

BYLAWS



Socorro Electric Cooperative, Inc.

Adopted January _____

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BYLAWS OF SOCORRO ELECTRIC COOPERATIVE

Article I – Definitions

SECTION 1.01 – General Provisions.

Within these Bylaws of Socorro Electric Cooperative, as currently existing or as later amended (“Bylaws”):

1. Unless otherwise provided, words and phrases used in these Bylaws have their customary and ordinary meaning;
2. The singular use of any word includes the plural use, and the plural use of any word includes the singular use;
3. 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;
4. The present tense of any word includes the past and future tenses, and the future tense of any word includes the present tense; and
5. The words “shall” or “must” indicate a mandatory action or requirement, and the word “may” indicates a permissive action or requirement.

SECTION 1.02 – Defined Terms.

These Bylaws define certain words and phrases within Bylaw sections (“Defined Terms”). Defined Terms are:

1. Capitalized and enclosed within parenthesis and quotation marks following the Defined Term’s definition; and
2. 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:

Additional Payments –Bylaw Section 2.02
Amended – Bylaw Section 10.01
Annual Member Meeting – Bylaw Section 4.01
Applicant – Bylaw Section 2.01
Appraisal – Bylaw Section 9.01
Assets – Bylaw Section 9.01
Board – Bylaw Section 2.02
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Member Candidate Challenge – Bylaw Section 4.12
Member Committees – Bylaw Section 7.11
Member Demand – Bylaw Section 4.02
Member Meeting – Bylaw Section 4.03
Member Meeting List – Bylaw Section 4.05
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Member Proxy – Bylaw Section 4.10
Member Proxy Appointment – Bylaw Section 4.10
Member Quorum – Bylaw Section 4.07
Member Voting Document – Bylaw Section 4.08
Member Written Consent – Bylaw Section 4.06
Membership List – Bylaw Section 3.07
Membership Obligations – Bylaw Section 2.02
New Entity – Bylaw Section 9.02
Non-Operating Margins – Bylaw Section 8.02
Open Meeting – Bylaw Section 6.07
Operating Margins – Bylaw Section 8.02

Other Officer – Bylaw Section 7.01
Person – Bylaw Section 2.01
Reasonable Reserves – Bylaw Section 8.04
Regular Board Meeting – Bylaw Section 6.01
Required Officers – Bylaw Section 7.01
Special Board Meeting – Bylaw Section 6.02
Special Member Meeting – Bylaw Section 4.02
Suspension Reason – Bylaw Section 3.01
Total Membership – Bylaw Section 4.02
Transfer – Bylaw Section 9.01

Article II – Cooperative Membership

SECTION 2.01 – Membership Eligibility.

Any natural person or legal entity, including any firm, association, corporation, limited liability company, business trust, partnership, Federal agency, state or political subdivision thereof, or body politic (each hereinafter referred to as “person,” “applicant,” “him” or “his”) shall be eligible to become a Member of, and, at one or more premises owned or directly occupied or used by him, to receive electric service from, Socorro Electric Cooperative (hereinafter called the “Cooperative”).

No person shall hold more than one (1) Cooperative membership. As such, no member shall be entitled to maintain a second membership in the name of a proprietorship. Unincorporated proprietorships shall not be entitled to a membership except in the name of the proprietor.

A natural person may exercise his own membership rights, and when authorized, the membership rights of one or more legal entities.

SECTION 2.02 – Application for Membership; Renewal of Prior Application.

Application for membership – wherein a person seeking to become a Member, the “Applicant” shall agree to purchase electric service from the Cooperative and to be bound by and to comply with all of the other provisions of the Cooperative’s Articles of Incorporation (“Articles”) and Bylaws, and all rules, regulations, rate classifications and rate schedules established pursuant thereto, as all the same then exist or may thereafter be adopted, repealed or amended (the obligations embraced by such agreement being hereinafter called “Membership Obligations”) – shall be made in writing on such form as is provided or accepted therefor by the Cooperative (collectively “Governing Documents”). With respect to any particular classification of service for which the Board of Trustees (“Board”) shall require it, such application shall be accompanied by a supplemental contract, executed by the applicant on such form as is provided therefor by the Cooperative. The membership application shall be accompanied by the membership fee provided for in Section 2.03 (together with any service security deposit, service connection fee, facilities extension fee or contribution in aid of construction that may be required

by the Cooperative (hereinafter “Additional Payments”)), which fee and such Additional Payments, if any, may be refunded in the event the application is by Board resolution denied.

Any former Member of the Cooperative may again become a Member by either executing a new membership application or renewing and reactivating any prior membership application as if the application had been newly made, and paying a new membership fee and any outstanding account, including an account pursuant to a former joint membership, plus interest thereon at the legal rate as it is established by New Mexico law, its successor, and as the same is amended from time to time, compounded annually, together with any Additional Payments. Any person who has actually used and benefited from electric service which has been supplied to premises owned or directly occupied or used by him, for which service there is an outstanding indebtedness remaining due the Cooperative, may become a Member by executing a membership application, paying a membership fee and paying the outstanding indebtedness for the service which was supplied to the premises owned or directly occupied or used by him.

SECTION 2.03 – Membership Fee; Service Security Deposit and Facilities Extension Fees; Contributions in Aid of Construction.

