

**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM S-3**  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

**OGE Energy Corp.**

(Exact name of registrant as specified in its charter)

**OKLAHOMA**  
(State or other jurisdiction of  
incorporation or organization)

**73-1481638**  
(I.R.S. Employer  
Identification Number)

**321 N. Harvey, P.O. Box 321, Oklahoma City, Oklahoma 73101-0321 (405-553-3000)**  
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**JAMES R. HATFIELD**  
Senior Vice President and Chief Financial Officer  
OGE Energy Corp.  
321 N. Harvey, P.O. Box 321  
Oklahoma City, Oklahoma 73101-0321  
(405) 553-3000

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**Approximate date of commencement of proposed sale to the public:**  
**From time to time after this registration statement becomes effective.**

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box.

**CALCULATION OF REGISTRATION FEE**

Title of Each class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Unit (1)	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Debt Securities	\$200,000,000	100%	\$200,000,000	\$25,340

(1) Estimated solely for purposes of calculating the registration fee.

Pursuant to Rule 429 under the Securities Act of 1933, as amended, the prospectus contained in this registration statement will be used as a combined prospectus in connection with this registration statement and registration statement No. 333-104552 which was filed by the registrant on April 15, 2003 and declared effective on April 29, 2003 (the "Prior Registration Statement") under which \$15,000,000 in principal amount of the registrant's debt securities and common stock (the "Previously Registered Securities") remain unsold. This registration statement is a new registration statement and also constitutes Post-Effective Amendment No. 1 to the Prior Registration Statement pursuant to which the total amount of unsold Previously Registered Securities registered on the Prior Registration Statement may be offered and sold as debt securities. Such post-effective amendment will become effective concurrently with the effectiveness of this registration statement in accordance with Section 8(a) of the Securities Act. In the event that any of such Previously Registered Securities are offered and sold prior to the effective date of this registration statement, the amount of such Previously Registered Securities so sold will not be included in the prospectus hereunder.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

**SUBJECT TO COMPLETION, DATED SEPTEMBER 8, 2004**

**PROSPECTUS**

**OGE ENERGY CORP.**  
**321 N. Harvey, P.O. Box 321**  
**Oklahoma City, Oklahoma 73101-0321**  
**(405) 553-3000**

**\$215,000,000**

**DEBT SECURITIES**

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We may offer for sale from time to time up to \$215,000,000 aggregate principal amount of our unsecured debt securities. We may sell the debt securities in one or more series (1) through underwriters or dealers, (2) directly to a limited number of institutional purchasers, or (3) through agents. See "Plan of Distribution." The amount and terms of the sale of a series of debt securities will be determined at the time of sale and included in a prospectus supplement that will accompany this prospectus. Each prospectus supplement will include if applicable:

- The names of any underwriters, dealers or agents involved in the distribution of that series of the debt securities;
- Any applicable commissions or discounts and the net proceeds to us from that sale;
- The aggregate principal amount and offering price of that series of the debt securities;
- The rate or rates (or method of calculation) of interest;
- The time or times and place of payment of interest;
- The maturity date or dates; and
- Any redemption terms or other specific terms of that series of debt securities.

You should read this prospectus and the applicable prospectus supplement carefully before you invest. This prospectus may not be used to sell debt securities unless accompanied by a prospectus supplement.

**Investing in our debt securities involves risks. See "Risk Factors" on page 2 of this prospectus.**

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**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.**

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**The date of this prospectus is \_\_\_\_\_, 2004.**

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You should rely only on the information incorporated by reference or provided in this prospectus. We have not authorized anyone to provide you with different information. We are not making an offer of these debt securities in any state where the offer is not permitted. You should not assume that the information in this prospectus or the documents incorporated by reference is accurate as of any date other than the date on the front of those documents.

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## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission ("SEC") utilizing a "shelf" registration process. Under this process, we may, from time to time over the next several years, sell the debt securities described in this prospectus in one or more offerings up to a total dollar amount of \$215,000,000. This prospectus provides you with a general description of the securities we may offer. Each time we sell securities, we will provide a prospectus supplement that will contain specific information about the terms of that offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read both this prospectus and any prospectus supplement together with the additional information described under the heading "Where You Can Find More Information." We believe we have included all information material to investors but some details that may be important for specific investment purposes have not been included. To see more detail, you should read the exhibits filed with this registration statement. In this prospectus, "we," "us," "our," and "our company" refer to OGE Energy Corp., unless the context otherwise requires.

## FORWARD-LOOKING STATEMENTS

This prospectus and the documents it incorporates by reference contain statements that are not historical fact and constitute forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. When we use words like "believes," "expects," "anticipates," "intends," "plans," "estimates," "may," "should" or similar expressions, or when we discuss our strategy or plans, we are making forward-looking statements. Forward-looking statements are not guarantees of performance. They involve risks, uncertainties and assumptions. Our future results may differ materially from those expressed in these forward-looking statements. These statements are necessarily based upon various assumptions involving judgments with respect to the future and other risks, including, among others:

- general economic conditions, including the availability of credit, actions of rating agencies and their impact on capital expenditures and our ability and the ability of our subsidiaries to obtain financing on favorable terms;
- prices of electricity, natural gas and natural gas liquids, each on a stand-alone basis and in relation to each other;
- business conditions in the energy industry;
- competitive factors, including the extent and timing of the entry of additional competition in the markets served by us;
- unusual weather;
- federal or state legislation and regulatory decisions and initiatives that affect cost and investment recovery, have an impact on rate structures and affect the speed and degree to which competition enters our markets;
- changes in accounting standards, rules or guidelines;
- creditworthiness of suppliers, customers and other contractual parties;
- the higher degree of risk associated with our nonregulated businesses compared with our regulated utility business; and
- the other factors listed from time to time by us in reports filed with the SEC.

You are cautioned not to rely unduly on any forward-looking statements. These risks and uncertainties are discussed in more detail under "Business," "Management's Discussion and Analysis of Financial Condition and Results of Operations," and "Notes to Consolidated Financial Statements" in our Annual Report on Form 10-K for the year ended December 31, 2003, under the captions "Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Notes

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to Condensed Consolidated Financial Statements" in our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2004 and June 30, 2004 and other documents on file with the SEC. You may obtain copies of these documents as described under the heading "Where You Can Find More Information."

We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. The foregoing review of factors should not be construed as exhaustive.

## RISK FACTORS

**An investment in our debt securities may involve significant risks. You should carefully consider these risk factors as well as all of the other information contained or incorporated by reference in this prospectus and the applicable prospectus supplement before you decide to invest in our debt securities.**

### Risks Related to Our Business

*Any reductions in our credit ratings or the credit ratings of our subsidiaries could increase our financing costs and the costs of maintaining certain contractual relationships and could cause the value of the debt securities to decline.*

We cannot assure you that any of our current ratings or our subsidiaries' current ratings will remain in effect for any given period of time or that a rating will not be lowered or withdrawn entirely by a rating agency if, in its judgment, circumstances in the future so warrant. Any downgrade could lead to higher borrowing costs and, if below investment grade, could require us to issue guarantees on behalf of our subsidiary, Enogex Inc., to support some of Enogex's marketing operations.

Any lowering of the ratings on the debt securities would likely reduce the value of the debt securities.

*Our profitability depends to a large extent on the ability of our subsidiary, Oklahoma Gas and Electric Company ("OG&E"), to fully recover its costs from its customers and there may be changes in the regulatory environment that impair its ability to recover costs from its customers.*

We are subject to comprehensive regulation by several federal and state utility regulatory agencies, which significantly influences our operating environment and OG&E's ability to fully recover its costs from utility customers. The utility commissions in the states where our utility subsidiary, OG&E, operates regulate many aspects of our utility operations including siting and construction of facilities, customer service and the rates that we can charge customers. The profitability of our utility operations is dependent on our ability to fully recover costs related to providing energy and utility services to our customers.

As a result of the energy crisis in California and the financial troubles at a number of energy companies, the regulatory environments in which we operate have received an increased amount of public attention. It is possible that there could be changes in the regulatory environment that would impair our ability to fully recover costs historically absorbed by our customers. State utility commissions generally possess broad powers to ensure that the needs of the utility customers are being met.

We are unable to predict the impact on our operating results from the future regulatory activities of any of the agencies that regulate us. Changes in regulations or the imposition of additional regulations could have an adverse impact on our results of operations.

*Our rates are subject to regulation by the states of Oklahoma and Arkansas, as well as by a federal agency, whose regulatory paradigms and goals may not be consistent.*

Our subsidiary, OG&E, is currently a vertically integrated electric utility and most of its revenue results from the sale of electricity to retail customers subject to bundled rates that are approved by the applicable state utility commission and the sale of electricity to wholesale customers subject to rates and other matters approved by the Federal Energy Regulatory Commission (the "FERC").

Exposure to inconsistent state and federal regulatory standards may limit our ability to operate profitably. Further alteration of the regulatory landscape in which we operate may harm our financial condition and results of operations.

***OG&E's Settlement Agreement with the Oklahoma Corporation Commission ("OCC") relating to its 2002 rate case targets \$75 million of savings over a three-year period from the acquisition of new generation. OG&E may not be able to achieve such targeted savings, in which case OG&E may be required to credit any unrealized savings to its customers.***

As part of OG&E's settlement agreement in November 2002, OG&E indicated that the acquisition of up to 400 megawatts of new generation should provide \$75 million of savings to its customers over three years. OG&E also agreed that if it is unable to demonstrate such savings, it will credit its customers any realized savings below \$75 million. We cannot assure you that OG&E will be able to realize the targeted \$75 million of savings to its customers, in which case OG&E may be required to credit unrealized savings to its customers.

***We are subject to commodity price risk, credit risk and other risks associated with energy markets.***

We are exposed to market and credit risks in our generation, retail distribution and energy trading operations. To minimize the risk of market price and volume fluctuations, we may enter into physical or financial derivative instrument contracts to hedge purchase and sale commitments, fuel requirements and inventories of natural gas, distillate fuel oil, electricity and coal, and emission allowances. However, financial derivative instrument contracts do not eliminate the risk. Specifically, such risks include commodity price changes, market supply shortages, credit risk and interest rate changes. The impact of these variables could result in our inability to fulfill contractual obligations, significantly higher energy or fuel costs relative to corresponding sales contracts or increased interest expense.

Credit risk includes the risk that counterparties that owe us money or energy will breach their obligations. If the counterparties to these arrangements fail to perform, we may be forced to enter into alternative arrangements. In that event, our financial results could be adversely affected and we could incur losses.

We mark our energy trading portfolio to estimated fair market value on a daily basis (mark-to-market accounting), which causes earnings variability. Market prices are utilized in determining the value of electric energy, natural gas and related derivative commodity instruments. For longer-term positions, which are limited to a maximum of 18 months, and certain short-term positions for which market prices are not available, models based on forward price curves are utilized. These models incorporate estimates and assumptions as to a variety of factors such as pricing relationships between various energy commodities and geographic locations. Actual experience can vary significantly from these estimates and assumptions.

***Increased competition resulting from restructuring efforts could have a significant financial impact on us and OG&E and consequently decrease our revenue and earnings.***

We have been and will continue to be affected by competitive changes to the utility and energy industries. Significant changes already have occurred and additional changes have been proposed to the wholesale electric market. Although retail restructuring efforts in Oklahoma and Arkansas have stalled for the time being, if such efforts were renewed, retail competition and the unbundling of regulated energy service could have a significant financial impact on us due to an impairment of assets, a loss of retail customers, lower profit margins or increased costs of capital. Any such restructuring could have a

significant impact on our consolidated financial position, results of operations and cash flows. We cannot predict when we will be subject to changes in legislation or regulation, nor can we predict the impact of these changes on our consolidated financial position, results of operations or cash flows. We believe that the prices OG&E charges for electricity and the quality and reliability of its service currently place it in a position to compete effectively in the energy market.

*Recent events that are beyond our control have increased the level of public and regulatory scrutiny of our industry. Governmental and market reactions to these events may have negative impacts on our business, financial condition and access to capital.*

As a result of the energy crisis in California during the summer of 2001, the volatility of natural gas prices in North America, the bankruptcy filing by Enron Corporation, accounting irregularities at public companies in general and energy companies in particular, and investigations by governmental authorities into energy trading activities, companies in the regulated and unregulated utility business have been under an increased amount of public and regulatory scrutiny and suspicion. The accounting irregularities have caused regulators and legislators to review current accounting practices, financial disclosures and relationships between corporations and their independent auditors. The capital markets and ratings agencies also have increased their level of scrutiny. We believe that we are complying with all applicable laws and accounting standards, but it is difficult or impossible to predict or control what effect these types of events may have on our business, financial condition or access to the capital markets.

As a result of these events, Congress passed the Sarbanes-Oxley Act of 2002. It is unclear what additional laws or regulations may develop, and we cannot predict the ultimate impact of any future changes in accounting regulations or practices in general with respect to public companies, the energy industry or our operations specifically. Any new accounting standards could affect the way we are required to record revenues, expenses, assets and liabilities. These changes in accounting standards could lead to negative impacts on reported earnings or increases in liabilities that could, in turn, affect our reported results of operations.

#### **Risks Related to Our Corporate Structure**

*We must rely on cash from our subsidiaries to make debt payments.*

We are a holding company and thus our investments in our subsidiaries are our primary assets. Substantially all of our operations are conducted by our subsidiaries. Consequently, our operating cash flow and our ability to service our indebtedness depends upon the operating cash flow of our subsidiaries and the payment of funds by them to us in the form of dividends. Our subsidiaries are separate legal entities that have no obligation to pay any amounts due on our indebtedness or to make any funds available for that purpose, whether by dividends or otherwise. In addition, each subsidiary's ability to pay dividends to us depends on any statutory and contractual restrictions that may be applicable to such subsidiary, which may include requirements to maintain minimum levels of working capital and other assets.

In addition, as discussed above, OG&E is regulated by state utility commissions in Oklahoma and Arkansas which generally possess broad powers to ensure that the needs of the utility customers are being met. To the extent that the state commissions attempt to impose restrictions on the ability of OG&E to pay dividends to us, it could adversely affect our ability to make payments on our indebtedness or otherwise meet our financial obligations.

*The debt securities are effectively subordinated to all existing and future indebtedness and liabilities of our subsidiaries and would have a claim that is junior with respect to the assets securing any secured debt issued by us.*

As a stockholder, rather than a creditor of our subsidiaries, our right and the rights of our creditors to participate in the assets of any of our subsidiaries upon any liquidation or reorganization of that subsidiary will rank behind the claims of that subsidiary's creditors, including trade creditors (except to the extent we have a claim as a creditor of such subsidiary). As a result, the debt securities will be effectively subordinated to all existing and future indebtedness and other liabilities, including trade payables, of our subsidiaries.

As of June 30, 2004, our subsidiaries had outstanding indebtedness and other liabilities of approximately \$3.3 billion. We and our subsidiaries may incur additional debt. The indenture governing the debt securities does not contain any restriction on us or our subsidiaries incurring additional debt, including secured debt, which would have a prior claim on the assets securing the debt.

***There is no existing market for the debt securities and we cannot assure you that an active trading market will develop.***

There is no existing market for the debt securities and we cannot assure you that an active trading market will develop. If a market for the debt securities were to develop, future trading prices would depend on many factors, including prevailing interest rates, our operating results and the market for similar securities. We do not intend to apply for listing or quotation of the debt securities on any securities exchange or stock market. As a result, it may be difficult for you to find a buyer for your debt securities at the time you want to sell them, and even if you find a buyer, you might not get the price you want.

#### **OGE ENERGY CORP.**

We are an energy and energy services provider offering physical delivery and management of both electricity and natural gas in the south central United States. We conduct these activities through our electric utility and natural gas pipeline segments.

Our electric utility segment generates, transmits, distributes and sells electric energy in Oklahoma and western Arkansas. These operations are conducted through our OG&E subsidiary, and are subject to regulation by the OCC, the Arkansas Public Service Commission and the FERC.

Our natural gas pipeline segment transports and stores natural gas, gathers and processes natural gas, and markets natural gas. These operations are conducted through our subsidiary, Enogex Inc., and its subsidiaries.

We were incorporated in Oklahoma on August 4, 1995 and became the holding company parent of OG&E and Enogex on December 31, 1996.

Our principal executive offices are located at 321 North Harvey, Post Office Box 321, Oklahoma City, Oklahoma 73101-0321. Our telephone number is (405) 553-3000.

#### **USE OF PROCEEDS**

We will add the net proceeds from the sale of the debt securities to our general funds and use those proceeds for general corporate purposes, primarily to repay long or short-term debt and to fund capital expenditures of our operating units and subsidiaries. The specific use of the proceeds of a particular series of the debt securities will be described in the applicable prospectus supplement.



**RATIO OF EARNINGS TO FIXED CHARGES**  
**(unaudited)**

	Six Months Ended June 30, 2004	Year Ended December 31,				
		2003	2002	2001	2000	1999
Ratio of Earnings to Fixed Charges	2.40	3.06	2.08	2.10	2.45	3.12

For purposes of computing the ratio of earnings to fixed charges, (1) earnings consist of pre-tax income from continuing operations plus fixed charges less allowance for borrowed funds used during construction and minority interest expense; and (2) fixed charges consist of interest on long-term debt, related amortization, interest on short-term borrowings and a calculated portion of rents considered to be interest.

Assuming that our variable interest rate debt continues at interest rates in effect on June 30, 2004, the annual interest requirement on our long-term debt outstanding at June 30, 2004, was \$87.5 million.

## DESCRIPTION OF DEBT SECURITIES

The description below contains summaries of selected provisions of the indenture, including the supplemental indenture, under which the debt securities will be issued. These summaries are not complete. The form of indenture and the form of supplemental indenture have been filed as exhibits to the registration statement. You should read the indenture and the supplemental indenture for provisions that may be important to you. In the summaries below, we have included references to section numbers of the indenture so that you can easily locate these provisions.

We are not required to issue future issues of indebtedness under the indenture described in this prospectus. We are free to use other indentures or documentation, containing provisions different from those described in this prospectus, in connection with future issues of other indebtedness.

The debt securities will be represented either by global securities registered in the name of The Depository Trust Company ("DTC"), as depository ("Depository"), or its nominee, or by securities in certificate form issued to the registered owners, as described in the applicable prospectus supplement. See "—Book-Entry System" below.

### General

We may issue the debt securities as notes or debentures or other unsecured evidences of indebtedness in one or more new series under an indenture between us and UMB Bank, N.A., or any other trustee to be named as trustee (the "Trustee"). This indenture, to be supplemented by a new supplemental indenture for each series of debt securities, is referred to in this prospectus as the "Indenture." The debt securities will be unsecured obligations and will rank on a parity with our other existing and future unsecured and unsubordinated indebtedness. The debt securities will be obligations exclusively of our company. As a holding company, we have no material assets other than our ownership of the common stock of our subsidiaries. Unless we say otherwise in a prospectus supplement, we will rely entirely upon distributions and other amounts received from our subsidiaries to meet the payment obligations under the debt securities.

Our subsidiaries are separate and distinct legal entities and have no obligation, contingent or otherwise, to pay amounts due under the debt securities or otherwise to make any funds available to us. This includes the payment of dividends or other distributions or the extension of loans or advances, unless we say otherwise in a prospectus supplement. Public utility commissions that regulate OG&E may effectively restrict the payment of dividends to us by OG&E.

Furthermore, the ability of our subsidiaries to make any payments to us would be dependent upon the terms of any credit facilities of the subsidiaries and upon the subsidiaries' earnings, which are subject to various business risks. In a bankruptcy or insolvency proceeding, claims of holders of the debt securities would be satisfied solely from our equity interests in our subsidiaries remaining after the satisfaction of claims of creditors of the subsidiaries. Accordingly, the debt securities will be effectively subordinated to existing and future liabilities of our subsidiaries to their respective creditors.

The amount of debt securities that we may issue under the Indenture is not limited.

The debt securities may be issued in one or more series, may be issued at various times, may have differing maturity dates and may bear interest at differing rates. The prospectus supplement applicable to each issue of debt securities will specify:

- the title, aggregate principal amount and offering price of that series of debt securities;
- the interest rate or rates, or method of calculation of the rate or rates, on that series and the date from which the interest will accrue;
- the dates on which interest will be payable;

- the record dates for payments of interest;
- the date on which the debt securities of that series will mature;
- any redemption terms;
- the period or periods within which, the price or prices at which and the terms and conditions upon which the debt securities of that series may be repaid, in whole or in part, at the option of the holder thereof; and
- other specific terms applicable to the debt securities of that series.

Any special United States federal income tax considerations applicable to debt securities sold at an original issue discount and any special United States federal income tax or other considerations applicable to any debt securities which are denominated in other than United States dollars will be described in the prospectus supplement relating to that series of debt securities.

Unless otherwise indicated in the applicable prospectus supplement, the debt securities will be denominated in United States currency in minimum denominations of \$1,000 and integral multiples of \$1,000.

Unless otherwise indicated in the applicable prospectus supplement, there will be no provisions in the Indenture or the debt securities that require us to redeem, or permit the holders to cause a redemption or repurchase of, the debt securities or that otherwise protect the holders in the event that we incur substantial additional indebtedness, whether or not in connection with a change in control of our company.

### **Registration, Transfer And Exchange**

Debt securities of any series may be exchanged for other debt securities of the same series of any authorized denominations and of a like aggregate principal amount, stated maturity and original issue date (Section 2.06).

Unless we indicate otherwise in the applicable prospectus supplement, debt securities may be presented for registration of transfer (duly endorsed or accompanied by a duly executed written instrument of transfer), at the office of the Trustee maintained for that purpose and referred to in the applicable prospectus supplement, without service charge and upon payment of any taxes and other governmental charges as described in the Indenture. Any transfer or exchange will be made only upon the Trustee's satisfaction with the documents of title and indemnity of the person making the request (Sections 2.06 and 2.07).

The Trustee will not be required to exchange or register a transfer of any debt securities of a series that is selected, called or being called for redemption except, in the case of any debt security to be redeemed in part, the portion thereof not to be so redeemed (Section 2.06). See "—Book-Entry System" below.

### **Payment and Paying Agents**

Payment of the principal, interest and premium, if any, on debt securities issued in the form of global securities will be paid in the manner described below under the heading "—Book-Entry System." Unless we indicate otherwise in the applicable prospectus supplement, interest on debt securities that are in the form of certificated securities will be paid by check mailed to the holder at that holder's address as it appears in the register for the debt securities maintained by the Trustee; however, a holder of \$10,000,000 or more of debt securities having the same interest payment dates will be entitled to receive payments of interest by wire transfer to a bank within the continental United States if appropriate wire transfer instructions have been received by the Trustee on or prior to the applicable

record date (Section 2.12). Unless we indicate otherwise in the applicable prospectus supplement, the principal, interest at maturity and premium, if any, on debt securities in the form of certificated securities will be payable in immediately available funds at the office of the Trustee upon presentation of the debt securities (Section 2.12).

All monies paid by us to a paying agent for the payment of principal, interest or premium on any debt security which remain unclaimed at the end of two years after that principal, interest or premium has become due and payable will be repaid to us and the holder of that debt security may thereafter look only to us for payment of that principal, interest or premium (Section 4.04).

#### **Events of Default**

The following are events of default under the Indenture (Section 7.01):

- default in the payment of principal and redemption premium, if any, on any debt security issued under the Indenture when due and payable and continuance of that default for a period of five business days;
- default in the payment of interest on any debt security issued under the Indenture when due and continuance of that default for 30 days;
- default in the performance or breach of any of our other covenants or warranties in the Indenture and the continuation of that default or breach for 90 days after written notice to us as provided in the Indenture; and
- specified events of bankruptcy, insolvency or reorganization of our company.

If an event of default occurs and is continuing, either the Trustee or the holders of a majority in principal amount of the outstanding debt securities of all series issued under the Indenture may declare the principal amount of all such debt securities to be due and payable immediately. At any time after an acceleration of the debt securities has been declared, but before a judgment or decree of the immediate payment of the principal amount of the debt securities has been obtained, if we pay or deposit with the Trustee a sum sufficient to pay all matured installments of interest and the principal and any redemption premium which has become due otherwise than by acceleration and all defaults have been cured or waived, then that payment or deposit will cause an automatic rescission and annulment of the acceleration of the debt securities (Section 7.01).

The Trustee generally will be under no obligation to exercise any of its rights or powers under the Indenture at the request or direction of any of the holders unless the holders have offered reasonable security to the Trustee (Section 8.02). The holders of a majority in principal amount of the outstanding debt securities of all series issued under the Indenture generally will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or of exercising any trust or power conferred on the Trustee, relating to the debt securities. The holders of a majority in principal amount of the outstanding debt securities of all series issued under the Indenture generally will be able to waive any past default or event of default except a default in the payment of principal, premium or interest on the debt securities (Section 7.07). Each holder has the right to institute a proceeding relating to the Indenture, but this right is subject to conditions precedent specified in the Indenture (Section 7.04). The Trustee is required to give the holders notice of the occurrence of a default within 90 days of the default, unless the default is cured or waived. Except in the case of a payment default on the debt securities, however, the Trustee may withhold notice if it determines in good faith that it is in the interest of holders to do so (Section 7.08). We are required to deliver to the Trustee each year a certificate as to whether or not we are in compliance with the conditions and covenants under the Indenture (Section 5.05).

## Modification

Unless otherwise indicated in the applicable prospectus supplement, we and the Trustee may modify and amend the Indenture and the debt securities from time to time. Depending upon the type of amendment, we may not need the consent or approval of any of the holders of the debt securities, or we may need either the consent or approval of the holders of a majority in principal amount of the outstanding debt securities of all series issued under the Indenture or the consent or approval of each holder affected by the proposed amendment.

We will not need the consent of the holders for the following types of amendments (Section 12.01):

- adding to our covenants for the benefit of the holders or surrendering a right given to us in the Indenture;
- adding security for the debt securities; or
- making various other modifications, generally of a ministerial or immaterial nature.

We will need the consent of the holders of each outstanding debt security affected by a proposed amendment if the amendment would cause any of the following to occur (Section 12.02):

- a change in the maturity date or redemption date of any debt security;
- a reduction in the interest rate or extension of the time of payment of interest;
- a reduction in the principal amount of any debt security, the interest or premium payable on any debt security, or the amount of principal that could be declared due and payable prior to the stated maturity;
- a change in the currency of any payment of principal, premium or interest on any debt security;
- an impairment of the right of a holder to institute suit for the enforcement of any payment relating to any debt security;
- a reduction in the percentage of outstanding debt securities necessary to consent to the modification or amendment of the Indenture; or
- a modification in these requirements or a reduction to less than a majority of the percentage of outstanding debt securities necessary to waive any past default.

Amendments other than those described in the above two paragraphs will require the approval of a majority in principal amount of the outstanding debt securities.

## Defeasance and Discharge

We may be discharged from all obligations relating to the debt securities and the Indenture (except for specified obligations such as obligations to register the transfer or exchange of debt securities, replace stolen, lost or mutilated debt securities and maintain paying agencies) if we irrevocably deposit with the Trustee, in trust for the benefit of holders of debt securities, money or United States government obligations, or any combination thereof, sufficient to make all payments of principal, premium and interest on the debt securities on the dates those payments are due. To discharge those obligations, we must deliver to the Trustee an opinion of counsel that the holders of the debt securities will not recognize income, gain or loss for federal income tax purposes as a result of the defeasance or discharge of the Indenture. If we discharge our obligations as described above, the holders of debt securities must look only to the funds deposited with the Trustee, and not us, for payments on the debt securities (Section 4.01).

## **Consolidation, Merger and Sale of Assets; No Financial Covenants**

We will not merge into any other corporation or sell or otherwise transfer all or substantially all our assets unless the successor or transferee corporation assumes by supplemental indenture our obligations to pay the principal, applicable redemption premium and interest on all the debt securities and our obligation to perform the covenants in the Indenture that we are supposed to perform or observe. Upon any merger, sale or transfer of all or substantially all of our assets, the successor or transferee corporation will succeed to, and be substituted for, and may exercise all of our rights and powers under the Indenture with the same effect as if the successor corporation had been named as us in the Indenture, and we will be released from all obligations under the Indenture. The Indenture defines all or substantially all of our assets as being 66<sup>2</sup>/<sub>3</sub> percent or more of our total assets as shown on our balance sheet as of the end of the prior year and specifically permits any sale, transfer or conveyance during a calendar year of less than 66<sup>2</sup>/<sub>3</sub> percent of our total assets without the consent of the holders of the debt securities (Sections 11.01 and 11.02).

Unless we indicate otherwise in the applicable prospectus supplement, the Indenture will not contain any financial or other similar restrictive covenants.

## **Resignation or Removal of Trustee**

The Trustee may resign at any time by notifying us in writing and specifying the day that the resignation is to take effect. The resignation will not take effect, however, until a successor trustee has been appointed (Section 8.10).

The holders of a majority in principal amount of the outstanding debt securities may remove the Trustee at any time. In addition, so long as no event of default or event which, with the giving of notice or lapse of time or both, would become an event of default has occurred and is continuing, we may remove the Trustee upon (1) notice to the Trustee and the holder of each debt security outstanding under the Indenture and (2) appointment of a successor Trustee (Section 8.10).

## **Concerning the Trustee**

UMB Bank, N.A. is the Trustee. We and our affiliates maintain banking relationships with the Trustee in the ordinary course of business. The Trustee also acts as trustee for securities of our affiliates.

## **Book-Entry System**

Each series of debt securities offered by this prospectus may be issued in the form of one or more global securities representing all or part of that series of debt securities. This means that we will not issue certificates for that series of debt securities to the holders. Instead, a global security representing that series will be deposited with, or on behalf of, DTC, or its successor as the Depository and registered in the name of the Depository or a nominee of the Depository.

The Depository will keep a computerized record of its participants (for example, your broker) whose clients have purchased debt securities represented by a global security. Unless it is exchanged in whole or in part for a certificated security, a global security may not be transferred, except that the Depository, its nominees and their successors may transfer a global security as a whole to one another.

Beneficial interests in global securities will be shown on, and transfers of interests will be made only through, records maintained by the Depository and its participants. The laws of some jurisdictions require that some purchasers take physical delivery of securities in definitive form. These laws may impair the ability to transfer beneficial interests in a global security.

We will wire principal, interest and any premium payments to the Depository or its nominee. We and the Trustee will treat the Depository or its nominee as the owner of the global security for all purposes, including any notices and voting. Accordingly, we, the Trustee and any paying agent will have no direct responsibility or liability to pay amounts due on a global security to owners of beneficial interests in a global security.

Unless otherwise specified in the prospectus supplement, DTC will act as Depository for debt securities issued as global securities. The debt securities will be registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC.

DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds securities that its participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC, in turn, is owned by a number of the Direct Participants of DTC and members of the National Securities Clearing Corporation, the Government Securities Clearing Corporation, MBS Clearing Corporation and Emerging Markets Clearing Corporation (NSCC, GSCC, MBSCC and EMCC are also subsidiaries of DTCC) and by the New York Stock Exchange, Inc., the American Stock Exchange, LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, and trust companies that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The rules that apply to DTC and its Direct or Indirect Participants (collectively, "Participants") are on file with the SEC.

Purchases of debt securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the debt securities on DTC's records. The ownership interest of each actual purchaser of each debt security ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the debt securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in debt securities, except in the event that use of the book-entry system for the debt securities is discontinued.

To facilitate subsequent transfers, all debt securities deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of debt securities with DTC and their registration in the name of Cede & Co. or such other nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the debt securities; DTC's records reflect only the identity of the Direct Participants to whose accounts such debt securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the debt securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the debt securities unless authorized by a Direct Participant in accordance with DTC's procedures. Under its usual procedures, DTC mails an Omnibus Proxy to us as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the debt securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Payments of principal, interest and redemption proceeds on the debt securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detail information from us or the Trustee on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, the Trustee or us, subject to any statutory or regulatory requirements as may be in effect from time to time. Payments of principal, interest and redemption proceeds to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) are the responsibility of us and the Trustee, disbursement of such payments to Direct Participants shall be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the debt securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor securities depository is not obtained, security certificates are required to be printed and delivered.

We may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, security certificates will be printed and delivered to DTC.

Debt securities of a series represented by a global security will be exchangeable for certificated securities with the same terms in authorized denominations only if:

- DTC notifies us that it is unwilling or unable to continue as Depository or if DTC ceases to be a clearing agency registered under applicable law and a successor Depository is not appointed by us within 90 days; or
- we determine not to require all of the debt securities of a series to be represented by a global security and notify the Trustee of our decision.

The information in this section concerning DTC and DTC's book-entry system has been obtained from DTC, and we and any underwriters, dealers or agents take no responsibility for the accuracy thereof.

