund or account and all losses from investment shall be charged against such fund or account. Notwithstanding any provision herein or in a Supplemental Indenture to the contrary, the Trustee shall not be liable for any losses from investment in accordance with this Section 514. The Commission may by Supplemental Indenture direct that all or any portion of income earned on investment of moneys allocable to any Series of Bonds in any fund or account established hereunder shall be transferred to the Rebate Account established for such Series of Bonds in the Rebate Fund created under Section 509.

(2) In computing the amount in any fund or account hereunder for any purpose, Permitted Investments shall be valued at amortized cost. As used herein the term "amortized cost", when used with respect to an obligation purchased at a premium above or a discount below par, means the value as of any given time obtained by dividing the total premium or discount at which such obligation was purchased by the number of days remaining to maturity on such obligation at the date of such purchase and by multiplying the amount thus calculated by the number of days having passed since such purchase; and (i) in the case of an obligation purchased at a premium by deducting the product thus obtained from the purchase price, and (ii) in the case of an obligation purchased at a discount by adding the product thus obtained to the purchase price. Unless otherwise provided in the Indenture, Permitted Investments in any fund or account hereunder shall be valued at least once in each Fiscal Year on the last day thereof. Notwithstanding the foregoing, Permitted Investments in the Debt Service Reserve Fund shall be valued at amortized cost for all purposes of the Indenture unless and until a withdrawal from such Fund shall be required in accordance with Section 508(1) in which event such investments shall thereafter be valued at amortized cost or market, whichever is lower, until the balance in such Fund, on the basis of such valuation, shall equal the Debt Service Reserve Fund Requirement.

Section 515. Holding of Special Deposits. Except as otherwise provided in any Supplemental Indenture, moneys held by or for the account of the Commission in connection with the System which are required to be applied under the terms of an agreement with respect to the acquisition, construction or alteration of a facility which is the subject of such agreement (including, any such moneys received by the Commission for such purpose under any grant or loan agreement with the United States of America or the State or any agency, political subdivision or instrumentality of either) or which are subject to refund by the Commission or held for the account of others or subject to refund to others, including, without limitation, any amounts which, under any agreement by the Commission providing for adequate separation of such amounts from Revenues, are collected by the Commission on behalf of others for services rendered or commodities provided to customers of the System, any amounts deducted by the Commission from wage and salary payments to the employees of the System, any amounts contributed by the Commission to any pension or retirement fund or system which amounts are held in trust for the benefit of the employees of the Commission and any amounts held as deposits, including customer service deposits, guaranteed revenue contract deposits, unexpended developer's deposits under construction loan contracts, minimum revenue deposits and unexpended jobbing deposits, together with any investments of such moneys and interest and profits thereon to the extent such interest and profits are also held for the account of others or subject to refund to others, may be held by the Commission outside of the various funds and accounts established by the Indenture and, notwithstanding anything herein to the contrary, shall not be subject to the pledge created by the Indenture or be considered Revenues hereunder while so held.

ARTICLE VI

PARTICULAR COVENANTS OF THE COMMISSION

The Commission covenants and agrees as follows:

Section 601. Powers as to Bonds and Pledge. The Commission is duly authorized under the Act and all applicable laws to create and issue the Bonds and to adopt the Indenture and to pledge the Revenues and other moneys, securities, Reserve Deposits and funds purported to be pledged by the Indenture in the manner and to the extent provided in the Indenture. The Revenues and other moneys, securities, Reserve Deposits and funds so pledged are and will be free and clear of any pledge, lien, charge or encumbrance thereon with respect thereto prior to, or of equal rank with, the pledge created by the Indenture except to the extent expressly permitted hereby. The Commission shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Revenue and other moneys, securities, Reserve Deposits and funds pledged under the Indenture and all the rights of the Bondholders under the Indenture against all claims and demands of all persons whomsoever.

Section 602. [RESERVED]

Section 603. Covenant as to Rates and Charges. (1) To the extent not otherwise provided by a Supplemental Indenture, so long as any Bonds are Outstanding, the Commission shall take all actions within its power to establish and maintain Rates and Charges adequate at all times, with other available funds, to provide Revenues and other moneys, including Reserved Revenues from the Stabilization Account of the Debt Service Fund at least sufficient to pay or provide for, as the same become due or are payable (i) all Operating Expenses, (ii) all payments of Principal Installments and Redemption Price of and interest on the Bonds and all other bonds, notes or other evidences of indebtedness of or assumed by the Commission which are payable from Revenues of the System, (iii) all amounts, if any, payable to the Operation and Maintenance Reserve Fund, Debt Service Reserve Fund, the Renewal and Replacement Reserve Fund and, if any, the Insurance Reserve Fund, (iv) all repairs, replacements, and renewals of the System deemed necessary by the Commission which are payable from Revenues of the System and (v) all other amounts which the Commission may by law or contract be obligated to pay from Revenues of the System including amounts payable under Qualified Swap Agreements. Provided the Commission complies with Section 504(4) and has complied or is diligently proceeding to comply with the requirements of subsection (3) and (4) of this Section 603, the Trustee shall take no action pursuant to Section 701 or Section 703 on account of any failure by the Commission to comply with the requirements of this subsection; provided that the setting of the Rates and Charges shall, to the extent required by law, be subject to the approval of the PUC.

(2) Without limiting the generality of the foregoing, the Commission shall take all actions within its power to establish and maintain Rates and Charges at levels sufficient so that total Net Revenues in each Fiscal Year during which Bonds are Outstanding, shall equal at least

one hundred twenty-five percent (125%) of the Debt Service Requirement during such Fiscal Year with respect to all Bonds Outstanding, other than Agency Bonds, as of the first day of such Fiscal Year and one hundred thirty-five percent (135%) of the Required Debt Service Fund Deposits for Agency Bonds (based on debt service net of any interest rate subsidy) for such Fiscal Year. Failure by the Commission to comply with the requirements of this subsection (2) shall not be considered an Event of Default under the Indenture so long as the Commission has complied or is diligently proceeding to comply with the requirements of subsection (3) and (4) of this Section 603.

(3) On or before the day which is six months prior to the last Business Day of each Fiscal Year the Commission shall review the adequacy of its Rates and Charges to satisfy the requirements of this Section for the next succeeding Fiscal Year. If such review indicates that the Rates and Charges are, or are likely to be, insufficient to meet the requirements of this Section for the next succeeding Fiscal Year, or if it otherwise appears at any time during such Fiscal Year that Rates and Charges are or are likely to be insufficient to meet such requirements, the Commission shall promptly take such steps as are permitted by law and as are necessary to cure or avoid the deficiency, including but not limited to, making an emergency request to the Public Utilities Commission to raise its Rates and Charges.

(4) Within one hundred and eighty days of the close of each Fiscal Year while Bonds are Outstanding, the Commission shall deliver to the Trustee a certificate of an Authorized Officer (which may be based on unaudited financial statements) stating, if such was the case, that the Commission satisfied the requirements of subsections (1) and (2) of this Section 603 in such Fiscal Year or, if such was not the case, specifying in reasonable detail the corrective steps taken by the Commission so that it will comply with such requirements in the then current Fiscal Year. If such certificate is based on unaudited financial statements, then within 270 days of the close of each Fiscal Year while the Bonds are Outstanding, the Commission shall deliver to the Trustee an additional certificate based on audited financial statements. Any certificate based on audited financial statements shall be accompanied by a certificate of the independent public accountant or firm of accountants regularly auditing the books of the Commission in accordance with Section 610 setting forth the Net Revenues for the preceding Fiscal Year.

Section 604. Sale, Lease or Encumbrance of System. (1) Except as provided in this Section and Section 607(3), no part of the System shall be sold, leased (with the Commission as lessor) or otherwise disposed of or encumbered.

(2) To the extent permitted by law, the Commission may sell or exchange or otherwise dispose of at any time or from time to time any property or facilities constituting part of the System which either (i) are worn out or obsolete or (ii) in the written opinion of the Commission are no longer useful in the operation of the System and, if the market value of such property or facilities as determined by the Commission is in excess of \$500,000, the Commission delivers to the Trustee a certificate of an Authorized Officer stating, in the opinion of the signer, that the sale, exchange or other disposition of such property or facilities will not impair the

ability of the Commission to satisfy the requirements of Section 603 in the then current or any future Fiscal Year. To the extent permitted by law, any proceeds of such sale, exchange or other disposition not used to replace the property so sold, exchanged or disposed of shall be deposited in the Revenue Fund or upon direction of an Authorized Officer, to an account in the Project Fund, provided, however, that the Commission and the Trustee shall have received an opinion of nationally recognized bond counsel to the effect that such disposition will not have an adverse effect on the exemption of interest on any Bonds or Notes issued by the Commission which are issued as federally tax-exempt Bonds.

(3) To the extent permitted by law, the Commission may sell, mortgage, grant security interests in, or otherwise encumber any real or personal property included in the System, or may lease as lessee any real or personal property to be used in the operation of the System; provided that the Commission shall deliver to the Trustee a written report (A) stating that such action shall not impede the Commission's ability to comply with all the covenants set forth in Article VI of this Indenture for so long as any Bonds or Subordinated Bonds shall remain Outstanding and (B) including a certificate of a Consulting Engineer (a) setting forth the estimated annual Net Revenues for each of the five full Fiscal Years following the action (including the Fiscal Year in which such action is taken), after giving effect to any increases or decreases in Rates and Charges projected to be in effect for such period and to any additional Revenues projected to be available during such period, and (b) showing for each of such Fiscal Years that the estimated annual Net Revenues for such Fiscal Year will be at least equal to one hundred twenty-five percent (125%) of the Debt Service Requirement for such Fiscal Years (provided that the Consulting Engineer's certificate shall not project any increase in Rates and Charges during the first full Fiscal Year of the projection period which has not been adopted by the Commission for such Fiscal Year on or before the date of such certificate). The proceeds of sale, if any, of any such property mortgaged or otherwise encumbered, after satisfying the mortgage, security interest or other encumbrance secured by the same, to the extent permitted by law, shall be deposited in the Revenue Fund or upon direction of an Authorized Officer, to an account in the Project Fund, provided, however, that the Commission and the Trustee shall have received an opinion of nationally recognized bond counsel to the effect that such disposition will not have an adverse effect on the exemption of interest on any Bonds or Notes issued by the Commission which are issued as federally tax-exempt Bonds.

(4) The Commission may lease as lessor or make contracts or grant licenses for the operation of, or grant easements or other rights with respect to, any part of the System if such lease, contract, license, easement or right does not, in its written opinion, impede the operation by the Commission of the System. Except as provided in Section 607(3), any payments to the Commission under or in connection with any such lease, contract, license, easement or right (except any such payments specifically excluded from the definition of Revenues) shall constitute Revenues and be deemed Rates and Charges.