The membership fee shall be as fixed from time to time by the Board. The membership fee, together with any Additional Payments, shall entitle the Member to one service connection. A service connection deposit or fee, in such amount as shall be prescribed by the Cooperative, together with Additional Payments, if any, shall be paid by the Member for each additional service connection requested by him.

SECTION 2.04 – Acceptance into Membership.

Upon complying with the requirements set forth in Section 2.02, any applicant shall automatically become a Member on the date of his connection for electric service (“Member”): PROVIDED, that the Cooperative may reject or deny an application and refuse to furnish service upon its determination that the applicant is not willing or is not able to satisfy and abide by the membership obligations or that such application should be denied for other good cause.

SECTION 2.05 – Joint Membership.

Written application by either husband or wife, or by other persons maintaining a lawfully recognized domestic relationship, shall be deemed a joint membership (“Joint Membership”), unless the applicant shall request in writing an individual or singular membership and, subject to his compliance with the requirements set forth in Sections 2.01 and 2.02 of this article, may be accepted for membership. Provided that acceptance by the Board of either spouse shall be deemed acceptance of both. The terms “Member,” “applicant,” “person,” “his” and “him,” as used in these Bylaws, shall include a husband and wife holding a joint membership (“Joint Member”), unless otherwise clearly distinguished in the text; and all provisions relating to the rights, powers, terms, conditions, obligations, responsibilities and liabilities of membership shall apply equally, severally and jointly to them. Without limiting the generality of the foregoing –

- (1) notice of a meeting provided to one Joint Member constitutes notice to all Joint Members;
- (2) waiver of notice of a meeting signed by one Joint Member constitutes waiver of notice for all Joint Members;
- (3) the presence of one or more Joint Members at a meeting constitutes the presence of one Member at the meeting;
- (4) the presence of one Joint Member at a meeting waives notice of the meeting for all Joint Members;
- (5) the presence of one Joint Member at a meeting may revoke a Member Proxy Appointment previously executed by the Joint Member;
- (6) 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;
- (7) 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;
- (8) except upon the cessation of marriage or other legally recognized relationship, the suspension or termination of a Joint Member constitutes the suspension or termination of all Joint Members; and
- (9) a Joint Member qualified to be a member of the Board of Trustees, regardless of whether another Joint Member is qualified to be a Trustee, but if more than one Joint Member is qualified to be a Trustee, then only one Joint Member may be a Trustee.

SECTION 2.06 – Conversion of Membership.

A membership which is a singular membership may be converted to a joint membership upon the written request of either spouse or otherwise eligible person on a form provided by or otherwise acceptable to the Cooperative. Upon the conversion of a singular membership to a joint membership, such membership shall be deemed to have always been joint.

SECTION 2.07 – Effect of Death, Legal Separation or Divorce upon a Joint Membership.

Upon the death of either person in a Joint Membership, such membership shall terminate, the interests and debts of the deceased person shall convert to a singular membership and the interests and debts of the surviving person shall convert to a surviving singular membership which shall continue as if said surviving membership had never been joint. The estate of the deceased person shall not be released from any debts due the Cooperative. Upon the legal separation or divorce of the holders of a Joint Membership, such membership shall continue to be held solely by the one who continues directly to occupy or use the premises covered by such membership, in the same manner and to the same effect as though such membership had never been joint: PROVIDED, that the other person shall not be released from any debts due the Cooperative.

SECTION 2.08 – Purchase of and Payment for Electric Service; Power Production by Member; Application of Payments to All Accounts.

The Cooperative exists for the primary purpose of supplying electric power and energy and promoting and extending the use of electricity in rural areas. N.M. Stat. Ann. § 62–15–2 (2013). As such, the Cooperative shall use reasonable diligence to furnish its members with adequate and dependable electric service (“Cooperative Services”), although it cannot and therefore does not guarantee a continuous and uninterrupted supply. Each Member, for so long as such premises are owned or directly occupied or used by him, shall purchase from the Cooperative all electric service to be used on all premises that have been served by the Cooperative pursuant to his membership. The Member shall pay for all electric service in accordance with the rules, regulations, and rate schedules (including any monthly minimum amount that may be charged without regard to the amount of electric service actually used) established by the Board and, if in effect, in accordance with the provisions of any supplemental contract that may have been entered into as provided for in Section 2.02. Production or use of electric service on such premises, regardless of the source thereof, by means of facilities which shall be interconnected with Cooperative facilities, shall be subject to appropriate regulations as shall be fixed from time to time by the Cooperative. Each Member shall also pay all other amounts owed by him to the Cooperative as and when they become due and payable. As determined by the Board, Members shall pay interest, compounded periodically, and late payment fees for all amounts owed, but not timely paid, to the Cooperative. When the Member has more than one service connection from the Cooperative, any payment for service to him by the Cooperative may be deemed to be allocated and credited on a pro rata basis to his outstanding accounts for all such service connections, notwithstanding that the Cooperative’s actual accounting procedures do not reflect such allocation and proration. Each Member agrees that, after written notice and an opportunity to resolve any dispute as to amount, the Cooperative may charge his current accounts with any debts or other obligations owed by the Member to the Cooperative due to any prior membership, including a prior Joint Membership, or due to any contractual or other legal obligation to the Cooperative.

SECTION 2.09 – Reduction in Cooperative Services.

