

NOTE: Items highlighted in yellow were discussed at the Member Bylaws Forum and subsequent meeting of the Bylaws, Governance and Legal Committee. Items highlighted in blue are notes that are not to be included in the proposed text. Proposed Member Bill of Rights will be presented separately.

Bylaws of Pedernales Electric Cooperative, Inc. (Proposed)

Preamble

The Pedernales Electric Cooperative, Inc. ("Cooperative") is a democratic organization controlled by its members who actively participate in setting policies and making decisions. The purpose of the Cooperative is to provide reliable and low-cost electric and other services to its members in a fiscally responsible manner, consistent with superior service.

These Bylaws shall be liberally construed so as to insure that the Cooperative operates with accountability and transparency to its members. It is the fundamental philosophy and policy of the Cooperative to conduct its operations with a clear presumption of disclosure to its members, so that in face of doubt openness prevails. Members shall have a special right of access, beyond the right of the general public, to the policies, procedures, information, meetings, and records of the Cooperative.

Article 1 – General

Section 1.1 – Usage. Within these Bylaws of Pedernales Electric Cooperative, Inc. as currently existing or as later amended ("Bylaws"), except as otherwise provided and subject to the context requiring otherwise:

- (1) words and phrases have their customary and ordinary meaning;
- (2) the singular use of a word includes the plural use and the plural use of a word includes the singular use;
- (3) the masculine use of a word includes the feminine and neutral uses, the feminine use of a word includes the masculine and neutral uses, and the neutral use of a word includes the masculine and feminine uses;
- (4) the present tense of a word includes the past and future tenses, and the future tense of a word includes the present tense;
- (5) the words "shall" and "must" are words of obligation, with "shall" meaning "has a duty to" and "must" meaning "is required to;"
- (6) the word "may" is a word of discretion meaning "has discretion to," "is permitted to," "is authorized to," or "is entitled to;"
- (7) the words "may ... only" are words of limited discretion and prohibition;
- (8) the words "shall not," "must not," and "may not" are words of prohibition, with "shall not" meaning "has a duty not to," "must not" meaning "is required not to," and "may not" meaning "has no discretion to," "is not permitted to," "is not authorized to," and "is not entitled to;"
- (9) an exception to a word of obligation is a word of discretion and an exception to a word of discretion is a word of prohibition;
- (10) the words "except as otherwise provided" and "subject to" are words of limitation and exception; and

- (11) the words “include,” “includes,” and “including” mean “include without limitation,” “includes without limitation,” and “including without limitation.”

Section 1.2 – Defined Terms. These Bylaws define certain words, phrases, and terms (“Defined Terms”). In general, Defined Terms are: (1) defined in a full sentence or part of a sentence; (2) capitalized, underlined, and enclosed within quotation marks when defined; (3) enclosed within parenthesis when defined in part of a sentence; and (4) capitalized when otherwise used in these Bylaws. Except as otherwise provided in these Bylaws and subject to the context requiring otherwise, Defined Terms have the meaning specified in the Bylaws.

(NOTE: After Bylaws are finally approved, insert Defined Terms in a bulleted list, arranged alphabetically with Article numbers in parenthesis), as follows)

The following Defined Terms are defined in the Bylaw noted in parenthesis:

- Amended (9.x); Annual Meeting (3.x); Applicant (2.x); Articles (1.3); Assets (2.x);
- Board (2.x); Board Committee (5.7); Board Meeting (5.3); Bylaws (1.1); Bylaw Provision (9.8);
- C....
- D....
- Etc.....

Section 1.3 – Law and Articles. These Bylaws are subject to Law and the Articles of Incorporation of Pedernales Electric Cooperative, Inc. (“Articles”). If, and to the extent that, a Bylaw conflicts with Law or the Articles, then the Law or Articles control. “Law” includes applicable:

- (1) local, state, and federal constitutions, statutes, ordinances, regulations, holdings, rulings, orders, and similar documents or actions, whether legislative, executive, or judicial; and
- (2) legally binding contracts enforceable by or against Cooperative, including legally binding contracts between Cooperative and an Applicant or Member.

Article 2 – Cooperative Membership

Section 2.1 – Member Qualifications. Except as otherwise provided in these Bylaws, an individual or Entity may become and remain a Member of the Cooperative only if: (1) the individual or Entity is a person with the capacity to enter legally binding contracts (“Person”); and (2) the Person consumes, receives, purchases, or otherwise uses (“Uses”), or requests or agrees to Use when available a Cooperative Service generated, transmitted, distributed, sold, supplied, furnished, or otherwise provided (“Provided”) by the Cooperative. A “Cooperative Service” is: (1) electric energy Provided by the Cooperative; and (2) as determined by the Cooperative’s Board of Directors (“Board”), a good or service Provided by the Cooperative.

An “Entity” includes any domestic or foreign organization considered a legal Person, included but limited to any: cooperative; business or nonprofit corporation; sole proprietorship; unincorporated association; limited liability company; partnership; trust; estate; and local, regional, state, federal, or national government, including an agency or division a government.

A Person, either individually or through an Entity not considered legally separate from the Person, may not hold more than one membership in the Cooperative.

Section 2.2 – Membership Procedure. Except as otherwise provided in these Bylaws or by the Board, a qualified Person seeking to become a Member (“Applicant”) must complete the procedures stated in this Bylaw to the Cooperative’s satisfaction within 90 days of initially Using, or agreeing to Use, the first Cooperative Service Used or to be Used by the Applicant.

To become a Member, an Applicant must complete and sign a written membership application provided by the Cooperative, or must provide the Cooperative other assurances as approved by the Board, in which the Applicant agrees to:

- (1) comply with the Governing Documents;
- (2) ensure that Member Equipment connected to Cooperative Equipment, and any act or omission involving Member Equipment connected to Cooperative Equipment, comply with the Governing Documents;
- (3) be a Member;
- (4) at prices, rates, or amounts determined by the Board, and pursuant to the terms, conditions, time, and manner specified by the Cooperative, pay the Cooperative for Cooperative Services Provided to the Applicant or Provided to or for a Location Occupied by the Applicant, and for dues, assessments, fees, deposits, contributions, and other amounts required by the Governing Documents; and
- (5) the use of dues, assessments, contributions, or other amounts paid by the Applicant or Member to the Cooperative to pay for periodical subscriptions received by the Applicant or Member from the Cooperative or from an Entity in which the Cooperative is a member or owner.

The requirement that an Applicant must sign a written application provided by the Cooperative or provide other assurances shall take effect as soon as practicable after the effective date of these Bylaws.

The “Governing Documents” are any written membership application signed by an Applicant or Member and the following documents and actions, all as currently existing or as later adopted or amended: (1) all Law regarding or affecting the Cooperative’s property, property rights, and assets (“Assets”), the Cooperative’s operation, the Cooperative’s Members and Patrons, the Provision and Use of Cooperative Services, Cooperative Equipment, and Member Equipment connected to Cooperative Equipment; (2) the Articles; (3) these Bylaws; (4) the Cooperative’s Business Rules and Tariff; (5) the Cooperative’s rate or price schedules; and (6) all rules, regulations, requirements, guidelines, procedures, policies, programs, determinations, resolutions, or actions taken, adopted, promulgated, or approved by the Board. A copy of the Articles, these Bylaws, and the Business Rules and Tariff must be available at the Cooperative’s office and on the Cooperative website.

“Cooperative Equipment” is a product, equipment, structure, facility, or other good owned, controlled, operated, or furnished by the Cooperative. “Member Equipment” is a product, equipment, structure, facility, or other good: (1) owned, controlled, operated, or furnished by an Applicant or Member; and (2) located on property owned, controlled, operated, or furnished by an Applicant or Member.

To become or remain a Member, an Applicant must, upon request of the Cooperative: (1) give the Cooperative all information requested by the Cooperative, including, at the discretion of the Cooperative: the Applicant’s photographic identification satisfactory to the Cooperative,; the Applicant’s federal tax identification or social security number; the Applicant’s date of Birth; the Applicant’s driver’s license or state identification card number; ; and (2) complete any additional or supplemental document, contract, or action required by the Board for the Cooperative Service which the Applicant is Using or requesting or agreeing to Use. Any applicant or member

declining to provide satisfactory information or identification, or who is determined by the Cooperative to pose an unsatisfactory risk of non-payment, may be required to pay a deposit before service will be connected or a payment arrangement is granted.

