

Delta-Montrose Electric Association



BYLAWS

INTRODUCTION

The core mission of the Delta-Montrose Electric Association (the “**Cooperative**”) is to purchase, distribute and generate dependable electric power for consumers within the area served by the Cooperative (the “**Service Area**”). The activities of the Cooperative are governed by its Articles of Incorporation, these Bylaws, policies adopted by the Board and various state and federal laws and regulations. These Bylaws are available on the Cooperative’s website and in hard or electronic copy upon Member request. These Bylaws are reviewed on a continuing basis and amendments will be made by the Board as necessitated by changing conditions. The effective date of any change is noted in the Bylaws.

These Bylaws are as amended and readopted on October 28, 2025.

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**Board of Directors
DELTA-MONTROSE ELECTRIC ASSOCIATION**

ARTICLE 1 – GENERAL

Section 1.1. LAW AND ARTICLES. These Bylaws are subject to the Amended and Restated Articles of Incorporation of Delta-Montrose Electric Association, as may be amended from time to time (the “**Articles**”) and the Law. To the extent a Bylaw conflicts with Law or the Articles, then the Law or Articles control. “**Law**” includes applicable local, state, and federal constitutions, statutes, ordinances, regulations, holdings, rulings, orders, and similar documents or actions, whether legislative, executive, or judicial. As set forth in the Articles, the Cooperative is organized under Title 7, Article 55 of the Colorado Revised Statutes, and has determined to accept the benefits and to be bound by the provisions of Title 7, Article 56 of the Colorado Revised Statutes (the “**Colorado Cooperative Act**”).

Section 1.2. FISCAL YEAR. The fiscal year of the Cooperative shall begin on the first (1st) day of January of each year and end on the thirty-first (31st) day of December of the same year.

Section 1.3. SEAL. The corporate seal of the Cooperative shall be in such form as the Board shall prescribe. The Cooperative shall not be required to use the corporate seal, and the lack of a corporate seal shall not affect any instrument executed by the Cooperative.

ARTICLE 2 – MEMBERSHIP

Section 2.1. QUALIFICATIONS AND OBLIGATIONS. Any individual, firm, association, corporation, cooperative or body politic or subdivision thereof or any other legal entity will become a member of this Cooperative (“**Member**”) upon receipt of electric service from the Cooperative. Members shall complete a written membership application provided by the Cooperative (“**Membership Application**”), which may be electronic. Except as otherwise provided in these Bylaws regarding Joint Memberships, no natural person (“**Person**”) or firm, association, corporation, cooperative or body politic or subdivision thereof or any other legal entity (“**Entity(ies)**”) may hold more than one membership in the Cooperative, and no membership in the Cooperative shall be transferable. Notwithstanding anything to the contrary in these Bylaws, an Entity or Person who only has an idle service with the Cooperative is not a Member. All Members shall comply with (1) all Laws; (2) the Articles; (3) these Bylaws; (4) the Membership Application; (5) tariffs and rates; (6) administrative policies, documents, or processes; and (7) all rules, regulations, policies, programs, determinations, resolutions, or actions taken or approved by the Cooperative’s Board of Directors (“**Board**”), as each may be modified from time to time (collectively, the “**Governing Documents**”). Failure to comply with the Governing Documents may result in suspension or termination of a Member’s membership in the Cooperative as set forth in this Article.

Section 2.2. JOINT MEMBERSHIP. Persons who qualify to be Members may hold a joint membership in the Cooperative (“**Joint Membership**” or each, a “**Joint Member**”). A Joint Membership shall consist of two (2) or more Persons occupying the same location to or for which the Cooperative provides electric energy services, each of whom qualifies to be a Member. As provided by the Board, a Member may convert the Member’s individual membership to a Joint Membership with a qualified Person. Qualified Persons become Joint Members in the same manner as Members become Members. Except as otherwise provided in these Bylaws, a Joint Member has and enjoys the rights, benefits, and privileges, and is subject to the obligations, requirements, and liabilities, of being a Member. Joint Members are jointly and severally liable for complying with the Governing Documents. Without limiting the generality of the foregoing, the effect of a Joint Membership shall be as follows:

- (a) The presence at a meeting of one or more Joint Members shall be regarded as the presence of one Member and waives notice of the meeting for all Joint Members;
- (b) Notice to one or more Joint Members shall constitute notice to all Joint Members;
- (c) A waiver of notice signed by one or more Joint Members shall constitute a waiver of notice for all Joint Members;

- (d) 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;
- (e) 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;
- (f) Only one of the Joint Members may be elected or appointed to serve as an Officer or Director;
- (g) Upon the death or termination of the membership of one Person who is a party to the Joint Membership, such Joint Membership shall be held solely by the remaining Joint Member(s) and any patronage capital will remain with such Joint Membership in accordance with the policies and procedures of the Cooperative. Notwithstanding the foregoing, one or more Joint Members may request the termination of such Joint Membership, and any Person may apply for a new membership as provided in these Bylaws. Such termination shall not release any Person from any debts or liabilities due the Cooperative by the Joint Membership;
- (h) Except as set forth in subsection (g) above, the termination of a Joint Member constitutes the termination of all Joint Members; and
- (i) Patronage capital refunds may be paid to any one of the Joint Members and it is the responsibility of the Joint Members to distribute such refunds among the Joint Members.

Section 2.3. MEMBERSHIP FEE. No membership fee or capital subscription shall be required to become a Member.