Any underwriters, dealers or agents of debt securities may be Direct Participants of DTC.



## LEGAL OPINIONS

Legal opinions relating to the debt securities will be rendered by our counsel, Rainey, Ross, Rice & Binns, Oklahoma City, Oklahoma, and Jones Day, Chicago, Illinois. Rainey, Ross, Rice & Binns will pass on matters pertaining to local laws and as to these matters other counsel will rely on their opinions. As of July 31, 2004, Mr. Hugh D. Rice, a partner in Rainey, Ross, Rice & Binns, owned a beneficial interest in 3,000 shares of common stock of our company. Certain legal matters will be passed upon for any underwriters, dealers or agents named in a prospectus supplement by Chapman and Cutler LLP, Chicago, Illinois.

## EXPERTS

Ernst & Young LLP, an independent registered public accounting firm, have audited our consolidated financial statements and schedule included in our Annual Report on Form 10-K for the year ended December 31, 2003, as set forth in their report, which is incorporated by reference in this prospectus and elsewhere in the registration statement. Our consolidated financial statements and schedule are incorporated by reference in reliance on Ernst & Young LLP's report, given on their authority as experts in accounting and auditing.

## PLAN OF DISTRIBUTION

We may sell the debt securities directly or indirectly through underwriters, dealers or agents. The names of any underwriters, dealers or agents will be set forth in the applicable prospectus supplement. We will also set forth in the applicable prospectus supplement:

- the terms of the offering of the debt securities;
- the proceeds we will receive from the sale;
- any underwriting discounts and other items constituting underwriters' compensation;
- any initial public offering price;
- any discounts or concessions allowed or reallocated or paid to dealers; and
- any securities exchanges on which we may list the debt securities.

We may distribute the debt securities from time to time in one or more transactions at:

- a fixed price;
- prices that may be changed;
- market prices at the time of sale;
- prices related to prevailing market prices; and
- negotiated prices.

We will describe the method of distribution in the applicable prospectus supplement.

If we use underwriters with respect to an issuance of securities, we will set forth in the applicable prospectus supplement:

- the name of the managing underwriter, if any;
- the name of any other underwriters; and
- any underwriting discounts and other items constituting compensation of the underwriters and dealers, if any.

The underwriters will acquire any securities for their own accounts and they may resell the securities from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price and at varying prices determined at the time of sale.

Any initial public offering price and any discounts or concessions allowed or reallocated or paid to dealers may be changed from time to time. We anticipate that any underwriting agreement pertaining to any securities will:

- entitle the underwriters to indemnification by us against certain civil liabilities under the Securities Act of 1933, or to contribution with respect to payments that the underwriters may be required to make related to any such civil liability;
- subject the obligations of the underwriters to certain conditions precedent; and
- obligate the underwriters to purchase all debt securities offered in a particular offering if any debt securities are purchased.

In connection with an offering of debt securities, underwriters may engage in transactions that stabilize, maintain or otherwise affect the price of the debt securities. Specifically, underwriters may:

- over allot in connection with the offering, creating a syndicate short position;
- bid for, and purchase, debt securities in the open market to cover syndicate short positions;
- bid for, and purchase, debt securities in the open market to stabilize the price of the debt securities; and
- reclaim selling concessions allowed for distributing the debt securities in the offering if the syndicate repurchases previously distributed securities in syndicate covering transactions, in stabilization transactions or otherwise.

Any of these activities may stabilize or maintain the market price of the debt securities above independent market levels. Underwriters are not required to engage in these activities, and may end any of these activities at any time.

If we use a dealer in an offering of debt securities, we will sell the debt securities to the dealer, as principal. The dealer may then resell the debt securities to the public at varying prices to be determined by the dealer at the time of resale. We will set forth the name of the dealer and the terms of the transaction in the prospectus supplement.

If we use an agent in an offering of debt securities, we will name the agent and describe the terms of the agency in the applicable prospectus supplement. Unless we indicate otherwise in the prospectus supplement, we will require an agent to act on a best efforts basis for the period of its appointment.

Dealers and agents named in a prospectus supplement may be considered underwriters of the securities described in the prospectus supplement under the Securities Act of 1933. We may indemnify them against certain civil liabilities under the Securities Act of 1933. In the ordinary course of business, we may engage in transactions with underwriters, dealers and agents and they may perform services for us.

We may solicit offers to purchase securities and make sales directly to institutional investors or others who may be considered underwriters under the Securities Act of 1933 with respect to those sales. We will describe the terms of any such offer in the applicable prospectus supplement.

## WHERE YOU CAN FIND MORE INFORMATION

We file annual, quarterly and special reports, proxy statements and other information with the SEC. Our SEC filings are available to the public over the Internet at the SEC's web site at <http://www.sec.gov>. You may also read and copy any document we file at the SEC's Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the Public Reference Room.

The SEC allows us to "incorporate by reference" in this prospectus the information we file with it, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. We incorporate by reference the documents listed below and any future filings made with the SEC under Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 after the date of the filing of the initial registration statement until we sell all of the debt securities described in this prospectus.

- Our Annual Report on Form 10-K for the year ended December 31, 2003;
- Our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2004 and June 30, 2004; and
- Our Current Reports on Form 8-K filed with the SEC on January 16, 2004, January 28, 2004, March 29, 2004, March 30, 2004, April 30, 2004, May 3, 2004, May 5, 2004, May 24, 2004, June 10, 2004, July 9, 2004, July 13, 2004, August 4, 2004, August 31, 2004 and September 7, 2004.

We are not required to, and do not expect to, provide annual reports to holders of our debt securities unless specifically requested by a holder.

You may request a copy of these filings at no cost, by writing or telephoning us at the following address:

Corporate Secretary  
OGE Energy Corp.  
321 N. Harvey, P.O. Box 321  
Oklahoma City, Oklahoma 73101-0321  
(405) 553-3000

**PART II:**

**INFORMATION NOT REQUIRED IN PROSPECTUS**

**ITEM 14. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION.**

Set forth below is an estimate of the approximate amount of our fees and expenses (other than underwriting discounts and commissions) in connection with the issuance of the debt securities:

Registration fee under the Securities Act of 1933	\$	25,340*
Fees of rating agencies	\$	113,250
Printing and engraving	\$	50,000
Accounting services	\$	50,000
Legal fees of company counsel	\$	60,000
Trustee's charges	\$	15,000
Expenses and counsel fees for qualification or registration of the debt securities under state securities laws	\$	7,500
Miscellaneous, including traveling, telephone, copying, shipping, and other out-of-pocket expenses	\$	8,910
<b>Total</b>	<b>\$</b>	<b>330,000</b>

\* All items are estimated except the first.

**ITEM 15. INDEMNIFICATION OF DIRECTORS AND OFFICERS.**

Section 1031 of Title 18 of the Annotated Oklahoma Statutes provides that we may, and in some circumstances must, indemnify our directors and officers against liabilities and expenses incurred by them as a result of serving in that capacity, subject to some limitations and conditions set forth in the statute. Substantially similar provisions that require indemnification are contained in our Restated Certificate of Incorporation, which is filed as Exhibit 3.01 to our Form 10-K for the year ended December 31, 1996, and is incorporated herein by this reference. Our Restated Certificate of Incorporation also contains provisions limiting the liability of our officers and directors in some instances. We have an insurance policy covering our directors and officers against specified personal liability, which may include liabilities under the Securities Act of 1933, as amended. The Form of Purchase Agreement filed as Exhibit 1.01 includes provisions requiring the underwriters to indemnify our directors and officers in some circumstances.

**ITEM 16. EXHIBITS.**

- 1.01 Form of Purchase Agreement for Debt Securities
- 4.01 Form of Indenture between OGE Energy Corp. and UMB Bank, N.A., as trustee.
- 4.02 Form of Supplemental Indenture for each series of debt securities, being a supplemental instrument to Exhibit 4.01 hereto.
- 5.01 Opinion of counsel as to legality of the debt securities.
- 12.01 Statement of computation of ratio of earnings to fixed charges.
- 23.01 Consent of independent registered public accounting firm.

- 23.02 Legal counsel's consent.
- 24.01 Powers of attorney.
- 25.01 Form T-1 Statement of Eligibility of UMB Bank, N.A. to act as Trustee under the Indenture.

**ITEM 17. UNDERTAKINGS.**

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement: (i) to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933; (ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the Form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and (iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement; provided, however, that clauses (i) and (ii) above do not apply if the registration statement is on Form S-3, Form S-8 or Form F-3 and the information required to be included in a post-effective amendment by those clauses is contained in periodic reports filed with or furnished to the SEC by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.



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September 7, 2004

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Martha W. Griffin

Director

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September 7, 2004

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John D. Groendyke

Director

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September 7, 2004

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Robert Kelley

Director

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September 7, 2004

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Ronald H. White, M.D.

Director

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September 7, 2004

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J. D. Williams

Director

\*By:

/s/ JAMES R. HATFIELD

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James R. Hatfield  
(Attorney-in-Fact)  
September 7, 2004

## EXHIBIT INDEX

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OGE ENERGY CORP.

(an Oklahoma corporation)

\$                    %                    , Series due

FORM OF  
PURCHASE AGREEMENT  
(Debt Securities)

Dated:

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**OGE ENERGY CORP.**

**(an Oklahoma corporation)**

**\$**

**% , Series due**

**PURCHASE AGREEMENT**

To:

Ladies and Gentlemen:

OGE Energy Corp., an Oklahoma corporation (the "Company"), confirms its agreement with (the "Representative"), and (collectively, with the Representative, the "Underwriters," which term includes any underwriter substituted as hereinafter provided in Section 11 hereof), with respect to the issue and sale by the Company and the purchase by the Underwriters, acting severally and not jointly, of the respective principal amounts set forth in Schedule A hereto of \$ aggregate principal amount of the Company's % , Series due (the "Debt Securities"). The Debt Securities are to be issued pursuant to the Indenture dated as of , between the Company and UMB Bank, N.A., as trustee (the "Trustee"), as amended and supplemented by Supplemental Indenture No. , dated as of , creating the series in which the Debt Securities are to be issued. The term "Indenture," as used herein, means such Indenture dated as of , as so amended and supplemented, and includes the Company Order (as defined in the Indenture), if any, establishing the form and terms of the Debt Securities pursuant to the Indenture.

The Company understands that the Underwriters propose to make a public offering of the Debt Securities as soon as they deem advisable after this Agreement has been executed and delivered and the Indenture has been qualified under the Trust Indenture Act of 1939, as amended (the "1939 Act").

The Company has filed with the Securities and Exchange Commission (the "Commission") a registration statement on Form S-3 (No. 333- ) covering the registration of the Debt Securities under the Securities Act of 1933, as amended (the "1933 Act"), including the related preliminary prospectus or prospectuses. Promptly after execution and delivery of this Agreement, the Company will either (i) prepare and file a prospectus in accordance with paragraph (b) of Rule 424 ("Rule 424(b)") of the rules and regulations of the Commission under the 1933 Act (the "1933 Act Regulations") or (ii) if the Company elects to rely upon Rule 434 ("Rule 434") of the 1933 Act Regulations, prepare and file a term sheet (a "Term Sheet") in accordance with the provisions of Rule 434 and Rule 424(b). The information included in such prospectus or in such Term Sheet, as the case may be, that was omitted from such registration statement at the time it became effective is referred to as the "Offering Terms." Each prospectus used before such registration statement became effective, and any prospectus that omitted the Offering Terms, that was used after such effectiveness and prior to the execution and delivery of this Agreement, is herein called a "preliminary prospectus." Such registration statement, including the exhibits thereto, schedules thereto, if any, and the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the 1933 Act, at the time it became effective and including the Offering Terms, is herein called the "Registration Statement." Any registration statement filed pursuant to Rule 462(b) of the 1933 Act Regulations is herein referred to as the "Rule 462(b) Registration Statement," and after such filing the term "Registration Statement" shall include the Rule 462(b) Registration Statement. The final prospectus, including the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the 1933 Act, in the form first furnished to the Underwriters for use in connection with the offering of the Debt Securities is herein called the "Prospectus." If Rule 434 is relied on, the term "Prospectus" shall refer to the preliminary prospectus dated , together with the Term Sheet, and all references in this Agreement to the date of the Prospectus shall mean the date of the Term Sheet. For purposes of this Agreement, all references to

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the Registration Statement, any preliminary prospectus, the Prospectus or any Term Sheet or any amendment or supplement to any of the foregoing shall be deemed to include the copy filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval system ("EDGAR").

All references in this Agreement to financial statements and schedules and other information which is "contained," "included" or "stated" in the Registration Statement, any preliminary prospectus or the Prospectus (or other references of like import) shall be deemed to mean and include all such financial statements and schedules and other information which is incorporated by reference in the Registration Statement, any preliminary prospectus or the Prospectus, as the case may be; and all references in this Agreement to amendments or supplements to the Registration Statement, any preliminary prospectus or the Prospectus shall be deemed to mean and include the filing of any document under the Securities Exchange Act of 1934, as amended (the "1934 Act") which is incorporated by reference in the Registration Statement, such preliminary prospectus or the Prospectus, as the case may be.

#### **SECTION 1. Representations and Warranties**

(a) *Representations and Warranties by the Company.* The Company represents and warrants to each Underwriter as of the Closing Time (as defined in Section 2(b) hereof), and agrees with each Underwriter, as follows:

(i) *Compliance with Registration Requirements.* The Company meets the requirements for use of Form S-3 under the 1933 Act. Each of the Registration Statement and any Rule 462(b) Registration Statement has become effective under the 1933 Act and no stop order suspending the effectiveness of the Registration Statement or any Rule 462(b) Registration Statement has been issued under the 1933 Act and no proceedings for that purpose have been instituted or are pending or, to the knowledge of the Company, are contemplated by the Commission, and any request on the part of the Commission for additional information has been complied with.

At the respective times the Registration Statement, any Rule 462(b) Registration Statement and any post-effective amendments thereto became effective (and, if later, at the time of the filing of the Company's annual report on Form 10-K) and at the Closing Time, the Registration Statement, the Rule 462(b) Registration Statement and any amendments and supplements thereto complied and will comply in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations and the 1939 Act and the rules and regulations of the Commission under the 1939 Act (the "1939 Act Regulations"), and did not and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. Neither the Prospectus nor any amendments or supplements thereto, at the time the Prospectus or any such amendment or supplement was issued and at the Closing Time, included or will include an untrue statement of a material fact or omitted or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. If Rule 434 is used, the Company will comply with the requirements of Rule 434. The representations and warranties in this subsection shall not apply to (A) that part of the Registration Statement which constitutes the Statement of Eligibility and Qualification (Form T-1) under the Trust Indenture Act of the Trustee, (B) information contained in the Registration Statement or the Prospectus relating to The Depository Trust Company and its book-entry system, or (C) statements in or omissions from the Registration Statement or Prospectus made in reliance upon and in conformity with the information furnished to the Company in writing by any Underwriter through the Representative expressly for use in the Registration Statement or Prospectus, which information is set forth on Schedule C hereto.

Each preliminary prospectus and the prospectus filed as part of the Registration Statement as originally filed or as part of any amendment thereto, or filed pursuant to Rule 424 of the 1933 Act Regulations ("Rule 424"), complied when so filed in all material respects with the 1933 Act Regulations, and each preliminary prospectus and the Prospectus delivered to the Underwriters for use in connection with this offering was identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(ii) *Incorporated Documents.* The documents incorporated or deemed to be incorporated by reference in the Registration Statement and the Prospectus, at the time they were or hereafter are filed with the Commission, complied and will comply in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations or the 1934 Act and the rules and regulations of the Commission thereunder (the "1934 Act Regulations"), as applicable, and, when read together with the other information in the Prospectus, at the time the Registration Statement became effective (and, if later, at the time of the filing of the Company's annual report on Form 10-K), at the time the Prospectus was issued and at the Closing Time, did not and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

(iii) *Independent Accountants.* Ernst & Young LLP, the accountants who examined and audited the financial statements and supporting schedules included in the Registration Statement, are independent public accountants as required by the 1933 Act and the 1933 Act Regulations.

(iv) *Financial Statements.* The financial statements included in the Registration Statement and the Prospectus, together with the related schedules and notes, present fairly the financial position of the Company and its consolidated subsidiaries at the dates indicated and the results of operations, stockholders' equity and cash flows of the Company and its consolidated subsidiaries for the periods specified; said financial statements have been prepared in conformity with generally accepted accounting principles ("GAAP") applied on a consistent basis throughout the periods involved, except as otherwise stated in the notes thereto. The supporting schedules, if any, included in the Registration Statement present fairly in accordance with GAAP the information required to be stated therein. The summary or selected financial information included in the Prospectus presents fairly the information shown therein and has been compiled on a basis consistent with that of the audited financial statements included in the Registration Statement. The Company has no material contingent obligation which is not disclosed in the Prospectus.

(v) *No Material Adverse Change.* Since the respective dates as of which information is given in the Registration Statement and the Prospectus, except as otherwise stated therein, (A) there has been no material adverse change in the condition, financial or otherwise, or in the earnings, results of operations or properties of the Company and its subsidiaries taken as a whole, whether or not arising in the ordinary course of business (a "Material Adverse Effect"), (B) there have been no transactions entered into by the Company, other than those in the ordinary course of business, which are material with respect to the Company and its subsidiaries taken as a whole, and (C) except for regular quarterly dividends on the Common Stock, par value \$0.01 per share, of the Company in amounts consistent with past practice, there has been no dividend or distribution of any kind declared, paid or made by the Company on any class of its capital stock.

(vi) *Good Standing of the Company.* The Company has been duly organized and is validly existing as a corporation in good standing under the laws of the State of Oklahoma and has corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Prospectus and to enter into and perform its obligations under this Agreement; and the Company is duly qualified as a foreign corporation to transact business and is in good standing in each other jurisdiction in which such qualification is required, whether by reason of the



ownership or leasing of property or the conduct of business, except where the failure so to qualify or to be in good standing would not result in a Material Adverse Effect.

(vii) *Good Standing of the Company's Subsidiaries.* Each subsidiary of the Company named in Exhibit 21.01 to the Company's most recent Annual Report on Form 10-K ("Significant Subsidiary") has been duly organized and is validly existing as a corporation in good standing under the laws of the jurisdiction of its incorporation and is duly qualified as a foreign corporation to transact business and is in good standing in each jurisdiction in which it owns or leases substantial properties or in which the conduct of its business requires such qualification, except where the failure so to qualify or to be in good standing would not result in a Material Adverse Effect. The capital stock of each subsidiary owned by the Company, directly or through subsidiaries, is owned free and clear of any pledge, lien, encumbrance, or claim, except as disclosed in the Registration Statement.

(viii) *Capitalization.* The authorized, issued and outstanding capital stock of the Company is as stated in the Prospectus. The shares of issued and outstanding capital stock of the Company have been duly and validly issued and are fully paid and non-assessable.

(ix) *Authorization of Agreement.* This Agreement has been duly authorized, executed and delivered by the Company.

(x) *Authorization of the Indenture.* The Indenture has been duly authorized by the Company and duly qualified under the 1939 Act and, when duly executed and delivered by the Company and the Trustee, will constitute a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting enforcement of creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law).

(xi) *Authorization of the Debt Securities.* The Debt Securities have been duly authorized and, at the Closing Time, will have been duly executed by the Company and, when authenticated, issued and delivered in the manner provided for in the Indenture and delivered against payment of the purchase price therefor as provided in this Agreement, will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting enforcement of creditors' rights generally and except as enforcement thereof is subject to general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law), and will be in the form contemplated by, and entitled to the benefits provided by, the Indenture.

(xii) *Description of the Debt Securities and the Indenture.* The Debt Securities and the Indenture will conform in all material respects to the respective statements relating thereto contained in the Prospectus and will be in substantially the respective forms filed or incorporated by reference, as the case may be, as exhibits to the Registration Statement.

(xiii) *Absence of Defaults and Conflicts.* Neither the Company nor any Significant Subsidiary is in violation of its Restated Certificate of Incorporation or By-Laws or in default in the performance or observance of any obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease or other agreement or instrument to which it is a party or by which it may be bound, or to which any of its property or assets is subject (collectively, "Agreements and Instruments") or, except as disclosed in the Registration Statement, in violation of any law, ordinance, governmental rule, regulation or court decree to which it or its property or assets may be subject except for such defaults or violations (other than with respect to its Restated Certificate of Incorporation or By-laws) that

would not result in a Material Adverse Effect; and the execution, delivery and performance of this Agreement, the Indenture and the Debt Securities, and the consummation of the transactions contemplated herein and in the Registration Statement (including the issuance and sale of the Debt Securities and the use of the proceeds from the sale of the Debt Securities as described in the Prospectus under the caption "Use of Proceeds") and compliance by the Company with its obligations hereunder and under the Indenture and the Debt Securities have been duly authorized by all necessary corporate action and do not and will not, whether with or without the giving of notice or passage of time or both, conflict with or constitute a breach of, or default or Repayment Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any Significant Subsidiary pursuant to, the Agreements and Instruments (except for such conflicts, breaches, defaults or liens, charges or encumbrances that would not result in a Material Adverse Effect), nor will such action result in any violation of the provisions of the Restated Certificate of Incorporation or By-Laws of the Company or any Significant Subsidiary or any applicable law, statute, rule, regulation, judgment, order, writ or decree of any government, government instrumentality or court, domestic or foreign, having jurisdiction over the Company or any Significant Subsidiary or any of their assets, properties or operations. As used herein, a "Repayment Event" means any event or condition which gives the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any Significant Subsidiary, other than such events or conditions that are contemplated by the terms of this Agreement and the Indenture.

(xiv) *Absence of Proceedings.* Other than as disclosed in the Registration Statement, there is no action, suit, proceeding, inquiry or investigation before or brought by any court or governmental agency or body, domestic or foreign, now pending, or, to the knowledge of the Company, threatened, against or affecting the Company or any of its subsidiaries, which is required to be disclosed in the Registration Statement or which might reasonably be expected to result in a Material Adverse Effect, or which might reasonably be expected to materially and adversely affect the consummation of the transactions contemplated in this Agreement or the performance by the Company of its obligations hereunder. The aggregate of all pending legal or governmental proceedings to which the Company or any of its subsidiaries is a party or of which any of its property or assets is the subject which are not described in the Registration Statement, including ordinary routine litigation incidental to the business, could not reasonably be expected to result in a Material Adverse Effect.

(xv) *Accuracy of Exhibits.* There are no contracts or documents which are required to be described in the Registration Statement, the Prospectus or the documents incorporated by reference therein or to be filed as exhibits thereto which have not been so described or filed as required.

(xvi) *Absence of Further Requirements.* No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any court or governmental authority or agency is necessary or required for the performance by the Company of its obligations hereunder, in connection with the offering, issuance or sale of the Debt Securities hereunder or the consummation of the transactions contemplated by this Agreement and the Registration Statement or for the due execution, delivery or performance of the Indenture by the Company, except such as have been already obtained.

(xvii) *Possession of Licenses and Permits.* The Company and its subsidiaries possess such permits, licenses, approvals, consents, franchises and other authorizations issued by the appropriate federal, state, local or foreign regulatory agencies or bodies necessary to conduct in all material respects the business now operated by them and as described in the Registration Statement and Prospectus, except where the failure so to possess such permit, license, approval, consent or

authorization would not, singly or in the aggregate, have a Material Adverse Effect (collectively, "Governmental Licenses"); the Company and each subsidiary is in compliance with the terms and conditions of all such Governmental Licenses, except where the failure so to comply would not, singly or in the aggregate, have a Material Adverse Effect; all of the Governmental Licenses are in full force and effect, except where the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not have a Material Adverse Effect; and neither the Company nor any subsidiary has received any notice of proceedings relating to the revocation or modification of any such Governmental Licenses which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would result in a Material Adverse Effect.

(xviii) *Title to Property.* The Company and its subsidiaries have good and sufficient title to all real property, principal plants and all other property owned by them and which is material to the Company's and its subsidiaries' operations taken as a whole, in each case, free and clear of all mortgages, pledges, liens, security interests, claims, restrictions or encumbrances of any kind except such as (a) are described in the Prospectus or (b) do not, singly or in the aggregate, materially affect the value of such property or do not interfere with the use made and proposed to be made of such property by the Company or its subsidiaries; and all of the leases and subleases material to the business of the Company and its subsidiaries taken as a whole, and under which the Company or its subsidiaries holds properties described in the Prospectus, are in full force and effect, and neither the Company nor any subsidiary has notice of any material claim of any sort that has been asserted by anyone adverse to the rights of the Company or any subsidiary under any of the leases or subleases mentioned above, or affecting or questioning the rights of the Company or any subsidiary to the continued possession of the leased or subleased premises under any such lease or sublease.

(xix) *Labor.* No labor disturbance by the employees of the Company or any subsidiaries exists or, to the knowledge of the Company or any subsidiary, is imminent which might be expected to have a Material Adverse Effect.

(xx) *Taxes.* The Company and its subsidiaries have filed all federal, state and local income and franchise tax returns required to be filed through the date hereof (other than those filings being contested in good faith) and have paid all taxes of which it has notice are due thereon (other than those being contested in good faith and for which adequate reserves have been provided without penalty or interest), and no tax deficiency has been determined adversely to the Company or any of its subsidiaries which has had (nor does the Company nor any subsidiary have any knowledge of any tax deficiency which, if determined adversely to the Company or any of its subsidiaries, might have) a Material Adverse Effect.

(xxi) *Books and Records.* The Company (i) makes and keeps accurate books and records and (ii) maintains internal accounting controls which provide reasonable assurance that (A) transactions are executed in accordance with management's authorization, (B) transactions are recorded as necessary to permit preparation of its financial statements and to maintain accountability for its assets, (C) access to its assets is permitted only in accordance with management's authorization and (D) the reported accountability for its assets is compared with existing assets at reasonable intervals.

(xxii) *Illegal Payments.* Neither the Company nor any of its subsidiaries, nor any director, officer, agent, employee or other person associated with or acting on behalf of the Company or any of its subsidiaries, has used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate

funds; violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977; or made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment.

(xxiii) *Public Utility Holding Company Act.* The Company is a "holding company" and Oklahoma Gas and Electric Company (the "Utility") is a "public utility" as those terms are defined in the Public Utility Holding Company Act of 1935, as amended (the "Holding Company Act"), (i) each of the Company and the Utility have complied with all rules and regulations of the Holding Company Act necessary to conduct its business as presently conducted and to allow the Company to enter into this Agreement and consummate the transactions contemplated hereby, and (ii) each of the Company and the Utility is currently exempt from all provisions of the Holding Company Act, except Section 9(a)(2) thereof.

(xxiv) *Disclosure Controls and Procedures.* The Company (i) has established and maintains disclosure controls and procedures (as such term is defined in Rule 13a-15 under the 1934 Act), which (A) are designed to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to the Company's principal executive officer and its principal financial officer by others within those entities, particularly during the periods in which the periodic reports required under the 1934 Act are being prepared, (B) have been evaluated for effectiveness, as of the end of the period covered by the respective annual or quarterly report, and (C) are effective in all material respects to perform the functions for which they were established, (ii) based on the evaluation of its disclosure controls and procedures, is not aware of (A) any significant deficiency in the design or operation of internal controls which could adversely affect the Company's ability to record, process, summarize and report financial data or any material weakness in internal controls, or (B) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls, and (iii) since the date of the most recent evaluation of such disclosure controls and procedures, has experienced no changes in internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

(b) *Officer's Certificates.* Any certificate signed by any officer of the Company and delivered to any Underwriter or to counsel for the Underwriters shall be deemed a representation and warranty by the Company to each Underwriter as to the matters covered thereby.

## **SECTION 2. Sale and Delivery to Underwriters; Closing**

(a) *Debt Securities.* On the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, the Company agrees to sell to each Underwriter, severally and not jointly, and each Underwriter, severally and not jointly, agrees to purchase from the Company, at the price set forth in Schedule B, the principal amount of Debt Securities set forth in Schedule A opposite the name of such Underwriter, plus any additional principal amount of Debt Securities which such Underwriter may become obligated to purchase pursuant to the provisions of Section 11 hereof.

(b) *Payment.* Payment of the purchase price, and delivery of certificates, for the Debt Securities shall be made at the offices of Jones Day, Chicago, Illinois, or at such other place as shall be agreed upon by the Representative and the Company, at 9:00 A.M. (Chicago time) on the third business day after the date hereof (unless postponed in accordance with the provisions of Section 11), or such other time not later than ten business days after such date as shall be agreed upon by the Representative and the Company (such time and date of payment and delivery being herein called "Closing Time").

Payment shall be made to the Company by wire transfer of immediately available funds to a bank account designated by the Company, against delivery to the Representative for the respective accounts of the Underwriters of certificates for the Debt Securities to be purchased by them. It is understood that each Underwriter has authorized the Representative, for its account, to accept delivery of, receipt

for, and make payment of the purchase price for, the Debt Securities which it has agreed to purchase. The Representative, individually and not as representative of the Underwriters, may (but shall not be obligated to) make payment of the purchase price for the Debt Securities to be purchased by any Underwriter whose funds have not been received by the Closing Time, but such payment shall not relieve such Underwriter from its obligations hereunder.

(c) *Denominations; Registration.* One certificate for the Debt Securities shall be in the amount of \$ \_\_\_\_\_ and registered in the name of Cede & Co., as nominee of The Depository Trust Company. The Company will make the Debt Securities, which may be in temporary form, available for examination and packaging by the Underwriters in New York, New York not later than 10:00 A.M. (New York time) on the business day prior to the Closing Time.

### **SECTION 3. Covenants of the Company**

The Company covenants with each Underwriter as follows:

(a) *Compliance with Securities Regulations and Commission Requests.* The Company, subject to Section 3(b), will comply with the requirements of Rule 424 or Rule 434, as applicable, and will notify the Underwriters immediately, and confirm the notice in writing, (i) of the effectiveness of any post-effective amendment to the Registration Statement, or of the filing of any supplement to the Prospectus or any amended Prospectus, (ii) of the receipt of any comments from the Commission, (iii) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus or for additional information, and (iv) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or of any order preventing or suspending the use of any preliminary prospectus, or of the suspension of the qualification of the Debt Securities for offering or sale in any jurisdiction, or of the initiation or threatening of any proceedings for any of such purposes. The Company will promptly effect the filings necessary pursuant to Rule 424(b) and will take such steps as it deems necessary to ascertain promptly whether the form of prospectus transmitted for filing under Rule 424(b) was received for filing by the Commission and, in the event that it was not, it will promptly file such prospectus. The Company will make every reasonable effort to prevent the issuance of any stop order and, if any stop order is issued, to obtain the lifting thereof at the earliest possible moment.

(b) *Filing of Amendments.* The Company will give the Underwriters notice of its intention to file or prepare any amendment to the Registration Statement (including any filing under Rule 462(b)), any Term Sheet or any amendment, supplement or revision to either the prospectus included in the Registration Statement at the time it became effective or to the Prospectus, whether pursuant to the 1933 Act, the 1934 Act or otherwise, will furnish the Representative with copies of any such documents a reasonable amount of time prior to such proposed filing or use, as the case may be, and will not file or use any such document to which the Representative or counsel for the Underwriters reasonably objects.

(c) *Delivery of Registration Statements.* The Company has furnished or will deliver to the Representative and counsel for the Underwriters, without charge, signed copies of the Registration Statement as originally filed and of each amendment thereto (including exhibits filed therewith or incorporated by reference therein and documents incorporated or deemed to be incorporated by reference therein) and signed copies of all consents and certificates of experts, in such number as the Representative reasonably requests, and will also deliver to the Representative, without charge, a conformed copy of the Registration Statement as originally filed and of each amendment thereto (without exhibits) for each of the Underwriters. The copies of the Registration Statement and each amendment thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(d) *Delivery of Prospectuses.* The Company has delivered to each Underwriter, without charge, as many copies of each preliminary prospectus as such Underwriter reasonably requested, and the Company hereby consents to the use of such copies for purposes permitted by the 1933 Act. The Company will furnish to each Underwriter, without charge, during the period when the Prospectus is required to be delivered under the 1933 Act, such number of copies of the Prospectus (as amended or supplemented) as such Underwriter may reasonably request. The Prospectus and any amendments or supplements thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(e) *Continued Compliance with Securities Laws.* The Company will comply with the 1933 Act and the 1933 Act Regulations, the 1934 Act and the 1934 Act Regulations and the 1939 Act and the 1939 Act Regulations so as to permit the completion of the distribution of the Debt Securities as contemplated in this Agreement and in the Prospectus. If at any time when a prospectus is required by the 1933 Act to be delivered in connection with sales of the Debt Securities, any event occurs or condition exists as a result of which it is necessary, in the opinion of counsel for the Underwriters or for the Company, to amend the Registration Statement or amend or supplement the Prospectus in order that the Prospectus will not include any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time it is delivered to a purchaser, or if it is necessary, in the opinion of such counsel, at any such time to amend the Registration Statement or amend or supplement the Prospectus in order to comply with the requirements of the 1933 Act or the 1933 Act Regulations, the Company will promptly prepare and file with the Commission, subject to Section 3(b), such amendment or supplement as may be necessary to correct such statement or omission or to make the Registration Statement or the Prospectus comply with such requirements, and the Company will furnish to the Underwriters such number of copies of such amendment or supplement as the Underwriters may reasonably request.

