



Roanoke Electric Cooperative

Your Touchstone Energy® Cooperative 

BYLAWS

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BYLAWS

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BYLAWS OF ROANOKE ELECTRIC MEMBERSHIP CORPORATION

1. MEMBERSHIP

1.1. **Eligibility.** Subject to these Bylaws, any natural person, firm, association, corporation, business trust, partnership, Federal agency, state or political subdivision thereof, body politic, or other entity (each hereinafter referred to as “person,” “applicant,” “him,” or “his”) with the capacity to enter legally binding contracts shall be eligible to become a Member-Owner of, and, at one or more premises owned or directly occupied or used by him (“Premises”), to receive electric energy from, Roanoke Electric Cooperative (hereinafter called the “Cooperative”) if the person consumes, receives, purchases, or otherwise uses (“Uses”), or requests or agrees to Use electric energy generated, transmitted, distributed, sold, supplied, furnished, or otherwise provided (“Provided”) by the Cooperative in the Cooperative’s designated service area. No person shall hold more than one membership in the Cooperative.

Except as otherwise provided in these Bylaws, a Person may not become or remain a Member-Owner of the Cooperative if the Person resides at, engages in a business at, owns, controls, or otherwise occupies (“Occupies”) a location served by a meter (“Location”), the Provision of electric energy to the Location which is the basis of membership, if that Location is or was:

- (a) Occupied by a second Person, other than a landlord, tenant, or similarly related Person, who:
 - (1) is a Member-Owner, other than a Joint Member-Owner; or
 - (2) owes the Cooperative for electric energy or any other product or service (“Cooperative Service”) Provided to or for the Location, if the first Person Occupied the Location when the Cooperative Provided the Cooperative Service; or
- (b) previously Occupied by an Entity owned or controlled by the Person, which Entity owes the Cooperative for a Cooperative Service Provided to or for the Location.

1.2. **Application.** To become or remain a Member-Owner, an applicant must complete and sign a written membership application provided by the Cooperative in which the applicant agrees to:

- (a) pay any applicable membership fee;
- (b) be or remain a Member-Owner;
- (c) comply with the Governing Documents. The “Governing Documents” are the written membership application signed by an applicant or Member-Owner and the following documents and actions, all as currently existing or as later adopted or amended:

- (1) the Cooperative's Articles of Incorporation ("Articles");
 - (2) these Bylaws;
 - (3) the Cooperative's Service Rules and Regulations;
 - (4) the Cooperative's rate or price schedules; and
 - (5) all rules, regulations, requirements, guidelines, procedures, policies, programs, determinations, resolutions, or actions taken, adopted, promulgated, or approved by the Board of Directors ("Board");
 - (6) all law regarding or affecting the Cooperative's property, property rights, and assets, the Cooperative's operation, the Cooperative's Member-Owners, the provision and use of services provided by the Cooperative ("Cooperative Services"), Cooperative-owned equipment ("Cooperative Equipment"), and Member-Owner-owned equipment ("Member-Owner Equipment") connected to Cooperative-owned equipment ("Cooperative Equipment"); and
 - (7) any other documents, policies, rules, regulations, or standards adopted by the Board and published to the Member;
- (d) ensure that Member-Owner Equipment connected to Cooperative Equipment, and any act or omission involving Member-Owner Equipment connected to Cooperative Equipment, complies with the Governing Documents;
 - (e) pay the Cooperative at prices, rates, or amounts determined by the Board, pursuant to the terms, conditions, time, and manner specified by the Cooperative, and regardless of the amount or time billed, for:
 - (1) Services Provided by the Cooperative ("Cooperative Services") and provided to the Applicant or Provided to or for a Location owned or Occupied by the Applicant;
 - (2) dues, assessments, fees, deposits, contributions, and other amounts required by the Governing Documents; and
 - (3) interest, late payment fees, and collection costs, including attorney and collection fees, related to amounts owed, but not timely paid, to the Cooperative; and
 - (f) voluntarily receive an annual subscription to *Carolina Country Magazine*, in which the Cooperative publishes important notices required by law.

1.3. **Renewal of Prior Application.** Any former Member-Owner of the Cooperative may, by the sole act of paying a new membership fee and any outstanding account plus accrued interest thereon at the North Carolina legal rate on judgments in effect when such account first became overdue, compounded

annually (together with any service security deposit, or contribution in aid of construction that may be required by the Cooperative), renew and reactivate any prior application for membership to the same effect as though the application had been newly made on the date of such payment.

1.4. **Membership Fee.** The membership fee shall be as fixed from time to time by the Board of Directors. The membership fee (together with any service security deposit, or service connection deposit or fee, facilities extension deposit, or contribution in aid of construction, or any combination thereof, if required by the Cooperative) shall be paid by the Member-Owner.

1.5. **Membership.**

1.5.1. Except as otherwise provided in these Bylaws or by the Board, a person becomes and consents to being a Member-Owner upon receiving electric energy supplied by the Cooperative to the Premises. To remain a Member-Owner, the Person must complete the Membership procedure.

1.5.2. If the Board determines a qualified Person is unable to complete the membership procedure or comply with the Governing Documents, then the Board may refuse, suspend, or terminate the Person's membership in the Cooperative. For other good cause determined solely in the discretion of the Board, the Board may refuse a qualified Person membership in the Cooperative.

1.5.3. Regardless of whether money damages are available or adequate, the Cooperative may:

- (a) bring and maintain a legal action to enjoin the Member-Owner from violating the Governing Documents; and
- (b) bring and maintain a legal action to order the Member-Owner to comply with the Governing Documents.

1.5.4. Except as otherwise provided in these Bylaws or by the Board in advance and in writing, a Cooperative membership, and a right or privilege associated with the Cooperative membership, may not be sold, purchased, assigned, disposed of, acquired, or otherwise transferred.

1.6. **Joint Membership.** Persons who qualify to be Member-Owners may hold a joint membership in the Cooperative ("Joint Membership"). A Joint Membership can only consist of two individuals occupying the same Location to which or for which the Cooperative Provides or will Provide a Cooperative Service, each of whom qualifies to be a Member-Owner and agrees to be a party to the Joint Membership. An individual can only be a party to one Joint Membership.

1.6.1. *Creating a Joint Membership.* To become joint Member-Owners of the Cooperative, qualified Persons must jointly complete the Membership Procedures. Qualified Persons become joint Member-Owners of the Cooperative ("Joint Members") and consent to being Joint Members in

the same manner as Member-Owners who are not Joint Members. As provided by the Board, a Member-Owner may convert the Member-Owner's individual membership to a Joint Membership with a qualified Person. While a Joint Member-Owner, a person otherwise qualified for membership may become or remain a separate, non-Joint Member-Owner by using a Cooperative Service at a Location different from the Joint Membership Location.

1.6.2. *Rights and Obligations of Joint Members.* Except as otherwise provided in these Bylaws, a Joint Member-Owners has and enjoys the rights, benefits, and privileges, and is subject to the obligations, requirements, and liabilities, of being a Member-Owner. Joint Member-Owners are jointly and severally liable for complying with the Governing Documents. As used in these Bylaws, and except as otherwise provided in these Bylaws, a membership includes a Joint Membership and a Member- Owner includes a Joint Member-Owner. For a Joint Membership:

- (a) notice of a meeting provided to one Joint Member-Owner constitutes notice to all Joint Member-Owners, and waiver of notice of a meeting signed by one Joint Member-Owner constitutes waiver of notice for all Joint Member-Owners;
- (b) the presence of one or more Joint Member-Owners at a meeting constitutes the presence of one Member-Owner at the meeting, and the presence of one Joint Member-Owner at a meeting waives notice of the meeting for all Joint Member-Owners;
- (c) the presence of one Joint Member-Owner at a meeting shall revoke a Member-Owner Proxy Appointment previously executed by the Joint Member-Owner;
- (d) if only one Joint Member-Owner votes on a matter; signs a petition, consent, waiver, or other document; or otherwise acts, then the vote, signature, or action binds the Joint Membership and constitutes one vote, signature, or action;
- (e) if more than one Joint Member-Owner votes on a matter; signs a petition, consent, waiver, or other document; or otherwise acts, then the first vote, signature, or action received by the Cooperative binds the Joint Membership;
- (f) the suspension or termination of a Joint Member-Owner constitutes the suspension or termination of all Joint Member-Owners; and
- (g) a Joint Member-Owner qualified to be a member of the Board may be a Director, regardless of whether another Joint Member- Owner is qualified to be a Director, but if more than one Joint

Member-Owner is qualified to be a Director, then only one Joint Member-Owner may be a Director.

- 1.6.3. *Absentee Landlord.* If premises are occupied by a tenant Member-Owner (“Tenant”), a Joint Membership cannot be comprised of the Tenant and his or her landlord (“Landlord”) if the Landlord does not occupy the same Location to which or for which the Cooperative Provides or will Provide a Cooperative Service to the Tenant.