Section 2.4. ELECTRIC SERVICE. Members shall pay for the costs of such electric service at rates set by the Board and follow applicable electric service regulations and line extension policies. The Cooperative may transfer an unpaid amount from a Member's account to another account of the Member. The Cooperative may suspend, terminate, or interrupt electric service for public safety reasons or in the case of emergency. The Cooperative does not ensure, guarantee, or warrant that the Cooperative 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, noncontinuous, or fluctuating electric energy. The Cooperative's responsibility and liability for providing electric energy terminates upon delivery of the electric energy to a Member.

Section 2.5. TRANSFER OF MEMBERSHIP. A Member is prohibited from transferring its membership in the Cooperative.

Section 2.6. SUSPENSION OF MEMBERSHIP.

- (a) A Member's membership in the Cooperative may be suspended by the CEO as provided in the Governing Documents.
- (b) The Cooperative shall send any suspension notice to the Member's most current address shown on the Membership List. Upon a Member's suspension:
 - i. A suspended Member may not receive notice, nominate, remove, demand, request, petition, consent, or otherwise act as provided in the Governing Documents;
 - ii. Other than the Cooperative's obligation to retire and pay Capital Credits, and other than the Cooperative's obligations regarding dissolution, the Cooperative's duties, obligations, and liabilities imposed by the Governing Documents for the Member cease and the Cooperative may cease providing electric service to the Member;
 - iii. Other than the Member's right to receive retired and paid Capital Credits, and other than the Member's rights upon the Cooperative's dissolution, the Member forfeits and relinquishes rights

provided in the Governing Documents but remains subject to obligations imposed by the Governing Documents; and

- iv. Notwithstanding the foregoing, a suspended Member may not vote as provided in the Governing Documents if so determined by the Board for good cause.

- (c) A Member's suspension may be lifted upon good cause determined by the CEO. If a Member's right to vote has been suspended, such suspension may be lifted up on good cause determined by the Board.

Section 2.7. TERMINATION OF MEMBERSHIP. A Member's membership in the Cooperative may be terminated in the following circumstances:

- (a) The Board may, by the affirmative vote of not less than two-thirds of the Directors, terminate the membership of any Member who fails to comply with any of the provisions of the Article 2 of these Bylaws, but only if such Member is given written notice by the Cooperative of the failure of compliance and such failure continues for at least ten (10) days after such notice was given. Any terminated membership may be reinstated by majority vote of the Board;
- (b) Upon a suspension of membership that continues unresolved for 180 days after notice to the Member; or
- (c) Upon the withdrawal, death, cessation of corporate existence or expulsion, the membership of such Member shall terminate. Termination of membership for any reason shall not release a Member or the Member's estate from any debts or obligations due to the Cooperative.

Section 2.8. DISPUTE RESOLUTION. If requested by the Cooperative, if a dispute arises between the Cooperative and a Member and if the Cooperative and Member cannot settle the dispute through negotiation or mediation if the Member and Cooperative agree to attend mediation, then any resulting controversy or claim between the Cooperative and Member shall be settled or resolved through 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.

ARTICLE 3 – MEETINGS OF MEMBERS

Section 3.1. ANNUAL MEMBER MEETINGS. The Cooperative shall annually hold a meeting of Members ("**Annual Member Meeting**"). The Annual Member Meetings shall be held at a place within the Service Area and at a date and time designated by the Board. The primary purposes of the Annual Member Meeting are the election of Directors and such other business as the Board may designate. Failure to hold an Annual Member Meeting does not affect any action taken by the Cooperative.

Section 3.2. SPECIAL MEMBER MEETINGS. Special meetings of Members ("**Special Member Meetings**") may be called by (1) written resolution approved by two-thirds of the Board or (2) the Board Secretary upon receipt of a written request describing the specific purpose of such meeting signed by at least ten percent (10%) of all Members (a "**Member Petition**"). The Board or the Board Secretary shall determine the date, time, and location (any place within the Service Area) of a Special Member Meeting. Upon a Member Petition, the Board Secretary shall hold such requested Special Member Meeting within sixty (60) days of receipt of such petition. Costs for Special Member Meetings, convened in accordance with the foregoing, shall be borne by the Cooperative. Special Member Meetings and Annual Member Meetings are collectively referred to in these Bylaws as "**Member Meetings**." At the option of the Board, Member Meetings may be held electronically.

Section 3.3. NOTICE OF MEMBERS' MEETINGS. The Cooperative shall deliver written notice of a Member Meeting by mail and/or by electronic communication, either with or without other documents, to all Members. This notice will indicate the date, time, and location of the Member Meeting and must be delivered at least ten (10) days before the Member Meeting. For a Special Member Meeting, the notice must state the purpose of the meeting. Additionally, the date of each Annual Member Meeting shall be posted on the Cooperative's website and otherwise publicized no less than six (6) months before the date of the Annual Member Meeting. The deadline to return ballots shall be posted on

the Cooperative's website at least two (2) months before the deadline and shall remain posted until after the election. 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 set forth in the records of the Cooperative. An electronic notice of a Member Meeting is deemed delivered on the date sent by email to the email address set forth in the records of the Cooperative. The failure of a Member to receive notice of a Member Meeting does not affect any action taken at the Member Meeting. If notice of two consecutive Annual Member Meetings, and all notices of Member Meetings during the period between the two consecutive Annual Members Meetings, to a Member are returned undeliverable or could not be delivered, then the Cooperative need not deliver notices of future Member Meetings to the Member unless or until the Cooperative receives notice from the Member of the Member's current address.