(f) *Rule 158.* The Company will timely file such reports pursuant to the 1934 Act as are necessary in order to make generally available to its securityholders as soon as practicable an earnings statement for the purposes of, and to provide the benefits contemplated by, the last paragraph of Section 11(a) of the 1933 Act.

(g) *Use of Proceeds.* The Company will use the net proceeds received by it from the sale of the Debt Securities in the manner specified in the Prospectus under "Use of Proceeds."

(h) *Restriction on Sale of Securities.* During the period beginning on the date of this Agreement and continuing until the Closing Time, which period shall in no event exceed 5 business days, the Company will not, without the prior written consent of the Representative, in its sole discretion, directly or indirectly, issue, sell, offer or contract to sell, grant any option for the sale of, or otherwise transfer or dispose of, any debt securities of the Company which mature more than one year after the Closing Time and which are substantially similar to the Debt Securities.

(i) *Blue Sky Qualifications.* The Company will furnish such information, execute such instruments and take such action as may be required to qualify the Debt Securities for sale under the laws of such jurisdictions as the Representative may designate and will maintain such qualifications in effect so long as required for the distribution of the Debt Securities; provided that the Company shall not be required to qualify to do business in any jurisdiction where it is not now so qualified or to take any action which would subject it to general or unlimited service of process in any jurisdiction where it is not now so subject.

#### **SECTION 4. Payment of Expenses**

(a) *Expenses.* Whether or not the transactions contemplated hereunder are consummated or this Agreement is terminated, the Company will pay all expenses incident to the performance of its obligations under this Agreement, including (i) the preparation, printing and filing of the Registration Statement (including financial statements and exhibits) as originally filed and of each amendment thereto, (ii) the preparation, printing and delivery to the Underwriters of this Agreement, any Agreement among Underwriters, the Indenture, and such other documents as may be required in connection with the offering, purchase, sale, issuance or delivery of the Debt Securities, (iii) all costs, taxes and expenses incident to the preparation, issuance and delivery of the Debt Securities to the Underwriters, (iv) the fees and disbursements of the Company's counsel, accountants and other advisors, (v) the printing and delivery to the Underwriters of copies of each preliminary prospectus and the Prospectus and any amendments or supplements thereto, (vi) the fees and expenses of the Trustee, including the fees and disbursements of counsel for the Trustee in connection with the Indenture and the Debt Securities, (vii) any fees payable in connection with the rating of the Debt Securities and (viii) all costs and expenses (including reasonable fees and expenses of counsel) incurred in connection with "blue sky" qualifications.

(b) *Termination of Agreement.* If this Agreement is terminated by the Underwriters in accordance with the provisions of Section 5 or Section 10(a)(i) hereof or in accordance with Section 6 hereof, the Company shall reimburse the Underwriters for all of their out-of-pocket expenses, including the reasonable fees and disbursements of counsel for the Underwriters; provided, however, that to the extent that the Underwriters agree to purchase securities similar to the Debt Securities within twelve months of the date hereof, the Company shall, in such next purchase, receive a credit against the underwriting commission for any expenses reimbursed under this Section 4(b).

#### **SECTION 5. Conditions of Underwriters' Obligations**

The obligations of the several Underwriters hereunder are subject to the accuracy of the representations and warranties of the Company contained in Section 1 hereof and in certificates of any officer of the Company delivered pursuant to the provisions hereof, to the performance by the Company of its covenants and other obligations hereunder and to the following further conditions:

(a) *Effectiveness of Registration Statement; Filing of Prospectus.* The Registration Statement, including any Rule 462(b) Registration Statement, has become effective, and at the Closing Time, no stop order suspending the effectiveness of the Registration Statement shall have been issued under the 1933 Act or proceedings therefor initiated or threatened by the Commission, and any request on the part of the Commission for additional information shall have been complied with to the reasonable satisfaction of counsel to the Underwriters. A prospectus containing the Offering Terms shall have been filed with the Commission in accordance with Rule 424(b) or, if the Company has elected to rely upon Rule 434, a Term Sheet shall have been filed with the Commission in accordance with Rule 424(b).

(b) *Opinions of Counsel for Company.* At the Closing Time, the Representative shall have received the favorable opinions, dated as of the Closing Time, of Rainey, Ross, Rice & Binns, Oklahoma City, Oklahoma, and Jones Day, Chicago, Illinois, each counsel for the Company, in form and substance satisfactory to counsel for the Underwriters, together with signed original or reproduced copies of such opinions for each of the other Underwriters to the effect set forth below and to such further effect as counsel to the Underwriters may reasonably request.

(i) *Opinion of Oklahoma Counsel.*

(A) the Company is a legally existing corporation and is in good standing under the laws of the State of Oklahoma and has corporate power, right and authority to do business and to own property in the State of Oklahoma in the manner and as set forth in the Prospectus;

(B) each Significant Subsidiary is a legally existing corporation and is in good standing under the laws of the jurisdiction of its incorporation and has the corporate power, right and authority to do business and to own property in their in their respective jurisdictions in the manner and as set forth in the Prospectus;

(C) the Indenture has been duly and validly executed and delivered by the Company, which has full power and authority to enter into and perform its obligations thereunder; and the Indenture constitutes the binding and enforceable agreement of the Company in accordance with its terms, except as enforcement of provisions of the Indenture may be limited by bankruptcy or other applicable laws affecting the enforcement of creditors' rights;

(D) the Debt Securities are in the form contemplated by the Indenture, have been duly and validly authorized by the Company, constitute valid and binding obligations of the Company enforceable in accordance with their terms, except as enforcement of provisions of the Indenture may be limited by bankruptcy or other applicable laws affecting the enforcement of creditors rights, and will be entitled to the benefits of the Indenture;

(E) while, except as otherwise stated in said opinion, such counsel are not passing upon and do not assume responsibility for and shall not be deemed to have independently verified the accuracy, completeness or fairness of the Registration Statement or the Prospectus, nothing has come to the attention of such counsel that would lead them to believe that the Registration Statement at the time it became effective contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading or that the Prospectus at the time it was filed pursuant to Rule 424 and/or Rule 434 under the 1933 Act or at the Closing Time contained an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(F) this Agreement has been duly authorized, executed and delivered by the Company;

(G) such counsel does not know of any legal or governmental proceedings required to be described in the Prospectus which are not described as required, nor of any contracts or documents of a character required to be described in the Registration Statement or Prospectus or to be filed as exhibits to the Registration Statement which are not described or filed as required;

(H) the Indenture and the Debt Securities conform in all material respects to the statements concerning them in the Prospectus;

(I) all statements contained in the Registration Statement and Prospectus purporting to set forth the advice or the opinion of such counsel or to be based upon the opinion of such counsel correctly set forth the opinion of such counsel on such respective matters;

(J) the execution and delivery of this Agreement and the issuance of the Debt Securities, and compliance with the provisions thereof, under the circumstances contemplated hereby and thereby, do not and will not violate the Restated Certificate of Incorporation or By-Laws of the Company or any Significant Subsidiary, or in any material respect conflict with or constitute on the part of the Company or any Significant Subsidiary a breach of or default under any indenture, lease, mortgage, deed of trust, note, agreement or other instrument known to such counsel to which the Company or such Significant Subsidiary is a party or any law, regulation, consent decree or administrative, arbitration or court order known to such counsel to which the Company or such Significant Subsidiary is subject;



(K) no approval, authorization, consent, certificate or order of any Oklahoma commission or regulatory authority is necessary with respect to the offering, issuance, sale or delivery of the Debt Securities to the Underwriters as contemplated in this Agreement; and

(ii) *Opinion of Jones Day.*

(A) such opinion shall cover the matters set forth in subdivisions (E), (G), (H) and (J) of paragraph (b)(i) of this Section 5;

(B) the Registration Statement, including any Rule 462(b) Registration Statement, has become effective under the 1933 Act, the Prospectus has been filed pursuant to Rule 424(b) and/or Rule 434 of the 1933 Act Regulations, and, to the best knowledge of said counsel, no proceedings for a stop order in respect thereof are pending or threatened under Section 8(d) or 8(e) of the 1933 Act;

(C) the Registration Statement, including any Rule 462(b) Registration Statement, the Offering Terms and the Prospectus (except as to the financial statements and financial or statistical data contained therein, with respect to which said counsel need express no opinion) comply as to form, in all material respects, with the requirements of the 1933 Act, the 1934 Act and the 1939 Act and the rules and regulations of the Commission under such Acts; and the documents incorporated or deemed to be incorporated by reference in the Registration Statement and the Prospectus (except as to the financial statements and financial or statistical data contained therein, with respect to which said counsel need express no opinion) as of their respective dates of filing with the Commission complied as to form in all material respects with the 1934 Act and the 1934 Act Regulations;

(D) the Indenture has been qualified under the 1939 Act as and to the extent required by the provisions of the 1939 Act; and

(E) all approvals, authorizations, consents, certificates or orders of any state or federal commission or regulatory authority that are necessary with respect to the issuance and sale of the Debt Securities by the Company as contemplated in this Agreement have been obtained.

(F) each of the Company and the Utility is currently exempt from all provisions of the Holding Company Act, except Section 9(a)(2) thereof.

Such opinion may be subject to the reservation that, in giving such opinion, said counsel has relied on the opinion of Oklahoma counsel as to all matters of Oklahoma law, provided that such opinion shall state that said counsel believes that the Underwriters and they are justified in relying on the opinion of Oklahoma counsel.

(c) *Opinion of Counsel for Underwriters.* At the Closing Time, the Representative shall have received the favorable opinion, dated as of the Closing Time, of Chapman and Cutler LLP, counsel for the Underwriters, together with signed original or reproduced copies of such letter for each of the other Underwriters with respect to such matters related to the issuance and sale of the Debt Securities as the Underwriters may reasonably require, and the Company shall have furnished to such counsel such documents as they request for the purpose of enabling them to pass upon such matters. In giving such opinion such counsel may rely, as to all matters governed by the laws of jurisdictions other than the law of the State of Illinois and the federal law of the United States, upon the opinions of Oklahoma counsel or other counsel satisfactory to the Underwriters.

(d) *Officers' Certificate.* At the Closing Time, the Underwriters shall have received a certificate of the chief executive officer or a vice president of the Company and of the chief financial or chief accounting officer of the Company, dated as of the Closing Time, to the effect that (i) there shall not have been, since the date hereof or since the respective dates as of which information is given in the Prospectus, any material adverse change in the condition, financial or otherwise, or in the earnings,

results of operations or properties of the Company and its subsidiaries taken as a whole, whether or not arising in the ordinary course of business, (ii) the representations and warranties in this Agreement are true and correct with the same force and effect as though expressly made at and as of the Closing Time, (iii) the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the Closing Time, and (iv) no stop order suspending the effectiveness of the Registration Statement has been issued and no proceedings for that purpose have been instituted or are pending or, to their knowledge, are contemplated by the Commission.

(e) *Accountants' Comfort Letter.* At the time of the execution of this Agreement, the Representative shall have received from Ernst & Young LLP a letter, dated such date, in form and substance satisfactory to the Underwriters, together with signed original or reproduced copies of such letter for each of the other Underwriters, containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained in the Registration Statement and the Prospectus.

(f) *Bring-down Comfort Letter.* At the Closing Time, the Representative shall have received from Ernst & Young LLP a letter, dated as of the Closing Time, together with signed original or reproduced copies of such letter for each of the other Underwriters, to the effect that Ernst & Young LLP reaffirms the statements made in the letter furnished pursuant to subsection (e) of this Section, except that the specified date referred to shall be a date not more than three business days prior to the Closing Time.

(g) *Maintenance of Rating.* Since the date of this Agreement, there shall not have occurred a downgrading in the rating assigned to any of the Company's securities by any "nationally recognized statistical rating organization," as that term is defined by the Commission for purposes of Rule 436(g)(2) under the 1933 Act, and no such organization shall have publicly announced that it has under surveillance or review its rating of the Debt Securities or any of the Company's other securities.

(h) *Material Adverse Change.* (i) Since the date hereof or since the respective dates as of which information is given in the Prospectus, the Company shall not have sustained any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the prospectus or (ii) since the date hereof or since the respective dates as of which information is given in the Prospectus there shall not have been any material change in the capital stock or long-term debt of the Company or any change, or any development involving a prospective change, in or affecting the condition, financial or otherwise, or in the earnings, results of operations, properties or management of the Company, whether or not arising in the ordinary course of business, otherwise than set forth or contemplated in the Prospectus, the effect of which, in any such case described in clause (i) or (ii), is, in the judgement of the Representative, so material and adverse as to make it impracticable or inadvisable to proceed with the public offering or the delivery of the Debt Securities being delivered as such Closing Time on the terms and in the manner contemplated in the Prospectus.

(i) *Additional Documents.* At the Closing Time, counsel for the Underwriters shall have been furnished with such documents and opinions as they may require for the purpose of enabling them to pass upon the issuance and sale of the Debt Securities as herein contemplated, or in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions, herein contained; and all proceedings taken by the Company in connection with the issuance and sale of the Debt Securities as herein contemplated shall be satisfactory in form and substance to the Underwriters and counsel for the Underwriters.

(j) *Termination of Agreement.* If any condition specified in this Section shall not have been fulfilled when and as required to be fulfilled, this Agreement may be terminated by the Underwriters by notice to the Company at any time at or prior to the Closing Time, and such termination shall be

without liability of any party to any other party except as provided in Section 4 and except that Sections 1, 7, 8 and 9 shall survive any such termination and remain in full force and effect.

In giving the opinions contemplated by paragraphs (b) and (c) of this Section 5, counsel may rely upon certificates of state officials as to the Company's and its Significant Subsidiaries' good standing and upon certificates of officers of the Company as to matters of fact relevant to such opinions. In giving such opinions, counsel may assume (i) that the Debt Securities have been executed on behalf of the Company by the manual or facsimile signatures of the President or a Vice President and the Secretary or an Assistant Secretary of the Company and have been manually authenticated by an authorized official of the Trustee, (ii) that the signatures on all documents examined by them are genuine, and (iii) that the written information supplied by the Underwriters expressly for use in the Registration Statement or the Prospectus is adequate.

#### **SECTION 6. Conditions of Company's Obligations**

The obligation of the Company to deliver the Debt Securities upon payment therefor shall be subject to the following conditions:

At the Closing Time, no stop order suspending the effectiveness of the Registration Statement shall be in effect and no proceedings for that purpose shall then be pending before, or threatened by, the Commission.

In case any of the conditions specified above in this Section 6 shall not have been fulfilled, this Agreement may be terminated by the Company by delivering written notice of termination to the Underwriters. Any such termination shall be without liability of any party to any other party except to the extent provided in Section 4 hereof and except that Sections 1, 7, 8 and 9 shall survive any such termination and remain in full force and effect.

#### **SECTION 7. Indemnification**

(a) The Company shall indemnify and hold harmless each Underwriter and each person, if any, who controls any Underwriter within the meaning of the 1933 Act, from and against any loss, claim, damage or liability, joint or several, or any action in respect thereof (including, but not limited to, any loss, claim, damage, liability or action relating to purchases and sales of Debt Securities), to which that Underwriter or controlling person may become subject, under the 1933 Act or otherwise, insofar as such loss, claim, damage, liability or action arises out of, or is based upon, (i) any untrue statement or alleged untrue statement of a material fact contained in the Prospectus, any preliminary prospectus or the Registration Statement or in any amendment or supplement thereto, (ii) the omission or alleged omission to state in the Prospectus, any preliminary prospectus or the Registration Statement, or in any amendment or supplement thereto, or in any Blue Sky Application any material fact required to be stated therein or necessary to make the statements therein not misleading or (iii) any act or failure to act or any alleged act or failure to act by any Underwriter in connection with, or relating in any manner to, the Senior Notes or the offering contemplated hereby, and which is included as part of or referred to in any loss, claim, damage, liability or action arising out of or based upon matters covered by clause (i) or (ii) above (*provided* that the Company shall not be liable under this clause (iii) to the extent that it is determined in a final judgment by a court of competent jurisdiction that such loss, claim, damage, liability or action resulted directly from any such acts or failures to act undertaken or omitted to be taken by such Underwriter through its gross negligence or willful misconduct), and shall reimburse each Underwriter and each such controlling person promptly upon demand for any legal or other expenses reasonably incurred by that Underwriter or controlling person in connection with investigating or defending or preparing to defend against any such loss, claim, damage, liability or action as such expenses are incurred; *provided, however*, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage, liability or action arises out of, or is based

upon, any untrue statement or alleged untrue statement or omission or alleged omission made in the Prospectus, any preliminary prospectus or the Registration Statement, or in any such amendment or supplement, in reliance upon and in conformity with written information concerning such Underwriter furnished to the Company through the Representatives by or on behalf of any Underwriter specifically for inclusion therein which information consists solely of the information specified in Schedule C and *provided, further*; that such indemnity with respect to a preliminary prospectus shall not inure to the benefit of any Underwriter (or any person controlling such Underwriter) from whom the person asserting any such loss, claim, damage or liability purchased the Debt Securities which are the subject thereof if such person was not sent or given a copy of the Prospectus (but without the documents incorporated by reference therein) at or prior to the confirmation of the sale of such Debt Securities to such person in any case where such delivery is required by the Act and the untrue statement or omission of a material fact contained in such preliminary prospectus was corrected by the Prospectus, *provided* that the Company shall have delivered the Prospectus, in a timely manner and in sufficient quantities to permit such delivery by the Underwriters. The foregoing indemnity agreement is in addition to any liability which the Company may otherwise have to any Underwriter or to any officer, employee or controlling person of that Underwriter.

(b) Each Underwriter, severally and not jointly, shall indemnify and hold harmless the Company, each of its officers who signed the Registration Statement, each of its directors and each person, if any, who controls the Company within the meaning of the 1933 Act, from and against any loss, claim, damage or liability, joint or several, or any action in respect thereof, to which the Company or any such director, officer or controlling person may become subject, under the 1933 Act or otherwise, insofar as such loss, claim, damage, liability or action arises out of, or is based upon, (i) any untrue statement or alleged untrue statement of a material fact contained (A) in the Prospectus, any preliminary prospectus or the Registration Statement or in any amendment or supplement thereto, or (B) in any Blue Sky Application or (ii) the omission or alleged omission to state in the Prospectus, any preliminary prospectus or the Registration Statement, or in any amendment or supplement thereto, or in any Blue Sky Application any material fact required to be stated therein or necessary to make the statements therein not misleading, but in each case only to the extent that the untrue statement or alleged untrue statement or omission or alleged omission was made in reliance upon and in conformity with written information concerning such Underwriter furnished to the Company through the Representatives by or on behalf of that Underwriter specifically for inclusion therein, and shall reimburse the Company and any such director, officer or controlling person for any legal or other expenses reasonably incurred by the Company or any such director, officer or controlling person in connection with investigating or defending or preparing to defend against any such loss, claim, damage, liability or action as such expenses are incurred. The foregoing indemnity agreement is in addition to any liability which any Underwriter may otherwise have to the Company or any such director, officer or controlling person.

(c) Promptly after receipt by an indemnified party under this Section of notice of any claim or the commencement of any action, the indemnifying party shall, if a claim in respect thereof is made against the indemnifying party under this Section 7, notify the indemnifying party in writing of the claim or the commencement of that action; *provided, however*; that the failure to notify the indemnifying party shall not relieve it from any liability which it may have under this Section 7 except to the extent it has been materially prejudiced by such failure and, *provided, further*; that the failure to notify the indemnifying party shall not relieve it from any liability which it may have to an indemnified party otherwise than under this Section 7. If any such claim or action shall be brought against an indemnified party, and it shall notify the indemnifying party thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it wishes, jointly with any other similarly notified indemnifying party, to assume the defense thereof with counsel reasonably satisfactory to the indemnified party. After notice from the indemnifying party to the indemnified party of its election to assume the defense of such claim or action, the indemnifying party shall not be liable to the indemnified party under this Section 7 for any legal or other expenses subsequently incurred by the indemnified party in connection with the

defense thereof other than reasonable costs of investigation; *provided, however*, that the Representative shall have the right to employ counsel to represent jointly the Representative and those other Underwriters and their respective controlling persons who may be subject to liability arising out of any claim in respect of which indemnity may be sought by the Underwriters against the Company under this Section 7 if, in the reasonable judgment of the Representative, the Representative shall have reasonably concluded that there may be legal defenses available to them and the other Underwriters that are different from or in addition to those available to the indemnifying party, and in that event the fees and expenses of such separate counsel shall be paid by the Company (*provided* that the indemnifying party shall not be liable for the fees and expenses of more than one separate counsel and one local counsel). No indemnifying party shall (i) without the prior written consent of the indemnified parties (which consent shall not be unreasonably withheld), settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding, or (ii) be liable for any settlement of any such action effected without its written consent (which consent shall not be unreasonably withheld), but if settled with the consent of the indemnifying party or if there be a final judgment of the plaintiff in any such action, the indemnifying party agrees to indemnify and hold harmless any indemnified party from and against any loss or liability by reason of such settlement or judgment.

#### **SECTION 8. Contribution**

If the indemnification provided for in Section 7 shall for any reason be unavailable to or insufficient to hold harmless an indemnified party under Section 7(a) or 7(b) in respect of any loss, claim, damage or liability, or any action in respect thereof, referred to therein, then each indemnifying party shall, in lieu of indemnifying such indemnified party, contribute to the amount paid or payable by such indemnified party as a result of such loss, claim, damage or liability, or any action in respect thereof, (i) in such proportion as shall be appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Debt Securities or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company on the one hand and of the Underwriters on the other with respect to the statements or omissions which resulted in such loss, claim, damage or liability, or any action in respect thereof, as well as any other relevant equitable considerations.

The relative benefits received by the Company on the one hand and the Underwriters on the other with respect to such offering shall be deemed to be in the same proportion as the total net proceeds from the offering of the Debt Securities purchased under this Agreement (before deducting expenses) received by the Company, on the one hand, and the total underwriting discount received by the Underwriters with respect to the Debt Securities purchased under this Agreement, on the other hand, bear to the total gross proceeds from the offering of the Debt Securities under this Agreement, in each case as set forth in the table on the cover page of the Prospectus.

The relative fault shall be determined by reference to whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or the Underwriters, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Company and the Underwriters agree that it would not be just and equitable if contributions pursuant to this Section were to be determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take into account the equitable considerations referred to herein. The amount paid or payable by an indemnified

party as a result of the loss, claim, damage or liability, or any action in respect thereof, referred to above in this Section shall be deemed to include, for purposes of this Section, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending against any such action or claim.

Notwithstanding the provisions of this Section, no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Debt Securities underwritten by it and distributed to the public was offered to the public exceeds the amount of any damages which such Underwriter has otherwise paid or become liable to pay by reason of any untrue or alleged untrue statement or omission or alleged omission.

No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations to contribute as provided in this Section are several in proportion to their respective underwriting obligations and not joint.

#### **SECTION 9. Representations, Warranties and Agreements to Survive Delivery**

All representations, warranties and agreements contained in this Agreement or in certificates of officers of the Company or any of its subsidiaries submitted pursuant hereto shall remain operative and in full force and effect, regardless of any investigation made by or on behalf of any Underwriter or controlling person, or by or on behalf of the Company, and shall survive delivery of the Debt Securities to the Underwriters.

#### **SECTION 10. Termination of Agreement**

(a) *Termination; General.* The Representative may terminate this Agreement, by notice to the Company, at any time at or prior to the Closing Time if: (i) there has been, since the time of execution of this Agreement or since the respective dates as of which information is given in the Prospectus, any loss sustained by the Company by strike, fire, flood, accident or other calamity of such character as to interfere materially with the conduct of the business and operations of the Company regardless of whether or not such loss shall have been insured, or any material adverse change in the condition, financial or otherwise, or in the earnings, results of operations or properties of the Company, whether or not arising in the ordinary course of business, (ii) trading in securities generally on the New York Stock Exchange or the American Stock Exchange or in the over-the-counter market, or trading in any securities of the Company or any subsidiary on any exchange or in the over-the-counter market, shall have been suspended or minimum prices shall have been established on any such exchange or such market by the Commission, by such exchange or by any other regulatory body or governmental authority having jurisdiction, (iii) a banking moratorium shall have been declared by Federal or state authorities or there is a material disruption in securities settlement or clearance services in the United States, (iv) the United States shall have become engaged in hostilities, there shall have been an escalation in hostilities involving the United States or there shall have been a declaration of a national emergency or war by the United States or (v) there shall have occurred any calamity or crisis or such a material adverse change in general economic, political or financial conditions (or the effect of international conditions on the financial markets in the United States shall be such) as to make it, in the judgment of the Representative impracticable or inadvisable to proceed with the public offering or delivery of the Debt Securities being delivered at such Closing Time on the terms and in the manner contemplated in the Prospectus.

(b) *Liabilities.* If this Agreement is terminated pursuant to this Section, such termination shall be without liability of any party to any other party except as provided in Section 4 hereof, and provided further that Sections 1, 7, 8 and 9 shall survive such termination and remain in full force and effect.

## **SECTION 11. Default by One or More of the Underwriters**

If one or more of the Underwriters fails at the Closing Time to purchase the Debt Securities which it or they are obligated to purchase under this Agreement (the "Defaulted Debt Securities"), the remaining Underwriter or Underwriters will have the right, within 24 hours thereafter, to make arrangements for one or more of the non-defaulting Underwriters, or any other underwriter or underwriters, to purchase all, but not less than all, of the Defaulted Debt Securities in such amounts as may be agreed upon and upon the terms herein set forth; if, however, the remaining Underwriter or Underwriters do not complete such arrangements within such 24-hour period, then:

(a) if the principal amount of Defaulted Debt Securities does not exceed 10% of the aggregate principal amount of the Debt Securities to be purchased hereunder, each of the non-defaulting Underwriters will be obligated, severally and not jointly, to purchase the full amount thereof in the proportions that their respective underwriting obligations hereunder bear to the underwriting obligations of all non-defaulting Underwriters, or

(b) if the principal amount of Defaulted Debt Securities exceeds 10% of the aggregate principal amount of the Debt Securities to be purchased hereunder, this Agreement will terminate without liability on the part of any non-defaulting Underwriter.

No action taken pursuant to this Section will relieve any defaulting Underwriter from liability in respect of its default.

In the event of any such default which does not result in a termination of this Agreement, either the remaining Underwriter or Underwriters or the Company will have the right to postpone the Closing Time for a period not exceeding seven days in order to effect any required changes in the Registration Statement or Prospectus or in any other documents or arrangements. As used herein, the term "Underwriter" includes any person substituted for an Underwriter under this Section 11.

## **SECTION 12. Notices**

All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted by any standard form of telecommunication. Notices to the Underwriters shall be directed to \_\_\_\_\_; each with a copy to Chapman and Cutler LLP, 111 W. Monroe Street, Chicago, Illinois 60603, Attention: Jonathan A. Koff, Esq. Notices to the Company shall be directed to it at OGE Energy Corp., 321 North Harvey, P. O. Box 321, Oklahoma City, Oklahoma, Attention: President and Chief Executive Officer, with a copy to Jones Day, 77 West Wacker, Chicago, Illinois 60601, Attention: Robert J. Joseph, Esq.

## **SECTION 13. Parties**

This Agreement shall inure to the benefit of and be binding upon the Underwriters and the Company and their respective successors. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, firm or corporation, other than the Underwriters and the Company and their respective successors and the controlling persons and officers and directors referred to in Sections 7 and 8 and their heirs and legal representatives, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained. This Agreement and all conditions and provisions hereof are intended to be for the sole and exclusive benefit of the Underwriters and the Company and their respective successors, and said controlling persons and officers and directors and their heirs and legal representatives, and for the benefit of no other person, firm or corporation. No purchaser of Debt Securities from any Underwriter shall be deemed to be a successor by reason merely of such purchase.

**SECTION 14. Governing Law and Time**

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. Except as otherwise set forth herein, specified times of day refer to New York City time.

**SECTION 15. Effect of Headings**

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

[This space intentionally left blank]



If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement between the Underwriters and the Company in accordance with its terms.

Very truly yours,

OGE ENERGY CORP.

By:

---

Title:

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CONFIRMED AND ACCEPTED,  
as of the date first above written:

BY:

By:

---

Title:

---

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SCHEDULE A.

Name of Underwriter	Principal Amount of Debt Securities
	\$
	\$
Total	\$

Sch. A-1

**SCHEDULE B.**

**OGE ENERGY CORP.**

\$                    %                    , Series due

1. The initial public offering price of the Debt Securities is                    % of the principal amount thereof, plus accrued interest, if any, from the date of issuance.
2. The purchase price to be paid by the Underwriters for the Debt Securities is                    % of the principal amount thereof.
3. The interest rate on the Debt Securities is                    % per annum.
4. **[Insert redemption terms, if any]**

Sch. B-1

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**SCHEDULE C.**

The information set forth below constitutes the only information furnished to the Company by any Underwriter expressly for use in the Registration Statement (or any amendment thereto) or preliminary prospectus or the Prospectus (or any amendment or supplement thereto):

Sch. C-1

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QuickLinks

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[PURCHASE AGREEMENT](#)

[SCHEDULE A.](#)

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[SCHEDULE C.](#)

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**OGE ENERGY CORP.**

AND

**UMB BANK, N.A.**

TRUSTEE

\_\_\_\_\_

FORM OF INDENTURE

DATED AS OF

\_\_\_\_\_

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THIS INDENTURE, dated as of \_\_\_\_\_, between OGE ENERGY CORP., a corporation duly organized and existing under the laws of the State of Oklahoma (the "Company"), and UMB Bank, N.A., a national banking association organized and existing under the laws of the United States of America, as trustee (the "Trustee").

## WITNESSETH

WHEREAS, for its lawful corporate purposes, the Company has duly authorized the execution and delivery of this Indenture to provide for the issuance from time to time of its Debt Securities (the "Securities"), to be issued as in this Indenture provided;

AND WHEREAS, all acts and things necessary to make this Indenture a valid agreement according to its terms have been done and performed, and the execution of this Indenture and the issue hereunder of the Securities have in all respects been duly authorized;

NOW THEREFORE, THIS INDENTURE WITNESSETH:

That in order to declare the terms and conditions upon which the Securities are, and are to be authenticated, issued and delivered, and in consideration of the premises, of the purchase and acceptance of the Securities by the Holders thereof and of the sum of one dollar duly paid to it by the Trustee at the execution of this Indenture, the receipt whereof is hereby acknowledged, the Company covenants and agrees with the Trustee for the equal and proportionate benefit of the respective Holders from time to time of the Securities, as follows:

## ARTICLE ONE

### DEFINITIONS

**SECTION 1.01. GENERAL.** The terms defined in this Article One (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Article One.

**SECTION 1.02. TRUST INDENTURE ACT.** (a) Whenever this Indenture refers to a provision of the Trust Indenture Act of 1939, as amended (the "TIA"), such provision is incorporated by reference in and made a part of this Indenture.

(b) Unless otherwise indicated, all terms used in this Indenture that are defined by the TIA, defined by the TIA by reference to another statute or defined by a rule of the Commission under the TIA shall have the meanings assigned to them in the TIA or such statute or rule as in force on the date of execution of this Indenture.

**SECTION 1.03. DEFINITIONS.** For purposes of this Indenture, the following terms shall have the following meanings.

#### AUTHENTICATING AGENT:

The term "*Authenticating Agent*" shall mean any agent of the Trustee which shall be appointed and acting pursuant to Section 8.15 hereof.

#### AUTHORIZED AGENT:

The term "*Authorized Agent*" shall mean any agent of the Company designated as such by an Officers' Certificate delivered to the Trustee.

#### BOARD OF DIRECTORS:

The term "*Board of Directors*" shall mean the Board of Directors of the Company or the Executive Committee of such Board or any other duly authorized committee of such Board.

BOARD RESOLUTION:

The term "*Board Resolution*" shall mean a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

BUSINESS DAY:

The term "*Business Day*" shall mean each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which banking institutions or trust companies in the Borough of Manhattan, the City and State of New York, or in the city where the corporate trust office of the Trustee is located, are obligated or authorized by law or executive order to close.

