

Table of Contents

ARTICLE I DEFINITIONS	4
Section 1.01 General Provisions.	4
Section 1.02 Defined Terms.	4
ARTICLE II COOPERATIVE MEMBERSHIP.....	5
Section 2.01 Membership Eligibility.....	5
Section 2.02 Membership Procedure.....	5
Section 2.03 Automatic Membership.....	6
Section 2.04 Retroactive Membership.	6
Section 2.05 Joint Membership.....	7
Section 2.06 Conversion of Membership	7
Section 2.07 Obligations of Members and Applicants for Membership.....	7
Section 2.08 Termination of Membership.	9
ARTICLE III RIGHTS AND LIABILITIES OF MEMBERS.....	10
Section 3.01 Property Interest of Members	10
Section 3.02 Non-liability for Debts of the Cooperative.	10
ARTICLE IV MEETINGS OF MEMBERS.....	10
Section 4.01 Annual Meeting.	10
Section 4.02 Special Meetings.....	10
Section 4.03 Permitted Member Action at Member Meetings.....	11
Section 4.04 Notice of Member Meetings.....	11
Section 4.05 Record Date.....	12
Section 4.06 Quorum.	13
Section 4.07 Voting.	13
Section 4.08 Order of Business.....	13
Section 4.09 Credentials and Election Committee.	13
ARTICLE V DIRECTORS	15
Section 5.01 General Powers.....	15
Section 5.02 Districts.....	15
Section 5.03 Election and Tenure of Office.....	16
Section 5.04 Qualifications.....	17
Section 5.05 Nomination.....	18
Section 5.06 Director Removal.....	19
Section 5.07 Vacancies	21
Section 5.08 Compensation.....	21
ARTICLE VI MEETINGS OF DIRECTORS AND DIRECTOR VOTING.....	21
Section 6.01 Regular Board Meetings.....	21
Section 6.02 Special Meetings.....	22
Section 6.03 Meeting By Telephone.....	22
Section 6.04 Written Consent.....	22
Section 6.05 Notice and Waiver of Notice.....	22
Section 6.06 Quorum.....	23
ARTICLE VII OFFICERS	23
Section 7.01 Number.....	23
Section 7.02 Other Officers.....	23

Section 7.03	Election and Term of Office.....	24
Section 7.04	Removal of Officers and Agents by Directors.....	24
Section 7.05	President.....	24
Section 7.06	Vice-President.....	24
Section 7.07	Secretary.....	25
Section 7.08	Treasurer.....	25
Section 7.09	Delegation of Secretary's and Treasurer's Responsibilities.....	26
Section 7.10	General Manager.....	26
Section 7.11	Reports.....	26
ARTICLE VIII NON-PROFIT OPERATION, REVENUES AND RECEIPTS		26
Section 8.01	Non-profit Operation.....	26
Section 8.02	Patronage Capital in Connection with Furnishing Electric.....	26
Section 8.03	Patronage Capital - Accounts.....	27
Section 8.04	Patronage Capital - Status as Such - Security Interest.....	27
Section 8.05	Other Patronage Capital - Allocation.....	27
Section 8.06	Patronage Capital - Dissolution.....	27
Section 8.07	Patronage Capital - Distribution Prior to Dissolution.....	28
Section 8.08	Patronage Capital Contract with Member.....	29
Section 8.09	Cooperative's Security Interest and Right to Set-off.....	29
ARTICLE IX INDEMNIFICATION AND INSURANCE		29
Section 9.01	Indemnification.....	29
Section 9.02	Insurance.....	30
ARTICLE X PROPERTY		30
Section 10.01	Disposition.....	30
Section 10.02	Disposition of Property.....	31
Section 10.03	Security Interest.....	32
ARTICLE XI OPERATIONS AND MISCELLANEOUS		32
Section 11.01	Seal.....	32
Section 11.02	Contracts.....	32
Section 11.03	Checks, Drafts, Etc.....	32
Section 11.04	Bank Accounts and Deposits.....	33
Section 11.05	Fiscal Year.....	33
Section 11.06	Service to Non-Members.....	33
Section 11.07	Membership in Other Organizations.....	33
Section 11.08	Policies, Rules and Regulations.....	33
Section 11.09	Accounting Systems and Reports.....	34
Section 11.10	Reports.....	34
Section 11.11	Area Coverage.....	34
Section 11.12	Circulation of Newsletter.....	34
ARTICLE XII AMENDMENTS		34
Section 12.01	Amendment by Board.....	34
Section 12.02	Amendment by Members.....	35
Section 12.03	Petition of Members.....	35
Section 12.04	Illegal Bylaw Provisions.....	35
Section 12.05	Amendments to Amendment.....	35

BYLAWS
OF
TRI-STATE ELECTRIC MEMBERSHIP CORPORATION

**ARTICLE I
DEFINITIONS**

Section 1.01 **General Provisions.** As used in these Bylaws of TRI-STATE ELECTRIC MEMBERSHIP CORPORATION (Cooperative), as currently existing or as later amended (Bylaws):

- (a) Unless otherwise provided, words and phrases used in these Bylaws have their customary and ordinary meaning;
- (b) The singular use of any word includes the plural use, and the plural use of any word includes the singular use;
- (c) The masculine use of any word includes the feminine and neutral uses, the feminine use of any word includes the masculine and neutral uses, and the neutral use of any word includes the masculine and feminine uses;
- (d) The present tense of any word includes the past and future tenses, and the future tense of any word includes the present tense; and
- (e) The words “shall” or “must” indicate a mandatory action or requirement, and the word “may” indicates a permissive action or requirement.
- (f) “Close Relative” means a person who, by blood or by marriage, including half, foster, step and adoptive kin, is either a spouse, child, grandchild, parent, grandparent, brother or sister of the principal (Close Relative).

Section 1.02 **Defined Terms.** These Bylaws define certain words and phrases within Bylaw sections (Defined Terms). Defined Terms are:

- (a) capitalized, enclosed within parenthesis and in bold lettering following the Defined Term’s definition; and
- (b) capitalized when otherwise used in these Bylaws.

Unless the context requires otherwise, Defined Terms have the meaning specified in the appropriate Bylaw section. The following Defined Terms are defined in the following Bylaw sections:

Annual Member Meeting B Bylaw Section 4.01
Applicant B Bylaw Section 2.02
Board B Bylaw Section 5.01
Bylaws B Bylaw Section 1.01
C&E Committee B Bylaw Section 4.09
Close Relative B Bylaw Section 1.01
Cooperative B Bylaw Section 1.01
Defined Terms - Bylaw Section 1.02
Director Removal Petition – Bylaw Section 5.06
Member B Bylaw Section 2.03
Member Default - Bylaw Section 2.08
Member Demand - Bylaw Section 4.02
Member Meeting - Bylaw Section 4.03
Member Petition – Bylaw Section 5.05
Member Petition Nominations – 5.05
Membership Procedures - Bylaw Section 2.02
Nominating Committee B Bylaw Section 5.05
Officers - Bylaw Section 7.01
Other Officers - Bylaw Section 7.02
Person - Bylaw Section 2.01
Protestors - Bylaw Section 4.09
Record Date - Bylaw Section 4.05
Regular Board Meeting - Bylaw Section 6.01
Required Officers – Bylaw Section 7.01
Service Rules and Regulations - Bylaw Section 11.08
Special Member Meeting - Bylaw Section 4.02
Total Membership - Bylaw Section 4.02

ARTICLE II COOPERATIVE MEMBERSHIP

Section 2.01 **Membership Eligibility.** Any natural person, firm, association, corporation, partnership or any other entity or partnership authorized to enter into mutual, legally-binding contracts, regardless of form, or body politic or subdivision thereof (collectively, Person) purchasing electric energy and service from the Cooperative is eligible to become a member of the Cooperative.

No Person may hold more than one (1) membership in the Cooperative.

