

**BYLAWS**  
**OF**  
**ENERGYUNITED EMC**

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## **ARTICLE 1 – GENERAL**

### **Section 1.1 – Usage.**

v2012.12.20

Within these Bylaws of EnergyUnited Electric Membership Corporation (“Cooperative”) as currently existing or as later Amended (“Bylaws”), except as otherwise provided and subject to the context requiring otherwise:

- (A) words and phrases have their customary and ordinary meaning;
- (B) the singular use of a word includes the plural use and the plural use of a word includes the singular use;
- (C) 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;
- (D) the present tense of a word includes the past and future tenses, and the future tense of a word includes the present tense;
- (E) the words “shall” and “must” are words of obligation, with “shall” meaning “has a duty to” and “must” meaning “is required to;”
- (F) the word “may” is a word of discretion meaning “has discretion to,” “is permitted to,” “is authorized to,” or “is entitled to;”
- (G) the words “may ... only” are words of limited discretion and prohibition;
- (H) 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;”
- (I) 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;
- (J) the words “except as otherwise provided,” “subject to,” and similar words are words of limitation and exception;
- (K) the words “include,” “includes,” and “including” mean “include without limitation,” “includes without limitation,” and “including

without limitation;”

- (L) the word “or” is inclusive, with “A or B” meaning “A or B or both;” and
- (M) the word “individual” means a “natural person” or “human being.”

## **Section 1.2 – Defined Terms.**

v2014.11.20

- (1) These Bylaws define certain words, phrases, and terms (“Defined Terms”).
- (2) In general, Defined Terms are:
  - (A) defined in a full sentence or part of a sentence;
  - (B) capitalized, underlined, and enclosed within quotation marks when defined;
  - (C) enclosed within parenthesis when defined in part of a sentence; and
  - (D) capitalized when otherwise used in these Bylaws.
- (3) Except as otherwise provided in these Bylaws and subject to the context requiring otherwise, Defined Terms have the meaning specified in the appropriate Bylaw.
- (4) The following Defined Terms are defined in the Bylaw noted in parenthesis:
  - (A) Amended (9.2); Annual Member Meeting (3.1); Applicant (2.2); Appraisal (8.1); Articles (1.3); Assets (2.2);
  - (B) Board (2.2); Board Audit Committee (5.9); Board Committee (5.7); Board Executive Committee (5.8); Board Meeting (5.3); Bylaws (1.1); Bylaw Provision (9.8);
  - (C) C&E Committee (3.14); Capital Credits (7.2); Close Relative (4.12); Conflict of Interest Transaction (5.10); Consolidate (8.2); Consolidation Agreement (8.2); Cooperative (1.1); Cooperative Affiliate (4.3); Cooperative Equipment (2.2); Cooperative Officer (6.8); Cooperative Official (2.5); Cooperative Proxy Manager (3.12); Cooperative Purpose (2.9); Cooperative Service Area (4.1); Cooperative Subsidiary (4.3);

- (D) Defined Terms (1.2); Director (2.6); Director Districts (4.1); Director Qualifications (4.3); Director Quorum (5.6); Director Removal Petition (4.8); Director Term (4.6); Director Written Consent (5.5);
- (E) Electing Members (4.5); Electric Services (7.2); Entity (2.1);
- (F) General Director Qualifications (4.3); Governing Documents (2.2);
- (G) Indemnification Advance (6.14); Indemnification Director or Officer (6.14); Indemnification Director Quorum (6.14); Indemnification Expenses (6.14); Indemnification Individual (6.14); Indemnification Party (6.14); Indemnification Proceeding (6.14); Indemnification Standard of Conduct (6.14); Independence Director Qualifications (4.3);
- (H) Joint Members (2.6); Joint Membership (2.6);
- (I) Law (1.3); Location (2.1);
- (J) Mail Ballot (3.9); Member (2.3); Member Challenge (3.14); Member Committee (5.7); Member Demand (3.2); Member Equipment (2.2); Member Meeting (3.3); Member Meeting Issues (3.14); Member Meeting List (3.7); Member Meeting Waiver of Notice (3.8); Member Petition (4.4); Member Petition Nominations (4.4); Member Property (2.7); Member Proxy (3.12); Member Proxy Appointment (3.12); Member Quorum (3.10); Member Voting Document (3.13); Member Written Consent (3.4); Membership Director Qualifications (4.3); Membership List (2.12); Membership Procedures (2.2); Merge (8.2); Merger Agreement (8.2);
- (K) New Entity (8.2); Nominating Committee (4.4); Nominating Committee Nominations (4.4); Nominating Members (4.4);
- (L) Occupies (2.1); Officer (6.8); Other Officers (6.6);
- (M) Patron (7.2); Person (2.1); Provided (2.1);
- (N) Reasonable Reserves (7.7); Record Date (3.6); Regular Board Meeting (5.1); Removing Members (4.8); Required Officers (6.1);
- (O) Special Board Meeting (5.2); Special Member Meeting (3.2);
- (P) Total Membership (3.2); Transfer (8.1);
- (Q) Usage Information (2.7); Uses (2.1); and

- (R) Written Ballot (3.11).

### **Section 1.3 – Law and Articles.**

v2012.12.20

These Bylaws are subject to Law and the Articles of Incorporation of EnergyUnited Electric Membership Corporation (“Articles”). If, and to the extent that, a Bylaw conflicts with Law or the Articles, then the Law or Articles control. “Law” includes applicable:

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

## **ARTICLE 2 – COOPERATIVE MEMBERSHIP**

### **Section 2.1 – Member Qualifications.**

v2020.12.17

- (1) Except as otherwise provided in these Bylaws, an individual or Entity may become and remain a Member of the Cooperative only if:
  - (A) the individual or Entity is a person with the capacity to enter legally binding contracts (“Person”); and
  - (B) the Person consumes, receives, purchases, or otherwise uses (“Uses”) electric energy generated, transmitted, distributed, sold, supplied, furnished, or otherwise provided (“Provided”) by the Cooperative.
- (2) An “Entity” includes a domestic or foreign: 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 of a government.
- (3) Except as otherwise provided in these Bylaws, a Person may not become or remain a Member of the Cooperative if the Person resides at, engages in a business at, owns, controls, or otherwise occupies (“Occupies”) a residence, office, building, premises, structure, facility, or other location (“Location”), the Provision of electric energy to which Location is the basis

of membership, and which Location is or was Occupied by a second Person, other than a landlord, tenant, or similarly related Person, who:

- (A) is a Member, other than a Joint Member;
  - (B) owes the Cooperative for electric energy Provided to or for the Location, if the first Person Occupied the Location when the Cooperative Provided the electric energy; or
  - (C) previously Occupied by an Entity owned or controlled by the Person, which Entity owes the Cooperative for electric energy Provided to or for the Location.
- (4) A Person, either individually or through an Entity not considered legally separate from the Person, may:
- (A) hold one membership in the Cooperative; and
  - (B) be a Joint Member in one Joint Membership in the Cooperative. Persons Occupying a Location to or for which the Cooperative Provides electric energy may not hold more than one membership in the Cooperative.

## **Section 2.2 – Membership Procedure.**

*v2020.12.17*

- (1) Except as otherwise provided in these Bylaws or by the Cooperative's Board of Directors ("Board"), a qualified Person seeking to become or remain a Member ("Applicant") must complete the procedures stated in this Bylaw to the Cooperative's satisfaction ("Membership Procedures") simultaneously with initially Using electric energy Provided by the Cooperative Used or to be Used by the Applicant.
- (2) To become or remain a Member, an Applicant must complete a membership application provided by the Cooperative in which the Applicant agrees to:
  - (A) comply with the Governing Documents;
  - (B) ensure that Member Equipment connected to Cooperative Equipment, and any act or omission involving Member Equipment connected to Cooperative Equipment, complies with the Governing Documents;
  - (C) be a Member;



- (D) 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:
  - (I) electric energy Provided to the Applicant or Provided to or for a Location Occupied by the Applicant;
  - (II) dues, assessments, fees, deposits, contributions, and other amounts required by the Governing Documents;
  - (III) interest, late payment fees, and collection costs, including attorney and collection fees, related to amounts owed, but not timely paid, to the Cooperative; and
  - (IV) voluntarily receive an annual subscription to Carolina Country Magazine and to pay an annual subscription price through dues, assessments, fees, deposits, contributions, prices, rates, and other amounts charged or assessed by the Cooperative for electric energy Provided to the Applicant or Provided to or for a Location Occupied by the Applicant.
  
- (3) The “Governing Documents” are the Applicant’s or Member’s membership application and the following documents and actions, all as currently existing or as later adopted or Amended:
  - (A) all Law regarding or affecting the Cooperative’s property, property rights, and assets (“Assets”), the Cooperative’s operation, the Cooperative’s Members, the Provision and Use of electric energy, Cooperative Equipment, and Member Equipment connected to Cooperative Equipment;
  - (B) the Articles;
  - (C) these Bylaws;
  - (D) the Cooperative’s service rules and regulations;
  - (E) the Cooperative’s rate or price schedules; and
  - (F) all rules, regulations, requirements, guidelines, procedures, policies, programs, determinations, resolutions, or actions taken, adopted, promulgated, or approved by the Board. The Cooperative must make a copy of these Bylaws available to the Members.
  
- (4) “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:

- (A) owned, controlled, operated, or furnished by an Applicant or Member; and
  - (B) located on property owned, controlled, operated, or furnished by an Applicant or Member.
- (5) To become or remain a Member, an Applicant must:
- (A) give the Cooperative all information requested by the Cooperative, including the Applicant’s photographic identification; federal tax identification number; articles of incorporation; articles of organization; bylaws; operating agreement; partnership agreement; trust agreement; charter, or other such information establishing identity or organization satisfactory to the Cooperative; and
  - (B) complete any additional or supplemental document, contract, or action required by the Board for the electric energy which the Applicant is Using or requesting or agreeing to Use. 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.
- (6) Except as otherwise provided in these Bylaws or by the Board, an Applicant shall pay the Cooperative:
- (A) dues, assessments, fees, deposits, contributions, and other amounts required by the Governing Documents; and
  - (B) outstanding amounts owed to the Cooperative by the Applicant.

**Section 2.3 – Membership.**

v2012.12.20

- (1) 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 electric energy Provided by the Cooperative and completing the Membership Procedure.
- (2) If the Board determines that a qualified Person is unable to complete the Membership Procedure, then the Board may refuse 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.

- (3) 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.

**Section 2.4 – Reserved.**

*v2012.12.20*

**Section 2.5 – Membership Agreement.**

*v2020.12.17*

- (1) A Member:
  - (A) shall comply with the Governing Documents;
  - (B) shall provide and maintain a current mailing address and telephone number with the Cooperative;
  - (C) shall pay the Cooperative for the Cooperative's damages, costs, or expenses, including attorney fees and legal expenses, caused by or associated with the Member's failure to comply with the Governing Documents;
  - (D) shall read, listen to, observe, or otherwise take notice of communications and information sent from, provided by, or published by the Cooperative; and
  - (E) consents to the Cooperative using an automatic telephone dialing system, or an artificial or prerecorded voice, to address the Cooperative's Provision of electric energy or the Member's Use of electric energy Provided by the Cooperative.
- (2) If and as requested by the Cooperative, a Member shall correct or remedy, or pay to correct or remedy, the Member's failure to comply with the Governing Documents.
- (3) If a Member fails to comply with the Governing Documents, then, as provided in these Bylaws, the Cooperative may terminate the Member or electric energy Provided to the Member.
- (4) Regardless of whether money damages are available or adequate, the Cooperative may:
  - (A) bring and maintain a legal action to enjoin the Member from violating the Governing Documents; and

- (B) bring and maintain a legal action to order the Member to comply with the Governing Documents.
- (5) The Articles and these Bylaws are contracts between the Cooperative and a Member. By becoming a Member, the Member acknowledges that:
  - (A) every Member is a vital and integral part of the Cooperative;
  - (B) the Cooperative's successful operation depends upon each Member complying with the Governing Documents; and
  - (C) Members are united in an interdependent relationship.
- (6) If a controversy or claim arises out of, or relates to, the Governing Documents, the Cooperative's Provision of electric energy, or a Member's Use of electric energy Provided by the Cooperative, and if requested by the Cooperative, then, in accordance with the terms of the Federal Arbitration Act, Title 9 USC §§1-16, the Cooperative and the Member shall settle the controversy or claim by arbitration administered by the American Arbitration Association, in accordance with its Commercial Arbitration Rules and the judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction. All such controversies and claims that are settled by arbitration must be settled through individual arbitration, and not through collective or class arbitration.
- (7) As requested by the Cooperative, a Member 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 Member's negligence, gross negligence, or willful misconduct, or by the unsafe or defective condition of a Location Occupied by the Member.
- (8) 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. A Member may become liable to the Cooperative as provided in the Governing Documents or as otherwise agreed to by the Cooperative and the Member.