Except as required by law or otherwise provided in these Bylaws, the Cooperative will not release, disclose, or disseminate personally identifiable, proprietary, or confidential information regarding a Member.

Except as otherwise provided by the Board, an Applicant shall pay the Cooperative: (1) dues, assessments, fees, deposits, contributions, and other amounts required by the Governing Documents; and (2) outstanding amounts owed to the Cooperative by the Applicant.

Section 2.3 – Membership. Except as otherwise provided in these Bylaws or by the Board, a qualified Person becomes a Member of the Cooperative (“Member”) and consents to being a Member upon using, or requesting or agreeing to Use, a Cooperative Service; The Cooperative shall issue membership certificates to new Members in a manner, method, and form determined by the Board. The Cooperative must provide each new Member notice advising the new Member where the Governing Documents may be viewed on the Cooperative website.

If the Board determines that a qualified Person is unable or unwilling to complete the Membership Procedure, then the Board may refuse, suspend, or terminate the Person’s membership in the Cooperative. For other good cause determined by the Board, the Board may refuse a qualified Person membership in the Cooperative.

Section 2.4 – Membership Agreement. A Member shall comply with the Governing Documents. If a Member fails to comply with the Governing Documents, then, as provided in these Bylaws, the Cooperative may suspend or terminate the Member or a Cooperative Service Provided to the Member.

The Articles and these Bylaws are contracts between the Cooperative and a Member. By becoming a Member, the Member acknowledges that: (1) Every Member is a vital and integral part of the Cooperative; (2) the Cooperative’s successful operation depends upon each Member complying with the Governing Documents; and (3) Members are united in an interdependent relationship.

A Member shall submit a claim or dispute between the Member and the Cooperative regarding the Governing Documents, the Cooperative’s Provision of a Cooperative Service, or the Member’s Use of a Cooperative Service to the Cooperative Board of Directors for resolution before pursuing any other action against the Cooperative.

In general, a Member is not liable to third parties for the Cooperative’s acts, debts, liabilities, or obligations solely because of membership in the Cooperative, except as otherwise agreed to by the Cooperative and the Member.

Section 2.5 – Joint Membership. Persons who qualify to be Members may hold a joint membership in the Cooperative (“Joint Membership”). A Joint Membership may consist only of a husband and wife, each of whom qualifies to be a Member.

(a) **Creating a Joint Membership.** To *become* joint members of the Cooperative, qualified Persons must jointly complete the Membership Procedures within 90 days of initially Using, or requesting or agreeing to Use, the first Cooperative Service Used or to be Used by the Persons. Qualified Persons become joint members of the Cooperative (“Joint Members”) and consent to being Joint Members in the same manner as Members become Members and consent

to being Members. As provided by the Board, a Member may convert the Member's individual membership to a Joint Membership with a qualified Person.

The requirement that to become Joint Members Applicants must sign a written application provided by the Cooperative or provide other assurances shall take effect as soon as practicable after the effective date of these Bylaws.

(b) Rights and Obligations of Joint Members. Except as otherwise provided in these Bylaws, a Joint Member has and enjoys the rights, benefits, and privileges, and is subject to the obligations, requirements, and liabilities, of being a Member. Joint Members 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 includes a Joint Member. For a Joint Membership:

- (1) notice of a meeting provided to a Joint Member constitutes notice to all Joint Members;
- (2) waiver of notice of a meeting signed by a Joint Member constitutes waiver of notice for all Joint Members;
- (3) the presence of a Joint Member or all Joint Members at a meeting constitutes the presence of one Member at the meeting;
- (4) the presence of a Joint Member at a meeting waives notice of the meeting for all Joint Members;
- (5) the vote of a Joint Member will invalidate a ballot previously cast by the other Joint Member;
- (6) if only one Joint Member signs a document or otherwise acts, then the signature or action binds the Joint Membership and constitutes one signature or action;
- (7) each Joint Membership shall be entitled to a single vote, with no *prorata* division of the vote between Joint Members;
- (8) except upon the cessation of marriage, the suspension or termination of a Joint Member constitutes the suspension or termination of all Joint Members; and
- (9) a Joint Member qualified to be a member of the Board ("Director") may be a Director, regardless of whether another Joint Member is qualified to be a Director, but if more than one Joint Member is qualified to be a Director, then only one Joint Member may be a Director.

(c) Terminating a Joint Membership. Joint Members shall notify the Cooperative in writing of a cessation of marriage or the death of a Joint Member.

- (1) When a membership is held jointly by a husband and wife, upon death of either, such membership shall be deemed to be held solely by the survivor with the same effect as though such membership had been originally issued solely to him or her, as the case may be, and upon the recording of such death on the books of the Cooperative, the certificate may be reissued to and in the name of such survivor; provided, however, that the estate of the deceased shall not be released from any membership debts or liabilities to the Cooperative.
- (2) When a membership is held jointly by a husband and wife, upon legal termination of such marriage, the membership shall be deemed to be held solely by the spouse who presents an affidavit or court order assuming the membership and responsibility of all debts and liabilities to the Cooperative. In the event of the change in a member's legal name, an affidavit or court order shall also be required to enact the name change on the membership roster.
- (3) Subject to the payment of all debts and liabilities of a Member to the Cooperative, upon termination of membership, the Cooperative shall pay to such a Member or the Member's personal representative, an amount equal to the membership fee paid by such Member.

Section 2.6 – Provision of Cooperative Service. A Member shall comply with a 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 Members, the Cooperative may charge each group a different rate or price for Providing the Cooperative Service.

(a) **Interruption of Cooperative Service.** The Cooperative shall Provide Cooperative Services to Members in a reasonable manner. The Cooperative, however, does not insure, guarantee, or warrant that it will provide adequate, continuous, or non-fluctuating electric energy or other Cooperative Service. The Cooperative is not liable for damages, costs, or expenses, including attorney fees or legal expenses, caused by the Cooperative Providing inadequate, non-continuous, or fluctuating electric energy or other Cooperative Service, unless the damages, costs, or expenses are caused by the Cooperative's gross negligence or willful misconduct. The Cooperative's responsibility and liability for Providing a Cooperative Service terminate upon delivery of the Cooperative Service to a Member.

(b) **Safe and Protected Operation of Cooperative.** A Member shall take or omit an act required by the Cooperative to safely, reliably, and efficiently operate the Cooperative and Provide a Cooperative Service, which act involves: (1) a Location Occupied by the Member and to or for which the Cooperative Provides a Cooperative Service; (2) real or personal property in which the Member possesses a legal or equitable right or interest ("Member Property"); (3) Cooperative Equipment; or (4) Member Equipment connected to Cooperative Equipment. A Member shall not tamper with, alter, interfere with, damage, or impair Cooperative Equipment. Except as otherwise provided by the Board, the Cooperative owns all Cooperative Equipment.

(c) **Member Equipment Connected to Cooperative Equipment.** Except as otherwise provided by the Board, before Member Equipment is connected to Cooperative Equipment, the Cooperative must approve the connection in writing. Before and while Member Equipment is connected to Cooperative Equipment, the Member:

- (1) shall comply with, and shall ensure that the Member Equipment, the connection, and any act or omission regarding the Member Equipment and the connection comply with, the Governing Documents, including terms, conditions, requirements, and procedures required by the Cooperative regarding the Member Equipment and the connection;
- (2) shall ensure that the Member Equipment and the connection do not adversely impact the Cooperative's ability to safely, reliably, and efficiently operate the Cooperative or Provide a Cooperative Service;
- (3) grants the Cooperative the right to inspect the Member Equipment and the connection to determine whether they comply with the Governing Documents;
- (4) grants the Cooperative the right to disconnect or temporarily operate Member Equipment that does not comply with the Governing Documents or that adversely impacts the Cooperative's ability to safely, reliably, and efficiently operate the Cooperative or Provide a Cooperative Service; and

If Member Equipment is connected to Cooperative Equipment, then: (1) the Member is, but the Cooperative is not, responsible for designing, installing, operating, maintaining, inspecting, repairing, replacing, and removing the Member Equipment; (2) the Cooperative is not liable for damage to, or for the performance of, the Member Equipment; (3) the Cooperative is not liable for damage to Member Property cause by Member Equipment; (4) the Member is responsible for knowing the concerns, risks, and issues associated with operating the Member Equipment and connecting the Member Equipment to Cooperative Equipment; (5) the Member is liable for damage to, and for the nonperformance of, the Cooperative Equipment caused by the Member Equipment or the connection; and (6) the Member is liable for, and must indemnify the

Cooperative against, injury or death to any Person and damage to any property caused by, or resulting from, the Member Equipment or the connection.