Section 2.02 **Membership Procedure.** Any Person seeking to become a member (Applicant) must complete the following procedures (Membership Procedures):

- (a) Make a written application for membership in the form provided by the Cooperative in which the Applicant agrees to:
 - (1) take and purchase from the Cooperative electric service at one or more premises; and
 - (2) comply with and be bound by the Articles of Incorporation, Bylaws and Service Rules and Regulations of the Cooperative and any other reasonable rules and regulations as each is now in existence and from time to time adopted or amended;
- (b) Pay the membership fee as required by the Cooperative's Service Rules and Regulations as now in existence and as amended from time to time;
- (c) Complete any additional or supplemental document or contract required by the Board of Directors for electric service;
- (d) Pay or make satisfactory arrangements for the payment of any past-due indebtedness owed to the Cooperative by the Person, including, but not limited to such accumulated interest as may be due under the terms of the Cooperative's Service Rules and Regulations;
- (e) Pay or make satisfactory arrangements to assure the payment of any security deposit, membership fee, extension or service connection deposit or fee, contribution-in-aid of construction or any combination thereof and such other fees or charges as may be required by the Cooperative's rates and Service Rules and Regulations in effect at the time of application.

Section 2.03 **Automatic Membership.** Unless the Board determines otherwise, an Applicant automatically becomes a Member of the Cooperative upon:

- (a) completing the Membership Procedures to the Cooperative's satisfaction; and
- (b) using, receiving, or purchasing any Cooperative service.

Section 2.04 **Retroactive Membership.** Upon discovery that the Cooperative has been furnishing electric service to any Person other than a Member, it may cease furnishing such service unless the Person applies for membership with the Cooperative and complies with the Membership Procedures. Such Person shall become a Member retroactively to the date on

which such Person first began receiving such service, in which event the Cooperative, to the extent practicable, shall correct its membership records and all related records accordingly.

Section 2.05 Joint Membership. A husband and wife may apply for a joint membership and, subject to their compliance with the Membership Procedures, may be accepted for such membership. The term “Member” or “Person” as used in these Bylaws shall be deemed to include a husband and wife holding a joint membership and any provisions relating to the rights and liabilities of membership shall apply equally with respect to the holders of a joint membership. Without limiting the generality of the foregoing, the effect of the hereinafter specified actions by or in respect of the holders of a joint membership shall be as follows:

- (a) The presence at a meeting of either or both shall be regarded as the presence of one (1) Member and shall have the effect of revoking a proxy executed by either or both and of constituting a joint waiver of notice of the meeting;
- (b) The vote of either separately or both jointly shall constitute one (1) joint vote;
- (c) A waiver of notice signed by either or both shall constitute a joint waiver;
- (d) Notice to either shall constitute notice to both;
- (e) Expulsion or suspension of either shall terminate or suspend the joint membership, as the case may be;
- (f) Withdrawal of either shall terminate the joint membership;
- (g) Either, but not both, may be elected or appointed as an officer or director, provided that both meet the qualifications for such office.

Section 2.06 Conversion of Membership

- (a) A membership may be converted to a joint membership upon the written request of the holder thereof and compliance by such holder and his or her spouse with the Membership Procedures.
- (b) Upon the death of either spouse who is a party to the joint membership, such membership shall be held solely by the survivor; provided, however, that the estate of the deceased shall not be released from any debts due the Cooperative.

Section 2.07 Obligations of Members and Applicants for Membership.

Each Member and Applicant shall be obligated to:

- (a) purchase from the Cooperative, as soon as electric energy shall be available, all central station electric energy and capacity purchased for use on the premises to which electric service is provided by the Cooperative unless temporarily prevented from doing so by causes reasonably beyond the control of the Applicant or Member, and shall pay therefore, including any monthly amount that may be charged without regard to the amount of electric energy and power actually used, at rates which shall from time to time be established by the Board;
- (b) comply with and be bound by the Articles of Incorporation, Bylaws and Service Rules and Regulations of the Cooperative and any other reasonable rules and regulations from time to time adopted by the Board;
- (c) upon request by the Cooperative, to execute and deliver to the Cooperative grants of easement or rights-of-way for the construction, operation, maintenance or relocation of the Cooperative's facilities, lines and equipment, over, on and under lands owned by the Applicant or Member in accordance with such reasonable terms and conditions as the Cooperative may require;
- (d) pay for all service consumed at the full applicable rate that justly due the Cooperative under the rates, tariffs and Service Rules and Regulations promulgated from time to time by the Cooperative supplemented by any supplemental contract between the Cooperative and the Member. (When the Member has more than one service connection from the Cooperative, or other indebtedness owed to the Cooperative, any payment from him or her to the Cooperative shall be deemed pro-rated to his outstanding accounts for all such service connections or indebtedness, notwithstanding that the Cooperative's actual accounting procedures do not reflect such pro-ration);
- (e) monitor his or her bills and notify the cooperative in a timely manner of any discrepancies and to pay any amounts determined to be due as a result of under billing, regardless of whether such under billing resulted from the customers conduct or not.
- (f) cause all premises to which electric service is provided by the Cooperative to become and remain wired in accordance with the specifications of the National Electric Code, the Fire Insurance Underwriter's Association, any government or governmental agency having authority to prescribe such specifications and the specifications

of the Cooperative in effect from time to time. In this connection, each Member shall be responsible for and shall indemnify the Cooperative and/or its employees, agents and independent contractors against death, injury, loss or damage resulting from any defect in or improper use or maintenance of the Member's premises, wiring or apparatuses utilizing electric energy on the premises. IN NO EVENT, HOWEVER, SHALL THE RESPONSIBILITY OF THE COOPERATIVE EXTEND BEYOND THE POINT WHERE ITS SERVICE WIRES ARE ATTACHED TO THE MEMBER'S SERVICE ENTRANCE OR TO WIRING ON THE MEMBER'S PREMISES; and

- (g) each Member shall make available to the Cooperative a suitable site, as determined by the Cooperative, to place the Cooperative's physical facilities for the furnishing and metering of electric service and shall permit the Cooperative's authorized employees, agents and independent contractors to have access thereto safely and without interference from hostile dogs or any other hostile source, for meter reading, bill collecting and for inspection, maintenance, replacement, relocation, repair or disconnection of such facilities at all reasonable times. As part of the consideration for such service, each Member shall desist from interfering with, impairing the operation of or causing damage to such facilities, and shall use his best efforts to prevent others from so doing. In the event such facilities are interfered with, impaired in their operation or damaged by the Member, or by any other person when the Member's reasonable care and surveillance should have prevented such, the Member shall indemnify the Cooperative and its employees, agents and independent contractors' against death, injury, loss or damage resulting there from, including but not limited to the Cooperative's cost of repairing, replacing or relocating any such facilities and its loss, if any, of revenues resulting from the failure or defective functioning of its metering equipment.

Section 2.08 Termination of Membership.

- (a) Any Member may withdraw from membership upon compliance with such uniform terms and conditions as the Board may prescribe.
- (b) The Board may, by the affirmative vote of not less than two-thirds of all the members of the Board, expel any Member who fails to comply with any of the provisions of the Articles of Incorporation, Bylaws or Service Rules and Regulations of the Cooperative, but only if such Member shall have been given written notice by the Cooperative that such failure makes him liable to expulsion and such failure shall have continued for at least ten (10) days after such notice was given. Any expelled Member may be reinstated by vote of the Board or by the vote of the Members at any Annual or Special Meeting.

- (c) Upon the withdrawal, death, cessation of existence or expulsion of a Member, the membership of such Member shall thereupon terminate. Termination of membership in any manner shall not release a Member or the Member's estate from any debts due the Cooperative.
- (d) In case of withdrawal or termination of membership in any manner, the Cooperative shall repay to the Member the amount of the membership fee paid by the Member; provided, however, that the Cooperative shall deduct from the amount of the membership fee the amount of any debts or obligations owed by the Member to the Cooperative.
- (e) Suspension of Membership and Reinstatement of Membership - Upon the failure of a Member to fulfill the Member's obligations as provided in these Bylaws or by separate contract (Member Default), which results in the Cooperative's termination of electrical service to the Member's premises, the membership rights of the Member shall be suspended for a period of sixty (60) days from the date that the electric service was terminated. If the Member, within the sixty (60) day period, shall cure the Member Default and the Cooperative reinstates electric service to the premises of the Member, the membership rights shall be automatically reinstated.