Section 3.4. FIXING OF RECORD DATE. For purpose of determining Members entitled to notice of or to vote at any Member Meeting, or in order to make a determination of the number of Members for any other purpose, the Board may fix in advance a date as the record date for any such determination of Members, such date in any case to be not more than seventy (70) days, and, in case of a Member Meeting, not less than ten (10) days, prior to the date on which the particular action requiring such determination of Members is to be taken. If no record date is fixed for the determination of Members entitled to notice of or to vote at a Member Meeting, the date on which notice of the meeting is mailed shall be the record date for such determination of Members. Any such record date shall apply to an adjournment of the Member Meeting, unless the Board fixes a new record date, which it shall do if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original Member Meeting. The record date for determining Members entitled to demand a Special Member Meeting shall be the date of the earliest of any submitted Member Petition for which the meeting is called. After fixing the record date, the Cooperative will prepare a Membership List for such Member Meeting.

Section 3.5. QUORUM. At all Member Meetings, a quorum of Members is fifty (50) Members entitled to vote on a matter, voting by Mail Ballot, or, at the option of the Board, in person or by Electronic Ballot ("**Member Quorum**"). Members voting by Mail Ballot or Electronic Ballot shall be counted toward the Member Quorum with respect to the matter voted upon in such Ballot. If less than the Member Quorum is present at a Member Meeting, a majority of those Members present may adjourn the meeting from time to time without further notice. The registration records will constitute proof of a Member Quorum. A Member participating electronically in any Member Meeting of the Cooperative shall be considered present for such Member Meeting.

Section 3.6. ORDER OF BUSINESS. The order of business for all meetings of Members shall be determined by the Board President. All Member Meetings are open to the Members, consumers of the Cooperative's electric service, news media, and other invited guests.

Section 3.7. VOTING. Each eligible Member shall be entitled to one (1) vote upon each matter submitted to a vote at a Member Meeting. At all Member Meetings at which there is Member Quorum, all questions shall be decided by a vote of a majority of the Members voting thereon, except as otherwise provided by Law, the Articles, and these Bylaws. Voting by proxy or by cumulative voting is prohibited.

Section 3.8. VOTING OPTIONS. A Member may vote or act by mail or, at the option of the Board, in person or electronically on any matter in conjunction with a Member Meeting by the Cooperative delivering or providing access to a written mail ballot ("**Mail Ballot**") or a ballot through a secure and verifiable electronic transmission system ("**Electronic Ballot**") to each Member entitled to vote on the matter. A Member submitting a completed Mail Ballot or Electronic Ballot may not vote at the Member Meeting regarding a matter described in the Mail Ballot or Electronic Ballot. The Cooperative will count as a Member's vote a properly completed Mail Ballot or Electronic Ballot received on, or before, the time and date stated in the respective Mail Ballot or Electronic Ballot. Except as may otherwise be provided by the Board, a Member may not revoke a completed Mail Ballot or Electronic Ballot received by the Cooperative. A Member's failure to receive a Mail Ballot or Electronic Ballot does not affect a vote or action taken by Mail Ballot or Electronic Ballot.

ARTICLE 4 – DIRECTORS

Section 4.1. GENERAL POWERS. The business and affairs of the Cooperative shall be managed under the direction of the Board, which shall:

- (a) Exercise all the powers of the Cooperative except such as are by Law, the Articles or these Bylaws conferred upon or reserved to the Members;
- (b) Appoint a CEO or an interim CEO in the absence of a full-time CEO;
- (c) Make diligent effort to see that electric service is extended to Persons and Entities within the Service Area who desire such service and meet all reasonable requirements established by the Cooperative as a condition of such service; and
- (d) Appoint a representative to serve on the boards of such industry organizations and other similar entities as determined by the Board.

Section 4.2. POLICIES, RULES, AND REGULATIONS. The Board shall have the power to make and adopt such policies, rules, and regulations, consistent with the Law, the Articles, or these Bylaws, as it may deem advisable for the governance of the business and affairs of the Cooperative.

Section 4.3. QUALIFICATIONS. To become and remain a member of the Board (a “**Director**”), a person must comply with the following qualifications (the “**Director Qualifications**”):

- (a) Be an individual at least 21 years of age;
- (b) Be a Member of the Cooperative in their individual capacity and not as an authorized representative of a Member that is an Entity and meet the residency requirements in the current policy set by the Board as of the deadline date for submitting a petition as a candidate and maintain residency during the term of office;
- (c) May not be a current employee of the Cooperative or a Cooperative Subsidiary or have been an employee of the Cooperative or a Cooperative Subsidiary for a period of five (5) years immediately before becoming a Director;
- (d) If such person is a former employee of the Cooperative, must be eligible for re-hire;
- (e) While serving on the Board may not be a relative of an employee of the Cooperative or an entity controlled by the Cooperative or in which the Cooperative owns a majority interest (“**Cooperative Subsidiary**”) (for purposes of this Section 4.3, “relative” is defined as a spouse, sibling, parent, child or the spouse of a sibling, parent, or child, in each case including step relations);
- (f) While serving on the Board may not in any way be employed by or financially interested in an enterprise or business that competes with or is primarily engaged in similar products or services as the Cooperative or a Cooperative Subsidiary;
- (g) May not be a relative of a Director who has served on the Board during the three (3) year period immediately before becoming a Director;
- (h) While a Director, and during the ten (10) years immediately before becoming a Director, not be convicted of, or plead guilty or no contest to, a felony or to any crime affecting the Director’s ability to serve as a Director, such as those involving fraud or dishonesty, cybercrime, gambling, weapons, or financial matters of any kind, which the Cooperative may confirm through a background check at the Cooperative’s expense;
- (i) While a Director, may not be a party to any contract for profit with the Cooperative differing in any way from the business relations afforded to all Members of the Cooperative (for clarification, net metering agreements with the Cooperative are not considered contracts for profit); and
- (j) Must comply with Cooperative’s policies and procedures.