Section 2.7 – Use of Cooperative Service. Except as otherwise provided in these Bylaws or by the Board, a Member shall Use a Cooperative Service Provided by the Cooperative. In Using a Cooperative Service, a Member shall comply with the Governing Documents.

(a) **Payment for Cooperative Service.** At prices, rates, or amounts determined by the Board, and pursuant to terms, conditions, time, and manner specified by the Cooperative, a Member shall pay the Cooperative for: (1) Cooperative Services Provided to the Member or Provided to or for a Location Occupied by the Member; and (2) dues, assessments, fees, deposits, contributions, or other amounts required by the Governing Documents. Dues, assessments, contributions, or other amounts paid by a Member to the Cooperative may pay for periodical subscriptions received by the Member from the Cooperative or from an Entity in which the Cooperative is a member or owner.

As provided by the Board: (1) a Member may be charged and shall pay interest, compounded periodically, and late payment fees for amounts owed, but not timely paid, to the Cooperative; and (2) regardless of the Cooperative's accounting procedures, the Cooperative may apply amounts paid by a Member to all of the Member's accounts on a pro rata basis.

Section 2.8 – Grant of Property Rights. As required by the Cooperative for a Cooperative Purpose, and in consideration of the furnishing of Cooperative Service, a Member shall: (1) provide the Cooperative safe and reliable access to or use of Member Property; and (2) pursuant to terms and condition specified by the Cooperative and Law, 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 Property, and execute a document regarding this grant or conveyance.

A "Cooperative Purpose" is, at any time: (1) purchasing, installing, constructing, inspecting, monitoring, operating, repairing, maintaining, removing, relocating, upgrading, or replacing Cooperative Equipment or Member Equipment connected to Cooperative Equipment; (2) Providing a Cooperative Service to a Member or one or more other Members; (3) monitoring, measuring, or maintaining a Cooperative Service Provided to a Member or one or more other Members; (4) Providing electric energy to a Person or one or more other Persons; (5) monitoring, measuring, or maintaining electric energy Provided to a Person or one or more other Persons; (6) authorizing, permitting, satisfying, or facilitating an obligation incurred, or right granted, by the Cooperative regarding use of Cooperative Equipment; or (7) safely, reliably, and efficiently operating the Cooperative or Providing a Cooperative Service.

Section 2.9 – Member Termination. A Membership is terminated upon: (1) the Cooperative's learning of the Member's death, legal dissolution, or legal cessation of existence; (2) the Member requesting termination; or (3) the Cooperative's learning that the Member has permanently ceased Using a Cooperative Service. Except as otherwise provided by the Board, a partnership Member continuing to Use a Cooperative Service is not suspended upon the death of a partner or following any other alteration in the partnership. A partner leaving a partnership Member remains liable to the Cooperative for amounts owed to the Cooperative by the Member at the time of the partner's departure.

Termination of a Member does not: (1) release the Member from debts, liabilities, or obligations owed to the Cooperative; or (2) release the Cooperative from the obligation to retire and pay Capital Credits to the former Member or obligations to the former Member regarding the Cooperative's dissolution. Upon a Member's termination from the Cooperative, and after deducting amounts owed to the Cooperative, the Cooperative must return to the Member or the

member's personal representative, an amount equal to the membership fee paid by such member.

Section 2.10 – Membership Lists. Upon twenty-five (25) days prior, written notice or request to the Cooperative, a Member may: (1) inspect and copy the Membership List at a reasonable time and location determined by the Cooperative; or (2) pay the Cooperative a reasonable charge determined by the Cooperative covering the labor and material cost of preparing and copying the Membership List, and the Cooperative must provide the Member an electronic or printed copy of the Membership List.

A Member may inspect, copy, or receive a copy of the Membership List only if, as determined by the Cooperative: (1) the Member's notice or request is made in good faith and for a proper purpose (a proper purpose shall include use in a candidacy for election or nomination for election to the Cooperative Board of Directors); (2) the Member describes and affirms in a sworn, notarized affidavit and with reasonable particularity the purpose for which the Member will use the Membership List; and (3) the Membership List is directly connected with the Member's purpose. Except as otherwise provided by the Board, a Member must agree not to and may not: (1) use the Membership List for a purpose unrelated to the Member's interest as a Member; (2) use the Membership List to solicit money or property; (3) use the Membership List for a commercial purpose; or (4) sell the Membership List.

Article 3 – Member Meetings and Member Voting

Section 3.1 – Annual and Regular Member Meetings. An annual meeting of the members annually hold a meeting of Members ("Annual Meeting") shall be held on the third Saturday of June each year, at 2:00 p.m., at the Cooperative's Training Center in Blanco County, Texas, or such other place in any county in which the Cooperative provides service as may be designated by the Board of Directors of the Cooperative. The purposes of the annual meeting are to elect Directors and transact such other business as may come before the meeting. If the election of Directors shall not be held on the day designated by the Board of Directors for any annual meeting, or at any adjournment thereof, the Board of Directors of the Corporation shall cause the election to be held at a Special Member Meeting as soon thereafter as may be convenient. Failure to hold the annual meeting as designated herein shall not result in forfeiture or dissolution of the Cooperative. At the annual meeting, a report shall be provided regarding the activities of the Cooperative during the past year.

At the Annual Meeting: (1) the President, General Manager or other person designated by the Board shall provide a written *or* oral report regarding the activities of the Cooperative; and (2) the Treasurer, Chief Financial Officer or other person designated by the Board or General Manager shall provide a written and oral report regarding the financial condition of the Cooperative.

Section 3.2 – Special Member Meetings. the Cooperative shall hold a special meeting of Members ("Special Member Meeting") upon the Cooperative Secretary's receiving: (1) a written or oral request from the President or majority of the Board; (2) one or more written demands signed and dated within 90 days after the first signature by at least 10 percent of the total number Members ("Total Membership"), with each page of each written demand requesting and describing the purpose of the meeting ("Member Demand"). The Board shall determine the date, time, and location of a Special Member Meeting.

Special Member Meetings shall be held at a place at which the Cooperative provides service.

If the Cooperative does not call and notify Members of a Special Member Meeting within 30 days of Cooperative Secretary's receiving a Member Demand, then a Member signing the Member Demand may: (1) set a reasonable time, place, and location for the Special Member Meeting; and (2) notify Members of the Special Member Meeting.

Section 3.3 – Notice of Annual Meeting and Special Member Meeting. Written or printed notice stating the place, day and hour of an Annual or Special Meeting and, in the case of a Special Member Meeting, each purpose for which the meeting is called, shall be delivered to each Member not less than ten (10) days nor more than thirty (30) days before the date of the meeting, by or at the direction of the President, the Secretary, or other persons calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at the Member's address as it appears on the records of the Cooperative with postage thereon prepaid. The failure of any Member to receive notice of an annual or special meeting of the Members shall not invalidate any action that may be taken by the Members at any such meeting

Section 3.4 – Agenda, Attendance, and Action at Member Meetings. Except as otherwise provided in these Bylaws, before or at an Annual or Special Member Meeting ("Member Meeting"), the Board: (1) shall determine the agenda, program, or order of business for the Member Meeting; and (2) may limit attendance at the Member Meeting to Members and one legal representative per Member.

Except as otherwise provided by the Board before or at a Member Meeting, the President: (1) shall preside at the Member Meeting; (2) may exercise power reasonably necessary for efficiently and effectively conducting the Member Meeting.

Members attending the Member Meeting may consider, vote, or act only upon a matter described in the notice of the Member Meeting except Members may raise or discuss and vote upon a matter at a Member Meeting if: (1) at least six (6) percent of Members sign one or more written requests to raise or discuss the matter; and (2) the Cooperative receives all written requests at least 10 days before the Member Meeting.

Section 3.5 – Member Action Without a Member Meeting. Members may not act without a Member Meeting.

Section 3.6 – Record Date. A "Record Date" is the date for determining the Total Membership and the Members entitled to: (1) sign a Member petition, request, demand, consent, appointment, or similar document; (2) receive a ballot, notice of a Member Meeting, or similar document; or (3) vote. If a Member ceases to be a Member after the Record Date, then the Member may not sign a document, receive a document, or vote.