ARTICLE III RIGHTS AND LIABILITIES OF MEMBERS

Section 3.01 **Property Interest of Members** Upon dissolution, after (a) all debts and liabilities of the Cooperative shall have been paid, and (b) all capital furnished through patronage shall have been retired as provided in these Bylaws, the remaining property and assets of the Cooperative shall be distributed among the Members and former Members in the proportion which the aggregate patronage of each bears to the total patronage of all Members and former Members.

Section 3.02 **Non-liability for Debts of the Cooperative.** The private property of the Members shall be exempt from execution or other liability for the debts of the Cooperative and no Member shall be liable or responsible for any debts or liabilities of the Cooperative.

ARTICLE IV MEETINGS OF MEMBERS

Section 4.01 **Annual Meeting.** The Annual Meeting of the Members shall be held at a date, time and location within the county in which the Cooperative provides electric service determined by the Board and designated in the notice of the meeting, for the purpose of electing Directors, receiving reports for the

previous fiscal year and transacting such other business as may properly come before the meeting (Annual Member Meeting). Failure to hold the Annual Member Meeting at the designated time shall not work a forfeiture or dissolution of the Cooperative.

Section 4.02 **Special Meetings.** Special meetings of the Members (Special Member Meeting) may be called upon the Cooperative receiving:

- (a) a written or oral request from the President;
- (b) a resolution of the Board;
- (c) a written request signed by at least three (3) of the Directors; or
- (d) one (1) or more written demands signed and dated by at least ten percent (10%) of the Cooperative's total current non-suspended Members (Total Membership) requesting and describing the same or substantially the same purpose of a Special Member Meeting (Member Demand).

It shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as provided in these Bylaws. Special Member Meetings may be held at a date, time and location within any county in which the Cooperative provides electric service as determined by the Board and designated in the notice of the Special Member Meeting.

Section 4.03 **Permitted Member Action at Member Meetings.**

At any Annual Member Meeting, Special Member Meeting or any other lawfully-convened meeting of the Members (collectively, Member Meeting), Members may consider, vote or act only upon a matter for which:

- (a) unless otherwise provided by the Bylaws, the Board and Members were notified properly;
- (b) the Members are authorized to consider, vote, or act; and
- (c) for a Special Member Meeting, properly described in the notice of the Special Member Meeting.

Members may only vote upon matters described in the notice of the Annual Member Meeting. At a Special Member Meeting, Members may only vote upon matters described in the notice of the Special Member Meeting.

Section 4.04 Notice of Member Meetings.

- (a) The Cooperative shall deliver written notice of a Member Meeting:
- (1) personally or by mail;
 - (2) to all Members entitled to vote at the Member Meeting;
 - (3) indicating the date, time, and location of the Member Meeting;
 - (4) at least five (5), but no more than sixty (60), days prior to the Member Meeting;
 - (5) for any Annual Member Meeting, describing any matter to be considered, or voted or acted upon, at the Annual Member Meeting;
 - (6) for any Special Member Meeting, stating the purpose of, and describing any matter to be considered, or voted or acted upon, at the Special Member Meeting.
- (b) Notice of a Member Meeting is delivered when:
- (1) deposited in the United States Mail in a sealed envelope with prepaid, first-class postage affixed and addressed to a Member at the last address provided to the Cooperative by the Member;
 - (2) if mailed by other than First Class Mail, five (5) days from the date of mailing;
 - (3) if personally delivered by hand delivery to the Member, on the date of such delivery; or
 - (4) if delivered personally by leaving such notice in a conspicuous place at the Member's address, on the date the notice was left.
- (c) The inadvertent and unintended failure of any Member to receive notice of any Member Meeting shall not affect any action taken at the Member Meeting.
- (d) The notice of the Annual Member Meeting shall include notice of any matter which a Member may raise or discuss, and intends to raise or discuss, at the Member Meeting if:

- (1) requested, in writing, by at least one hundred (100) Members; and
- (2) the Cooperative receives the written request at least thirty (30) days prior to the Annual Member Meeting.

Section 4.05 **Record Date.**

The Board may fix a date (Record Date) for determining the Total Membership and the Members entitled to:

- (a) notice of Member Meeting;
- (b) vote at a Member Meeting; and
- (c) any other lawful purpose.

If no Record Date is set, the Record Date is the date on which the notice of the meeting is mailed or personally delivered. If notice is not mailed or personally delivered to all of the Members on the same date, the date ten (10) days prior to the Member Meeting shall be the Record Date for determination of Members entitled to vote at a Member Meeting.

No Board determined Record Date may be more than ninety (90) days prior to the date of the Member Meeting.

Section 4.06 **Quorum.**

Attendance in person of not less than One Hundred (100) Members, or their authorized representative(s), including spouses entitled to vote on behalf of Members as provided in Section 4.07 below, shall constitute a quorum for the transaction of business at a Member Meeting.

Unless otherwise provided in these Bylaws, the Cooperative shall notify Members of a Member Meeting adjourned to another date, time, or location unless:

- (a) the Member Meeting is adjourned to another date occurring within sixty (60) days following the Record Date for the original Member Meeting; and
- (b) the new date, time, or location is announced at the Member Meeting prior to adjournment.

Section 4.07 Voting.

Each Member shall be entitled to only one (1) vote upon each matter submitted to a vote at a meeting of the Members. All questions shall be decided by a vote of the majority of the Members voting thereon in person, except as otherwise provided by law, the Articles of Incorporation or these Bylaws. In the case of a membership held by a married Person, such membership shall, unless it is made to appear otherwise by writing executed by the married Member and filed with the Secretary or his designee prior to a meeting of the Members, be deemed, for voting and quorum purposes only, to be held jointly by the husband and wife, and either spouse (but not both) shall be entitled to cast the vote of such Member at any Member Meeting. No Member shall have the right to accumulate the Member's vote.

Section 4.08 Order of Business

The Board shall determine the agenda and order of business of the Member Meetings.

Section 4.09 Credentials and Election Committee.

The Board may appoint a Credentials and Election Committee (C & E Committee). The C & E Committee shall consist of an uneven number of Members not less than three (3) nor more than eleven (11). C & E Committee members shall not be members of the Nominating Committee, Cooperative employees, Directors or candidates for Director. Furthermore, a C & E Committee member shall not be a Close Relative of any of the foregoing persons (i.e., any person who cannot be a member of the C & E Committee). In appointing the C & E Committee, the Board may consider the equitable representation of the several areas served by the Cooperative. The Board may appoint the chairman and secretary of the Committee. If the Board does not appoint a chairman, the C & E Committee shall elect its own chairman and secretary. It shall be the responsibility of the C & E Committee, upon request of the Board:

- (a) to resolve any disputes or questions concerning the validity of petitions of nomination and the qualification of candidates for election to the Board;
- (b) to tabulate all ballots or votes cast;
- (c) to rule on the effect of any ballots or votes irregularly marked or cast;
- (d) to resolve any dispute concerning any Person's eligibility to vote on any issue or in any election which is submitted or is to be submitted to a Member vote;

- (e) to resolve any dispute concerning the eligibility of any Person to vote on behalf of an organization which is a Member entitled to vote on any issue or in any election which is submitted or is to be submitted to a Member vote;
- (f) to rule upon all other questions that may arise relating to Member voting and the election of Directors;
- (g) upon request of the Board of Directors, to render opinions on other issues submitted to the C & E Committee by the Board of Directors; and
- (h) to advise the Board on any Member protest in accordance with the following procedures:

Any protest or objection concerning any ballot or vote must be in writing, signed by ten (10) or more Members making the protest (Protestors) and filed with the chairman or secretary of the C & E Committee or their designee(s) not later than 5:00 p.m., on the third (3rd) business day following the adjournment of the meeting in which the voting is conducted. Each of the Protestors must have been eligible to vote at such meeting. The C & E Committee shall, after the chairman's notice to all affected candidates, be reconvened. The C & E Committee shall hear such evidence as is presented by the Protestor(s) and any affected candidate, all of whom may be heard in person, by counsel, or both. The C & E Committee shall, within thirty (30) days after such hearing, render its decision. The C & E Committee shall act by majority vote and may not act on any matter unless a majority of the C & E Committee is present at a meeting. The C & E Committee's decision on all matters covered by this Section shall be final.