**Section 2.6 – Joint Membership.**

v2020.12.17

- (1) Persons who qualify to be Members may hold a joint membership in the Cooperative (“Joint Membership”). A Joint Membership may consist only of two individuals who are each legally married to the other, each of whom qualifies to be a Member.
- (2) Except as otherwise provided in these Bylaws, to become or remain Joint Members of the Cooperative, qualified Persons must jointly complete the Membership Procedures and request Joint Membership simultaneously with initially Using, or requesting or agreeing to Use, electric energy Used or to be Used by the Persons. If two individuals who are each legally married to the other jointly complete the Membership Procedures and request Joint Membership, then the two individuals who are each legally married to the other are joint members. 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. While a Joint Member, a qualified Person may not become or remain a separate, non-Joint Member by Using electric energy Provided by the Cooperative at a Location different from the Joint Membership Location.
- (3) 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:
  - (A) notice of a meeting provided to one Joint Member constitutes notice to all Joint Members;
  - (B) waiver of notice of a meeting signed by one Joint Member constitutes waiver of notice for all Joint Members;
  - (C) the presence of one or more Joint Members at a meeting constitutes the presence of one Member at the meeting;
  - (D) the presence of one Joint Member at a meeting waives notice of the meeting for all Joint Members;
  - (E) the presence of one Joint Member at a meeting may revoke a Member Proxy Appointment previously executed by the Joint Member;

- (F) if only one Joint Member 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;
  - (G) if more than one Joint Member 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 and constitutes one vote, signature, or action;
  - (H) except upon the cessation of marriage, the termination of a Joint Member constitutes termination of all Joint Members; and
  - (I) 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.
- (4) Joint Members shall notify the Cooperative in writing of a cessation of marriage. Upon determining or discovering the cessation of marriage:
- (A) if one Joint Member remains qualified to be a Member and continues to Use electric energy Provided by the Cooperative at the same Location, then the Joint Membership converts to a membership comprised of this Person;
  - (B) if more than one Joint Member remains qualified to be a Joint Member and continues to Use electric energy Provided by the Cooperative at the same Location, then the Joint Membership converts to a membership of Persons determined by the Cooperative comprised of these Persons; and
  - (C) if no Joint Member remains qualified to be a Member and continues to Use electric energy Provided by the Cooperative at the same Location, then the Joint Membership terminates.

**Section 2.7 – Provision of Electric Energy.**

v2014.11.20

- (1) A Member shall comply with any reasonable procedure required by the Cooperative regarding the Provision of electric energy. Based upon different costs of Providing electric energy to different groups of Members, the Cooperative may charge each group a different rate or price for Providing electric energy.

- (2) The Cooperative shall Provide electric energy 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. 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, 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 electric energy terminate upon delivery of electric energy to a Member. In case of emergency, or as requested by government or emergency officials or representatives, the Cooperative may interrupt the Provision of electric energy to Members.
- (3) A Member shall take or omit any act required by the Cooperative to safely, reliably, and efficiently operate the Cooperative and Provide electric energy, which act involves:
  - (A) a Location Occupied by the Member and to or for which the Cooperative Provides or will Provide electric energy;
  - (B) real or personal property in which the Member possesses a legal or equitable right or interest ("Member Property");
  - (C) Cooperative Equipment; or
  - (D) Member Equipment connected to Cooperative Equipment.
- (4) As required by the Cooperative, a Member shall correct or remedy a violation of a safety, reliability, efficiency, or similar statute, regulation, ordinance, or other requirement.
- (5) A Member shall:
  - (A) protect Cooperative Equipment and Member Equipment connected to Cooperative Equipment; and
  - (B) install and maintain any protective device, and implement and follow any protective procedure, required by the Cooperative.
- (6) As necessary to safely, reliably, and efficiently operate the Cooperative and Provide electric energy, the Cooperative may temporarily suspend or terminate Provision of electric energy. 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.

- (7) 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:
- (A) 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;
  - (B) 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 electric energy;
  - (C) grants the Cooperative the right to inspect the Member Equipment and the connection to determine whether the Member Equipment and connection comply with the Governing Documents;
  - (D) 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 electric energy; and
  - (E) shall pay the Cooperative for income not received or accrued because of the connection.
- (8) If Member Equipment is connected to Cooperative Equipment, then:
- (A) the Member is, but the Cooperative is not, responsible for designing, installing, operating, maintaining, inspecting, repairing, replacing, and removing the Member Equipment;
  - (B) the Cooperative is not liable for damage to, or for the performance of, the Member Equipment;
  - (C) the Cooperative is not liable for damage to Member Property;
  - (D) 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;
  - (E) the Member is liable for damage to, and for the nonperformance of, the Cooperative Equipment caused by the Member Equipment or



the connection; and

- (F) 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.
- (9) Without providing a Member notice or an opportunity to comment, the Cooperative may terminate the Provision of electric energy to the Member upon determining or discovering:
- (A) that Cooperative Equipment used to Provide electric energy has been tampered with, altered, interfered with, damaged, or impaired;
  - (B) that Member Equipment connected to Cooperative Equipment adversely impacts the Cooperative's ability to safely, reliably, and efficiently operate the Cooperative or Provide electric energy;
  - (C) the unsafe condition of Cooperative Equipment or Member Equipment connected to Cooperative Equipment; or
  - (D) an imminent hazard or danger posed by Cooperative Equipment or Member Equipment connected to Cooperative Equipment.
- (10) The Cooperative may use Cooperative Equipment to measure, collect, maintain, transmit, communicate, and store the aggregate or incremental amount, quantity, or quality of electric energy Used by a Member, and other data or information regarding a Member's use of electric energy ("Usage Information").
- (11) The Cooperative may use, disclose, and Transfer Usage Information if reasonably related to Providing electric energy or if reasonably related to protecting against, or responding to, death, personal injury, or property damage.
- (12) The Cooperative shall reasonably protect the confidentiality of Usage Information.

## **Section 2.8 – Use of Electric Energy.**

v2014.11.20

- (1) Except as otherwise provided in these Bylaws or by the Board:
  - (A) a Member shall Use electric energy Provided by the Cooperative; and
  - (B) a Member shall not participate in a program, activity, or event

regarding the Member's Use of electric energy or the value or quantity of electric energy Used by the Member. In Using electric energy Provided by the Cooperative, a Member shall comply with the Governing Documents.

- (2) At prices, rates, or amounts determined by the Board, and pursuant to terms, conditions, time, and manner specified by the Cooperative, and regardless of the amount or time billed, a Member shall pay the Cooperative for:
  - (A) electric energy Provided to the Member or Provided to or for a Location Occupied by the Member; and
  - (B) 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.
- (3) If the Cooperative sends a Member a bill, invoice, or similar document reflecting an incorrect or inaccurate amount owed, then:
  - (A) the Cooperative may send the Member another bill, invoice, or similar document reflecting the correct and accurate amount owed; and
  - (B) the Member shall pay the correct and accurate amount owed.
- (4) The Cooperative may require a Member to pay for electric energy in advance of Using the electric energy.
- (5) If another Person Provides a Member a good or service related to electric energy Provided to the Member, then, before paying the other Person:
  - (A) the Member shall pay the Cooperative; and
  - (B) the Cooperative shall apply amounts received from or on behalf of the Member for or toward electric energy Provided to the Member or Provided to or for a Location Occupied by the Member.
- (6) A Member shall:
  - (A) pay interest, compounded periodically, and late payment fees for amounts owed, but not timely paid, to the Cooperative; and
  - (B) pay all costs, including reasonable attorney fees, required to collect

or obtain payment of amounts owed, but not timely paid, to the Cooperative.

- (7) The Cooperative may:
  - (A) Transfer an amount owed, but not timely paid, on a Member's account to another account of the Member; and
  - (B) apply amounts paid by a Member to all of the Member's accounts on a pro rata basis, regardless of the Cooperative's accounting procedures.
- (8) Except as otherwise provided by the Board, a Member may not sell, lease, or otherwise Transfer electric energy Provided by the Cooperative or a right to electric energy Provided by the Cooperative.

**Section 2.9 – Grant of Property Rights.**

v2014.11.20

- (1) As required by the Cooperative for a Cooperative Purpose, a Member shall:
  - (A) provide the Cooperative safe and reliable access to or use of Member Property; and
  - (B) pursuant to terms and conditions specified by the Cooperative, and without compensation from the Cooperative, grant or convey to the Cooperative an easement, right-of-way, license, or other right or interest in Member Property, and execute a document regarding this grant or conveyance.
- (2) A "Cooperative Purpose" is at any time, and in a manner determined by the Cooperative:
  - (A) purchasing, installing, constructing, inspecting, monitoring, operating, repairing, maintaining, removing, relocating, upgrading, or replacing Cooperative Equipment or Member Equipment connected to Cooperative Equipment;
  - (B) through physical, chemical, herbicide, or other means, clearing, trimming, removing, or managing any trees, bushes, brush, or other vegetation;
  - (C) Providing electric energy to a Member or one or more other Members;
  - (D) monitoring, measuring, or maintaining electric energy Provided to a

Member or one or more other Members;

- (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 electric energy.
- (3) 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 Property.

**Section 2.10 – Reserved.**

*v2012.12.20*

**Section 2.11 – Member Termination.**

*v2012.12.20*

- (1) Except as otherwise provided in these Bylaws, a Member is terminated upon:
  - (A) the Cooperative learning of the Member's death, legal dissolution, or legal cessation of existence;
  - (B) the Member requesting termination; or
  - (C) the Cooperative learning that the Member has permanently ceased Using electric energy Provided by the Cooperative.
- (2) Except as otherwise provided by the Board, a partnership Member continuing to use electric energy Provided by the Cooperative is not terminated upon the death of a partner or following any other alteration in the partnership. A partner departing a partnership Member remains liable to the Cooperative for electric energy Provided to or for the Member before, and amounts owed to the Cooperative by the Member at the time of, the partner's departure.
- (3) Termination of a Member does not:

- (A) release the Member 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 or obligations to the former Member regarding the Cooperative's dissolution.
- (4) Upon a Member's termination from the Cooperative, and after deducting amounts owed to the Cooperative, the Cooperative must return to the Member any amount provided in the Governing Documents.

**Section 2.12 – Membership List.**

v2012.12.20

- (1) The Cooperative shall maintain a written or electronic record of current Members in a form permitting the Cooperative to:
- (A) alphabetically list the names and addresses of all Members; and
  - (B) indicate the number of votes each Member is entitled to cast ("Membership List").
- (2) Except as otherwise provided by these Bylaws or the Board, a Person may not inspect, copy, or receive a copy of all or part of the Membership List or a similar list of Members.
- (3) Pursuant to this Bylaw and in a manner determined by the Board, upon delivery to the Cooperative at least five days in advance of a written notice or request signed by a Member, the Member, the Member's agent, or the Member's attorney, may:
- (A) inspect and copy the Membership List during regular business hours at a reasonable location specified by the Cooperative; or
  - (B) pay the Cooperative a reasonable charge determined by the Cooperative covering the labor and material costs of producing, reproducing, copying, or transmitting the Membership List, which charge may not exceed the estimated costs of producing, reproducing, copying, or transmitting the Membership List, and the Cooperative must provide the Member a written or electronic copy of the Membership List.
- (4) A Member, Member's agent, or Member's attorney, however, may inspect, copy, or receive a copy of the Membership List only if, as determined by the Cooperative:

- (A) the Member's notice or request is made in good faith and for a proper purpose;
  - (B) the Member describes with reasonable particularity the purpose for which the Member will use the Membership List; and
  - (C) the Membership List is directly connected with the Member's purpose.
- (5) Except as otherwise provided by the Board, a Person may not:
- (A) obtain or use all or part of the Membership List for a purpose unrelated to a Member's interest as a Member;
  - (B) use all or part of the Membership List to solicit money or property, unless the money or property is used solely to solicit Member votes in a Cooperative election or vote;
  - (C) use all or part of the Membership List for a commercial purpose; or
  - (D) sell or purchase all or part of the Membership List.
- (6) Except as otherwise provided by the Board, a Person shall comply with any reasonable terms, conditions, or requirements imposed by the Cooperative to protect against use of all or part of the Membership List for improper purposes or prohibited uses.
- (7) Prior to acquiring or reviewing the Membership List, the Member shall sign a written agreement that provides the Member will indemnify and hold the Cooperative, its Directors, Officers, employees, attorneys, and agents harmless from any liability, loss, or damages suffered as a result of any and all claims, demands, costs, or judgments against the Cooperative, its Directors, Officers, employees, attorneys, and agents arising out of or connected with the acquisition or review of the Membership List by the Member or the Member's attorney or agent.
- (8) Instead of making the Membership List available for inspection or copying, or providing a copy of the Membership List, the Cooperative may, within five days of receiving a notice or request from a Member, offer the Member an alternative method for reasonably and timely accomplishing the purpose identified by the Member without providing access to or a copy of the Membership List.
- (9) Except as otherwise provided by these Bylaws or the Board, the Cooperative may not sell, Transfer, disclose, distribute, or otherwise dispose of all or part of the Membership List or a similar list or record of Members or Member information.