The Board may fix the Record Date, but the Record Date must not be more than 20 days before the date a ballot, notice, or similar document is due or required. Except as otherwise specified by the Board, the record date for voting at a Member Meeting is the date of the Member Meeting.

Section 3.7 – Member Waiver of Notice of a Member Meeting. A Member may waive notice of a Member Meeting, or of a matter to be considered, or voted or acted upon, at a Member Meeting, by signing and delivering to the Cooperative a written waiver of notice

("Member Meeting Waiver of Notice") either before the Member Meeting or within 10 days after the Member Meeting.

Unless a Member objects to holding a Member Meeting, or to transacting business at the Member Meeting, the Member's attendance in person or voting by mail or other method authorized by the Board at the Member Meeting waives the Member's objection to lack of notice, or to defective notice, of the Member Meeting. Unless a Member objects to considering, or voting or acting upon, a matter at a Member Meeting, the Member's attendance in person other method authorized by the Board at the Member Meeting waives the Member's objection to considering, or voting or acting upon, the matter at the Member Meeting.

Section 3.8 – Member Voting by Mail Ballot or Other Methods. A Member may vote or act by mail or other method authorized by the Board, and not otherwise prohibited.

(a) **Mail Ballot With Member Meeting.** A Member may vote or act by mail or other method authorized by the Board in conjunction with a Member Meeting by the Cooperative delivering a ballot to each Member entitled to vote on the matter ("Mail Ballot"). A Member submitting a completed Mail Ballot by mail or any other method authorized by the Board may revoke the ballot and vote at the Member Meeting regarding a matter described in the Mail Ballot. **The Cooperative must count completed Mail Ballots in determining whether a Member Quorum exists at the Member Meeting.**

(b) **Mail Ballot.** A Mail Ballot must:

- (1) set forth and describe a proposed action, identify a candidate, and include the language of a motion, resolution, Bylaw Amendment, or other written statement, upon which a Member is asked to vote or act;
- (2) state the date of a Member Meeting at which Members are scheduled to vote or act on the matter;
- (3) provide an opportunity to vote for or against, or to abstain from voting on, the matter;
- (4) instruct the Member how to complete and return the Mail Ballot; and
- (5) state the time and date by which the Cooperative must receive the completed Mail Ballot.

A Member's failure to receive a Mail Ballot does not affect a vote or action taken by Mail Ballot.

Material soliciting approval of a matter by Mail Ballot must: (1) contain, or be accompanied by, a copy or summary of the matter; (2) state the Member Quorum required to vote on the matter; (3) for all matters other than the election of Directors, state the percentage of approvals necessary to approve the matter; and (4) state the time and date by which the Cooperative must receive a completed Mail Ballot.

Section 3.9 – Member Quorum. A quorum of Members is 5,000 Members ("Member Quorum"). This Bylaw will not take effect until and unless the Articles are amended to allow for this provision. Until such time, a Member Quorum shall defined by the quorum provision in the Articles.

If less than the Member Quorum are present in person or by vote cast by mail or other method authorized by the Board at a Member Meeting, then a majority of Members attending the Member Meeting in person may adjourn the Member Meeting to a date no more than ninety (90) days following the original Member Meeting.

Section 3.10 – Member Voting. If a Member presents identification or proof of Cooperative membership as reasonably required by the Cooperative, then, regardless of the

value or quantity of Cooperative Services Used, the Member may cast one (1) vote on a matter for which the Member is entitled to vote. To vote as an Entity Member, an individual must present evidence requested by and satisfactory to the Cooperative that the individual is authorized to vote for the Entity Member.

Except as otherwise provided in these Bylaws, Members approve a matter if: (1) a Member Quorum is present in person or by vote cast by mail or other method authorized by the Board and (2) a majority of Members present in person or by vote cast by mail or other method authorized by the Board vote in favor of the matter.

At a Member Meeting, the individual presiding over the Member vote may require the Members to vote by voice. If the individual presiding over the Member vote determines, in good faith, that a voice vote is not sufficient to accurately determine the vote results, then the Members shall vote by written ballot ("Written Ballot"), or by any other reasonable manner determined by the Board.

Section 3.11 – Member Voting by Member Proxy. Except in instances specifically mandated by Law or the Articles, a Member may not appoint another individual Person ("Member Proxy") to vote on any matter for the Member.

Section 3.12 – Accepting and Rejecting Member Voting Documents. For a Mail Ballot, Member Meeting Waiver of Notice, or other document allegedly executed by, or on behalf of, a Member (collectively, "Member Voting Document"):

- (1) the Cooperative may accept, and give effect to, the Member Voting Document if: (A) the name signed on the Member Voting Document corresponds to a Member's name, and the Cooperative acts in good faith; or (B) the Cooperative reasonably believes the Member Voting Document is valid and authorized;
- (2) the Cooperative may reject, and not give effect to, the Member Voting Document if the Cooperative: (A) acts in good faith; and (B) has a reasonable basis for doubting the validity of the signature on the Member Voting Document or the validity of the signatory's authority to sign on behalf of the Member; and
- (3) the Cooperative, and a Cooperative Member or Official, are not liable to a Member for accepting or rejecting a Member Voting Document as provided in this Bylaw.

Article 4 – Board of Directors

Section 4.1 – Director Districts. Based upon geographic, population, membership, or other equitable consideration determined by the Board, the Board shall divide the general area in which the Cooperative Provides Cooperative Services] ("Cooperative Service Area") into seven (7) districts that equitably represent the Members ("Director Districts").

As necessary, based upon geographic, population, membership, or other equitable consideration determined by the Board, the Board may revise the Director Districts to ensure that the Director Districts equitably represent the Members. Within thirty (30) days following a Director District revision, and at least thirty_days (30) before the next Annual Meeting, the Cooperative must notify, in writing, Members affected by the Director District revision. Director District revisions are effective on the date the Cooperative releases written notice of the Director District revision. A Director District revision may not: (1) increase an existing Director's Director Term; or (2) unless the affected Director consents in writing, shorten an existing Director's Director Term.

Section 4.2 – Board. The business and affairs of the Cooperative shall be managed by a Board, consisting of a Director from each of the Cooperative's seven (7) districts, which shall

exercise all of the powers of the Cooperative except such as are by law or by the Articles of Incorporation of the Cooperative or by these Bylaws conferred upon or reserved to the members. **The position of Advisory Directors-at-large provided for under previous Bylaws is eliminated upon the approval of these Bylaws. The term of any Advisory Director-at-large serving at the time these Bylaws are approved shall end upon the effective date of these Bylaws.**

Except as otherwise provided in these Bylaws:

- (1) Cooperative powers must be exercised by the Board, or under the Board's authority;
- (2) Cooperative affairs must be managed under the Board's direction; and
- (3) the Board shall reasonably administer and enforce these Bylaws, or shall ensure that these Bylaws are reasonably administered and enforced.

To the extent the Governing Documents or the Board authorize a Person to exercise a power that the Board would otherwise exercise, the Person exercising the power has, and is subject to, the same duties, responsibilities, and standards of care of the Board.

Section 4.3. – Change in Rates. Any change in rates, fees, Business Rules and Tariff charged by the Cooperative must be approved by the Board of Directors.

Section 4.4 – Director Qualifications. A Director or Director candidate must comply with this Bylaw.

(a) General Director Qualifications. To become or remain a Director, a Person must comply with the following general qualifications ("General Director Qualifications"):

- (1) be an individual;
- (2) be a Member in good standing of the Cooperative;
- (3) have his or her primary residence in the Director District in which the Director serves or would serve ("Primary Residence.") Cooperative staff shall make a fact determination of Primary Residence based on factors including voter registration, homestead exemption, other public records and electricity usage history. The Board shall serve as arbiter of any disputes over Primary Residence;
- (4) have the capacity to enter legally binding contracts;
- (5) not have been convicted of a misdemeanor involving moral turpitude or a felony pursuant to state or federal laws;
- (6) except as otherwise provided by the Board for good cause, attend at least a majority of all Board Meetings during each twelve month period.