COMMISSION:

The term "*Commission*" shall mean the United States Securities and Exchange Commission, or if at any time hereafter the Commission is not existing or performing the duties now assigned to it under the TIA, then the body performing such duties.

COMPANY:

The term "*Company*" shall mean the corporation named as the "Company" in the first paragraph of this Indenture, and its successors and assigns permitted hereunder.

COMPANY ORDER:

The term "*Company Order*" shall mean a written order signed in the name of the Company by one of the Chairman, the President, any Vice President, the Treasurer or an Assistant Treasurer, and the Secretary or an Assistant Secretary of the Company, and delivered to the Trustee.

CORPORATE TRUST OFFICES OF THE TRUSTEE:

The term "*corporate trust office of the Trustee*", or other similar term, shall mean the corporate trust office of the Trustee, at which at any particular time its corporate trust business shall be principally administered, which office is at the date of the execution of this Indenture located at .

DEPOSITARY:

The term "*Depositary*" shall mean, unless otherwise specified in a Company Order pursuant to Section 2.05 hereof, The Depository Trust Company, New York, New York, or any successor thereto registered and qualified under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation.

EVENT OF DEFAULT:

The term "*Event of Default*" shall mean any event specified in Section 7.01 hereof, continued for the period of time, if any, and after the giving of the notice, if any, therein designated.

GLOBAL SECURITY:

The term "*Global Security*" shall mean a Security that pursuant to Section 2.05 hereof is issued to evidence Securities, that is delivered to the Depository or pursuant to the instructions of the Depository and that shall be registered in the name of the Depository or its nominee.

INDENTURE:

The term "*Indenture*" shall mean this instrument as originally executed or, if amended or supplemented as herein provided, as so amended or supplemented.

INTEREST PAYMENT DATE:

The term "*Interest Payment Date*" shall mean, unless otherwise specified in a Company Order pursuant to Section 2.05 hereof, (a) each April 1 and October 1 during the period any Security is outstanding (provided that the first Interest Payment Date for any Security, the Original Issue Date of which is after a Regular Record Date but prior to the respective Interest Payment Date, shall be the Interest Payment Date following the next succeeding Regular Record Date), (b) a date of maturity of such Security and (c) only with respect to defaulted interest on such Security, the date established by the Trustee for the payment of such defaulted interest pursuant to Section 2.11 hereof.

MATURITY:

The term "*maturity*," when used with respect to any Security, shall mean the date on which the principal of such Security becomes due and payable as therein or herein provided, whether at the stated maturity thereof or by declaration of acceleration, redemption or otherwise.

OFFICERS' CERTIFICATE:

The term "*Officers' Certificate*" when used with respect to the Company, shall mean a certificate signed by one of the Chairman, the President, any Vice President, the Treasurer or an Assistant Treasurer, and by the Secretary or an Assistant Secretary of the Company.

OPINION OF COUNSEL:

The term "*Opinion of Counsel*" shall mean an opinion in writing signed by legal counsel, who may be an employee of the Company, meeting the applicable requirements of Section 14.05 hereof. If the Indenture requires the delivery of an Opinion of Counsel to the Trustee, the text and substance of which has been previously delivered to the Trustee, the Company may satisfy such requirement by the delivery by the legal counsel that delivered such previous Opinion of Counsel of a letter to the Trustee to the effect that the Trustee may rely on such previous Opinion of Counsel as if such Opinion of Counsel was dated and delivered the date delivery of such Opinion of Counsel is required. Any Opinion of Counsel may contain conditions and qualifications satisfactory to the Trustee.

OPINION OF INDEPENDENT COUNSEL:

The term "*Opinion of Independent Counsel*" shall mean an opinion in writing signed by legal counsel, who shall not be an employee of the Company, meeting the applicable requirements of Section 14.05. Any Opinion of Independent Counsel may contain conditions and qualifications satisfactory to the Trustee.

ORIGINAL ISSUE DATE:

The term "*Original Issue Date*" shall mean for a Security, or portions thereof, the date upon which it, or such portion, was issued by the Company pursuant to this Indenture and authenticated by the Trustee (other than in connection with a transfer, exchange or substitution).

OUTSTANDING:

The term "*outstanding*", when used with reference to Securities, shall, subject to Section 9.04 hereof, mean, as of any particular time, all Securities authenticated and delivered by the Trustee under this Indenture, except

(a) Securities theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;

(b) Securities, or portions thereof, for the payment or redemption of which moneys in the necessary amount shall have been deposited in trust with the Trustee or with any paying agent (other than the Company), provided that if such Securities are to be redeemed prior to the maturity thereof,

notice of such redemption shall have been given as provided in Article Three, or provisions satisfactory to the Trustee shall have been made for giving such notice;

(c) Securities, or portions thereof, that have been paid and discharged or are deemed to have been paid and discharged pursuant to the provisions of this Indenture; and

(d) Securities in lieu of or in substitution for which other Securities shall have been authenticated and delivered, or which have been paid, pursuant to Section 2.07 hereof.

PERSON:

The term "*Person*" shall mean any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated organization or government or any agent or political subdivision thereof.

PRINCIPAL EXECUTIVE OFFICES OF THE COMPANY:

The term "*principal executive offices of the Company*" shall mean 321 N. Harvey, Oklahoma City, Oklahoma 73102, or such other place where the main corporate offices of the Company are located as designated in writing to the Trustee by an Authorized Agent.

REGULAR RECORD DATE:

The term "*Regular Record Date*" shall mean, unless otherwise specified in a Company Order pursuant to Section 2.05, for an Interest Payment Date for a particular Security (a) the fifteenth day of the calendar month next preceding each Interest Payment Date (unless the Interest Payment Date is the date of maturity of such Security, in which event, the Regular Record Date shall be as described in clause (b) hereof) and (b) the date of maturity of such Security.

RESPONSIBLE OFFICER:

The term "*responsible officer*" or "*responsible officers*" when used with respect to the Trustee shall mean one or more of the following: the chairman of the board of directors, the vice chairman of the board of directors, the chairman of the executive committee, the president, any vice president, the secretary, the treasurer, any trust officer, any assistant trust officer, any second or assistant vice president, any assistant secretary, any assistant treasurer, or any other officer or assistant officer of the Trustee customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of his or her knowledge of and familiarity with the particular subject.

SECURITY OR SECURITIES:

The terms "*Security*" or "*Securities*" shall mean any Security or Securities, as the case may be, authenticated and delivered under this Indenture, including any Global Security.

SECURITY HOLDER:

The terms "*Security holder*", "*Holder of Securities*" or "*Holder*" shall mean any Person in whose name at the time a particular Security is registered on the books of the Trustee kept for that purpose in accordance with the terms hereof.

SPECIAL RECORD DATE:

The term "*Special Record Date*" shall mean, with respect to any Security, the date established by the Trustee in connection with the payment of defaulted interest on such Security pursuant to Section 2.11 hereof.

STATED MATURITY:

The term "*stated maturity*" shall mean with respect to any Security, the last date on which principal on such Security becomes due and payable as therein or herein provided, other than by declaration of acceleration or by redemption.

TRUSTEE:

The term "*Trustee*" shall mean UMB Bank, N.A. and, subject to Article Eight, shall also include any successor Trustee.

U.S. GOVERNMENT OBLIGATIONS:

The term "*U.S. Government Obligations*" shall mean (i) direct non-callable obligations of, or non-callable obligations guaranteed as to timely payment of principal and interest by, the United States of America or an agency thereof for the payment of which obligations or guarantee the full faith and credit of the United States is pledged or (ii) certificates or receipts representing direct ownership interests in obligations or specified portions (such as principal or interest) of obligations described in clause (i) above, which obligations are held by a custodian in safekeeping in a manner satisfactory to the Trustee.

**ARTICLE TWO**

**FORM, ISSUE, EXECUTION, REGISTRATION AND EXCHANGE OF SECURITIES**

**SECTION 2.01. FORM GENERALLY.**

(a) If the Securities are in the form of a Global Security, they shall be in substantially the form set forth in *Exhibit A* to this Indenture, and, if the Securities are not in the form of a Global Security, they shall be in substantially the form set forth in *Exhibit B* to this Indenture, or, in any case, in such other form as shall be established by a Board Resolution, or a Company Order pursuant to a Board Resolution, or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with applicable rules of any securities exchange or of the Depository or with applicable law or as may, consistently herewith, be determined by the officers executing such Securities, as evidenced by their execution of such Securities.

(b) The definitive Securities shall be typed, printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the officers executing such Securities, as evidenced by their execution of such Securities.

**SECTION 2.02. FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION.** The Trustee's certificate of authentication on all Securities shall be in substantially the following form:

Trustee's Certificate of Authentication

This Security is one of the Securities of the series herein designated, described or provided for in the within-mentioned Indenture.

UMB BANK, N.A., *as Trustee*

By:

\_\_\_\_\_  
*Authorized Officer*

**SECTION 2.03. AMOUNT UNLIMITED.** The aggregate principal amount of Securities that may be authenticated and delivered under this Indenture is unlimited, subject to compliance with the provisions of this Indenture.



**SECTION 2.04. DENOMINATIONS, DATES, INTEREST PAYMENT AND RECORD DATES.**

(a) The Securities shall be issuable in registered form without coupons in denominations of \$1,000 and integral multiples thereof or such other amount or amounts as may be authorized by the Board of Directors or a Company Order pursuant to a Board Resolution or in one or more indentures supplemental hereto; provided that the principal amount of a Global Security shall not exceed \$400,000,000 unless otherwise permitted by the Depository.

(b) Each Security shall be dated and issued as of the date of its authentication by the Trustee, and shall bear an Original Issue Date or, as provided in Section 2.13(e) hereof, two or more Original Issue Dates; each Security issued upon transfer, exchange or substitution of a Security shall bear the Original Issue Date or Dates of such transferred, exchanged or substituted Security, subject to the provisions of Section 2.13(e) hereof.

(c) Each Security shall bear interest from the later of (1) its Original Issue Date (or, if pursuant to Section 2.13 hereof, a Global Security has two or more Original Issue Dates, interest shall, beginning on each such Original Issue Date, begin to accrue for that part of the principal amount of such Global Security to which that Original Issue Date is applicable), or (2) the most recent date to which interest has been paid or duly provided for with respect to such Security until the principal of such Security is paid or made available for payment, and interest on each Security shall be payable on each Interest Payment Date after the Original Issue Date.

(d) Each Security shall mature on a stated maturity date specified in the Security. The principal amount of each outstanding Security shall be payable on the maturity date or dates specified therein.

(e) Unless otherwise specified in a Company Order pursuant to Section 2.05 hereof, interest on each of the Securities shall be calculated on the basis of a 360-day year of twelve 30-day months and shall be computed at a fixed rate until the maturity of such Securities. The method of computing interest on any Securities not bearing a fixed rate of interest shall be set forth in a Company Order pursuant to Section 2.05 hereof. Unless otherwise specified in a Company Order pursuant to Section 2.05 hereof, principal, interest and premium on the Securities shall be payable in the currency of the United States. Unless otherwise specified in a Company Order pursuant to Section 2.05, in any case where any Interest Payment Date or the date on which the principal of any Security is required to be paid is not a Business Day, then payment of principal, premium or interest need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on such Interest Payment Date or the date on which the principal of such Security is required to be paid, and, in the case of timely payment thereof, no interest shall accrue for the period from and after such Interest Payment Date or the date on which the principal of such Security is required to be paid.

(f) Except as provided in the following sentence, the Person in whose name any Security is registered at the close of business on any Regular Record Date or Special Record Date with respect to an Interest Payment Date for such Security shall be entitled to receive the interest payable on such Interest Payment Date notwithstanding the cancellation of such Security upon any registration of transfer, exchange or substitution of such Security subsequent to such Regular Record Date or Special Record Date and prior to such Interest Payment Date. Any interest payable at maturity shall be paid to the Person to whom the principal of such Security is payable.

(g) Promptly after each Regular Record Date that is not a date of maturity, the Trustee shall furnish to the Company a notice setting forth the total amount of the interest payments to be made on the applicable Interest Payment Date, and to the Depository a notice setting forth the total amount of interest payments to be made on Global Securities on such Interest Payment Date. The Trustee (or any duly selected paying agent) shall provide to the Company during each month that precedes an Interest Payment Date a list of the principal, interest and premium to be paid on Securities on such Interest

Payment Date and to the Depository a list of the principal, interest and premium to be paid on Global Securities on such Interest Payment Date. Promptly after the first Business Day of each month, the Trustee shall furnish to the Company a written notice setting forth the aggregate principal amount of the Global Securities. The Trustee shall assume responsibility for withholding taxes on interest paid as required by law except with respect to any Global Security.

**SECTION 2.05. EXECUTION, AUTHENTICATION, DELIVERY AND DATING.**

(a) The Securities shall be executed on behalf of the Company by one of its Chairman, President, any Vice President, its Treasurer or an Assistant Treasurer of the Company and attested by the Secretary or an Assistant Secretary of the Company. The signature of any of these officers on the Securities may be manual or facsimile.

(b) Securities bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities.

(c) At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities executed by the Company to the Trustee for authentication, together with or preceded by one or more Company Orders for the authentication and delivery of such Securities, and the Trustee in accordance with any such Company Order shall authenticate and deliver such Securities. The Securities shall be issued in series. Such Company Order shall specify the following with respect to each series of Securities: (i) any limitations on the aggregate principal amount of the Securities to be issued as part of such series, (ii) the Original Issue Date or Dates for such series, (iii) the stated maturity of such series, (iv) the interest rate or rates, or method of calculation of such rate or rates, for such series, (v) the terms, if any, regarding the optional or mandatory redemption of such series, including redemption date or dates of such series, if any, and the price or prices applicable to such redemption (including any premium), (vi) whether or not the Securities of such series shall be issued in whole or in part in the form of a Global Security and, if so, the Depository for such Global Security, (vii) the designation of such series, (viii) if the form of the Securities of such series is not as described in *Exhibit A or Exhibit B*, hereto, the form of the Securities of such series, (ix) the maximum annual interest rate, if any, of the Securities permitted for such series, (x) any other information necessary to complete the Securities of such series, (xi) the establishment of any office or agency pursuant to Section 5.02 hereto and (xii) any other terms of such series not inconsistent with this Indenture. Prior to authenticating Securities of any series, and in accepting the additional responsibilities under this Indenture in relation to such Securities, the Trustee shall receive from the Company the following at or before the issuance of the initial Security of such series of Securities, and (subject to Section 8.01 hereof) shall be fully protected in relying upon:

(1) A Board Resolution authorizing such Company Order or Orders and, if the form of Securities is established by a Board Resolution or a Company Order pursuant to a Board Resolution, a copy of such Board Resolution;

(2) an Opinion of Counsel stating substantially the following subject to customary qualifications and exceptions:

(A) if the form of Securities has been established by or pursuant to a Board Resolution, a Company Order pursuant to a Board Resolution, or in a supplemental indenture as permitted by Section 2.01 hereof, that such form has been established in conformity with this Indenture;

(B) that the Indenture has been duly authorized, executed and delivered by the Company and constitutes a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except to the extent that enforcement thereof may be

limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws of general application relating to or affecting the enforcement of creditors and the application of general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity) and except as enforcement of provisions of the Indenture may be limited by state laws affecting the remedies for the enforcement of the security provided for in the Indenture;

(C) that the Indenture is qualified to the extent necessary under the TIA;

(D) that such Securities have been duly authorized and executed by the Company, and when authenticated by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and binding obligations of the Company, enforceable in accordance with their terms, except to the extent that enforcement thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws of general application relating to or affecting the enforcement of creditors and the application of general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity) and except as enforcement of provisions of this Indenture may be limited by state laws affecting the remedies for the enforcement of the security provided for in this Indenture;

(E) that the issuance of the Securities will not result in any default under this Indenture, or any other contract, indenture, loan agreement or other instrument to which the Company is a party or by which it or any of its property is bound;

(F) that all consents or approvals of any other federal or state regulatory agency required in connection with the Company's execution and delivery of this Indenture and such series of Securities have been obtained and not withdrawn (except that no statement need be made with respect to state securities laws); and

(3) an Officer's Certificate stating that (i) the Company is not, and upon the authentication by the Trustee of the series of Securities, will not be in default under any of the terms or covenants contained in the Indenture and (ii) all conditions that must be met by the Company to issue Securities under this Indenture have been met.

(d) The Trustee shall have the right to decline to authenticate and deliver any Security:

(1) if the issuance of such Securities pursuant to this Indenture will affect the Trustee's own rights, duties or immunities under the Securities and this Indenture or otherwise in a manner that is not reasonably acceptable to the Trustee;

(2) if the Trustee, being advised by counsel, determines that such action may not lawfully be taken; or

(3) if the Trustee in good faith by its Board of Directors, executive officers or a trust committee of directors and/or responsible officers determines that such action would expose the Trustee to personal liability to Holders of any outstanding Securities.

(e) No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein executed by the Trustee by the manual signature of an authorized officer, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder and is entitled to the benefits of this Indenture.

(f) If all Securities of a series are not to be authenticated and issued at one time, the Company shall not be required to deliver the Company Order, Board Resolutions, Officers' Certificate and

Opinion of Counsel (including any such that would be otherwise required pursuant to Section 14.05 hereof) described in Section 2.05(c) hereof at or prior to the authentication of each Security of such series, if such items are delivered at or prior to the time of authentication of the first Security of such series to be authenticated and issued. If all of the Securities of a series are not authenticated and issued at one time, for each issuance of Securities after the initial issuance of Securities, the Company shall be required only to deliver to the Trustee the Security and a written request (executed by one of the Chairman, the President, any Vice President, the Treasurer, or an Assistant Treasurer, and the Secretary or an Assistant Secretary of the Company) to the Trustee to authenticate such Security and to deliver such Security in accordance with the instructions specified by such request. Any such request shall constitute a representation and warranty by the Company that the statements made in the Officers' Certificate delivered to the Trustee prior to the authentication and issuance of the first Security of such series are true and correct on the date thereof as if made on and as of the date thereof.

**SECTION 2.06. EXCHANGE AND REGISTRATION OF TRANSFER OF SECURITIES.**

(a) Subject to Section 2.13 hereof, Securities may be exchanged for one or more new Securities of any authorized denominations and of a like aggregate principal amount, series and stated maturity and having the same terms and Original Issue Date or Dates. Securities to be exchanged shall be surrendered at any of the offices or agencies to be maintained pursuant to Section 5.02 hereof, and the Trustee shall deliver in exchange therefor the Security or Securities which the Security holder making the exchange shall be entitled to receive.

(b) The Trustee shall keep, at one of said offices or agencies, a register or registers in which, subject to such reasonable regulations as it may prescribe, the Trustee shall register or cause to be registered Securities and shall register or cause to be registered the transfer of Securities as in this Article Two provided. Such register shall be in written form or in any other form capable of being converted into written form within a reasonable time. At all reasonable times, such register shall be open for inspection by the Company. Upon due presentment for registration of transfer of any Security at any such office or agency, the Company shall execute and the Trustee shall register, authenticate and deliver in the name of the transferee or transferees one or more new Securities of any authorized denominations and of a like aggregate principal amount, series and stated maturity and having the same terms and Original Issue Date or Dates.

(c) All Securities presented for registration of transfer or for exchange, redemption or payment shall be duly endorsed by, or be accompanied by a written instrument or instruments of transfer in form satisfactory to the Company and the Trustee and duly executed by the Holder or the attorney in fact of such Holder duly authorized in writing.

(d) No service charge shall be made for any exchange or registration of transfer of Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith.

(e) The Trustee shall not be required to exchange or register a transfer of any Securities selected, called or being called for redemption (including Securities, if any, redeemable at the option of the Holder provided such Securities are then redeemable at such Holder's option) except, in the case of any Security to be redeemed in part, the portion thereof not to be so redeemed.

(f) If the principal amount, and applicable premium, of part, but not all of a Global Security is paid, then upon surrender to the Trustee of such Global Security, the Company shall execute, and the Trustee shall authenticate, deliver and register, a Global Security in an authorized denomination in aggregate principal amount equal to, and having the same terms, Original Issue Date or Dates and series as, the unpaid portion of such Global Security.

**SECTION 2.07. MUTILATED, DESTROYED, LOST OR STOLEN SECURITIES.**

(a) If any temporary or definitive Security shall become mutilated or be destroyed, lost or stolen, the Company shall execute, and upon its request the Trustee shall authenticate and deliver, a new Security of like form and principal amount and having the same terms and Original Issue Date or Dates and bearing a number not contemporaneously outstanding, in exchange and substitution for the mutilated Security, or in lieu of and in substitution for the Security so destroyed, lost or stolen. In every case the applicant for a substituted Security shall furnish to the Company, the Trustee and any paying agent or Authenticating Agent such security or indemnity as may be required by them to save each of them harmless, and, in every case of destruction, loss or theft of a Security, the applicant shall also furnish to the Company and to the Trustee evidence to their satisfaction of the destruction, loss or theft of such Security and of the ownership thereof.

(b) The Trustee shall authenticate any such substituted Security and deliver the same upon the written request or authorization of any officer of the Company. Upon the issuance of any substituted Security, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith. If any Security which has matured, is about to mature, has been redeemed or called for redemption shall become mutilated or be destroyed, lost or stolen, the Company may, instead of issuing a substituted Security, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated Security) if the applicant for such payment shall furnish to the Company, the Trustee and any paying agent or Authenticating Agent such security or indemnity as may be required by them to save each of them harmless and, in case of destruction, loss or theft, evidence satisfactory to the Company and the Trustee of the destruction, loss or theft of such Security and of the ownership thereof.

(c) Every substituted Security issued pursuant to this Section 2.07 by virtue of the fact that any Security is mutilated, destroyed, lost or stolen shall constitute an additional contractual obligation of the Company, whether or not such destroyed, lost or stolen Security shall be found at any time, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Securities duly issued hereunder. All Securities shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

**SECTION 2.08. TEMPORARY SECURITIES.** Pending the preparation of definitive Securities, the Company may execute and the Trustee shall authenticate and deliver temporary Securities (printed, lithographed or otherwise reproduced). Temporary Securities shall be issuable in any authorized denomination and substantially in the form of the definitive Securities but with such omissions, insertions and variations as may be appropriate for temporary Securities, all as may be determined by the Company. Every such temporary Security shall be authenticated by the Trustee upon the same conditions and in substantially the same manner, and with the same effect, as the definitive Securities. Without unreasonable delay the Company shall execute and shall deliver to the Trustee definitive Securities and thereupon any or all temporary Securities shall be surrendered in exchange therefor at the corporate trust office of the Trustee, and the Trustee shall authenticate, deliver and register in exchange for such temporary Securities an equal aggregate principal amount of definitive Securities. Such exchange shall be made by the Company at its own expense and without any charge therefor to the Security holders. Until so exchanged, the temporary Securities shall in all respects be entitled to the same benefits under this Indenture as definitive Securities authenticated and delivered hereunder.

**SECTION 2.09. CANCELLATION OF SECURITIES PAID, ETC.** All Securities surrendered for the purpose of payment, redemption, exchange or registration of transfer shall be surrendered to the Trustee for cancellation and promptly cancelled by it and no Securities shall be issued in lieu thereof except as expressly permitted by this Indenture. The Company's acquisition of any Securities shall operate as a redemption or satisfaction of the indebtedness represented by such Securities and such Securities shall be surrendered by the Company to and cancelled by the Trustee.

**SECTION 2.10. INTEREST RIGHTS PRESERVED.** Each Security delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Security shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security, and each such Security shall be so dated that neither gain nor loss of interest shall result from such transfer, exchange or substitution.

**SECTION 2.11. SPECIAL RECORD DATE.** If and to the extent that the Company fails to make timely payment or provision for timely payment of interest on any series of Securities (other than on an Interest Payment Date that is a maturity date), that interest shall cease to be payable to the Persons who were the Security holders of such series at the applicable Regular Record Date. In that event, when moneys become available for payment of the interest, the Trustee shall (a) establish a date of payment of such interest and a Special Record Date for the payment of that interest, which Special Record Date shall be not more than 15 or fewer than 10 days prior to the date of the proposed payment and (b) mail notice of the date of payment and of the Special Record Date not fewer than 10 days preceding the Special Record Date to each Security holder of such series at the close of business on the 15th day preceding the mailing at the address of such Security holder, as it appeared on the register for the Securities. On the day so established by the Trustee the interest shall be payable to the Holders of the applicable Securities at the close of business on the Special Record Date.

**SECTION 2.12. PAYMENT OF SECURITIES.** Payment of the principal, interest and premium on all Securities shall be payable as follows:

(a) On or before 9:30 a.m., New York City time, of the day on which payment of principal, interest and premium is due on any Global Security pursuant to the terms thereof, the Company shall deliver to the Trustee funds available on such date sufficient to make such payment, by wire transfer of immediately available funds or by instructing the Trustee to withdraw sufficient funds from an account maintained by the Company with the Trustee or such other method as is acceptable to the Trustee and the Depository. On or before 10:00 a.m., New York City time, or such other time as shall be agreed upon between the Trustee and the Depository, of the day on which any payment of interest is due on any Global Security (other than at maturity), the Trustee shall pay to the Depository such interest in same day funds. On or before 10:00 a.m., New York City time or such other time as shall be agreed upon between the Trustee and the Depository, of the day on which principal, interest payable at maturity and premium, if any, is due on any Global Security, the Trustee shall deposit with the Depository the amount equal to the principal, interest payable at maturity and premium, if any, by wire transfer into the account specified by the Depository. As a condition to the payment, at maturity or upon redemption, of any part of the principal or interest on and applicable premium of any Global Security, the Depository shall surrender, or cause to be surrendered, such Global Security to the Trustee, whereupon a new Global Security shall be issued to the Depository pursuant to Section 2.06(f) hereof.

(b) With respect to any Security that is not a Global Security, principal, applicable premium and interest due at the maturity of the Security shall be payable in immediately available funds when due upon presentation and surrender of such Security at the corporate trust office of the Trustee or at the authorized office of any paying agent. Interest on any Security that is not a Global Security (other than interest payable at maturity) shall be paid to the Holder thereof as its name appears on the register by check payable in clearinghouse funds; provided that if the Trustee receives a written request from any

Holder of Securities, the aggregate principal amount of which having the same Interest Payment Date equals or exceeds \$10,000,000, on or before the applicable Regular Record Date for such Interest Payment Date, interest shall be paid by wire transfer of immediately available funds to a bank within the continental United States designated by such Holder in its request or by direct deposit into the account of such Holder designated by such Holder in its request if such account is maintained with the Trustee or any paying agent.

**SECTION 2.13. SECURITIES ISSUABLE IN THE FORM OF A GLOBAL SECURITY.**

(a) If the Company shall establish pursuant to Section 2.05 hereof that the Securities of a particular series are to be issued in whole or in part in the form of one or more Global Securities, then the Company shall execute and the Trustee shall, in accordance with Section 2.05 hereof and the Company Order delivered to the Trustee thereunder, authenticate and deliver such Global Security or Securities, which (i) shall represent, shall be denominated in an amount equal to the aggregate principal amount of, and shall have the same terms as, the outstanding Securities of such series to be represented by such Global Security or Securities, (ii) shall be registered in the name of the Depository or its nominee, (iii) shall be delivered by the Trustee to the Depository or pursuant to the Depository's instruction and (iv) shall bear a legend substantially to the following effect: "This Security is a Global Security registered in the name of the Depository (referred to herein) or a nominee thereof and, unless and until it is exchanged in whole or in part for the individual Securities represented hereby, this Global Security may not be transferred except as a whole by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository. Unless this Global Security is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the trustee for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of DTC (and any payment is made to Cede & Co., or to such other entity as is requested by an authorized representative of DTC) ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein" or such other legend as may be required by the rules and regulations of the Depository.

(b) Notwithstanding any other provision of Section 2.06 hereof or of this Section 2.13, unless the terms of a Global Security expressly permit such Global Security to be exchanged in whole or in part for individual Securities, a Global Security may be transferred, in whole but not in part, only as described in the legend thereto.

(c) (i) If at any time the Depository for a Global Security notifies the Company that it is unwilling or unable to continue as Depository for such Global Security or if at any time the Depository for the Global Security shall no longer be eligible or in good standing under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation, the Company shall appoint a successor Depository with respect to such Global Security. If a successor Depository for such Global Security is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such ineligibility, the Company's election pursuant to Section 2.05(c)(vi) hereof shall no longer be effective with respect to the series of Securities evidenced by such Global Security and the Company shall execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of individual Securities of such series in exchange for such Global Security, shall authenticate and deliver, individual Securities of such series of like tenor and terms in definitive form in an aggregate principal amount equal to the principal amount of the Global Security in exchange for such Global Security. The Trustee shall not be charged with knowledge or notice of the ineligibility of a Depository unless a responsible officer assigned to and working in its corporate trustee administration department shall have actual knowledge thereof.

(ii) The Company may at any time and in its sole discretion determine that all outstanding Securities of a series issued or issuable in the form of one or more Global Securities need not be represented by such Global Security or Securities. In such event the Company shall execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of individual Securities in exchange for such Global Security, shall authenticate and deliver individual Securities of like tenor and terms in definitive form in an aggregate principal amount equal to the principal amount of such Global Security or Securities in exchange for such Global Security or Securities.

(iii) In any exchange provided for in any of the preceding two paragraphs, the Company will execute and the Trustee will authenticate and deliver individual Securities in definitive registered form in authorized denominations. Upon the exchange of a Global Security for individual Securities, such Global Security shall be cancelled by the Trustee. Securities issued in exchange for a Global Security pursuant to this Section shall be registered in such names and in such authorized denominations as the Depository for such Global Security, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee. The Trustee shall deliver such Securities to the Depository for delivery to the persons in whose names such Securities are so registered, or if the Depository shall refuse or be unable to deliver such Securities, the Trustee shall deliver such Securities to the persons in whose names such Securities are registered, unless otherwise agreed upon between the Trustee and the Company, in which event the Company shall cause the Securities to be delivered to the persons in whose names such Securities are registered.

(d) Neither the Company, the Trustee, any Authenticating Agent nor any paying agent shall have any responsibility or liability for any aspect of the records relating to, or payments made on account of, beneficial ownership interests of a Global Security or for maintaining, supervising or reviewing any records relating to such beneficial ownership interest.

(e) Pursuant to the provisions of this subsection, at the option of the Trustee and upon 30 days' written notice to the Depository but not prior to the first Interest Payment Date of the respective Global Securities, the Depository shall be required to surrender any two or more Global Securities which have identical terms, including, without limitation, identical maturities, interest rates and redemption provisions (but which may have differing Original Issue Dates) to the Trustee, and the Company shall execute and the Trustee shall authenticate and deliver to, or at the direction of, the Depository a Global Security in principal amount equal to the aggregate principal amount of, and with all terms identical to, the Global Securities surrendered thereto and that shall indicate each applicable Original Issue Date and the principal amount applicable to each such Original Issue Date. The exchange contemplated in this subsection shall be consummated at least 30 days prior to any Interest Payment Date applicable to any of the Global Securities surrendered to the Trustee. Upon any exchange of any Global Security with two or more Original Issue Dates, whether pursuant to this Section or pursuant to Section 2.06 or Section 3.03 hereof, the aggregate principal amount of the Securities with a particular Original Issue Date shall be the same before and after such exchange, after giving effect to any retirement of Securities and the Original Issue Dates applicable to such Securities occurring in connection with such exchange.

### **ARTICLE THREE**

#### **REDEMPTION OF SECURITIES**

**SECTION 3.01. APPLICABILITY OF ARTICLE.** Such of the Securities as are, by their terms, redeemable prior to their stated maturity date at the option of the Company, may be redeemed by the Company at such times, in such amounts and at such prices as may be specified therein and in accordance with the provisions of this Article Three.



### **SECTION 3.02. NOTICE OF REDEMPTION; SELECTION OF SECURITIES.**

(a) The election of the Company to redeem any Securities shall be evidenced by a Board Resolution which shall be given with notice of redemption to the Trustee at least 45 days (or such shorter period acceptable to the Trustee in its sole discretion) prior to the redemption date specified in such notice.

(b) Notice of redemption to each Holder of Securities to be redeemed as a whole or in part shall be given by the Trustee, in the manner provided in Section 14.10 hereof, no less than 30 or more than 60 days prior to the date fixed for redemption. Any notice which is given in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the Security holder receives the notice. In any case, failure duly to give such notice, or any defect in such notice, to the Holder of any Security designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Security.