1.7. Grant of Property Rights.

- 1.7.1. As required by the Cooperative for a Cooperative Purpose, a Member-Owner shall:

- (a) provide the Cooperative safe and reliable access to or use of Member-Owner Property; and
- (b) pursuant to terms and condition specified by the Cooperative, and without compensation from the Cooperative, grant or convey to the Cooperative a written or oral easement, right-of-way, license, or other right or interest in Member-Owner Property, and execute a document regarding this grant or conveyance.

- 1.7.2. If a Member-Owner fails to provide a grant of property rights required by this Section, the Cooperative may, in its sole discretion, revoke the membership. A “Cooperative Purpose” is at any time, and in any manner determined by the Cooperative:

- (a) purchasing, installing, constructing, inspecting, monitoring, operating, repairing, maintaining, removing, relocating, upgrading, or replacing Cooperative Equipment or Member- Owner Equipment connected to Cooperative Equipment;
- (b) through physical, chemical, or other means, clearing, trimming, removing, or managing any trees, bushes, brush, or other vegetation;
- (c) Providing a Cooperative Service to a Member-Owner or one or more other Member-Owners;
- (d) monitoring, measuring, or maintaining a Cooperative Service Provided to a Member-Owner or one or more other Member-Owners;
- (e) Providing electric energy to a Person or one or more other Persons;
- (f) monitoring, measuring, or maintaining electric energy Provided to a Person or one or more other Persons;

- (g) authorizing, permitting, satisfying, or facilitating an obligation incurred, or right granted, by the Cooperative regarding use of Cooperative Equipment; or
- (h) safely, reliably, and efficiently operating the Cooperative or Providing a Cooperative Service.

If reasonably needed for safety, reliability, efficiency, or similar reasons, a Cooperative Purpose includes clearing, trimming, removing, or managing any trees, bushes, brush, or other vegetation located outside an easement, right-of-way, license, or other right or interest in Member- Owner Property.

2. SERVICE

- 2.1. **Provision of Service.** A Member-Owner shall comply with any reasonable procedure required by the Cooperative regarding the provision of a Cooperative Service. Based upon different costs of providing a Cooperative Service to different groups of Member-Owners, the Cooperative may charge each group a different rate or price for providing the Cooperative Service.
- 2.2. **Indemnification.** A Member-Owner shall indemnify the Cooperative for, and hold the Cooperative harmless from, liabilities, damages, costs, or expenses, including reasonable attorney fees and legal expenses, incurred by the Cooperative, or by a Cooperative Director, Officer, employee, agent, or representative (“Cooperative Official”), and caused by the negligence, gross negligence, or willful misconduct of the Member-Owner or a non-Member- Owner Occupying the same Location as the Member-Owner, or by the unsafe or defective condition of a Location Occupied by the Member-Owner.

3. SUSPENSION AND TERMINATION

- 3.1. **Suspension; Reinstatement.** Upon a Member-Owner’s failure, after the expiration of the initial time limit prescribed either in a specific notice to him or in the Cooperative’s generally publicized applicable rules and regulations, to pay any amounts due the Cooperative or to cease any other non-compliance with his Governing Documents, a Membership shall automatically be suspended and the Member-Owner shall not during such suspension be entitled to receive electric service from the Cooperative or participate in any meeting of the Member-Owners. Payment of all amounts due the Cooperative, including any additional charges required for such reinstatement, and/or cessation of any other noncompliance with the Member-Owner’s membership obligations within the time limit provided in such notice or rules and regulations shall automatically reinstate the Membership, in which event the Member-Owner shall be entitled to continue receiving Cooperative Services and to participate in the meetings of its Member-Owners.

- 3.2. **Member-Owner Termination.** Except as otherwise provided in these Bylaws, a Member-Owner's membership may be terminated by the Cooperative without notice in the event of:
- (a) the failure of the Member-Owner to correct any situation giving rise to a suspension in the manner set forth in Section 3.1;
 - (b) the Cooperative learning of the Member-Owner's death, legal dissolution, or legal cessation of existence;
 - (c) the Member-Owner's submission of a termination request; or
 - (d) the Cooperative learning the Member-Owner has permanently ceased Using Cooperative Services.
- 3.2.1. *Partnerships.*
- 3.2.1.1 Except as otherwise provided by the Board, a partnership Member-Owner continuing to Use a Cooperative Service shall not be suspended or terminated upon the death of a partner or following any other alteration in the partnership.
- 3.2.1.2 A partner departing a partnership Member-Owner remains liable to the Cooperative for Cooperative Services Provided to or for the Member-Owner before, and amounts owed to the Cooperative by the Member-Owner at the time of, the partner's departure.
- 3.3. **Terminating a Joint Membership.** A Joint Member-Owner shall notify the Cooperative in writing of a failure to occupy the same Location to or for which the Cooperative provides or will provide a Cooperative Service. Upon determining or discovering the failure to Occupy the same Location to or for which the Cooperative provides or will provide a Cooperative Service:
- (a) if one Joint Member-Owner remains qualified to be a Member-Owner and continues to Use a Cooperative Service at the same Location, then the Joint Membership converts to a membership comprised of this Person ;(b) if no Joint Member-Owner remains qualified to be a Member-Owner and continues to Use a Cooperative Service at the same Location, then the Joint Membership terminates.
- 3.4. **Effect of Termination Generally.** Termination of a membership does not:
- (a) release the Member-Owner from debts, liabilities, or obligations owed to the Cooperative; or
 - (b) release the Cooperative from the obligation to retire and pay Capital Credits to the former Member-Owner or obligations to the former Member-Owner regarding the Cooperative's dissolution.

Upon a Member-Owner's termination from the Cooperative, and after deducting amounts owed to the Cooperative, the Cooperative must return to the Member-Owner any amount provided in the Governing Documents.

4. ANNUAL MEMBER-OWNER MEETINGS AND MEMBER-OWNER VOTING

4.1. **Annual Meeting.** An annual meeting of the Member-Owners shall be called for the purposes of electing Directors, hearing and passing upon reports covering the previous fiscal year, and transacting such other business as may properly come before the meeting.

4.2. **Annual Meeting Date and Location.** The annual Member-Owner meeting shall be held on the fourth Saturday in August, and the Board of Directors shall annually determine the time and place of the meeting. In its sole discretion, the Board of Directors may fix a different date for the annual Member-Owner meeting as soon as is practicable. It shall be the responsibility of the Board of Directors to make adequate plans and preparations for, and to encourage Member-Owner attendance at, the annual meeting. The Cooperative's failure to hold an annual Member-Owner meeting does not affect any action taken by the Cooperative or work a forfeiture or dissolution of the Cooperative.

4.3. Special Member-Owner Meetings.

4.3.1. *Calling a Special Meeting.* A special meeting of the Member-Owners may be called upon:

- (a) a written or oral request from the Board or Chairman;
- (b) one or more written requests signed by at least *four (4) Directors*; or
- (c) one or more written demands signed and dated within forty (40) days after the first signature by at least two (2) percent of the total number of Member-Owners currently receiving electric service ("Total Membership") and submitted to the Cooperative, with each page of each written demand requesting and describing the purpose of the meeting ("Member-Owner Demand").

4.3.2. *Date, Time, and Place.* The Board of Directors shall set the special meeting date, time, and location in one of the counties in which the Cooperative provides electric service, not sooner than forty (40) days after the call or request for such meeting is formally made or presented to the Cooperative.

4.4. Notice of Member-Owner Meetings.

4.4.1. *In General.* As directed by the Chairman, Secretary, or any other Officer or Member-Owner properly calling the Member-Owner Meeting, the Cooperative shall deliver written or electronic notice of a Member-Owner Meeting by any reasonable means, either with or without other

documents, to all Member-Owners entitled to vote at the meeting. The notice must indicate the date, time, and location of the meeting and must be delivered at least seven (7) days, but no more than twenty five (25) days, before the meeting.

4.4.2. *Notice Delivery Date.* If mailed, a notice of a Member-Owner Meeting is delivered when deposited in the United States mail with prepaid postage affixed and addressed to a Member-Owner at the Member-Owner's address shown on the Membership List. Except as otherwise provided in these Bylaws, an electronically transmitted notice of a Member-Owner Meeting is delivered when sent to a Member-Owner at the Member-Owner's electronic mail address shown in the Cooperative's records. The good faith, inadvertent, and unintended failure of a Member-Owner to receive notice of a Member-Owner Meeting does not affect an action taken at the Member-Owner Meeting.

4.4.3. *Notice in Special Circumstances.*

4.4.3.1 Any matter which requires the affirmative votes of at least a majority of the total Member-Owners of the Cooperative and which is to be acted upon at any meeting of the Member-Owners must be stated in the notice of the meeting.