Section 4.4. NUMBER OF DIRECTORS. Within the limits specified in the Articles, the number of Directors shall be determined from time-to-time by resolution of the Board.

Section 4.5. DISTRICTS, NOMINATIONS AND ELECTIONS.

- (a) **Districing.** The Cooperative shall be divided into two (2) regions, and such regions are defined as (i) the territory within the Service Area north of the Delta/Montrose County line ("**North Region**") and the territory within the Service Area south of the Delta/Montrose County line ("**South Region**") (the North Region and South Region are collectively referred to as the "**Director Regions**"). The Cooperative shall divide the Service Area into a reasonable number of districts that equitably represent the Members ("**Director Districts**"). The Cooperative shall be governed by one Director elected from each of the Director Regions and Director Districts. A description of the current Director Districts and Director Regions by map shall be available for inspection on the Cooperative's website or upon Member request. The Director Regions shall remain unchanged. As necessary based upon equitable considerations determined by the Board in its discretion, the Board, by resolution, may revise the Director Districts to ensure that the Director Districts equitably represent the Members. Within thirty (30) days following a Director District revision, and at least thirty (30) days before the next Annual Member Meeting, the Cooperative must notify, in writing, Members affected by the Director District revision. A Director District revision may not: (1) increase an existing Director's Director Term; or (2) unless the affected Director consents in writing, shorten an existing Director's Director Term.
- (b) **Term.** Each Director shall serve a staggered term of three (3) years ("**Director Term**"), with no more than one-third of the terms of the total Directors expiring each year and with no more than one term of the Directors representing the North Region or South Region expiring in the same year.
- (c) **Candidate Notices.** Information on Director Qualifications, the procedure for becoming a candidate and the schedule for an election shall be posted on the Cooperative's website and shall be otherwise publicized based on a Member's preferred method of communication as determined in accordance with the Cooperative's procedures no later than two (2) months before petitions to become a candidate are due.
- (d) **Petitions for Candidacy.** Elections for open positions on the Board are held at the Annual Member Meeting. An individual may become a candidate for election to a Director District or Director Region by meeting the Director Qualifications, and by meeting the following requirements (the "**Candidate Requirements**"):
- i. The candidate must be a Member of the Cooperative and must reside within the applicable Director District or Director Region for a period of at least six (6) months before the date of the Annual Member Meeting; and
 - ii. Must submit to the Cooperative a written petition of candidacy signed by at least thirty (30) Members not less than sixty (60) days prior to the date of the Annual Member Meeting. Such petition for candidacy shall designate the name of the nominee Member, the Director Term for which nominated, and the Director District or Director Region to be served.

The Cooperative shall verify that each candidate is compliant with the Candidate Requirements. If the Cooperative finds that a candidate does not meet the Candidate Requirements, the candidate shall have the opportunity to appeal that decision in accordance with an election policy adopted by the Board. A candidate may not run for both a Director District and a Director Region during the same election.

- (e) **Candidate Access to Membership List.** The Cooperative shall maintain an electronic record of current Members including the names and addresses of all Members ("**Membership List**"). Once the Board Secretary has verified all candidates for an upcoming election, all candidates (including incumbents running for reelection) shall, upon request, receive a Membership List with the same details. All candidates shall use such list only for purposes of the election and shall return or destroy the Membership List immediately after the election. Except as otherwise provided by these Bylaws or by Law, a no Person or Entity may inspect, copy, or receive a copy of all or part of the Membership List or a similar list of Members.

- (f) **Election Process.** Each Member of the Cooperative shall be entitled to vote in the election of Directors, either by Mail Ballot, or, at the option of the Board, in person at the Annual Member Meeting or by Electronic Ballot (collectively, the “**Ballots**”), except that election by voice vote by and from the Members at the Annual Member Meeting may be allowed to elect a Director in any Director District or Director Region if only one candidate has been nominated for election in that particular Director District or Director Region. A Member who has voted by Mail Ballot or Electronic Ballot is not entitled to vote at the Annual Member Meeting. The Ballots shall identify the candidates and the applicable Director District or Director Region for which they are running. The order of names on the Ballots shall be determined randomly in a manner that does not automatically assign the top line to the incumbent. Members shall be entitled to vote for candidates in all Director Districts and Director Regions. A Mail Ballot shall be voted by the Member, deposited in a return envelope which must be signed by the voting Member, and mailed back to the Cooperative. For the Mail Ballot of a Joint Membership, the envelope of the Mail Ballot must include the name of each eligible voter of the Joint Membership. Any one of the Joint Members may cast the Mail Ballot. The Joint Member who casts the Mail Ballot must sign the return envelope. The Mail Ballots shall be collected and stored in a manner that reasonably protects the privacy and security of their content.
- (g) **Election Count.** Except when all Director Districts or Director Regions are uncontested elections (in which case no Ballots are required), the Board shall arrange for an independent third party to oversee the counting of Ballots. All Ballots must be delivered to the Cooperative under seal promptly after the count and, upon the request of any candidate, made available to the candidate for inspection. The eligibility for each Member voting will be verified against the Cooperative’s records prior to the time votes are counted. The eligible candidate receiving the highest number of votes shall be declared the duly elected Director of the Director District or Director Region for which they were a candidate. Recounts, if any, shall be conducted in accordance with an election policy adopted by the Board.