As required or allowed by Law, and as determined by the Board, if a Member substantially reduces or ceases the use, receipt or purchase of electricity from the Cooperative, then the Cooperative may charge the Member, and the Member shall pay to the Cooperative, the reasonable costs and expenses incurred by the Cooperative in reliance on prior assurances regarding the anticipated future use of electric service by the Member.

SECTION 2.10 – Excess Payments to be Credited as Member–Furnished Capital.

All amounts paid for electric service in excess of the cost thereof shall be furnished by members as capital, and each Member shall be credited with the capital so furnished as provided in Article VIII of these Bylaws.

SECTION 2.11 – Wiring of Premises; Responsibility Therefor; Load Management Devices; Responsibility for Meter Tampering or Bypassing and for Damage to Cooperative Properties; Extent of Cooperative Responsibility; Indemnification.

Each Member shall cause all premises receiving electric service pursuant to his membership to become and to remain wired in accordance with the specifications of the National Electric Code, any applicable state code or local government ordinances, and of the Cooperative. If the foregoing specifications are variant, the more exacting standards shall prevail. Each Member shall be responsible for – and shall indemnify the Cooperative and its employees, agents and independent contractors against death, injury, loss or damage resulting from any defect in or improper use or maintenance of – such premises and all wiring and apparatus connected thereto or used thereon. Each Member may, by separate agreement with the Cooperative, permit the installation of load management devices on such appliances and equipment, as is jointly agreed to between the Cooperative and the Member. If the Member agrees to the installation of such devices, the devices may not be permanently disconnected or removed unless the Member in writing revokes his prior authorization, or (2) the Cooperative, its employees, agents, or contractor(s) disconnect or remove the devices. Each Member shall make available to the Cooperative a suitable site, as determined by the Cooperative, whereon 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 free and safe access thereto 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 be the Cooperative’s bailee of such facilities and shall accordingly 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. Each Member shall also provide such protective devices to his premises, apparatuses or meter base as the Cooperative shall from time to time require in order to protect the Cooperative’s physical facilities and their operation and to prevent any interference with or damage to such facilities. 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 therefrom, 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 or any error occurring in the Cooperative’s billing procedure. In no event shall the responsibility of the Cooperative extend beyond the point of delivery as defined in the Cooperative’s Service Rules and Regulations, except that the Cooperative shall, in accordance with its applicable service rules and regulations, indemnify the Member for any overcharges for service that may result from a malfunctioning of its metering equipment.

No Member shall tamper or interfere with, damage, or impair any Cooperative Equipment. Unless otherwise determined by the Board, the Cooperative owns all Cooperative Equipment. As the Cooperative’s bailee of such equipment, each Member shall protect all Cooperative Equipment, and shall install, implement, and maintain any protective device or procedure reasonably required by the Cooperative. Each Member shall comply with any procedure required by the Cooperative regarding the provision of any Cooperative Service to any

Member or Person. After providing the Member reasonable notice and an opportunity to comment orally or in writing, the Cooperative may suspend or terminate provision of any Cooperative Services to any Member.

However, upon:

1. Determining that a Member has tampered or interfered with, damaged, or impaired any product, equipment, structure, or facility furnished or used by the Cooperative to provide, monitor, measure, or maintain any Cooperative Service (“Cooperative Equipment”);
2. Discovering the unsafe condition of any Cooperative Equipment; or
3. Discovering any imminent hazard or danger posed by any Cooperative Equipment;

then, without providing the Member notice or opportunity to comment, the Cooperative may suspend provision of Cooperative Services to the Member until such equipment is repaired or replaced.

SECTION 2.12 – Member to Grant Easements to Cooperative and to Participate in, if Required, Cooperative Load Management Programs.

Each Member shall, at any time requested by the Cooperative, execute and deliver to the Cooperative grants of easement or right-of-way over, on and under such lands owned or leased by or mortgaged to the Member. Such grants shall be provided to facilitate the construction, operation, maintenance or relocation of the Cooperative’s electric facilities, to provide service to the granting Member and/or to facilitate the Cooperative’s efforts to provide requested or anticipated services to any other existing or future Member or members. Each Member shall participate in any required program and comply with related rates and service rules and regulations that may be established by the Cooperative to enhance load management, more efficiently to utilize or conserve electric service or to conduct load research.

Article III – Membership Suspension and Termination

SECTION 3.01 – Suspension by Non-Compliance; Reinstatement.

Upon his failure, after the expiration of the initial time limit prescribed either in a specific notice to him or in the Cooperative’s generally publicized applicable rules and regulations, to pay any amounts due the Cooperative or to cease any other non-compliance with his membership obligations (collectively “Suspension Reason”), a person’s membership shall be suspended; and he shall not during such suspension be entitled to receive electric service from the Cooperative or to cast a vote at any meeting of the members. Payment of all amounts due the Cooperative, including any additional charges required for such reinstatement, and/or cessation of any other noncompliance with his membership obligations within the final time limit provided in such notice or rules and regulations shall automatically reinstate the membership, in which event the Member shall thereafter be entitled to receive electric service from the Cooperative and to vote at the meetings of its members.

SECTION 3.02 – Termination by Expulsion; Renewed Membership.