(b) Conflict-of-Interest Director Qualifications. To become or remain a Director, an individual must comply with the following conflict of interest qualifications ("Conflict-of-Interest Director Qualifications"):

- (1) annually complete and sign a conflict-of-interest certification and disclosure form approved by the Board;
- (2) while a Director and during the three years immediately before becoming a Director, not be an employee of the Cooperative or an employee of an entity controlled by the Cooperative or in which the Cooperative owns a majority interest ("Cooperative Subsidiary");
- (3) while a Director and during the one year immediately before becoming a Director, not receive or have a Close Relative that receives more than ten percent of annual gross

- income, other than insurance or Director compensation or retirement income, directly or indirectly from the Cooperative or a Cooperative Subsidiary;
- (4) while a Director and during the one year immediately before becoming a Director, not advance or have a Close Relative that advances the individual's pecuniary interest by competing with the Cooperative or a Cooperative Subsidiary;
 - (5) while a Director, not be a Close Relative of a Cooperative employee or representative ("Cooperative Official") or Director;
 - (6) while a Director, not be employed by another Director or be employed by, or receive more than ten percent of annual gross income from, an entity for which another Director controls, owns more than ten percent, or is a director or officer;]and
 - (7) while a Director and during the one year immediately before becoming a Director, not be employed by, control, own more than ten percent of, serve as a director or officer of, or receive more than ten percent of annual gross income from an entity that: (A) advances the entity's pecuniary interest by competing with the Cooperative or a Cooperative Subsidiary; or (B) receives more than ten percent of its annual gross income directly or indirectly from the Cooperative or a Cooperative Subsidiary.

(c) "Close Relative" means an individual who:

- (1) 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
- (2) resides in the same residence (collectively, "Close Relative").

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.

Section 4.5 – Director Nominations. Nominations for Directors may be made by written petition executed by one hundred (100) or more members with Voting Residence within the Director District for which the election is being held ("Director Nominating Petition"). Attached to the petition shall be a written consent by the nominee to serve as a Director, if elected, as well as biographical information to include age and qualifications. The Secretary shall make the form for nomination petitions available at all district offices and on the Cooperative's website. Said written nomination petitions must be delivered to the Secretary at the Cooperative's principal office not less than seventy-five (75) days prior to the annual meeting.

(a) For purposes of signing a Director Nomination Petition, but not for purposes of establishing Primary Residence for eligibility to serve as a Director, a Member shall be deemed to have residence ("Voting Residence") in the Director District in which the Member Uses a Cooperative Service. If a Member Uses a Cooperative Service in more than one Director District, the Member shall be deemed to have Voting Residence in the district in which the Member first Used, and continues to Use, a Cooperative Service. However, a Member who Uses a Cooperative Service in more than one Director District may designate their Voting Residence as a Director District where they Use a Cooperative Service, other than the one where the Member first Used a Cooperative Service. Any such designation must be in writing, submitted to the Cooperative.

(b) Nominating Committee Nominations if No Director Candidates is Nominated by Petition. If no Member is nominated by petition and qualified to run for a Director seat that is open for election, the Board shall appoint a Member Committee consisting of an equal number of Members, from each Director District ("Nominating Committee"). Nominating Committee

members may not be an existing, or a Close Relative of an existing, Cooperative Director or known Director candidate.

At least sixty (60) days before the Member Meeting at which Members are scheduled to elect Directors, and on behalf of the Nominating Members, the Nominating Committee shall:

- (1) nominate at least one individual qualified and willing to run for election for each Director position
- (2) report the nominees to the Cooperative Secretary, including all information required to be submitted by candidates nominated by Director Nominating Petition.

(c) **Notice of Director Nominations.** At least forty-five (45) days before the Annual Meeting, the Secretary shall mail the ballot to each Member, including:

- (1) director positions scheduled for election by Members;
- (2) names and corresponding Director positions of all persons nominated for election;
- (3) biographical information, including age, home town and qualifications of each nominee.

Section 4.6 – Election of Directors. The Secretary shall have the names of those nominated printed on ballots that shall be used at the meeting of the members at which Directors are to be elected. The district of each of the nominees shall be printed beside their name. All Directors shall be elected by ballot. The nominee for each directorship receiving the highest number of votes shall be elected. In the event of a tie, the Director shall be determined by a drawing by lot to be conducted by the independent election service. In conducting a drawing by lot, a representative of the election service will place in a box as many slips of paper as there are nominees in the tie, with a single slip marked “elected” and the remaining slips marked “not elected.” In alphabetical order by last name, each of the nominees in the tie shall blindly draw one slip from the box. The nominee drawing the slip marked “elected” shall be elected to the directorship in question

Section 4.7 – Director Terms and Term Limits. Except as otherwise provided in these Bylaws, a Director’s term is three years (3) or until a successor Director is elected (“Director Term”). A Director’s term begins immediately after adjournment of the Member Meeting at which the Director is elected. A Director’s term ends immediately after adjournment of the Member Meeting at which a successor Director is elected.

A Director may not serve more than four (4) consecutive Director Terms (“Term Limit”). No partial term or term that began prior to Jan. 1, 2010 shall count toward the Term Limit, and the count of consecutive terms shall be reset to zero (0) upon the expiration of three years from the date a Director ended his or her most recent term.

Section 4.8 – Director Resignation. A Director may resign at any time. To resign, a Director must sign and deliver a written notice of resignation to the Board, President, or Secretary. Except as a later date is otherwise provided in a written notice of resignation, a Director’s resignation is effective when the Board, President, or Secretary receives the written notice of resignation. 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, then the Board may act in advance to designate the person that will fill the pending Director vacancy before the effective date of the Director’s resignation.

Section 4.9 Director Disqualification. After being elected, designated, or appointed, if a Director does not comply with all General Director Qualifications and Conflict-of-Interest-Director Qualifications (collectively, “Director Qualifications”), then, except as otherwise provided by the Board for good cause, the Board may disqualify the Director and the individual is no longer a Director and his or her seat is declared vacant if:

- (1) the Board notifies the Director in writing of the basis for, and provides the Director an opportunity to comment regarding, the Board’s proposed disqualification; and
- (2) within 30 days after the Board notifies the Director of the proposed disqualification, the Director neither complies with nor meets the Director Qualification.

Any Disqualification under this article must be unanimously approved by the remainder of Directors, and the Board may not disqualify a Director for lawfully opposing a Transfer of Cooperative Assets or a Cooperative dissolution.

Disqualification of a Director for failure to to comply with the Director Qualifications does not affect a previous Board action.

Section 4.10 – Director Removal. As provided in this Bylaw, and for cause, including for committing a negligent, fraudulent, or criminal act significantly and adversely affecting the Cooperative, Members wishing to remove a Director (“Removing Members”) may act within this Bylaw to do so. Members may not remove a Director for lawfully opposing a Transfer of Cooperative Assets or a Cooperative dissolution.

(a) **Director Removal Petition.** For a Director for whom removal is requested, the Removing Members must deliver to the President or Secretary a dated written petition (“Director Removal Petition”):

- (1) identifying the Director on each page;
- (2) explaining, on each page, the basis for the Director’s removal; and
- (3) containing the printed names, printed addresses, and original and dated signatures obtained within sixty (60) days following the Director Removal Petition date, of Removing Members constituting at least ten (10) percent of the Members of the Cooperative.

(b) Within thirty (30) days after the President or Secretary receives a Director Removal Petition: (1) the Cooperative shall forward a copy of the Director Removal Petition to the implicated Director; and, if the Director Removal Petition meets the requirements of this Bylaw (2) the Board shall meet to review the Director Removal Petition. Notice of the Board Meeting to consider the Director Removal Petition must state that Special Board Meeting must state that: (1) a purpose of the Board Meeting is to consider removing a Director; (2) evidence may be presented, (3) a Member vote may will be taken at a Special Member Meeting to follow.

At the Board Meeting :

- (1) evidence may be presented by the Removing Members supporting the basis for removing the Director;
- (2) 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; and
- (3) after the Director’s presentation and Member discussion, the Board shall schedule a Special Member Meeting within forty-five (45) days for the purpose of voting whether to remove the Director. Ballots shall be made available to members and the election shall be conducted using the same methods employed in the preceding Director election.

If a majority of Members voting in person at the Special Member Meeting, or on their own behalf by any other method authorized by the Board vote to remove the Director, then the Director is removed effective the time and date of the Member vote, and the Director's seat shall be declared vacant. Removal of a Director pursuant to Director Removal Petition does not affect a previous Board action.