Section 4.6. COMPENSATION. The Cooperative may provide compensation for time spent by the Directors in service to the Cooperative. The Board shall determine the manner, method, and amount of such compensation, reimbursement, or other benefits.

Section 4.7. COMMITTEES. The Board may establish and dissolve committees (“**Committees**”).

Section 4.8. REMOVAL OF DIRECTORS.

(a) Recall by Members.

- i. The Members may remove Directors only for cause. The term “**cause**” means engaging in fraudulent or dishonest conduct or gross abuse of authority or discretion with respect to the Cooperative, or a criminal act involving a breach of moral turpitude, breach of a fiduciary duty, malfeasance, misfeasance, or nonfeasance that adversely affects the Cooperative’s interests. “Cause” does not mean conflict, disagreement, decisions of a discretionary nature or good faith acts of a Director exercised in their best business judgment.
- ii. Removal of a Director by a vote of the Members shall be initiated by a written petition submitted to the Board and signed by at least ten percent (10%) of the Members stating the alleged causes or reasons for removal (“**Removal Petition**”). No single petition shall seek the removal of more than one Director. Within thirty-five (35) days after receipt of the Removal Petition, the Board shall hold a Board Meeting. The Director named in the Removal Petition shall be informed in writing by the Board of such Board Meeting and shall have the opportunity, in person and by counsel, to be heard and to present evidence before the Board votes to determine if cause has been stated. A designated representative of the Members seeking removal shall have the same opportunity to be heard and to present evidence to the Board at such Board Meeting. In determining if cause has been stated, the Board will only consider whether the Removal Petition states a prima facie case of cause and the ruling by the Board will not be determinative of whether sufficient cause exists.

- iii. If a majority of the Directors (not including any Directors subject to a Removal Petition) determines that cause has been stated, then the Board shall schedule the removal vote at an Member Meeting to occur within ninety (90) days of the Removal Petition.
- iv. At such Member Meeting, the Director may be removed upon an affirmative vote of a majority of the Members present and voting by Mail Ballot, or, at the option of the Board, in person or by Electronic Ballot. If the vote is in favor of recall, the Director shall be immediately removed from the Board and a vacancy shall be declared.

(b) Removal by Board. A Director may be removed by action of the Board for failure to maintain the Director Qualifications by the affirmative vote of at least seventy-five percent (75%) of the Directors (not including a Director up for removal at a Board Meeting). The affected Director shall be given an opportunity to be heard during the open session of a Board Meeting, which shall be noted as a separate agenda item. The Board may discuss the Removal Petition and statements from the affected Director during executive session, but shall only take action with respect to the affected Director during regular session. If the reasons for removal are based on failure to meet the Director Qualifications, the Director may be removed, and a vacancy shall be declared. If the reasons given for removal are for cause as defined in Section 4.8(a)(i) above, the Board may certify the question of removal to a vote of the Members as provided in subsection 4.8(a) above and no Removal Petition shall be required.

Section 4.9. RESIGNATION. A Director may resign from the Board at any time in writing to the Board, Board President, or Board Secretary. A Director's resignation is effective when the Board, Board President, or Board Secretary receives the written notice of resignation. Additionally, resignation from the governing body of any Cooperative Subsidiary shall be deemed an automatic resignation from the Board.

Section 4.10. VACANCIES. Vacancies on the Board shall be filled by appointment as set forth in this Section or at the next Annual Member Meeting, at the practicable discretion of the Board. Vacancies filled by appointment shall be filled by a majority vote of the remaining Directors, and Directors so appointed shall serve the remainder of such unexpired term. Vacancies in the Board created by an increase in the number of Directors shall be filled in a like manner but shall serve only until the next Annual Member Meeting.

Section 4.11. TERM LIMITS. As set forth in the Articles, no Director shall serve more than four (4) consecutive three (3)-year terms on the Board. Any person appointed or elected to fill a vacancy on the Board and who serves at least one-half (1/2) of a three (3)-year term of office shall be considered to have served a full term in that position for purposes of this Section 4.11. Terms are considered consecutive unless they are at least two (2) years apart.

ARTICLE 5 – MEETINGS OF DIRECTORS

Section 5.1. REGULAR MEETINGS. A regular meeting of the Board ("**Regular Board Meeting**") shall be held monthly for the transaction of such other business as may properly come before the Board.

Section 5.2. SPECIAL MEETINGS. Special meetings of the Board ("**Special Board Meetings**") may be called by the Board President or any three (3) Directors.

Section 5.3. COMMITTEE MEETINGS. Regular meetings of any Committee may be held with or without notice at such times and places as the Committee may fix from time-to-time.