## **ARTICLE 3 – MEMBER MEETINGS AND MEMBER VOTING**

### **Section 3.1 – Annual Member Meetings.**

v2014.11.20

- (1) Within a county in which the Cooperative Provides electric energy, in a location reasonably central to the majority of Members, the Cooperative shall annually hold a meeting of Members ("Annual Member Meeting").
- (2) The Board must determine the date, time, and location of an Annual Member Meeting. Unless the Board determines otherwise, the President or the President's designee presides over the Annual Member Meeting. The Cooperative's failure to hold an Annual Member Meeting does not affect an action taken by the Cooperative.
- (3) At the Annual Member Meeting:
  - (A) the President shall provide or have provided a written or oral report regarding the activities of the Cooperative; and
  - (B) the Treasurer shall provide or have provided a written or oral report regarding the financial condition of the Cooperative.

### **Section 3.2 – Special Member Meetings.**

v2014.11.20

- (1) Within a county in which the Cooperative Provides electric energy, in a location reasonably central to the majority of Members, the Cooperative shall hold a special meeting of Members ("Special Member Meeting") upon receiving:
  - (A) one or more written requests signed by a majority of the Board; or
  - (B) one or more written demands signed and dated within 60 days after the first signature by at least 10 percent of the total number of Members ("Total Membership"), with each page of each written demand requesting and describing the purpose of the meeting ("Member Demand").
- (2) The Board shall determine the date, time, and location of a Special Member Meeting. Unless the Board determines otherwise, the President or the President's designee presides over a Special Member Meeting.
- (3) A Special Member Meeting requested pursuant to paragraph (1)(A) of this Bylaw shall occur no sooner than 40 days after the request for such a

meeting is made. A Special Member Meeting requested pursuant to paragraph (1)(B) of this Bylaw shall occur no later than 30 days after the request for such meeting is made.

**Section 3.3 – Agenda, Attendance, and Action at Member Meetings.**

v2020.12.17

- (1) Except as otherwise provided in these Bylaws, before or at an Annual or Special Member Meeting (“Member Meeting”), the Board:
  - (A) shall determine the agenda, program, or order of business for the Member Meeting; and
  - (B) may limit attendance at the Member Meeting.
- (2) Except as otherwise provided by the Board before or at a Member Meeting, the President or an individual designated by the President:
  - (A) shall preside at the Member Meeting;
  - (B) may remove a Person from the Member Meeting for unruly, disruptive, or similar behavior; and
  - (C) may exercise power reasonably necessary for efficiently and effectively conducting the Member Meeting.
- (3) Except as otherwise provided by the Board before or at a Member Meeting, Members attending the Member Meeting may consider, vote, or act only upon a matter described in the notice of the Member Meeting. Members attending a Special Member Meeting may consider, vote, or act only upon a matter described in the notice of the Special Member Meeting. Members may raise or discuss a matter at a Member Meeting if:
  - (A) at least 10 percent of the total number of Members sign one or more written requests to raise or discuss the matter; and
  - (B) the Cooperative receives all written requests at least 60 days before the Member Meeting.
- (4) The Board or President may establish rules for conducting a Member Meeting, which rules must be:
  - (A) fair to the Members; and
  - (B) communicated or made available to the Members at least 10 days before the Member Meeting.



### **Section 3.4 – Member Action Without a Member Meeting.**

v2012.12.20

- (1) Except as otherwise provided in these Bylaws, Members may not act without a Member Meeting.
- (2) In a manner determined by the Board, Members may act without a Member Meeting if the Cooperative receives one or more written consents signed and dated within 60 days after the first signature by 100 percent of the Total Membership, with each page of each written consent approving and describing the action (“Member Written Consent”).
- (3) Material soliciting approval of an action by Member Written Consent must contain or be accompanied by a copy or summary of the proposed action. A Member may withdraw the Member’s consent any time before the Cooperative receives the Member Written Consent. A Member’s consent may not be procured through fraud or other improper means. As determined by the Cooperative, a Member’s consent procured through fraud or other improper means is invalid. A Member Written Consent has the effect of a vote taken at a Member Meeting and may be so described in any document.
- (4) The Cooperative must notify, in writing, all Members regarding an action approved by Member Written Consent and the action is effective 30 days after the Cooperative provides this notice.

### **Section 3.5 – Notice of Member Meetings.**

v2012.12.20

- (1) As directed by the President, Secretary, or any Other Officer or Member properly calling the Member Meeting, the Cooperative shall deliver written notice of a Member Meeting personally or by mail, either with or without other documents, to all Members. This notice must indicate the date, time, and location of the meeting and must be delivered no fewer than 10 days, or if notice is mailed by other than first class registered or certified mail, no fewer than 30 days, but no more than 60 days, before the meeting. For a Special Member Meeting, this notice must state the purpose of the meeting and describe any matter to be considered or voted or acted upon at the meeting.
- (2) Except as otherwise provided in these Bylaws, a mailed notice of a Member Meeting is delivered when deposited in the United States mail with prepaid postage affixed and addressed to a Member at the Member’s address shown on the Membership List. The good faith, inadvertent, and unintended failure of a Member to receive notice of a Member Meeting does not affect an action taken at the Member Meeting.

- (3) Except as otherwise provided in these Bylaws, the Cooperative shall notify Members of a Member Meeting adjourned to another date, time, or location unless:
  - (A) the meeting is adjourned to another date occurring within 120 days following the original Member Meeting date; and
  - (B) the new date, time, or location is announced at the Member Meeting prior to adjournment.

### **Section 3.6 – Record Date.**

*v2012.12.20*

- (1) A “Record Date” is the date for determining the Total Membership and the Members entitled to:
  - (A) sign a Member Petition, request, demand, consent, appointment, or similar document;
  - (B) receive a ballot, notice of a Member Meeting, or similar document;  
or
  - (C) vote or otherwise act.
- (2) If a Member is not a Member on the Record Date, then the Member may not sign a document, receive a document, or vote, or otherwise act.
- (3) The Board may fix the Record Date, but the Record Date must not be more than 70 days before the:
  - (A) date the first Member signs a Member Petition, request, demand, consent, appointment, or similar document;
  - (B) date a ballot, notice, or similar document is due or required; or
  - (C) date of a Member Meeting.
- (4) Except as otherwise provided by the Board, the Record Date:
  - (A) for signing a Member Petition, request, demand, consent, appointment, or similar document is the date the Cooperative receives the signed document;
  - (B) for receiving a ballot, notice, or similar document is the date the Cooperative submits the document for printing or distribution to the

Members;

- (C) for voting or otherwise acting at a Member Meeting is the date of the Member Meeting.
- (5) The Record Date for determining the Total Membership and the Members entitled to notice of, or to vote at, a Member Meeting is effective for a Member Meeting adjourned to a date not more than 120 days after the original Member Meeting date.

**Section 3.7 – Member Meeting List.**

*v2020.12.17*

- (1) For a Member Meeting, the Cooperative shall prepare and maintain a written or electronic alphabetical list stating the name and address of each Member entitled to receive notice of and to vote at the Member Meeting and the number of votes each Member is entitled to cast (“Member Meeting List”).
- (2) Except as otherwise provided by these Bylaws or the Board, a Person may not inspect, copy, or receive a copy of all or part of the Member Meeting List or a similar list of Members.
- (3) Pursuant to this Bylaw and in a manner determined by the Board, the Cooperative shall make the Member Meeting List available at the Member Meeting and a Member, or the Member’s agent, may inspect the Member Meeting List at any time during the meeting.
- (4) In a manner determined by the Board, the Cooperative shall make the Member Meeting List available for inspection beginning two business days after the Cooperative provides notice of the meeting, and continuing until the meeting, at:
  - (A) the Cooperative’s principal office; or
  - (B) a reasonable place identified in the notice of the Member Meeting and located in the city in which the Member Meeting will be held.
- (5) In a manner determined by the Board, upon written demand and during regular business hours during the period a Member Meeting List is available for inspection, a Member or the Member’s agent may:
  - (A) inspect the Member Meeting List;
  - (B) copy the Member Meeting List at the Member’s expense; or
  - (C) pay the Cooperative a reasonable charge determined by the

Cooperative covering the labor and material costs of producing, reproducing, copying, and transmitting the Member Meeting List, which charge may not exceed the estimated cost of producing, reproducing, copying, or transmitting the Member Meeting List, and the Cooperative must provide the Member a written or electronic copy of the Member Meeting List.

- (6) A Member or Member's agent, however, may copy or receive a copy of the Member Meeting List only if, as determined by the Cooperative:
  - (A) the Member's demand is made in good faith and for a proper purpose;
  - (B) the Member describes with reasonable particularity the purpose for which the Member will use the Member Meeting List; and
  - (C) the Member Meeting List is directly connected with the Member's purpose.
- (7) Except as otherwise provided by the Board, a Person may not:
  - (A) obtain or use all or part of the Member Meeting List for a purpose unrelated to a Member's interest as a Member;
  - (B) use all or part of the Member Meeting List to solicit money or property, unless the money or property is used solely to solicit Member votes in a Cooperative election or vote;
  - (C) use all or part of the Member Meeting List for a commercial purpose; or
  - (D) sell or purchase all or part of the Member Meeting List.
- (8) Except as otherwise provided by the Board, a Person shall comply with any reasonable terms, conditions, or requirements imposed by the Cooperative to protect against use of all or part of the Member Meeting List for improper purposes or prohibited uses.
- (9) Prior to acquiring or reviewing the Member Meeting List, the Member shall sign a written agreement that provides the Member will indemnify and hold the Cooperative, its Directors, Officers, employees, attorneys, and agents harmless from any liability, loss, or damages suffered as a result of any and all claims, demands, costs, or judgments against the Cooperative, its Directors, Officers, employees, attorneys, and agents arising out of or connected with the acquisition or review of the Member Meeting List by the Member or the Member's attorney or agent.

- (10) Instead of making the Member Meeting List available for inspection or copying, or providing a copy of the Member Meeting List, and as stated in the notice of a Member Meeting, the Cooperative may, within 10 days of receiving a demand from a Member stating a proper purpose for inspection, offer the Member an alternative method for reasonably and timely accomplishing the purpose identified by the Member without providing access to or a copy of the Member Meeting List.
- (11) Except as otherwise provided by these Bylaws or the Board, the Cooperative may not sell, Transfer, disclose, distribute, or otherwise dispose of all or part of the Member Meeting List or a similar list or record of Members or Member information.

### **Section 3.8 – Member Waiver of Notice.**

v2012.12.20

- (1) In a manner determined by the Board, 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 30 days after the Member Meeting.
- (2) Unless a Member objects to holding a Member Meeting, or to transacting business at the Member Meeting, the Member's attendance in person, or representation by Member Proxy, or voting by Mail Ballot on a matter considered at the Member Meeting waives the Member's objection to lack of notice, or to defective notice, of the Member Meeting.
- (3) Unless a Member objects to considering, or voting or acting upon, a matter at a Member Meeting, the Member's attendance in person, or representation by Member Proxy, or voting by Mail Ballot on the matter considered at the Member Meeting waives the Member's objection to considering, or voting or acting upon, the matter at the Member Meeting.

### **Section 3.9 – Member Voting by Mail Ballot.**

v2020.12.17

- (1) Except as otherwise provided in these Bylaws or by the Board, a Member may vote or act by mail only as provided in this Bylaw and in a manner determined by the Board.
- (2) As determined by the Board, the Cooperative may require that all votes be cast, or action taken, by completed Mail Ballot submitted before the Member Meeting.
- (3) A Member may vote or act by mail only on an action that may be taken at

the Member Meeting and only as provided in these Bylaws in conjunction with a Member Meeting by the Cooperative delivering or providing access to an electronic or written mail ballot ("Mail Ballot") to each Member entitled to vote on the matter. A Member submitting a completed Mail Ballot may not vote at the Member Meeting regarding a matter described in the Mail Ballot. Properly cast Mail Ballots are counted in determining whether a Member Quorum exists. The Cooperative must count completed Mail Ballots received before the Member Meeting in determining whether a Member Quorum exists at the Member Meeting. The Cooperative must count as a Member's vote a properly completed Mail Ballot received on, or before, the time and date stated in the Mail Ballot. As determined by the Board, the Cooperative may require that all votes be cast, or action be taken, by completed Mail Ballot submitted before the Member Meeting.

- (4) A Mail Ballot must:
  - (A) 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;
  - (B) state the date of a Member Meeting at which Members are scheduled to vote or act on the matter;
  - (C) provide an opportunity to vote for or against, or to abstain from voting on, the matter;
  - (D) instruct the Member how to complete, return, or cast the Mail Ballot; and
  - (E) state the time and date by which the Cooperative must receive the completed Mail Ballot.
- (5) A Member may not revoke a completed Mail Ballot received by the Cooperative. A Member's failure to receive a Mail Ballot does not affect a vote or action taken by Mail Ballot.
- (6) Material soliciting approval of a matter by Mail Ballot must:
  - (A) contain, or be accompanied by, a copy or summary of the matter;
  - (B) state the Member Quorum required to vote on the matter;
  - (C) for all matters other than the election of Directors, state the percentage of approvals necessary to approve the matter; and

- (D) state the time and date by which the Cooperative must receive a completed Mail Ballot.
- (7) A Mail Ballot may not be procured or cast through fraud or other improper means. As determined by the Cooperative, a Mail Ballot procured or cast through fraud or other improper means is invalid.

