

tee, while any bonds of any series established prior to the execution of the supplemental indenture making such modification shall remain outstanding, and provided further that the supplemental indenture effecting such modification or relief shall be specifically referred to in the text of all bonds of any series established after the execution of such supplemental indenture; and provided, also, that the Trustee may in its uncontrolled discretion decline to enter into any such supplemental indenture which in its opinion may not afford adequate protection to the Trustee when the same shall become operative; and/or"

SECTION 8. Article 9 of the original indenture is hereby amended by the insertion therein, immediately following § 9.19 thereof, of a new § 9.191 reading as follows:

"§ 9.191. Any supplemental indenture entered into, subsequent to February 1, 1949, pursuant to any authorization contained in this Indenture, shall comply with the provisions of the Trust Indenture Act of 1939 as then in effect unless no bonds are then outstanding under the Indenture and all bonds to be issued under the Indenture as supplemented by such supplemental indenture shall either be themselves exempt from the provisions of such Act or are to be issued in a transaction exempt therefrom."

SECTION 9. The last paragraph of § 2.09 of Article 2 of the original indenture is hereby amended to read as follows:

"A certificate by the Trustee or by the trustee of a prior lien mortgage showing that any bonds previously authenticated hereunder or any refundable prior lien bonds secured by said prior lien mortgage, as the case may be, to be refunded have been previously cremated by the Trustee or by the trustee of said prior lien mortgage, as the case may be, shall be deemed equivalent to the actual surrender of the bonds so cremated for the purposes of any application under this § 2.09."

any such covenants and provisions may be modified with the consent, in writing or by vote at a bondholders' meeting, of the holders of sixty-six and two-thirds per cent. (66 $\frac{2}{3}$ %) of the principal amount of the bonds of the 1979 Series at the time outstanding and of the holders of sixty-six and two-thirds per cent. (66 $\frac{2}{3}$ %) of the principal amount of the bonds of the 2.65% Series at the time outstanding, and without the consent of any other bonds then outstanding under the Indenture. Such covenants shall be deemed to be additional covenants and none of them shall affect or derogate from, or relieve the Company from, its obligation to comply with any of the other covenants, conditions, requirements or provisions of the Indenture.

SECTION 2. For all purposes hereof, all terms contained in this supplemental indenture, including, without limitation, the terms "net amount", "additional property", "fixed property" and "value", shall, except as specifically provided herein or except as the context may otherwise require, have the meanings given to such terms in the original indenture, and the term "sinking fund" shall, unless the context otherwise requires, include the Replacement Fund provided for in Part Two of this supplemental indenture.

SECTION 3. If and to the extent that any provision of the Indenture limits, qualifies or conflicts with any other provision of the Indenture which is required to be included therein by any of Sections 310 to 317, inclusive, of the Trust Indenture Act of 1939, such required provision shall control.

SECTION 4. Except as otherwise specifically provided, whenever reference is made in this supplemental indenture to the Trust Indenture Act of 1939, reference is made to such Act in the form in which it was approved on August 3, 1939.

## PART SIX.

### MISCELLANEOUS.

SECTION 1. (a) For the purposes of § 2.10 of the Indenture and for the purposes of any modification of the provisions of Part Two of this supplemental indenture, the covenants and provisions on the part of the Company which are set forth in said Part shall be for the benefit only of the holders of the bonds of the 1979 Series. Such covenants and provisions shall remain in force and be applicable only so long as any bonds of the 1979 Series shall be outstanding, and, subject to the provisions of paragraph (2) of Subdivision (c) of § 10.01 of Article 10 of the Indenture, any such covenants and provisions may be modified with the consent, in writing or by vote at a bondholders' meeting, of the holders of sixty-six and two-thirds per cent. (66 $\frac{2}{3}$ %) of the principal amount of the bonds of the 1979 Series at the time outstanding and without the consent of the holders of any other bonds then outstanding under the Indenture. Such covenants shall be deemed to be additional covenants and none of them shall affect or derogate from, or relieve the Company from, its obligation to comply with any of the other covenants, conditions, requirements or provisions of the Indenture.

(b) For the purposes of § 2.10 of the Indenture and for the purposes of any modification of the provisions of Part Three of this supplemental indenture, the covenants and provisions on the part of the Company which are set forth in said Part shall be for the benefit only of the holders of the bonds of the 1979 Series and the holders of the bonds of the 2.65% Series. Such covenants and provisions shall remain in force and be applicable only so long as any bonds of the 1979 Series or of the 2.65% Series shall be outstanding, and, subject to the provisions of paragraph (2) of Subdivision (c) of § 10.01 of Article 10 of the Indenture,

SECTION 5. Whenever reference is made in this supplemental indenture to the Securities Act of 1933 or to the Securities Exchange Act of 1934, reference is made to such Acts, respectively, as heretofore amended; and whenever reference is made herein to the Securities and Exchange Commission reference is made to the Commission created by the Securities Exchange Act of 1934.

SECTION 6. Unless otherwise defined in this supplemental indenture or in the Indenture, all terms used herein shall have the meaning assigned to such terms in the Trust Indenture Act of 1939.

SECTION 7. In case any one or more of the provisions contained in this supplemental indenture should be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision contained in this supplemental indenture, and, to the extent, but only to the extent, that such provision is invalid, illegal or unenforceable, this supplemental indenture shall be construed as if such provision had never been contained herein.

SECTION 8. The Trustee hereby accepts the trusts herein declared and provided upon the terms and conditions in the Indenture set forth.

SECTION 9. This supplemental indenture may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

IN WITNESS WHEREOF, Duke Power Company, the party of the first part hereto, has caused this indenture to be signed in its name by its President or a Vice-President and its corporate seal to be hereunto affixed, and the same to be attested by its Secretary or an Assistant Secretary: and Guaranty Trust Company of New York, the party of the second part hereto, in token of its acceptance of the