(c) Each such notice shall specify the date fixed for redemption, the places of redemption and the redemption price at which such Securities are to be redeemed, and shall state that payment of the redemption price of such Securities or portion thereof to be redeemed will be made upon surrender of such Securities at such places of redemption, that interest accrued to the date fixed for redemption will be paid as specified in such notice, and that from and after such date interest thereon shall cease to accrue. If less than all of a series of Securities having the same terms are to be redeemed, the notice shall specify the Securities or portions thereof to be redeemed. If any Security is to be redeemed in part only, the notice which relates to such Security shall state the portion of the principal amount thereof to be redeemed, and shall state that, upon surrender of such Security, a new Security or Securities having the same terms in aggregate principal amount equal to the unredeemed portion thereof will be issued.

(d) Unless otherwise provided by a supplemental indenture or Company Order under Section 2.05 hereof, if less than all of a series of Securities is to be redeemed, the Trustee shall select in such manner as it shall deem appropriate and fair in its discretion the particular Securities to be redeemed in whole or in part and shall thereafter promptly notify the Company in writing of the Securities so to be redeemed. If less than all of a series of Securities represented by a Global Security is to be redeemed, the particular Securities or portions thereof of such series to be redeemed shall be selected by the Depositary for such series of Securities in such manner as the Depositary shall determine. Securities shall be redeemed only in denominations of \$1,000, provided that any remaining principal amount of a Security redeemed in part shall be a denomination authorized under this Indenture.

(e) If at the time of the mailing of any notice of redemption the Company shall not have irrevocably directed the Trustee to apply funds deposited with the Trustee or held by it and available to be used for the redemption of Securities to redeem all the Securities called for redemption, such notice, at the election of the Company, may state that it is subject to the receipt of the redemption moneys by the Trustee before the date fixed for redemption and that such notice shall be of no effect unless such moneys are so received before such date.

### **SECTION 3.03. PAYMENT OF SECURITIES ON REDEMPTION; DEPOSIT OF REDEMPTION PRICE.**

(a) If notice of redemption for any Securities shall have been given as provided in Section 3.02 hereof and such notice shall not contain the language permitted at the Company's option under Section 3.02(e) hereof, such Securities or portions of Securities called for redemption shall become due and payable on the date and at the places stated in such notice at the applicable redemption price, together with interest accrued to the date fixed for redemption of such Securities. Interest on the Securities or portions thereof so called for redemption shall cease to accrue and such Securities or portions thereof shall be deemed not to be entitled to any benefit under this Indenture except to receive payment of the redemption price together with interest accrued thereon to the date fixed for

redemption. Upon presentation and surrender of such Securities at such a place of payment in such notice specified, such Securities or the specified portions thereof shall be paid and redeemed at the applicable redemption price, together with interest accrued thereon to the date fixed for redemption.

(b) If notice of redemption shall have been given as provided in Section 3.02 hereof and such notice shall contain the language permitted at the Company's option under Section 3.02(e) hereof, such Securities or portions of Securities called for redemption shall become due and payable on the date and at the places stated in such notice at the applicable redemption price, together with interest accrued to the date fixed for redemption of such Securities, and interest on the Securities or portions thereof so called for redemption shall cease to accrue and such Securities or portions thereof shall be deemed not to be entitled to any benefit under this Indenture except to receive payment of the redemption price together with interest accrued thereon to the date fixed for redemption; provided that, in each case, the Company shall have deposited with the Trustee or a paying agent on or prior to such redemption date an amount sufficient to pay the redemption price together with interest accrued to the date fixed for redemption. Upon the Company making such deposit and, upon presentation and surrender of such Securities at such a place of payment in such notice specified, such Securities or the specified portions thereof shall be paid and redeemed at the applicable redemption price, together with interest accrued thereon to the date fixed for redemption. If the Company shall not make such deposit on or prior to the redemption date, the notice of redemption shall be of no force and effect and the principal on such Securities or specified portions thereof shall continue to bear interest as if the notice of redemption had not been given.

(c) No notice of redemption of Securities shall be mailed during the continuance of any Event of Default, except (1) that, when notice of redemption of any Securities has been mailed, the Company shall redeem such Securities but only if funds sufficient for that purpose have prior to the occurrence of such Event of Default been deposited with the Trustee or a paying agent for such purpose, and (2) that notices of redemption of all outstanding Securities may be given during the continuance of an Event of Default.

(d) Upon surrender of any Security redeemed in part only, the Company shall execute, and the Trustee shall authenticate, deliver and register, a new Security or Securities of authorized denominations in aggregate principal amount equal to, and having the same terms, Original Issue Date or Dates and series as, the unredeemed portion of the Security so surrendered.

## **ARTICLE FOUR**

### **SATISFACTION AND DISCHARGE; UNCLAIMED MONEYS**

#### **SECTION 4.01. SATISFACTION AND DISCHARGE.**

(a) If at any time:

(1) the Company shall have paid or caused to be paid the principal of and premium, if any, and interest on all the outstanding Securities, as and when the same shall have become due and payable,

(2) the Company shall have delivered to the Trustee for cancellation all outstanding Securities, or

(3) the Company shall have irrevocably deposited or caused to be irrevocably deposited with the Trustee as trust funds the entire amount in (A) cash, (B) U.S. Government Obligations maturing as to principal and interest in such amounts and at such times as will insure the availability of cash, or (C) a combination of cash and U.S. Government Obligations, in any case sufficient, without reinvestment, as certified by an independent public accounting firm of national reputation in a written certification delivered to the Trustee, to pay at maturity or the applicable

redemption date (provided that notice of redemption shall have been duly given or irrevocable provision satisfactory to the Trustee shall have been duly made for the giving of any notice of redemption) all outstanding Securities, including principal and any premium and interest due or to become due to such date of maturity, as the case may be and, unless all outstanding Securities are to be due within 90 days of such deposit by redemption or otherwise, shall also deliver to the Trustee an Opinion of Independent Counsel to the effect that the Company has received from, or there has been published by, the Internal Revenue Service a ruling or similar pronouncement by the Internal Revenue Service, or that there has been a change of law, in either case to the effect that the Holders of the Securities will not recognize income, gain or loss for federal income tax purposes as a result of such defeasance or discharge of the Indenture,

and if, in any such case, the Company shall also pay or cause to be paid all other sums payable hereunder by the Company, then this Indenture shall cease to be of further effect (except as to (i) rights of registration of transfer and exchange of Securities, (ii) substitution of mutilated, defaced, destroyed, lost or stolen Securities, (iii) rights of Security holders to receive payments of principal thereof, and any premium and interest thereon, upon the original stated due dates therefor or upon the applicable redemption date (but not upon acceleration of maturity) from the moneys and U.S. Government Obligations held by the Trustee pursuant to Section 4.02 hereof, (iv) the rights and immunities of the Trustee hereunder, (v) the rights of the Holders of Securities as beneficiaries hereof with respect to the property so deposited with the Trustee payable to all or any of them, (vi) the obligations and rights of the Trustee and the Company under Section 4.04 hereof, and (vii) the duties of the Trustee with respect to any of the foregoing), and the Company shall be deemed to have paid and discharged the entire indebtedness represented by, and its obligations under, the Securities, and the Trustee, on demand of the Company and at the cost and expense of the Company, shall execute proper instruments acknowledging such satisfaction of and discharging this Indenture and the Trustee shall at the request of the Company return to the Company all property and money held by it under this Indenture and determined by it from time to time in accordance with the certification pursuant to this Section 4.01(a)(3) to be in excess of the amount required to be held under this Section.

If the Securities are deemed to be paid and discharged pursuant to Section 4.01(a)(3) hereof, within 15 days after those Securities are so deemed to be paid and discharged, the Trustee shall cause a written notice to be given to each Holder in the manner provided by Section 14.10 hereof. The notice shall:

- (i) state that the Securities are deemed to be paid and discharged;
- (ii) set forth a description of any U.S. Government Obligations and cash held by the Trustee as described above;
- (iii) if any Securities will be called for redemption, specify the date or dates on which those Securities are to be called for redemption.

Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 8.06 hereof, shall survive.

(b) If the Company shall have paid or caused to be paid the principal of and premium, if any, and interest on any Security, as and when the same shall have become due and payable or the Company shall have delivered to the Trustee for cancellation any outstanding Security, such Security shall cease to be entitled to any lien, benefit or security under this Indenture.

**SECTION 4.02. DEPOSITED MONEYS TO BE HELD IN TRUST BY TRUSTEE.** All moneys and U.S. Government Obligations deposited with the Trustee pursuant to Section 4.01 hereof shall be held in trust and applied by it to the payment, either directly or through any paying agent (including the Company if acting as its own paying agent), to the Holders of the particular Securities for the payment

or redemption of which such moneys and U.S. Government Obligations have been deposited with the Trustee of all sums due and to become due thereon for principal and premium, if any, and interest.

**SECTION 4.03. PAYING AGENT TO REPAY MONEYS HELD.** Upon the satisfaction and discharge of this Indenture all moneys then held by any paying agent for the Securities (other than the Trustee) shall, upon written demand by an Authorized Agent, be repaid to the Company or paid to the Trustee, and thereupon such paying agent shall be released from all further liability with respect to such moneys.

**SECTION 4.04. RETURN OF UNCLAIMED MONEYS.** Any moneys deposited with or paid to the Trustee for payment of the principal of or any premium or interest on any Securities and not applied but remaining unclaimed by the Holders of such Securities for two years after the date upon which the principal of or any premium or interest on such Securities, as the case may be, shall have become due and payable, shall be repaid to the Company by the Trustee on written demand by an Authorized Agent, and all liability of the Trustee shall thereupon cease; and any Holder of any of such Securities shall thereafter look only to the Company for any payment which such Holder may be entitled to collect.

## ARTICLE FIVE

### PARTICULAR COVENANTS OF THE COMPANY

**SECTION 5.01. PAYMENT OF PRINCIPAL, PREMIUM AND INTEREST.** The Company covenants and agrees for the benefit of the Holders of the Securities that it will duly and punctually pay or cause to be paid the principal of and any premium and interest on each of the Securities at the places, at the respective times and in the manner provided in such Securities or in this Indenture.

**SECTION 5.02. OFFICE FOR NOTICES AND PAYMENTS, ETC.** So long as any of the Securities remain outstanding, the Company at its option may cause to be maintained in the Borough of Manhattan, the City and State of New York, or elsewhere, an office or agency where the Securities may be presented for registration of transfer and for exchange as in this Indenture provided, and where, at any time when the Company is obligated to make a payment of principal and premium upon Securities, the Securities may be surrendered for payment, and may maintain at any such office or agency and at its principal office an office or agency where notices and demands to or upon the Company in respect of the Securities or of this Indenture may be served. The designation of any such office or agency shall be made by Company Order pursuant to Section 2.05 hereof or at any subsequent time pursuant to this Section 5.02 hereof. The Company will give to the Trustee written notice of the location of each such office or agency and of any change of location thereof. If the Company shall fail to give such notice of the location or of any change in the location of any such office or agency, presentations may be made and notices and demands may be served at the corporate trust office of the Trustee.

**SECTION 5.03. APPOINTMENTS TO FILL VACANCIES IN TRUSTEE'S OFFICE.** The Company, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 8.11 hereof, a Trustee, so that there shall at all times be a Trustee hereunder.

**SECTION 5.04. PROVISION AS TO PAYING AGENT.** The Trustee shall be the paying agent for the Securities and, at the option of the Company, the Company may appoint additional paying agents (including without limitation itself). Whenever the Company shall appoint an additional paying agent, it shall cause such paying agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to this Section 5.04:

(1) that it will hold in trust for the benefit of the Holders and the Trustee all sums held by it as such agent for the payment of the principal of and any premium or interest on the Securities

(whether such sums have been paid to it by the Company or by any other obligor on such Securities) in trust for the benefit of the Holders of such Securities;

(2) that it will give to the Trustee notice of any failure by the Company (or by any other obligor on such Securities) to make any payment of the principal of and any premium or interest on such Securities when the same shall be due and payable; and

(3) that it will at any time during the continuance of any such failure, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such paying agent.

If the Company shall act as its own paying agent with respect to any Securities, it will, on or before each due date of the principal of and any premium or interest on such Securities, set aside, segregate and hold in trust for the benefit of the Holders of such Securities a sum sufficient to pay such principal and any premium or interest so becoming due and will notify the Trustee of any failure by it to take such action and of any failure by the Company (or by any other obligor on such Securities) to make any payment of the principal of and any premium or interest on such Securities when the same shall become due and payable.

Whenever the Company shall have one or more paying agents, it will, on or prior to each due date of the principal of (and premium, if any) or interest, if any, on any Securities, deposit with such paying agent a sum sufficient to pay the principal (and premium, if any) or interest, if any, so becoming due, such sum to be held in trust for the benefit of the Persons entitled to such principal, premium or interest, if any, and (unless such paying agent is the Trustee) the Company shall promptly notify the Trustee of any failure on its part to so act.

Anything in this Section 5.04 to the contrary notwithstanding, the Company may, at any time, for the purpose of obtaining a satisfaction and discharge of this Indenture, or for any other reason, pay or cause to be paid to the Trustee all sums held in trust by it or any paying agent hereunder, as required by this Section 5.04, such sums to be held by the Trustee upon the trusts herein contained.

Anything in this Section 5.04 to the contrary notwithstanding, the agreement to hold sums in trust as provided in this Section 5.04 is subject to Sections 4.03 and 4.04 hereof.

**SECTION 5.05. CERTIFICATES AND NOTICE TO TRUSTEE.** The Company shall, on or before May 1 of each year, beginning in 2005, deliver to the Trustee a certificate from its principal executive officer, principal financial officer or principal accounting officer covering the preceding calendar year and stating whether or not, to the knowledge of such party, the Company has complied with all conditions and covenants under this Indenture, and, if not, describing in reasonable detail any failure by the Company to comply with any such conditions or covenants. For purposes of this Section, compliance shall be determined without regard to any period of grace or requirement of notice provided under this Indenture.

## ARTICLE SIX

### SECURITY HOLDER LISTS AND REPORTS BY THE COMPANY AND THE TRUSTEE

#### SECTION 6.01. SECURITY HOLDER LISTS.

(a) The Company shall furnish or cause to be furnished to the Trustee semiannually, not later than 15 days after each Regular Record Date for each Interest Payment Date that is not a maturity date and at such other times as such Trustee may request in writing, within 30 days after receipt by the Company of any such request, a list in such form as the Trustee may reasonably require containing all the information in the possession or control of the Company, or any paying agents other than the Trustee, as to the names and addresses of the Holders of Securities, obtained since the date as of which the next previous list, if any, was furnished. Any such list may be dated as of a date not more than 15 days prior to the time such information is furnished or caused to be furnished and need not include

information received after such date; provided that as long as the Trustee is the registrar for the Securities, no such list shall be required to be furnished. The Trustee shall preserve any list provided to it pursuant to this Section until such time as the Company or any paying agent, as applicable, shall provide it with a more recent list.

(b) Within five business days after the receipt by the Trustee of a written application by any three or more Holders stating that the applicants desire to communicate with other Holders with respect to their rights under the Indenture or under the Securities, and accompanied by a copy of the form of proxy or other communication which such applicants propose to transmit, and by reasonable proof that each such applicant has owned a Security for a period of at least six months preceding the date of such application, the Trustee shall, at its election, either:

(i) afford to such applicants access to all information furnished to or received by the Trustee pursuant to Section 6.01(a) hereof or, if applicable, in its capacity as registrar to the Securities; or

(ii) inform such applicants as to the approximate number of Holders according to the most recent information furnished to or received by the Trustee under Section 6.01(a) hereof or if applicable in its capacity as registrar for the Securities, and as to the approximate cost of mailing to such Holders the form of proxy or other communication, if any, specified in such application.

If the Trustee shall elect not to afford such applicants access to such information, the Trustee shall, upon the written request of such applicants, mail to each Holder of Securities a copy of the form of proxy or other communication which is specified in such request, with reasonable promptness after a tender to the Trustee of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of such mailing, unless within five days after such tender the Trustee shall mail to such applicants and file with the Commission, together with a copy of the material to be mailed, a written statement to the effect that, in the opinion of the Trustee, such mailing would be contrary to the best interests of the Holders or would be in violation of applicable law. Such written statement shall specify the basis of such opinion. If the Commission, after opportunity for a hearing upon the objections specified in the written statement so filed, shall enter an order refusing to sustain any of such objections or if, after the entry of an order sustaining one or more of such objections, the Commission shall find, after notice and opportunity for hearing, that all the objections so sustained have been met and shall enter an order so declaring, the Trustee shall mail copies of such material to all Holders with reasonable promptness after the entry of such order and the renewal of such tender; otherwise the Trustee shall be relieved of any obligation or duty to such applicants respecting their application.

(c) Every Holder of a Security, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any paying agent nor any Authenticating Agent shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the Holders in accordance with this Section, regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under this Section.

**SECTION 6.02. SECURITIES AND EXCHANGE COMMISSION REPORTS.** The Company shall:

(a) file with the Trustee, within 15 days after the Company is required to file the same with the Commission, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) which the Company may be required to file with the Commission pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934; or, if the Company is not required to file information, documents or reports pursuant to either of said Sections, then it will file with the Trustee and the Commission, in accordance with rules and regulations prescribed from time to time by the Commission, such of the supplementary and periodic information, documents and reports which

may be required pursuant to Section 13 of the Securities Exchange Act of 1934 in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulations;

(b) file with the Trustee and the Commission, in accordance with rules and regulations prescribed from time to time by the Commission, such additional information, documents and reports with respect to compliance by the Company with the conditions and covenants of this Indenture as may be required from time to time by such rules and regulations, including, in the case of annual reports, if required by such rules and regulations, certificates or opinions of independent public accountants, conforming to the requirements of Section 14.05, as to compliance with conditions or covenants, compliance with which is subject to verification by accountants; and

(c) transmit by mail to all Holders, as their names and addresses appear in the register, within 30 days after the filing thereof with the Trustee, such summaries of any information, documents and reports required to be filed by the Company pursuant to paragraphs (a) and (b) of this Section as may be required by rules and regulations prescribed from time to time by the Commission.

#### **SECTION 6.03. REPORTS BY THE TRUSTEE.**

(a) Within 60 days after July 15 of each year, beginning with the July 15 after the first issuance of Securities hereunder, the Trustee shall transmit by mail a brief report dated as of such date that complies with Section 313(a) of the TIA (to the extent required by such Section).

(b) The Trustee shall from time to time transmit by mail brief reports that comply, both in content and date of delivery, with Section 313(b) of the TIA (to the extent required by such Section).

(c) A copy of each such report filed pursuant to this section shall, at the time of such transmission to such Holders, be filed by the Trustee with each stock exchange upon which any Securities are listed and also with the Commission. The Company will notify the Trustee promptly upon the listing of such Securities on any stock exchange.

(d) Reports pursuant to this Section shall be transmitted

(1) by mail to all Holders of Securities, as their names and addresses appear in the register for the Securities;

(2) by mail to such Holders of Securities as have, within the two years preceding such transmission, filed their names and addresses with the Trustee for such purpose;

(3) by mail, except in the case of reports pursuant to Section 6.03(b) and (c) hereof, to all Holders of Securities whose names and addresses have been furnished to or received by the Trustee pursuant to Section 6.01 hereof, and

(4) at the time such report is transmitted to the Holders of the Securities, to each exchange on which Securities are listed and also with the Commission.

### **ARTICLE SEVEN**

#### **REMEDIES OF THE TRUSTEE AND SECURITY HOLDERS ON EVENTS OF DEFAULT**

##### **SECTION 7.01. EVENTS OF DEFAULT.**

(a) If one or more of the following Events of Default shall have occurred and be continuing:

(1) default in the payment of any installment of interest upon any of the Securities as and when the same shall become due and payable, and continuance of such default for a period of 30 days;

(2) default in the payment of the principal of any of the Securities as and when the same shall become due and payable and continuance of such default for five business days;

(3) default in the payment of any applicable redemption premium on any of the Securities as and when the same shall become due and payable, and continuance of such default for a period of five business days;

(4) failure on the part of the Company duly to observe or perform any other of the covenants or agreements on the part of the Company contained in the Securities or in this Indenture for a period of 90 days after the date on which written notice of such failure, requiring the same to be remedied and stating that such notice is a "Notice of Default" hereunder, shall have been given to the Company by the Trustee by registered mail, or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Securities at the time outstanding;

(5) the entry of a decree or order by a court having jurisdiction over the Company for relief in respect of the Company under Title 11 of the United States Code, as now constituted or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, trustee, custodian, sequestrator or similar official of the Company or of any substantial part of its property, or ordering the winding-up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of 60 consecutive days; or

(6) the filing by the Company with respect to itself or its property of a petition or answer or consent seeking relief under Title 11 of the United States Code, as now constituted or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by it to the institution of proceedings thereunder or to the filing of any such petition or to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of the Company or of any substantial part of its property, or the failure of the Company generally to pay its debts as such debts become due, or the taking of corporate action by the Company to effectuate any such action;

then and in each and every such case, unless the principal of all of the Securities shall have already become due and payable, either the Trustee or the Holders of a majority in aggregate principal amount of the Securities then outstanding, by notice in writing to the Company (and to the Trustee if given by Security holders), may declare the principal of all the Securities to be due and payable immediately and upon any such declaration the same shall become and shall be immediately due and payable, anything in this Indenture or in the Securities contained to the contrary notwithstanding. This provision, however, is subject to the condition that if, at any time after the principal of the Securities shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the Company shall pay or shall deposit with the Trustee a sum sufficient to pay all matured installments of interest upon all of the Securities and the principal of and any redemption premium on any and all Securities which shall have become due otherwise than by acceleration (with interest on overdue installments of interest, to the extent that payment of such interest is enforceable under applicable law, and on such principal and applicable redemption premium at the rate borne by the Securities to the date of such payment or deposit) and all sums paid or advanced by the Trustee hereunder, the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 8.06 hereof; and any and all defaults under this Indenture, other than the non-payment of principal of and accrued interest on Securities which shall have become due solely by acceleration of maturity, shall have been cured or waived, then and in every such case such payment or deposit shall cause an automatic waiver of the Event of Default and its consequences and shall cause an automatic rescission and annulment of the acceleration of the Securities; but no such waiver or rescission and annulment shall extend to or shall affect any subsequent default, or shall impair any right consequent thereon.

(b) If the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned because of such rescission or annulment or for any other reason or shall have been determined adversely to the Trustee, then and in every such case the Company and the Trustee shall be restored respectively to their several positions and rights



hereunder, and all rights, remedies and powers of the Company and the Trustee shall continue as though no such proceeding had been taken.

**SECTION 7.02. PAYMENT OF SECURITIES ON DEFAULT; SUIT THEREFOR.**

(a) The Company covenants that in case of:

(1) default in the payment of any installment of interest upon any of the Securities as and when the same shall become due and payable, and continuance of such default for a period of 30 days; or

(2) default in the payment of the principal of or any redemption premium on any of the Securities as and when the same shall have become due and payable whether at the stated maturity thereof, upon redemption thereof (provided that such redemption is not conditioned upon the deposit of sufficient moneys for such redemption), upon declaration of acceleration or otherwise, and continuance of such default for a period of five days.

then, upon demand of the Trustee, the Company shall pay to the Trustee, for the benefit of the Holders of the Securities, the whole amount that then shall have so become due and payable on all such Securities for principal and any redemption premium or interest, or both, as the case may be, with interest upon the overdue principal and any redemption premium and (to the extent that payment of such interest is enforceable under applicable law) upon the overdue installments of interest at the rate borne by the Securities; and, in addition thereto, such further amounts as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to the Trustee, its agents, attorneys and counsel, any expenses or liabilities incurred by the Trustee hereunder other than through its negligence or bad faith, and any other amounts due the Trustee under Section 8.06 hereof.

(b) If the Company shall fail forthwith to pay such amounts upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any actions or proceedings at law or in equity for the collection of the sums so due and unpaid, and may enforce any such judgment or final decree against the Company or any other obligor on the Securities and collect in the manner provided by law out of the property of the Company or any other obligor on such series of Securities wherever situated, the moneys adjudged or decreed to be payable.

(c) If there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or any other obligor on the Securities under the United States Bankruptcy Code or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Company or such other obligor, or in the case of any similar judicial proceedings relative to the Company or other obligor upon the Securities, or to the creditors or property of the Company or such other obligor, the Trustee, irrespective of whether the principal of the Securities shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand pursuant to this Section 7.02, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount of principal and any premium and interest owing and unpaid in respect of the Securities, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any amounts due to the Trustee under Section 8.06 hereof) and of the Holders of Securities allowed in such judicial proceedings relative to the Company or any other obligor on the Securities, its or their creditors, or its or their property, and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute the same after the deduction of its charges and expenses.

(d) All claims and rights of action under this Indenture, or under any of the Securities, may be enforced by the Trustee without the possession of any of the Securities, or the production thereof in any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Trustee

shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall be for the ratable benefit of the Holders of the Securities in respect of which such action was taken.

(e) Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent or to accept or adopt on behalf of any Security holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any Security holder in any such proceeding.

**SECTION 7.03. APPLICATION OF MONEYS COLLECTED BY TRUSTEE.** Any moneys collected by the Trustee with respect to any of the Securities pursuant to this Article shall be applied in the order following, at the date or dates fixed by the Trustee for the distribution of such moneys, upon presentation of the several Securities, and stamping thereon the payment, if only partially paid, and upon surrender thereof if fully paid.

FIRST: To the payment of all amounts due to the Trustee pursuant to Section 8.06 hereof;

SECOND: If the principal of the outstanding Securities in respect of which such moneys have been collected shall not have become due and be unpaid, to the payment of interest on the Securities, in the order of the maturity of the installments of such interest, with interest (to the extent allowed by law and to the extent that such interest has been collected by the Trustee) upon the overdue installments of interest at the rate borne by the Securities, such payments to be made ratably to the persons entitled thereto, and then to the payment to the Holders entitled thereto of the unpaid principal of and applicable premium on any of the Securities which shall have become due (other than Securities previously called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), whether at stated maturity or by redemption, in the order of their due dates, beginning with the earliest due date, and if the amount available is not sufficient to pay in full all Securities due on any particular date, then to the payment thereof ratably, according to the amounts of principal and applicable premium due on that date, to the Holders entitled thereto, without any discrimination or privilege;

THIRD: If the principal of the outstanding Securities in respect of which such moneys have been collected shall have become due, by declaration or otherwise, to the payment of the whole amount then owing and unpaid upon the Securities for principal and any premium and interest thereon, with interest on the overdue principal and any premium and (to the extent allowed by law and to the extent that such interest has been collected by the Trustee) upon overdue installments of interest at the rate borne by the Securities; and in case such moneys shall be insufficient to pay in full the whole amount so due and unpaid upon the Securities, then to the payment of such principal and any premium and interest without preference or priority of principal and any premium over interest, or of interest over principal and any premium or of any installment of interest over any other installment of interest, or of any Security over any other Security, ratably to the aggregate of such principal and any premium and accrued and unpaid interest; and

FOURTH: to the payment of the remainder, if any, to the Company or its successors or assigns, or to whomsoever may lawfully be entitled to the same, or as a court of competent jurisdiction may determine.

**SECTION 7.04. PROCEEDINGS BY SECURITY HOLDERS.**

(a) No Holder of any Security shall have any right by virtue of or by availing of any provision of this Indenture to institute any suit, action or proceeding in equity or at law upon or under or with respect to this Indenture or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless such Holder previously shall have given to the Trustee written notice of an Event of Default with respect to such Security and of the continuance thereof, as hereinabove provided, and unless also Security holders of a majority in aggregate principal amount of the Securities then outstanding affected by such Event of Default shall have made written request upon the Trustee to

institute such action, suit or proceeding in its own name as Trustee hereunder and shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee for 60 days after its receipt of such notice, request and offer of indemnity, shall have neglected or refused to institute any such action, suit or proceeding.

(b) Notwithstanding any other provision in this Indenture, however, the rights of any Holder of any Security to receive payment of the principal of and any premium and interest on such Security, on or after the respective due dates expressed in such Security or on the applicable redemption date, or to institute suit for the enforcement of any such payment on or after such respective dates shall not be impaired or affected without the consent of such Holder.

**SECTION 7.05. PROCEEDINGS BY TRUSTEE.** In case of an Event of Default hereunder the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture, by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any of such rights, either by suit in equity or by action at law or by proceeding in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted to it under this Indenture, or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

**SECTION 7.06. REMEDIES CUMULATIVE AND CONTINUING.** All powers and remedies given by this Article Seven to the Trustee or to the Security holders shall, to the extent permitted by law, be deemed cumulative and not exclusive of any powers and remedies hereof or of any other powers and remedies available to the Trustee or the Holders of the Securities, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements contained in this Indenture, and no delay or omission of the Trustee or of any Holder of any of the Securities in exercising any right or power accruing upon any default occurring and continuing as aforesaid shall impair any such right or power, or shall be construed to be a waiver of any such default or an acquiescence therein; and, subject to Section 7.04 hereof, every power and remedy given by this Article Seven or by law to the Trustee or to the Security holders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Security holders.

**SECTION 7.07. DIRECTION OF PROCEEDINGS AND WAIVER OF DEFAULTS BY MAJORITY OF SECURITY HOLDERS.** The Holders of a majority in aggregate principal amount of the Securities at the time outstanding shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; provided, that (subject to Section 8.01 hereof) the Trustee shall have the right to decline to follow any such direction if the Trustee being advised by counsel determines that the action or proceeding so directed may not lawfully be taken or if the Trustee in good faith by its board of directors or trustees, executive committee, or a trust committee of directors or trustees or responsible officers shall determine that the action or proceeding so directed would involve the Trustee in personal liability or would be unduly prejudicial to the rights of Security holders not joining in such directions. The Holders of a majority in aggregate principal amount of the Securities at the time outstanding may on behalf of all of the Holders of the Securities waive any past default or Event of Default hereunder and its consequences except a default in the payment of principal of or any premium or interest on the Securities. Upon any such waiver the Company, the Trustee and the Holders of the Securities shall be restored to their former positions and rights hereunder, respectively, but no such waiver shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon. Whenever any default or Event of Default hereunder shall have been waived as permitted by this Section 7.07, said default or Event of Default shall for all purposes of the Securities and this Indenture be deemed to have been cured and to be not continuing.

**SECTION 7.08. NOTICE OF DEFAULT.** The Trustee shall, within 90 days after the occurrence of a default, give to all Holders of the Securities, in the manner provided in section 14.10, notice of such

default, unless such default shall have been cured before the giving of such notice; the term "default" for the purpose of this Section 7.08 being hereby defined to be any event which is or after notice or lapse of time or both would become an Event of Default; provided that, except in the case of default in the payment of the principal of or any premium or interest on any of the Securities, or in the payment of any sinking or purchase fund installments, the Trustee shall be protected in withholding such notice if and so long as its board of directors or trustees, executive committee, or a trust committee of directors or trustees or responsible officers in good faith determines that the withholding of such notice is in the interests of the Holders of the Securities. The Trustee shall not be charged with knowledge of any Event of Default unless a responsible officer of the Trustee assigned to the corporate trustee department of the Trustee shall have actual knowledge of such Event of Default.

**SECTION 7.09. UNDERTAKING TO PAY COSTS.** All parties to this Indenture agree, and each Holder of any Security by acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but this Section 7.09 shall not apply to any suit instituted by the Trustee, or to any suit instituted by any Security holder, or group of Security holders, holding in the aggregate more than 10% in principal amount of the Securities outstanding, or to any suit instituted by any Security holder for the enforcement of the payment of the principal of or any premium or interest on any Security on or after the due date expressed in such Security or the applicable redemption date.

## ARTICLE EIGHT

### CONCERNING THE TRUSTEE

#### SECTION 8.01. DUTIES AND RESPONSIBILITIES OF TRUSTEE.

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If an Event of Default has occurred (which has not been cured or waived), the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) No provisions of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(1) prior to the occurrence of any Event of Default and after the curing or waiving of all Events of Default which may have occurred

(A) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(B) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but, in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a responsible officer or officers of the Trustee, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts; and

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with Section 7.07 hereof relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture.

**SECTION 8.02. RELIANCE ON DOCUMENTS, OPINIONS, ETC.** Except as otherwise provided in Section 8.01 hereof:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, note or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by an Officers' Certificate (unless other evidence in respect thereof is herein specifically prescribed); and any Board Resolution may be evidenced to the Trustee by a copy thereof certified by the Secretary or an Assistant Secretary of the Company;

(c) the Trustee may consult with counsel and any advice or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with such advice or Opinion of Counsel;

(d) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Security holders, pursuant to this Indenture, unless such Security holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which may be incurred by such exercise;

(e) the Trustee shall not be liable for any action taken, suffered 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 this Indenture;

(f) prior to the occurrence of an Event of Default hereunder and after the curing or waiving of all Events of Default, the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, note or other paper or document, unless requested in writing to do so by the Holders of at least a majority in principal amount of the then outstanding Securities; provided that if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by this Indenture, the Trustee may require reasonable indemnity against such expense or liability as a condition to so proceeding;

(g) no provision of this Indenture shall require the Trustee to extend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it; and

(h) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents or attorneys; provided that the Trustee shall not be liable for the conduct or acts of any such agent or attorney that shall have been appointed in accordance herewith with due care.