Upon failure of a Member suspended for non-compliance to be automatically reinstated to membership, as provided in Section 3.01, he may, without further notice, but only after due hearing if such is requested by him, be terminated by the affirmative votes of not less than a majority of the Trustees in office at any subsequently held regular or special meeting of the Board. After termination, a Member may not again become a Member except upon new application therefor duly approved as provided in Sections 2.02, 2.03 and 2.04; but the Board, acting upon principles of general application in such cases, may establish such additional terms and conditions for renewed membership as it determines to be reasonably necessary to assure the applicant's compliance with all his membership obligations.

SECTION 3.03 – Termination by Withdrawal or Resignation.

A Member may withdraw from membership upon such generally applicable conditions as the Board shall prescribe and upon either (a) ceasing to (or, with the approval of the Board, resigning his membership in favor of a new applicant who also shall) own, lease as lessor or lessee, or directly occupy or use all premises being furnished electric service pursuant to his membership, or (b) except when the Board specifically waives such condition, abandoning totally and permanently the use of electric service on such premises.

SECTION 3.04 – Termination by Death or Cessation of Existence; Continuation of Membership in Remaining or New Partners; Limitations on Transfer of Interests.

The death of a natural person Member shall automatically terminate his membership. The cessation of the legal existence of any other type of Member shall automatically terminate such membership: PROVIDED, that upon the dissolution for any reason of a partnership, or upon the death, withdrawal or addition of any individual partner, such membership shall continue to be held by such remaining and/or new partner or partners as continue to own, lease as lessor or lessee, or directly to occupy or use the premises being furnished electric service pursuant to such membership in the same manner and to the same effect as though such membership had never been held by different partners; PROVIDED FURTHER, that neither a withdrawing partner nor his estate shall be released from any debts then due the Cooperative by the partnership. No natural person's right or privilege associated with Cooperative membership may be sold, purchased, assigned or otherwise transferred. Except as otherwise provided herein, no legal entity's rights or privileges associated with the Cooperative may be sold, purchased or assigned unless requested in writing in connection with the sale or dissolution of the entity.

SECTION 3.05 – Effect of Termination.

Upon the termination in any manner of a person's membership, he or his estate, as the case may be, shall be entitled to refund of his membership fee and service security deposits, if any, he has paid the Cooperative, less any amounts due the Cooperative; but neither he nor his estate, as the case may be, shall be released from any debts or other obligations then remaining due the Cooperative. Notwithstanding the suspension or termination of a Member, as provided

for in Section 3.01 and 3.02, such suspension or termination shall not, unless the Board shall expressly so elect, constitute such release of such person from his membership obligations as to entitle him to purchase from any other person any electric service for use at the premises to which such service has theretofore been furnished by the Cooperative pursuant to such membership.

SECTION 3.06 – Board Acknowledgment of Membership Termination; Acceptance of Members Retroactively.

Upon the suspension or termination of a person's membership for any reason, the Board, as soon as practicable after such event is made known to it, shall by appropriate resolution formally acknowledge membership termination, effective as of the date on which the Cooperative ceased furnishing electric service to such person. Upon discovery that the Cooperative has been furnishing electric service to any person other than a Member, it shall cease furnishing such service unless such person applies for membership and does 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 and all related records accordingly.

SECTION 3.07 – Membership List.

The Cooperative, or the Cooperative's agent, shall maintain a record of current Members in a form permitting the Cooperative to alphabetically list the names and billing addresses; and indicate the number of votes each Member is entitled to cast ("Membership List").

Article IV – Meeting of Members

SECTION 4.01 – Annual Meetings.

For the purposes of electing Trustees, hearing and passing upon reports covering the previous fiscal year, and transacting such other business as may properly come before the meeting, the annual meeting of the members ("Annual Member Meeting") shall be held on a date between April 1 and May 31 at such place in one of the counties in New Mexico within which the Cooperative serves, and beginning at such hour, as the Board shall from year to year fix. Failure to hold the annual meeting at the designated time and place shall not work a forfeiture or dissolution of the Cooperative.

SECTION 4.02 – Special Meetings.

A special meeting of the members may be called by resolution of the Board ("Special Member Meeting"). The Board shall call such a meeting upon written request signed by at least a majority of the Trustees or by written request signed by not less than ten percent (10%) of the cooperative's total non-suspended Members ("Total Membership") requesting, and describing the purpose of, a special meeting of Members ("Member Demand"). Such written request shall include the Member's name, address, account number, and phone number. The Board shall be

solely responsible for determining the place, date and time for any such special meeting; PROVIDED, however, that such a special meeting shall be held within one of the counties being served by the Cooperative. Upon the adoption of such a resolution calling a special meeting of the members, it shall be the duty of the Secretary to cause notice of such meeting to be given as provided in Section 4.03.

SECTION 4.03 – Notice of Member Meetings.

As directed by the Chairman, Secretary, or any Officer or Member properly calling an Annual Meeting or Special Meeting (collectively “Member Meeting”), the Cooperative shall deliver written notice of the 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 ten (10), but not more than 25 days prior to the Member meeting; and
5. Describing any matter to be considered, or voted or acted upon; and
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.

If mailed, notice of a Member Meeting is delivered when deposited in the United States Mail in a sealed envelope with prepaid postage affixed and addressed to a Member at the Member’s address shown on the Membership List. Publication of the notice in the *Enchantment* magazine, or other such Member publications, and timely delivery of the same to the Member shall be an acceptable means of providing notice.

The inadvertent and unintended failure to send or of any Member to receive notice of any Member Meeting shall not affect any action taken at the Member Meeting.