**Section 3.10 – Member Quorum.**

v2012.12.20

- (1) A quorum of Members is one percent of the Total Membership (“Member Quorum”). The Board may Amend this Bylaw to increase or decrease the Member Quorum.
- (2) If less than the Member Quorum are present in person, represented by Member Proxy, or voting by Mail Ballot at a Member Meeting, then a majority of Members attending the Member Meeting in person or represented by Member Proxy may adjourn the Member Meeting without further notice to a date no more than 120 days following the original Member Meeting.
- (3) Upon a Member being present, having voted by Mail Ballot, or represented for any purpose at a Member Meeting, the Member is deemed present for Member Quorum purposes for the remainder of the Member Meeting and for any adjourned Member Meeting, unless a new Record Date is, or must be, set for that adjourned Member Meeting.

**Section 3.11 – Member Voting.**

v2012.12.20

- (1) If a Member presents identification or proof of Cooperative membership as reasonably required by the Cooperative, then, regardless of the value or quantity of electric energy Used, the Member may cast one vote on a matter for which the Member is entitled to vote. To vote for 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. If more than one individual is authorized to vote for an Entity Member, then the first vote cast is the Entity Member’s vote.
- (2) Except as otherwise provided in these Bylaws, Members approve a matter if:
  - (A) a Member Quorum is present in person, represented by Member Proxy, or voting by Mail Ballot; and
  - (B) a majority of Members voting in person, voting by Member Proxy, or voting by Mail Ballot, who are entitled to vote on the matter, vote

in favor of the matter.

- (3) Except as otherwise provided by these Bylaws, 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 in any other reasonable manner determined by the individual presiding over the Member vote or the Board. Members may not cumulate votes. Agreements signed by Members providing the manner in which a Member will vote are not valid.

### **Section 3.13 – Accepting and Rejecting Member Voting Documents.**

*v2020.12.17*

- (1) For a Member Written Consent, Mail Ballot, Member Proxy Appointment, Member Meeting Waiver of Notice, or other document allegedly executed by, or on behalf of, a Member ("Member Voting Document"), 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.
- (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.

### **Section 3.14 – Credentials and Election Committee.**

*v2020.12.17*

- (1) Before a Member Meeting, the Board shall appoint a Credentials and Election Committee ("C&E Committee") for the Member Meeting consisting of nine Members, with three Members representing each of the



three Director Districts. Except as otherwise provided by these Bylaws, a C&E Committee member's term begins immediately after appointment and ends after a successor C&E Committee member's appointment. The Board shall stagger C&E Committee member terms by dividing the total number of authorized C&E Committee members into groups of approximately equal number. The Board must annually appoint an approximately equal number of C&E Committee members. The terms of two or more C&E Committee members representing the same Director District may not coincide. The Board may decrease or increase the number of C&E Committee members or the length of incumbent C&E Committee member terms. C&E Committee members may serve no more than three consecutive terms.

- (2) A C&E Committee member must not be:
  - (A) a member of the Nominating Committee; or
  - (B) an existing, or a Close Relative of an existing, Cooperative Official or known Director candidate. As determined by the Board, the Cooperative may reasonably compensate or reimburse C&E Committee members.
- (3) A quorum of C&E Committee members consists of three C&E Committee members, with one C&E Committee member representing each of the three Director Districts. If a quorum of C&E Committee members is present, then the affirmative vote of a majority of the C&E Committee members present is the act of the C&E Committee. A C&E Committee member may not vote by proxy. An agreement signed by C&E Committee members providing the manner in which a C&E Committee member must vote is not valid.
- (4) During, or within a reasonable time before or after, the Member 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 registration and voting;
  - (C) oversee or supervise Member registration and voting, and the tabulation of Member votes; and
  - (D) consider and decide all questions, issues, or disputes regarding:
    - (I) Member registration and voting, including the determination of Members present and the validity of Mail Ballots and

Member Proxy Appointments;

- (II) the tabulation or count of Member votes, including the determination of vote results;
  - (III) Director nominations; and
  - (IV) whether a Director nominee or newly elected Director satisfies the Director Qualifications ("Member Meeting Issues").
- (5) Except as otherwise provided in this Bylaw, C&E Committee decisions or actions during, or within a reasonable time before or after, a Member Meeting are final. At the Cooperative's expense, the Cooperative shall make available legal counsel to the C&E Committee. As used in this Bylaw, Member voting includes voting by Mail Ballot, Member Proxy, Member Written Consent, Written Ballot, or voice.
- (6) A Member entitled to vote at a Member Meeting may comment upon a Member Meeting Issue, or challenge the C&E Committee's decision or action regarding a Member Meeting Issue, by filing a written description of the Member's comment or challenge ("Member Challenge") with the Cooperative within three business days following the Member Meeting addressed by the Member Challenge.
- (7) Within 30 days of receiving a Member Challenge, the C&E Committee shall:
- (A) as determined by the C&E Committee, meet and receive oral or written evidence from a Member, or legal counsel representing a Member, directly and substantially implicated in, or affected by, the Member Challenge; and
  - (B) consider, decide, and rule on the Member Challenge.
- (8) The C&E Committee's decision regarding a Member Challenge is final. Upon written request by a Member received by the C&E Committee within 30 days of a C&E Committee decision or action, the C&E Committee shall prepare a written report summarizing and explaining the C&E Committee's decision or action. The failure of the Cooperative or the C&E Committee to act as required by this Bylaw shall not, by itself, affect a vote, Director election, or other action taken at a Member Meeting.

## **ARTICLE 4 – BOARD OF DIRECTORS**

## **Section 4.1 – Director Districts.**

v2012.12.20

- (1) Based upon geographic, regional, population, membership, subdivision, economic development, permanent or full residency, seasonal or partial residency, or other equitable consideration determined by the Board, the Board shall divide the general area in which the Cooperative Provides electric energy ("Cooperative Service Area") into three districts that equitably represent the individual Members ("Director Districts").
- (2) If a Member Uses electric energy Provided by the Cooperative at Locations in more than one Director District, then:
  - (A) if the Member is an individual and resides within the Cooperative Service Area, the Member Uses electric energy Provided by the Cooperative at a Location in the Director District in which the Member resides; and
  - (B) if the Member is an individual and does not reside within the Cooperative Service Area, or if the Member is an Entity, the Member Uses electric energy Provided by the Cooperative at a Location in the Director District in which the Member first Used, and continues to Use, electric energy Provided by the Cooperative.
- (3) As necessary the Board may revise the Director Districts to ensure that the Director Districts equitably represent the individual Members. Within 30 days following a Director District revision, and at least 30 days before the next Annual Member 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:
  - (A) increase an existing Director's Director Term; or
  - (B) unless the affected Director consents in writing, shorten an existing Director's Director Term.

## **Section 4.2 – Board.**

v2012.12.20

- (1) The Cooperative shall have a Board that equitably represents the Members and is composed of nine Members, three of which shall represent each of the three Director Districts, that:
  - (A) use electric energy Provided by the Cooperative at a Location

within the Director District they represent; and

- (B) are nominated by or from the Members Using electric energy Provided by the Cooperative at a Location within the Cooperative Service Area and elected by the Members Using electric energy Provided by the Cooperative at a Location within the Cooperative Service Area; or
  - (C) are designated or appointed by the Board pursuant to these Bylaws.
- (2) Except as otherwise provided in these Bylaws:
- (A) Cooperative powers must be exercised by the Board, or under the Board's authority;
  - (B) Cooperative activities and affairs must be managed under the Board's direction and subject to the Board's oversight; and
  - (C) the Board shall reasonably administer and enforce these Bylaws and shall ensure that these Bylaws are reasonably administered and enforced.
- (3) To the extent the Governing Documents 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 – Director Qualifications.**

v2021.12.16

- (1) A Director or Director candidate must comply with this Bylaw.
- (2) The Cooperative may conduct an investigation, or require information, to determine whether a Director or Director candidate complies with this Bylaw.
- (3) To become and remain a Director, a Person must comply with the following general qualifications ("General Director Qualifications"):
  - (A) be an individual;
  - (B) be lawfully present in the United States of America;
  - (C) have the capacity to enter legally binding contracts;

- (D) not have been previously removed or disqualified as a Director;
  - (E) not have previously been finally adjudged guilty of a felony;
  - (F) before becoming a Director, graduate from high school or earn an equivalent degree or certification;
  - (G) attend at least two-thirds of all Regular Board Meetings during each 12 consecutive month period, unless a majority of the remaining directors resolve by secret ballot that there was good cause for such absences and such cause will not likely result in absences during the next 12 consecutive month period;
  - (H) for Directors elected to their first Director Term after 1999, except as otherwise provided by the Board for good cause, receive a Credentialed Cooperative Director designation, Director's Certificate, or similar designation or certification from the National Rural Electric Cooperative Association within six years of becoming a Director; and
  - (I) comply with any other reasonable qualifications determined by the Board.
- (4) To become and remain a Director, an individual must comply with the following membership qualifications ("Membership Director Qualifications"):
- (A) while a Director and during the five years immediately before becoming a Director:
    - (I) be a Member;
    - (II) permanently reside and Use electric energy Provided by the Cooperative at the individual's principal residence within the Director District from which the Director is nominated or elected; and
    - (III) have no more than two breaks in membership lasting no more than six months each; or
  - (B) while a Director and during the five years immediately before becoming a director:
    - (I) be the spouse of a Member who meets the Membership Director Qualifications set out in paragraph (4)(A) and become a Member upon nomination or appointment;

- (II) permanently reside with, and Use electric energy Provided by the Cooperative at, the principal residence of the Member spouse within the Director District from which the Director is nominated, elected, or appointed; and
  - (III) have no more than two breaks in permanent residency lasting no more than six months each;
- (5) To become and remain a Director, an individual must comply with the following independence qualifications (“Independence Director Qualifications”):
- (A) annually complete and sign an independence certification and disclosure form approved by the Board;
  - (B) while a Director and during the 10 years immediately before becoming a Director, not be or have a Close Relative that is 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”);
  - (C) while a Director and during the 10 years immediately before becoming a Director, not be or have a Close Relative that is an employee of an Entity in which the Cooperative is a member or owner (“Cooperative Affiliate”);
  - (D) while a Director and during the 10 years immediately before becoming a Director, not have been or have a Close Relative that has been a director, officer, employee, or agent of a union or other Entity representing, or seeking to represent, Cooperative employees regarding the terms and conditions of employment with the Cooperative;
  - (E) while a Director and during the 10 years immediately before becoming a Director, not be or have a Close Relative that is an employee or agent of the Rural Utilities Service, the National Rural Utilities Cooperative Finance Corporation, the National Rural Telecommunications Corporation, any other trade or professional association serving the energy or telecommunications industry, or any other agency that regulates or seeks to regulate the Cooperative;
  - (F) while a Director and during the 10 years immediately before becoming a Director, not be or have a Close Relative that is an employee or agent of any other supplier, generator, or distributor of

electric energy, natural gas, or telecommunications services;

- (G) while a Director and during the 10 years immediately before becoming a Director, not receive or have a Close Relative that receives more than 10 percent of annual gross income, other than insurance, Director compensation, or retirement income, directly or indirectly from the Cooperative, a Cooperative Subsidiary, a Cooperative Affiliate, or an employee of the Cooperative, a Cooperative Subsidiary, or a Cooperative Affiliate;
- (H) while a Director and during the five years immediately before becoming a Director, not advance or have a Close Relative that advances the individual's pecuniary interest by competing with or Providing a good or service similar to a good or service Provided by the Cooperative, a Cooperative Subsidiary, or a Cooperative Affiliate;
- (I) while a Director and during the five years immediately before becoming a Director, not Provide or have a Close Relative that Provides electric energy, and not own, lease, or rent or have a Close Relative that owns, leases, or rents real or personal property used to Provide electric energy;
- (J) while a Director, not be a Close Relative of a Cooperative Official, Director, or Cooperative employee;
- (K) while a Director, not be a Close Relative of a former Director whose Director Term expired within the one year immediately before becoming a Director or whose position became vacant within the one year immediately before becoming a Director, unless nominated by Member Petition;
- (L) while a Director, not be employed by another Director, or be employed by, or receive more than 10 percent of annual gross income from, an Entity for which another Director controls, owns more than 10 percent, or is a director or officer;
- (M) while a Director and during the five years immediately before becoming a Director, not be an adverse party in a mediation, arbitration, lawsuit, or other legal action against or by the Cooperative or a Cooperative Subsidiary;
- (N) agree not to become an employee of the Cooperative or a Cooperative Subsidiary during the 10 years immediately after ceasing to be a Director;

- (O) while a Director and during the one year immediately before becoming a Director, not owe a debt to the Cooperative for a good or service Provided by the Cooperative the payment of which is more than 30 days delinquent or otherwise fail or refuse to fulfill upon 30 days notice any obligation of membership in the Cooperative; and
- (P) while a Director and during the 10 years immediately before becoming a Director, not be employed by, control, own more than 10 percent of, serve as a director or officer of, or receive more than 10 percent of annual gross income from an Entity that:
  - (I) advances the Entity's pecuniary interest by competing with the Cooperative, a Cooperative Subsidiary, or a Cooperative Affiliate, or Providing electric energy or a good or service Provided by the Cooperative, a Cooperative Subsidiary, or Cooperative Affiliate, or by Providing a good or service similar to a good or service Provided by the Cooperative, a Cooperative Subsidiary, or a Cooperative Affiliate;
  - (II) provides goods and services related to electric energy efficiency, demand response, storage, or wholesale generation, or similar goods and services;
  - (III) employs more than one percent of Members;
  - (IV) is a party in a mediation, arbitration, lawsuit, or other legal action against or by the Cooperative, a Cooperative Subsidiary, or a Cooperative Affiliate; or
  - (V) receives more than 10 percent of its annual gross income directly or indirectly from the Cooperative, a Cooperative Subsidiary, or Cooperative Affiliate.
- (6) After being elected or appointed, if a Director does not comply with all General Director Qualifications, Membership Director Qualifications, and Independence Director Qualifications ("Director Qualifications"), then, except as otherwise provided by the Board for good cause, the Board shall disqualify the Director and the individual is no longer a Director if:
  - (A) 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
  - (B) within 30 days after the Board notifies the Director of the proposed disqualification, the Director neither complies with nor meets the



## Director Qualification.

- (7) If a majority of Directors authorized by these Bylaws complies with the Director Qualifications and approves a Board action, then the failure of a Director to comply with the Director Qualifications does not affect the Board action.