Without limiting the foregoing duties and prerogatives of the C & E Committee, upon request of the person presiding at the meeting, or any ten (10) Protestors as provided above, the C & E Committee shall make a report, in writing, of any challenge, questions, count, or matter determined by the C & E Committee and execute a certificate of any fact found by them. Any such report or certificate made by them shall be prima-facie evidence of the facts stated and of the vote as certified by them.

As used in this Section, Close Relative means a person who, by blood or by marriage, including half, foster, step and adoptive kin, is either a spouse, child, grandchild, parent, grandparent, brother or sister of the principal (Close Relative).

In the exercise of its responsibility, the C & E Committee shall be paid such per diem as the Board may determine and for mileage expenses for transportation to meetings of the C & E Committee in an amount equal to the deductible amount authorized from time to time by the Internal Revenue Service.

In the exercise of its responsibility, the C & E Committee shall have available to it the advice of counsel provided by the Cooperative.

ARTICLE V DIRECTORS

Section 5.01 General Powers.

The business and affairs of the Cooperative shall be managed by a Board of seven (7) Directors (the Board) which shall exercise all of the powers of the Cooperative except such as are by law, the Articles of Incorporation or these Bylaws conferred upon or reserved to the Members.

Section 5.02 Districts.

In order to provide geographically-based representation of the Members, the territory served or to be served by the Cooperative shall be divided into seven (7) Districts. Each District shall be represented by one (1) Director. The Districts shall be as follows:

District No. 1-Cherokee County, North Carolina.

District No.2- All that part of Polk County, Tennessee, North of Hwy. #64 to the North Carolina state line and West to the Cherokee National Forrest.

District No. 3- That part of Polk County Tennessee East of Hwy. #64 that part of Fannin County, Georgia West of Hwy. #5 beginning at the junction of Hwy. #5 and Hwy. #60 in McCaysville, Georgia, and Copperhill, Tennessee. Extending to the junction of Hwy. #5 and Old Hwy. #5, along the North side of Old Hwy. #5 to the junction of Madola Rd., along the North side of Madola Rd. to the junction of Mobile Rd., along the East side of Mobile Rd. to the Tennessee state line.

District No. 4- All that part of Fannin County South of the Tennessee state line between Hwy. #5, Hwy. #60, and Hwy. #515.

District No. 5- All that part of Fannin County South of the Tennessee state line, along the West side of Mobile Rd. to the junction of Madola Rd., along the South side of Madola Rd. to the junction of Old Hwy. #5, along the South side of Old Hwy. #5 to the junction of

Hwy. #5, along the West side of Hwy. #5 to the junction of Scenic Dr., along the West side of Scenic Dr. to the junction of Boardtown Rd., Along the West side of Boardtown Rd. to the Gilmer county line..

District No. 6- That part of Fannin County South of the Tennessee state line, East of Hwy. #60 to junction of Hwy #60 and Hwy. #515, along the South side of Hwy. #515 to the Toccoa River Bridge, all the East side of the Toccoa River and Blue Ridge Lake to the boundaries of Blue Ridge Mountain EMC and the Chatahoochee National Forrest.

District No. 7- That part of Fannin County West of the Toccoa River and Blue Ridge Lake from Blue Ridge Mountain EMC boundary and the Chatahoochee National Forrest, South of Hwy. #515 from the Toccoa River Bridge to the junction of Hwy. #5, along the Southwest side of Hwy. #5 to the junction of Scenic Dr., along the East side of Scenic Dr. to the junction of Boardtown Rd., Along the East side of Boardtown Rd. to the Gilmer county line.

If necessary to preserve the Cooperative's non-profit status, the Board may revise the Director Districts to ensure that Members are equitably represented by the Director Districts.

Within thirty (30) days following any Director District revision made by the Board, and at least thirty (30) days before the next Annual Member Meeting, the Cooperative shall notify, in writing, any 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. No Director District revision may:

- (a) increase an existing Director's Director Term; or
- (b) unless the affected Director consents in writing, shorten any existing Director's Director Term.

Section 5.03 **Election and Tenure of Office.**

All Directors to be elected in a contested election shall be elected by secret ballot at the Annual Meeting of the Members, beginning with the Year 1972, by and from the Members of the Cooperative, and Directors elected at the Annual Meeting in the Year 1972 from the even numbered Districts, two (2), four (4) and six (6), shall be elected and serve for a period of three (3) years or until the Annual Meeting in the Year 1975, and the Directors elected from odd Districts, numbers one (1) and five (5), shall serve for one (1) year, or until the Annual Meeting in the Year 1973, at which said meeting the successors to said Directors shall be elected for three (3) years and the Directors from the odd Districts, numbers three (3) and seven (7), at the Annual Meeting in the Year 1972, shall

be elected and serve for a period of two (2) years, or until the Annual Meeting in the Year 1974, at which said meeting the successors to said Directors shall be elected for three (3) years, and each Annual Meeting thereafter the number of Directors equal to the number whose terms expire at the time of such meeting shall be elected for the term to expire at the third succeeding Annual Meeting. All of said Directors shall serve until their successors shall have been elected and shall have qualified, and in the event there shall be a tie vote, or votes, in said election, those tying shall cast lots by a method provided by the C & E Committee.

Section 5.04 **Qualifications.**

A person shall be eligible to qualify as a candidate, run for or remain a Director only if such person:

- (a) will be eighteen (18) years of age or older on the date of election; and
- (b) is a Member of the Cooperative and bona fide resident of the district represented; and
- (c) is receiving service from the Cooperative at his primary residence, unless temporarily prevented from doing so by causes beyond such Member's control; and
- (d) is not a member of, employed by or financially interested in an enterprise or organization which competes with the Cooperative or regularly contracts with the Cooperative, except such employment, membership or financial interest which is, in the judgment of the Directors, excluding the Director in question, so inconsiderable and incidental as not to pose a reasonable prospect of a conflict of interest PROVIDED, however, that this determination shall be made by the C & E Committee if the person is a potential nominee or candidate for Director; or if the Directors, excluding the Director in question, request the C & E Committee to rule; and
- (e) is not currently, nor has been within the five (5) years immediately preceding the date of the election, an employee of the Cooperative, an employee or director of a competing utility or enterprise, a Close Relative of an employee of the Cooperative, or a Close Relative of an employee or director of a competing utility or enterprise. As used in this Section, Close Relative means a person who, by blood or by marriage, including half, foster, step and adoptive kin, is either a spouse, child, grandchild, parent, grandparent, brother or sister of the principal; and

- (f) is not the incumbent of or candidate for an elective public office in connection with which a salary is paid; and
- (g) has not failed to attend more than four (4) consecutive meetings of the Board, except when such absence is excused by a vote of the Board for reasonable cause, or who has not failed to attend, for any reason, twelve (12) consecutive meetings of the Board, or who has not been determined by the C & E Committee to be incapable of fulfilling the duties of a Director.

When membership is held jointly by a husband and wife, either one, but not both, may be elected a Director; provided, however, that neither one shall be eligible to become or remain a Director, or hold a position of trust in the Cooperative, unless both shall meet the qualifications hereinabove set forth.