**SECTION 8.03. NO RESPONSIBILITY FOR RECITALS, ETC.** The recitals contained herein and in the Securities (except in the certificate of authentication) shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Securities. The Trustee shall not be accountable for the use or application by the Company of any Securities or the proceeds of any Securities authenticated and delivered by the Trustee in conformity with this Indenture. The Trustee shall not be responsible for recording or filing this Indenture, any supplemental indenture, or any financing or continuation statement in any public office at any time or times.

**SECTION 8.04. TRUSTEE, AUTHENTICATING AGENT, PAYING AGENT OR REGISTRAR MAY OWN SECURITIES.** The Trustee and any Authenticating Agent or paying agent in its individual or other capacity, may become the owner or pledgee of Securities with the same rights it would have if it were not Trustee, Authenticating Agent or paying agent.

**SECTION 8.05. MONEYS TO BE HELD IN TRUST.** Subject to Section 4.04 hereof, all moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law. The Trustee may allow and credit to the Company interest on any money received hereunder at such rate, if any, as may be agreed upon by the Company and the Trustee from time to time as may be permitted by law.

**SECTION 8.06. COMPENSATION AND EXPENSES OF TRUSTEE.** The Company covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to, reasonable compensation (which shall not be limited by any law in regard to the compensation of a trustee of an express trust), and the Company shall pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with this Indenture (including the reasonable compensation and the reasonable expenses and disbursements of its counsel and agents, including any Authenticating Agents, and of all persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence or bad faith. The Company also covenants to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on the part of the Trustee and arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim or liability. The obligations of the Company under this Section 8.06 to compensate the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder. Such additional indebtedness shall be secured by a lien prior to that of the Securities upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the Holders of any particular Securities.

**SECTION 8.07. OFFICERS' CERTIFICATE AS EVIDENCE.** Whenever in the administration of this Indenture, the Trustee shall deem it necessary or desirable that a matter be proved or established prior to the taking, suffering or omitting of any action hereunder, such matter (unless other evidence in respect thereof is herein specifically prescribed) may, in the absence of negligence or bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Trustee, and such Officers' Certificate, in the absence of negligence or bad faith on the part of the Trustee, shall be full warranty to the Trustee for any action taken, suffered or omitted by it under this Indenture in reliance thereon.

**SECTION 8.08. CONFLICTING INTEREST OF TRUSTEE.** The Trustee shall be subject to and shall comply with the provisions of Section 310 of the TIA. Nothing in this Indenture shall be deemed to prohibit the Trustee or the Company from making any application permitted pursuant to such section.

**SECTION 8.09. EXISTENCE AND ELIGIBILITY OF TRUSTEE.** There shall at all times be a Trustee hereunder which Trustee shall at all times be a corporation organized and doing business under the

laws of the United States or any State thereof or of the District of Columbia (or a corporation or other Person permitted to act as trustee by the Commission), subject to supervision or examination by such bodies and authorized under such laws to exercise corporate trust powers and having a combined capital and surplus of at least \$150,000,000. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid authority, then for the purposes of this Section 8.09, the combined capital and surplus shall be deemed to be as set forth in its most recent report of condition so published. No obligor upon the Securities or Person directly or indirectly controlling, controlled by, or under common control with such obligor shall serve as Trustee. If at any time the Trustee shall cease to be eligible in accordance with this Section 8.09, the Trustee shall resign immediately in the manner and with the effect specified in Section 8.10 hereof.

#### **SECTION 8.10. RESIGNATION OR REMOVAL OF TRUSTEE.**

(a) Pursuant to the provisions of this Article, the Trustee may at any time resign and be discharged of the trusts created by this Indenture by giving written notice to the Company specifying the day upon which such resignation shall take effect, and such resignation shall take effect immediately upon the later of the appointment of a successor trustee and such day.

(b) Any Trustee may be removed at any time by an instrument or concurrent instruments in writing filed with such Trustee and signed and acknowledged by the Holders of a majority in principal amount of the then outstanding Securities or by their attorneys in fact duly authorized.

(c) So long as no Event of Default has occurred and is continuing, and no event has occurred and is continuing that, with the giving of notice or the lapse of time or both, would become an Event of Default, the Company may remove any Trustee upon written notice to the Holder of each Security outstanding and the Trustee.

(d) If at any time (1) the Trustee shall cease to be eligible in accordance with Section 8.09 hereof and shall fail to resign after written request therefor by the Company or by any Holder who has been a bona fide Holder for at least six months, (2) the Trustee shall fail to comply with Section 8.08 hereof after written request therefor by the Company or any such Holder, or (3) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then the Trustee may be removed forthwith by an instrument or concurrent instruments in writing filed with the Trustee and either:

(1) signed by the President or any Vice President of the Company and attested by the Secretary or an Assistant Secretary of the Company; or

(2) signed and acknowledged by the Holders of a majority in principal amount of outstanding Securities or by their attorneys in fact duly authorized.

(e) Any resignation or removal of the Trustee shall not become effective until acceptance of appointment by the successor Trustee as provided in Section 8.11 hereof.

#### **SECTION 8.11. APPOINTMENT OF SUCCESSOR TRUSTEE.**

(a) If at any time the Trustee shall resign or be removed, the Company, by a Board Resolution, shall promptly appoint a successor Trustee.

(b) The Company shall provide written notice of its appointment of a Successor Trustee to the Holder of each Security outstanding following any such appointment.

(c) If no appointment of a successor Trustee shall be made pursuant to Section 8.11(a) hereof within 60 days after appointment shall be required, any Security holder or the resigning Trustee 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.

(d) Any Trustee appointed under this Section 8.11 as a successor Trustee shall be a bank or trust company eligible under Section 8.09 hereof and qualified under Section 8.08 hereof.

**SECTION 8.12. ACCEPTANCE BY SUCCESSOR TRUSTEE.**

(a) Any successor Trustee appointed as provided in Section 8.11 hereof shall execute, acknowledge and deliver to the Company and to its predecessor Trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as Trustee herein; but nevertheless, on the written request of the Company or of the successor Trustee, the Trustee ceasing to act shall, upon payment of any amounts then due it pursuant to Section 8.06 hereof, execute and deliver an instrument transferring to such successor Trustee all the rights and powers of the Trustee so ceasing to act. Upon request of any such successor Trustee, the Company shall execute any and all instruments in writing in order more fully and certainly to vest in and confirm to such successor Trustee all such rights and powers. Any Trustee ceasing to act shall, nevertheless, retain a lien upon all property or funds held or collected by such Trustee to secure any amounts then due it pursuant to Section 8.06 hereof.

(b) No successor Trustee shall accept appointment as provided in this Section 8.12 unless at the time of such acceptance such successor Trustee shall be qualified under Section 8.08 hereof and eligible under Section 8.09 hereof.

(c) Upon acceptance of appointment by a successor Trustee as provided in this Section 8.12, the successor Trustee shall mail notice of its succession hereunder to all Holders of Securities as the names and addresses of such Holders appear on the registry books.

**SECTION 8.13. SUCCESSION BY MERGER, ETC.**

(a) Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, provided such corporation shall be otherwise qualified and eligible under this Article.

(b) If at the time such successor to the Trustee shall succeed to the trusts created by this Indenture any of the Securities shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor Trustee, and deliver such Securities so authenticated; and in case at that time any of the Securities shall not have been authenticated, any successor to the Trustee may authenticate such Securities either in the name of any predecessor hereunder or in the name of the successor Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Securities or in this Indenture provided that the certificates of the Trustee shall have; provided that the right to adopt the certificate of authentication of any predecessor Trustee or authenticate Securities in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

**SECTION 8.14. LIMITATIONS ON RIGHTS OF TRUSTEE AS A CREDITOR.**

The Trustee shall be subject to, and shall comply with, the provisions of Section 311 of the TIA.



#### **SECTION 8.15. AUTHENTICATING AGENT.**

(a) There may be one or more Authenticating Agents appointed by the Trustee with the written consent of the Company, with power to act on its behalf and subject to the direction of the Trustee in the authentication and delivery of Securities in connection with transfers and exchanges under Sections 2.06, 2.07, 2.08, 2.13, 3.03, and 12.04 hereof, as fully to all intents and purposes as though such Authenticating Agents had been expressly authorized by those Sections to authenticate and deliver Securities. For all purposes of this Indenture, the authentication and delivery of Securities by any Authenticating Agent pursuant to this Section 8.15 shall be deemed to be the authentication and delivery of such Securities "by the Trustee." Any such Authenticating Agent shall be a bank or trust company or other Person of the character and qualifications set forth in Section 8.09 hereof.

(b) Any corporation into which any Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which any Authenticating Agent shall be a party, or any corporation succeeding to the corporate trust business of any Authenticating Agent, shall be the successor of such Authenticating Agent hereunder, if such successor corporation is otherwise eligible under this Section 8.15, without the execution or filing of any paper or any further act on the part of the parties hereto or such Authenticating Agent or such successor corporation.

(c) Any Authenticating Agent may at any time resign by giving written notice of resignation to the Trustee and to the Company. The Trustee may at any time terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent shall cease to be eligible under this Section 8.15, the Trustee may, with the written consent of the Company, appoint a successor Authenticating Agent, and upon so doing shall give written notice of such appointment to the Company and shall mail, in the manner provided in Section 14.10, notice of such appointment to the Holders of Securities.

(d) The Trustee agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services, and the Trustee shall be entitled to be reimbursed for such payments, in accordance with Section 8.06 hereof.

(e) Sections 8.02, 8.03, 8.06, 8.07 and 8.09 hereof shall be applicable to any Authenticating Agent.

### **ARTICLE NINE**

#### **CONCERNING THE SECURITY HOLDERS**

**SECTION 9.01. ACTION BY SECURITY HOLDERS.** Whenever in this Indenture it is provided that the Holders of a specified percentage in aggregate principal amount of the Securities may take any action, the fact that at the time of taking any such action the Holders of such specified percentage have joined therein may be evidenced (a) by any instrument or any number of instruments of similar tenor executed by such Security holders in person or by agent or proxy appointed in writing, (b) by the record of such Security holders voting in favor thereof at any meeting of Security holders duly called and held in accordance with Article Ten hereof, or (c) by a combination of such instrument or instruments and any such record of such a meeting of Security holders.

#### **SECTION 9.02. PROOF OF EXECUTION BY SECURITY HOLDERS.**

(a) Subject to Sections 8.01, 8.02 and 10.05 hereof, proof of the execution of any instruments by a Security holder or the agent or proxy for such Security holder shall be sufficient if made in accordance with such reasonable rules and regulations as may be prescribed by the Trustee or in such manner as shall be satisfactory to the Trustee. The ownership of Securities shall be proved by the register for the Securities maintained by the Trustee.

(b) The record of any Security holders' meeting shall be proven in the manner provided in Section 10.06 hereof.

**SECTION 9.03. WHO DEEMED ABSOLUTE OWNERS.** Subject to Sections 2.04(f) and 9.01 hereof, the Company, the Trustee, any paying agent and any Authenticating Agent shall deem the person in whose name any Security shall be registered upon the register for the Securities to be, and shall treat such person as, the absolute owner of such Security (whether or not such Security shall be overdue) for the purpose of receiving payment of or on account of the principal and premium, if any, and interest on such Security, and for all other purposes; and neither the Company nor the Trustee nor any paying agent nor any Authenticating Agent shall be affected by any notice to the contrary. All such payments shall be valid and effectual to satisfy and discharge the liability upon any such Security to the extent of the sum or sums so paid.

**SECTION 9.04. COMPANY-OWNED SECURITIES DISREGARDED.** In determining whether the Holders of the requisite aggregate principal amount of outstanding Securities have concurred in any direction, consent or waiver under this Indenture, Securities which are owned by the Company or any other obligor on the Securities or by any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any other obligor on the Securities shall be disregarded and deemed not to be outstanding for the purpose of any such determination; provided that, for the purposes of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver, only Securities which the Trustee knows are so owned shall be so disregarded. Securities so owned which have been pledged in good faith to third parties may be regarded as outstanding for the purposes of this Section 9.04 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to take action with respect to such Securities and that the pledgee is not a person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any such other obligor. In the case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

**SECTION 9.05. REVOCATION OF CONSENTS; FUTURE HOLDERS BOUND.** Except as may be otherwise required in the case of a Global Security by the applicable rules and regulations of the Depository, at any time prior to the taking of any action by the Holders of the percentage in aggregate principal amount of the Securities specified in this Indenture in connection with such action, any Holder of a Security, which has been included in the Securities the Holders of which have consented to such action may, by filing written notice with the Trustee at the corporate trust office of the Trustee and upon proof of ownership as provided in Section 9.02(a) hereof, revoke such action so far as it concerns such Security. Except as aforesaid, any such action taken by the Holder of any Security shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Security and of any Securities issued in exchange, substitution or upon registration of transfer therefor, irrespective of whether or not any notation thereof is made upon such Security or such other Securities.

**SECTION 9.06. RECORD DATE FOR SECURITY HOLDER ACTS.** If the Company shall solicit from the Security holders any request, demand, authorization, direction, notice, consent, waiver or other act, the Company may, at its option, by Board Resolution, fix in advance a record date for the determination of Security holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other act, but the Company shall have no obligation to do so. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other act may be given before or after the record date, but only the Security holders of record at the close of business on the record date shall be deemed to be Security holders for the purpose of determining whether Holders of the requisite aggregate principal amount of outstanding Securities have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other act, and for that purpose the outstanding Securities shall be computed as of the record date; provided that no such request, demand, authorization, direction, notice, consent, waiver or other act by

the Security holders on the record date shall be deemed effective unless it shall become effective pursuant to this Indenture not later than six months after the record date. Any such record date shall be at least 30 days prior to the date of the solicitation to the Security holders by the Company.

## ARTICLE TEN

### SECURITY HOLDERS' MEETING

**Section 10.01. PURPOSES OF MEETINGS.** A meeting of Security holders may be called at any time and from time to time pursuant to this Article Ten for any of the following purposes:

- (a) to give any notice to the Company or to the Trustee, or to give any directions to the Trustee, or to consent to the waiving of any Event of Default hereunder and its consequences, or to take any other action authorized to be taken by Security holders pursuant to Article Seven;
- (b) to remove the Trustee pursuant to Article Eight;
- (c) to consent to the execution of an indenture or indentures supplemental hereto pursuant to Section 12.02 hereof; or
- (d) to take any other action authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of the Securities, as the case may be, under any other provision of this Indenture or under applicable law.

**SECTION 10.02. CALL OF MEETINGS BY TRUSTEE.** The Trustee may at any time call a meeting of Holders of Securities to take any action specified in Section 10.01 hereof, to be held at such time and at such place as the Trustee shall determine. Notice of every such meeting of Security holders, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be given to Holders of the Securities that may be affected by the action proposed to be taken at such meeting in the manner provided in Section 14.10 hereof. Such notice shall be given not less than 20 nor more than 90 days prior to the date fixed for such meeting.

**SECTION 10.03. CALL OF MEETINGS BY COMPANY OR SECURITY HOLDERS.** If at any time the Company, pursuant to a Board Resolution, or the Holders of at least 10% in aggregate principal amount of the Securities then outstanding, shall have requested the Trustee to call a meeting of Security holders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have mailed the notice of such meeting within 20 days after receipt of such request, then the Company or such Security holders may determine the time and the place for such meeting and may call such meeting to take any action authorized in Section 10.01 hereof, by giving notice thereof as provided in Section 10.02 hereof.

**SECTION 10.04. QUALIFICATIONS FOR VOTING.** To be entitled to vote at any meetings of Security holders a Person shall (a) be a Holder of one or more Securities affected by the action proposed to be taken or (b) be a Person appointed by an instrument in writing as proxy by a Holder of one or more such Securities. The only Persons who shall be entitled to be present or to speak at any meeting of Security holders shall be the Persons entitled to vote at such meeting and their counsel and any representatives (including employees) of the Trustee and its counsel and any representatives (including employees) of the Company and its counsel.

#### **SECTION 10.05. REGULATIONS.**

(a) Notwithstanding any other provisions of this Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Security holders in regard to proof of the holding of Securities and of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall think fit.

(b) The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by the Security holders as provided in Section 10.03 hereof, in which case the Company or Security holders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by the Holders of a majority in aggregate principal amount of the Securities present in person or by proxy at the meeting.

(c) Subject to Section 9.04 hereof, at any meeting each Security holder or proxy shall be entitled to one vote for each \$1,000 principal amount of Securities held or represented by such Security holder; provided that no vote shall be cast or counted at any meeting in respect of any Security ruled by the chairman of the meeting to be not outstanding. The chairman of the meeting shall have no right to vote other than by virtue of Securities held by such chairman or instruments in writing as aforesaid duly designating such chairman as the person to vote on behalf of other Security holders. At any meeting of Security holders duly called pursuant to Section 10.02 or 10.03 hereof, the presence of persons holding or representing Securities in an aggregate principal amount sufficient to take action on any business for the transaction for which such meeting was called shall constitute a quorum. Any meeting of Security holders duly called pursuant to Section 10.02 or 10.03 hereof may be adjourned from time to time by the Holders of a majority in aggregate principal amount of the Securities present in person or by proxy at the meeting, whether or not constituting a quorum, and the meeting may be held as so adjourned without further notice.

**SECTION 10.06. VOTING.** The vote upon any resolution submitted to any meeting of Security holders shall be by written ballots on which shall be subscribed the signatures of the Holders of Securities or of their representatives by proxy and the principal amount of Securities held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of such meeting of Security holders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was given as provided in Section 10.02 hereof. The record shall show the aggregate principal amount of the Securities voting in favor of or against any resolution. The record shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the Company and the other to the Trustee to be preserved by the Trustee and the Trustee shall have the ballots taken at the meeting attached to such duplicate. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

**SECTION 10.07. RIGHTS OF TRUSTEE OR SECURITY HOLDERS NOT DELAYED.** Nothing in this Article Ten shall be deemed or construed to authorize or permit, by reason of any call of a meeting of Security holders or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the Holders of Securities under any of the provisions of this Indenture or of the Securities.

## ARTICLE ELEVEN

### CONSOLIDATION, MERGER, SALE, TRANSFER OR OTHER DISPOSITION

**SECTION 11.01. COMPANY MAY CONSOLIDATE, ETC. ONLY ON CERTAIN TERMS.** The Company shall not consolidate with or merge into any other corporation or sell, or otherwise dispose all or substantially all of its assets unless the corporation formed by such consolidation or into which the Company is merged or the Person which receives all or substantially all of the assets pursuant to such sale, transfer or other disposition shall expressly assume, by an indenture supplemental hereto, executed

and delivered to the Trustee, in form satisfactory to the Trustee, the due and punctual payment of the principal of and interest on all of the Securities, the due and punctual payment of the redemption premium, if applicable, and the performance of the covenants of this Indenture on the part of the Company to be performed or observed. For purposes of this Article Eleven, the phrase "*all or substantially all of its assets*" shall mean 66<sup>2</sup>/<sub>3</sub>% or more of the total assets of the Company as shown on the balance sheet of the Company as of the end of the calendar year immediately preceding the day of the year in which such determination is made and nothing in this Indenture shall prevent or hinder the Company from selling, transferring or otherwise disposing during any calendar year (in one transaction or a series of transactions) less than 66<sup>2</sup>/<sub>3</sub>% of the amount of its total assets as shown on the balance sheet of the Company as of the end of the immediately preceding calendar year.

**SECTION 11.02. SUCCESSOR CORPORATION SUBSTITUTED.** Upon any consolidation or merger, or any sale, transfer or other disposition of all or substantially all of the assets of the Company in accordance with Section 11.01 hereof, the successor corporation formed by such consolidation or into which the Company is merged or to which such sale, transfer or other disposition is made shall succeed to, and be substituted for and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor corporation had been named as the Company herein and the Company shall be released from all obligations hereunder.

## ARTICLE TWELVE

### SUPPLEMENTAL INDENTURES

#### SECTION 12.01. SUPPLEMENTAL INDENTURES WITHOUT CONSENT OF SECURITY HOLDERS.

(a) The Company, when authorized by Board Resolution, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto for one or more of the following purposes:

(1) to make such provision in regard to matters or questions arising under this Indenture as may be necessary or desirable, and not inconsistent with this Indenture or prejudicial to the interests of the Holders, for the purpose of supplying any omission, curing any ambiguity, or curing, correcting or supplementing any defective or inconsistent provision;

(2) to change or eliminate any of the provisions of this Indenture, provided that any such change or elimination shall become effective only when there is no Security outstanding created prior to the execution of such supplemental indenture which is entitled to the benefit of such provision or such change or elimination is applicable only to Securities issued after the effective date of such change or elimination;

(3) to establish the form of Securities as permitted by Section 2.01 hereof or to establish or reflect any terms of any Security determined pursuant to Section 2.05 hereof;

(4) to evidence the succession of another corporation to the Company, and the assumption by any such successor of the covenants of the Company herein and in the Securities;

(5) to grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers or authority;

(6) to permit the Trustee to comply with any duties imposed upon it by law;

(7) to specify further the duties and responsibilities of, and to define further the relationships among the Trustee, any Authenticating Agent and any paying agent;

(8) to add to the covenants of the Company for the benefit of the Holders, to add to the security for the Securities or to surrender a right or power conferred on the Company herein; and

(9) to make any other change that is not prejudicial to the Trustee or the Holders.

(b) The Trustee is hereby authorized to join with the Company in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations which may be therein contained and to accept the conveyance, transfer and assignment of any property thereunder, but the Trustee shall not be obligated to enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

(c) Any supplemental indenture authorized by this Section 12.01 may be executed by the Company and the Trustee without the consent of the Holders of any of the Securities at the time outstanding, notwithstanding any of the provisions of Section 12.02 hereof.

**SECTION 12.02. SUPPLEMENTAL INDENTURES WITH CONSENT OF SECURITY HOLDERS.**

(a) With the consent (evidenced as provided in Section 9.01 hereof) of the Holders of a majority in aggregate principal amount of the Securities at the time outstanding, the Company, when authorized by Board Resolution, and the Trustee may from time to time and at any time enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of any supplemental indenture or of modifying in any manner the rights of the Security holders; provided that no such supplemental indenture shall:

(1) change the maturity date of any Security, or reduce the rate or extend the time of payment of interest thereon, or reduce the principal amount thereof or any premium thereon, or change the coin or currency in which the principal of any Security or any premium or interest thereon is payable, or change the date on which any Security may be redeemed or adversely affect the rights of the Security holders to institute suit for the enforcement of any payment of principal of or any premium or interest on any Security, in each case without the consent of the Holder of each Security so affected; or

(2) modify this Section 12.02(a) or reduce the aforesaid percentage of Securities, the Holders of which are required to consent to any such supplemental indenture or to reduce the percentage of Securities, the Holders of which are required to waive Events of Default, in each case, without the consent of the Holders of all of the Securities then outstanding.

(b) Upon the request of the Company, accompanied by a copy of the Board Resolution authorizing the execution of any such supplemental indenture, and upon the filing with the Trustee of evidence of the consent of Security holders as aforesaid, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture.

(c) It shall not be necessary for the consent of the Holders of Securities under this Section 12.02 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

(d) Promptly after the execution by the Company and the Trustee of any supplemental indenture pursuant to this Section 12.02, the Trustee shall give notice in the manner provided in Section 14.10 hereof, setting forth in general terms the substance of such supplemental indenture, to all Security holders. Any failure of the Trustee to give such notice or any defect therein shall not, however, in any way impair or affect the validity of any such supplemental indenture.

**SECTION 12.03. COMPLIANCE WITH TRUST INDENTURE ACT; EFFECT OF SUPPLEMENTAL INDENTURES.** Any supplemental indenture executed pursuant to this Article Twelve shall comply with the TIA. Upon the execution of any supplemental indenture pursuant to this Article Twelve, the Indenture shall be and be deemed to be modified and amended in accordance therewith and the

respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company and the Security holders shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

**SECTION 12.04. NOTATION ON SECURITIES.** Securities authenticated and delivered after the execution of any supplemental indenture pursuant to this Article Twelve may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities so modified as approved by the Trustee and the Board of Directors with respect to any modification of this Indenture contained in any such supplemental indenture may be prepared and executed by the Company, authenticated by the Trustee and delivered in exchange for the Securities then outstanding.

**SECTION 12.05. EVIDENCE OF COMPLIANCE OF SUPPLEMENTAL INDENTURE TO BE FURNISHED TRUSTEE.** The Trustee, subject to Sections 8.01 and 8.02 hereof; may receive an Officers' Certificate and an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant hereto complies with the requirements of this Article Twelve.

## ARTICLE THIRTEEN

### IMMUNITY OF INCORPORATORS, STOCKHOLDERS, OFFICERS AND DIRECTORS

**SECTION 13.01. INDENTURE AND SECURITIES SOLELY CORPORATE OBLIGATIONS.** No recourse for the payment of the principal of or any premium or interest on any Security, or for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Company, contained in this Indenture, or in any supplemental indenture, or in any Security, or because of the creation of any indebtedness represented thereby, shall be had against any incorporator, stockholder, officer or director, as such, past, present or future, of the Company or any successor corporation, either directly or through the Company or any successor corporation, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture and the issuance of the Securities.

## ARTICLE FOURTEEN

### MISCELLANEOUS PROVISIONS

**SECTION 14.01. PROVISIONS BINDING ON COMPANY'S SUCCESSORS.** All the covenants, stipulations, promises and agreements made by the Company in this Indenture shall bind its successors and assigns whether so expressed or not.

**SECTION 14.02. OFFICIAL ACTS BY SUCCESSOR CORPORATION.** Any act or proceeding by any provision of this Indenture authorized or required to be done or performed by any board, committee or officer of the Company shall and may be done and performed with like force and effect by the like board, committee or officer of any corporation that shall at the time be the lawful successor of the Company.

### SECTION 14.03. NOTICES.

(a) Any notice or demand which by any provision of this Indenture is required or permitted to be given or served by the Trustee or by the Security holders on the Company may be given or served by being deposited postage prepaid in a post office letter box addressed (until another address is filed by the Company with the Trustee) at the principal executive offices of the Company, to the attention of

the Secretary. Any notice, direction, request or demand by any Security holder or the Company to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, if given or made in writing at the corporate trust office of the Trustee, Attention: Vice President, Corporate Trust Department.

(b) The Company shall provide any notices required under this Indenture by publication, but only to the extent that such publication is required by the TIA, the rules and regulations of the Commission or any securities exchange upon which any series of Securities is listed.

**SECTION 14.04. GOVERNING LAW.** This Indenture and each Security shall be deemed to be a contract made under the laws of the State of Oklahoma, and for all purposes shall be construed in accordance with the laws of said State.

**SECTION 14.05. EVIDENCE OF COMPLIANCE WITH CONDITIONS PRECEDENT.**

(a) Upon any application or demand by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee an Officers' Certificate stating that all conditions precedent, if any, provided for in this Indenture (including any covenants compliance with which constitutes a condition precedent) relating to the proposed action have been complied with and an Opinion of Counsel stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

(b) Each certificate or opinion provided for in this Indenture and delivered to the Trustee with respect to compliance with a condition or covenant provided for in this Indenture (other than the certificates delivered pursuant to Section 5.05 hereof) shall include (1) a statement that each Person making such certificate or opinion has read such covenant or condition and the definitions relating thereto; (2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (3) a statement that, in the opinion of each such Person, such Person has made such examination or investigation as is necessary to enable such Person to express an informed opinion as to whether or not such covenant or condition has been complied with; and (4) a statement as to whether or not, in the opinion of each such Person, such condition or covenant has been complied with.

(c) In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

(d) Any certificate or opinion of an officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which such certificate or opinion is based are erroneous. Any such certificate or opinion of counsel delivered under the Indenture may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company stating that the information with respect to such factual matters is in the possession of the Company, unless such person knows, or in the exercise of reasonable care should know, that the certificate or opinion of representations with respect to such matters are erroneous. Any opinion of counsel delivered hereunder may contain standard exceptions and qualifications satisfactory to the Trustee.

(e) Any certificate, statement or opinion of any officer of the Company, or of counsel, may be based, insofar as it relates to accounting matters, upon a certificate or opinion of or representations by an independent public accountant or firm of accountants, unless such officer or counsel, as the case



may be, knows that the certificate or opinions or representations with respect to the accounting matters upon which the certificate, statement or opinion of such officer or counsel may be based as aforesaid are erroneous, or in the exercise of reasonable care should know that the same are erroneous. Any certificate or opinion of any firm of independent public accountants filed with the Trustee shall contain a statement that such firm is independent.

(f) Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

**SECTION 14.06. BUSINESS DAYS.** Unless otherwise provided pursuant to Section 2.05(c) hereof, in any case where the date of maturity of the principal of or any premium or interest on any Security or the date fixed for redemption of any Security is not a Business Day, then payment of such principal or any premium or interest need not be made on such date but may be made on the next succeeding Business Day with the same force and affect as if made on the date of maturity or the date fixed for redemption, and, in the case of timely payment thereof, no interest shall accrue for the period from and after such Interest Payment Date or the date on which the principal of the Security is required to be paid.

**SECTION 14.07. TRUST INDENTURE ACT TO CONTROL.** If and to the extent that any provision of this Indenture limits, qualifies or conflicts with the duties imposed by any of Sections 310 to 317, inclusive, of the TIA such required provision of the TIA shall govern.

**SECTION 14.08. TABLE OF CONTENTS, HEADINGS, ETC.** The table of contents and the titles and headings of the articles and sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

**SECTION 14.09. EXECUTION IN COUNTERPARTS.** This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

**SECTION 14.10. MANNER OF MAILING NOTICE TO SECURITY HOLDERS.** Any notice or demand which by any provision of this Indenture is required or permitted to be given or served by the Trustee or the Company to or on the Holders of Securities, as the case may be, shall be given or served by first-class mail, postage prepaid, addressed to the Holders of such Securities at their last addresses as the same appear on the register for the Securities referred to in Section 2.06, and any such notice shall be deemed to be given or served by being deposited in a post office letter box in the form and manner provided in this Section 14.10. In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give notice to any Holder by mail, then such notification to such Holder as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

**SECTION 14.11. APPROVAL BY TRUSTEE OF EXPERT OR COUNSEL.** Wherever the Trustee is required to approve an expert or counsel who is to furnish evidence of compliance with conditions precedent in this Indenture, such approval by the Trustee shall be deemed to have been given upon the taking of any action by the Trustee pursuant to and in accordance with the certificate or opinion so furnished by such expert or counsel.

IN WITNESS WHEREOF, OGE ENERGY CORP. has caused this Indenture to be signed and acknowledged by one of its Vice Presidents, and attested by its Secretary, and UMB Bank, N.A. of Missouri has caused this Indenture to be signed and acknowledged by one of its Vice Presidents, and attested by one of its Vice Presidents, as of the day and year first written above.

OGE ENERGY CORP.

By

*[Name, Title]*

ATTEST:

*Carla D. Brockman, Secretary*

UMB BANK, N.A., as Trustee

By

*[Name, title]*

ATTEST:

*[Name, title]*

EXHIBIT A

FORM OF GLOBAL SECURITY

REGISTERED

REGISTERED

THIS SECURITY IS A GLOBAL SECURITY REGISTERED IN THE NAME OF THE DEPOSITARY (REFERRED TO HEREIN) OR A NOMINEE THEREOF AND, UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR THE INDIVIDUAL SECURITIES REPRESENTED HEREBY, THIS GLOBAL SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS GLOBAL SECURITY IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY ("DTC"), A NEW YORK CORPORATION, TO THE TRUSTEE FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

OGE ENERGY CORP.