4.4.3.2 For a Special Member-Owner Meeting, the notice must state the purpose for which the meeting was called and describe any matter to be considered or voted or acted upon at the meeting.

4.4.3.3 Except as otherwise provided in these Bylaws, the Cooperative shall notify Member-Owners of a Member-Owner Meeting adjourned to another date, time, or location unless:

(a) the meeting is adjourned to another date occurring within one hundred and twenty (120) days following the original Member-Owner Meeting date; and

(b) the new date, time, or location is announced at the Member-Owner Meeting prior to adjournment.

4.4.4. *Waiver of Meeting Notice.* A Member-Owner may waive notice of a Member-Owner meeting, or of a matter to be considered, voted, or acted upon at a Member-Owner meeting, by signing and delivering to the Cooperative a written or electronic waiver of notice either before the applicable Member-Owner meeting or within ten (10) calendar days following the Member-Owner meeting.

4.5. **Objections.** Unless a Member-Owner objects to the holding of a Member-Owner meeting, or to transacting business at a Member-Owner meeting, the Member-Owner's attendance in person or by proxy at the Member-Owner meeting waives the Member-Owner's objection to lack of notice, or to defective

notice, of the Member-Owner Meeting. Unless a Member-Owner objects to considering, voting, or acting upon a matter at a Member-Owner meeting, the Member-Owner's attendance in person or by proxy waives the Member-Owner's objection to considering, or voting or acting upon, the matter at the Member-Owner meeting.

- 4.6. **Quorum.** A quorum of Member-Owners is two percent (2%) of the Cooperative's Member-Owners ("Quorum").
- (a) If less than a Quorum is present, the Board or those Member-Owners present may amend this Bylaw to decrease the Quorum for the meeting at which such measure is considered.
 - (b) If less than a Quorum is present in person or represented by proxy at a Member-Owner meeting, then a majority of Member-Owners attending the meeting in person or represented by proxy may adjourn the meeting to a date no more than seventy (70) days following the original meeting.
 - (c) Upon a Member-Owner being present or represented by proxy for any purpose at a Member-Owner meeting, the Member-Owner is deemed present for Quorum purposes for the remainder of the meeting and for any adjourned meeting.

4.7. **Credentials and Elections Committee.**

4.7.1. *Appointment.* A Credentials and Elections ("C&E") Committee shall be appointed by the Board at least sixty (60) days before any meeting of the Member-Owners. The C&E Committee shall consist of an odd number of Member-Owners between five (5) and nine (9) persons. In appointing the C&E Committee, the Board shall have regard for the equitable representation of the Directorate Districts served by the Cooperative.

4.7.2. *Qualifications.* Each C&E Committee member shall be a Member-Owner in Good Standing (as that term is defined in the Service Rules and Regulations), must not be existing Cooperative employees, agents, officers, Directors or known candidates for Director, and who are not Close Relatives (as hereinafter defined) or members of the same household as any of the above.

4.7.3. *Duties.* Within a reasonable time before the Member-Owner meeting for which the C&E Committee was appointed, the C&E Committee shall:

- (a) elect a chairperson and secretary;
- (b) establish, or approve, the manner or method of Member-Owner registration and voting;
- (c) oversee or supervise Member-Owner registration and voting, and the tabulation of Member-Owner votes; and
- (d) consider and decide all questions, issues, or disputes regarding:

- (1) Member-Owner registration and voting, including the determination of Member-Owners present and the validity of proxies;
- (2) the tabulation or count of Member-Owner votes, including the determination of vote results;
- (3) Director nominations; and
- (4) whether a Director nominee or newly elected Director satisfies the Director Qualifications (collectively, "Member-Owner Meeting Issues").

4.7.4. *Manner of Acting.* The C&E Committee may meet, consider, or decide Member-Owner Meeting Issues, or otherwise act, only if a majority of the C&E Committee members are present. A C&E Committee decision or action requires a vote of at least a majority of the C&E Committee members voting. Except as otherwise provided in this Bylaw, C&E Committee decisions or actions during, or within a reasonable time before or after, a Member-Owner Meeting are final. At the Cooperative's expense, the Cooperative shall make available legal counsel to the C&E Committee. The Committee's decisions on all matters covered by this Section shall be final, and the failure of the Cooperative or the C&E Committee to act as required by this Bylaw shall not, by itself, affect a vote, election, or other action taken at a Member-Owner meeting.

4.8. **Member-Owner Voting.**

4.8.1. *In General.* A registered Member-Owner may cast one (1) vote on a matter for which the Member-Owner is entitled to vote.

4.8.2. *Registration.* If a Member-Owner presents proof of Cooperative membership as reasonably required by the Cooperative, and if the Member-Owner is not suspended, then, regardless of the value or quantity of Cooperative Services Used, the Member-Owner may register to vote at a Member-Owner meeting; provided, however, the Cooperative may reject documents presented if the Cooperative

- (a) acts in good faith, and
- (b) has a basis for doubting the validity of the registration materials or the authority of the individual presenting them.

4.8.3. *Entities.* Voting by Member-Owners other than Member-Owners who are natural persons shall be allowed upon the presentation to the Cooperative, upon registration at each Member-Owner meeting, of satisfactory evidence the person is authorized to vote for the entity. A person entitled to cast the vote of an entity, who is also a Member-Owner, may vote that person's own personal Membership as well as that of the entity represented.

4.8.4. *Proxies.* A Member-Owner entitled to vote may appoint the Member-Owner's spouse, an adult close relative residing in the same household as the Member-Owner, or another individual who is not a Director, Cooperative official, or Cooperative employee ("Member-Owner Proxy"), to vote on any matter, the carrying of which requires the affirmative votes of not less than a majority of the then-total Member-Owners of the Cooperative. The Cooperative must accept votes properly taken by a Member-Owner Proxy on behalf of a Member-Owner entitled to vote as the Member-Owner's vote. A Member-Owner Proxy may not act as such for more than one (1) Member-Owner.

(a) Spouse as Proxy. In the event a Member-Owner is absent from a Member-Owner meeting and his or her spouse attends a Member-Owner meeting at which a proxy may be exercised, the spouse shall automatically be deemed the Member-Owner Proxy of the absent Member-Owner.

(b) Member-Owner Proxy Appointment. To appoint a Member-Owner Proxy:

(1) the Member-Owner must sign and date a form prepared by the Cooperative:

(i) appointing the Member-Owner Proxy and, if the Member-Owner so desires, an alternate Member-Owner Proxy; and

(ii) specifying the Member-Owner meeting, or any adjournment thereof, at which the Member-Owner Proxy may vote for the Member-Owner ("Member-Owner Proxy Appointment"); and

(iii) except as otherwise provided in these Bylaws, the individual designated by the Cooperative ("Cooperative Proxy Manager") must receive the Member-Owner Proxy Appointment:

(a) prior to the close of registration if presented on the day of the Annual Member-Owner meeting or;

(b) if mailed, at the Cooperative's headquarters, during business hours, and at least three (3) calendar days before the date of the Member-Owner meeting at which the Member-Owner Proxy will vote.

(c) Duration of Proxy. A Member-Owner Proxy Appointment is not valid for more than three (3) calendar months.

(d) Priority of Proxies.

- (1) If a Member-Owner executes two or more proxies:
 - (i) the most recently dated proxy will invalidate all others;
 - (ii) if multiple proxies carry the same date and are held by different persons, neither will be valid.
- (2) If the Member-Owner appears at any meeting or any adjournment thereof, all proxies shall be invalid, and the Member-Owner may vote as though the proxies had never been executed.

4.8.5. *Manner of Acting.* At all meetings of the Member-Owners, all questions shall be decided by a majority of the Member-Owners voting thereon, except as otherwise provided by law or by the Cooperative's Certificate of Incorporation or these Bylaws. Member-Owners may not cumulate their votes, vote by mail or vote by proxy, except as otherwise provided by these Bylaws.

4.8.6. *Member-Owner Challenges.*

- (a) Member-Owner's Right to Comment or Challenge. A Member-Owner entitled to vote at a Member-Owner Meeting may comment upon an issue concerning a Member-Owner meeting, or challenge the C&E Committee's decision or action regarding a Member-Owner meeting issue, by filing a written description of the Member-Owner's comment or challenge ("Member-Owner Challenge") with the Cooperative within three (3) business days following the Member-Owner Meeting addressed by the Member-Owner Challenge.
- (b) Hearing. Within seven (7) days of the comment or challenge, the C&E Committee shall conduct a hearing to consider such evidence as is presented by the protestor(s) or objector(s), who may be heard in person, by counsel, or both, and any opposing evidence; and the C&E Committee, by a vote of a majority of those present and voting, shall consider, decide, and rule on the comment or challenge, if appropriate.
- (c) Decision on Matters in Dispute. No more than thirty (30) days following the hearing, the C&E Committee shall render its determination on matters appropriate for decision.