Upon establishment of the fact that a Director is holding office in violation of any of the foregoing provisions, the Board shall remove such Director from office.

Nothing contained in this Section shall affect the validity of any action taken at any meeting of the Board.

Section 5.05 Nomination.

- (a) Nomination by Nominating Committee - It shall be the duty of the Board of Directors to appoint not less than forty (40) days nor more than sixty (60) days before the date of an Annual Member meeting at which Directors are to be elected, a committee on nominations (Nominating Committee) consisting of not less than five (5) members. At least (1) member of the Nominating Committee shall be selected from each district from which a Director is to be elected. No member of the Board may serve on the Nominating Committee. No Nominating Committee member shall be a Close Relative of an incumbent Director or a known candidate for Director. As used in this Section, Close Relative means a person who, by blood or by marriage, including half, foster, step and adoptive kin, is either a spouse, child, grandchild, parent, grandparent, brother or sister of the principal.

The Nominating Committee shall prepare and post at the principal office of the Cooperative at least thirty (30) days before the meeting, a list of nominations for Directors. One or more candidates shall be nominated from each District by the Nominating Committee where Directors are to be elected for any Districts as provided by the Bylaws.

- (b) Nomination by Member Petition - Members may nominate additional individuals to run for election for any Director position for which

Members are scheduled to vote at any Member Meeting (Member Petition Nominations). Members may make Member Petition Nominations by delivering to the Secretary at least forty-five (45) business days prior to the Member Meeting writing for each Member Petition Nomination (Member Petition):

- (1) listing the name of the Member Petition Nominee;
- (2) indicating the Director position for which the Member Petition Nominee will run; and
- (3) containing the printed names, addresses, and telephone numbers, and original signatures, of at least fifty (50) Members who are residents and take service from the Cooperative within the District for which the Member Petition nominee will run.

After verifying that a Member Petition complies with this Bylaw, the Cooperative shall post the Member Petition Nomination in approximately the same location as the Nominating Committee Nominations.

The Secretary shall include with the notice of the Annual Member meeting or separately, but at least ten (10) days before the date of the meeting, a statement of the number of Directors to be elected and the names and addresses of the candidates. The names of the candidates shall be arranged by districts. Such statement shall also designate whether each candidate was nominated by the Nominating Committee or by Petition.

- (c) Restriction on Other Nominations - Except in the event that all candidates nominated as provided in this Article are deceased or withdraw in writing from candidacy prior to the election, no other nomination shall be in order.
- (d) The Members may, at any meeting at which a Director shall be removed as provided in these Bylaws, elect a successor thereto without compliance with the foregoing requirements with respect to nominations, provided, however, that any such successor must reside in the district in which the Board position is vacant.
- (e) Notwithstanding anything herein contained, failure to comply with any of the provisions of this subsection shall not affect the validity of any election of Directors.

Section 5.06 **Director Removal**

- (a) **Director Removal Petition.** As provided in this Bylaw, Members may request the removal of one (1) or more Directors for any act or omission significantly and adversely affecting the Cooperative. For each Director for whom removal is requested, Members shall deliver to the President or Secretary a dated written petition (Director Removal Petition):
- (1) identifying the Director;
 - (2) explaining the basis for requesting the Director's removal identifying the act or omission underlying the removal request; and
 - (3) containing the printed names, printed addresses, and original and dated signatures obtained within sixty (60) days of the Director Removal Petition date, of at least ten percent (10%) of the Members entitled to elect the Director, as Members existed on the Director Removal Petition.

Within thirty (30) days following the President or Secretary receiving a Director Removal Petition:

- (1) the Cooperative shall forward a copy of the Director Removal Petition to the implicated Director; and
 - (2) the Board shall meet to review the Director Removal Petition.
- (b) **Member Meeting.** If the Board determines that the Director Removal Petition complies with this Bylaw, then the Cooperative shall notice and hold a Member Meeting within sixty (60) days following the Board's determination. Notice of the Member Meeting must state that:
- (1) a purpose of the Member Meeting is to consider removing a Director;
 - (2) evidence may be presented, and a Member vote taken, regarding removing the Director; and
 - (3) Members may elect a successor Director.

If a Member Quorum is present at the Member Meeting, then for the Director named in each Director Removal Petition:

- (a) evidence must be presented supporting the basis for removing the Director prior to any Member vote;

- (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) following the Director's presentation, and following Member discussion, the Members must vote whether to remove the Director.

If a majority of Members present and voting and entitled to vote for the Director vote to remove the Director, then the Director is removed effective the time and date of the Member vote. At the Member Meeting, the Members entitled to vote for the Director may elect a new Director to succeed the removed Director without complying with the Director Nomination or notice provisions of these Bylaws. Any successor Director elected by the Members must comply with the Director Qualifications.

Neither a Director Removal Petition or Director removal affects any Board action.

Section 5.07 Vacancies

Subject to the provisions of these Bylaws with respect to the filling of vacancies caused by the removal of Directors by the Members, a vacancy occurring in the Board shall be filled by the affirmative vote of a majority of the remaining Directors for the unexpired portion of the term. The Member elected as Director to fill the vacancy must reside in the District where the Board position is vacant.

Section 5.08 Compensation.

Directors shall not receive any salary for their services as Directors, except that by resolution of the Board, a fixed sum and expense of attendance, if any, may be allowed for attendance at each meeting of the Board. No Director shall receive compensation for serving the Cooperative in any other capacity, nor shall any Close Relative of a Director receive compensation for serving the Cooperative, unless the payment and amount of compensation shall be specifically authorized by a vote of the Members, the service by such Director or Close Relative shall have been certified by the Board as an emergency measure, the disinterested Directors approve of the transaction after acquiring full knowledge of all material aspects of the transaction, or the transaction is so insubstantial as to not reasonably constitute a threat to the Director's independent judgment.

ARTICLE VI MEETINGS OF DIRECTORS AND DIRECTOR VOTING

Section 6.01 Regular Board Meetings.

The Board shall regularly meet at the date, time, and location determined by the Board (Regular Board Meeting). Unless otherwise required by these Bylaws, the Board may hold Regular Board Meetings without notice. For good cause, the President may change the date, time, or location of any Regular Board Meeting.

Any Director not attending any 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 (5) days before the next Regular Board Meeting. All Directors are entitled to receive notice of a President's change in a Regular Board Meeting date, time, or location at least five (5) days before the changed Regular Board Meeting.

Section 6.02 Special Meetings.

Special Meetings of the Board of Directors may be called by the President or by any three (3) Directors, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. The President or the Directors calling the meeting shall fix the time and place for the holding of the meeting.

Section 6.03 Meeting By Telephone.

The members of the Board, or any committee designated by such Board, may participate in a meeting of such Board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting in this manner shall constitute presence in person at such meeting.

Section 6.04 Written Consent.

Any action which may or which is required to be taken at a meeting of the Board may be done without a meeting if a written consent setting forth the action so taken is signed by all the Directors and filed with the minutes of the proceedings of the Board of Directors.

Section 6.05 Notice and Waiver of Notice.

Notice of the time, place and purpose of any Special Meeting of the Board shall be given by or at the direction of the President, the Secretary or the persons calling the meeting. The notice shall be given to each Director at least five (5)

days prior to the meeting by written notice delivered personally or mailed to each Director at his last know address. If mailed, such notice shall be deemed delivered when deposited in the United States mail so addressed with first-class postage thereon prepaid. Notice of a meeting of the Board need not be given to any Director who signs a waiver of notice either before or after the meeting. Attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except when a Director shall attend a meeting for the express purpose of objecting to the transaction of any business because the meeting shall not have been lawfully called or convened, which objection shall be voiced at the commencement of the meeting.