When notifying Members of any Member Meeting, the Cooperative 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 a percentage of the Total Membership entitled to call a Special Member Meeting and the Cooperative receives the written request satisfying the member-identification standards set forth in Section 4.02, at least thirty (30) days prior to delivering notice of the Member Meeting; or
2. The Cooperative receives the written request at least thirty (30) days prior to delivering notice of the Member Meeting.

The Cooperative shall also notice any matter that the Board of Directors intends to raise or discuss at the 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:

1. The Member Meeting is adjourned to another date occurring within one hundred and twenty (120) days following the Record Date for the original Member Meeting; and
2. The new date, time, or location is announced at the Member Meeting prior to adjournment.

Unless at least one-third (1/3) of the Members entitled to vote on a matter are present in person at an Annual 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 – Record Date.

1. The Record Date for the purpose of determining the members entitled to notice of a Member meeting shall not exceed 25 days preceding the day on which notice is given.
2. The Record Date for the purpose of determining the members entitled to vote at a Member Meeting shall be the Cooperative's business day preceding the date of the Member Meeting.
3. A determination of members entitled to notice of or to vote at a Member Meeting is effective for any adjournment of the meeting unless the Board fixes a new date for determining the right to notice or the right to vote, which it shall do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

SECTION 4.05 – Member Meeting List.

After fixing the Record Date for determining the Members entitled to notice of a Member Meeting, and through the duration of the Member Meeting or any adjournment, the Cooperative shall prepare, update, and maintain an alphabetical list ("Member Meeting List") indicating the name and address of each Member entitled to notice of, and to vote at, the Member Meeting.

In order to facilitate communications among members concerning the Member Meeting, the Cooperative shall make the Member Meeting List available for inspection by any Member:

1. Beginning two (2) business days after the Cooperative provides notice of the Member Meeting as outlined in Section 4.03, and continuing through the duration of the Member Meeting or any adjournment; and
2. At the Cooperative's principal office, or at a reasonable place identified in the notice of the Member Meeting and located in the city in which the Member Meeting will be held; and

Upon written demand and at a reasonable time during the period a Member Meeting List is available for inspection:

1. A Member, Member's agent, or Member's attorney may inspect the Member Meeting List and copy the Member Meeting List at the Member's expense; or
2. Upon paying the Cooperative a charge not to exceed the Cooperative's material cost

of providing an electronic copy of the Member Meeting List, the Cooperative shall provide a copy of the Member Meeting List to the Member, Member's agent, or Member's attorney if:

- a. The written demand is made in good faith:
- b. The Member Meeting List is not used to solicit money or property unless the money or property is used solely to solicit Member votes at the Member Meeting; and
- c. The Member Meeting List is not used for any commercial purpose, or sold to, or purchased by, any Person.

The Cooperative shall also make the Member Meeting List available for inspection at the Member Meeting. Any Member, Member's agent, or Member's attorney may inspect the Meeting List at any time during the Member Meeting or any adjournment thereof.

Before acting as allowed under this Bylaw, a Member's agent or attorney must provide written evidence satisfactory to the Cooperative that the Member properly authorized the agent or attorney to act on the Member's behalf.

Failure to prepare or make available the Member's List does not affect the validity of action taken at the meeting.

SECTION 4.06 – Reserved

SECTION 4.07 – Member Quorum.

Attendance in person of at least three percent (3%) of the total members of the Cooperative shall be required for the transaction of business at any meeting of the members ("Member Quorum"). New business shall not be conducted if the Member Quorum does not exist at the time of the vote. If a Member Quorum did not exist at any time during the meeting, a majority of those present in person may adjourn the meeting to another time and date at least thirty (30) days later and to any place within one of the counties permitted in Section 4.01; PROVIDED, that the Secretary shall notify any absent members of the time, date and place of such adjourned meeting by delivering notice thereof as provided in Section 4.03. At all meetings of the members, whether a Member Quorum be present or not, the Secretary shall annex to the meeting minutes, or incorporate therein by reference, a list of those members who were registered as present in person or, if allowed by Section 4.07, by proxy.

SECTION 4.08 – Voting.

1. Each Member or their spouse who is not suspended or terminated, as provided for in Article III, shall be entitled to one vote and no more upon each matter submitted to a vote at any meeting of the members. A non-Member spouse will be required to present satisfactory proof of the marital relationship (*e.g.*, same last name and same address on a valid ID) prior to voting the Membership interest. The Member spouse's proxy is not required.

2. Voting by members other than members who are natural persons shall be allowed upon the presentation to the Cooperative, prior to or upon registration at each Member meeting, of a notarized and otherwise satisfactory resolution of the entity (“Member Voting Document”) entitling the person presenting the same to vote. A person entitled to cast the vote of such an entity, who is also himself a Member, may vote his own membership as well as that of the entity he represents.
3. At all meetings of the members, all questions shall be decided by a majority of the members voting thereon, except as otherwise provided by law or by the Cooperative’s Articles of Incorporation or these Bylaws.

SECTION 4.09 – Accepting and Rejecting Voting Documents.