### **Section 4.4 – Director Nominations.**

v2021.12.16

- (1) For each Director position nominated by or from Members Using electric energy Provided by the Cooperative at a Location within the Cooperative Service Area (“Nominating Members”) and scheduled for election by Members at a Member Meeting, the Nominating Members or Members shall nominate individuals as provided in this Bylaw.
- (2) In March of each year the Board shall appoint a Member Committee consisting of nine Members, with three Members representing each of the three Director Districts (“Nominating Committee”). Except as otherwise provided by these Bylaws, a Nominating Committee member’s term begins immediately after appointment and ends after a successor Nominating Committee member’s appointment. The Board shall stagger Nominating Committee member terms by dividing the total number of authorized Nominating Committee members into groups of approximately equal number. The Board must annually appoint an approximately equal number of Nominating Committee members. The terms of two or more Nominating Committee members representing the same Director District may not coincide. The Board may decrease or increase the number of Nominating Committee members or the length of incumbent Nominating Committee member terms. Nominating Committee members may serve no more than three consecutive terms. Nominating Committee members may not be an existing, or a Close Relative of an existing, Cooperative Official or known Director candidate.
- (3) On or before the second Thursday in June of each year, the Nominating Committee shall nominate at least one individual to run for election for each Director position nominated by or from the Nominating Members and schedule for election by Members at the Member Meeting (“Nominating Committee Nominations”).
  - (A) A quorum of Nominating Committee members consists of three Nominating Committee members, with one Nominating Committee member representing each of the three Director Districts. If a quorum of Nominating Committee members is present, then the affirmative vote of a majority of the Nominating Committee members present is the act of the Nominating Committee. A

Nominating Committee member may not vote by proxy. An agreement signed by Nominating Committee members providing the manner in which a Nominating Committee member must vote is not valid.

- (B) The Cooperative shall give notice of Nominating Committee Nominations to the Membership within 10 business days of the meeting of the Nominating Committee.
  - (C) If, before the scheduled election, a Nominating Committee nominee dies, becomes incapacitated, or ceases to be qualified to be a Director, then the Nominating Committee may nominate another individual. As determined by the Board, the Cooperative may reasonably compensate or reimburse Nominating Committee members.
- (4) Notice of the Nominating Committee meeting shall be made to the Members in timely advance of such meeting, informing the Members of the names of the Nominating Committee members and of the date, time, and place of the Nominating Committee meeting.
- (5) In addition to Nominating Committee Nominations, Nominating Members may nominate, through petition, individuals to run for election for a Director position scheduled for election by Members at the Member Meeting ("Member Petition Nominations").
- (A) Nominating Members make Member Petition Nominations by delivering to the Cooperative's Corporate Attorney, Roy L. McDonald II, at the offices of Brinkley Walser Stoner, PLLC, 10 LSB Plaza, Lexington, NC 27292 on or before 5:00 p.m. on the second Thursday in June a writing for each Member Petition Nomination ("Member Petition"):
    - (I) listing, on each page of the Member Petition, the name of the Member Petition nominee;
    - (II) indicating, on each page of the Member Petition, the Director position for which the Member Petition nominee will run; and
    - (III) containing the printed names, addresses, and original dated signatures signed within 60 days of the first signature, of at least 50 Nominating Members.
  - (B) After verifying that a Member Petition complies with this Bylaw, the Cooperative shall give notice of the Member Petition Nomination to the Membership in approximately the same location as the

### Nominating Committee Nominations.

- (6) Nominating Members may not nominate at, or from the floor of, a Member Meeting an individual to run for election to a Director position scheduled for election at the Member Meeting.
- (7) Not more than 60 nor less than 10 days before a Member Meeting at which Members are scheduled to elect Directors, the Cooperative shall notify Members of the:
  - (A) director positions scheduled for election by Members;
  - (B) names and corresponding Director positions of all Nominating Committee Nominations; and
  - (C) names and corresponding Director positions of all Member Petition Nominations.

### **Section 4.5 – Director Elections.**

*v2020.12.17*

- (1) At each Member Meeting at which a Director position is scheduled for election by Members Using electric energy Provided by the Cooperative at a Location within the Cooperative Service Area ("Electing Members"), the Electing Members shall elect the Director from the Nominating Committee Nominations or Member Petition Nominations by a plurality of votes cast by Electing Members with a Member Quorum voting by Mail Ballot, provided that, when the number of nominees does not exceed the number of Directors to be elected from a particular Director District, balloting may be dispensed with in respect to that Director District and the President shall declare such nominees duly elected.
- (2) Electing Members may not vote for write-in candidates.
- (3) Drawing by lot shall resolve, when necessary, any tie vote.
- (4) As determined by the Board, the number of votes received by each nominee will or will not be announced.
- (5) At least 30 days before the nomination of individuals for Director positions, the Cooperative must provide Members with this Bylaw section.
- (6) In campaigning or soliciting support for nomination or election as a Director, an individual shall comply with any reasonable rules, requirements, or procedures prescribed by the Board, which rules, requirements, and procedures must apply equally to all individuals

campaigning or soliciting support for nomination or election as a Director.

- (7) In campaigning or soliciting support for nomination or election as a Director, and unless offered and made equally available to any individual campaigning or soliciting support for nomination or election as a Director, an individual may not:
  - (A) request or receive assistance, promotion, support, or endorsement from an employee of the Cooperative, a Cooperative Subsidiary, or a Cooperative Affiliate;
  - (B) request public support or endorsement from an employee of the Cooperative, a Cooperative Subsidiary, or a Cooperative Affiliate;  
or
  - (C) use Cooperative resources, facilities, or Assets.

#### **Section 4.6 – Director Terms.**

*v2012.12.20*

- (1) Except as otherwise provided in these Bylaws, a Director's term is three years or until a successor Director is elected or appointed and takes office ("Director Term").
- (2) A Director's Term begins:
  - (A) after the individual consents to being elected or appointed as a Director; and
  - (B) immediately after election or appointment.
- (3) A Director's Term ends after:
  - (A) a successor Director consents to being elected or appointed as a Director; and
  - (B) immediately after a successor Director's election or appointment.
- (4) The Cooperative shall stagger Director Terms by dividing the total number of authorized Directors into groups of approximately equal number.
- (5) Members must annually elect an approximately equal number of Directors.
- (6) The Director Terms of two or more Directors from the same Director District may not coincide.
- (7) Subject to a Director's consent, decreasing the number of Directors or

length of Director Terms may not shorten an incumbent Director's Director Term.

- (8) If a Director is not elected at the Annual Member Meeting then the Director position becomes vacant.

#### **Section 4.7 – Director Resignation.**

*v2012.12.20*

- (1) 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.
- (2) 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. The effective date of a Director's resignation may not exceed six months from the date the written notice of resignation is delivered to the Board, President, or Secretary.
- (3) 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 pending Director vacancy may be filled before the effective date of the Director's resignation.
- (4) A Director's written notice of resignation, once delivered to the Board, President, or Secretary, is irrevocable.

#### **Section 4.8 – Director Removal.**

*v2012.12.20*

- (1) Except as otherwise provided in these Bylaws, the Board may remove a Director appointed by the Board for any reason.
- (2) As provided in this Bylaw, and for cause, the Members Using electric energy Provided by the Cooperative at a Location within the Cooperative Service Area ("Removing Members") may remove a Director for whom the Members may have voted.
- (3) 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"):
  - (A) identifying the Director on each page;
  - (B) explaining, on each page, the basis for the Director's removal; and

- (C) containing the printed names, printed addresses, and original and dated signatures obtained within 60 days following the Director Removal Petition date, of at least 10 percent of the Removing Members.
- (4) Within 60 days after the President or Secretary receives a Director Removal Petition:
  - (A) the Cooperative shall forward a copy of the Director Removal Petition to the implicated Director; and
  - (B) the Board shall meet to review the Director Removal Petition.
- (5) If the Board determines that the Director Removal Petition complies with this Bylaw, then the Cooperative shall notice and hold a Member Meeting within 60 days following the Board's determination. Notice of the Member Meeting must state that:
  - (A) a purpose of the Member Meeting is to consider removing a Director; and
  - (B) evidence may be presented, and a Member vote taken, regarding removing the Director.
- (6) If a majority of the Removing Members is present in person or represented by Member Proxy at the Member Meeting, then for the Director named in a Director Removal Petition:
  - (A) before a Member vote, 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; and
  - (C) after the Director's presentation and Member discussion, the Removing Members must vote whether to remove the Director.
- (7) If a majority of the Removing Members vote to remove the Director, then the Director is removed effective the time and date of the Member vote. Members may not vote to remove a Director by Mail Ballot.
- (8) Removing Members may not remove a Director for lawfully opposing a Transfer of Cooperative Assets or a Cooperative dissolution. The Board may not remove a Director for lawfully opposing a Transfer of Cooperative

Assets or a Cooperative dissolution.

- (9) For the purposes of this Bylaw, cause shall mean an act or omission that:
- (A) adversely affects or has the potential to adversely affect the Cooperative's business or affairs; and
  - (B) constitutes gross negligence, fraud, criminal conduct, or an intentional conflict of interest with the Cooperative.

**Section 4.9 – Director Vacancy.**

*v2014.11.20*

- (1) Except as otherwise provided in these Bylaws:
- (A) 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 a vacant Director position, including a vacant Director position resulting from increasing the number of Directors; and
  - (B) a Director appointed by the Board to fill a vacant Director position serves the unexpired Director Term of the vacant Director position, at which time the Members must elect a new Director to fill the unexpired Director Term of the previously vacant Director position.
- (2) 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.
- (3) An individual appointed to fill a vacant Director position must comply with the Director Qualifications. Except as otherwise provided in these Bylaws, and as used in this Bylaw, "vacant Director position" and "Director vacancy" do not include Director positions vacated due to an expired Director Term.
- (4) The Board shall not appoint a Close Relative of a former Director to fill a Director vacancy.

**Section 4.10 – Director Compensation.**

*v2012.12.20*

- (1) A Director is not an employee of the Cooperative.
- (2) As determined or approved by the Board, however, the Cooperative may reasonably reimburse, compensate, pay a salary to, or provide insurance

or other benefits to Directors and pay or reimburse Directors a fixed fee and expenses for attending a:

- (A) Board Meeting;
  - (B) function, meeting, or event involving or relating to the Cooperative;  
or
  - (C) function, meeting, or event involving, relating to, or reasonably enhancing the Director's ability to serve in, the role of Director.
- (3) The Board must determine or approve the manner, method, and amount of any Director reimbursement, compensation, salary, benefit, fee, or expense.
- (4) In consideration for serving as a Director, as determined by the Board, and without granting a Director or former Director a contract or other right, the Cooperative may promise to reasonably or fairly compensate, or provide insurance or other benefits to, a Director after the Director ceases serving as a Director. After a Director ceases serving as a Director, the Board must determine or approve, and may change or eliminate for any reason, the manner, method, and amount of any compensation or benefits provided to the former Director.

#### **Section 4.11 – Director Conduct.**

*v2012.12.20*

- (1) A Director is not deemed a trustee regarding the Cooperative, Capital Credits, or property held or administered by the Cooperative, including property potentially subject to restrictions imposed by the property's donor or transferor.
- (2) A Director shall discharge the Director's duties, including duties as a Board Committee member:
- (A) in good faith;
  - (B) in a manner the Director reasonably believes to be in the Cooperative's best interests;
  - (C) 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
  - (D) 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.