Section 4.11 – Director Vacancy. Except as otherwise provided in these Bylaws:

NOTE: Section 1 requires the Board to fill vacancies, in keeping with the mandate in the Articles that the number of directors is seven (7). It only applies as long as the Articles contain no provision allowing temporary vacancies. If and only if the Articles are amended to allow temporary vacancies, Section 2 applies. It provides for a vacancy to remain until a member election at the next annual meeting or at a Special Member Meeting.

- (1) by an affirmative vote of the majority of remaining Directors, and within a reasonable time of a Director position becoming vacant, the Board shall fill any vacant Director position. A Director appointed by the Board to fill a vacant Director position shall fill the unexpired Director Term of the vacant Director position until the next Annual Meeting, at which time the Members must elect a new Director to fill the unexpired Director Term of the previously vacant Director position. This provision shall remain effective only so long as the Articles contain no provision allowing temporary vacancies on the Board. If a Director vacancy will occur at a later specified date, then the Board may fill the vacancy before the vacancy occurs and the new Director takes office when the vacancy occurs. An individual appointed to fill a vacant Director position must comply with the Director Qualifications. Any vacancy shall not count toward the count for measuring a Board Quorum.
- (2) The following provision shall apply if and only if the Articles contain a provision allowing temporary vacancies on the Board. If a single Director position is vacant, the position shall remain vacant until the next Annual Meeting, at which time the Members must elect a new Director to fill the unexpired vacant Director position, by the same procedures used to elect other Directors. Any vacancy shall not count toward the count for measuring a Board Quorum.
- (3) The following provision shall apply if and only if the Articles contain a provision allowing temporary vacancies on the Board. If two or more Director positions are vacant, and if more than 120 days remain before the next Annual Meeting, a Special Member Meeting shall be called within 60 days and an Director Election held to fill the vacant positions, by the same procedures used to elect Directors at the Annual Meeting. If two or more Director positions are vacant, and if less than 120 days remain before the next Annual Meeting, the positions shall remain vacant until the next Annual Meeting, at which time the Members must elect new Directors to fill the unexpired vacant Director positions, by the same procedures used to elect other Directors. Any vacancy shall not count toward the count for measuring a Board Quorum.

As used in this Bylaw, “vacant Director position” and “Director vacancy” do not include Director positions vacated due to an expired Director Term.

Section 4.12 – Director Compensation. Directors and Advisory Directors shall not receive any salary for their services solely as a Director or Advisory Director. By resolution of the Board of Directors a fixed sum and reasonable expenses of attendance may be allowed for attendance at each meeting of the Board of Directors, and for attendance at each committee

meeting. By resolution of the Board of Directors, Directors and Advisory Directors shall be allowed a monthly fee and reasonable expenses for meetings other than Board meetings.

Section 4.13 – Director Conduct. In general:

(a) Director Standard of Conduct. A Director is not deemed a trustee regarding the Cooperative or property held or administered by the Cooperative, including property potentially subject to restrictions imposed by the property's donor or transferor. A Director shall discharge the Director's duties, including duties as a Board Committee member:

- (1) in good faith;
- (2) in a manner the Director reasonably believes to be in the Cooperative's best interests;
- (3) when becoming informed in connection with the Director's decision-making function or devoting attention to the Director's oversight function, with the care that an individual in a like position would reasonably believe appropriate under similar circumstances; and
- (4) in a manner in which the Director discloses or causes to be disclosed to other Directors or Board Committee members information not known by them, but known by the Director to be material to discharging their decision-making or oversight functions, except that disclosure is not required to the extent that the Director reasonably believes that disclosure would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule.

(b) Director Reliance on Others. Unless a Director has knowledge making reliance unwarranted, then in discharging the Director's duties, including duties as a Board Committee member, the Director may rely: (1) on the performance by any of the following individuals listed in (A) or (C) to whom the Board has formally or informally delegated the authority or duty to perform one or more of the Board's delegable functions; and (2) upon information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by any of the following individuals:

- (A) one or more Cooperative Officers or employees whom the Director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports, or statements provided;
- (B) legal counsel, public accountants, or other individuals retained by the Cooperative regarding matters involving skills or expertise the Director reasonably believes are matters within the individual's professional or expert competence and as to which the individual merits confidence; and
- (C) a Board Committee of which the Director is not a member if the Director reasonably believes the Board Committee merits confidence.

Article 5 – Board Meetings and Director Voting

Section 5.1 – Regular Board Meetings. A regular meeting of the Board of Directors shall be held at 2:00 p.m. on the third Monday of each month at the E. Babe Smith Headquarters Building of the Cooperative in Blanco County, Texas, unless another meeting location, time and/or date is set by the Board of Director ("Regular Board Meeting"). With approval of a majority of the Board, a Regular Board Meeting may be conducted with absent Directors participating, and deemed present in person, through a means of communication by which all Directors participating in the Board Meeting may simultaneously hear reasonably and verifiably identify themselves, and approximately simultaneously and approximately instantaneously communicate with] each other during the Regular Board Meeting, provided that the meeting is compliant with the Cooperative's Open Meetings policy, and that Members shall be given the opportunity to monitor the meeting electronically or at the E. Babe Smith Headquarters Building of the Cooperative in Blanco County,

Texas. The Board may approve a withholding of compensation to a Director for a meeting at which that Director participated but was not physically present.

Section 5.2 – Special Board Meetings. Special meetings of the Board of Directors (“Special Board Meetings”) may be called by the President or any four (4) Directors. The person or persons authorized to call Special Board Meetings may fix the time and place for the holding of any Special Board Meeting called by them. With approval of a majority of the Board, a Special Board Meeting may be conducted with absent Directors participating, and deemed present in person, through a means of communication by which all Directors participating in the Board Meeting may simultaneously hear reasonably and verifiably identify themselves, and approximately simultaneously and approximately instantaneously communicate with] each other during the Special Board Meeting, provided that the meeting is compliant with the Cooperative’s Open Meetings policy, and that Members shall be given the opportunity to monitor the meeting electronically or at the E. Babe Smith Headquarters Building of the Cooperative in Blanco County, Texas. The Board may approve a withholding of compensation to a Director for a meeting at which that Director participated but was not physically present.

Section 5.3 – Director Quorum and Voting. A quorum of Directors is a majority of the Directors in office (“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 present and voting is the act of the Board. The presence of an *interested Director is not counted in determining whether a Director Quorum is present to vote or act upon a matter in which the Director is interested. A Director may not vote by proxy. An agreement signed by Directors providing the manner in which a Director must vote is not valid.*

Section 5.4 – Conduct of Board Meetings. The Board may promulgate or approve rules, policies, and procedures regarding the conduct of Board Meetings. If a Director Quorum is present at a Board Meeting, then:

- (1) in descending priority, the following Officers may preside at the Board Meeting: President, Vice-President, Secretary, and Treasurer; and
- (2) if no Officer is present or desires to preside at a Board Meeting, then the Directors attending the Board Meeting must elect a Director to preside over the Board Meeting.

Section 5.5 – Notice. Notice of the time, place and purpose of any regular meeting of the Board of Directors shall be given at least 72 hours previous thereto, by written notice, delivered personally, electronically, or by mail, to each Director at the Director’s last known address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed with postage thereon prepaid. Meeting notices and agendas shall be posted on the Cooperative’s website at least 72 hours before each regular meeting of the Board of Directors, and before each Special Meeting of the Board of Directors in accordance with the Cooperative’s Open Meetings Policy.

Section 5.6 – Waiver of Board Meeting Notice. At any time, a Director or Member may waive notice of a Board Meeting by delivering to the Cooperative a written waiver of notice signed by the Director and later filed with the Board Meeting minutes or the Cooperative’s records. A Director’s or Member’s attendance at, or a Director’s participation in, a Board Meeting waives notice of the Board Meeting and any matter considered at the Board Meeting, unless the Director or Member:

- (1) upon arriving at the Board Meeting or before the vote on a particular matter, objects to lack of, or defective, notice of the Board Meeting or a matter being considered at the Board Meeting; and
- (2) for a Director, does not vote for, or assent to, an objected matter.

Section 5.7 – Committees. The Board may create a committee of the Board (“Board Committee”) and appoint Directors to serve on the Board Committee. A Board Committee must consist of two or more Directors and serves at the Board’s discretion. The Board may create a committee of the Members (“Member Committee”) and appoint Members, including Directors, to serve on the Member Committee.

(a) Creation and Appointment of Committees. At least a majority of Directors currently in office must approve the: (1) creation of a Board Committee or Member Committee; (2) appointment of Directors to a Board Committee; and (3) appointment of Members to a Member Committee.