Regarding any Member Voting:

1. Acceptance. Except as otherwise established in these Bylaws, the Cooperative may accept, and give effect to, Member Voting Document if the name signed on the Member Voting Document corresponds to a Member’s name, and the Cooperative acts in good faith; or the Cooperative reasonably believes the Member Voting Document is valid and authorized.
2. Rejection. The Cooperative may reject, and not give effect to, the Member Voting Document if the Cooperative acts in good faith; and has reasonable basis for doubting the validity of the signature on the Member Voting Document; or the signatory’s authority to sign on behalf of the Member.
3. Liability. Neither the Cooperative, the Committee nor any Cooperative Member, Trustee, Officer, employee, or agent, is liable to any Member for accepting or rejecting a Member Voting Document as provided in this Bylaw.

The authorities set forth herein are delegated to and shall be exercised by the Credentials and Elections Committee.

SECTION 4.10 – Proxies.

There shall be no voting by proxies at any meeting. A principal or designated agent casting a vote for a non-person member as mentioned in Article I, Section 1, does not constitute a proxy vote.

SECTION 4.11 – Agenda, Attendance, and Action at Member Meetings. The order of business at the annual meeting of the members, and so far as possible at all other meetings of the members, shall be essentially as follows:

- (a) Report on the number of members present in person in order to determine the existence of a quorum.
- (b) Reading of the Notice of the Meeting and proof of the due publication or mailing thereof, or the waiver or waivers of notice of the meeting, as the case may be.
- (c) Reading of unapproved minutes of previous meetings of the members and the taking of necessary action thereon.

- (d) Presentation and consideration of, and acting upon, reports of officers, directors, and committees.
- (e) Election of directors.
- (f) Unfinished business.
- (g) New business noticed by the Board for vote or consideration by the Members.
- (h) New business raised by Members under Section 4.03.
- (i) Member comments.
- (j) Adjournment.

Notwithstanding the foregoing, the Board of Trustees may from time to time establish a different order of business for the purpose of assuring the earlier consideration of and action upon any item of business the transaction of which is necessary or desirable in advance of any other item of business; PROVIDED, no business other than adjournment of the meeting to another time and place may be transacted until and unless the existence of a quorum is first established.

Except as otherwise provided by the Board before or at a Member Meeting, the President or an individual designated by the President: (1) shall preside at the Member Meeting; (2) may remove a Person from the Member Meeting for unruly, disruptive, or similar behavior; and (3) may exercise power reasonably necessary for efficiently and effectively conducting the Member Meeting.

Except as otherwise provided by the Board before or at a Member Meeting, Members attending the Member Meeting may consider, vote, or act upon a matter for which: (1) except as otherwise provided in these Bylaws, the Board and Members were notified and (2) upon a matter for which the power to consider, vote, or act is conferred upon Members by Law, the Articles, or these Bylaws. Members attending a Special Member Meeting may consider, vote, or act only upon a matter described in the notice of the Special Member Meeting.

SECTION 4.12 – Credentials and Election Committee.

The Board shall, at least sixty (60) days but no more than ninety (90) days before any meeting of the members, appoint a Credentials and Election Committee (“C & E Committee”) consisting of an uneven number of Cooperative members that is sufficient in numbers, but at least seven (7), to carry out the responsibilities of the Committee. Committee members shall not be existing Cooperative employees, agents, officers, Trustees or known candidates for Trustee, or the close relatives (as defined elsewhere in these Bylaws) or members of the same household of persons in the excluded categories. The Committee shall elect its own chairman and secretary prior to the Member meeting. Acting within the parameters of these Bylaws, it shall be the responsibility of the Committee:

1. To review and approve the manner of conducting Member registration and any ballot or other voting by the Members, which shall include mail-in balloting and vote counting by an independent firm approved by the Committee and retained by the Cooperative for the purpose of conducting vote counts;
2. To pass upon all questions that may arise with respect to the registration of members;

3. To pass upon all questions regarding a member's or member spouse's identification;
4. To pass upon all questions that may arise with respect to the eligibility of a nominee for election to the Board of Trustees;
5. To supervise vote recounts when a request for recount is made as set out in this section;
6. To rule upon the effect of any ballots or other vote irregularly or indecisively marked or cast;
7. To rule upon all other questions that may arise relating to member voting and the election of Trustees (including but not limited to the validity protests and objections as allowed below); and
8. To supervise vote recounts when a request for recount is made as set out in this section.

In the event that a candidate files a request for a recount, such filing must be made by the candidate in the office of the General Manager of the Cooperative within three (3) business days following the adjournment of the meeting in which the voting was conducted. Upon such filing, the Committee shall be reconvened, not less than seven (7) days nor more than thirty (30) days after such request is filed, for the purpose of supervising the recount of votes. Candidates may only request the re-count of the specific race in which their candidacy was at issue. Moreover, a candidate may only request a re-count if the margin of the contested race is less than 5% of the sum of the total number of valid ballots cast in the challenging candidate's race. The Committee's decision (as reflected by a majority of those actually present and voting) on all recount matters covered by this Section shall be final.