Section 6.06 **Quorum.**

A majority of the Board shall constitute a quorum, provided, that a Director who, by law or these Bylaws is disqualified from voting on a particular matter, shall not, with respect to consideration of an action upon that matter, be counted in determining the number of Directors in office or present. If less than such majority of the Directors is present at said meeting, a majority of the Directors present may adjourn the meeting from time to time, and provided further, that the Secretary shall notify any absent Directors of the time and place of such adjourned meeting, unless otherwise provided by law, the Articles of Incorporation or these Bylaws. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board.

ARTICLE VII OFFICERS

Section 7.01 **Number.**

The required officers of the Cooperative shall be a President, Vice-President, Secretary, and Treasurer (Officers or Required Officers). Such other offices may be created and officers elected or appointed as may be determined by the Board from time to time (Other Officers). The offices of Secretary and of Treasurer may be held by the same person.

Section 7.02 **Other Officers.**

The Board may elect or appoint Other Officers. Other Officers:

- (a) may be Directors, Cooperative employees, or other individuals;
- (b) must be elected or appointed by the Board;
- (c) may be elected by secret written ballot and without prior nomination;
- (d) may assist Required Officers; and

- (e) shall perform all duties, shall have all responsibilities, and may exercise all authority prescribed by the Board.

The same individual may simultaneously hold more than one (1) office. Unless allowed by law, however, this individual may not execute, acknowledge, or verify any document in more than one (1) capacity.

Section 7.03 **Election and Term of Office.**

The Officers shall be elected by ballot, annually, by the Board at the first meeting of the Board held after each Annual Meeting of the Members. If the election of Required Officers shall not be held at such meeting, such election shall be held as soon thereafter as convenient. Each Required Officer shall hold office until removed by the Board. A vacancy in any office shall be filled by the Board. Other Officers shall serve at the pleasure of the Board.

Section 7.04 **Removal of Officers and Agents by Directors.**

Any Officer or agent elected or appointed by the Board may be removed by the Board whenever, in its judgment, the best interest of the Cooperative will be served thereby.

Section 7.05 **President.**

The President:

- (a) shall preside, or designate another individual to preside, at all Board and Member Meetings;
- (b) may sign any document properly authorized or approved by the Board or Members on the Cooperative's behalf; and
- (c) shall perform all other duties, have all other responsibilities, and may exercise all other authority prescribed by the Board.

Section 7.06 **Vice-President.**

In the absence of the President, or in the event of his inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President shall also perform such other duties as from time to time may be assigned to him by the Board.

Section 7.07 Secretary.

The Secretary shall:

- (a) be responsible for keeping the minutes of the meeting of the Members and of the Board in one or more books provided for that purpose;
- (b) be responsible for seeing that all notices are duly given in accordance with these Bylaws or as required by law;
- (c) be custodian of the corporate records and of the seal of the Cooperative and affixing the seal of the Cooperative to all certificates of membership prior to the issue thereof and to all documents, the execution of which on behalf of the Cooperative, under its seal, is duly authorized in accordance with the provisions of these Bylaws;
- (d) be responsible for keeping a register of the names and post office addresses of all Members;
- (e) have general charge of the books of the Cooperative;
- (f) be responsible for keeping on file at all times a complete copy of the Articles of Incorporation and Bylaws of the Cooperative containing all amendments thereto (which copy shall always be open to the inspection of any Member) and, at the expense of the Cooperative, forward a copy of the Bylaws and of all amendments thereto to each Member; and
- (g) in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the Board

Section 7.08 Treasurer.

The Treasurer shall be responsible for:

- (a) having charge and custody of all funds and securities of the Cooperative;
- (b) the receipt of and the issuance of receipts for all monies due and payable to the Cooperative and for the deposit of all such monies in the name of the Cooperative in such bank or banks or other depositories or investments as shall be selected in accordance with the provisions of these Bylaws; and

- (c) in general, performing all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to the Treasurer by the Board.

Section 7.09 Delegation of Secretary's and Treasurer's Responsibilities.

Notwithstanding the duties, responsibilities and authorities of the Secretary and of the Treasurer hereinbefore provided in Sections 7.07 and 7.08, the Board, by resolution may, except as otherwise limited by law, delegate, wholly or in part, the responsibility and authority for, and the regular or routine administration of, one or more of such Officers such duties to one or more agents or other Officers of the Cooperative who are not Directors. To the extent that the Board does so delegate with respect to either such office, that Officer, as such, shall be released from such duties, responsibilities and authorities.

Section 7.10 General Manager.

The Board may appoint a General Manager who may be, but who shall not be required to be, a Member of the Cooperative. The General Manager shall perform such duties and shall exercise such authority as the Board of Directors may from time to time vest in the General Manager.

Section 7.11 Reports.

The Officers of the Cooperative may present at each Annual Meeting of the Members reports covering the business of the Cooperative for the previous fiscal year.

ARTICLE VIII NON-PROFIT OPERATION, REVENUES AND RECEIPTS

Section 8.01 Non-profit Operation.

The Cooperative shall at all times be operated on a cooperative non-profit basis for the mutual benefit of its Members.

Section 8.02 Patronage Capital in Connection with Furnishing Electric Energy.

In the furnishing of electric energy the Cooperative's operations shall be so conducted that all patrons will, through their patronage, furnish capital for the Cooperative. In order to induce patronage and to assure that the Cooperative will operate on a non-profit basis, the Cooperative is obligated to account, on a patronage basis, to all its Patrons for all amounts received and receivable from the furnishing of electric energy in excess of operating costs and expenses

properly chargeable against the furnishing of electric energy. All such amounts in excess of operating costs and expenses at the moment of receipt by the Cooperative are received with the understanding that they are furnished by the patrons as capital. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its Members.

Section 8.03 Patronage Capital - Accounts.

The Cooperative is obligated to pay, by allocation of credits to a capital account for each patron, all such amounts in excess of operating costs and expenses. The books and records of the Cooperative shall be set up and kept in such a manner that, at the end of each fiscal year, the amount of capital, if any, so furnished by each patron is clearly reflected and credited in an appropriate record to the capital account of each patron. The Cooperative shall, within a reasonable time after the close of the fiscal year, notify all patrons of the aggregate amount of such excess with an explanation of how each patron may compute and determine for himself the specific amount of capital so credited to him. Notwithstanding any other provision of these Bylaws to the contrary, the Board, at its discretion, may allocate capital credits for an individual Member or class of Members based upon rates and costs of service for that member or that class.

Section 8.04 Patronage Capital - Status as Such - Security Interest.

All such amounts credited to the capital account of any patron shall have the same status as though they had been paid to the patron in cash in pursuance of a legal obligation to do so and the patron had then furnished the Cooperative corresponding amounts for capital and shall be held subject to the security interest provided in Section 8.09 below.

Section 8.05 Other Patronage Capital - Allocation.

All other amounts received by the Cooperative from its operations in excess of costs and expenses shall, insofar as permitted by law, be (a) used to offset any losses incurred during the current or any prior fiscal year and (b) to the extent not needed for that purpose, allocated to its patrons on a patronage basis and any amount so allocated shall be included as part of the capital credited to the accounts of patrons, as herein provided.

Section 8.06 Patronage Capital - Dissolution.

In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credits shall be retired without priority on a pro rata basis before any payments are made on account of property rights of Members. If, at any time prior to dissolution or liquidation, the Board shall, in its sole discretion,

determine that the financial condition of the Cooperative will not be impaired thereby and that there are sufficient funds and assets to provide for the payment of debts of the Cooperative, reasonable and necessary reserves and to comply with contractual obligations to the Tennessee Valley Authority, the capital credited to patrons' accounts may be retired in full or in part. Any such retirements of capital shall be made on such basis and priority and in such amounts and in accordance with such methods as the Board may in its discretion determine.

Capital credited to the account of each patron shall be assignable only on the books of the Cooperative pursuant to written instruction from the assignor and only to successors in interest or successors in occupancy in all or a part of such patron's premises served by the Cooperative unless the Board, acting under policies of general application, shall determine otherwise.