(5) Nothing in this Indenture shall prevent the Commission from conveying and assigning to a municipal authority created pursuant to any applicable statute or to another entity (the "Authority") all or substantially all of its right, title and interest in the System and thereupon becoming released from all of its obligations hereunder, under any Supplemental Indenture and under the Bonds if the Authority (A) assumes in writing the Commission's obligations under the Indenture or (B) otherwise assumes in writing the Commission's obligations to pay the principal, redemption premium, if any, and interest on all Bonds issued pursuant to this Indenture and then outstanding according to the terms thereof and the instrument of assumption provides the Bondholders or the Trustee or entity serving in a similar capacity and acting on behalf of the Bondholders with substantially all of the rights and remedies provided in this Indenture; provided, however, that before the Commission may consummate such a conveyance and assignment and obtain a release of its obligations hereunder, under any Supplemental Indenture and under the Bonds, the following conditions shall have been satisfied:

(a) the Commission and the Trustee shall have received a Counsel's Opinion substantially to the effect that the conveyance to the Authority of all or substantially all of the Commission's right, title and interest in the System, the assignment to the Authority of the obligations of the Commission under this Indenture, any Supplemental Indenture and the Bonds to make payments of principal, redemption premium, if any, and interest on the Bonds, and the release of the Commission from all of its obligations hereunder, under any Supplemental Indenture and under the Bonds, have been duly authorized by the Commission, do not violate any applicable law, ordinance, resolution or regulation of the Commission or any applicable court decision and do not adversely impact the System's eligibility for federal or state grants or other financial assistance or the qualification of any Agency Loan Agreement under the Clean Water Act;

(b) the Commission and the Trustee shall have received a Counsel's Opinion substantially to the effect that (i) the acquisition by the Authority of all or substantially all of the Commission's right, title and interest in the System and the assumption by the Authority of the Commission's obligations hereunder, under any Supplemental Indenture and under the Bonds to make payments of principal, redemption premium, if any, and interest on the Bonds have been duly authorized by the Authority and do not violate any law, ordinance, resolution or regulation applicable to the Authority or any applicable court decision; (ii) the instrument under which the Authority assumes the obligations of the Commission hereunder, under any Supplemental Indenture and under the Bonds to make payments of principal, redemption premium, if any, and interest on the Bonds constitutes a valid and binding obligation of the Authority enforceable in accordance with its terms except as enforcement may be limited by bankruptcy, insolvency or other similar laws or equitable principles affecting the enforcement of creditors' rights; (iii) the security interest granted by the Authority pursuant to subparagraph (d) creates a valid and effective first priority lien and security interest in the revenues to be generated by the System; and (iv) the rates and charges established by the Authority and referred to below in subparagraph (e) have been duly authorized and enacted in accordance with applicable law;

(c) the Commission and the Trustee shall have received a Counsel's Opinion substantially to the effect that the conveyance of all or substantially all of the Commission's right, title and interest in the System to the Authority; the release of the Commission from its obligations hereunder, under any Supplemental Indenture and under the Bonds; and the assumption by the Authority of the Commission's obligations hereunder, under any Supplemental Indenture and under the Bonds to make payments of principal, redemption premium, if any, and interest on the Bonds will not have an adverse effect on the exemption of interest on any Series of Bonds issued as federally tax-exempt Bonds;

(d) the Authority shall, concurrently with the conveyance, assignment, assumption and release described above, grant to the Trustee or entity serving in a similar capacity and acting on behalf of Bondholders a security interest in the revenues to be generated by the System following the conveyance, assignment, assumption and release equal to the security interest granted in Revenues hereby;

(e) the Commission and the Trustee shall have received a certificate of a Consulting Engineer indicating that the Authority could issue at least one dollar (\$1) of Additional Bonds in compliance with the requirements of Section 205(2)(iv) following the conveyance, assignment, assumption and release described above or, in lieu of compliance with Section 205(2)(iv), that the coverage ratio calculated under Section 205(2)(iv) would not be worse immediately after such conveyance, assignment, assumption and release than it was immediately preceding such conveyance, assignment, assumption and release, in each case treating any other debt of the Commission to be secured by the Revenues on a parity with the Bonds as Bonds for purposes of such calculation;

(f) the Commission shall have provided (1) evidence to the Trustee that the details of such conveyance of all or substantially all of the Commission's right, title and interest in the System to the Authority; the release of the Commission from its obligations hereunder, under any Supplemental Indenture and under the Bonds; and the assumption by the Authority of the Commission's obligations hereunder, under any Supplemental Indenture and under the Bonds to make payments of principal, redemption premium, if any, and interest on the Bonds have been provided in writing to each Rating Agency then assigning a rating on Outstanding Bonds and that each such Rating Agency has either (a) confirmed in writing that such conveyance will not, in and of itself, adversely affect such ratings, if any, or (b) issued a rating on a Series of Bonds to be issued by the Authority which is not lower than the rating assigned by such Rating Agency to any Series of Outstanding Bonds (which rating in each case is not based on Additional Security, if any, provided for such Series of Outstanding Bonds or Authority Bonds, as applicable) or (2) any other evidence satisfactory to the Trustee that such conveyance will not, in and of itself, adversely affect the then current ratings, if any, assigned to any Outstanding Bonds by any Rating Agency;

(g) the Commission and the Trustee shall have received a Counsel's Opinion substantially to the effect that the conveyance of all or substantially all of the Commission's right, title and interest in the System to the Authority; the release of the Commission from its obligations hereunder, under any Supplemental Indenture and under the Bonds; and the assumption by the Authority of the Commission's obligations hereunder, under any Supplemental Indenture and under the Bonds to make payments of principal, redemption premium, if any, and interest on the Bonds will not have an adverse effect on the exemption of interest on any bonds issued by the Agency which are secured in whole or in part by Agency Bonds and are issued as federally tax-exempt bonds; and

(h) the Bond Insurer shall have consented in writing.

In connection with the conveyance to the Authority of all or substantially all of the Commission's right, title and interest in the System, the Commission shall convey and assign to the Authority all amounts on deposit in the funds and accounts established hereunder.

Anything in this Indenture to the contrary notwithstanding, upon a conveyance of all or substantially all of the assets of the System to the Authority pursuant to this subsection, the provisions of this Indenture shall no longer be enforceable against the Commission.

Section 605. Operation, Maintenance and Reconstruction. The Commission shall operate, or cause to be operated, the System properly and in a sound, efficient and economical manner and shall maintain, preserve, and keep the same or cause the same to be maintained, preserved, and kept in good repair, working order and condition, and shall from time to time make, or cause to be made, all necessary and proper repairs, replacements and renewals so that the operation of the System may be properly and advantageously conducted, and, if any useful part of the System is damaged or destroyed or taken through the exercise of eminent domain, the Commission shall, as expeditiously as practicable, commence and diligently prosecute the replacement or reconstruction of such damaged or destroyed part so as to restore the same to use and the replacement of such part so taken; provided, however, that nothing in the Indenture shall require the Commission to operate, maintain, preserve, repair, replace, renew or reconstruct any part of the System if there shall have been filed with the Trustee a certificate of an Authorized Officer; which certificate may be conclusively relied upon by the Trustee, stating that, in the opinion of the signer, (i) abandonment of operation of such part is economically justified and is not prejudicial to the interests of the Holders of the Bonds, and (ii) failure to operate, maintain, preserve, repair, replace, renew or reconstruct such part will not impair the ability of the Commission to satisfy the requirements of Section 603 in the current or any future Fiscal Year.

Section 606. Insurance and Condemnation. (1) The Commission shall at all times keep all property which is a part of the System and which is of an insurable nature and of the character usually insured by operating systems similar to the System insured against loss or damage by fire and from other causes customarily insured against and in such relative amounts as are customary or shall self-insure against such risks as provided in subsection (3). The Commission will also at

all times maintain insurance against loss or damage from such hazards and risks to the persons and property of others as are usually insured against by those operating systems similar to the Commission, or shall self-insure against such risks as provided in subsection (3). In determining the amounts and types of insurance to be maintained under this Section, the Commission may rely upon the advice of a Consulting Engineer or an insurance consultant of recognized standing selected by the Commission. Any policies of insurance shall be carried with insurers of good standing authorized to do business in the State and shall provide that the proceeds of such insurance shall be payable to the Commission.

(2) All proceeds of insurance, if any, insuring the properties and facilities of the System against loss or damage shall be applied to the restoration, replacement or reconstruction of the property or facility lost or damaged, unless the Commission determines in accordance with Section 605 not to restore, replace or reconstruct such property or facilities. Any proceeds of such insurance not applied to restoration, replacement or reconstruction or remaining after such work is completed shall be deposited in the Revenue Fund, provided that any proceeds of insurance received by the Commission with respect to loss or damage to a Project prior to the completion of construction thereof shall be deposited in the applicable Project Account and applied in accordance with Section 503. Proceeds of insurance against loss or damage to the person or property of others shall be applied by the Commission in satisfaction of the applicable claim.

(3) If at any time the Commission determines that any of the policies of insurance required to be maintained by this Section are not reasonably obtainable or may not be obtained at a reasonable cost either with respect to coverage, amounts or deductibles, the Commission shall deposit in the Insurance Reserve Fund an amount equal to the Insurance Reserve Fund Requirement. For the purpose of this Section and Section 504(2)(viii), the Insurance Reserve Fund Requirement shall be that amount (or such greater amount provided in any Supplemental Indenture) for any Fiscal Year or portion thereof certified to the Commission by a Consulting Engineer or an insurance consultant retained by the Commission (who may be the insurance consultant or agent regularly furnishing insurance to the Commission) as adequate to reserve against the risks to be covered by the Insurance Reserve Fund. A certificate of an Authorized Officer, approved by such Consulting Engineer or insurance consultant, setting forth the Insurance Reserve Fund Requirement shall be promptly delivered to the Trustee. The Commission shall annually review the requirements of the Insurance Reserve Fund and no later than one hundred and twenty (120) days after the end of each Fiscal Year shall deliver to the Trustee a certificate of an Authorized Officer setting forth the Insurance Reserve Fund Requirement for the next ensuing Fiscal Year or any portion thereof. For purposes of Section 504(2)(viii), if at any time the Insurance Reserve Fund Requirement shall be increased pursuant to this Section or if as of the last business day of a Fiscal Year the balance in the Insurance Reserve Fund shall be less than the Insurance Reserve Fund Requirement calculated as of such date, the certificate of an Authorized Officer required by the foregoing sentence shall also specify the dates and amounts of deposits to such Fund during the next succeeding Fiscal Year

pursuant to Section 504(2)(viii) so that no later than the last day of such Fiscal Year the balance in such Fund shall equal the Insurance Reserve Fund Requirement calculated as of such date.