In the event that a candidate files a protest or objection to the conduct of the election ("Member Candidate Challenge"), such filing must be made by the candidate in the office of the General Manager of the Cooperative within three (3) business days following the adjournment of the subject meeting. Candidates may only file protests and objections on their own behalf and may not protest or object to the results of any other candidates' races. The concerns of any candidate that does not file protests and objections as provided for herein shall be deemed waived. The Committee shall be reconvened, not less than seven (7) days nor more than thirty (30) days after such protest or objection is filed. It shall be the duty of the Committee to rule upon any protest or objection filed with respect to any election. The Committee shall hear such evidence as is presented by the protesting or objecting candidate(s), their counsel, or both. The Committee, by a majority of those present and voting, shall within a reasonable time but not later than thirty (30) days after such hearing, make as recommended decision to the Board as to whether to:

1. Affirm the results of the election;
2. Change the results of the election in accordance with the actual voting results; or
3. Set aside the election if the Committee determines that there exists a reasonable likelihood that the results of the election could be different, that a re-run election would likely be a better reflection of the membership's interest, and that a re-run election is otherwise consistent with the best interests of the membership in its entirety.

The Cooperative may reasonably compensate or reimburse Credentials and Election Committee members.

For each Trustee election, the Committee shall make adequate arrangements for an independent firm with expertise in corporate elections to manage and ensure the integrity of mail-in and in-person voting by members.

Article V – Trustees

SECTION 5.01 – Number and General Powers.

The general powers of the Cooperative are as set forth in N.M. Stat. Ann. § 62–15–3 (2013), and the Cooperative shall additionally have such other powers as are allowed by law. The business and affairs of the Cooperative shall be managed by a Board of seven (7) Trustees (“Trustees”), which shall exercise all of the powers of the Cooperative except such as are by law or by the Cooperative’s Articles of Incorporation or these Bylaws conferred upon or reserved to the members.

SECTION 5.02 – Qualifications.

Any Trustee or Trustee candidate must comply with this Bylaw.

1. **General Trustee Qualifications.** A Trustee or Trustee candidate must:
 - a. Be a natural person;
 - b. Have the capacity to enter legally binding contracts;
 - c. While a Trustee, and during the five (5) years immediately prior to becoming a Trustee, not:
 - i. Be, nor have been, convicted of a felony; or
 - ii. Plead, nor have pled, guilty to a felony;
 - d. Within three (3) years of becoming a Trustee, and unless excused by the Board for good cause, a Trustee is expected to receive a Trustee’s Certificate or similar certification from the National Rural Electric Cooperative Association;
 - e. While a Trustee, and during the five (5) years immediately prior to becoming a Trustee, not:
 - i. Been employed as an employee of the Cooperative; or
 - ii. Been engaged contractually (as a principal or primary owner, partner, or majority shareholder) of a firm that contracts with the Cooperative as a prime or sub-contractor;
 - f. Unless excused for good cause by the Board or Members, a Trustee shall attend at least two-thirds (2/3) of all Board Meetings during any calendar

- year; and
- g. Comply with any other reasonable qualifications determined by the Board, which shall specifically include but not be limited to refraining from engaging in discriminatory or harassing conduct with respect to a Member or other person's race, color, religion, national origin, gender, age, disability, veteran status or any other category subject to legal protection under any applicable Federal or State law.

Notwithstanding these rules, and recognizing the possible appearance of conflict of interest, Trustees that are former employees and that are serving on the Board of Trustees upon passage of these Bylaws shall continue to maintain eligibility to serve as a Trustee but shall recuse themselves for a period of five (5) years from taking any actions or participate in any debates involving the employment or review of employment of the General Manager or other executive staff.

2. Membership Qualifications. While a Trustee, and during the 180 days immediately prior to becoming a Trustee, a Trustee or Trustee candidate must:

- a. Be current in all respects in regard to payment to the Cooperative of membership fees, Additional Payments and obligations, and not be subject to disconnection for electric service at the Trustee or Trustee candidate's primary residence; and
- b. Use, receive, or purchase a Cooperative Service at the Trustee's primary residence. Trustees and candidates must maintain their primary residential abode within the boundaries of the applicable Trustee District.

or

- c. Be the operating or chief executive or his/her designee of a non-natural person Member:

- i. Be current in all respects in regard to payment to the Cooperative of membership fees, Additional Payments and obligations, and not be subject to disconnection for electric service at the Trustee or Trustee candidate's qualifying primary service location; and
- ii. Continuously and materially using, receiving, or purchasing a Cooperative Service within the Trustee District from which the Trustee is elected or chosen; and

- d. Otherwise be eligible under this section to serve as a Trustee

3. Conflict of Interest Disqualification. While a Trustee, a Trustee or Trustee candidate must not be:

- a. A spouse of any existing Trustee;
- b. An existing, or a Close Relative of an existing, Cooperative employee;
- c. Employed by, materially affiliated with, or share a material financial interest with, any other Trustee; or
- d. Engaged in, nor employed by, materially affiliated with, or have a material

financial interest in, any individual or entity:

- i. Directly and substantially competing with the Cooperative; or
 - ii. Possessing a substantial conflict of interest with the Cooperative
4. Continuing Qualifications. Only natural persons complying with the General Trustee Qualifications and the Membership Qualifications, and not disqualified due to a Conflict of Interest Disqualification may serve, or continue to serve, as a Trustee.

Trustees shall refrain from (a) interfering with, or endeavoring to exercise undue influence upon, the General Manager any other employee or agent of the Cooperative in the performance of his duties, and (b) comporting themselves in any manner as to encourage or promote insubordination on the part of employees of the Cooperative or to undermine proper support of, and respect for, the General Manager any other employee or agent of the Cooperative.

SECTION 5.03 – Election.