- (3) 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:
  - (A) on the performance by any of the following individuals listed in paragraph (3)(B)(I), (3)(B)(II), or (3)(B)(III) 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
  - (B) upon information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by any of the following individuals:
    - (I) 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;
    - (II) 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
    - (III) a Board Committee of which the Director is not a member if the Director reasonably believes the Board Committee merits confidence.

#### **Section 4.12 – Close Relative.**

v2012.12.20

- (1) The term "Close Relative" means an individual who:
  - (A) through blood, marriage, or Law, to include foster and adoptive relations, is a spouse, child, stepchild, father, stepfather, mother, stepmother, brother, stepbrother, half-brother, sister, stepsister, half-sister, grandparent, grandchild, aunt, uncle, niece, nephew,

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.
- (2) 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 3.12 – Member Voting by Member Proxy.**

v2012.12.20

- (1) Pursuant to this Bylaw and in a manner determined by the Board, a Member entitled to vote or the Member's attorney-in-fact, after presenting evidence requested by and satisfactory to the Cooperative that the individual is the Member's attorney-in-fact, may appoint another individual Member, or in the case of an Entity Member, only an individual Person, other than a Director, Cooperative Official, or a Cooperative employee ("Member Proxy") to vote on any matter as provided in these Bylaws for the Member. The Cooperative must accept votes properly taken by a Member Proxy on behalf of a Member entitled to vote as the Member's vote.
- (2) To appoint a Member Proxy:
  - (A) the Member must sign and date a form appointing the Member Proxy and specifying the Member Meeting at which, or the dates during which, the Member Proxy may vote for the Member ("Member Proxy Appointment"); and
  - (B) except as otherwise provided in these Bylaws, the individual designated by the Cooperative ("Cooperative Proxy Manager") must receive the Member Proxy Appointment at the beginning of or before the Member Meeting at which the Member Proxy will vote for the Member.
- (3) If a matter requires the affirmative vote of more than a majority of Members at a Member Meeting, then:
  - (A) for a Member Proxy to vote on the matter for a Member at a Member Meeting, the Cooperative Proxy Manager must receive the Member Proxy Appointment at least three business days before the Member Meeting; and
  - (B) a Member Proxy may not vote for more than five Members.

- (4) A Member Proxy Appointment is effective when received by the Cooperative Proxy Manager. Through the Member Proxy Appointment, a Member may authorize a Member Proxy to designate a substitute Member Proxy to vote for the Member. Through a Member Proxy Appointment, a Member may limit the Member Proxy's authority to vote for the Member, or may direct the Member Proxy to vote for the Member in a specified way.
- (5) Except as otherwise provided in the Member Proxy Appointment or these Bylaws, a Member Proxy Appointment is:
  - (A) valid for 90 days;
  - (B) valid for a Member Meeting properly adjourned and reconvened on, or at, another date, time, or location; and
  - (C) unlimited regarding the matters or actions, or the manner of voting or acting on a matter or action, upon which the Member Proxy may vote or act for the Member.
- (6) A Member Proxy Appointment is not valid for more than three years. A Member Proxy Appointment may not be procured through fraud or other improper means. As determined by the Cooperative, a Member Proxy Appointment procured through fraud or other improper means is invalid.
- (7) Before a Member Proxy votes for a Member, the Member Proxy Appointment is revoked by:
  - (A) the Cooperative Proxy Manager receiving a more recently dated Member Proxy Appointment or Mail Ballot signed by the Member appointing the Member Proxy;
  - (B) the Cooperative Proxy Manager receiving a Member Proxy Appointment or Mail Ballot signed by the Member appointing the Member Proxy and bearing the same date as the Member Proxy Appointment;
  - (C) the Cooperative Proxy Manager receiving a written revocation of Member Proxy Appointment signed by the Member appointing the Member Proxy and dated after the Member Proxy Appointment;
  - (D) in person, the Member appointing the Member Proxy attending a Member Meeting specified in, or occurring during the dates specified in, the Member Proxy Appointment, including a Member Meeting properly adjourned and reconvened; or
  - (E) the Cooperative Proxy Manager receiving notice of the death, legal

incapacity, or termination of the Member appointing the Member Proxy.

- (8) Except as otherwise provided in these Bylaws, a Member Proxy may not vote for more than five Members. Joint Members in a Joint Membership may not vote for more than five Members collectively. If a Member does not attend a Member Meeting, then, unless the Member has otherwise properly appointed a Member Proxy, the Member's spouse may attend the Member Meeting and vote as the Member's Member Proxy. Members properly represented by Member Proxy are counted in determining whether a Member Quorum exists.

## **ARTICLE 5 – BOARD MEETINGS AND DIRECTOR VOTING**

### **Section 5.1 – Regular Board Meetings.**

*v2012.12.20*

- (1) The Board shall meet monthly at a date, time, and location determined by the Board ("Regular Board Meeting").
- (2) Except as otherwise provided in these Bylaws, the Board may hold Regular Board Meetings without notice.
- (3) For good cause, the President may change the date, time, or location of a Regular Board Meeting.
- (4) A Director not attending a Board Meeting at which the Regular Board Meeting date, time, or location is changed is entitled to receive notice of the Regular Board Meeting change at least five days before the next Regular Board Meeting.
- (5) All Directors are entitled to receive notice of a President's change in a Regular Board Meeting date, time, or location at least five days before the changed Regular Board Meeting.

### **Section 5.2 – Special Board Meetings.**

*v2020.12.17*

The Board, the President, or at least a majority of Directors may call a special meeting of the Board ("Special Board Meeting") by providing each Director at least five days' prior written notice indicating the date, time, location, and purpose of the Special Board Meeting.

### **Section 5.3 – Conduct of Board Meetings.**

v2012.12.20

- (1) Except as otherwise provided in these Bylaws, a Regular Board Meeting or Special Board Meeting (“Board Meeting”) may be:
  - (A) held in, or out of, a state in which the Cooperative Provides electric energy; and
  - (B) conducted with absent Directors participating, and deemed present in person, through any means of communication by which all Directors participating in the Board Meeting may simultaneously hear each other during the Board Meeting.
- (2) If a Director Quorum is present at a Board Meeting, then:
  - (A) in descending priority, the following Officers may preside at the Board Meeting: President, Vice-President, Secretary, and Treasurer; and
  - (B) 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.
- (3) The Board may promulgate or approve rules, policies, and procedures regarding:
  - (A) attendance at, participation in, or presentation during Board Meetings by Persons other than Directors;
  - (B) the right to access, inspect, or copy minutes, records, or other documents relating to a Board Meeting by Persons other than Directors; or
  - (C) the conduct of Board Meetings.

### **Section 5.4 – Waiver of Board Meeting Notice.**

v2012.12.20

- (1) At any time before, during, or after a Board Meeting, a Director 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.
- (2) A Director’s attendance at, or participation in, a Board Meeting waives notice of the Board Meeting and any matter considered at the Board

Meeting, unless the Director:

- (A) at the beginning of the Board Meeting, or promptly upon arrival, objects to holding or transacting business at the Board Meeting or a lack of, or defective, notice of the Board Meeting or a matter being considered at the Board Meeting; and
- (B) does not vote for, or assent to, action taken at the Board Meeting or an objected matter.

### **Section 5.5 – Board Action by Written Consent.**

*v2012.12.20*

- (1) Without a Board Meeting, the Board may take an action required or permitted to be taken at a Board Meeting if the action is:
  - (A) taken by all Directors; and
  - (B) evidenced by one or more written consents ("Director Written Consent"):
    - (I) describing the action taken;
    - (II) signed by each Director;
    - (III) delivered to the Cooperative; and
    - (IV) included with the Cooperative's Board Meeting minutes.
- (2) Except as a different effective date is provided in the Director Written Consent, action taken by Director Written Consent is effective when the last Director signs the Director Written Consent.
- (3) A Director Written Consent has the effect of, and may be described as, a Board Meeting vote.

### **Section 5.6 – Director Quorum and Voting.**

*v2012.12.20*

- (1) A quorum of Directors is a majority of the Directors in office immediately before a Board Meeting begins ("Director Quorum").
- (2) 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.

- (3) 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.
- (4) A Director may not vote by proxy.
- (5) An agreement signed by Directors providing the manner in which a Director must vote is not valid.

### **Section 5.7 – Committees.**

v2012.12.20

- (1) The Board may create a committee of the Board ("Board Committee") and appoint Directors to serve on the Board Committee.
- (2) A Board Committee must consist of two or more Directors and serves at the Board's discretion.
- (3) The Board may create a committee of the Members ("Member Committee") and appoint Members, including Directors, to serve on the Member Committee.
- (4) The Board may appoint one or more Directors or Members, respectively, as alternate members of any Board or Member Committee to replace any absent or disqualified Committee member during the Committee member's absence or disqualification.
- (5) Except as otherwise provided in these Bylaws, at least a majority of Directors currently in office must approve the:
  - (A) creation of a Board Committee or Member Committee;
  - (B) appointment of Directors to a Board Committee; and
  - (C) appointment of Members to a Member Committee.
- (6) To the same extent as the Board and Directors, the Bylaws addressing Regular Board Meetings, Special Board Meetings, Conduct of Board Meetings, Waiver of Board Meeting Notice, Board Action by Written Consent, and Director Quorum and Voting apply to Board Committees and Directors serving on Board Committees, and to Member Committees and Members serving on Member Committees.
- (7) 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 authorize a Board Committee to exercise Board authority.

Although a Board Committee may recommend, a Board Committee may not act, to:

- (A) retire and pay Capital Credits;
- (B) approve the Cooperative's dissolution or merger, or the sale, pledge, or Transfer of all, or substantially all, Cooperative Assets;
- (C) elect, appoint, disqualify, or remove a Director, or fill a Board or Board Committee vacancy; or
- (D) adopt, Amend, or repeal Bylaws.

**Section 5.8 – Board Executive Committee.**

*v2012.12.20*

- (1) Except as otherwise provided by the Board, the Board executive committee is composed of the President, Vice-President, Secretary, and Treasurer ("Board Executive Committee").
- (2) The Vice-President serves as chairperson of the Board Executive Committee.
- (3) The Board Executive Committee:
  - (A) is a Board Committee;
  - (B) may exercise all Board authority granted by the Board and permitted under these Bylaws; and
  - (C) at the next Board Meeting following an exercise of Board authority, must report to the Board regarding the Board Executive Committee's exercise of Board authority.

**Section 5.9 – Board Audit Committee.**

*v2019.02.21*

- (1) The Board shall have an audit committee that is responsible for reviewing and approving the expenses of the Directors and the CEO ("Board Audit Committee").
- (2) Each member of the Board Audit Committee:
  - (A) must be a Director; and



- (B) 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.
- (3) The Board Audit Committee is a Board Committee.

**Section 5.10 – Conflict of Interest Transaction.**

v2020.12.17

- (1) A conflict of interest transaction is a contract or transaction with the Cooperative in which a Director has a direct or indirect interest (“Conflict of Interest Transaction”).
- (2) A Director has an indirect interest in a contract or transaction with the Cooperative if at least one party to the contract or transaction is another Entity:
  - (A) in which the Director has a material or financial interest, or is a general partner; or
  - (B) of which the Director is a director, officer, or trustee.
- (3) Regardless of the presence or vote of a Director interested in a Conflict of Interest Transaction, a Conflict of Interest Transaction may be approved, and a Board Quorum or Member Quorum satisfied, if the material facts regarding the Conflict of Interest Transaction and the Director’s interest, are:
  - (A) 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 Conflict of Interest Transaction votes in good faith to approve the Conflict of Interest Transaction; or
  - (B) 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 in good faith to approve the Conflict of Interest Transaction.
- (4) A Conflict of Interest Transaction that is approved pursuant to this Bylaw, or that is fair to the Cooperative when entered or approved pursuant to this Bylaw, is not, solely by reason of being a Conflict of Interest Transaction:
  - (A) void or voidable; or

- (B) the basis for imposing liability on a Director interested in the Conflict of Interest Transaction.

## **ARTICLE 6 – OFFICERS, INDEMNIFICATION, AND INSURANCE**

### **Section 6.1 – Required Officers.**

*v2012.12.20*

- (1) The Cooperative must have the following Officers: President, Vice-President, Secretary, and Treasurer (“Required Officers”).
- (2) The Board shall elect Required Officers:
  - (A) at the first Regular Board Meeting following each Annual Member Meeting, or as soon after each Annual Member Meeting as reasonably possible and convenient;
  - (B) by affirmative vote of a majority of Directors in office; and
  - (C) by secret Written Ballot without prior nomination.
- (3) A Required Officer must be a Director.
- (4) 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.
- (5) Subject to removal by the Board, a Required Officer holds office until the Required Officer’s successor is elected.
- (6) The Board shall fill a vacant Required Officer’s position for the unexpired portion of the Required Officer’s term.
- (7) A Required Officer may delegate duties and responsibilities to a non-Director Cooperative Official.