Section 5.4. QUORUM AND VOTING. A majority of the Directors of the Board shall constitute a quorum ("**Board Quorum**") for the transaction of business at any Regular Board Meeting or Special Board Meeting (either, a "**Board Meeting**"). At all Board Meetings at which there is Board Quorum, all questions shall be decided by a vote of a majority of the Directors voting thereon, except as otherwise provided by Law, the Articles, and these Bylaws. If a Board Quorum is not present at a Board Meeting, the Directors present shall adjourn the meeting. A Director may participate and vote in any Board Meeting by any means of communication by which all Directors participating may hear each other and communicate simultaneously (including by electronic means). A Director may not vote by proxy.

Section 5.5. OPEN MEETINGS.

- (a) All Board Meetings of the Cooperative are declared to be open meetings and open to the Members, consumers of the Cooperative's electric service, news media, and other invited guests. At any Board Meeting, the Board may, by a two-thirds (2/3) affirmative vote of the Directors present, enter executive session. The Board shall not make any final policy decisions or adopt or approve any resolution, rule, regulation or take any formal action, or adopt or approve any contract or any action calling for the payment of money during any executive session that is closed to the Members, consumers of the Cooperative's electric service, news media, or other invited guests.
- (b) At every Board Meeting, Members, consumers of the Cooperative's electric service, news media, and other invited guests shall be given an opportunity to provide comments to the Directors on any matter concerning the policies and business of the Cooperative. The Board may place reasonable parameters on such comments.
- (c) Written minutes shall be made of all Board Meetings.

Section 5.6. NOTICE OF MEETING – AGENDA. The date, time, location, and agenda of every Board Meeting shall be posted on the Cooperative's website and shall be posted in every service office maintained by the Cooperative no less than ten (10) days before the Regular Board Meetings and as soon as a Special Board Meeting is scheduled. Copies of the agendas shall be available at each service office and electronically for Members and consumers. If a Board Meeting is postponed or cancelled, notice of the postponement or cancellation shall immediately be posted on the website.

ARTICLE 6 - OFFICERS OF THE BOARD AND COOPERATIVE

Section 6.1. OFFICERS. The officers of the Board shall be the officers identified in Section 6.2 and the chief executive officer ("CEO") shall be the only officer of the Cooperative as described in Section 6.11.

Section 6.2. NUMBER. The officers of the Board ("Officers") shall be a Board President, Board Vice-President, Board Secretary, Board Treasurer, and such other officers as may be determined by the Board from time to time, including, but not limited to, assistant treasurers and/or assistant secretaries. In addition to the specific duties outlined below, any Officer shall perform all the duties, responsibilities, and exercise acts of authority as may be assigned from time to time by the Board. In the event the Board President is unable to preside at a Board Meeting or Member Meeting, the other Officers shall so preside in the order listed below. One individual may simultaneously hold more than one office, but the offices of Board President and Board Secretary may not be held concurrently.

Section 6.3. ELECTION AND TERM OF OFFICE. The Board shall elect both Officers and representatives at a Board Meeting. All candidates for an office shall be nominated from the floor by voice nomination and Directors may nominate themselves. No second is required for the nomination of a candidate. Only candidates who have been nominated shall be eligible to run for the office. If there are only two (2) candidates nominated for the office, then the candidate who receives the highest number of votes cast shall be elected to the office. If there are more than two (2) candidates for the office, then a run-off election shall be held by written ballot between the two (2) candidates receiving the highest number of votes, or if there is a tie among the first or second highest number of votes, then the candidate with the longest tenure on the Board shall be deemed elected to the Officer position or progress to the run-off, as applicable. When nominations for one (1) office have been completed, votes shall be cast for that office and the results announced before the chair calls for nominations for the next office. Alternatively, any Director may nominate a slate of candidates for all offices at one time which, if another Director seconds the nomination, the Board may vote on the slate. Each Officer shall take office immediately upon being elected.

Section 6.4. BOARD PRESIDENT. The Board President:

- (a) Shall preside at all Board Meetings 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 appoint Directors to the various Committees.

Section 6.5. BOARD VICE-PRESIDENT. In the absence of the Board President, or in the event of the Board President's inability or refusal to act, the Board Vice-President shall perform the duties, and have the powers, of the Board President.

Section 6.6. BOARD SECRETARY. The Board Secretary shall ensure the Cooperative prepares and maintains accurate minutes of Board Meetings and Member Meetings and corporate records required by the Colorado Cooperative Act. The Board Secretary shall authenticate Cooperative records as necessary.

Section 6.7. BOARD TREASURER. The Board Treasurer shall ensure the Board is apprised of key Cooperative financial documents.

Section 6.8. OFFICER RESIGNATION AND REMOVAL. At any time, an Officer may resign from office by delivering to the Board a written resignation. An Officer resignation is effective when received. At any time, the Board may remove an Officer for any reason.

Section 6.9. VACANCIES. The Board shall fill a vacancy in any office of the Board for the unexpired portion of such term in the same manner as described in Section 6.3 of these Bylaws.

Section 6.10. CHIEF EXECUTIVE OFFICER. The CEO shall be selected by and serve at the pleasure of the Board and shall continue to serve the Cooperative until a successor is selected and qualified unless the CEO shall retire, resign, die, become disqualified, or be dismissed by the Board. The Board shall approve the compensation of the CEO. The CEO shall be the principal administrative officer of the Cooperative and shall be accountable to the Board for the operations of the Cooperative. The CEO may appoint other officers of the Cooperative.