(4) If at any time the amounts on deposit and available therefor in the Debt Service Fund, Redemption Fund, Debt Service Reserve Fund, Renewal and Replacement Reserve Fund, Operating Capital Accounts and Operation and Maintenance Reserve Fund, are insufficient to pay the Principal Installments and Redemption Price of and interest on the Bonds then due, the Commission shall withdraw from the Insurance Reserve Fund and pay to the Trustee for deposit in the Debt Service Fund the amount necessary to meet the deficiency. Subject to the foregoing, amounts in the Insurance Reserve Fund shall be applied by the Commission to the payment of liability claims and the cost of defending such claims or to the restoration, replacement or reconstruction of portions of the System lost or damaged and for which neither insurance proceeds or amounts specifically designated therefor in the Operation and Maintenance Fund are available. Any amounts withdrawn from the Insurance Reserve Fund shall be applied in the same manner as provided in this Section for the proceeds of insurance, provided that any such amount not required for the restoration, replacement or reconstruction of property lost or damaged or remaining after such work has been completed shall be redeposited in the Insurance Reserve Fund. If at any time the amount on deposit in the Insurance Reserve Fund is in excess of the Insurance Reserve Fund Requirement or if the Commission at any time should determine that such Fund is no longer required hereunder, such excess, or the balance of such Fund as the case may be, shall be paid to the Trustee for deposit in the Revenue Fund or, if all or a portion of the amounts on deposit in such Fund were derived from proceeds of a Series of Bonds, to the Redemption Fund to the extent of such portion to be applied to the redemption of Bonds of such Series.

(5) Not later than the last day of each third full Fiscal Year following the delivery of any Bonds, the Commission shall cause a Consulting Engineer or an insurance consultant retained pursuant to this Section to review the adequacy of the Insurance Reserve Fund and the Insurance Reserve Fund Requirement and the policies of insurance then maintained by the Commission and to deliver a report thereon (which may be included in the report required by Section 609(c)) to the Commission and the Trustee.

(6) If any property or facilities comprising part of the System shall be taken through the exercise of the power of eminent domain, the Commission shall apply the proceeds of any award received on account of such taking to the replacement of the property or facilities so taken, unless the Commission determines in accordance with Section 605 not to replace such property or facilities. Any proceeds of such award not applied to replacement or remaining after such work has been completed shall be deposited in the Revenue Fund.

Section 607. Creation of Liens, Other Indebtedness. (1) The Commission shall not issue any bonds, notes or other evidences of indebtedness, other than the Bonds and Subordinated Bonds, secured by a pledge of or other lien on the Revenues of the System and other moneys, securities, Reserve Deposits, if any, and funds held or set aside by the

Commission or by the Fiduciaries under the Indenture, and shall not otherwise create or cause to be created any lien or charge on the Revenues of the System, moneys, securities, Reserve Deposits, if any, and funds, except to the extent provided in this Section 607.

(2) Notwithstanding anything herein to the contrary the Commission may at any time or from to time issue notes or other evidences of indebtedness (and renewals thereof);

- (i) in anticipation of Bonds to the extent and in the manner provided in Section 207, which Bond Anticipation Notes, if so determined by the Commission, may be secured by a pledge of Revenues, provided that such pledge shall in all respects be subordinate to the provisions of the Indenture and the pledge created by the Indenture;
- (ii) in anticipation of the receipt by the Commission of any grant-in-aid from the United States of America or the State or any agency, instrumentality or political subdivision of either of them, for or on account of Capital Improvements and payable solely out of, or secured by a pledge of, the amounts to be received (which amounts shall not be deemed Revenues hereunder while any such notes are outstanding); provided that no such notes shall be issued unless (a) the Commission shall have received and accepted an agreement, whether conditional or unconditional, providing for the grant-in-aid anticipated by such notes executed by authorized officers of the grantor, (b) the aggregate principal amount of such notes (excluding renewals thereof issued by the Commission) shall not exceed the aggregate amount of the grant-in-aid provided for in such agreement and not yet received by the Commission and (c) all such notes or renewals thereof shall be issued to mature not later than four (4) years after the date of issuance and (d) the Commission shall have received the approval of the Governor of the State as required by the Act; or
- (iii) in anticipation of the Revenues to be received in any Fiscal Year, which notes may be payable out of, or secured by a pledge of, Revenues; provided that (a) any such pledge shall in all respects be subordinate to the provisions of the Indenture and the pledge created by the Indenture, (b) any such notes shall be payable no later than one year from date of issue (or, in the case of notes issued to renew such notes, no later than one year from the date of issue of the original issue of notes), (c) the aggregate amount of such notes outstanding at any one time in a Fiscal Year shall not exceed eighty percent (80%) of the Revenues for the immediately preceding Fiscal Year and (d) the proceeds of such notes (other than the proceeds of renewal notes require to pay notes) shall be deposited in the Revenue Fund.

(3) Notwithstanding anything herein to the contrary, the Commission may issue bonds, notes or other evidences of indebtedness secured solely by the revenues, receipts or other moneys derived by the Commission from the lease, license, operation, sale or other disposition of any facility or equipment constituting part of the System hereafter constructed or acquired by or on behalf of the Commission with the proceeds of such bonds, notes or evidences of indebtedness. Such revenues, receipts and other moneys shall not be considered Revenues or Rates and Charges hereunder provided that (i) neither the debt service on such bonds, notes, or other evidences of indebtedness nor any cost of the acquisition, construction, operation, maintenance or repair of any such facility or equipment nor provision for reserves for any of the foregoing shall be paid from the proceeds of Bonds or from Revenues (other than Revenues deposited in the Unrestricted Fund pursuant to Section 504) or shall be included in Operating Expenses, and (ii) any such receipts and moneys in excess of such debt service cost of acquisition, construction operation, maintenance, repair and reserves shall be deposited in the Revenue Fund (and upon such deposit shall be deemed Revenues); and (iii) prior to the issue of any such bonds, notes or other evidences of indebtedness, the Commission shall deliver to the Trustee a certificate of a Consulting Engineer or Certified Public Accountant stating that the lease, license, operation, sale or other disposition of such facility or equipment and the application of the revenues, receipts and other moneys derived therefrom to the operation, maintenance and repair thereof and the payment of the debt service on the bonds, notes or other evidences of indebtedness issued therefor and the provision of reserves for the foregoing, will not result in any decrease in the Net Revenues projected by such Consulting Engineer or Certified Public Accountant to be received by the Commission during the succeeding five Fiscal Years (including the Fiscal Year in which such bonds, notes or other evidences of indebtedness are issued).

(4) The Commission hereby reserves the right, and nothing herein shall be construed to impair such right, to finance improvements to the System by the State's issuance of its general obligation bonds for the benefit of the Commission, provided that nothing herein shall be construed as requiring the issuance of any such bonds and that no such bonds shall be deemed to be Bonds for any purpose hereunder.

(5) Nothing in this Section or in this Indenture shall prevent the Commission from issuing Notes or otherwise incurring contractual obligations which are payable solely out of, or solely secured by a pledge of amounts which may be deposited in the Unrestricted Fund pursuant to Section 504, provided that the pledge of such amounts shall in all respects be subordinate to the provisions of this Indenture.

(6) Notwithstanding anything herein to the contrary, the Commission may provide for the payment of swap termination payments from Revenues, provided that such payment obligations are junior and subordinate to the Bonds and any payments due to the Bond Insurer as required by this Indenture and provided that following any swap termination payment, the Commission shall have funds as necessary to make the necessary Debt Service Fund Requirement for each Series of Bonds.

Section 608. Annual Operating Budget. (1) Not less than one day prior to the beginning of each Fiscal Year, the Commission shall adopt and file with the Trustee an annual operating budget for the System (herein called "Annual Budget") for such Fiscal Year. The Commission may at any time, but not more often than once a month, adopt and file with the Trustee (or annually delegate to an Authorized Officer the authority to prepare and file with the Trustee) an amended or supplemental Annual Budget for the Fiscal Year then in progress, provided that an amendment for the purpose of making changes in one or more line items within the Annual Budget, but which does not increase the aggregate amount of expenses shown in the Annual Budget for such Fiscal Year may be filed by an Authorized Officer without action by the Commission and provided further that any amendment that increases the aggregate amount of expenses shown in the Annual Budget for such Fiscal Year shall be accompanied by a certificate of an Authorized Officer to the effect that such increase will not preclude compliance by the Commission with the covenants set forth in Section 603. An Authorized Officer shall prepare and may amend from time to time, a monthly breakdown of the Annual Budget which breakdown or amendment thereto shall be filed with the Trustee and shall show for each month projected Operating Expenses to be paid from the Operation and Maintenance Fund in such month, as well as the Revenues or other moneys held hereunder projected to be available to meet the same. The Commission shall not incur aggregate Operating Expenses in any Fiscal Year in excess of the aggregate amount of Operating Expenses shown in the Annual Budget as amended and supplemented for such Fiscal Year except in case of emergency or as required by law and shall promptly file a written report of any such excess expenditure with the Trustee signed by an Authorized Officer. For the purposes of this Section 608, "Authorized Officer" shall include, individually, the Chairperson and the Executive Director of the Commission.

(2) For purposes of Section 504(2), the Operation and Maintenance Reserve Fund Requirement shall mean, unless a greater amount is required by any Supplemental Indenture, (i) from the date of delivery of the initial Series of Bonds hereunder until the last day of the second full Fiscal Year after such Bonds are delivered, the amount provided in the Supplemental Indenture for the initial Bonds, and (ii) as of the last business day of each calendar month thereafter an amount equal to at least the sum of (a) the balance on deposit in the Operation and Maintenance Reserve Fund on the last day of the prior Fiscal Year and (b) one-twelfth (1/12) of the amount, if any, by which the balance of the Operation and Maintenance Reserve Fund on the last day of the prior Fiscal Year was less than the Operation and Maintenance Reserve Fund Requirement calculated as of such day multiplied by the number of months of the current Fiscal Year that have passed since the beginning of such Fiscal Year, and either plus (c) one-twelfth (1/12) of one-sixth (1/6) of the amount, if any, by which the projected aggregate Operating Expenses of the current Fiscal Year (as shown in the Annual Budget as then amended and supplemented for such Fiscal Year) exceeds the aggregate Operating Expenses for the prior Fiscal Year multiplied by the number of months of the current Fiscal Year that have passed since the beginning of such Fiscal Year or minus (d) one-sixth (1/6) of the amount, if any, by which such projected aggregate Operating Expenses are less than the aggregate Operating Expenses for the prior Fiscal Year.

For purposes of such computation, the Commission and the Trustee shall consider the amount of Operating Expenses paid in a prior Fiscal Year to be such amount as estimated by an Authorized Officer in a certificate filed with the Trustee on or before the last day of such Fiscal Year subject to adjustment with respect to the actual amount as set forth in a certificate of an Authorized Officer filed with the Trustee on or before one hundred twenty (120) days after the end of such Fiscal Year.

Section 609. Capital Improvements Budget.

(1) On or prior to the date of delivery of the initial Series of Bonds hereunder and not less than one (1) day prior to the beginning of each Fiscal Year thereafter, the Commission shall prepare and file with the Trustee a proposed program of Capital Improvements to be undertaken by the Commission during such Fiscal Year and the next two ensuing Fiscal Years, identifying the Capital Improvements to be carried out, the estimated Cost thereof and the period of construction thereof, together with a budget (herein called "Capital Improvements Budget") for the Capital Improvements or parts thereof to be undertaken by the Commission in such Fiscal Year. The Capital Improvements Budget shall include a schedule showing all projected disbursements from any Project Account or Operating Capital Account in the Project Fund and, to the extent provided by the Commission, any other fund or account under this Master Indenture, as well as the sources of moneys projected to be available to meet the same. The Capital Improvements Budget shall further identify the Capital Improvements to be undertaken, the nature of the work, the estimated Cost thereof and the estimated completion date of each Capital Improvement.