Section 8.07 Patronage Capital - Distribution Prior to Dissolution.

Notwithstanding any other provision of these Bylaws, the Board, at its discretion, shall have the power, at any time upon the death of any patron who is a natural person, if the legal representatives of his/her estate shall request in writing that the capital credits to any such patron be retired prior to the time such capital would otherwise be retired under the provisions of these Bylaws, to retire capital credited to any such patron immediately upon such terms and conditions as the Board, acting under policies of general application, and the legal representatives of such patron's estate shall agree upon; provided, however, that the financial condition of the Cooperative will not be impaired thereby.

Prior to any such retirement, the capital furnished by patrons may be utilized for Cooperative purposes, including but not limited to:

- (a) New electric system construction or the retirement of System Indebtedness prior to maturity; provided, however, that resale rates and charges shall be reduced from time to time to the lowest practicable levels considering such factors as future circumstances affecting the probable levels of earnings, the need or desirability of financing a reasonable share of new construction from such surplus revenues, and fluctuations in debt service requirements, as required by Section 6 of paragraph (b) of the Cooperative's Contract with the Tennessee Valley Authority;
- (b) To pay or provide for the payments of principal obligations due in such fiscal year;
- (c) To provide a reserve for the payment of indebtedness of the Cooperative maturing more than one (1) year after the incurrence of

such indebtedness in an amount not less than the total of the interest and principal payments in respect thereof required to be made during the next following year;

- (d) To provide a reasonable reserve for working capital;
- (e) To finance, or to provide a reserve for financing of replacements, and the construction or acquisition by the Cooperative of additional facilities to the extent determined by the Board of Directors; and
- (f) To provide a fund for education in cooperation and for the dissemination of information concerning the effective use of electric energy and other services made available by the Cooperative.

Section 8.08 Patronage Capital Contract with Member.

The patrons of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the Articles of Incorporation and Bylaws shall constitute and be a contract between the Cooperative and each patron, and both the Cooperative and the patrons are bound by such contract, as fully as though each patron had individually signed a separate instrument containing such terms and provisions. The provisions of this article of the Bylaws shall be called to the attention of each patron of the Cooperative by posting in a conspicuous place in the Cooperative's office.

Section 8.09 Cooperative's Security Interest and Right to Set-off.

Notwithstanding any other provision of these Bylaws, all amount credited to the capital account of any Member pursuant to this Article, and any other sums held by Cooperative which are payable or may become payable to such Member, and all payments or other distributions thereof, shall be held by Cooperative subject to a security interest in favor of Cooperative therein to secure the payment of all debts of such Member to the Cooperative, whether for electrical service or otherwise, and may be set off against such debts at the time such debts or distributions would become payable to such Member by the Cooperative.

ARTICLE IX INDEMNIFICATION AND INSURANCE

Section 9.01 Indemnification.

The Cooperative shall indemnify each person who is or was a Director, Officer, employee or agent of the Cooperative (including the heirs, executors, administrators or estate of such person) or is or was serving at the request of the

Cooperative as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise to the full extent permitted under “ 46-3-306(b) and (c) of the Georgia Electric Membership Corporation Act or any successor provisions of the laws of the State of Georgia. If any such indemnification is requested pursuant to “ 46-3-306(b) or (c) or said Act or laws, the Board shall cause a determination to be made (unless a court has ordered the indemnification) in one of the manners prescribed in ‘ 46-3-306(e) of said Act or laws as to whether indemnification of the party requesting indemnification is proper in the circumstances because he has met the applicable standard of conduct set forth in ‘ 46-3-306(b) or (c) or said Act or laws. Upon any such determination that such indemnification is proper, the Cooperative shall make indemnification payments of liability, cost, payment or expense asserted against, or paid or incurred by, him in his capacity as such a director, officer, employee or agent to the maximum extent permitted by said sections of said Act or laws. The indemnification obligation of the Cooperative set forth herein shall not be deemed exclusive of any other rights, in respect of indemnification or otherwise, to which any party may be entitled under any other Bylaw provision or resolution approved pursuant to ‘46-3-306(e) of said Act or laws.

Section 9.02 **Insurance.**

The Cooperative may purchase and maintain insurance at its expense to protect itself and any Director, Officer, employee or agent of the Cooperative (including the heirs, executors, administrators or estate of any such person) against any liability, cost, payment or expense described in Section 1 of this Article IX, whether or not the Cooperative would have the power to indemnify such person against such liability.

ARTICLE X PROPERTY

Section 10.01 **Disposition.**

The Cooperative may not sell any of its property other than:

- (a) property which, in the judgment of the Board of Directors, neither is, nor will be necessary or useful in operating and maintaining the Cooperative’s system and facilities;
- (b) pursuant to condemnation or that of condemnation;
- (c) services of all kinds, including electric energy; and
- (d) personal property acquired for resale.

Section 10.02 **Disposition of Property.**

- (a) The Cooperative may not sell, mortgage, lease or otherwise encumber all or any substantial portion of its properties except as provided in O.C.G.A. § 46-3-401, as amended.
- (b) Notwithstanding the foregoing subsection (a) or any other provisions of these Bylaws, no sale, lease or lease-sale of all or a substantial portion of the Cooperative's assets (other than merchandise and property which in the judgment of the Board are not necessary or useful in operating the Cooperative) to any other entity shall be authorized except in conformity with the following:
 - (1) If the Board looks with favor upon any proposal for such sale, lease or lease-sale, it shall first cause three (3) independent appraisers, expert in such matters, to render their individual opinions as to the value of the Cooperative with respect to such a sale, lease or lease-sale and as to any other terms and conditions which should be considered. The three (3) such appraisers shall be designated by a Superior Court Resident Judge for the Appalachian Judicial Circuit if one, and if not, the Senior Judge thereof.
 - (2) If the Board, after receiving such appraisals (and other terms and conditions which are recommended, if any), determines that the proposal should be submitted for consideration by the Members, it shall first give every Georgia electric membership corporation nearby or adjacent to the Cooperative (which has not made such an offer for such sale, lease or lease-sale) an opportunity to submit competing proposals. Such opportunity shall be in the form of a written notice to such electric membership corporations, which notice shall attach a copy of the proposal that the Cooperative has already received and a copy of the reports of the three (3) appraisers. Such electric membership corporations shall be given not less than thirty (30) days during which to submit competing proposals, and the actual minimum period within which proposals are to be submitted shall be stated in the written notice given to them.
 - (3) If the Board then determines that favorable consideration should be given to the initial or any subsequent proposal which has been submitted to it, it shall so notify the Members, expressing in detail each of any such proposals and shall call a Special Meeting of the Members for consideration thereof, which meeting shall not be held sooner than ninety (90) days after the giving of such notice to the Members; provided, consideration thereof by the Members may be given at the next Annual Meeting if the Board so determines and if

such Annual Meeting is not held sooner than ninety (90) days after the giving of such notice.

- (4) Any fifty (50) or more Members, by so petitioning the Board not less than thirty (30) days before the date of such Special or Annual Meeting, may cause the Cooperative, with the cost to be borne by the Cooperative, to mail to all Members any opposing or alternative positions which they may have to the recommendation that the Board has made.

The provisions of this subsection (b) shall not apply to a sale or lease-sale to one or more other electric membership corporations if the actual legal or substantive effect thereof is to merge or consolidate with such other one or more electric membership corporations.

Section 10.03 **Security Interest.**

The Board shall have full power and authority to borrow money. In connection with such borrowing, the Board may authorize the making and issuance of bonds, notes or other evidence of indebtedness and to secure the payment thereof, to authorize the execution and delivery of a mortgage or mortgages, or deeds of trust, security deeds, financing statements and security instruments granting a lien or security interest in any or all of the property, assets, rights, privileges, licenses, franchises and permits of the Cooperative whether acquired or to be acquired and wherever situated, all upon such terms and conditions as the Board shall determine.