### **Section 6.2 – President.**

*v2020.12.17*

Except as otherwise provided by the Board or these Bylaws, the President:

- (A) shall be the principal executive Officer of the Board and shall preside, or designate another individual to preside, at all Board and Member Meetings;

- (B) on the Cooperative's behalf, may sign a document properly authorized or approved by the Board or Members; and
- (C) shall perform all other duties, shall have all other responsibilities, and may exercise all other authority, prescribed by the Board.

**Section 6.3 – Vice-President.**

*v2020.12.17*

Except as otherwise provided by the Board or these Bylaws, the Vice-President:

- (A) upon the President's death, absence, disability, refusal, or inability to act, shall perform the duties, and have the powers, of the President; and
- (B) shall perform all other duties, shall have all other responsibilities, and may exercise all other authority, prescribed by the Board.

**Section 6.4 – Secretary.**

*v2020.12.17*

Except as otherwise provided by the Board or these Bylaws, the Secretary:

- (A) shall be responsible for preparing, or supervising the preparation of, minutes of Board and Member Meetings;
- (B) shall be responsible for maintaining and authenticating the Cooperative's records;
- (C) may affix the Cooperative's seal to a document authorized or approved by the Board or Members; and
- (D) shall perform all other duties, shall have all other responsibilities, and may exercise all other authority, prescribed by the Board.

**Section 6.5 – Treasurer.**

*v2020.12.17*

Except as otherwise provided by the Board or these Bylaws, the Treasurer:

- (A) shall exercise custody of and be responsible for all funds and securities of the Cooperative;

- (B) shall receive and give receipts for monies owed to the Cooperative from any source, and deposit or invest such monies in the name of the Cooperative in such banks or securities as shall be selected in accordance with the provisions of these Bylaws; and
- (C) shall perform all other duties, shall have all other responsibilities, and may exercise all other authority, prescribed by the Board.

**Section 6.6 – Other Officers.**

v2012.12.20

- (1) The Board may create other offices and elect or appoint other Officers (“Other Officers”).
- (2) Except as otherwise provided by the Board, the Cooperative’s Chief Executive Officer, who shall not be required to be a Member of the Cooperative, may create other offices and elect, appoint, retain, or employ Other Officers.
- (3) 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.
- (4) Except as otherwise provided by the Board, Other Officers:
  - (A) may be Directors, Cooperative employees, or other individuals;
  - (B) must be elected or appointed by the affirmative vote of a majority of current Directors, or elected, appointed, retained, or employed by the Chief Executive Officer;
  - (C) may be elected by secret Written Ballot and without prior nomination;
  - (D) may assist Required Officers; and
  - (E) shall perform all duties and functions, shall have all responsibilities, and may exercise all authority, prescribed by the Board or the Chief Executive Officer.

**Section 6.7 – Responsibility for Corporate Reports.**

v2020.12.17

The Cooperative’s principal executive Officer and the principal financial Officer, or Persons performing similar functions, must certify in each

annual or quarterly report filed or submitted to the Members or a lender or government agency:

- (A) the signing Officer has reviewed the report;
- (B) based on the Officer's knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;
- (C) based on the Officer's knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of the Cooperative as of, and for, the periods presented in the report;
- (D) the signing Officers:
  - (I) are responsible for establishing and maintaining internal controls;
  - (II) have designed the internal controls to ensure that material information relating to the Cooperative and its consolidated subsidiaries is made known to the Officers by others within those entities, particularly during the period in which the periodic reports are being prepared;
  - (III) have evaluated the effectiveness of the Cooperative's internal controls as of a date within 90 days prior to the report; and
  - (IV) have presented in the report their conclusions about the effectiveness of their internal controls based on their evaluation as of that date.
- (E) the signing Officers have disclosed to the Cooperative's auditors and the Board (or Persons fulfilling the equivalent function):
  - (I) all significant deficiencies in the design or operation of internal controls which could adversely affect the Cooperative's ability to record, process, summarize, and report financial data and have identified for the Cooperative's auditors any material weaknesses in internal controls; and
  - (II) any fraud, whether or not material, that involves management or other employees who have a significant role

in the Cooperative's internal controls.

- (F) the signing Officers have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

### **Section 6.8 – Officer Resignation and Removal.**

*v2012.12.20*

- (1) At any time, a Required Officer or Other Officer (“Officer” or “Cooperative Officer”) may resign. To resign:
  - (A) an Officer elected or appointed by the Board must deliver to the Cooperative or Board a written resignation; and
  - (B) an Officer elected, appointed, retained, or employed by the Cooperative's Chief Executive Officer must deliver to the Cooperative or Chief Executive Officer a written resignation.
- (2) Except as a later effective date is otherwise provided in the Officer resignation, an Officer resignation is effective when received. If an Officer resignation states a future effective date, and if, as appropriate, the Board or Chief Executive Officer accepts the future effective date, then, as appropriate, the Board or Chief Executive Officer may fill the vacant Officer position before the future effective date, but the successor Officer may not take office until the future effective date.
- (3) At any time:
  - (A) the Board may remove for any reason, with or without cause, an Officer elected or appointed by the Board; and
  - (B) the Chief Executive Officer may remove for any reason, with or without cause, an Officer elected, appointed, retained, or employed by the Chief Executive Officer.

### **Section 6.9 – Officer Standard of Conduct.**

*v2020.12.17*

- (1) An Officer shall discharge the Officer's duties:
  - (A) in good faith;
  - (B) with the care an ordinarily prudent person in a like position would

exercise under similar circumstances; and

- (C) in a manner the Officer reasonably believes to be in the Cooperative's best interests.
- (2) An Officer shall:
- (A) inform the Board, or the superior Officer or Board Committee to whom or which the Officer reports, of information regarding the Cooperative's affairs known to the Officer, within the scope of the Officer's duties and functions, and known to the Officer to be material to the superior Officer or Board; and
  - (B) inform the Board, the superior Officer to whom the Officer reports, or another appropriate Person within the Cooperative of any actual or probable material violation of Law involving the Cooperative, or material breach of duty to the Cooperative by a Cooperative Officer, employee, or agent, that the Officer believes has occurred or is likely to occur.

**Section 6.10 – Officer Contract Rights.**

*v2012.12.20*

- (1) The election, appointment, retention, or employment of an Officer, by itself, does not create a contract between the Cooperative and the Officer.
- (2) An Officer's resignation or removal does not affect the Cooperative's contract rights, if any, with the Officer.

**Section 6.11 – Authority to Execute Documents.**

*v2012.12.20*

- (1) On the Cooperative's behalf, two Required Officers may sign, execute, and acknowledge a document properly authorized or approved by the Board or Members.
- (2) The Board may authorize additional Cooperative Officials to sign, execute, and acknowledge a document on the Cooperative's behalf.

**Section 6.12 – Officer Compensation.**

*v2020.12.17*

Except as otherwise provided by the Board or in a Bylaw addressing Director compensation, reimbursement, salaries, or benefits, the Cooperative may reasonably compensate, reimburse, pay a salary to, or

provide insurance or other benefits to, an Officer.

**Section 6.13 – Bonds.**

v2020.12.17

At the Cooperative's expense, the Cooperative may purchase a bond covering a Cooperative Official.

**Section 6.14 – Indemnification.**

v2020.12.17

- (1) As determined by the Board:
  - (A) the Cooperative shall indemnify:
    - (I) an individual who is or was a Director or Officer;
    - (II) an individual who, while a Director or Officer, is or was serving at the Cooperative's request as a director, officer, partner, trustee, employee, or agent of another Entity; or
    - (III) the estate or personal representative of such an individual (collectively, "Indemnification Director or Indemnification Officer"); who
    - (IV) was wholly 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 Indemnification Officer was, is, or is threatened to be made a named defendant or respondent ("Indemnification Party") because the Indemnification Director or Indemnification Officer is or was a Director or Officer.
  - (B) This indemnification is against reasonable expenses, including attorney fees ("Indemnification Expenses") actually incurred by the Indemnification Director or Indemnification Officer in connection with the Indemnification Proceeding.
- (2) As determined by the Board:
  - (A) 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 an Indemnification Proceeding other than an Indemnification Proceeding:



- (I) by or in the right of the Cooperative in which the Indemnification Individual was adjudged liable to the Cooperative, except for reasonable expenses incurred in connection with the Indemnification Proceeding if it is determined that the Indemnification Individual met the Indemnification Standard of Conduct; or
  - (II) charging, and in which the Indemnification Individual was adjudged liable for receiving, improper personal benefit or financial benefit to which the Indemnification Individual was not entitled, whether or not involving action in the Indemnification Individual's official capacity.
- (B) This indemnification 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:
- (I) acted in good faith;
  - (II) for conduct as a Cooperative Official, reasonably believed that the Indemnification Individual's conduct was in the Cooperative's best interest;
  - (III) for all other conduct, reasonably believed that the Indemnification Individual's conduct was not opposed to the Cooperative's best interests; and
  - (IV) in the case of any criminal Indemnification Proceeding, had no reasonable cause to believe the Indemnification Individual's conduct was unlawful ("Indemnification Standard of Conduct").
- (C) To provide this indemnification, a majority vote of the Director Quorum, excluding Directors currently Indemnification Parties to the Indemnification Proceeding ("Indemnification Director Quorum"), must determine:
- (I) that the Indemnification Individual met the Indemnification Standard of Conduct; and
  - (II) reasonable Indemnification Expenses.

- (3) Before the final disposition of an Indemnification Proceeding, the Cooperative may pay for, or reimburse, the reasonable Indemnification Expenses incurred by an Indemnification Director, Indemnification Officer, or Indemnification Individual who is an Indemnification Party to the Indemnification Proceeding ("Indemnification Advance") if:
  - (A) the Indemnification Director, Indemnification Officer, or Indemnification Individual furnishes the Cooperative a written affirmation of the Indemnification Director, Indemnification Officer, or Indemnification Individual's good faith belief that the Indemnification Director, Indemnification Officer, or Indemnification Individual has met the Indemnification Standard of Conduct and unlimited general obligation of the Indemnification Director, Indemnification Officer, or Indemnification 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, Indemnification Officer, or Indemnification Individual's behalf, and obligates the Indemnification Director, Indemnification Officer, or Indemnification Individual to repay the Indemnification Advance if a majority of the Indemnification Director Quorum ultimately determines that the Indemnification Director, Indemnification Officer, or Indemnification Individual did not meet the Indemnification Standard of Conduct; and
  - (B) a majority of the Indemnification Director Quorum determines that the facts then known to them would not preclude indemnification for the Indemnification Director, Indemnification Officer, or Indemnification Individual under this Bylaw.

**Section 6.15 – Insurance.**

*v2012.12.20*

- (1) 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.
- (2) 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 their individual capacity, or arising from the individual's status, as a Cooperative Official.

**ARTICLE 7 – COOPERATIVE OPERATION**

**Section 7.1 – Nonprofit and Cooperative Operation.**

v2012.12.20

The Cooperative:

- (A) shall operate on a nonprofit and cooperative basis for the mutual benefit of all Members; and
- (B) may not pay interest or dividends on capital furnished by Patrons.

**Section 7.2 – Allocating Capital Credits.**

v2012.12.20

- (1) 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.
- (2) The term "Patron" means a Member to whom the Cooperative is obligated to allocate Capital Credits during a fiscal year.
- (3) The term "Electric Services" means:
  - (A) electric energy Provided by the Cooperative; and
  - (B) as determined by the Board, a good or service Provided by the Cooperative.
- (4) Each fiscal year, the Cooperative:
  - (A) shall equitably allocate to each Patron, in proportion to the quantity or value of the Electric Services Provided by the Cooperative and Used by the Patron during the fiscal year and timely paid for by the Patron, the Cooperative's operating earnings from Providing Electric Services during the fiscal year. Operating earnings means the amount by which the Cooperative's operating revenues from Providing Electric Services exceed the Cooperative's operating expenses of Providing Electric Services, all as determined under federal cooperative tax Law; and
  - (B) may, as determined by the Board, use, retain, or allocate to each Patron, in proportion to the quantity or value of Electric Services Provided by the Cooperative and Used by the Parton during the fiscal year and timely paid for by the Patron, the Cooperative's non-operating earnings. Non-operating earnings means 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.

- (5) 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. The term "Capital Credits" means the amounts allocated to a Patron and contributed by the Patron to the Cooperative as capital.
- (6) 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. 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 Electric Services 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.
- (7) As reasonable and fair, 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 Electric Services 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.
- (8) Upon receiving written notice and sufficient proof of the termination, conversion, or alteration of a Joint Membership:
  - (A) through the death of a Joint Member, the Cooperative shall assign and transfer to each surviving Joint Member an equal portion of Capital Credits allocated, or to be allocated, to the Joint Membership; or
  - (B) other than through the death of a Joint Member, and except as

otherwise provided by a court or administrative body of competent jurisdiction, and except as otherwise provided by the Joint Members, the Cooperative shall assign and transfer to each Joint Member an equal portion of Capital Credits allocated, or to be allocated, to the Joint Membership.