(2) The Commission may from time to time amend or supplement the Capital Improvements Budget for the Fiscal Year then in progress by filing with the Trustee a certificate of an Authorized Officer setting forth the amendment or supplement.

(3) Not later than the last day of each third full Fiscal Year following the Fiscal Year ending June 30, 2003, the Commission shall cause an examination of and report on the properties and operations of the System to be made by a Consulting Engineer and shall cause a copy of such examination and report, certified by an Authorized Officer, to be filed with the Trustee. Such examination and report shall include a review of the Commission's then current three year Capital Improvement program prepared in accordance with paragraph (1) of this Section, the current and any proposed Capital Improvements Budget and Annual Budget, the adequacy of the Renewal and Replacement Reserve Fund Requirement and such other reports, surveys and examinations as the Commission or the Consulting Engineer shall deem necessary. Any report prepared by the Consulting Engineer in connection with the issuance of Bonds within the last Fiscal Year in such three year period shall satisfy the requirements of this subsection for such three year period.

(4) For purposes of Section 504(2) and subject to the approval of the PUC, the Renewal and Replacement Reserve Fund Requirement shall mean, unless a greater amount is required by any Supplemental Indenture, (i) from the date of delivery of the initial Series of Bonds hereunder until the last day of the second full Fiscal Year following the Fiscal Year in which such Bonds are delivered, the amount provided in the Supplemental Indenture for the initial Bonds, and (ii) as of the last day of each calendar month thereafter an amount at least equal to the sum of (a) one-twelfth (1/12) of the amount, if any, by which the balance in the Renewal and Replacement Reserve Fund on the last day of the prior Fiscal Year was less than the Renewal and Replacement Reserve Fund Requirement calculated as of such day, multiplied by the number of months of the current Fiscal Year that have passed since the beginning of such Fiscal Year, and either plus (c) one-twelfth (1/12) of the amount, if any, by which a Consulting Engineer shall have certified to the Commission in accordance with paragraph (3) of this Section 609 that the Renewal and Replacement Reserve Fund Requirement should be increased for the current Fiscal Year, multiplied by the number of months of the current Fiscal Year that have passed since the beginning of such Fiscal Year, or minus (d) the amount, if any, by which such Consulting Engineer shall have certified that the Renewal and Replacement Reserve Fund Requirement can be decreased for the current Fiscal Year.

Section 610. Accounts and Reports.

The Commission shall annually, within 270 days after the close of each Fiscal Year or as soon thereafter as is practicable, file with the Trustee a copy of financial statements, audited by and containing the report of an independent public accountant or firm of accountants acceptable to the Trustee, relating to or including schedules relating to the operations and properties of the System for such Fiscal Year and setting forth in reasonable detail its financial condition as of the end of such year and income and expenses for such year, and including a summary of the receipt in and disbursements from the funds and accounts maintained under the Indenture during such Fiscal Year and the amounts held therein at the end of such Fiscal Year. In the event that such financial statements are not available within 270 days after the close of each Fiscal Year, the Commission shall so notify the Trustee in writing within 270 days. Each annual report shall be accompanied by a certificate of the accountant or firm of accountants auditing the same to the effect that in the course of and within the scope of their examination of such financial statements nothing came to their attention that would lead them to believe that an Event of Default had occurred under the Indenture or, if such is not the case, specifying the nature of the Event of Default.

ARTICLE VII

DEFAULTS AND REMEDIES

Section 701. Events of Default. The occurrence of one or more of the following events shall constitute an "Event of Default":

- (i) if default shall be made by the Commission in the payment of the Principal Installments or Redemption Price of any Bond when due, whether at maturity or by call for mandatory redemption or redemption at the option of the Commission or any Holder, or otherwise, or in the payment of any sinking fund payment when due,
- (ii) if default shall be made by the Commission in the payment of any installment of interest on any Bond when due,
- (iii) if default shall be made by the Commission in the payment of any installment of interest on or any Principal Installment or Redemption Price of any Subordinated Bonds when due,
- (iv) if default shall be made by the Commission in the performance or observance of any other of the covenants, agreements or conditions on its part provided in the Indenture or in the Bonds and such default shall continue for a period of 30 days after written notice thereof shall be given to the Commission by the Trustee or to the Commission and the Trustee by the Holders of a majority in Principal Amount of the Bonds Outstanding; provided that if such default cannot be remedied within such 30 day period, it shall not constitute an Event of Default hereunder if corrective action is instituted by the Commission within such period and diligently pursued until the default is remedied,
- (v) if an order, judgment or decree is entered by a court of competent jurisdiction (a) appointing a receiver, trustee, or liquidator for the Commission or the whole or any substantial part of the System, (b) granting relief in involuntary proceedings with respect to the Commission under the federal bankruptcy act, or (c) assuming custody or control of the Commission or of the whole or any substantial part of the System under the provision of any law for the relief of debtors, and the order, judgment or decree is not set aside or stayed within sixty (60) days from the date of entry of the order, judgment or decree, or

- (vi) if the Commission (a) admits in writing its inability to pay its debts generally as they become due, (b) commences voluntary proceedings in bankruptcy or seeking a composition of indebtedness, (c) makes an assignment for the benefit of its creditors, (d) consents to the appointment of a receiver of the whole or any substantial part of the System, or (e) consents to the assumption by any court of competent jurisdiction under any law for the relief of debtors of custody or control of the Commission or of the whole or any substantial part of the System.

The Commission shall promptly give the Trustee notice of any Event of Default with respect to Agency Bonds issued to the Agency prior to the date of this Indenture. Upon the occurrence of an Event of Default described in clauses (i), (ii), (v) or (vi), so long as such Event of Default shall not have been cured, either the Trustee (by notice in writing to the Commission), or the Holders of twenty-five percent (25%) in Principal of the Bonds Outstanding (by notice in writing to the Commission and the Trustee) may, with the consent of the Agency (so long as there are Agency Bonds Outstanding hereunder), declare the Principal Amount of all the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and be immediately due and payable, anything in the Indenture or in any of the Bonds contained to the contrary notwithstanding. The right to make such declaration as aforesaid, however, is subject to the condition that if, at any time after such declaration, all outstanding Events of Default (other than the payment of the Principal Amount and interest due and payable solely by reason of such declaration) shall have been cured or provision deemed by the Trustee to be adequate shall be made therefor, then and in every such case, unless a final judgment has been obtained for any Principal Amount or interest coming due and payable solely by reason of such declaration, the Holders of a majority in Principal Amount of the Bonds Outstanding, by written notice to the Commission and to the Trustee, may annul such declaration, or, if the Trustee shall have acted without a direction from Bondholders and if there shall not have been theretofore delivered to the Trustee written direction to the contrary by the Holders of a majority in Principal Amount of the Bonds then Outstanding, then any such declaration shall be deemed to be annulled.

Section 702. Application of Revenues and Other Moneys after Default.

(1) The Commission covenants that if an Event of Default shall happen and shall not have been remedied, the Commission, upon demand of the Trustee, shall pay over and assign to the Trustee (i) forthwith, all moneys, securities, Reserve Deposits, Additional Security, if any, and funds then held by the Commission in any fund or account pledged under the Indenture including, without limitation, funds then held by it in the Revenue Fund, and (ii) as promptly as practicable after receipt thereof the Revenues.

(2) During the continuance of an Event of Default, the Trustee shall apply the moneys, Reserve Deposits, Additional Security, if any, and funds held by the Trustee and such Revenues and the income therefrom as follows and in the following order:

- (i) to the payment of the reasonable and proper charges and expenses of the Fiduciaries and of its agents, representatives, advisors and legal counsel, and of any engineer or firm of engineers selected by the Trustee pursuant to this Article and to the payment of any fees and expenses required to keep any Reserve Deposits or Additional Security in full force and effect;
- (ii) to the payment of the amounts required for reasonable and necessary Operating Expenses, including reasonable and necessary reserves and working capital therefor, and for the reasonable repair and replacement of the System necessary to prevent loss of Revenues or to provide for the continued operation of the System, as certified to the Trustee by an independent engineer or firm of engineers of recognized standing (who may be an engineer or firm of engineers retained by the Commission for other purposes) selected by the Trustee;
- (iii) to the payment of the interest and Principal Amount or Redemption Price then due on the State Obligations and the Bonds, as follows:

(a) unless the Principal Amount of all of the Bonds shall have become or have been declared due and payable,

First: To the payment to the persons entitled thereto of all installments of interest or Qualified Swap Payments then due in the order of the maturity of such installments maturing (or payments due), and, if the amount available shall not be sufficient to pay in full all installments maturing (or payments due) on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Second: To the payment to the persons entitled thereto of the unpaid Principal Amount or Redemption Price of any State Obligations and Bonds which shall become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all the State Obligations and Bonds due on any date, then to the payment thereof ratably, according to the amounts of Principal Amount or Redemption Price due on such date, to the persons entitled thereto, without any discrimination or preference; and

(b) if the Principal Amount of all of the Bonds shall have become or have been declared due and payable, to the payment of the Principal Amount and interest or Qualified Swap Payments then due and unpaid upon the State Obligations and Bonds without preference or priority of

Principal Amount over interest or Qualified Swap Payments or of interest over Principal Amount or Qualified Swap Payments, or of any installment of interest (or payment due) over any other installment of interest (or payment due), or of any Bond over any other Bond, ratably, according to the amounts due respectively for Principal Amount and interest and Qualified Swap Payments, to the persons entitled thereto without any discrimination or preference;

(3) If and whenever all overdue installments of interest on all Bonds together with the reasonable and proper charges and expenses of the Fiduciaries including without limitation the fees and disbursements of its legal counsel, and all other sums payable by the Commission under the Indenture, including the Principal Installments and Redemption Price of and accrued unpaid interest on all Bonds which shall then be payable by declaration or otherwise, shall either be paid by or for the account of the Commission, or provision satisfactory to the Trustee shall be made for such payment and all defaults under the Indenture or the Bonds shall have been cured, the Trustee shall pay over to the Commission all moneys, securities and funds remaining unexpended in all funds and accounts provided by the Indenture to be held by the Commission, and thereupon the Commission and the Trustee shall be restored, respectively, to their former positions and rights under the Indenture and all Revenues shall thereafter be applied as provided in Article V. No such payment over to the Commission by the Trustee or resumption of the application of Revenues as provided in Article V shall extend to or affect any subsequent default under the Indenture or impair any right consequent thereon.

(4) The proceeds of any Reserve Deposits and Additional Security shall be applied by the Trustee in the manner provided in the applicable Supplemental Indenture authorizing such Reserve Deposits and Additional Security.

Section 703. Proceedings Brought by Trustee. (1) Whether or not a declaration shall be made by the Trustee or Bondholders pursuant to Section 701, if an Event of Default shall happen and shall not have been remedied, then and in every such case, the Trustee may proceed to protect and enforce its rights and the rights of the Holders of the Bonds under the Indenture by a suit or suits in equity or at law, whether for the specific performance of any covenant herein contained, or in aid of the execution of any power herein granted, or for an accounting against the Commission as if the Commission were the trustee of an express trust, or in the enforcement of any other legal or equitable right as the Trustee, being advised by counsel, shall deem most effectual to enforce any of its rights or to perform any of its duties under the Indenture.