4.8.7. *Meeting Agenda.* Unless determined otherwise by the Board in advance of a Member-Owner meeting, the agenda at all Member-Owner meetings, shall be essentially as follows:

- (a) Quorum report;
- (b) reading of the notice of the meeting;
- (c) reading of unapproved minutes of previous meetings of the Member-Owners;
- (d) presentation of officer's reports;
- (e) election of Directors;
- (f) adjournment.

5. BOARD OF DIRECTORS

- 5.1. **Number and General Powers.** The business and affairs of the Cooperative shall be managed by a Board of nine (9) Directors, which shall exercise all the powers of the Cooperative except such as are by law or by the Cooperative's Certificate of Incorporation or Bylaws conferred upon or reserved to the Member-Owners.
- 5.2. **Districts.** The Board shall divide the general area in which the Cooperative provides electric energy ("Cooperative Service Area") into nine (9) Districts that equitably represent the Member-Owners ("Director Districts"), a map of which shall be made reasonably available to the Membership. In formulating the Districts, Directors should endeavor to provide an equitable geographic distribution of Directors throughout the Cooperative Service Area.

If a Member-Owner Uses a Cooperative Service at Locations in more than one District, the Member-Owner is only eligible to serve as a Director from the District in which the Member-Owner principally resides.

- 5.2.1. *District Revisions.* The Board may revise the Director Districts to ensure the Director Districts are equitably situated. Within thirty (30) days following a District revision, and at least thirty (30) days before the next Annual Member-Owner Meeting, the Cooperative must notify, in writing, Member-Owners affected by the District revision. District revisions are effective on the date the Cooperative releases proper notice of the Director District revision. A Director District revision may not: (a) increase an existing Director's Term; or (b) unless the affected Director consents in writing, shorten an existing Director's Director Term.

5.3. Director Qualifications.

- 5.3.1. *Generally.* To become and remain a Director, an individual must comply with all of the following Director Qualifications:
 - (a) be an individual;
 - (b) have the capacity to enter legally binding contracts;
 - (c) not have been convicted of a felony;
 - (d) possess a high school diploma or equivalent certification;

- (e) be a Member-Owner and receive the Cooperative's electric service at his or her primary residential abode for at least twelve (12) months;
- (f) fulfill all Membership Obligations for any and all accounts and, for the twelve (12) months preceding the date of his or her nomination:
 - (1) have no more than two delinquent payments to the Cooperative;
 - (2) have no involuntary disconnections; or
 - (3) have no more than two returned checks.
- (g) have no instance of Meter Tampering at any time;
- (h) not have been an employee of the Cooperative or its subsidiaries for at least ten (10) years preceding the date of his or her nomination;
- (i) not be a Close Relative of an incumbent Director or of an employee of the Cooperative or its subsidiaries; provided however, no incumbent Director shall lose eligibility to remain a Director or to be re-elected as a Director if that person becomes a Close Relative of another incumbent Director or of an employee of the Cooperative or its subsidiaries because of a marriage to which he or she was not a party;
- (i) not be employed by or substantially financially interested in an enterprise in competition with the Cooperative or its subsidiaries, a business selling electric energy or supplies to the Cooperative or its subsidiaries, or a business substantially engaged in selling electrical appliances, fixtures, or supplies primarily to Member-Owners of the Cooperative or its subsidiaries;
- (j) not have been removed by the Member-Owners pursuant to a Removal Petition; and
- (k) except as otherwise provided by the Board for good cause, receive and complete all Director certification levels offered by the National Rural Electric Cooperative Association within six (6) years of becoming a Director.

5.3.2. *Director Disqualification.*

5.3.2.1 After being *elected or appointed*, if a Director does not comply with all Director Qualifications, then the individual is no longer qualified to be a Director, the Board shall acknowledge such a fact, and the unqualified Director's replacement shall be named by the Board.

5.3.2.2 Prior to naming a potentially disqualified Director's replacement, the Board Chairman shall:

- (a) notify the Director in writing of the basis for the disqualification, together with evidence supporting disqualification;
- (b) provide the Director with an opportunity to comment on the allegations and present evidence regarding the disqualifying event in a regular or special meeting of the Board;
- (c) ensure the Board objectively weighs the evidence; and
- (d) direct a vote acknowledging or rejecting the disqualification event, which shall be carried by a majority vote of the remaining Directors then in office.

5.3.2.3 If a majority of Directors authorized by these Bylaws complies with the Director Qualifications and approves a Board action, then the failure of any other Director to comply with the Director Qualifications does not affect the Board action.

5.3.3. *Close Relative.* The term "Close Relative" means an individual who:

- (a) through blood, law, or marriage, is a spouse, child, stepchild, father, stepfather, mother, stepmother, brother, stepbrother, half-brother, sister, stepsister, half-sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law; or
- (b) resides in the same residence as the Member-Owner.

An individual qualified and elected, designated, or appointed to a position does not become a Close Relative while serving in the position because of a marriage or legal action to which the individual was not a party.

5.4. **Director Nominations.**

5.4.1. *Member-Owner Petition Nominations.* Any fifteen (15) or more Member-Owners may nominate, through a Nominating Petition, individuals to run for election for a Director position scheduled for election by Member-Owners at the Member-Owner meeting. Member-Owners make Nominating Petition nominations by delivering a written Nominating Petition to the Cooperative's business address by 5:00 p.m. at least forty (40) business days before the Member-Owner meeting at which elections are to be held.

5.4.1.1 Contents of Nominating Petition. To be valid, a Nominating Petition must:

- (a) list, on each page, the name of the nominee;
- (b) list, on each page, the District for which the nominee is being nominated; and
- (c) original printed names, service addresses, telephone numbers, and signatures of each Member-Owner signing the Nominating Petition in favor of the nominee.

Signatures of Directors, employees, or individuals who are Joint Members with Directors, employees, or the nominee will not be counted in determining the validity of a Nominating Petition.

- 5.4.2. *Verification of Petitions.* Between 30 and 40 days prior to the Annual Member-Owner Meeting at which Member-Owners are scheduled to elect Directors, the Credentials and Elections Committee shall meet to verify the Nominating Petitions submitted to the Cooperative.
- 5.4.3. *Posting of Nominations.* At least thirty (30) days before the Annual Member-Owner Meeting at which Member-Owners are scheduled to elect Directors, the Cooperative shall cause the display of all nominees at the Cooperative's principal office.
- 5.4.4. *Notice of Nominations.* At least seven (7) days prior to the Member-Owner meeting at which elections are to be held, a statement of the names, addresses, and Districts of residence, of all nominees showing clearly those nominated Nominating Petition, if any, will be mailed to each Member-Owner either physically or electronically.
- 5.4.5. *Validity of Action.* Notwithstanding the provisions contained in this Section, failure to comply with any of such provisions shall not affect in any manner whatsoever the validity of any action taken by the Board of Directors after the election of Directors.

5.5. Director Elections.

- 5.5.1. At each Member-Owner Meeting at which a Director position is scheduled for election, the Member-Owners must elect the Director by secret ballot from the slate of nominees nominated by any Nominating Petition(s) by a plurality of votes cast in person. Drawing by lot shall resolve any tie vote.
- 5.5.2. Member-Owners cannot vote for write-in candidates, nominations from the floor are not allowed, and cumulative or bloc voting is not allowed.
- 5.5.3. Unless otherwise determined by the Chairman, the number of votes received by each nominee will not be announced.
- 5.5.4. If only one individual is nominated to run for election for a Director position scheduled for election, the individual presiding at the Member-

Owner Meeting may announce that the nominated individual is elected by acclamation and no vote is needed.

5.6. **Director Terms.**

5.6.1. Except as otherwise provided in these Bylaws, a Director's term is six (6) years or until his or her successor is elected or appointed.

5.6.2. Every other year, Directors shall be nominated and elected according to the following rotating schedule; provided, however, no two Directors from the same Directorate District shall coincide:

(a) Year One: one Director from each Directorate District numbered 1, 5 and 9 shall be elected for a six (6) year term at an annual Member-Owner meeting;

(b) Year Two: No election;

(c) Year Three: one Director from each Directorate District numbered 2, 6 and 8 shall be elected for a six (6) year term at the next annual Member-Owner meeting;

(d) Year Four: No election;

(e) Year Five: one Director from each Directorate District numbered 3, 4 and 7 shall be elected for a six (6) year term at the next annual Member-Owner meeting, and so forth; and

(f) Year Six: No election;

5.6.3. Failure of an election for a given year shall allow the incumbents whose Directorships would have been voted on to hold over only until the next Member-Owner meeting at which a quorum is present.

5.7. **Director Resignation.** A Director may resign at any time by signing and delivering written notice of resignation to the Board, Chairman, or Secretary. Unless the written notice of resignation specifies a later effective date, a Director's resignation is effective upon the receipt of the same by the Board, its President or its Secretary. If a Director's resignation is effective at a later date, and if the successor Director does not take office until the effective date of the Director's resignation, the pending Director vacancy may be filled before the effective date of the Director's resignation.