(b) Conduct of Committees. The Board may pass policies, consistent with these Bylaws, governing the conduct and activities of Board Committees and Member Committees.

Committee Authority. A Member Committee may act as specified by the Board, but may not exercise Board authority. Except as otherwise provided in this Bylaw, the Board may not authorize a Board Committee to exercise Board authority.

Section 5.8 – Board Audit Committee. The Board shall have an audit committee that is directly responsible for appointing, compensating, and overseeing the work of any registered public accounting firm employed by the Cooperative, including resolving disagreements between management and the auditor regarding financial reporting, for the purpose of preparing or issuing an audit report or related work, and each registered public accounting firm must report directly to the audit committee (“Board Audit Committee”). Each member of the Board Audit Committee: (1) must be a Director; and (2) other than in the capacity as a Member, Director, or member of a Board Committee, must not accept any consulting, advisory, or other compensatory fee from the Cooperative.

The Board Audit Committee shall establish procedures for: (1) the receipt, retention, and treatment of complaints received by the Cooperative regarding accounting, internal accounting controls, or auditing matters; and (2) the confidential, anonymous submission by employees of the Cooperative of concerns regarding questionable accounting or auditing matters. With Board approval, the Board Audit Committee may engage independent counsel and other advisers, as it determines necessary to carry out its duties.

The Cooperative shall provide for appropriate funding, as determined by the Board Audit Committee in its capacity as a committee of the Board, for compensating: (1) the registered public accounting firm employed by the Cooperative for the purpose of rendering or issuing an audit report; and (2) any advisers employed by the Board Audit Committee. The Board Audit Committee is a Board Committee.

Section 5.9 – Conflicting Interest Transaction. A conflicting interest transaction is a transaction with the Cooperative in which a Director has a direct or indirect interest (“Conflicting Interest Transaction”), as further defined by the Board in policy.

(a) Indirect Interest. A Director has an indirect interest in a transaction with the Cooperative if at least one party to the transaction is another Entity: (1) in which the Director has

a material interest or is a general partner; or (2) of which the Director is a director, officer, or trustee.

(b) Approval of Conflicting Interest Transaction. Regardless of the presence or vote of a Director interested in a Conflicting Interest Transaction, a Conflict of Interest Transaction may be approved, and a Board Quorum, if the Conflict of Interest Transaction's material facts, and the Director's interest, are:

- (1) disclosed or known to the Board or Board Committee, and a majority of more than one Director or Board Committee member with no interest in the Conflicting Interest Transaction votes to approve the Conflicting Interest Transaction; or
- (2) disclosed or known to the Members, and a majority of Members not voting under the control of a Director or Entity interested in the Conflict of Interest Transaction votes to approve the Conflicting Interest Transaction.

Article 6 – Officers and Insurance

Section 6.1 – Required Officers. The Cooperative must have the following officers: President, Vice-President, Secretary, and Treasurer ("Required Officers"). The Board shall elect Required Officers: (1) at the first Regular Board Meeting following each Annual Meeting, or as soon after each Annual Meeting as reasonably possible and convenient; (2) by affirmative vote of a majority of Directors in office.

A Required Officer must be a Director. One Director may simultaneously be Secretary and Treasurer. Except as otherwise provided by Law, this Director may not execute, acknowledge, or verify a document in more than one capacity. Subject to removal by the Board, a Required Officer holds office until the Required Officer's successor is elected. The Board shall fill a vacant Required Officer's position for the unexpired portion of the Required Officer's term. A Required Officer may hold the same office for no more than two (2) full, consecutive terms, effective at the first regular Board meeting after the Annual Meeting following his or her initial election..

Section 6.2 – President. The President shall:

- 1) be the principle executive officer of the Board and shall preside at all Board and Member Meetings;
- 2) on the Cooperative's behalf, may sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized or approved by the Board of Directors to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other Officer of the Cooperative, or shall be required by law to be otherwise signed or executed; and in general, perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6.3 – Vice-President. The Vice-President: (1) upon the President's absence, disability, improper refusal, or inability to act, and until any vacancy in the Presidency is filled, shall perform the duties, and have the powers, of the President; and (2) shall perform all other duties, shall have all other responsibilities, and may exercise all other authority, prescribed by the Board [or Members].

Section 6.4 – Secretary. Except as otherwise provided by the Board [or Members] or these Bylaws, the Secretary:

- (1) shall be responsible for minutes of Board and Member Meetings; this responsibility may be delegated by the Board to a Cooperative staff member;
- (2) shall be responsible for authenticating the Cooperative's records;
- (3) may affix the Cooperative's seal to a document authorized or approved by the Board or Members; and
- (4) shall perform all other duties, shall have all other responsibilities, and may exercise all other authority, prescribed by the Board.

Section 6.5 – Treasurer. The Treasurer shall perform all duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the Board.

Section 6.6 – Other Officers. The Board may elect or appoint other officers (“Other Officers”).

The Board of Directors shall select a General Manager who shall perform the duties of chief executive officer of the Cooperative.

The same individual may simultaneously hold more than one office. Except as otherwise provided by Law, this individual may not execute, acknowledge, or verify a document in more than one capacity. Other Officers:

- (1) may be Directors, Cooperative employees, or other individuals;
- (2) must be elected or appointed by the affirmative vote of a majority of current Directors;
- (3) may assist Required Officers;
- (4) may include, for example, a Chief Financial Officer or General Counsel; and
- (5) shall perform all duties, shall have all responsibilities, and may exercise all authority, prescribed by the Board.

Section 6.7 – Required Officer Resignation or Removal, Filling of Vacant Required Officer Position.

At any time, a Required Officer may resign their position, while remaining a Director. To resign, a Required Officer must deliver to the Board a written resignation. Except as a later effective date is otherwise provided in the Required Officer resignation, a Required Officer resignation is effective when received by the Board. If an Officer Resignation is effective at a later date, then the Board may fill the vacant Required Officer position before the later effective date, but the successor Required Officer may not take office until the later effective date. At any time, the Board may remove a Required Officer if in its judgment the best interests of the Cooperative would be served. The resignation or removal of a Required Officer creates a vacancy that shall be filled by a Board member chosen by the Board at the earliest possible date.

Section 6.8 – Officer Standard of Conduct. An Officer shall discharge the Officer's duties: (1) in good faith; (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (3) in a manner the Officer reasonably believes to be in the Cooperative's best interests.

Section 6.9 – Contracts, Checks and Deposits. Except as otherwise provided in these Bylaws, the Board of Directors may authorize any officer or officers to enter into any contract or execute and deliver any instrument in the name and on behalf of the Cooperative, and such authority may be general or confined to specific instances. Checks, Drafts. All checks, drafts or other orders for the payment of money, and all notes, bonds or other evidences of indebtedness issued in the name of the Cooperative shall be signed by such officer or officers, employee or employees of the Cooperative and in such manner as shall from time to time be determined by resolution of the Board.

Section 6.10 – Bonds. At the Cooperative's expense, the Cooperative may purchase a bond covering a Cooperative Official.

NOTE: This is a place where section on Indemnification of Directors and Officers could be inserted. Deferred for later consideration

Section 6.11– Insurance. Regardless of indemnification authority or requirement, the Cooperative may purchase and maintain insurance on behalf of an individual who is or was a Cooperative Official. This insurance is against a liability, including judgment, settlement or otherwise, or reasonable expenses, including reasonable attorney fees, asserted against or incurred by the Cooperative or the individual in his or her individual capacity, or arising from the individual's status, as a Cooperative Official.

Article 7 – Cooperative Operation

Section 7.1 – Nonprofit and Cooperative Operation. The Cooperative shall operate on a nonprofit and cooperative basis for the mutual benefit of all Members.

Section 7.2 – 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, regardless of the Patron's marital status.

- (a) Patronage Capital in Connection with Furnishing Electric or Other Services. In the furnishing of electric energy or other services the Cooperative's operations shall be so conducted that all members will through their patronage furnish capital for the Cooperative. In order to induce patronage and to assure that the Cooperative will operate on a nonprofit basis, the Cooperative is obligated to account on a patronage basis, to all members, amounts billed for the furnishing of electric or other services in excess of operating costs and expenses properly chargeable against the furnishing of such services.