(2) All rights of action under the Indenture may be enforced by the Trustee without the possession of any of the Bonds or the production thereof on the trial or other proceedings.

(3) The Holders of a majority in Principal Amount of the Bonds Outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, provided that the Trustee shall have the right to decline to follow any such direction if

the Trustee shall be advised by counsel that the action or proceeding so directed may not lawfully be taken, or if the Trustee in good faith shall determine that the action or proceeding so directed would involve the Trustee in personal liability or be unjustly prejudicial to the Bondholders not parties to such direction.

(4) Regardless of the happening of an Event of Default, the Trustee shall have power to, but unless requested in writing by the Holders of a majority in Principal Amount of the Bonds then Outstanding and furnished with satisfactory security and indemnity, shall be under no obligation to, institute and maintain such suits and proceedings as it may deem necessary or expedient to prevent any impairment of the security under the Indenture by any acts which may be unlawful or in violation of the Indenture, or necessary or expedient to preserve or protect its interests and the interests of the Bondholders.

Section 704. Restriction on Bondholders' Action. (1) No Holder of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of the Indenture or for any remedy under the Indenture, unless such Holder shall have previously given to the Trustee written notice of the happening of any Event of Default and shall have filed a written request with the Trustee, and shall have offered it reasonable opportunity to exercise the powers granted in this Article in its own name, and unless such Holders shall have offered to the Trustee adequate security and indemnity against the costs, expenses and liabilities to be incurred thereby or in connection therewith, and the Trustee shall have refused to comply with such request within a reasonable time.

(2) Nothing in the Indenture shall affect or impair the obligation of the Commission to pay on the respective dates of maturity thereof the Principal Amount of and interest on the Bonds, or affect or impair the right of action of any Holder to enforce the payment of his Bond.

Section 705. Remedies not Exclusive. No remedy by the terms of the Indenture conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Indenture or provided at law or in equity or by statute.

Section 706. Effect of Waiver and Other Circumstances. No delay or omission of the Trustee or of any Bondholder to exercise any right or power arising upon the happening of an Event of Default shall impair any right or power or shall be construed to be a waiver of any such default or to be an acquiescence therein.

(2) Prior to the declaration of maturity of the Bonds as provided in Section 701, the Holders of a majority in Principal Amount of the Bonds at the time Outstanding may on behalf of the Holders of all of the Bonds waive any past default under the Indenture and its consequences, except a default in the payment of interest on or Principal Installments or Redemption Price of any of the Bonds. No such waiver shall extend to any subsequent or other default.

ARTICLE VIII

THE FIDUCIARIES

Section 801. Trustee. J.P. Morgan Trust Company, National Association is hereby appointed Trustee under the Indenture. The Trustee shall signify its acceptance of the duties and obligations imposed upon it by the Indenture by executing the Indenture and by executing such Indenture, the Trustee shall be deemed to have accepted such duties and obligations not only with respect to the initial Bonds but with respect to all the Bonds thereafter to be issued, but only, however, upon the terms and conditions set forth in the Indenture.

Section 802. Paying Agents. (1) Unless otherwise provided in the applicable Supplemental Indenture, the Trustee shall act as a Paying Agent for all Series of Bonds. The Commission may appoint one or more additional Paying Agents for the Bonds of any Series in the applicable Supplemental Indenture. Each Paying Agent shall be a bank or trust company or national banking association having a capital and surplus aggregating at least twenty-five million dollars (\$25,000,000), if there is such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by the Indenture. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by the Indenture by executing and delivering to the Commission and to the Trustee a written acceptance thereof.

(2) If at any time a Paying Agent is unable or unwilling to act as Paying Agent, the Paying Agent may resign upon 30 days' prior written notice to the Commission and the Trustee. Such resignation shall become effective upon the date specified in such notice, unless a successor Paying Agent has not been appointed, in which case such resignation shall become effective upon the appointment of such successor. The Paying Agent may be removed at any time by the Commission by written notice signed by the Commission delivered to the Trustee, each Bondholder and the Paying Agent. Upon resignation or removal of the Paying Agent, the Commission shall appoint a successor Paying Agent which shall be a bank or trust company which meets the requirements of subsection (1) of this Section 802. The Commission shall notify each Bondholder of the related Series of Bonds of the appointment of such successor. Upon the resignation or removal of the Paying Agent, the Paying Agent shall pay over, assign and deliver any moneys and Bonds held by it in trust pursuant to this Section 802 to its successor.

Section 803. Depositories. The Commission may appoint one or more Depositories to hold, as an agent for the Trustee, moneys to be held under the provisions of this Indenture. Each Depository shall be a bank or trust company or national banking association having capital and surplus aggregating at least twenty-five million dollars (\$25,000,000), if there is such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed on it by the Indenture. As a condition to the appointment of any Depository such Depository shall agree to provide monthly reports to the Trustee as to the balances on deposit in the fund or funds held by

such Depository and shall acknowledge in writing that the moneys held by it are being held by it as agent for the Trustee and subject to the provisions of Section 501.

Section 804. Responsibility of Fiduciaries. (1) The recitals of fact herein and in the Bonds contained shall be taken as the statements of the Commission and no Fiduciary assumes any responsibility for the correctness of the same. The duties and obligations of the Fiduciaries shall be determined by the express provisions of the Indenture and the Fiduciaries shall not be liable except for their performance of such duties and obligations as are specifically set forth herein. No Fiduciary makes any representations as to the validity or sufficiency of the Indenture or of any Bonds issued thereunder or in respect of the security afforded by the Indenture, and no Fiduciary shall incur any responsibility in respect thereof. The Authenticating Agent for any Bonds shall, however, be responsible for its representation contained in its certificate of authentication on the Bonds. No Fiduciary shall be under any responsibility or duty with respect to the issuance of the Bonds for value or the application of the proceeds thereof or the application of any moneys paid to the Commission or any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect hereof, or to advance any of its own moneys, unless properly indemnified. No Fiduciary shall be liable in connection with the performance of its duties hereunder except for its own gross negligence or willful default nor shall any Fiduciary be liable for any action taken or omitted by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by the Indenture.

(2) All moneys held by any Fiduciary, as such, at any time pursuant to the terms of the Indenture shall be and hereby are assigned, transferred and set over unto such Fiduciary in trust for the purposes and under the terms and conditions of the Indenture.

Section 805. Evidence on Which Fiduciary May Act. Each Fiduciary shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, bond, or other paper or document believed by it to be genuine, and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with counsel, who may or may not be of counsel to the Commission, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith. Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate executed in the name of the Commission by an Authorized Officer, and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of the Indenture upon the faith thereof, but in its discretion the Fiduciary may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as to it may deem reasonable.

Section 806. Compensation. Unless otherwise provided by contract with such Fiduciary, the Commission shall pay to each Fiduciary from time to time reasonable compensation for all services rendered hereunder, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents, consultants and employees incurred in and about the performance of their powers and duties hereunder. The Commission, to the extent permitted by law, shall indemnify and save each Fiduciary harmless against any liabilities, costs and expenses which it may incur in the exercise and performance of its powers and duties hereunder, and which are not due to its own gross negligence or willful default.

Section 807. Permitted Acts. Any Fiduciary may become the owner of any Bonds and may otherwise deal with the Commission, with the same rights it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as depositary for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization growing out of the enforcement of the Bonds or the Indenture, whether or not any such committee shall represent the Holders of a majority in Principal Amount of the Bonds Outstanding.

Section 808. Resignation of Trustee. The Trustee may at any time resign and be discharged of the duties and obligations created by the Indenture by giving not less than sixty (60) days' written notice to the Commission and giving not less than thirty (30) days' written notice to each Bondholder and Paying Agent specifying the date when such resignation shall take effect, and such resignation shall take effect upon the day specified in such notice provided a successor shall have been appointed, unless previously a successor shall have been appointed by the Commission or the Bondholder as hereinafter provided, in which event such resignation shall take effect immediately on the appointment of such successor.

Section 809. Removal of Trustee. The Trustee may be removed (i) at any time by an instrument or concurrent instruments in writing, filed with the Trustee, and signed by the Holders of a majority in Principal Amount of the Bonds then Outstanding or their attorneys-in-fact duly authorized, excluding any Bonds held by or for the account of the Commission, and (ii) so long as no Event of Default shall have occurred and be continuing, at any time by an Authorized Officer of the Commission by an instrument in writing filed with the Trustee.

Section 810. Appointment of Successor Trustee. In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee, or of its property or affairs, a successor may be appointed by the Commission, so long as no Event of Default shall have occurred and be continuing hereunder, or by the Holders of a majority in Principal Amount of the Bonds then Outstanding, excluding any Bonds held by or for the account of the Commission, by an instrument or concurrent instruments in writing signed and acknowledged by

such Bondholders or by their attorneys-in-fact duly authorized and delivered to such successor Trustee, notification thereof being given to the Commission and the predecessor Trustee. Pending such appointment, the Commission by a written instrument signed by an Authorized Officer and delivered to the predecessor Trustee shall forthwith appoint a Trustee to fill such vacancy until a successor Trustee shall be appointed by the Bondholders as herein authorized. The Commission shall give written notice of any such appointment made by it to each Bondholder and Paying Agent at least thirty (30) days after the date of such appointment. Any successor Trustee appointed by the Commission shall, immediately and without further act, be superseded by a Trustee appointed by the Bondholders. If in a proper case no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section within forty-five (45) days after the Trustee shall have given to the Commission written notice as provided in Section 808 or after the occurrence of any other event requiring or authorizing such appointment, the Trustee or the Holder of any Bond may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee. The Trustee shall continue to serve until a successor Trustee shall be appointed under the provisions of this Section. Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be a bank or trust company organized under the laws of the State, or a national banking association doing business in the State, having a capital and surplus aggregating at least fifty-million dollars (\$50,000,000), if there be such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all duties imposed upon it by the Indenture.

Section 811. Transfer of Rights and Property to Successor Trustee. Any successor Trustee appointed hereunder shall execute, acknowledge and deliver to the predecessor Trustee, and also to the Commission, an instrument accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as Trustee herein, but the Trustee ceasing to act shall nevertheless, on the written request of the Commission, or of the Successor Trustee, execute, acknowledge and deliver such instruments of conveyance and further assurances and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor Trustee all the right, title and interest of the predecessor Trustee in and to any property held by it hereunder, and shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth.

Section 812. Merger or Consolidation. Any company into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all or substantially all of its corporate trust business provided such company shall be a bank or trust company or national banking association which is qualified to be a successor to such Fiduciary under Section 810 or Section 802(1) and shall be authorized by law to perform all the duties imposed upon it by the Indenture, shall be the successor to such

Fiduciary without the execution or filing of any paper or the performance of any further act, anything herein to the contrary notwithstanding.