5.8. **Director Vacancies.** Subject to the provisions of these Bylaws with respect to the filling of vacancies caused by the removal of a Director by the Member- Owners:

(a) a vacancy occurring on the Board shall be filled by an affirmative vote of a majority of the remaining Directors; and

- (b) a Director thus appointed shall serve out the unexpired term of the Director whose office was originally vacated and until his or her successor is elected and qualified.

A vacancy as used herein does not include a Director position vacated due to an expired Director Term.

5.9. **Director Removal by Member-Owners**

- 5.9.1. A Director may be removed by the Member-Owners for any grossly negligent, fraudulent, or criminal commission or omission significantly and adversely affecting the Cooperative. No Director may be removed for lawfully opposing or resisting any transfer of Cooperative assets or the dissolution of the Cooperative.
- 5.9.2. For each Director for whom removal is requested, the Member(s) seeking removal shall deliver to the Board Chairman or Secretary a dated, written petition ("Director Removal Petition"):
 - (a) identifying the Director on each page;
 - (b) explaining, on each page, the basis for the Director's removal and identifying the act underlying the removal request; and
 - (c) containing the printed names, printed addresses, and original dated signatures of at least two percent (2%) of the Cooperative's Membership obtained within a sixty-day period.
- 5.9.3. Within ten (10) business days following receipt of a Director Removal Petition, the Chairman or Secretary shall cause a copy of the Director Removal Petition to be sent to the implicated Director, and within thirty (30) days following receipt of the Director Removal Petition, the Board shall meet to review the Director Removal Petition.
- 5.9.4. If the Board determines the Director Removal Petition complies with this Bylaw, then the Cooperative shall notice and hold a Member-Owner meeting within sixty (60) days following the Board's determination. Notice of the Member-Owner meeting must contain the verbatim language of the charge against the Director, and state that:
 - (a) a purpose of the Member-Owner meeting is to consider the removal of a Director;
 - (b) evidence may be presented, and a Member-Owner vote will be taken, regarding the removal of the Director.

The removal of Multiple Directors can be the subject of a Member-Owner meeting; provided, however, a separate Director Removal Petition must be submitted for each Director.

5.9.5. If a Quorum is present at the Member-Owner meeting, the following process shall be followed for the Director named in each Director Removal Petition:

- (a) evidence must be presented supporting the basis for removing the Director;
- (b) the Director may be represented by legal counsel, and must have the opportunity to refute and present evidence opposing the basis for removing the Director;
- (c) Member-Owner discussion on the matter; and
- (d) the Member-Owners must vote, by secret ballot, whether to remove the Director.

5.9.6. If a majority of the Member-Owners in attendance vote to remove a Director, then that Director is removed effective the time and date of the Member-Owner vote. The Board will have the sole authority to fill the vacancy, and the successor Director shall serve the remainder of the removed Director's term. Neither a Director Removal Petition nor Director Removal will affect the legality of any Board action.

5.10. Director Compensation.

5.10.1. A Director is not an employee of the Cooperative. The Board may nonetheless reimburse or pay a Director a reasonable fixed fee and expenses for attendance at

- (a) a Board meeting;
- (b) a function, meeting, training, event, or activity involving or relating to the Cooperative; or
- (c) a function, meeting, training, event, or activity involving or reasonably enhancing the Director's ability to serve as a Director.

The Board must, in advance, set guidelines and rules regarding the manner, method, and amount of Director fees, expenses, and reimbursement.

5.10.2. After a Director ceases serving as a Director, the Board shall determine or approve, and may change or eliminate for any reason, the manner, method, and amount of any compensation or benefits provided to a former Director.

5.11. Rules, Regulations, Rate Schedules and Contracts. The Board of Directors shall have power to make, adopt, amend, abolish and promulgate such rules, regulations, rate classifications, rate schedules, contracts, security deposits and any other types of deposits, payments or charges, including contributions in aid of construction, not inconsistent with law or the Cooperative's Certificate of

Incorporation or Bylaws, as it may deem advisable for the management, administration and regulation of the business and affairs of the Cooperative.

- 5.12. **Accounting System and Reports.** The Board of Directors shall, after the close of each fiscal year, cause to be made a full, complete and independent audit of the Cooperative's accounts, books and records reflecting financial operations during, and financial condition as of the end of, such year. A summary of such audit reports must be submitted to the Member-Owners at or prior to the succeeding annual meeting of the Member-Owners.

6. **BOARD MEETINGS AND DIRECTOR VOTING**

6.1. **Regular Board Meetings.**

6.1.1. The Board shall meet each month at the date, time, and location determined by the Board in one of the counties in which the Cooperative provides electrical service ("Regular Board Meeting"). A Regular Board Meeting may be held without notice if the Board passes a resolution fixing the date, time, and place of the meeting, except when the business to be transacted requires special notice: provided, however,

- (a) any Director absent from any Board meeting at which the Regular Meeting schedule is altered is entitled to receive written notice of the change at least five (5) days prior to the next Regular Meeting; and
- (b) the Chairman may change the date, time, or place of a Regular Meeting for good cause and by providing written notice at least five (5) days before the changed Regular Meeting date.

6.1.2. Notwithstanding the above, a Regular Board Meeting will be held, without notice, immediately following the adjournment of the annual meeting of the Member-Owners, or as thereafter as convenience allows, at a place designated by the Board prior to the annual Member-Owner meeting.

- 6.2. **Special Board Meetings.** The Board, the Chairman, or any three (3) Directors may call a special meeting of the Board ("Special Board Meeting") by providing each Director at least five (5) days advance written or electronic notice, indicating the date, time, location, and purpose of the Special Board Meeting.

- 6.3. **Waiver of Meeting Notice.** Any Director may waive, in writing, any meeting notice required to be given by these Bylaws.

6.4. **Conduct of Board Meetings.**

6.4.1. *Telepresence.* Except as otherwise provided in these Bylaws, a Regular or Special Board Meeting may be conducted with absent Directors participating, and deemed present in person, through any means of

communication by which all Directors participating may simultaneously hear each other during the Board Meeting.

6.4.2. *Director Quorum and Voting.* A quorum of Directors is a majority of the Directors in office immediately before a Board Meeting begins (“Director Quorum”). If a Director Quorum is present when a matter is voted or acted upon, and unless the vote of a greater number of Directors is required, then the affirmative vote of a majority of Directors voting is the act of the Board.

6.5. **Committees.**

6.5.1. *Board Executive Committee.* Except as otherwise determined by the Board:

- (a) the Board executive committee is a Board Committee composed of the Chairman, Vice-Chairman, Secretary, Treasurer, Assistant Secretary, and Assistant Treasurer (“Board Executive Committee”); and
- (b) when impracticable or inconvenient for the Board to timely meet to consider a matter, and except as otherwise provided in these Bylaws, the Board Executive Committee may exercise Board authority regarding a matter; provided, however, it must report to the Board regarding its exercise of authority.

6.5.2. *Other Committees.* The Board may create committees of the Board (“Board Committees”), the Member-Owners (“Member-Owner Committees”), or a combination of the two (“Combination Committees”). A Member-Owner Committee or a Combination Committee can never exercise Board authority.

7. **OFFICERS.**

7.1. **Number and Title.** The Cooperative must have the following Board officers, each of whom shall be a Director: Chairman, Vice-Chairman, Secretary, and Treasurer. The Board shall have the authority to name other officer positions. With the exception of the Chairman and Vice-Chairman, a single Director may hold more than one officer position, but no individual can execute, acknowledge, or verify a document in more than one capacity.

7.2. **Election and Term.** The Board shall elect officers:

- (a) as soon after each Annual Member-Owner Meeting as reasonably possible and convenient, or at the first Regular Board Meeting following each Annual Member-Owner Meeting;
- (b) by affirmative vote of a majority of Directors in office; and
- (c) by secret written ballot without prior nomination.