**Section 7.3 – Notification and Assignment of Capital Credits.**

*v2014.11.20*

- (1) Within a reasonable time after the end of each fiscal year, the Cooperative shall notify each Patron in writing or electronically of the stated dollar amount of Capital Credits allocated to the Patron for the preceding fiscal year.
- (2) Except as otherwise provided by the Board or these Bylaws, to assign or transfer a Patron's Capital Credits:
  - (A) the Cooperative must receive a written request signed by the Patron to assign or transfer the Capital Credits;
  - (B) the Patron and the assignee or transferee must comply with all reasonable requirements specified by the Cooperative; and
  - (C) the Board must approve the assignment or transfer.

**Section 7.4 – Retiring Capital Credits.**

*v2012.12.20*

- (1) 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, regardless of the Patron's marital status.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) The Cooperative may specially retire and pay some or all Capital Credits allocated to an Entity Patron or former Entity Patron:
  - (A) during or after the Entity's dissolution, liquidation, or other cessation of existence;
  - (B) after receiving a written request from the Entity or the Entity's legal representative; and
  - (C) according to the terms and conditions agreed upon by the Cooperative and the Entity or the Entity's legal representative.
- (6) 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 amount of retired Capital Credits paid to the Patron or former Patron by the amount owed to the Cooperative.
- (7) The Cooperative may retire and pay Capital Credits only if the Board determines that 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.
- (8) 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 retires and pays Capital Credits to similarly situated Patrons and former Patrons under the same manner, method, and timing. 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, patron, or owner, then the Cooperative may retire and pay these Capital Credits before or after the Entity retires and pays the capital credits or similar amounts to the Cooperative.

- (9) As determined by the Board, before the time the Cooperative anticipates normally retiring and paying Capital Credits, the Cooperative may retire some or all Capital Credits and pay the net present value of the retired Capital Credits. If the Cooperative retires and pays the net present value of Capital Credits to a Patron or former Patron before the time the Cooperative anticipates normally retiring and paying the Capital Credits, then the amount of Capital Credits not paid may be used or retained as permanent, unallocated equity, or equitably allocated.

**Section 7.5 – Patron Agreement.**

*v2012.12.20*

Each Patron and former Patron agrees that:

- (A) capital Credits are not securities under state or federal Law;
- (B) the 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) as required by Law, each Patron will:
  - (I) report to the appropriate Entity all allocated or retired Capital Credits; and
  - (II) pay the appropriate Entity any tax or similar amount on allocated or retired Capital Credits.

**Section 7.6 – Reserved.**

*v2012.12.20*

**Section 7.7 – Reasonable Reserves.**

*v2012.12.20*

- (1) Regardless of a contrary Bylaw, and to meet the Cooperative’s reasonable needs, the Cooperative may accumulate and retain amounts exceeding those needed to meet current losses and expenses (“Reasonable Reserves”).
- (2) The Cooperative must keep records necessary to determine, at any time, each Patron’s rights and interest in Reasonable Reserves.

## **ARTICLE 8 – DISPOSITION OF COOPERATIVE ASSETS**

### **Section 8.1 – Transfer of Cooperative Assets.**

v2014.11.20

- (1) Except for a sale, lease, exchange, disposition, conversion, or other transfer (“Transfer”) of Cooperative Assets to secure indebtedness, pursuant to condemnation or threat of condemnation, pursuant to an existing legal obligation, associated with a Consolidation or Merger, consisting of the Cooperative’s ownership in an Entity, to an Entity operating on a cooperative basis and Providing electric energy, or to a Cooperative Subsidiary, the Cooperative may Transfer, including Transfer as part of a dissolution or liquidation, during a 12 month period, more than 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 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;
  - (C) within 30 days of receiving the Appraisals, the Cooperative invites and National Utilities Cooperative Financing Corporation, CoBank, and all other Entities operating on a cooperative basis, Providing electric energy, and located in North Carolina, to submit, within a period of not less than 30 days from the date of such invitation, 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 approves the proposed Transfer;
  - (E) at least two-thirds of the Total Membership approves the proposed Transfer in person or by proxy;
  - (F) notice of a Member Meeting at which Members will consider the proposed Transfer states that one of the purposes of the Member Meeting is to consider the Transfer, and includes a copy or summary of the proposed Transfer;
  - (G) no Director will benefit from the Transfer, financially or otherwise, in a manner different from other Members;



- (H) except for a Transfer to an Entity operating on a cooperative basis and Providing electric energy, all allocated Capital Credits are retired and paid at full and nondiscounted value contemporaneous with the Transfer; and
  - (I) in proportion to the value or quantity of electric energy Provided by the Cooperative Used by Members during the period in which the Cooperative owned a Cooperative Asset, the Cooperative allocates to Members as Capital Credits any consideration received for the Cooperative's Assets that exceeds the amount paid for the Cooperative Assets.
- (2) Except as otherwise provided by the Members, after the Members approve a Transfer, the Board may abandon the Transfer.
  - (3) To secure indebtedness by the Cooperative or a Cooperative Subsidiary, the Board may Transfer, mortgage, pledge, dedicate to repayment, or encumber any Cooperative Asset.
  - (4) As used in this Bylaw, a Transfer includes the conversion of the Cooperative to another form of business.

**Section 8.2 – Dissolution, Merger, and Consolidation.**

*v2012.12.20*

- (1) The Cooperative may not be dissolved, except in compliance with this Bylaw.
  - (A) Upon receiving a proposal to dissolve the Cooperative, the Board shall invite all other Entities operating on a cooperative basis, Providing electricity, and located in North Carolina, to submit, within a period of not less than 120 days from the date of such invitation, a proposal to Merge or Consolidate with the Cooperative.
  - (B) If a proposal to Merge or Consolidate is received by the Cooperative pursuant to the invitation described in paragraph (1)(A) of this Bylaw, the Cooperative shall comply with paragraph (2) of this Bylaw prior to taking further action on the proposal to dissolve the Cooperative.
  - (C) The Cooperative may not be dissolved unless the proposal to dissolve is approved by:
    - (I) the Board; and
    - (II) two-thirds of the Total Membership in person or by proxy.

- (2) 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 this Bylaw.
- (A) To Consolidate or Merge, the Board must approve an agreement or plan to Consolidate or Merge (“Consolidation Agreement” or “Merger Agreement”) stating the:
- (I) terms and conditions of the Consolidation or Merger;
  - (II) name of each Entity Consolidating or Merging with the Cooperative;
  - (III) name of the new or surviving Consolidated or Merged Entity (“New Entity”);
  - (IV) 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;
  - (V) number of directors of the New Entity, which must equal or exceed nine;
  - (VI) date of the New Entity’s annual meeting;
  - (VII) names of New Entity directors who will serve until the New Entity’s first annual meeting; and
  - (VIII) other information required by Law.
- (B) To Consolidate or Merge, after the Board approves a Consolidation or Merger Agreement, two-thirds of the Members voting in person must approve the Consolidation or Merger Agreement. Members may not approve the Consolidation or Merger Agreement by Member Written Consent or Mail Ballot.
- (C) 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 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 and any provision which would require Director or Member approval if contained in a proposed Articles or Bylaws Amendment.

- (D) 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.
- (E) 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.**

v2012.12.20

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:
  - (I) the Cooperative shall first distribute gains from selling an appreciated Cooperative Asset to Members and former Members who Used electric energy Provided by the Cooperative during the period in which the Cooperative owned the Cooperative Asset in proportion to the value or quantity of electric energy Provided by the Cooperative Used by the Member or former Member during the period the Cooperative owned the Cooperative Asset;
  - (II) the Cooperative shall then distribute nonoperating earnings used by the Cooperative as permanent, unallocated equity to Members and Former Members who Used electric energy Provided by the Cooperative during the period in which the Cooperative received the earnings in proportion to the value or quantity of electric energy Provided by the Cooperative Used by the Member or Former Member during the period the Cooperative received the earnings; and
  - (III) the Cooperative shall then pay or distribute any remaining Cooperative Assets, and any amounts received from selling

any remaining Cooperative Assets, to the Members and former Members in proportion to the value or quantity of electric energy Provided by the Cooperative Used during the 10 years before the Cooperative's dissolution.

## **ARTICLE 9 – MISCELLANEOUS**

### **Section 9.1 – Reserved.**

v2012.12.20

### **Section 9.2 – Bylaw Amendment.**

v2012.12.20

- (1) Except as otherwise provided in these Bylaws, these Bylaws may be adopted, amended, or repealed ("Amended") by the vote of a majority of Directors at a Regular or Special Board Meeting.
- (2) Except as otherwise provided in a Bylaw Amendment, the Amendment is effective immediately after the vote approving the Amendment. The Cooperative must notify Members of Amended Bylaws.
- (3) The Board may sponsor or propose a Bylaw Amendment.
- (4) Notice of a Board Meeting at which Directors will consider a proposed Bylaw Amendment must:
  - (A) state that the purpose, or one of the purposes, of the Board Meeting is to consider the proposed Bylaw Amendment; and
  - (B) contain, or be accompanied by, a copy or summary of the proposed Bylaw Amendment.
- (5) If Members may vote on a proposed Bylaw Amendment by Mail Ballot, then the proposed Bylaw Amendment may not be Amended at the Member Meeting.

### **Section 9.3 – Rules of Order.**

v2012.12.20

The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Cooperative in all cases to which they are applicable and in which they are not inconsistent with these Bylaws and any special rules of order the Cooperative may adopt.

#### **Section 9.4 – Fiscal Year.**

*v2012.12.20*

- (1) The Board may determine and modify the Cooperative's fiscal year.
- (2) Except as otherwise provided by the Board, the Cooperative's fiscal year is the calendar year.

#### **Section 9.5 – Notice and Communication.**

*v2012.12.20*

- (1) Except as otherwise provided in these Bylaws, a notice or communication may be:
  - (A) oral or written; and
  - (B) communicated:
    - (I) in person;
    - (II) by telephone, telegraph, teletype, facsimile;
    - (III) by mail or private carrier;
    - (IV) by publication on the Cooperative's website by the Cooperative; or
    - (V) if the above-listed forms of communicating are impractical, then by newspaper of general circulation in the area where published, or radio, television, or other form of public broadcast communication.
- (2) If addressed or delivered to an address shown in the Membership List or Cooperative records, then a written notice, communication, or report delivered as part of a newsletter, magazine, or other publication regularly sent to Members constitutes a written notice, communication, or report to all Members:
  - (A) residing at the address; or
  - (B) having the same address shown in the Membership List or Cooperative records.
- (3) Except as otherwise provided in these Bylaws:
  - (A) an oral notice or communication is effective when communicated, if

communicated in a comprehensible manner; and

- (B) a written notice or communication is effective upon the earliest of:
  - (I) when received;
  - (II) with the postmark evidencing deposit in the United States Mail, and if correctly addressed and mailed with first class postage affixed, then five 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 30 days after deposit in the United States Mail; or
  - (III) 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.
- (4) A written notice or communication is correctly addressed to a Member if addressed to the Member's address shown in the Membership List or Cooperative records.
- (5) The Cooperative is not required to send additional notices or communications to a former Member until the Cooperative receives a different address from the former Member if:
  - (A) the Cooperative sends two written notices or communications to a former Member at the address shown in the Cooperative's records; and
  - (B) both notices or communications are sent to the same address; and
  - (C) both notices or communications are returned to the Cooperative as undeliverable or the Cooperative is informed that neither notice or communication was deliverable.

**Section 9.6 – Governing Law.**

*v2020.12.22*

These Bylaws must be governed by, and interpreted under, the Laws of North Carolina.

**Section 9.7 – Titles and Headings.**

*v2020.12.17*

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.

**Section 9.8 – Partial Invalidity.**

*v2020.12.20*

- (1) When reasonably possible, every Bylaw article, section, subsection, paragraph, sentence, clause, or provision (“Bylaw Provision”) must be interpreted in a manner by which the Bylaw Provision is valid.
- (2) 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 9.9 – Cumulative Remedies.**

*v2012.12.20*

- (1) The rights and remedies provided in these Bylaws are cumulative.
- (2) The Cooperative or a Member asserting a right or remedy provided in these Bylaws does not preclude the Cooperative or Member from asserting other rights or remedies provided in these Bylaws.

**Section 9.10 – Entire Agreement.**

*v2020.12.17*

Between the Cooperative and a Member, the Governing Documents:

- (A) constitute the entire agreement; and
- (B) supersede and replace a prior or contemporaneous oral or written communication or representation.

**Section 9.11 – Successors and Assigns.**

*v2012.12.20*

- (1) Except as otherwise provided in these Bylaws:
  - (A) 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

- (B) the duties, obligations, and liabilities imposed upon a Member by these Bylaws are binding upon the Member's successors and assigns.
- (2) 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.**

*v2020.12.17*

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.

**Section 9.13 – Lack of Notice.**

*v2020.12.17*

The failure of a Member or Director to receive notice of a Meeting, action, or vote does not affect, or invalidate, an action or vote taken by the Members or Board.