ARTICLE 7 – CAPITAL STOCK

Section 7.1. VOTING COMMON STOCK. The Cooperative shall not issue voting common stock. The rights and interests of each Member shall be determined by the Member's tariff rate class in accordance with the Capital Credit Policy. No Member shall have a direct interest in or claim upon the property of the Cooperative.

Section 7.2. NON-VOTING PREFERRED STOCK. To the extent authorized by the Articles, the Cooperative may issue non-voting preferred stock in one or more series as may be established by the Board ("**Preferred Stock**") to any Person or Entity, whether such Person or Entity is qualified to be a Member. Prior to the issuance of any series of Preferred Stock (each, a "**Series**"), the Board shall establish either in the resolution authorizing such Series or by amendment to these Bylaws, the number of authorized shares and the terms of such Series including, without limitation, (a) entitlement to dividends, if any, (b) preferences, if any, with respect to dividends or other distributions, (c) redemption terms and conditions, (d) restrictions on transfer, and (e) any other terms, conditions or restrictions permitted by Law, the Articles and these Bylaws. Under no circumstances will any Series of Preferred Stock be entitled to voting rights. No owner of Preferred Stock shall have a direct interest in or claim upon the property of the Cooperative.

Section 7.3. DIVIDENDS ON NON-VOTING PREFERRED STOCK. Dividends payable on shares of Preferred Stock of the Cooperative may be declared by the Board at any Board Meeting so long as the financial condition of the Cooperative will not be impaired, and not to exceed an amount that would cause the Cooperative to fail to be consistent with operating on a cooperative basis under federal tax law including Section 501(c)12 of the Internal Revenue Code.

ARTICLE 8 – NOT-FOR-PROFIT OPERATION

Section 8.1. NOT-FOR-PROFIT AND COOPERATIVE OPERATION. The Cooperative shall operate on a not-for-profit and cooperative basis for the mutual benefit of all Members. The Cooperative shall not pay interest or dividends on capital furnished by Patrons.

Section 8.2. PATRONAGE CAPITAL IN CONNECTION WITH FURNISHING ELECTRIC SERVICE. A “Patron” is defined as a Member, or, if authorized by the Board, a non-Member, receiving electric service from the Cooperative. In the furnishing of electric service, the Cooperative’s operation shall be so conducted that all Patrons will through their patronage furnish capital for the Cooperative.

- (a) **Capital Credit Allocation.** All operating income and revenue in excess of operating costs and expenses (“**Operating Margins**”) are received from the Patrons as patronage capital. For each fiscal year, the Cooperative shall equitably allocate as a credit to the capital account of each Patron the Operating Margins and may allocate non-operating margins (a “**Capital Credit**”). The Cooperative shall maintain books and records reflecting the capital contributed by each Patron. The Board will determine the manner and method of allocating Capital Credits (the “**Capital Credit Policy**”).
- (b) **Notification.** The Cooperative shall notify each Patron in writing of all Capital Credits allocated to the Patron for the preceding fiscal year.
- (c) **Capital Credit Recoupment and Offset.** All Capital Credits shall be used to offset any losses incurred during the current or any prior fiscal year to the extent permitted by Law. Upon retiring Capital Credits, the Cooperative may recoup or setoff an amount owed to the Cooperative by the Patron or former Patron by reducing the amount of retired Capital Credits, including interest at the Colorado legal rate, by the amount owed to the Cooperative.
- (d) **Security Interest in Capital Credits.** All Patrons are deemed to have granted to the Cooperative a first lien on all Capital Credits, capital investments, patronage funds and other property or funds of the Patron held by the Cooperative to secure the payment of all indebtedness of the Patron to the Cooperative. This first lien is deemed to be perfected by possession of the collateral by the Cooperative under the Uniform Commercial Code, or, at the election of the Cooperative, notice of the lien may be made through the filing of a financing statement with the office of the Colorado Secretary of State. The Articles, these Bylaws, and the Governing Documents shall constitute a security agreement under the Uniform Commercial Code. The amount of any lien may, at the sole option of the Cooperative, be setoff at any time against any funds to be paid to a Patron.
- (e) **Retirement of Capital Credits.** The Board may retire and pay in full or in part any Capital Credits in accordance with the Capital Credit Policy so long as the financial condition of the Cooperative will not be impaired. The right to Capital Credits vests, accrues, and becomes payable only upon the Cooperative retiring Capital Credits so long as the financial condition of the Cooperative will not be impaired. The Board may pay Capital Credits at a discounted rate.

Section 8.3. UNCLAIMED FEES AND CREDITS. If a Capital Credit remains unclaimed more than three (3) years following retirement (an “**Unclaimed Capital Credit**”), then following Notice to the Patron of the Unclaimed Capital Credits, the Cooperative may recover and use the Unclaimed Capital Credits for any use as approved by the Board. If the Patron does not claim such Capital Credits within any period specified in the Notice, all rights of the Patron to the Unclaimed Capital Credits shall terminate. For purposes of this Section 8.3, “**Notice**” means, at a minimum, posting the names of such Patrons with Unclaimed Capital Credits on the Cooperative’s website for a period of time to be established by the Board.

Section 8.4. PATRON AGREEMENT. Each Patron and former Patron agrees that:

- (a) The terms and provisions of the Articles and these Bylaws shall constitute and be a contract between the Cooperative and each Patron;
- (b) Capital Credits are not securities under Law; and
- (c) Each Patron will report and pay to the appropriate entity any tax or similar obligation on allocated or retired Capital Credits.