ARTICLE IX

SUPPLEMENTAL INDENTURES

Section 901. Supplemental Indentures Effective upon Execution and Delivery. The Commission and the Trustee may at any time and from time to time and without the consent of or notice to any of the Bondholders execute and deliver a Supplemental Indenture supplementing the Indenture for any one or more of the following purposes:

- (1) to close the Indenture against, or provide limitations and restrictions not contained in the Indenture on, the original issuance of Bonds;
- (2) to add to the covenants and agreements of the Commission contained in the Indenture other covenants and agreements thereafter to be observed for the purpose of further securing the Bonds;
- (3) to surrender any right, power or privilege reserved to or conferred upon the Commission by the Indenture;
- (4) to preserve the excludability of Interest on any Bonds from gross income for the purpose of federal income taxes, or to change the tax covenants set forth in Section 503, 509 or 604 pursuant to an Opinion of Bond Counsel that such action will not affect adversely such excludability;
- (5) to authorize Bonds of a Series and, in connection therewith, specify and determine any matters and things relative to such Bonds not contrary to or inconsistent with the Indenture;
- (6) to amend the obligations of the Commission with respect to the State Obligations, pursuant to an agreement with the State, provided that such amendment, in the conclusive determination of the Trustee is not adverse to the Bondholders;
- (7) to exercise any provision herein or to make such determinations hereunder as expressly provided herein to be exercised or determined in a Supplemental Indenture;
- (8) to confirm, as further assurance, any pledge under and the subjection to any lien or pledge created or to be created by the Indenture of the Revenues;
- (9) to reflect a change in the Fiscal Year of the Commission, and to make changes to the dates set forth in this Indenture to the extent necessary to conform such dates to the amended Fiscal Year;

(10) to provide for the issuance of Subordinated Bonds and amendments to the Indenture in accordance with Section 208; and

(11) to make any other change which, in the conclusive determination of the Trustee, is not adverse to the Bondholders;

Section 902. Supplemental Indenture Regarding Ambiguities. At any time or from time to time and without the consent of or notice to any of the Bondholders but subject to the conditions or restrictions in the Indenture contained, the Commission and the Trustee may enter into an indenture amending or supplementing the Indenture curing any ambiguity or curing correcting or supplementing any defect or inconsistent provisions contained in the Indenture or making such provisions in regard to matters or questions arising under the Indenture as may be necessary or desirable and not contrary to or inconsistent with the Indenture.

Section 903. Supplemental Indentures Amending Indenture or Bonds. At any time or from time to time but subject to the conditions or restrictions in the Indenture contained, the Commission and the Trustee may enter into an indenture amending or supplementing the Indenture, modifying any of the provisions of the Indenture or Bonds or releasing the Commission from any of the obligations, covenants, agreements, limitations, conditions or restrictions therein contained, but, except as provided in Section 901 and Section 902, no such indenture shall be effective unless (a) no Bonds authorized by a Supplemental Indenture adopted prior to the adoption of such indenture remain Outstanding at the time it becomes effective, or (b) such indenture is consented to by or on behalf of Bondholders, in accordance with and subject to the provisions of Article X.

Section 904. Execution and Delivery of Supplemental Indentures. Any Supplemental Indenture referred to and permitted or authorized by this Article IX shall become effective only on the conditions, to the extent and at the time provided in this Article. Every such indenture becoming effective shall thereupon form a part of the Indenture. The Trustee in executing or accepting the additional trusts permitted by this Article or the modifications thereby of the trusts created by this Indenture shall be fully protected in relying on a Counsel's Opinion to the effect that such indenture has been duly and lawfully adopted by the Commission in accordance with the provisions of the Indenture, is authorized or permitted by the Indenture, and constitutes the lawful and binding obligation of the Commission in accordance with its terms.

Section 905. Provider of Additional Security or Reserve Deposits as Holder of the Bonds. Subject to anything contrary set forth in a Supplemental Indenture, as long as Additional Security of Reserve Deposits with respect to the Bonds securing all or a portion of the Bonds Outstanding is in effect, the provider of such Additional Security or Reserve Deposit to the extent so authorized in the applicable Supplemental Indenture, shall be deemed to be the Holder of the Bonds secured by the Additional Security or Reserve Deposits: (i) at all times for the purpose of the execution and delivery of the Supplemental Indenture or of any amendment, change or modification of this Indenture or the initiation by Bondholders of any action to be undertaken by the Trustee at the Bondholders' request, which under this Indenture requires the written approval or consent of or can be initiated by the Holders of at least a majority in

aggregate principal amount of the Bonds at the time Outstanding, (ii) at all times for the purpose of the mailing of any notice to Bondholders under this Indenture, and (iii) following an Event of Default for all other purposes. Notwithstanding the foregoing, a provider of Additional Security or a Reserve Deposit shall not be deemed to be a Holder of the Bonds with respect to any such Supplemental Indenture or of any amendment, change or modification of this Indenture which would have the effect of permitting (i) a change in the terms of redemption or maturity of any Outstanding Bonds or of any installment of interest thereon or (ii) a reduction in the Principal Amount or the Redemption Price thereof or in rate of Interest thereon or (iii) reducing the percentage or otherwise affecting the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment.

ARTICLE X

AMENDMENTS

Section 1001. Mailing. Any provision in this Article X for the mailing of a notice or other paper to Bondholders shall be fully complied with if it is mailed postage prepaid only (i) to each Holder of Bonds then Outstanding at his address, if any, appearing upon the register and (ii) to the Trustee.

Section 1002. Powers of Amendment. Any modification or amendment of the Bonds or of the Indenture may be made by a Supplemental Indenture, with the written consent given as provided in Section 1003, (i) of the Holders of at least a majority in aggregate Principal Amount of all Bonds Outstanding at the time such consent is given or (ii) in case less than all of the several Series of Bonds then Outstanding are affected by the modification or amendment, of the Holders of at least a majority in aggregate Principal Amount of the Bonds of each Series so affected and Outstanding at the time such consent is given; provided, however, that, if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified Series or maturity remain Outstanding, the vote or consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section; and provided, further, that no such modification or amendment shall permit a change in the terms of redemption or maturity of the Principal Amount of any Outstanding Bond, or of any installment of interest thereon or a reduction in the Principal Amount or the Redemption Price thereof or the rate of interest thereon or the method for determining such rate without the consent of the Holder of such Bond, or shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto, or shall reduce the percentages of the Principal Amount of Bonds the consent of which is required to effect any such modification or amendment.

Section 1003. Consent of Bondholders. The Commission may at any time adopt a Supplemental Indenture making a modification or amendment permitted by the provisions of Section 1002, to take effect when and as provided in this Section. Upon the adoption of such Supplemental Indenture, a copy thereof, certified by an Authorized Officer, shall be filed with the Trustee for the inspection of the Bondholders. A copy of such Supplemental Indenture (or summary thereof or reference thereto in form approved in writing by the Trustee) together with a request to Bondholders for their consent thereto in form satisfactory to the Trustee, shall be mailed by the Commission to each affected Bondholder. Such Supplemental Indenture shall not become effective until there shall have been filed with the Trustee the written consents of the percentages of the Holders of Outstanding Bonds specified in Section 1002 and a notice shall have been given as hereinafter in this Section provided. Any such consent shall be binding upon the Holder of the Bonds giving such consent and on any subsequent Holder of such Bonds (whether or not such subsequent Holder has notice thereof). At any time after the Holders of the required percentages of Bonds shall have filed their consent to the Supplemental Indenture, notice, stating in substance that the Supplemental Indenture has been consented to by the Holders of the required percentages of Bonds and will be effective as provided in this Section, may be given to the Bondholders by mailing such notice to Bondholders. The Commission shall file with the Trustee proof of giving such notice. Such Supplemental Indenture shall be deemed conclusively binding upon the Commission, the Fiduciaries and the Holders of all Bonds at the expiration of sixty (60) days after the filing with the Trustee of the proof of the mailing of such notice, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding commenced for such purpose within such sixty day period; provided, however, that any Fiduciary and the Commission during such sixty day period and any such further period during which any such action or proceeding may be pending shall be entitled in their absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Indenture as they may deem expedient.

Section 1004. Modification by Unanimous Action. Notwithstanding anything contained in Article IX or in the foregoing provisions of this Article, the rights and obligations of the Commission and of the Holders of the Bonds and the terms and provisions of the Bonds or of the Indenture may be modified or amended in any respect upon the adoption of a Supplemental Indenture by the Commission and the consent of the Holders of all of the Bonds then Outstanding, such consent to be given as provided in Section 1003 except that no notice to Bondholders shall be required; provided, however, that no such modification or amendment shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto.

Section 1005. Exclusion of Bonds. Bonds owned or held by or for the account of the Commission shall not be deemed Outstanding for the purpose of any consent or other action or any calculation of Outstanding Bonds provided for in this Article, and shall not be entitled to consent or take any other action provided for in this Article. At the time of any consent or other action taken under this Article, the Commission shall furnish the Trustee a certificate of an Authorized Officer, upon which the Trustee may rely, describing all Bonds so to be excluded.

Section 1006. Notation on Bonds. Bonds authenticated and delivered after the effective date of any action taken as hereinabove in this Article X provided may, and, if the Trustee so determines, shall, bear a notation by endorsement or otherwise in form approved by the Commission and the Trustee as to such action, and in that case upon demand of the Holder of any Bond Outstanding at or after such effective date and presentation of his Bond for the purpose to the Trustee, suitable notation shall be made on such Bond by the Trustee as to any such action. If the Commission or the Trustee shall so determine, new Bonds so modified as in the opinion of the Trustee and the Commission to conform to such action shall be prepared, authenticated and delivered, and upon demand of the Holder of any Bond then outstanding shall be exchanged, without cost to such Bondholder, for Bonds of the same Series and maturity then Outstanding, upon surrender of such Bonds.

ARTICLE XI

DEFEASANCE

Section 1101. Defeasance. (1) If the Commission shall (i) pay or cause to be paid, or there shall otherwise be paid to the Holders of the Bonds then Outstanding, the Principal Amount and interest and Redemption Price, if any, to become due thereon, at the times and in the manner stipulated therein and in the Indenture and (ii) discharge and satisfy its obligations under any Qualified Swap Agreement, then the pledge of any Revenues or other moneys, securities, Reserve Deposits and Additional Security, if any, pledged by the Indenture and all other rights granted by the Indenture shall be discharged and satisfied. In such event, the Trustee shall, upon request of the Commission, execute and deliver to the Commission all such instruments as may be desirable to evidence such release and discharge and the Fiduciaries shall pay over or deliver to the Commission all moneys or securities held by them pursuant to the Indenture which are not required for the payment or redemption of Bonds not theretofore surrendered for such payment for redemption.