- 7.3. **Officer Resignation, Removal and Vacancies.** An officer may resign his or her post in the manner provided for the resignation of a Director. The Board may remove an Officer elected or appointed by the Board at any time and for any reason. Subject to resignation or removal by the Board, a Director holds office until his or her successor is elected. The Board shall fill a vacant officer's position for the unexpired portion of the term.
- 7.4. **Chairman.** Except as otherwise provided by the Board or these Bylaws, the Chairman shall:
- (a) preside, or designate another individual to preside, at all Board and Member-Owner Meetings;
 - (b) on the Cooperative's behalf, may sign a document properly authorized or approved by the Board or Member-Owners; and
 - (c) shall perform all other duties, shall have all other responsibilities and may exercise all other authority prescribed by the Board.
- 7.5. **Vice-Chairman.** In the absence of the Chairman, or in the event of his or her inability or refusal to act, the Vice-Chairman shall
- (a) perform the duties of the Chairman,
 - (b) have the powers of the Chairman, and
 - (c) perform such other duties as from time to time may be assigned by the Board.
- 7.6. **Secretary.** Except as otherwise provided by the Board or these Bylaws, the Secretary shall:
- (a) keep, or cause to be kept, the minutes of meetings of the Member- Owners and of the Board of Directors in one or more books provided for that purpose;
 - (b) ensure that all notices are duly given in accordance with these Bylaws or as required by law;
 - (c) be responsible for maintaining and authenticating the Cooperative's records and documents;
 - (d) keep, or cause to be kept on file at all times, a complete copy of the Cooperative's Certificate of Incorporation and Bylaws, together with all amendments thereto, which copies shall always be open to the inspection of any Member-Owner, and, at the expense of the Cooperative, furnish a copy of such documents and of all amendments thereto upon request to any Member-Owner; and
 - (e) in general, perform all duties incident to the office of the Secretary and other such duties as from time to time may be assigned by the Board.

- 7.7. **Assistant Secretary.** In the absence of the Secretary, or in the event of his or her inability or refusal to act, the Assistant Secretary shall:
- (a) perform the duties of the Secretary,
 - (b) have the powers of the Secretary, and
 - (c) perform such other duties as from time to time may be assigned by the Board.
- 7.8. **Treasurer.** Except as otherwise provided by the Board or these Bylaws, the Treasurer shall perform all duties, shall have all responsibility, and may exercise all authority, prescribed by the Board. The Treasurer will report on the financial condition of the Cooperative at the Annual Member-Owner Meeting.
- 7.9. **Assistant Treasurer.** In the absence of the Treasurer, or in the event of his or her inability or refusal to act, the Assistant Treasurer shall:
- (a) perform the duties of the Treasurer,
 - (b) have the powers of the Treasurer, and
 - (c) perform such other duties as from time to time may be assigned by the Board.
- 7.10. **Officer Compensation.** The Cooperative may reasonably compensate, reimburse, or pay a salary to an Officer for his or her service as such.
- 7.11. **Bonds.** The Cooperative may purchase a bond covering a Cooperative official at the expense of the Cooperative.
- 7.12. **President and Chief Executive Officer.** The Board of Directors may appoint a President and Chief Executive officer, who may be but who shall not be required to be, a Member-Owner of the Cooperative. He or she shall perform such duties as the Board of Directors may from time to time require and shall have such authority as the Board of Directors may from time to time vest in him.
8. **INDEMNIFICATION OF DIRECTORS, OFFICERS AND EMPLOYEES.**
- 8.1. **Indemnification.** As determined by the Board:
- 8.1.1. *Indemnification Director or Officer.* The Cooperative shall indemnify:
- (a) an individual who is or was a Director or Officer;
 - (b) an individual who is or was serving at the Cooperative's request as a director, officer, partner, trustee, employee, or agent working for another Entity; or
 - (c) the estate or personal representative of such an individual
- (collectively, "Indemnification Director or Officer") who was successful, on the merits or otherwise, in defending a threatened, pending, or completed action, suit, or proceeding whether civil, criminal,

administrative, or investigative, and whether formal or informal (“Indemnification Proceeding”) to which the Indemnification Director or Officer was, is, or is threatened to be made a named defendant or respondent (“Indemnification Party”) because the Indemnification Officer is or was a Director, Officer, or employee.

This indemnification is against reasonable expenses, including attorney fees and costs (“Indemnification Expenses”), actually incurred by the Indemnification Person in connection with the Indemnification Proceeding.

8.1.2. *Indemnification Individual.* As determined by the Board: the Cooperative may indemnify an individual who is or was a Cooperative Official (“Indemnification Individual”) and was made, because the Indemnification Individual is or was a Cooperative Official, an Indemnification Party to any Indemnification Proceeding.

8.1.2.1 No Indemnification. Notwithstanding anything to the contrary, the Cooperative will not indemnify an Indemnification Individual for an Indemnification Proceeding:

- (a) by or in the right of the Cooperative in which the Indemnification Individual was adjudged liable to the Cooperative; or
- (b) charging, and in which the Indemnification Individual was adjudged liable for receiving, improper personal benefit, whether or not involving action in the Indemnification Individual’s official capacity.

8.1.2.2 Indemnification Scope. Indemnification under this Section is against: reasonable Indemnification Expenses incurred in connection with an Indemnification Proceeding by or in the right of the Cooperative; or against the obligation to pay a judgment, settlement, penalty, fine, or reasonable expense, including attorney fees, actually incurred in connection with any other Indemnification Proceeding, if the Indemnification Individual:

- (a) acted in good faith;
- (b) reasonably believed:
 - (1) for conduct as a Cooperative Official, that the Indemnification Individual’s conduct was in the Cooperative’s best interest; and
 - (2) for all other conduct, that the Indemnification Individual’s conduct was not opposed to the Cooperative’s best interests; and

- (c) in the case of any criminal Indemnification Proceeding, had no reasonable cause to believe the Indemnification Individual's conduct was unlawful (collectively, "Indemnification Standard of Conduct")

8.1.2.3 Voting. To provide indemnification, a majority vote of the Director Quorum, excluding Directors who are currently Indemnification Parties to the Indemnification Proceeding ("Indemnification Director Quorum"), must determine:

- (a) that the Indemnification Individual met the Indemnification Standard of Conduct; and
- (b) reasonable Indemnification Expenses.

8.1.3. *Advance for Expenses.* Before the final disposition of an Indemnification Proceeding, the Cooperative may pay for, or reimburse, the reasonable Indemnification Expenses incurred by an individual who is an Indemnification Party to the Indemnification Proceeding ("Indemnification Advance") if:

- (a) the Indemnification Director, Officer, or Individual provides the Cooperative with a written:
 - (1) affirmation of the Indemnification Director, Officer, or Individual's good faith belief that the Indemnification Director, Officer, or Individual has met the Indemnification Standard of Conduct; and
 - (2) unlimited general obligation of the Indemnification Director, Officer, or Individual, which need not be secured, may be accepted without reference to financial ability to repay, may be executed personally or on the Indemnification Director, Officer, or Individual's behalf, and obligates the Indemnification Director, Officer, or Individual to repay the Indemnification Advance if a majority of the Indemnification Director Quorum ultimately determines that the Indemnification Director, Officer, or Individual did not meet the Indemnification Standard of Conduct; and
- (b) a majority of the Indemnification Director Quorum determines the facts then known to them would not preclude indemnification for the Indemnification Director, Officer, or Individual under this Bylaw.

9. OPERATION AS A COOPERATIVE

9.1. **Definitions.** For purposes of this Section 9, the following definitions shall apply:

- 9.1.1. "Capital Credits" are the amounts allocated to a Patron and contributed by the Patron to the Cooperative as capital.
- 9.1.2. "Non-operating earnings" refers to the amount by which the Cooperative's non-operating revenues during a fiscal year exceed the Cooperative's non-operating expenses during the fiscal year, less any amount needed to offset an operating loss.
- 9.1.3. "Non-operating loss" is the amount by which the Cooperative's non-operating expenses during a fiscal year exceed the Cooperative's non-operating revenues during the fiscal year.
- 9.1.4. "Operating Earnings" refers to the amount by which the Cooperative's operating revenues from Providing a Cooperative Service exceed the Cooperative's operating expenses of Providing the Cooperative Service.
- 9.1.5. "Operating loss" means the amount by which the Cooperative's operating expenses of Providing a Cooperative Service during a fiscal year exceed the Cooperative's operating revenues from Providing the Cooperative Service during the fiscal year.
- 9.1.6. "Patron" means, during any given fiscal year: (1) a Member-Owner; and (2) any other Person Using a Cooperative Service to whom the Cooperative is obligated to allocate Capital Credits.
- 9.1.7. "Reasonable Reserves" are amounts exceeding those needed to meet current losses and expenses and which are retained to cover future losses and expenses.
- 9.2. **Nonprofit and Cooperative Operation.** The Cooperative: shall operate on a nonprofit and cooperative basis for the mutual benefit of all Member-Owners.
- 9.3. **Interest or Dividends on Capital Prohibited.** No interest or dividends will be paid on capital furnished by Member-Owners.
- 9.4. **Allocating Capital Credits.** The Cooperative shall allocate Capital Credits as provided in this Bylaw. The Cooperative must allocate Capital Credits in a Patron's name as shown in the Cooperative's records.
 - 9.4.1. *Allocating Earnings.*
 - (a) Operating Earnings. For each Cooperative Service Provided during a fiscal year, the Cooperative shall equitably allocate to each Patron, in proportion to the quantity or value of the Cooperative Service Used and paid for by the Patron during the fiscal year, the Cooperative's operating earnings from Providing the Cooperative Service during the fiscal year.
 - (b) Non-operating Earnings. For each fiscal year, the Cooperative will, as determined by the Board, use, retain, or equitably allocate the Cooperative's non-operating earnings.