ARTICLE XI OPERATIONS AND MISCELLANEOUS

Section 11.01 **Seal.**

The corporate seal of the Cooperative shall be in the form of a circle and shall have inscribed thereon the name of the Cooperative and the words "Corporate Seal, Georgia."

Section 11.02 **Contracts.**

Except as otherwise provided in these Bylaws, the Board may authorize any Officer or Officers, agent or agents to enter into any contract or execute and deliver any instrument in the name and on behalf of the Cooperative, and such authority may be general or confined to specific instances.

Section 11.03 **Checks, Drafts, Etc.**

All checks, drafts or other orders for the payment of money, and all notes, bonds or other evidences of indebtedness issued in the name of the Cooperative shall be signed by such Officer or Officers, agent or agents, employee or employees of the Cooperative and in such manner as shall from time to time be determined by resolution of the Board.

Section 11.04 **Bank Accounts and Deposits.**

All funds and investments of the Cooperative shall be deposited or invested from time to time to the credit or name of the Cooperative in such banks, trust companies or other depositories or securities as the Board may select or as may be selected by any Officer or Officers, agent or agents of the Cooperative to whom such power may be delegated from time to time by the Board.

Section 11.05 **Fiscal Year.**

The fiscal year of the Cooperative shall be determined from time to time by the Board.

Section 11.06 **Service to Non-Members.**

The Cooperative shall render service to its Members only; provided, however, that service may be rendered to governmental agencies and political subdivisions, and to other Persons not in excess of ten per centum (10%) of the number of its Members; and provided further, that should the Cooperative acquire any electric facilities dedicated or devoted to the public use it may, for the purpose of continuing service and avoiding hardships and to an extent which together with all other persons served by the Cooperative on a non-member basis shall not exceed forty per centum (40%) of the total number of persons served by the Cooperative, continue to serve the persons served directly from such facilities at the time of such acquisition without requiring that such persons become members; and provided, further, that such non-members shall have the right to become members upon nondiscriminatory terms.

Section 11.07 **Membership in Other Organizations.**

The Cooperative shall not become a member of or purchase stock in any other organization without an affirmative vote of the Board.

Section 11.08 **Policies, Rules and Regulations.**

The Board shall have power to make and adopt such policies, rules and regulations, not inconsistent with law, the Articles of Incorporation or these Bylaws, as it may deem advisable for the management of the business and

affairs of the Cooperative, including, but not limited to rules and regulations governing the provision of electric service (Service Rules and Regulations).

Section 11.09 Accounting Systems and Reports.

The Board shall cause to be established and maintained a complete accounting system which, among other things, and subject to applicable laws and rules and regulations of any regulatory body, shall conform to such accounting system as may from time to time be designated by the Tennessee Valley Authority and approved by the Administrator of the Rural Utilities Service of the United States of America.

Section 11.10 Reports.

The Cooperative shall, within four (4) months of the close of the fiscal year, prepare reports covering the business of the Cooperative for the previous fiscal year and showing the condition of the Cooperative at the close of such fiscal year. Such report shall be provided to any Member requesting it.

Section 11.11 Area Coverage.

The Board shall make diligent effort to see that electric service is extended to all un-served persons within the Cooperative service area who (a) desire such service and (b) meet all reasonable requirements established by the Cooperative as a condition of such service.

Section 11.12 Circulation of Newsletter.

For the purpose of disseminating information devoted to the science of agriculture, to agricultural cooperation and to productive means of exploiting electric energy, the Board shall be authorized to periodically circulate a newsletter to the Members. The annual subscription therefore in the amount of One Dollar (\$1.00) or more, shall be deducted from any funds accruing in favor of such Members, so as to reduce such funds in the same manner as with any other expense of the Cooperative.

**ARTICLE XII
AMENDMENTS**

Section 12.01 Amendment by Board.

These Bylaws may be changed (altered, amended, repealed, or new Bylaw provisions adopted) at any meeting of the Board by the affirmative vote of not less than a majority of the Directors present at a meeting at which a quorum is present, provided a notice of such meeting, containing a copy of the proposed change or a reasonable synopsis thereof, shall have been given at least five (5)

days prior thereto; provided, however, that the Board shall not have the power to change provisions of these Bylaws directly relating to the election of the Board.

Section 12.02 Amendment by Members.

Any Bylaw provision required to be changed by the Members may be changed by a two-thirds (2/3) majority of those Members present and voting at a Regular or Special Meeting of the Members, provided notice of such meeting, containing a copy of the proposed change or a reasonable synopsis thereof, shall have been given with the notice for such meeting.

Section 12.03 Petition of Members.

Any Bylaw provision presented to the Members for change shall be sponsored by the Board or shall be presented by the petition of not less than fifty (50) sponsoring Members. Such petition, containing the signatures of the sponsoring Members, shall set forth the proposed change, stating the precise wording thereof and the time such change is to become effective, and shall be filed with the Cooperative not less than seventy-five (75) days prior to the date of the Member Meeting at which such proposed change will be acted upon. The Cooperative shall provide a copy of the proposed change or a reasonable synopsis thereof with notice of such meeting.

Section 12.04 Illegal Bylaw Provisions.

The Board or the Members may change any Bylaw provision if, as established by law, such Bylaw provision is illegal or has become a legal nullity. No proposed Bylaw change shall be noticed or acted upon if the Board determines that the proposed change, if adopted, would be illegal or a legal nullity.

Section 12.05 Amendments to Amendment.

No amendments from the floor to a Bylaw change noticed to the Members for consideration shall be permitted except amendments that:

- (a) are directly germane to the change noticed;
- (b) are clear and are not ambiguous; and
- (c) do not materially change the Bylaw change as noticed.

STATEMENT OF NONDISCRIMINATION

Tri-State Electric Membership Corporation has filed with the Federal Government a Compliance Assurance in which it assures the Rural Utility Service that it will comply fully with all requirements of Title VI of the Civil Rights Act of 1964, as amended, all requirements of Section 504 of the Rehabilitation Act of 1973, as amended, and all requirements of the age Discrimination Act of 1974, as amended, all requirements of the rules and regulations of the U.S. Dept. of Agriculture to the end that no person in the United States shall, on the ground of race, color or national origin, or solely by reason of such person's disability or on the basis of age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to the discrimination in the conduct of its program or the operation of its facilities. Under this Assurance, this organization is committed not to discriminate against any person on the ground of race, color or national origin, solely by reason of such person's disability, or on the basis of age, sex, creed, handicap veteran or disabled veteran, in its policies and practices relating to applications for service or any other policies and practices relating to the treatment of beneficiaries and participants including employment, rates, conditions and extension of service, admission or access to or use of any of its facilities attendance at and participation in any rights of such beneficiaries and participants in the conduct and operation of this organization. Tri-State EMC is an equal employment opportunity employer. The person in this organization responsible for coordinating the nondiscrimination compliance efforts of this organization is David Falls, Manager.

Any individual, or specific class of individuals, who feels subjected by this organization to discrimination prohibited by Title VI of the Civil Rights Act, by Section 504 of the Rehabilitation Act, by the Age Discrimination Act or by the rules and regulations of the U.S. Department of Agriculture may personally or through a representative, file with the office of the Secretary, U.S. Department of Agriculture, Washington, DC 20250 the Office of the Administrator. Washington DC 20250 the Office of Advocacy and Enterprise, U.S. Department of Agriculture, Washington, DC 20250 or this organization, or all, a written complaint. Such complaint must be filed not later than 180 days after the alleged discrimination, or be such later date of the Secretary of Agriculture of the Administrator of the Rural Utility Service extends the time for filing. Identity of complaints will be kept confidential except to the extent necessary to carry out the purpose of the rules and regulations of the U.S. Department of Agriculture.

In accordance with Federal law and the U.S. Department of Agriculture's policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, religion, age, or disability (Not all prohibited bases apply to all programs).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410, or call (202) 720-5964 (voice of TDD). USDA is an equal opportunity provider and employer.