Section 8.5. NON-MEMBER PATRONS. As a condition of using any services or products of the Cooperative, and except as otherwise provided by the Board: (a) to the same extent as a Member, a Patron who is not a Member (“**Non-**

Member Patron”) must abide by and be bound to the duties, obligations, liabilities, and responsibilities imposed by the Governing Documents upon Members; and (b) a Non-Member Patron has none of the rights granted by the Governing Documents to Members, other than the rights to be allocated Capital Credits and be paid retired Capital Credits.

ARTICLE 9 – PROPERTY

Section 9.1. DISPOSITION OF PROPERTY. The Cooperative may not sell, lease or otherwise dispose of all or substantially all of its property not in the usual and regular course of its business unless such sale, lease, or other disposition is (a) recommended to the Members by the affirmative vote of not less than two-thirds (2/3) of the Directors, and (b) authorized at a Member Meeting by the affirmative vote of not less than two-thirds (2/3) of the Members present and voting in any manner allowed by these Bylaws; provided, however, the Board, without authorization by the Members, shall have full power and authority to authorize the execution and delivery of a mortgage or mortgages, or a deed or deeds of trust upon, or the pledging or encumbering of any or all the property, assets, rights, privileges, licenses, franchises and permits of the Cooperative, whether acquired or to be acquired, and wherever situated, as well as the revenues and income therefrom, all upon such terms and conditions as the Board shall determine, to secure any indebtedness of the Cooperative.

Section 9.2. CONSOLIDATION OR MERGER. The Cooperative may not consolidate or merge with another entity unless (a) a plan of consolidation or merger compliant with applicable Law has been authorized by the affirmative vote of not less than two-thirds (2/3) of the Directors, and (b) such plan is authorized at a Member Meeting by the affirmative vote of not less than two-thirds (2/3) of the Members present and voting in any manner allowed by these Bylaws.

Section 9.3. DISTRIBUTION UPON DISSOLUTION. Upon dissolution, after all debts and liabilities of the Cooperative are paid, and all capital furnished through patronage are retired, 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 bear to the total patronage of all Members during the ten (10) years next preceding the date of the filing of the certificate of dissolution.

ARTICLE 10 – MEMBERSHIP IN OTHER ORGANIZATIONS

If determined by the Board to be in the best interests of the Cooperative and its Members, the Cooperative may form one or more wholly-owned for-profit, not-for-profit, or nonprofit subsidiary business organizations, or may participate with third parties in the ownership of independent profit or nonprofit business organizations, in order to provide services or products to its Members and other Persons and Entities. The services or products may be in fields other than those of providing electric facilities or electric power.

ARTICLE 11 – INDEMNIFICATION

Section 11.1. INDEMNIFICATION OF INDIVIDUALS. The Cooperative shall, to the full extent permitted by Law, indemnify each of its Directors, Officers (whether a current or former Director or Officer) and employees (each an **“Indemnified Individual”**) against all expenses actually and necessarily incurred by an Indemnified Individual, including, but not limited to, judgments, costs and counsel fees, in connection with the defense of any litigation including any civil, criminal, or administrative action, suit, investigation or proceeding, to which such Indemnified Individual may have been made a party because the Indemnified Individual is or was a Director, Officer or employee of the Cooperative and was acting within the scope of their position at the Cooperative. An Indemnified Individual shall be indemnified by the Cooperative under this article only if authorized by (a) a majority vote of Board Quorum excluding any Directors who are also parties to such action, suit, investigation or proceeding, or if a Board Quorum is not obtainable then a majority vote of disinterested Directors following consultation with independent legal counsel in a written opinion.

Section 11.2. ADVANCE FOR EXPENSES. The Cooperative shall pay expenses incurred by an Indemnified Individual in defending a civil or criminal action, suit, investigation or proceeding before its final disposition if (a) the Indemnified Individual provides the Cooperative a written: (i) affirmation of the Indemnified Individual’s good faith belief that they have met the standards of conduct set forth in C.R.S. § 7-109-102; and (ii) covenants in writing to repay the expenses if

it is ultimately determined that the Indemnified Individual did not meet such standards of conduct; and (b) a majority of the Board (excluding any Directors then a party to any such indemnification proceeding) determines that the facts then known to them would not preclude indemnification for the Indemnified Individual under this Bylaw.

Section 11.3. INSURANCE. The Cooperative shall purchase and maintain insurance on behalf of any individual who is or was a Director, Officer, or employee, and may purchase and maintain insurance on behalf of other agents of the Cooperative, insuring such individual(s) against any 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 with the Cooperative, whether or not the Cooperative would have the power to indemnify against such liability under these Bylaws, or otherwise. The Cooperative's failure to purchase or maintain such insurance shall not relieve the Cooperative of its indemnification obligations under this article.

Section 11.4. BONDS. At the discretion of the Board, at the Cooperative's expense, any Officer, employee, or agent handling funds or negotiable instruments or property of or for the Cooperative may be bonded for the failure performance of the person's duties and obligations.

ARTICLE 12 – CHANGES TO BYLAWS

These Bylaws may be repealed, modified, or amended by the affirmative vote of a majority of the Directors at any Board Meeting. Prior to adoption of changes to the Bylaws, the Cooperative shall provide notice of the Board Meeting in accordance with the provision of these Bylaws and such notice shall contain a copy or summary of the proposed amendments to the Bylaws.