SECURITY

CUSIP: NUMBER: ORIGINAL ISSUE DATE(S): PRINCIPAL AMOUNT(S): INTEREST RATE: MATURITY DATE:

OGE ENERGY CORP., a corporation of the State of Oklahoma (the "Company") for value received hereby promises to pay to Cede & Co. or registered assigns, the principal sum of

DOLLARS

on the Maturity Date set forth above, and to pay interest thereon from the Original Issue Date (or if this Global Security has two or more Original Issue Dates, interest shall, beginning on each such Original Issue Date, begin to accrue for that part of the principal amount to which that Original Issue Date is applicable) set forth above or from the most recent Interest Payment Date to which interest has been paid or duly provided for, semiannually in arrears on the and in each year, commencing on the first such Interest Payment Date succeeding the applicable Original Issue Date set forth above, at the per annum Interest Rate set forth above, until the principal hereof is paid or made available for payment. No interest shall accrue on the Maturity Date, so long as the principal amount of this Global Security is paid on the Maturity Date. The interest so payable and punctually paid or duly provided for on any such Interest Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Security is registered at the close of business on the Regular Record Date for such interest, which shall be the or , as the case may be, next preceding such Interest Payment Date; provided, that the first Interest Payment Date for any part of this Security, the Original Issue Date of which is after a Regular Record Date but prior to the applicable Interest Payment Date, shall be the Interest Payment Date following the next succeeding Regular Record Date; and provided, that interest payable on the Maturity Date set forth above or, if

applicable, upon redemption or acceleration, shall be payable to the Person to whom principal shall be payable. Except as otherwise provided in the Indenture (as defined below), any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and shall be paid to the Person in whose name this Security is registered at the close of business on a Special Record Date for the payment of such defaulted interest to be fixed by the Trustee, notice whereof shall be given to Security holders not more than fifteen days or fewer than ten days prior to such Special Record Date. On or before 10:00 a.m., New York City time, or such other time as shall be agreed upon between the Trustee and the Depository, of the day on which such payment of interest is due on this Global Security (other than maturity), the Trustee shall pay to the Depository such interest in same day funds. On or before 10:00 a.m., New York City time, or such other time as shall be agreed upon between the Trustee and the Depository, of the day on which principal, interest payable at maturity and premium, if any, is due on this Global Security, the Trustee shall deposit with the Depository the amount equal to the principal, interest payable at maturity and premium, if any, by wire transfer into the account specified by the Depository. As a condition to the payment, on the Maturity Date or upon redemption or acceleration, of any part of the principal and applicable premium of this Global Security, the Depository shall surrender, or cause to be surrendered, this Global Security to the Trustee, whereupon a new Global Security shall be issued to the Depository.

This Global Security is a global security in respect of a duly authorized issue of Debt Securities (the "*Securities of this Series*", which term includes any Global Securities representing such Securities) of the Company issued and to be issued under an Indenture dated as of \_\_\_\_\_ between the Company and UMB Bank, N.A., as trustee (herein called the "*Trustee*", which term includes any successor Trustee under the Indenture) and indentures supplemental thereto (collectively, the "*Indenture*"). Under the Indenture, one or more series of debt securities may be issued and, as used herein, the term "Securities" refers to the Securities of this Series and any other outstanding series of Securities. Reference is hereby made for a more complete statement of the respective rights, limitations of rights, duties and immunities under the Indenture of the Company, the Trustee and the Security holders and of the terms upon which the Securities are and are to be authenticated and delivered. This Global Security has been issued in respect of the series designated on the first page hereof, limited in aggregate principal amount to \$ \_\_\_\_\_.

Each Security of this Series shall be dated and issued as of the date of its authentication by the Trustee and shall bear an Original Issue Date or Dates. Each Security or Global Security issued upon transfer, exchange or substitution of such Security or Global Security shall bear the Original Issue Date or Dates of such transferred, exchanged or substituted Security or Global Security, as the case may be.

[As applicable, one of the following two sentences: This Global Security may not be redeemed prior to \_\_\_\_\_, \_\_\_\_\_ . This Global Security is not redeemable prior to the Maturity Date set forth on the first page hereof.) [If applicable: On or after \_\_\_\_\_, 20\_\_\_\_, this Global Security is redeemable in whole or in part in increments of \$1,000 (provided that any remaining principal amount of this Global Security shall be at least \$ \_\_\_\_\_) at the option of the Company at the following redemption prices (expressed as a percentage of the principal amount to be redeemed) plus accrued interest to the redemption date:

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**Redemption Periods**

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**Redemption Prices**

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Notice of redemption will be given by mail to Holders of Securities of this Series not less than 30 or more than 60 days prior to the date fixed for redemption, all as provided in the Indenture. In the event of redemption of this Global Security in part only, a new Global Security or Securities of like tenor and series for the unredeemed portion hereof will be issued in the name of the Security holder hereof upon the surrender hereof.]

Interest payments for this Global Security shall be computed and paid on the basis of a 360-day year of twelve 30-day months. In any case where any Interest Payment Date or date on which the principal of this Global Security is required to be paid is not a Business Day, then payment of principal, premium or interest need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on such Interest Payment Date or date on which the principal of this Global Security is required to be paid and, in the case of timely payment thereof, no interest shall accrue for the period from and after such Interest Payment Date or the date on which the principal of this Global Security is required to be paid.

The Company, at its option, and subject to the terms and conditions provided in the Indenture, will be discharged from any and all obligations in respect of the Securities (except for certain obligations including obligations to register the transfer or exchange of Securities, replace stolen, lost or mutilated Securities, maintain paying agencies and hold monies for payment in trust, all as set forth in the Indenture) if the Company deposits with the Trustee money, U.S. Government Obligations which through the payment of interest thereon and principal thereof in accordance with their terms will provide money, or a combination of money and U.S. Government Obligations, in any event in an amount sufficient, without reinvestment, to pay all the principal of and any premium and interest on the Securities on the dates such payments are due in accordance with the terms of the Securities.

If an Event of Default shall occur and be continuing, the principal of the Securities may be declared due and payable in the manner and with the effect provided in the Indenture.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modifications of the rights and obligations of the Company and the rights of the Security holders under the Indenture at any time by the Company and the Trustee with the consent of the Holders of not less than a majority in principal amount of the outstanding Securities. Any such consent or waiver by the Holder of this Global Security shall be conclusive and binding upon such Holder and upon all future Holders of this Global Security and of any Security issued upon the registration of transfer hereof or in exchange therefor or in lieu thereof whether or not notation of such consent or waiver is made upon the Security.

As set forth in and subject to the provisions of the Indenture, no Holder of any Securities will have any right to institute any proceeding with respect to the Indenture or for any remedy thereunder unless such Holder shall have previously given to the Trustee written notice of a continuing Event of Default with respect to such Securities, the Holders of not less than a majority in principal amount of the outstanding Securities affected by such Event of Default shall have made written request and offered reasonable indemnity to the Trustee to institute such proceeding as Trustee and the Trustee shall have failed to institute such proceeding within 60 days; provided, however, that such limitations do not apply to a suit instituted by the Holder hereof for the enforcement of payment of the principal of and any premium or interest on this Security on or after the respective due dates expressed here.

No reference herein to the Indenture and to provisions of this Global Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium and interest on this Global Security at the times, places and rates and the coin or currency prescribed in the Indenture.

As provided in the Indenture and subject to certain limitations therein set forth, this Global Security may be transferred only as permitted by the legend hereto.

If at any time the Depositary for this Global Security notifies the Company that it is unwilling or unable to continue as Depositary for this Global Security or if at any time the Depositary for this Global Security shall no longer be eligible or in good standing under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation, the Company shall appoint a successor Depositary with respect to this Global Security. If a successor Depositary for this Global Security is not

appointed by the Company within 90 days after the Company receives such notice or becomes aware of such ineligibility, the Company's election to issue this Security in global form shall no longer be effective with respect to this Global Security and the Company will execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of individual Securities of this Series in exchange for this Global Security, will authenticate and deliver individual Securities of this Series of like tenor and terms in definitive form in an aggregate principal amount equal to the principal amount of this Global Security.

The Company may at any time and in its sole discretion determine that all Securities of this Series (but not less than all) issued or issuable in the form of one or more Global Securities need not be represented by such Global Security or Securities. In such event, the Company shall execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of individual Securities of this Series in exchange for such Global Security, shall authenticate and deliver, individual Securities of this Series of like tenor and terms in definitive form in an aggregate principal amount equal to the principal amount of such Global Security or Securities in exchange for such Global Security or Securities.

Under certain circumstances specified in the Indenture, the Depository may be required to surrender any two or more Global Securities which have identical terms (but which may have differing Original Issue Dates) to the Trustee, and the Company shall execute and the Trustee shall authenticate and deliver to, or at the direction of, the Depository a Global Security in principal or amount equal to the aggregate principal amount of and with all terms identical to, the Global Securities surrendered thereto and that shall indicate all Original Issue Dates and the principal amount applicable to each such Original Issue Date.

The Indenture and the Securities shall be governed by, and construed in accordance with, the laws of the State of Oklahoma.

Unless the certificate of authentication hereon has been executed by the Trustee, directly or through an Authenticating Agent by manual signature of an authorized officer, this Global Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

All terms used in this Global Security which are defined in the Indenture shall have the meanings assigned to them in the Indenture unless otherwise indicated herein.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

OGE ENERGY CORP.

Dated:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

TRUSTEE'S CERTIFICATE OF  
AUTHENTICATION

This Security is one of the Securities of the series herein designated, described or provided for in the with-in-mentioned Indenture.

UMB BANK, N.A., as *Trustee*

By: \_\_\_\_\_  
*Authorized Officer*

**ABBREVIATIONS**

The following abbreviations, when used in the inscription on the face of this instrument, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM—as tenants in common

UNIF GIFT

MIN ACT—\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)

TEN ENT—as tenants by the entireties

Under Uniform Gifts to Minors

JT TEN—as joint tenants with right of survivorship and not as tenants in common

\_\_\_\_\_  
State

Additional abbreviations may also be used  
though not in the above list.

\_\_\_\_\_  
FOR VALUE RECEIVED the undersigned hereby sell(s),  
assign(s) and transfer(s) unto

PLEASE INSERT SOCIAL SECURITY OR OTHER  
IDENTIFYING NUMBER OF ASSIGNEE

\_\_\_\_\_  
Please print or typewrite name and address  
including postal zip code of assignee

\_\_\_\_\_  
the within debt security and all rights thereunder, hereby irrevocably constituting and  
appointing \_\_\_\_\_ attorney to transfer said debt security on the books of the Company,  
with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
NOTICE: The signature to this assignment must correspond with the name as  
written upon the face of the within instrument in every particular, without  
alteration or enlargement or any change whatever.

EXHIBIT B

FORM OF SECURITY

REGISTERED

REGISTERED

OGE ENERGY CORP.  
SECURITY

CUSIP: NUMBER: R-  
ORIGINAL ISSUE DATE(S): PRINCIPAL AMOUNT(S):  
INTEREST RATE: MATURITY DATE:

OGE ENERGY CORP., a corporation of the State of Oklahoma (the "*Company*"), for value received hereby promises to pay to \_\_\_\_\_ or registered assigns, the principal sum of \_\_\_\_\_

DOLLARS

on the Maturity Date set forth above, and to pay interest thereon from the Original Issue Date set forth above or from the most recent date to which interest has been paid or duly provided for, semiannually in arrears on \_\_\_\_\_ and \_\_\_\_\_ in each year, commencing on the first such Interest Payment Date succeeding the Original Issue Date set forth above, at the per annum Interest Rate set forth above, until the principal hereof is paid or made available for payment. No interest shall accrue on the Maturity Date, so long as the principal amount of this Security is paid in full on the Maturity Date. The interest so payable and punctually paid or duly provided for on any such Interest Payment Date will, as provided in the Indenture (as defined below), be paid to the Person in whose name this Security is registered at the close of business on the Regular Record Date for such interest, which shall be the \_\_\_\_\_ or \_\_\_\_\_, as the case may be, next preceding such Interest Payment Date; provided that the first Interest Payment Date for any Security, the Original Issue Date of which is after a Regular Record Date but prior to the applicable Interest Payment Date, shall be the Interest Payment Date following the next succeeding Regular Record Date; and provided, that interest payable on the Maturity Date set forth above or, if applicable, upon redemption or acceleration, shall be payable to the Person to whom principal shall be payable. Except as otherwise provided in the Indenture (referred to on the reverse hereof), any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and shall be paid to the Person in whose name this Security is registered at the close of business on a Special Record Date for the payment of such defaulted interest to be fixed by the Trustee, notice whereof shall be given to Security holders not more than fifteen days nor fewer than ten days prior to such Special Record Date. Principal, applicable premium and interest due at the maturity of this Security shall be payable in immediately available funds when due upon presentation and surrender of this Security at the corporate trust office of the Trustee or at the authorized office of any paying agent in the Borough of Manhattan, the City and State of New York. Interest on this Security (other than interest payable at maturity) shall be paid by check in clearinghouse funds to the Holder as its name appears on the register; provided, that if the Trustee receives a written request from any Holder of Securities (as defined below), the aggregate principal amount of all of which having the same Interest Payment Date as this Security equals or exceeds \$10,000,000, on or prior to the applicable Regular Record Date, interest on the Security shall be paid by wire transfer of immediately available funds to a bank within the continental United States (designated by such Holder in its request) or by direct deposit into the account of such Holder designated by such Holder in its request if such account is maintained with the Trustee or any paying agent.

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS SECURITY SET FORTH IN FULL ON THE REVERSE HEREOF, WHICH FURTHER PROVISIONS SHALL



FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH IN FULL AT THIS PLACE.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof, directly or through an Authenticating Agent by manual signature of an authorized officer, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

OGE ENERGY CORP.

Dated:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

TRUSTEE'S CERTIFICATE OF  
AUTHENTICATION

This Security is one of the Securities of the series herein designated, described or provided for in the with-in-mentioned Indenture.

UMB BANK, N.A., as *Trustee*

By: \_\_\_\_\_  
*Authorized Officer*

**[FORM OF REVERSE OF SECURITY]  
OGE ENERGY CORP.  
SECURITY**

This Security is one of a duly authorized issue of Securities (the "*Securities of this Series*") of the Company issued and to be issued under an Indenture dated as of \_\_\_\_\_, between the Company and UMB BANK, N.A., as trustee (herein called the "*Trustee*", which term includes any successor Trustee under the Indenture) and indentures supplemental thereto (collectively, the "*Indenture*"). Under the Indenture, one or more series of debt securities may be issued and, as used herein, the term "Securities" refers to the Securities of this Series and any other outstanding series of Securities. Reference is hereby made for a more complete statement of the respective rights, limitations of rights, duties and immunities under the Indenture of the Company, the Trustee and the Security holders and of the terms upon which the Securities are and are to be authenticated and delivered. This Security is one of the series designated on the face hereof; limited in aggregate principal amount to \$ \_\_\_\_\_.

[As applicable, one of the following two sentences: This Security may not be redeemed prior to \_\_\_\_\_, 20\_\_\_\_. This Security is not redeemable prior to the Maturity Date set forth on the face hereof.] [If applicable: On or after \_\_\_\_\_, this Security is redeemable in whole or in part in increments of \$1,000 (provided that any remaining principal amount of this Security shall be at least \$1,000) at the option of the Company at the following redemption prices (expressed as a percentage of the principal amount to be redeemed) plus accrued interest to the redemption date:

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**Redemption Periods**

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**Redemption Prices**

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Notice of redemption will be given by mail to Holders of Securities of this Series not less than 30 or more than 60 days prior to the date fixed for redemption, all as provided in the Indenture. In the event of redemption of this Security in part only, a new Security or Securities of this Series of like tenor for the unredeemed portion hereof will be issued in the name of the Security holder hereof upon the surrender hereof.]

Interest payments for this Security shall be computed and paid on the basis of a 360-day year of twelve 30-day months. In any case where any Interest Payment Date or the date on which the principal of this Security is required to be paid is not a Business Day, then payment of principal, premium or interest need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on such Interest Payment Date or the date on which the principal of this Security is required to be paid, and, in the case of timely payment thereof; no interest shall accrue for the period from and after such Interest Payment Date or the date on which the principal of this Security is required to be paid.

The Company, at its option, and subject to the terms and conditions provided in the Indenture, will be discharged from any and all obligations in respect of the Securities (except for certain obligations including obligations to register the transfer or exchange of Securities, replace stolen, lost or mutilated Securities, maintain paying agencies and hold monies for payment in trust, all as set forth in the Indenture) if the Company deposits with the Trustee money, U.S. Government Obligations which through the payment of interest thereon and principal thereof in accordance with their terms will provide money, or a combination of money and U.S. Government Obligations, in any event in an amount sufficient, without reinvestment, to pay all the principal of and any premium and interest on the Securities on the dates such payments are due in accordance with the terms of the Securities.

If an Event of Default shall occur and be continuing, the principal of the Securities may be declared due and payable in the manner and with the effect provided in the Indenture.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modifications of the rights and obligations of the Company and the rights of the Security holders under the Indenture at any time by the Company and the Trustee with the consent of the Holders of not less than a majority in principal amount of the outstanding Securities. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange therefor in lieu thereof whether or not notation of such consent or waiver is made upon the Security.

As set forth in and subject to the provisions of the Indenture, no Holder of any Securities will have any right to institute any proceeding with respect to the Indenture or for any remedy thereunder unless such Holder shall have previously given to the Trustee written notice of a continuing Event of Default with respect to such Securities, the Holders of not less than a majority in principal amount of the outstanding Securities affected by such Event of Default shall have made written request and offered reasonable indemnity to the Trustee to institute such proceeding as Trustee and the Trustee shall have failed to institute such proceeding within 60 days; provided, however, that such limitations do not apply to a suit instituted by the Holder hereof for the enforcement of payment of the principal of and any premium or interest on this Security on or after the respective due dates expressed here.

No reference herein to the Indenture and to provisions of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium and interest on this Security at the times, places and rates and the coin or currency prescribed in the Indenture.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registrable in the Security register. Upon surrender of this Security for registration or transfer at the corporate trust office of the Trustee or such other office or agency as may be designated by the Company in the Borough of Manhattan, the City and State of New York, endorsed by or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security registrar, duly executed by the Holder hereof or the attorney in fact of such Holder duly authorized in writing, one or more new Securities of this Series of like tenor and of authorized denominations and for the same aggregate principal amount will be issued to the designated transferee or transferees.

The Securities of this Series are issuable only in registered form, without coupons, in denominations of \$1,000 and any integral multiple thereof. As provided in the Indenture and subject to certain limitations therein set forth, Securities of this Series are exchangeable for a like aggregate principal amount of Securities of this Series of like tenor and of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Security is registered as the owner thereof for all purposes, whether or not this Security is overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

The Indenture and the Securities shall be governed by, and construed in accordance with, the laws of the State of Oklahoma

All terms used in this Security which are defined in the Indenture shall have the meanings assigned to them in the Indenture.

**ABBREVIATIONS**

The following abbreviations, when used in the inscription on the face of this instrument, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM—as tenants in common

UNIF GIFT

MIN ACT—\_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)

TEN ENT—as tenants by the entireties

Under Uniform Gifts to Minors

JT TEN—as joint tenants with right of survivorship and not as tenants in common

\_\_\_\_\_  
State

Additional abbreviations may also be used  
though not in the above list.

\_\_\_\_\_  
FOR VALUE RECEIVED the undersigned hereby sell(s),  
assign(s) and transfer(s) unto

PLEASE INSERT SOCIAL SECURITY OR OTHER  
IDENTIFYING NUMBER OF ASSIGNEE

\_\_\_\_\_  
Please print or typewrite name and address  
including postal zip code of assignee

\_\_\_\_\_  
the within debt security and all rights thereunder, hereby irrevocably constituting and  
appointing \_\_\_\_\_ attorney to transfer said debt security on the books of the Company,  
with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
NOTICE: The signature to this assignment must correspond with the name as  
written upon the face of the within instrument in every particular, without  
alteration or enlargement or any change whatever.

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**FORM OF**  
**SUPPLEMENTAL INDENTURE NO.**  
**FROM**  
**OGE ENERGY CORP.**  
**TO**  
**UMB BANK, N.A.**  
**TRUSTEE**

\_\_\_\_\_  
DATED AS OF  
SUPPLEMENTAL TO INDENTURE  
DATED AS OF \_\_\_\_\_ ,

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SUPPLEMENTAL INDENTURE No. \_\_\_\_\_, made as of the \_\_\_\_\_ day of \_\_\_\_\_, by and between OGE ENERGY CORP., a corporation duly organized and existing under the laws of the State of Oklahoma (the "Company"), and UMB BANK, N.A., a national banking association, as trustee (the "Trustee"):

WITNESSETH:

WHEREAS, the Company has heretofore executed and delivered its Indenture (hereinafter referred to as the "Indenture"), made as of \_\_\_\_\_; and

WHEREAS, Section 2.05 of the Indenture provides that debt securities shall be issued in series and that a Company Order shall specify the terms of each series; and

WHEREAS, the Company has this day delivered a Company Order setting forth the terms of a series of debt securities designated " \_\_\_\_\_ " (hereinafter sometimes referred to as the "Securities"); and

WHEREAS, Section 12.01 of the Indenture provides that the Company and the Trustee may enter into indentures supplemental thereto for the purposes, among others, of establishing the form of debt securities or establishing or reflecting any terms of any debt security and adding to the covenants of the Company; and

WHEREAS, the execution and delivery of this Supplemental Indenture No. \_\_\_\_\_ (herein, "this Supplemental Indenture") have been duly authorized by a resolution adopted by the Board of Directors of the Company;

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That in order to set forth the terms and conditions upon which the Securities are, and are to be, authenticated, issued and delivered, and in consideration of the premises of the purchase and acceptance of the Securities by the Holders thereof and the sum of one dollar duly paid to it by the Trustee at the execution of this Supplemental Indenture, the receipt whereof is hereby acknowledged, the Company covenants and agrees with the Trustee for the equal and proportionate benefit of the respective Holders from time to time of the Securities, as follows:

**ARTICLE ONE.  
RELATION TO INDENTURE; DEFINITIONS**

SECTION 1.01. *Integral Part of Indenture.* This Supplemental Indenture constitutes an integral part of the Indenture.

SECTION 1.02. *Definitions; References to Articles and Sections; Terms referring to this Supplemental Indenture.* For all purposes of this Supplemental Indenture:

- (a) Capitalized terms used herein without definition shall have the meanings specified in the Indenture;
- (b) All references herein to Articles and Sections, unless otherwise specified, refer to the corresponding Articles and Sections of this Supplemental Indenture; and
- (c) The terms "hereof," "herein," "hereby," "hereto," "hereunder" and "herewith" refer to this Supplemental Indenture.

**ARTICLE TWO.  
SECURITIES**

SECTION 2.01. *Designation and Principal Amount.* There shall be a series of debt securities designated the " \_\_\_\_\_ " (the "Securities"). The Securities shall be limited to \$ \_\_\_\_\_ aggregate principal amount.

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SECTION 2.02. *Stated Maturity Date.* Except as otherwise provided in Section 2.05 hereof, the principal amount of the Securities shall be payable on the stated maturity date of \_\_\_\_\_.

SECTION 2.03. *Interest Payment Dates.* The Securities shall be dated their date of authentication as provided in the Indenture and shall bear interest from their date at the rate of \_\_\_\_\_ % per annum payable semi-annually on and \_\_\_\_\_ of each year, commencing \_\_\_\_\_. The Regular Record Dates with respect to such \_\_\_\_\_ and \_\_\_\_\_ interest payment dates shall be \_\_\_\_\_ and \_\_\_\_\_, respectively. Principal and interest shall be payable to the persons and in the manner provided in Sections 2.04 and 2.12 of the Indenture.

SECTION 2.04. *Office for Payment.* The Securities shall be payable at the corporate trust office of the Trustee and at the offices of such paying agents as the Company may appoint by Company Order in the future.

SECTION 2.05. *Redemption Provisions.* [The Securities are not redeemable prior to their maturity.]

or [The Company, at its option, may redeem on any date all or, from time to time, any part of the Securities, upon notice as provided in the Indenture, at a redemption price equal to the greater of (i) 100% of the principal amount of such Securities to be redeemed and (ii) the sum of the present values of the remaining scheduled payments of principal and interest thereon from and after the date of redemption discounted to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate plus \_\_\_\_\_ basis points, plus in each case accrued and unpaid interest thereon to the date of redemption.

"Treasury Rate" means, with respect to any redemption date, the rate per annum equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such redemption date.

"Comparable Treasury Issue" means the United States Treasury security selected by an Independent Investment Banker as having a maturity comparable to the remaining term of the Securities to be redeemed that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of such Securities. "Independent Investment Banker" means one of the Reference Treasury Dealers appointed by the Trustee after consultation with the Company.

"Comparable Treasury Price" means, with respect to any redemption date, (i) the average of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) on the third business day preceding such redemption date, as set forth in the daily statistical release (or any successor release) published by the Federal Reserve Bank of New York and designated "Composite 3:30 p.m. Quotations for U.S. Government Securities" or (ii) if such release (or any successor release) is not published or does not contain such prices on such third business day, (A) the average of the Reference Treasury Dealer Quotations for such redemption date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or (B) if the Trustee is unable to obtain at least four such Reference Treasury Dealer Quotations, the average of all such Quotations obtained. "Reference Treasury Dealer Quotations" means, with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by the Trustee, of the bid and asked prices of the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by such Reference Treasury Dealer at 5:00 p.m., New York City time, on the third business day preceding such redemption date.

"Reference Treasury Dealer" means each of \_\_\_\_\_ and \_\_\_\_\_, and their respective successors; provided, however, that if any of the foregoing shall cease to be a primary U.S. Government

securities dealer in New York City (a "Primary Treasury Dealer"), the Company shall substitute therefor another Primary Treasury Dealer.]

or

[On or after \_\_\_\_\_, this Global Security is redeemable in whole or in part in increments of \$1,000 (provided that any remaining principal amount of this Global Security shall be at least \$ \_\_\_\_\_) at the option of the Company at the following redemption prices (expressed as a percentage of the principal amount to be redeemed) plus accrued interest to the redemption date:

Redemption Periods

Redemption Prices]

The Securities shall not be subject to any sinking fund.

SECTION 2.06. *Repayment of Securities.* The Securities will be repayable on \_\_\_\_\_, at the option of the holders thereof, at 100% of their principal amount, together with accrued and unpaid interest to \_\_\_\_\_. In order for a Security to be repaid, the Company must receive at the corporate trust office of the Trustee during the period from and including \_\_\_\_\_ to and including the close of business on \_\_\_\_\_ (or if \_\_\_\_\_ is not a Business Day, the next succeeding Business Day): (i) a Security with the form entitled "Option to Elect Repayment" on the Security duly completed, or (ii) a telegram, telex, facsimile transmission or letter from a member of a national securities exchange or the National Association of Securities Dealers, Inc. or a commercial bank or a trust company in the United States of America setting forth the name of the Holder of the Security, the principal amount of the Security, the principal amount of the Security to be repaid, a statement that the option to elect repayment is being exercised thereby and a guarantee that the Security to be repaid (with the form entitled "Option to Elect Repayment" on the Security duly completed) will be received at the Trustee's corporate trust office, no later than five Business Days after the date of such telegram, telex, facsimile transmission or letter and such Security and form duly completed are received at the Trustee's office, by such fifth Business Day. Effective exercise of the repayment option by the holder of any Security shall be irrevocable. No transfer or exchange of any Security (or, in the event that any Security is to be repaid in part, such portion of the Security to be repaid) will be permitted after exercise of the repayment option. The repayment option may be exercised by the Holder of a Security for less than the entire principal amount of the Security, provided the principal amount which is to be repaid is set forth on the form entitled "Option to Elect Repayment" on the Security and is equal to \$1,000 or any integral multiple thereof. All questions as to the validity, eligibility (including time of receipt) and acceptance of any Security for repayment will be determined by the Company, whose determination will be final, binding and non-appealable. Upon timely delivery of a Security to the Trustee with the "Option to Elect Repayment" form completed in accordance with the foregoing, the outstanding principal amount of such Security (or portion thereof indicated on the "Option to Elect Repayment") shall become due and payable on \_\_\_\_\_, at a price equal to \_\_\_\_\_% of the principal amount to be repaid plus accrued and unpaid interest to \_\_\_\_\_.]

SECTION 2.07. *Authorized Denominations.* The Securities shall be issued in fully registered form without coupons in denominations of \$1,000 and integral multiples thereof.

SECTION 2.08. *Form of* \_\_\_\_\_. The Securities shall initially be in the form attached as Exhibit A hereto.

**ARTICLE THREE.  
MISCELLANEOUS**

SECTION 3.01. *Recitals of fact, except as stated, are statements of the Company.* The recitals of fact herein and in the Securities (except the Trustee's Certificate) shall be taken as statements of the Company and shall not be construed as made by the Trustee.

SECTION 3.02. *Supplemental Indenture to be construed as a part of the Indenture.* This Supplemental Indenture shall be construed in connection with and as a part of the Indenture.

SECTION 3.03. *Trust Indenture Act to control; Severability of provisions contained in Supplemental Indenture and Securities.*

(a) If any provision of this Supplemental Indenture limits, qualifies, or conflicts with another provision of the Indenture required to be included in indentures qualified under the Trust Indenture Act of 1939 (as enacted prior to the date of this Supplemental Indenture) by any of the provisions of Sections 310 to 317, inclusive, of said Act, such required provisions shall control.

(b) In case any one or more of the provisions contained in this Supplemental Indenture or in the debt securities issued hereunder should be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected, impaired, prejudiced or disturbed thereby.

SECTION 3.04. *References to either party in Supplemental Indenture include successors or assigns.* Whenever in this Supplemental Indenture either of the parties hereto is named or referred to, this shall be deemed to include the successors or assigns of such party, and all the covenants and agreements in this Supplemental Indenture contained by or on behalf of the Company or by or on behalf of the Trustee shall bind and inure to the benefit of the respective successors and assigns of such parties, whether so expressed or not.

SECTION 3.05. *Provision for execution in counterparts; Table of Contents and descriptive headings of Articles not to affect meaning.*

(a) This Supplemental Indenture may be simultaneously executed in several counterparts, and all said counterparts executed and delivered, each as an original, shall constitute but one and the same instrument.

(b) The Table of Contents and the descriptive headings of the several Articles of this Supplemental Indenture were formulated, used and inserted in this Supplemental Indenture for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

IN WITNESS WHEREOF, OGE ENERGY CORP. has caused this Supplemental Indenture to be signed by its President or a Vice President, and attested by its Secretary or an Assistant Secretary, and UMB BANK, N.A. has caused this Supplemental Indenture to be signed by its President, Vice President or Assistant Vice President, and attested by a Vice President, this \_\_\_\_\_ day of \_\_\_\_\_.

OGE ENERGY CORP.

By: \_\_\_\_\_  
Steven E. Moore  
President and Chief Executive Officer

ATTEST:

By: \_\_\_\_\_  
Carla D. Brockman  
Secretary

UMB BANK, N.A., as Trustee

By: \_\_\_\_\_  
Assistant Vice President

ATTEST:

By: \_\_\_\_\_  
Vice President

FORM OF SECURITY

REGISTERED

REGISTERED

THIS SECURITY IS A GLOBAL SECURITY REGISTERED IN THE NAME OF THE DEPOSITARY (REFERRED TO HEREIN) OR A NOMINEE THEREOF AND, UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR THE INDIVIDUAL SECURITIES REPRESENTED HEREBY, THIS GLOBAL SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS GLOBAL SECURITY IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO THE TRUSTEE FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

OGE ENERGY CORP. SECURITY

CUSIP: NUMBER: R- ORIGINAL ISSUE DATE(S): PRINCIPAL AMOUNT(S): INTEREST RATE: MATURITY DATE:

OGE ENERGY CORP., a corporation of the State of Oklahoma (the "Company"), for value received hereby promises to pay to or registered assigns, the principal sum of

on the Maturity Date set forth above, and to pay interest thereon from the Original Issue Date (or if this Global Security has two or more Original Issue Dates, interest shall, beginning on each such Original Issue Date, begin to accrue for that part of the principal amount to which that Original Issue Date is applicable) set forth above or from the most recent Interest Payment Date to which interest has been paid or duly provided for, semiannually in arrears on and in each year, commencing on the first such Interest Payment Date succeeding the applicable Original Issue Date set forth above, at the per annum Interest Rate set forth above, until the principal hereof is paid or made available for payment. No interest shall accrue on the Maturity Date, so long as the principal amount of this Global Security is paid on the Maturity Date. The interest so payable and punctually paid or duly provided for on any such Interest Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Security is registered at the close of business on the Regular Record Date for such interest, which shall be the or the, as the case may be, next preceding such Interest Payment Date; provided that the first Interest Payment Date for any part of

this Security, the Original Issue Date of which is after a Regular Record Date but prior to the applicable Interest Payment Date, shall be the Interest Payment Date following the next succeeding Regular Record Date; and provided that interest payable on the Maturity Date set forth above or, if applicable, upon redemption, repayment or acceleration, shall be payable to the Person to whom principal shall be payable. Except as otherwise provided in the Indenture (as defined below), any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the Holder on such Regular Record Date and shall be paid to the Person in whose name this Security is registered at the close of business on a Special Record Date for the payment of such defaulted interest to be fixed by the Trustee, notice whereof shall be given to Security holders not more than fifteen days or fewer than ten days prior to such Special Record Date. On or before 10:00 a.m., New York City time, or such other time as shall be agreed upon between the Trustee and the Depositary, of the day on which such payment of interest is due on this Global Security (other than maturity), the Trustee shall pay to the Depositary such interest in same day funds. On or before 10:00 a.m., New York City time, or such other time as shall be agreed upon between the Trustee and the Depositary, of the day on which principal, interest payable at maturity and premium, if any, is due on this Global Security, the Trustee shall deposit with the Depositary the amount equal to the principal, interest payable at maturity and premium, if any, by wire transfer into the account specified by the Depositary. As a condition to the payment, on the Maturity Date or upon redemption, repayment or acceleration, of any part of the principal and applicable premium of this Global Security, the Depositary shall surrender, or cause to be surrendered, this Global Security to the Trustee, whereupon a new Global Security shall be issued to the Depositary.