(2) Bonds or interest installments for the payment or redemption of which moneys shall be held by the Fiduciaries (through deposit by the Commission of funds for such payment or redemption or otherwise), whether at or prior to the maturity or the redemption date of such Bonds, shall be deemed to have been paid within the meaning and with the effect expressed in paragraph (1) of this Section 1101. All Outstanding Bonds of any Series or any part of a Series shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in paragraph (1) of this Section 1101 if (i) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Commission shall have given to the Trustee, in form satisfactory to it, irrevocable instructions to provide as provided in Article IV, notice of redemption on said date of such Bonds, (ii) there shall have been deposited with the Trustee either moneys in an amount which shall be sufficient, or Permitted Investments of the type described in clause (1) of the definition thereof or Advance Refunded Municipal

Bonds not subject to redemption at the option of the issuer thereof prior to the due date thereof, the principal of and interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the time of deposit of such Permitted Investments, shall be sufficient to pay when due the Principal Amount or Redemption Price, if applicable, and interest due and to become due on said Bonds on and prior to the redemption date or maturity date thereof, as the case may be, and (iii) in the event said Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the Commission shall have given the Trustee in form satisfactory to it irrevocable instructions to provide, as soon as practicable, at least thirty (30) days written notice to the Holders of such Bonds that the deposit required by clause (ii) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with paragraph (1) of this Section 1101 and stating the maturity or redemption date upon which moneys are to be available for the payment of the Principal Amount or Redemption Price, if applicable, on said Bonds. Neither Permitted Investments nor moneys deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Permitted Investments shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the Principal Amount or Redemption Price, if applicable, and interest on said Bonds, provided that any cash received from the principal or interest payments on such Permitted Investments deposited with the Trustee, if not then needed for such purpose, may, to the extent practicable, be reinvested in Permitted Investments maturing at times and in principal amounts sufficient to pay when due the Principal Amount or Redemption Price, if applicable, and interest to become due on said Bonds on and prior to such redemption date or maturity date thereof, as the case may be. After the making of the payments for which such Permitted Investments or moneys were held, any surplus shall be promptly paid over to the Commission, as received by the Trustee, free and clear of any trust, lien or pledge or assignment securing the Bonds or otherwise existing under this Indenture.

(3) For purposes of determining whether Variable Rate Bonds shall be deemed to have been paid prior to the maturity or redemption date thereof, as the case may be, by the deposit of moneys, or Government Obligations and moneys, if any, in accordance with subsection (2)(ii) hereof, the interest to come due on such Variable Rate Bonds on or prior to the maturity date or redemption date thereof, as the case may be, shall be calculated at the Variable Rate Ceiling; provided, however, that if on any date, as a result of such Variable Rate Bonds having borne interest at less than such Variable Rate Ceiling for any period, the total amount of moneys and Government Obligations on deposit with the Trustee for the payment of interest on such Variable Rate Bonds is in excess of the total amount which would have been required to be deposited with the Trustee on such date in respect of such Variable Rate Bonds in order to satisfy the provisions of subsection (2)(ii) above, the Trustee shall, if requested by the Commission, pay promptly the amount of such excess to the Commission free and clear of any trust, lien, pledge or assignment securing the Bonds or otherwise existing under this Indenture.

(4) Tender Bonds shall be deemed to have been paid in accordance with subsection (2)(ii) hereof only if, in addition to satisfying the requirements thereof, there shall have been deposited with the Trustee moneys in an amount which shall be sufficient to pay when due the

maximum Principal Amount and Redemption Price of and interest on such Bonds which could become payable to the Holders of such Bonds upon the exercise of any options provided to the Holders of such Bonds; provided, however, that if, at the time a deposit is made with the Trustee pursuant to the provisions of subsection (2)(ii) above, the options originally exercisable by the Holders of Tender Bonds are no longer exercisable, such Bonds shall not be considered Tender Bonds for purposes of this subsection (4). If any portion of the moneys deposited with the Trustee for the payment of the Principal Amount or Redemption Price of and interest on Tender Bonds is not required for such purpose the Trustee shall, if requested by the Commission, pay promptly the amount of such excess to the Commission free and clear of any trust, lien, pledge or assignment securing said Bonds or otherwise existing under this Indenture.

(5) Anything in the Indenture to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the payment and discharge of any Bonds which remain unclaimed for three (3) years after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Fiduciary at such date, or for three (3) years after the date of deposit of such moneys if deposited with the Fiduciary after the said date when such Bonds became due and payable, shall, at the written request of the Commission, be repaid promptly by the Fiduciary to the Commission, as its absolute property and free from trust, and the Fiduciary shall thereupon be released and discharged with respect thereto and the Bondholders shall look only to the Commission for the payment of such Bonds; provided, however, that before being required to make any such payment to the Commission, the Fiduciary shall, at the expense of the Commission, cause to be mailed to the Holders of all Bonds Outstanding a notice that said moneys remain unclaimed and that, after a date named in said notice, which date shall not be less than thirty (30) days after the date of mailing of such notice, the balance of such moneys then unclaimed will be returned promptly to the Commission.

ARTICLE XII

MISCELLANEOUS

Section 1201. Evidence of Signatures of Bondholders and Ownership of Bonds. (1) Any request, consent or other instrument which the Indenture may require or permit to be signed and executed by the Bondholders may be in one or more instruments of similar tenor, and shall be signed or executed by such Bondholders in person or by their attorneys appointed in writing.

(2) The ownership of Bonds and the amount, numbers and other identification, and date of owning the same, shall be proved solely by the registry books.

(3) Any request, consent or vote of the Holder of any Bond shall bind all future Holders of such Bond in respect of anything done or suffered to be done by the Commission or any Fiduciary in accordance therewith.

Section 1202. Preservation and Inspection of Documents. All documents received by a Fiduciary under the provisions of the Indenture shall be retained in its possession and shall be subject at all reasonable times to the inspection of the Commission, any other Fiduciary and any Bondholder and their agents and their representatives, any of whom may make copies thereof at their own expense.

Section 1203. No Recourse on the Bonds. No recourse shall be had for the payment of the Principal Amount or Redemption Price of or the interest on the Bonds or for any claim based thereon or on the Indenture against any member, officer, agent, representative or employee of the Commission or any person executing the Bonds. No member, officer, agent, representative or employee of the Commission shall be held personally liable to any purchaser or Holder of any Bond under or upon such Bond, or under or upon the Indenture or any Supplemental Indenture relating to Bonds, or, to the extent permitted by law, because of the sale or issuance or attempted sale or issuance of Bonds, or because of any act or omission in connection with the construction, acquisition, operation or maintenance of the System, or because of any act or omission in connection with the investment or management of the Revenues, funds or moneys of the Commission, or otherwise in connection with the management of its affairs, excepting solely for things wilfully done or omitted to be done with an intent to defraud.

Section 1204. Partial Invalidity. If any provision of the Indenture or any Supplemental Indenture is held invalid in any circumstance, such invalidity shall not affect any other provisions or circumstances.


Section 1205. Law and Place of Enforcement of the Indenture. The Indenture shall be construed and governed in accordance with the laws of the State and all suits and actions arising out of the Indenture shall be instituted in a court of competent jurisdiction in the State.

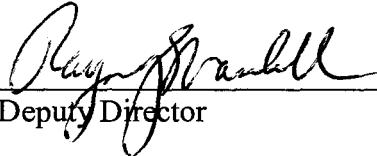
Section 1206. Business Days. Except as otherwise required herein, if this Indenture requires any parties to act on a specific day and such day is not a Business Day, such parties need not perform such act until the next succeeding Business Day, and such act shall be deemed to have been performed on the day required.

Section 1207. Effective Date. The Indenture shall be effective upon its execution by the Commission and the Trustee.

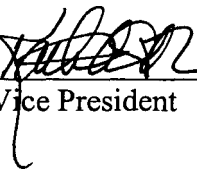
IN WITNESS WHEREOF, the Commission has caused this Indenture to be signed in its name by its Chairperson and attested by its Deputy Director, and the Trustee, in acceptance of the trusts created hereunder, has caused this Indenture to be signed in its corporate name by its officer thereunder duly authorized all as of the day and year first above written.

NARRAGANSETT BAY COMMISSION

By: 
Chairperson

By: 
Deputy Director

J.P. MORGAN TRUST COMPANY,
NATIONAL ASSOCIATION, as Trustee

By: 
Vice President

Comm. RR-2: How is the "Additional Bonds Test" calculated to ensure that NBC can undertake any new borrowing.

Response: There is more than one analysis used by NBC to ensure that it can undertake any new borrowings:

- First, there are two tests under the Trust Indenture (please note that "Commission" refers to NBC):

Section 205. General Provisions for Issuance of Bonds - requires a certificate that estimated annual Net Revenues (as defined in the Indenture)* together with the amounts of Reserved Revenues, if any, available in such Fiscal Year for the year that the bonds are issued and each of the three subsequent Fiscal Years will be 125% of other than the RIIB bond debt service requirements and 135% of the RIIB bond debt service requirements.

Section 603. Covenants as to Rates and Charges - requires the Commission [NBC] to take all actions within its power to establish and maintain Rates and Charges at levels sufficient so that total Net Revenues (as defined in the Indenture)* in each Fiscal Year during which Bonds are outstanding shall equal 125% of the debt service requirements and 135% of the RIIB bond debt service requirements.

***Net Revenues** - "Net Revenues" shall mean, for any period of computation, all Revenues (excluding Debt Service Assistance deposited in the Debt Service Assistance Account and any proceeds of insurance, condemnation or the sale or other disposition of any part of the System deposited in the Revenue Fund during such period, but including unrestricted fund balance on the books of the System) received by the Commission [NBC] during such period and deposited in the Revenue Fund plus (i) the amount of any Reserved Revenues directed by the Commission [NBC] to be withdrawn from the Stabilization Account and transferred from the Stabilization Account in accordance with Section 506, less (ii) all amounts withdrawn from the Revenue Fund during such period and (iii) deposited in the Operation and Maintenance Fund, the Rebate Fund and the Stabilization Account or (iv) required to be deposited in the Debt Service Reserve Fund during such period;

- In addition, there is an analysis undertaken for credit rating:

Credit Rating, Bondholder Security, and Annual Comprehensive Financial Report – Prior to debt issuance NBC calculates debt service based on the calculation used by S&P Global Ratings :

$((\text{Revenue} - \text{Operating Expenses}(\text{less depreciation}))/\text{Debt Service})$

Also please see the most recent report Report of S&P Global – attached (See Attachment RR-2).

- Finally, NBC performs an analysis prior to seeking borrowing approval from the Division of Public Utilities and Carriers:

Division Approval to Enter into Long-Term Debt and Issue Revenue Bonds and Rate Setting - As part of the application for Division approval for debt issuance, NBC calculates debt service coverage as: $(\text{PUC allowance for debt service and debt service coverage})/(\text{projected total new debt service})$. NBC must show 1.25 coverage for the current year plus the subsequent three fiscal years.

Prepared by: Karen Giebink and Karen Grande

RatingsDirect®

Summary:

Narragansett Bay Commission, Rhode Island; Water/Sewer

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Related Research

Summary:**Narragansett Bay Commission, Rhode Island;
Water/Sewer****Credit Profile**

US\$55.5 mil WIFIA loan ser 2022A due 03/02/2052

Long Term Rating

AA-/Stable

New

Narragansett Bay Comm swr

Long Term Rating

AA-/Stable

Affirmed

Rating Action

S&P Global Ratings assigned its 'AA-' underlying rating to the Narragansett Bay Commission (NBC), R.I.'s 2022 Water Infrastructure Finance and Innovation Act (WIFIA) loan and affirmed its 'AA-' underlying rating on NBC's outstanding parity debt and the 2019 and 2020 WIFIA loans. The outlook is stable.