9.4.2. *Allocating Losses.* For each Cooperative Service Provided during a fiscal year, the Cooperative shall:

- (a) equitably allocate to each Patron, in proportion to the quantity or value of the Cooperative Service Used by the Patron during the fiscal year, the Cooperative's operating loss from Providing the Cooperative Service during the fiscal year; or
- (b) offset the Cooperative's operating loss from Providing the Cooperative Service during the fiscal year:
 - (1) against the Cooperative's operating earnings from providing the Cooperative Service during the most recent past fiscal year(s) or the next succeeding future fiscal year(s); or
 - (2) first against the Cooperative's non-operating earnings during the current fiscal year, second against the Cooperative's unallocated non-operating earnings during any past fiscal year(s), and third against the Cooperative's non-operating earnings during any future fiscal year(s).

For each fiscal year, the Cooperative shall:

- (a) allocate to each Patron, in proportion to the quantity or value of Cooperative Services Used by the Patron during the fiscal year, the Cooperative's non-operating loss; or
- (b) offset the Cooperative's non-operating loss against the Cooperative's non-operating earnings during any fiscal year(s).

9.4.3. *Capital Credits.* For each amount allocated to a Patron, the Patron shall contribute a corresponding amount to the Cooperative as capital. The Cooperative must credit all capital contributions from a Patron to a capital account for the Patron. The Cooperative shall maintain books and records reflecting the capital contributed by each Patron. At the time of receipt by the Cooperative, each capital contribution is treated as though the Cooperative paid the amount allocated to the Patron in cash pursuant to a pre-existing legal obligation and the Patron contributed the corresponding amount to the Cooperative as capital.

9.4.4. *Board Retains Discretion.* Consistent with this Bylaw, the allocation of Capital Credits is in the discretion of the Board, and the Board must determine the manner, method, and timing of allocating Capital Credits. The Cooperative may use or invest unretired Capital Credits as determined by the Board.

9.4.5. *Security Interest in Capital Credits.* To secure a Patron's obligation to pay amounts owed to the Cooperative, including any compounded interest and late payment fee, and in return for the Cooperative providing a

Cooperative Service to the Patron, the Cooperative has a security interest in Capital Credits allocated to the Patron. The Patron authorizes the Cooperative to perfect this security interest by filing a financing statement.

9.4.6. *Different and Separate Allocations.* The Cooperative may allocate Capital Credits to classes of similarly situated Patrons under different manners, methods, and timing, provided the Cooperative allocates Capital Credits to similarly situated Patrons under the same manner, method, and timing. If the Cooperative is a member, patron, or owner of an Entity from which the Cooperative Uses a good or service in Providing a Cooperative Service and from which the Cooperative is allocated a capital credit or similar amount, then, as determined by the Board and consistent with this Bylaw, the Cooperative may separately identify and allocate to the Cooperative's Patrons this capital credit or similar amount allocated by the Entity.

9.4.7. *Joint Memberships.* Upon receiving written notice and sufficient proof of the termination, conversion, or alteration of a Joint Membership, the Cooperative shall assign and transfer to the remaining Joint Member-Owner an equal portion of Capital Credits allocated, or to be allocated, to the Joint Membership.

9.5. **Notification and Disbursement of Capital Credits.** Within a reasonable time after the end of each fiscal year, the Cooperative will notify each Patron of the amount of Capital Credits allocated for the preceding fiscal year.

9.6. **Retiring Capital Credits.** The Cooperative may retire and pay Capital Credits allocated to Patrons and former Patrons as provided in this Bylaw. If the Cooperative retires and pays Capital Credits, then the Cooperative must retire and pay Capital Credits in a Patron's name as shown in the Cooperative's records. If the Cooperative mails a retired Capital Credit payment, then the Cooperative shall mail the payment to the Patron or former Patron's address as shown in the Cooperative's records.

9.6.1. *General Capital Credit Retirements.* At any time before the Cooperative's dissolution, liquidation, or other cessation of existence, the Cooperative may generally retire and pay some or all Capital Credits allocated to Patrons and former Patrons.

9.6.2. *Special Retirements upon the Death of a Patron.* The Cooperative may specially retire and pay some or all Capital Credits allocated to an individual Patron or former Patron:

- (a) after the death of the individual;
- (b) after receiving a written request from the deceased individual's legal representative; and

- (c) according to the terms and conditions agreed upon by the Cooperative and the deceased individual's legal representative.
- 9.6.3. *Special Retirements to Entities.* The Cooperative may not specially retire Capital Credits allocated to an Entity Patron or former Entity Patron.
- 9.6.4. *Capital Credit Recoupment and Offset.* Regardless of a statute of limitation or other time limitation, after retiring Capital Credits allocated to a Patron or former Patron, the Cooperative may recoup, offset, or setoff an amount owed to the Cooperative by the Patron or former Patron, including any compounded interest and late payment fee, by reducing the net present value of retired Capital Credits paid to the Patron or former Patron by the amount owed to the Cooperative.
- 9.6.5. *Capital Credit Retirement Discretion.* The Cooperative may retire and pay Capital Credits only if the Board determines the retirement and payment will not adversely impact the Cooperative's financial condition. Consistent with this Bylaw, the retirement and payment of Capital Credits are in the sole discretion of the Board and are not affected by previous retirements and payments. The manner, method, and timing of retiring and paying Capital Credits may be determined only by the Board.
- 9.6.6. *Different and Separate Capital Credit Retirements.* As reasonable and fair, the Cooperative may retire and pay Capital Credits to classes of similarly situated Patrons and former Patrons under different manners, methods, and timing, provided the Cooperative treats similarly situated Patrons alike.
- 9.6.7. *Payment of Cooperative Capital Credits.* If the Cooperative separately identified and allocated Capital Credits representing capital credits or similar amounts allocated to the Cooperative by an Entity in which the Cooperative is or was a Member-Owner, patron, or owner, then the Cooperative may retire and pay these Capital Credits only after the Entity retires and pays the capital credits or similar amounts to the Cooperative.
- 9.6.8. *Unclaimed Capital Credits.* The Cooperative may regularly impose a reasonable dormancy or service charge for each month a Patron or former Patron fails to claim allocated Capital Credits that have been retired and authorized to be paid by the Board.
- 9.6.9. *Patron Agreement and Understanding.* Each Patron and former Patron agrees that:
- (a) Capital Credits are not securities under the law;
 - (b) a Patron's right to Capital Credits vests, accrues, becomes redeemable, and becomes payable only upon the Cooperative retiring the Capital Credits as provided in these Bylaws, and not upon the Cooperative allocating the Capital Credits; and

- (c) a Patron is wholly responsible for any and all taxes or assessments imposed on his, her, or its retired Capital Credits.

9.7. **Reasonable Reserves.** Regardless of a contrary Bylaw, and to meet the Cooperative's reasonable needs, the Cooperative may accumulate and retain Reasonable Reserves. The Cooperative must keep records necessary to determine, at any time, each Patron's rights and interest in Reasonable Reserves.

10. **DISPOSITION OF COOPERATIVE ASSETS**

10.1. **Other Agreements.** Any transfer of Cooperative Assets is subject to restrictions contained in any mortgage or other agreement securing indebtedness.

10.2. **Transfer of Cooperative Assets.** Except for a sale, lease, exchange, disposition, conversion, or other transfer ("Transfer") of Cooperative Assets (other than merchandise and property which lie within the limits of an incorporated city or town, or which shall represent not in excess of ten (10%) percent of the total value of the Cooperative's assets, or which in the judgment of the Board of Directors are not necessary or useful in operating the Cooperative):

- (a) to secure indebtedness;
- (b) pursuant to condemnation;
- (c) pursuant to an existing legal obligation;
- (d) associated with a Consolidation or Merger;
- (e) consisting of the Cooperative's ownership in an Entity;
- (f) to an Entity operating on a cooperative basis and Providing electric energy; or
- (g) to a Cooperative Subsidiary.