This Global Security is a global security in respect of a duly authorized issue of \_\_\_\_\_ (the "Securities of this Series", which term includes any Global Securities representing such Securities) of the Company issued and to be issued under an Indenture dated as of \_\_\_\_\_ between the Company and UMB Bank, N.A. as trustee (the "Trustee", which term includes any successor Trustee under the Indenture) (the "Indenture"). Under the Indenture, one or more series of debt securities may be issued and, as used herein, the term "Securities" refers to the Securities of this Series and any other outstanding series of Securities. Reference is hereby made to the Indenture for a more complete statement of the respective rights, limitations of rights, duties and immunities under the Indenture of the Company, the Trustee and the Security holders and of the terms upon which the Securities are and are to be authenticated and delivered. This Global Security has been issued in respect of the series designated on the first page hereof, limited in aggregate principal amount to \$ \_\_\_\_\_.

Each Security of this Series shall be dated and issued as of the date of its authentication by the Trustee and shall bear an Original Issue Date or Dates. Each Security or Global Security issued upon transfer, exchange or substitution of such Security or Global Security shall bear the Original Issue Date or Dates of such transferred, exchanged or substituted Security or Global Security, as the case may be.

[This Global Security is not redeemable prior to maturity.] or [The Company, at its option, may redeem on any date all or, from time to time, any part of this Global Security at a redemption price equal to the greater of (i) 100% of the principal amount of this Global Security to be redeemed and (ii) the sum of the present values of the remaining scheduled payments of principal and interest thereon from and after the date of redemption discounted to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate plus \_\_\_\_\_ basis points, plus in each case accrued and unpaid interest thereon to the date of redemption.

"Treasury Rate" means, with respect to any redemption date, the rate per annum equal to the semi-annual equivalent yield to maturity of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such redemption date.

"Comparable Treasury Issue" means the United States Treasury security selected by an Independent Investment Banker as having a maturity comparable to the remaining term of the Securities of this Series to be redeemed that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the Securities of this Series. "Independent Investment Banker" means one of the Reference Treasury Dealers appointed by the Trustee after consultation with the Company.

"Comparable Treasury Price" means, with respect to any redemption date, (i) the average of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) on the third business day preceding such redemption date, as set forth in the daily statistical release (or any successor release) published by the Federal Reserve Bank of New York and designated "Composite 3:30 p.m. Quotations for U.S. Government Securities" or (ii) if such release (or any successor release) is not published or does not contain such prices on such third business day, (A) the average of the Reference Treasury Dealer Quotations for such redemption date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or (B) if the Trustee is unable to obtain at least four such Reference Treasury Dealer Quotations, the average of all such Quotations obtained. "Reference Treasury Dealer Quotations" means, with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by the Trustee, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by such Reference Treasury Dealer at 5:00 p.m., New York City time, on the third business day preceding such redemption date.

"Reference Treasury Dealer" means each of \_\_\_\_\_ and their respective successors; provided, however, that if any of the foregoing shall cease to be a primary U.S. Government securities dealer in New York City (a "Primary Treasury Dealer"), the Company shall substitute therefor another Primary Treasury Dealer.] or [On or after \_\_\_\_\_, this Global Security is redeemable in whole or in part in increments of \$1,000 (provided that that any remaining principal amount of this Global Security shall be at least \$ \_\_\_\_\_) at the option of the Company at the following redemption prices (expressed as a percentage of the principal amount to be redeemed) plus accrued interest to the redemption date:

Redemption Periods

Redemption Prices]

Notice of redemption will be given by mail to Holders of Securities of this Series not less than 30 or more than 60 days prior to the date fixed for redemption, all as provided in the Indenture. In the event of redemption of this Global Security in part only, a new Global Security or Securities of like tenor and series for the unredeemed interest hereof will be issued in the name of the Security holder hereof upon the surrender hereof.

[The Securities of this Series will be repayable on \_\_\_\_\_, at the option of the Holders thereof, at 100% of their principal amount, together with accrued and unpaid interest to \_\_\_\_\_. In order for this Global Security to be repaid, the Company must receive at the corporate trust office of the Trustee during the period from and including \_\_\_\_\_ to and including the close of business on \_\_\_\_\_ (or if \_\_\_\_\_ is not a Business Day, the next succeeding Business Day): (i) this Global Security with the form entitled "Option to Elect Repayment" on this Global Security duly completed, or (ii) a telegram, telex, facsimile transmission or letter from a member of a national securities exchange or the National Association of Securities Dealers, Inc. or a commercial bank or a trust company in the United States of America setting forth the name of the Holder of this Global Security, the principal amount of this Global Security, the principal amount of this Global Security to be repaid, a statement that the option to elect repayment is being exercised thereby and a guarantee that this Global Security (with the form entitled "Option to Elect Repayment" on this

Global Security duly completed) will be received at the Trustee's corporate trust office, no later than five Business Days after the date of such telegram, telex, facsimile transmission or letter and this Global Security and form duly completed are received at the Trustee's office, by such fifth Business Day. Effective exercise of the repayment option by the Holder of any Security of this Series shall be irrevocable. No transfer or exchange of any Security of this Series (or, in the event that any Security of this Series is to be repaid in part, such portion of the Security of this Series to be repaid) will be permitted after exercise of the repayment option. The repayment option may be exercised by the Holder of a Security of this Series for less than the entire principal amount of the Security of this Series, provided the principal amount which is to be repaid is set forth on the form entitled "Option to Elect Repayment" on the Security of this Series and is equal to \$1,000 or any integral multiple thereof. All questions as to the validity, eligibility (including time of receipt) and acceptance of any Security of this Series for repayment will be determined by the Company, whose determination will be final, binding and non-appealable. Upon timely delivery of a Security of this Series to the Trustee with the "Option to Elect Repayment" form completed in accordance with the foregoing, the outstanding principal amount of such Security of this Series (or portion thereof indicated in the "Option to Elect Repayment") shall become due and payable on \_\_\_\_\_, at a price equal to \_\_\_\_\_ % of the principal amount to be repaid plus accrued and unpaid interest to \_\_\_\_\_.]

Interest payments for this Global Security shall be computed and paid on the basis of a 360-day year of twelve 30-day months. If any Interest Payment Date or date on which the principal of this Global Security is required to be paid is not a Business Day, then payment of principal, premium or interest need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on such Interest Payment Date or date on which the principal of this Global Security is required to be paid and, in the case of timely payment thereof, no interest shall accrue for the period from and after such Interest Payment Date or the date on which the principal of this Global Security is required to be paid.

The Company, at its option, and subject to the terms and conditions provided in the Indenture, will be discharged from any and all obligations in respect of the Securities (except for certain obligations including obligations to register the transfer or exchange of Securities, replace stolen, lost or mutilated Securities, maintain paying agencies and hold monies for payment in trust, all as set forth in the Indenture) if the Company deposits with the Trustee money, U.S. Government Obligations which through the payment of interest thereon and principal thereof in accordance with their terms will provide money, or a combination of money and U.S. Government Obligations, in any event in an amount sufficient, without reinvestment, to pay all the principal of and any premium and interest on the Securities on the dates such payments are due in accordance with the terms of the Securities.

If an Event of Default shall occur and be continuing, the principal of the Securities may be declared due and payable in the manner and with the effect provided in the Indenture.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modifications of the rights and obligations of the Company and the rights of the Security holders under the Indenture at any time by the Company and the Trustee with the consent of the Holders of not less than a majority in principal amount of the outstanding Securities. Any such consent or waiver by the Holder of this Global Security shall be conclusive and binding upon such Holder and upon all future Holders of this Global Security and of any Security issued upon the registration of transfer hereof or in exchange therefor or in lieu thereof whether or not notation of such consent or waiver is made upon the Security.

As set forth in and subject to the provisions of the Indenture, no Holder of any Securities will have any right to institute any proceeding with respect to the Indenture or for any remedy thereunder unless such Holder shall have previously given to the Trustee written notice of a continuing Event of Default with respect to such Securities, the Holders of not less than a majority in principal amount of



the outstanding Securities affected by such Event of Default shall have made written request and offered reasonable indemnity to the Trustee to institute such proceeding as Trustee and the Trustee shall have failed to institute such proceeding within 60 days; provided that such limitations do not apply to a suit instituted by the Holder hereof for the enforcement of payment of the principal of and any premium or interest on this Security on or after the respective due dates expressed here.

No reference herein to the Indenture and to provisions of this Global Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium and interest on this Global Security at the times, places and rates and the coin or currency prescribed in the Indenture.

As provided in the Indenture and subject to certain limitations therein set forth, this Global Security may be transferred only as permitted by the legend hereto.

If at any time the Depository for this Global Security notifies the Company that it is unwilling or unable to continue as Depository for this Global Security or if at any time the Depository for this Global Security shall no longer be eligible or in good standing under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation, the Company shall appoint a successor Depository with respect to this Global Security. If a successor Depository for this Global Security is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such ineligibility, the Company's election to issue this Security in global form shall no longer be effective with respect to this Global Security and the Company will execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of individual Securities of this Series in exchange for this Global Security, will authenticate and deliver individual Securities of this Series of like tenor and terms in definitive form in an aggregate principal amount equal to the principal amount of this Global Security.

The Company may at any time and in its sole discretion determine that all Securities of this Series (but not less than all) issued or issuable in the form of one or more Global Securities need not be represented by such Global Security or Securities. In such event, the Company shall execute, and the Trustee, upon receipt of a Company Order for the authentication and delivery of individual Securities of this Series in exchange for such Global Security, shall authenticate and deliver, individual Securities of this Series of like tenor and terms in definitive form in an aggregate principal amount equal to the principal amount of such Global Security or Securities in exchange for such Global Security or Securities.

Under certain circumstances specified in the Indenture, the Depository may be required to surrender any two or more Global Securities which have identical terms (but which may have differing Original Issue Dates) to the Trustee, and the Company shall execute and the Trustee shall authenticate and deliver to, or at the direction of, the Depository a Global Security in principal amount equal to the aggregate principal amount of, and with all terms identical to, the Global Securities surrendered thereto and that shall indicate all Original Issue Dates and the principal amount applicable to each such Original Issue Date.

The Indenture and the Securities shall be governed by, and construed in accordance with, the laws of the State of Oklahoma.

Unless the certificate of authentication hereon has been executed by the Trustee, directly or through an Authenticating Agent by manual signature of an authorized officer, this Global Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

All terms used in this Global Security which are defined in the Indenture shall have the meanings assigned to them in the Indenture unless otherwise indicated herein.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

OGE ENERGY CORP.

By:

---

President

Attest:

---

Secretary

Dated:

TRUSTEE'S CERTIFICATE OF  
AUTHENTICATION

This Security is one of the Securities of the series herein designated, described or provided  
for in the with-in-mentioned Indenture.

UMB BANK, N.A., as Trustee

By:

---

Authorized Officer

**ABBREVIATIONS**

The following abbreviations, when used in the inscription on the face of this instrument, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM—as tenants in common

UNIF GIFT  
MIN ACT—\_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)  
Under Uniform Gifts to Minors

TEN ENT—as tenants by the entireties

JT TEN—as joint tenants with right of survivorship and not as tenants in common

\_\_\_\_\_  
State

Additional abbreviations may also be used  
though not in the above list.

\_\_\_\_\_  
FOR VALUE RECEIVED the undersigned hereby sell(s),  
assign(s) and transfer(s) unto

PLEASE INSERT SOCIAL SECURITY OR OTHER  
IDENTIFYING NUMBER OF ASSIGNEE

\_\_\_\_\_  
Please print or typewrite name and address  
including postal zip code of assignee

\_\_\_\_\_  
the within debt security and all rights thereunder, hereby irrevocably constituting and  
appointing \_\_\_\_\_ attorney to transfer said debt security on the books of the Company,  
with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
NOTICE: The signature to this assignment must correspond with the name as  
written upon the face of the within instrument in every particular, without  
alteration or enlargement or any change whatever.

QuickLinks

[EXHIBIT 4.02](#)

[FORM OF SUPPLEMENTAL INDENTURE NO. FROM OGE ENERGY CORP. TO UMB BANK, N.A. TRUSTEE](#)  
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[EXHIBIT A](#)

[ABBREVIATIONS](#)

[LETTERHEAD OF RAINEY, ROSS, RICE & BINNS]

September 7, 2004

OGE Energy Corp.  
321 N. Harvey  
Oklahoma City, Oklahoma 73101

RE: \$215,000,000 PRINCIPAL AMOUNT OF DEBT SECURITIES

Gentlemen:

We have examined the Form S-3 Registration Statement, dated September 7, 2004 (the "Registration Statement"), of OGE Energy Corp. (the "Company"), to which this opinion is an exhibit, for the registration under the Securities Act of 1933, as amended (the "Act"), of an aggregate amount of \$215,000,000 of debt securities ("Debt Securities") of the Company. The Debt Securities will be issued under an Indenture and a new supplemental indenture for each series of Debt Securities, all from the Company to UMB Bank, N.A., as trustee (such Indenture, as supplemented and as to be supplemented, is herein referred to as the "Indenture"). We have examined all records, instruments, and documents which we have deemed necessary for the purposes of this opinion, including the Registration Statement on Form S-3 under the Act relating to the Debt Securities to be filed by the Company pursuant to the Act.

Based upon the foregoing and upon our general familiarity with the property and affairs of the Company, we are of the opinion that:

1. The Company is a validly organized and legally existing corporation, in good standing under the laws of the State of Oklahoma and is authorized to conduct and operate its business as a public utility holding company in the State of Oklahoma.
2. When, as and if the Registration Statement on Form S-3, to which this opinion is an exhibit, becomes effective pursuant to the provisions of the Act and when, as and if the Debt Securities, the Indenture and one or more new supplemental indentures relating thereto have been duly executed and delivered, and the consideration for the Debt Securities duly received by the Company, all in the manner contemplated by the said Registration Statement, the Indenture will be a valid, legal, and binding instrument of the Company and the Debt Securities will be legally issued and binding obligations of the Company.
3. The statements made in the above-mentioned Registration Statement and in the related Prospectus, purporting to be made or based upon our opinion, correctly set forth our opinion upon said respective matters.

Respectfully,

RAINEY, ROSS, RICE & BINNS

By: /s/ HUGH D. RICE

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Hugh D. Rice

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QuickLinks

[EXHIBIT 5.01](#)

**OGE Energy Corp.**  
**S E C Method of**  
**Ratio of Earnings to Fixed Charges**

	Year Ended Dec 31, 1999	Year Ended Dec 31, 2000	Year Ended Dec 31, 2001	Year Ended Dec 31, 2002	Year Ended Dec 31, 2003
<b>Earnings:</b>					
Income from continuing operations	\$ 139,962,231	\$ 133,854,031	\$ 93,879,245	\$ 80,920,627	\$ 135,568,239
Add Income Taxes	86,203,529	72,047,027	52,885,079	44,578,932	73,670,562
Add Fixed Charges	105,347,270	139,931,555	132,199,580	115,552,863	102,194,363
Subtotal	331,513,030	345,832,613	278,963,904	241,052,422	311,433,164
<b>Subtract:</b>					
Allowance for funds used during construction	719,576	2,229,277	707,822	905,189	538,624
Minority interest—NOARK	1,640,086	1,243,067	953,181	134,579	(1,376,897)
Preferred dividend requirements	—	—	—	—	—
Total Earnings	329,153,368	342,360,269	277,302,901	240,012,654	312,271,437
<b>Fixed Charges:</b>					
Long-term debt interest expense	64,084,862	118,720,004	115,481,869	103,492,446	92,489,615
Other interest expense	36,891,106	16,173,031	12,462,336	8,250,174	6,045,733
Preferred dividend requirements	—	—	—	—	—
Calculated interest on leased property	4,371,302	5,038,520	4,255,375	3,810,243	3,659,015
Total Fixed Charges	\$ 105,347,270	\$ 139,931,555	\$ 132,199,580	\$ 115,552,863	\$ 102,194,363
Ratio of Earnings to Fixed Charges	3.12	2.45	2.10	2.08	3.06

QuickLinks

[Exhibit 12.01](#)



**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the reference to our firm under the caption "Experts" in the Registration Statement (Form S-3), which contains a post-effective amendment to the Company's previously filed Registration Statement (Form S-3) No. 333-104552, and related Prospectus of OGE Energy Corp. for the registration of \$215,000,000 of its Debt Securities and to the incorporation by reference therein of our report dated January 30, 2004, with respect to the consolidated financial statements and schedule of OGE Energy Corp. included in its Annual Report (Form 10-K) for the year ended December 31, 2003, filed with the Securities and Exchange Commission.

/s/ ERNST & YOUNG LLP

Oklahoma City, Oklahoma  
September 2, 2004

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QuickLinks

[Exhibit 23.01](#)

[CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM](#)

**CONSENT**

We hereby consent to the use of our name in the Registration Statement, including the accompanying Prospectus, of OGE Energy Corp. to be filled with the Securities and Exchange Commission and to which this consent is filed as an Exhibit and to the use of our opinion filed as Exhibit 5.01 to the Registration Statement.

Rainey, Ross, Rice & Binns

By: /s/ HUGH D. RICE

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Hugh D. Rice

September 7, 2004

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QuickLinks

[Exhibit 23.02](#)

[CONSENT](#)

**POWER OF ATTORNEY**

WHEREAS, OGE ENERGY CORP., an Oklahoma corporation (herein referred to as the "Company") is to file with the Securities and Exchange Commission, under the provisions of the Securities Act of 1933, as amended, a Registration Statement on Form S-3 relating to the issuance and sale of up to \$200 million principal amount of debt securities; and

WHEREAS, each of the undersigned holds the office or offices in the Company herein below set opposite his or her name, respectively;

NOW, THEREFORE, each of the undersigned hereby constitutes and appoints STEVEN E. MOORE and JAMES R. HATFIELD and each of them individually, his or her attorney with full power to act for him or her and in his or her name, place and stead, to sign his or her name in the capacity or capacities set forth below to the Form S-3 Registration Statement relating to the issuance and sale of up to \$200 million principal amount of debt securities and to any and all amendments (including post-effective amendments) to such Registration Statement, and hereby ratifies and confirms all that said attorney may or shall lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands this 20<sup>th</sup> day of May, 2004.

Steven E. Moore,  
Chairman, Principal  
Executive Officer and Director

/s/ STEVEN E. MOORE

Herbert H. Champlin, Director

/s/ HERBERT H. CHAMPLIN

Luke R. Corbett, Director

/s/ LUKE R. CORBETT

William E. Durrett, Director

/s/ WILLIAM E. DURRETT

Martha W. Griffin, Director

/s/ MARTHA W. GRIFFIN

John D. Groendyke, Director

/s/ JOHN D. GROENDYKE

Robert Kelley, Director

/s/ ROBERT KELLEY

Ronald H. White, M.D., Director

/s/ RONALD H. WHITE

J.D. Williams, Director

/s/ J.D. WILLIAMS

James R. Hatfield,  
Principal Financial Officer

/s/ JAMES R. HATFIELD

Donald R. Rowlett,  
Principal Accounting Officer

/s/ DONALD R. ROWLETT

STATE OF OKLAHOMA )  
 ) SS  
COUNTY OF OKLAHOMA )

On the date indicated above, before me, Shirley Kay Phinney, Notary Public in and for said County and State, personally appeared the above named directors and officers of OGE ENERGY CORP., an Oklahoma corporation, and known to me to be the persons whose names are subscribed to the foregoing instrument, and they severally acknowledged to me that they executed the same as their own free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the 20<sup>th</sup> day of May, 2004.

By: /s/ SHIRLEY KAY PHINNEY

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Shirley Kay Phinney  
Notary Public

My commission expires  
March 7, 2006

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QuickLinks

[Exhibit 24.01](#)

[POWER OF ATTORNEY](#)

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**SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM T-1**

**STATEMENT OF ELIGIBILITY  
UNDER THE TRUST INDENTURE ACT OF 1939 OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE**

**UMB BANK, NATIONAL ASSOCIATION**

(Exact name of trustee as specified in its charter)

**44-0201230**

(I.R.S. Employer  
Identification No.)

**1010 Grand Blvd., Kansas City, Missouri**  
(Address of principal executive offices)

**64106**  
(Zip Code)

**OGE ENERGY CORP.**

(Exact name of obligor as specified in its charter)

**Oklahoma**  
(State or other jurisdiction  
of incorporation or organization)

**73-1481638**  
(I.R.S. employer  
identification No.)

**321 North Harvey**  
**Oklahoma City, Oklahoma**  
(Address of principal executive offices)

**73101**  
(Zip Code)

**Debt Securities**

(Title of the indenture securities)

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**Item 1. General Information**

- (a) Name and address of each examining or supervising authority to which the Trustee is subject is as follows:

The Comptroller of the Currency  
Mid-Western District  
2345 Grand Avenue, Suite 700  
Kansas City, Missouri 64108

Federal Reserve Bank of Kansas City  
Federal Reserve P.O. Station  
Kansas City, Missouri 64198

Supervising Examiner  
Federal Deposit Insurance Corporation  
720 Olive Street, Suite 2909  
St. Louis, Missouri 63101

- (b) The Trustee is authorized to exercise corporate trust powers.

**Item 2. Affiliations with obligor. The Obligor is not affiliated with the Trustee.**

**Item 3. Voting securities of the Trustee.**

NOT APPLICABLE.

**Item 4. Trusteeships under other indentures.**

NOT APPLICABLE

**Item 5. Interlocking directorates and similar relationships with the obligor or underwriters.**

NOT APPLICABLE

**Item 6. Voting securities of the trustee owned by the obligor or its officials.**

NOT APPLICABLE

**Item 7. Voting securities of the trustee owned by underwriters or their officials.**

NOT APPLICABLE

**Item 8. Securities of the obligor owned or held by the trustee.**

NOT APPLICABLE

**Item 9. Securities of the underwriters owned or held by the trustee.**

NOT APPLICABLE

---

**Item 10. Ownership or holdings by the trustee of voting securities of certain affiliates or security holders of the obligor.**

NOT APPLICABLE

**Item 11. Ownership or holdings by the trustee of any securities of a person owning 50 percent or more of the voting securities of the obligor.**

NOT APPLICABLE

**Item 12. Indebtedness of the Obligor to the Trustee.**

NOT APPLICABLE

**Item 13. Defaults of the Obligor.**

NOT APPLICABLE

**Item 14. Affiliations with the Underwriters.**

NOT APPLICABLE

**Item 15. Foreign Trustee.**

NOT APPLICABLE

**Item 16. List of Exhibits**

Listed below are all exhibits as a part of this Statement of eligibility and qualification.

1. Articles of Association of the Trustee, as now in effect (Exhibit 1 to Form T-1 filed with Registration Statement No. 333-74008).
  2. Certificate of Authority from the Comptroller of the Currency evidencing a change of the corporate title of the Association. (Exhibit 2 to Form T-1 filed with Registration Statement No. 333-74008).
  3. Certificate from the Comptroller of the Currency evidencing authority to exercise corporate trust powers and a letter evidencing a change of the corporate title of the Association. (Exhibit 3 to Form T-1 filed with Registration Statement No. 333-74008).
  4. Bylaws, as amended of the Trustee (Exhibit 4 to Form T-1 filed with Registration Statement No. 333-74008).
  5. N/A
  6. Consent of the Trustee required by Section 321(b) of the Act (Exhibit 6 to Registration Statement No. 333-74008).
  7. Report of Condition of the Trustee as of 12/31/03.
-

**SIGNATURE**

Pursuant to the requirements of the Trust Indenture Act of 1939, the Trustee, UMB Bank, National Association, a national bank organized and existing under the laws of the United States of America, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the city of Kansas City, and State of Missouri, on the 31st day of August, 2004.

UMB BANK, NATIONAL ASSOCIATION

BY: /s/ Frank C. Bramwell

\_\_\_\_\_  
Frank C. Bramwell, Senior Vice President

Date: August 31, 2004

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UMB Bank, National Association  
 1010 GRAND BOULEVARD  
 KANSAS CITY, MO 64106  
 FDIC Certificate Number: 8273  
 Web Address: <http://WWW.UMB.COM>

FFIEC 041  
 Consolidated Report of Condition  
 for December 31, 2003

The web address is as provided by the institution. Please contact the institution directly with any questions regarding the data or the web address.

*Skip Navigation*

*Information Page / Search / Report Options*

Consolidated Report of Condition for Insured Commercial and State—Chartered Savings Banks

All Schedules are to be reported in thousands of dollars. Unless otherwise indicated, report the amount outstanding as of the last business day of the quarter.

Schedule RC—Balance Sheet

Dollar Amounts in Thousands

ASSETS

1.	Cash and balances due from depository institutions (from Schedule RC-A)			
a.	Noninterest-bearing balances and currency and coin <sup>1</sup>	RCON	0081	<b>664,079</b>
b.	Interest-bearing balances <sup>2</sup>	RCON	0071	<b>1,734</b>
2.	Securities:			
a.	Held-to-maturity securities (from Schedule RC-B, column A)	RCON	1754	<b>251,352</b>
b.	Available-for-sale securities (from Schedule RC-B, column D)	RCON	1773	<b>2,716,638</b>
3.	Federal funds sold and securities purchased under agreements to resell			
a.	Federal funds sold	RCON	B987	<b>135,911</b>
b.	Securities purchased under agreements to resell <sup>3</sup>	RCON	B989	<b>264,737</b>
4.	Loans and lease financing receivables (from Schedule RC-C):			
a.	Loans and leases held for sale	RCON	5369	<b>7,146</b>
b.	Loans and leases, net of unearned income	RCON	B528	<b>2,227,096</b>
c.	LESS: Allowance for loan and lease losses	RCON	3123	<b>34,818</b>
d.	Loans and leases, net of unearned income and allowance (item 4.b minus 4.c)	RCON	B529	<b>2,192,278</b>
5.	Trading assets (from Schedule RC-D)	RCON	3545	<b>60,780</b>
6.	Premises and fixed assets (including capitalized leases)	RCON	2145	<b>189,124</b>
7.	Other real estate owned (from Schedule RC-M)	RCON	2150	<b>78</b>
8.	Investments in unconsolidated subsidiaries and associated companies (from Schedule RC-M)	RCON	2130	<b>0</b>
9.	Customers' liability to this bank on acceptances outstanding	RCON	2155	<b>2</b>
10.	Intangible assets:			
a.	Goodwill	RCON	3163	<b>32,586</b>
b.	Other intangible assets (from Schedule RC-M)	RCON	0426	<b>5,539</b>
11.	Other assets (from Schedule RC-F)	RCON	2160	<b>75,655</b>
12.	Total assets (sum of items 1 through 11)	RCON	2170	<b>6,597,639</b>
LIABILITIES				
13.	Deposits:			
a.	In domestic offices (sum of totals of columns A and C from Schedule RC-E)	RCON	2200	<b>4,888,344</b>
(1)	Noninterest-bearing <sup>4</sup>	RCON	6631	<b>1,289,688</b>
(2)	Interest-bearing	RCON	6636	<b>3,598,656</b>
b.	Not applicable			

14.	Federal funds purchased and securities sold under agreements to repurchase			
a.	Federal funds purchased <sup>5</sup>	RCON	B993	<b>0</b>
b.	Securities sold under agreements to repurchase <sup>6</sup>	RCON	B995	<b>1,077,215</b>
15.	Trading liabilities (from Schedule RC-D)	RCON	3548	<b>0</b>
16.	Other borrowed money (includes mortgage indebtedness and obligations under capitalized leases) (from Schedule RC-M)	RCON	3190	<b>73,703</b>
17.	Not applicable			
18.	Bank's liability on acceptances executed and outstanding	RCON	2920	<b>2</b>
19.	Subordinated notes and debentures <sup>7</sup>	RCON	3200	<b>0</b>
20.	Other liabilities (from Schedule RC-G)	RCON	2930	<b>30,790</b>
21.	Total liabilities (sum of items 13 through 20)	RCON	2948	<b>6,070,054</b>
22.	Minority interest in consolidated subsidiaries	RCON	3000	<b>0</b>
<b>EQUITY CAPITAL</b>				
23.	Perpetual preferred stock and related surplus	RCON	3838	<b>0</b>
24.	Common stock	RCON	3230	<b>20,000</b>
25.	Surplus (exclude all surplus related to preferred stock)	RCON	3839	<b>144,541</b>
26.	a. Retained earnings	RCON	3632	<b>360,287</b>
b.	Accumulated other comprehensive income <sup>8</sup>	RCON	B530	<b>2,757</b>
27.	Other equity capital components <sup>9</sup>	RCON	A130	<b>0</b>
28.	Total equity capital (sum of items 23 through 27)	RCON	3210	<b>527,585</b>
29.	Total liabilities, minority interest, and equity capital (sum of items 21, 22, and 28)	RCON	3300	<b>6,597,639</b>

Memorandum

To be reported with the March Report of Condition.

				<b>Number</b>
1.	Indicate in the box at the right the number of the statement below that best describes the most comprehensive level of auditing work performed for the bank by independent external auditors as of any date during 2002			RCON 6724 N/A
1 =	Independent audit of the bank conducted in accordance with generally accepted auditing standards by a certified public accounting firm which submits a report on the bank	4 =	Directors' examination of the bank conducted in accordance with generally accepted auditing standards by a certified public accounting firm (may be required by state chartering authority)	
2 =	Independent audit of the bank's parent holding company conducted in accordance with generally accepted auditing standards by a certified public accounting firm which submits a report on the consolidated holding company (but not on the bank separately)	5 =	Directors' examination of the bank performed by other external auditors (may be required by state chartering authority)	
3 =	Attestation on bank management's assertion on the effectiveness of the bank's internal control over financial reporting by a certified public accounting firm	6 =	Review of the bank's financial statements by external auditors	
		7 =	Compilation of the bank's financial statements by external auditors	
		8 =	Other audit procedures (excluding tax preparation work)	
		9 =	No external audit work	

- 1 Includes cash items in process of collection and unposted debits.
- 2 Includes time certificates of deposit not held for trading.
- 3 Includes all securities resale agreements, regardless of maturity.
- 4 Includes total demand deposits and noninterest-bearing time and savings deposits.
- 5 Report overnight Federal Home Loan Bank advances in Schedule RC, item 16, "Other borrowed money."
- 6 Includes all securities repurchase agreements, regardless of maturity.
- 7 Includes limited-life preferred stock and related surplus.
- 8 Includes net unrealized holding gains (losses) on available-for-sale securities, accumulated net gains (losses) on cash flow hedges, and minimum pension liability adjustments.
- 9 Includes treasury stock and unearned Employee Stock Ownership Plan shares.

## QuickLinks

[Exhibit 25.01](#)

[Item 1. General Information](#)

[Item 2. Affiliations with obligor. The Obligor is not affiliated with the Trustee.](#)

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[Item 5. Interlocking directorates and similar relationships with the obligor or underwriters.](#)

[Item 6. Voting securities of the trustee owned by the obligor or its officials.](#)

[Item 7. Voting securities of the trustee owned by underwriters or their officials.](#)

[Item 8. Securities of the obligor owned or held by the trustee.](#)

[Item 9. Securities of the underwriters owned or held by the trustee.](#)

[Item 10. Ownership or holdings by the trustee of voting securities of certain affiliates or security holders of the obligor.](#)

[Item 11. Ownership or holdings by the trustee of any securities of a person owning 50 percent or more of the voting securities of the obligor.](#)

[Item 12. Indebtedness of the Obligor to the Trustee.](#)

[Item 13. Defaults of the Obligor.](#)

[Item 14. Affiliations with the Underwriters.](#)

[Item 15. Foreign Trustee.](#)

[Item 16. List of Exhibits](#)

[SIGNATURE](#)