All such amounts in excess of operating costs and expenses are received with the understanding that they are furnished as capital. The Cooperative is obligated to record by credits to a capital account for each Member all such amounts. The books and records of the Cooperative shall be maintained in such a manner that at the end of each fiscal year the amount of capital, if any, so furnished is clearly reflected and recorded to the capital account of each member, and the Cooperative shall, within a reasonable time after the close of the fiscal year, make available upon request the amount of capital so credited. All such amounts credited to the capital account of a Member shall have the same status as though they had been paid to the Member in pursuance of a legal obligation and the Member had then furnished the Cooperative corresponding amounts for capital. If the Board of Directors determines that the financial condition of the Cooperative will not be impaired thereby, the capital then credited to members' accounts may be retired in full or in part.

The Board shall determine the method, basis, priority, and order of retirement, if any, for all amounts furnished as capital.

- (b) Carry Over of Losses to Future Years. No allocations will be made to members' accounts should the annual determination demonstrate that amounts received from the furnishing of electric or other services were less than operating expenses properly chargeable against the furnishing of such services. The amount by which such expenses exceed such revenues in any annual determination shall be carried forward to the next fiscal year and be used as expenses in the determination of the amount of patronage capital assignable to individual members' accounts for that year

Article 8 – Disposition of Cooperative Assets

Section 8.1 – Disposition of Property

- (1) The Cooperative may, by a two-thirds (2/3) vote of the members of the Board of Directors sell, mortgage, lease or otherwise dispose of or encumber any of its property.
- (2) The Corporation may not sell or transfer all or substantially all of its assets without the approval of two-thirds (2/3) of all members of the Cooperative. This requirement does not eliminate the need for Board Approval of any such sale or transfer.

Section 8.2 – Merger or Consolidation. The Cooperative may consolidate or merge only with an Entity operating on a cooperative basis that Provides *any good or service*. ("Consolidate or Merge"). To Consolidate or Merge, the Cooperative must comply with this Bylaw.

(a) Board Approval. To Consolidate or Merge, the Board must approve an agreement or plan to Consolidate or Merge ("Consolidation or Merger Agreement") stating the:

- (1) terms and conditions of the Consolidation or Merger;
- (2) name of each Entity Consolidating or Merging with the Cooperative;
- (3) name of the new or surviving Consolidated or Merged Entity ("New Entity");
- (4) manner and basis, if any, of converting memberships or ownership rights of each Consolidating or Merging Entity into memberships or ownership rights of, or payments from, the New Entity;
- (5) number of directors of the New Entity.
- (6) date of the New Entity's annual meeting;
- (7) names of New Entity directors who will serve until the New Entity's first annual meeting; and
- (8) other information required by Law.

(b) Member Approval. To Consolidate or Merge: After the Board approves a Consolidation or Merger Agreement, two-thirds of the Total Membership must approve the Consolidation or Merger Agreement.

(c) Notice. The Cooperative shall notify Directors of a Board Meeting, and Members of a Member Meeting, at which Directors or Members may consider a Consolidation or Merger Agreement. This notice and any material soliciting Member approval of the Consolidation or Merger Agreement must contain, or be accompanied by, a summary or copy of the Consolidation or Merger Agreement and the New Entity's articles of incorporation and bylaws.

(d) **Other Requirements.** The New Entity directors named in the Consolidation or Merger Agreement must sign and file articles of Consolidation or Merger in a manner, and stating the information, required by Law. The Cooperative shall comply with all other requirements for Consolidation or Merger specified by Law. After a Consolidation or Merger Agreement is approved, and before articles of Consolidation or Merger are filed, the Board or Members may abandon the Consolidation or Merger.

Section 8.3 – Distribution of Cooperative Assets Upon Dissolution. In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credits shall be retired and paid without priority on a pro rata basis before any payments are made on account of property rights of members. If, at any time prior to dissolution or liquidation, the Board of Directors shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital then credited to members' accounts may be retired and paid in full or in part.

Article 9 – Miscellaneous

Section 9.1 – Electronic Documents. If a Member or Director 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:

- (1) the Member or Director consents and agrees to: (A) use, accept, send, and receive an electronic signature, contract, record, notice, vote, communication, and other document regarding a transaction, business, or activity with, for, or involving the Cooperative ("Electronic Document"); (B) electronically conduct an action, transaction, business, or activity with, for, or involving the Cooperative; and (C) electronically give or confirm this consent and agreement; and
- (2) an Electronic Document sent to or received from the Member or Director satisfies a requirement imposed by the Governing Documents that the underlying signature, contract, record, notice, vote, communication, or other document be in writing;
- (3) electronically sending an Electronic Document to, or receiving an Electronic Document from, the Member or Director satisfies a requirement imposed by the Governing Documents that the underlying signature, contract, record, notice, vote, communication, or other document be sent or received personally or by mail; and
- (4) the Member or Director 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 to a Member or Director or former Member at the Member or Director or former Member's last known electronic address is considered sent and received on the date sent by the Cooperative. An Electronic Document electronically received from a Member or Director or former Member is considered sent and received on the date received by the Cooperative.

Section 9.2 – Bylaw Amendment. Except as otherwise provided in these Bylaws, these Bylaws may be adopted, amended, or repealed ("Amended") only by the affirmative vote of two-thirds of all Directors. Except as otherwise provided in a Bylaw Amendment, the Amendment is effective *immediately upon* the vote approving the Amendment.

Section 9.3 – Rules of Order. The Board may, except as otherwise provided in the Governing Documents, adopt rules of order to govern (1) Member Meetings; (2) Board Meetings; (3) Member Committee meetings; and (4) Board Committee meetings.

Section 9.4 – Fiscal Year. The Board may determine and modify the Cooperative's fiscal year. Except as otherwise provided by the Board, the Cooperative's fiscal year is the calendar year.

Section 9.5 – 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, Texas."

Section 9.6 – Notice. In these Bylaws:

(a) **Notice Type.** Except as otherwise provided in these Bylaws, notice may be: (1) oral or written; and (2) communicated: (A) in person; (B) by telephone, telegraph, teletype, facsimile, electronic communication, or other form of wire or wireless communication; (C) by mail or private carrier; or (D) if the above-listed forms of communicating notice are impractical, then by newspaper of general circulation in the area where published, or radio, television, or other form of public broadcast communication.

If addressed or delivered to an address shown in the Membership List, then a written notice or report delivered as part of a newsletter, magazine, or other publication regularly sent to Members constitutes a written notice or report to all Members: (1) residing at the address; or (2) having the same address shown in the Membership List.

(b) **Notice Effective Date.** If communicated in a comprehensible manner, then except as otherwise provided in these Bylaws:

- (1) oral notice is effective when communicated; and
- (2) written notice is effective upon the earliest of: (A) when received; (B) with the postmark evidencing deposit in the United States Mail, if correctly addressed and mailed with first class postage affixed, then five (5) days after deposit in the United States Mail, or if correctly addressed and mailed with other than first class, registered, or certified postage affixed, then thirty (30) days after deposit in the United States Mail; or (C) if sent by registered or certified mail, return receipt requested, and if the return receipt is signed by, or on behalf of, the addressee, then on the date indicated on the return receipt.

Written notice is correctly addressed to a Member if addressed to the Member's address shown in the Membership List.

Section 9.7 – Governing Law. These Bylaws must be governed by, and interpreted under, the laws of the state of Texas.

Section 9.8 – Titles and Headings. Titles and headings of Bylaw articles, sections, and subsections are for convenience and reference and do not affect the interpretation of a Bylaw article, section, or subsection.

Section 9.9 – 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 Members, does not invalidate the remaining Bylaw Provisions.

Section 9.10 – Entire Agreement. Between the Cooperative and a Member, the Governing Documents: (1) constitute the entire agreement; and (2) supersede and replace a prior or contemporaneous oral or written communication or representation.

Section 9.11 – Successors and Assigns. Except as otherwise provided in these Bylaws: (1) the duties, obligations, and liabilities imposed upon, and the rights granted to, the Cooperative by these Bylaws are binding upon, and inure to the benefit of, the Cooperative's successors and assigns; and (2) the duties, obligations, and liabilities imposed upon a Member by these Bylaws are binding upon the Member's successors and assigns. The binding nature of the duties, obligations, and liabilities imposed by these Bylaws upon the successors and assigns of the Cooperative or a Member does not relieve the Cooperative or Member of the duties, obligations, and liabilities imposed by these Bylaws.

Section 9.12 – 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.

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