The Cooperative may Transfer, during a twelve month period, more than ten (10) percent of the Cooperative's Assets only if:

- (a) At the expense of the Person seeking to purchase, lease, or acquire the Cooperative's Assets, the Board appoints three (3) independent appraisers, each of whom, within a reasonable time of appointment, evaluates and renders an appraisal valuing the Cooperative's Assets specified in the proposed Transfer ("Appraisal");
- (b) The Person seeking to purchase, lease, or acquire the Cooperative's Assets provides to the Cooperative any information requested by the Cooperative deemed necessary to conduct a due diligence investigation;
- (c) Within thirty (30) days] of receiving the Appraisals, the Cooperative invites all other Entities operating on a cooperative basis, Providing electric energy, and located primarily within the same state as, the state in which the Cooperative is primarily located, to submit, within thirty (30) days of the date of the request for proposals, proposals to purchase, lease, or acquire

the Cooperative's Assets specified in the proposed Transfer, or to Merge or Consolidate with the Cooperative;

- (d) The Board determines the proposal should be submitted to the Member-Owners and provides upon not less than ninety (90) days' advance notice to the Membership, notice of a special meeting of the Member-Owners or notifies the Membership of the upcoming vote on the matter at next Annual Member-Owner Meeting, specifying the purpose of the vote and detailing each proposal submitted;
- (e) Two-thirds (2/3) of the Total Membership approves the proposed transaction;
- (f) Any fifty (50) or more Member-Owners, by so petitioning the Board not less than thirty (30) days prior to the date of such special or annual meeting, may cause the Cooperative, with the cost to be borne by the Cooperative, to mail to all Member- Owners opposing or alternative positions Member-Owners may have to the proposals or any recommendations the Board has made;
- (g) Except for a Transfer to an Entity operating on a cooperative basis and Providing electric energy, all allocated Capital Credits must be retired and paid at full and nondiscounted value; and
- (h) Any consideration received for the Cooperative's Assets that exceeds the amount paid for the Cooperative Assets shall be allocated to Member-Owners as Capital Credits; provided, however, that, if in the judgment of the Board the amount of such surplus is too small to justify the expense of making such allocations and distributing disbursements to the Cooperative's Member-Owners, the Board may, in lieu thereof, donate, or provide for the donation of, such surplus to one or more nonprofit charitable or educational organizations that are exempt from Federal income taxation.

After the Member-Owners approve a Transfer, the Board may abandon the Transfer if in its best judgment, the Transfer would not be in the best interests of the Cooperative or the Membership. As used in this Bylaw, a Transfer includes the conversion of the Cooperative to another form of business.

- 10.3. *Securing Indebtedness.* To secure indebtedness, the Board may Transfer, mortgage, pledge, dedicate to repayment, or encumber any Cooperative Asset.

- 10.4. **Merger or Consolidation.** The Cooperative may consolidate or merge only with an Entity operating on a cooperative basis that Provides electric energy (“Consolidate or Merge”). To Consolidate or Merge, the Cooperative must comply with the requirements of Chapter 117 of the North Carolina General Statutes; provided, however, the proposition for the Consolidation or Merger must first be approved by the Board before it is presented to the Member- Owners for a vote.
- 10.4.1. Notice.* The Cooperative shall notify Directors of a Board Meeting, and Member-Owners of a Member-Owner Meeting, at which Directors or Member-Owners may consider a Consolidation or Merger Agreement. The notice must contain, or be accompanied by, a summary or copy of the proposition for the Consolidation or Merger and any provision which would require Director or Member-Owner approval if contained in a proposed Articles or Bylaws Amendment.
- 10.5. **Distribution of Cooperative Assets upon Dissolution.** Upon the Cooperative’s dissolution:
- (a) the Cooperative shall pay, satisfy, or discharge all Cooperative debts, obligations, and liabilities;
 - (b) the Cooperative shall retire and pay all Capital Credits allocated to Patrons and former Patrons; and
 - (c) after paying, satisfying, or discharging all Cooperative debts, obligations, and liabilities, and after retiring and paying all Capital Credits, and to the extent practical:
 - (1) the Cooperative shall first distribute gains from selling an appreciated Cooperative Asset to Member-Owners and former Member-Owners who Used Cooperative Services during the period in which the Cooperative owned the Cooperative Asset in proportion to the value or quantity of Cooperative Services Used by the Member-Owner or former Member-Owner during the period the Cooperative owned the Cooperative Asset;
 - (2) the Cooperative shall then distribute non-operating earnings used by the Cooperative as permanent, unallocated equity to Member-Owners who Used Cooperative Services during the period in which the Cooperative received the earnings in proportion to the value or quantity of Cooperative Services Used by the Member- Owner during the period the Cooperative received the earnings; and
 - (3) the Cooperative shall then pay or distribute any remaining Cooperative Assets, and any amounts received from selling any remaining Cooperative Assets, to the Member-Owners in

proportion to the value or quantity of Cooperative Services Used during the seven (7) years before the Cooperative's dissolution; or, if the amount of the distribution is too small to justify the expense of distribution, a nonprofit charitable or educational Entity or organization exempt from federal income taxation.

11. MISCELLANEOUS PROVISIONS

11.1. Electronic Documents and Actions.

11.1.1. Definitions Applicable to Section 11.1.

- (a) "Electronic" and "Electronically" mean relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;
- (b) To "sign" an Electronic Document means, with present intent to authenticate or adopt the Electronic Document, to attach to, or logically associate with, the Electronic Document an Electronic sound, symbol, or process; and
- (c) "Electronic transmission" includes transmission through:
 - (1) Electronic mail;
 - (2) the Cooperative's website; or
 - (3) a website or information processing system that the Cooperative has designated or uses to send, receive, or transmit Electronic Documents or Electronic information, or to Electronically conduct an action, transaction, business, or activity.

11.1.2. If a Member-Owner owns, controls, or has reasonable access to the applicable or necessary hardware and software, then, regardless of a contrary Bylaw, as determined by the Board, and as allowed by Law:

- (a) the Member-Owner consents and agrees to:
 - (1) use, accept, send, receive, and transmit an Electronic signature, contract, record, notice, communication, comment, and other document regarding an action, transaction, business, meeting, or activity with, for, or involving the Cooperative ("Electronic Document");
 - (2) Electronically conduct an action, transaction, business, or activity with, for, or involving the Cooperative; and
 - (3) Electronically give or confirm this consent and agreement;
- (b) an Electronic Document sent or transmitted to, or received or transmitted from, the Member-Owner or Director satisfies a requirement imposed by the Governing Documents that the

underlying signature, contract, record, notice, vote, communication, comment, or other document be in writing;

- (c) Electronically sending or transmitting an Electronic Document to, or receiving or transmitting an Electronic Document from, the Member-Owner or Director satisfies a requirement imposed by the Governing Documents that the underlying signature, contract, record, notice, vote, communication, comment, or other document be sent or received personally or by mail; and
- (d) the Member-Owner Electronically taking an action provided in these Bylaws satisfies a requirement imposed by the Governing Documents regarding the form or manner of taking the action.

An Electronic Document Electronically sent or transmitted to a Member-Owner or former Member-Owner at the Member-Owner or former Member-Owner's last known Electronic address is considered sent, received, transmitted, and effective on the date sent by the Cooperative. An Electronic Document Electronically received or transmitted from a Member-Owner or former Member-Owner is considered sent, received, transmitted, and effective on the date received by the Cooperative.

- 11.2. **Bylaw Amendments.** These Bylaws may be altered, amended, or repealed by the affirmative vote of not less than a majority of the total Directors in office, or by a majority of the votes cast by the Member-Owners represented, at any regular or special Board or Member-Owner meeting, as the case may be, but only if the notice of such meeting contains a copy of the proposed action. A proposed alteration, amendment, or repeal of a Bylaw can only be initiated by a Director.
- 11.3. **Rules of Order.** Parliamentary procedure at all meetings of the Member- Owners, of the Board of Directors, of any committee provided for in these Bylaws, and of any other committee of the Member-Owners or Board of Directors which may from time to time be duly established shall be governed by the most recent edition of Robert's Rules of Order, except to the extent such procedure is otherwise determined by law or by the Cooperative's Governing Documents.
- 11.4. **Fiscal Year.** Unless otherwise determined by the Board, the Cooperative's fiscal year shall begin on the first day of the month of January of each year and end on the last day of the month of December following.
- 11.5. **Seal.** The Corporate seal of the Cooperative shall be in the form of a circle and shall have inscribed thereon the name of the Cooperative and the words "corporate seal, North Carolina."
- 11.6. **Governing Law.** These Bylaws must be governed by, and interpreted under, the laws of the state of North Carolina.

- 11.7. **Titles and Headings.** Titles and headings of Bylaw articles, sections, and subsections are for convenience and reference, and do not affect the interpretation, construction, or application of a Bylaw article, section, or subsection.
- 11.8. **Partial Invalidity.** When reasonably possible, every Bylaw article, section, subsection, paragraph, sentence, clause, or provision (collectively, “Bylaw Provision”) must be interpreted in a manner by which the Bylaw Provision is valid. The invalidation of a Bylaw Provision by an Entity possessing proper jurisdiction and authority, which invalidation does not alter the fundamental rights, duties, and relationship between the Cooperative and Member-Owners, does not invalidate the remaining Bylaw Provisions.
- 11.9. **Waiver.** The failure of the Cooperative to assert a right or remedy provided in these Bylaws does not waive the right or remedy provided in these Bylaws.