NBC's 2022 WIFIA III loan will be used to fund 49% of the commission's \$113 million Field's Point Resiliency Improvements. Debt service on 2022 loans is payable from the net revenues of the commission, which are on parity with revenue bonds outstanding, Rhode Island Infrastructure Bank (RIIB) loans, and the 2019 and 2020 WIFIA I and II loans. The rate covenant on the bonds is 1.25x annual debt service on all parity bonds and the WIFIA loan, and 1.35x on RIIB loans outstanding.

Credit overview

As NBC transitions to a significant capital-intensive program to deal with CSO (Combined Sewer Overflow) Phase III A-related projects, it remains paramount for rating maintenance that management remain vigilant with regard to getting rates approved by the Rhode Island Public Utilities Commission (PUC) as debt service levels will increase from about \$45 million per year to over \$55 million by fiscal 2025 and level out around \$60 million in 2034.

The rating reflects our views of NBC's credit strengths as:

- Service area participation in the broad and diverse Providence-Warwick metropolitan statistical area (MSA);
- Rates that we generally view as affordable when benchmarking against Providence County's median household effective buying income (MHHEBI) and poverty rates;
- Operational management practices and policies that we view as good;
- Financial metrics that include all-in debt service coverage (DSC) of at least 1.2x and a days' cash equivalent of around 160-205 days' cash over the last four fiscal years; and
- Financial management practices and policies that we view as strong.

Challenges for the credit remain, as mentioned above:

- The system's high leverage, at a 62.9% debt-to-capitalization ratio at the end of fiscal 2021; WIFIA loans I, II, and III are expected to have drawdowns totaling about \$223 million with RIIB debt plans of \$361 million in the coming years; and
- The successful maintenance of its currently good relationship with Rhodes Island PUC to get rate increase approved in the future to meet the rising debt service requirements.

The stable outlook on the underlying rating reflects our expectation that the financial performance should continue in a fashion consistent with historical trends, given a sound history of credit-supportive rate decisions by the PUC.

Environmental, social, and governance

Overall, we believe that management has mitigated most of the system's environmental, social, and governance (ESG)-related risk by adopting, adhering to, and adjusting its operating and financial policies and procedures. We view most of the district's other ESG risk factors as being on par with those of other similarly rated sewer utilities. Environmental risk is also elevated as the system is under a consent decree, although management has completed the planning and is beginning the construction of the Phase III A projects with expected completion in 2027. Lastly, governance risk factors are higher than similar sewer systems in that NBC must get rate approval from an outside entity, the PUC. This risk is somewhat mitigated as the commission has had a sound history of obtaining PUC rate approval.

Stable Outlook

Downside scenario

Should future rates not generate sufficient revenues to help maintain the consistent financial performance and support the large capital improvement plan (CIP), we could lower the rating.

Upside scenario

If NBC's financial performance becomes significantly stronger compared to historical trends, and we believe that these trends are sustainable, then the rating could improve. However, given the need for continued PUC support and ongoing debt and capital needs, we believe the likelihood for upward rating movement is probably well after the two-year outlook period.

Credit Opinion

Enterprise risk

NBC was established in 1980 and serves 10 communities with a total of approximately 360,000 residents and 7,800 businesses in northeastern Rhode Island, primarily Providence and Pawtucket. The commission does not have any taxing authority; it derives revenues from user charges.

The commission's 10 leading customers consist primarily of colleges, universities, hospitals, and cities, and this list has remained stable in recent years. These top-10 represent just 8.57% of operating revenues in fiscal 2021, which we consider a diverse customer base.

We benchmark our analysis of market position, which is an input to the enterprise risk profile, to both MHHEBI and the county poverty rate. MHHEBI for Providence County is 90% of the national average. Monthly-equivalent water and sewer rates are \$50.55 for 800 cubic feet of usage, which is our standard benchmark for monthly consumption, or only 1.22% of MHHEBI when annualized. When considering that the county's poverty rate is close to 12%, our view of the market position is somewhat more negative compared to a situation where a utility has both lower nominal rates combined with a lower poverty rate. That said, our rating reflects our understanding that the service base extends well beyond the city of Providence, which is likely to lead to greater rate affordability than conservative assumptions used in our analysis.

Rate increases for both general rate base increases as well as compliance rate increases to comply with debt covenants both require Rhode Island PUC approval. The most recent full rate increase of 5.88% went into effect July 1, 2019. Recently the PUC approved a 0.56% increase for the recovery of electronic payment transaction fees. NBC reports that the average residential rate for its customers is still competitive with those of other residential systems in the state. A long history of credit-supportive rate decisions by the PUC, an independent state-level body, supports the current rating. NBC management indicates that it communicates with the PUC on a regular basis and also informs it of planned rate increases for future fiscal years. We would expect the commission to continue its regular communications with the PUC to seek timely rate approvals, especially given NBC's large CIP. The next planned increase is expected in fiscal 2023.

We consider the operational management policies and practices of the utility good, including the existence of generally strong internal controls and asset management policies. The commission owns and operates two treatment plants, which treat roughly 70% of the state's sewerage and serve more than one-third of its population. Systemwide average daily flow of 65 mgd is well below capacity. The utility is currently beginning construction on many of the CSO Phase III A projects as described in a consent decree with the Federal EPA and Rhode Island Department of Environmental Management (RIDEM) to reduce CSOs; final project costs of Phase III A, B, C, and D will be slightly over \$1 billion, with the Phase III A project totaling \$812 million through 2027, while Phase III B, C, and D, which are expected to total \$276 million, will not begin for some time. Phase III A involves construction a 30-foot internal diameter deep rock tunnel extending over 11,600 feet in Pawtucket and 12 other construction projects. Pursuant to the consent agreement, the phase III CSO program should end by 2041.

The commission has a fully mapped GIS system and an asset management program that has been in place since the mid-2000s. All new assets are built to be resilient to a 100-year flood event plus three feet, and submitted a resiliency plan to RIDEM in November 2019. The utility reviews its cybersecurity policies every other year, has regular data backups, and is conducting ongoing employee training.

Financial risk

The commission's financial performance is very strong, in our opinion. For audited years 2016-2020, all-in debt service was at least 1.2x. Management was expecting coverage levels of around 1.3x in fiscal 2021; expectations for revenue growth are very conservative as are the expenditure estimates. Actual fiscal 2021 coverage was 1.49x. Also, the commission had unrestricted cash of \$13.2 million in 2021, equal to 120 days' operating expenses. Management does not expect a substantial change in financial results, although in the long run, further rate increases will be needed to support the costs of the CIP.

The commission's CIP is large, at \$821 million over the six years from 2021 through 2026. The majority of this amount--\$548 million, or 87%--is for Phase IIIA of the CSO program. The commission signed a loan agreement with the Federal EPA for a WIFIA loan of \$268.7 million in 2019. An additional 2020 WIFIA loan of \$190 million was also signed. Now NBC expects to enter a third WIFIA loan of \$55 million. In addition to the WIFIA loans, we understand management plans to issue a revenue debt and state revolving fund loan of approximately \$362 million to pay for the five-year CIP. We view NBC as being highly leveraged, with a debt-to-capitalization ratio of 62% when counting the 2020 WIFIA loan, which will not be drawn until future years. In addition, its proportionate share of the net pension liability for the Employees' Retirement System of Rhode Island is underfunded at 52%, which we believe could further pressure fixed costs in time.

Also supporting the commission's financial risk profile is our financial management assessment of strong, indicating that, in our view, financial practices are well embedded and likely sustainable. Examples include the existence of long-term capital planning, formal investment and debt policies, and a monthly review of budget performance.

Related Research

- Through The ESG Lens 3.0: The Intersection Of ESG Credit Factors And U.S. Public Finance Credit Factors, March 2, 2022

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DOCKET 22-47-WW
The Narragansett Bay Commission's Response
To the Rhode Island Public Utilities Commission's
Hearing Record Requests

Comm. RR-3: Please provide a full copy of NBC's 2022 Audited Financial Report.

Response: Please see attached.

Prepared by: Leah Foster

Comm. RR-4: Please provide NBC's debt service coverage percentages for the past five years.

Response: NBC's coverage for the past five years using the following calculation - $\frac{\text{Gross Revenue} - \text{Operating Expense (excluding depreciation and amortization)}}{\text{Principal} + \text{Interest}}$

FY 2022 1.56

FY 2021 1.49

FY 2020 1.45

FY 2019 1.29

FY 2018 1.32

Prepared by: Leah Foster

Comm. RR-5: On pages 6-8 of Mr. Fox's rebuttal testimony, he stated that in order for NBC to comply with its trust indenture, the year with the highest debt service and coverage following a debt issuance must be used to calculate the rate year debt service requirement. In his table on page 7, Mr. Fox shows debt service and coverage of the following amounts: \$59,754,341 in FY 2024, \$62,298,366 in FY 2025 and \$62,559,885. If the Commission issued an order that only allowed \$59,754,341 in debt service and coverage for FY 2024 and phased in the increases for FY2025 and 2026, without NBC having to seek further approval of the Commission, when would the increases have to go into effect in FY2026 and FY2027, and in what amounts for NBC to be in compliance with its Trust Indenture?

Response: If the new rates were effective July 1, 2025 – *without NBC having to seek any further approval from the PUC* – that should satisfy all of the debt issuance requirements set forth in response to RR-2.

Prepared by: Karen Giebink and Leah Foster

Comm. RR-6: In response to Comm. 7-1, NBC provided updated expenses for several accounts related to Electricity expense. Please explain how the amounts for Accounts 54092, 54093, 54095, 54096 and 54097 were calculated.

Response: 54090 ELECTRICITY
Payments for metered electricity usage at NBC facilities (supply and delivery).

54091 NBC NET METERING CREDITS
Net metering credits earned through electricity produced by NBC's wind turbines in Coventry.

54092 FIELD'S POINT TURBINES
Expenses relating to NBC Turbines at Field's Point including but not limited to repairs and service agreement.

54093 COVENTRY TURBINES
Expenses relating to NBC Turbines in Coventry including but not limited to property maintenance, service agreement, data and security, high voltage, recloser and transformer repairs, electrical testing, NEPOOL, certification.

54095 GREEN PPA
Power Purchase Agreement Payments.

54096 GREEN PPA NET METERING CREDITS
Net Metering Credits earned through electricity produced by remote net-metered Power Purchase Agreement facilities.

54097 BIOGAS
Expenses relating to the Biogas cogeneration facility including but not limited to media changeout and disposal, emissions testing, permitting, analytical testing, and preventive maintenance.

Prepared by: Leah Foster

CERTIFICATION

I hereby certify that on July 3, 2023, I sent a copy of the within to all parties set forth on the attached Service List by electronic mail and copies to Luly Massaro, Commission Clerk, by electronic mail and regular mail.

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