At each annual meeting of the members, Trustees shall be elected by secret written ballot by the members, in addition to mail-in ballots from the members, and, except as provided in the first proviso of Section 4.02 of these Bylaws, from among those members who are natural persons; PROVIDED, that when the number of Section 5.05 nominees from a given District equals the number of open seats for that District, secret written balloting may be dispensed with for the particular election(s) and voting may instead be conducted by acclamation. Trustees shall, unless the members determine otherwise in advance of the initial balloting, be elected by a plurality vote of the members. Drawing by lot shall resolve, where necessary, any tie votes.

SECTION 5.04 – Tenure.

Except when fewer seats might be up for election by virtue of Section 5.10, Trustees shall be nominated and elected that either two (2) or three (3) shall be elected for three (3) year terms at an Annual Member Meeting (“Trustee Term”). Upon their election, Trustees shall, subject to the provisions of these Bylaws with respect to the removal of Trustees, serve until the annual meeting of the members of the year in which their terms expire or until their successors shall have been elected and shall have qualified. If for any reason an election of Trustees shall not be held at an annual meeting of the members duly fixed and called pursuant to these Bylaws, such election may be held at an adjournment of such meeting or at a subsequently held special or the next annual meeting of the members. Failure of an election for a given year shall allow the incumbents whose Trusteeships would have been voted on to hold over only until the next Member meeting at which a quorum is present.

SECTION 5.05 – Declaration of Candidacy. A candidate for the office of Trustee shall file a declaration of candidacy in the office of the Socorro Electric Cooperative, Inc. in Socorro, New Mexico, not later than 30 days after the Cooperative publishes its notification of the date and time of the Annual Meeting. The declaration shall contain the name of the candidate, a notarized statement of eligibility, and the position being sought. The Cooperative will make a standard

version of the Declaration of Candidacy form available on the website or through other easily accessible means.

SECTION 5.06 – Trustee Districts.

Trustees shall be nominated and elected so that the Board shall be comprised of seven (7) Trustees, with one Trustee residing in each of the seven residential districts.

The geographic contours of the seven (7) Trustee Districts, (“Trustee Districts”) are reflected on the Appendix to these Bylaws (“Cooperative Service Area”). Districts boundaries are intended to disperse Trustees with reasonable consideration of geographic region and Member population densities. Notwithstanding any district designation, Trustees are obliged to serve the entire Cooperative and shall not subordinate the best interests of the Cooperative to any region or group.

SECTION 5.07 – Voting for Trustees.

In the election of Trustees, all Trustee races and all Member voting are held and conducted on a Cooperative-wide (or “at large”) basis. All Members are represented by all Trustees so, in furtherance of democratic control, all Members shall be entitled to vote in all Trustee contests. Members are entitled, but, not required, to vote for as many candidates in each election as there are contested seats in that race. The candidate(s) obtaining the highest number of votes shall prevail. Cumulative voting is not allowed. Attempts to attribute more than one vote to a single candidate shall be counted as a single vote for that candidate but shall not otherwise spoil the ballot.

SECTION 5.08 – Removal of Trustees by Members.

1. Any Member may seek the removal of a Trustee for cause by filing with the Secretary a petition setting forth the grounds for removal signed by at least ten percent (10%) of the Cooperative’s members (“Trustee Removal Petition”). The petition shall also request the Board to call a special meeting of the members by resolution under Section 4.02 for the purpose of considering the stated charges. A separate petition shall be filed for each Trustee sought to be removed. Such Trustee shall be informed in writing of the request for removal and stated charges at least twenty (20) days prior to the meeting of the members at which the charges are to be considered. Such Trustee shall have an opportunity at the meeting to be heard in person and be represented by counsel, and to present evidence in respect of the charges; the Member or members bringing the charges against such Trustee shall have the same opportunity. The question of the removal of such Trustee shall be considered and voted upon at such meeting. The removal of such Trustee requires the vote in favor of removal by a majority of the members present at such meeting. Any vacancy created by such removal may be filled by the vote of a majority of the members present at such meeting; PROVIDED, that the newly elected Trustee shall be a resident of, or a representative of a Cooperative Member which is not a natural person and whose premises served by the Cooperative are located within, the same District

as was the Trustee whose office he succeeds.

2. As used in the foregoing subsection (1), the term “for cause” shall mean:
 - a. Substantive violation of the Cooperative’s Articles of Incorporation or these Bylaws;
 - b. Final conviction of a felony;
 - c. Voting on matters coming before the Board in which the Trustee has a financial interest adverse to that of the Cooperative; or
 - d. Gross abuse of authority or discretion in the discharge of a Trustee’s duties to the Cooperative upon a determination of such by a final judgment in a declaratory judgment action of the Superior Court in the Judicial District wherein the Cooperative has its principal office.

SECTION 5.09 – Removal of Trustees by Board.

Upon a Trustee’s loss of membership status under Article III of these Bylaws or loss of eligibility or qualification under Section 5.02, such Trustee’s seat shall be declared vacant by the remaining members of the Board and such vacancy shall be filled in accordance with Section 5.10.

SECTION 5.10 – Vacancies.

Subject to the provisions of these Bylaws with respect to the filling of vacancies caused by the removal of Trustees by the members, a vacancy occurring in the Board may be filled by the affirmative vote of a majority of the remaining Trustees, or alternatively, the vacant seat may be eliminated by the affirmative vote of the remaining Trustees and the number of Trustees authorized under Section 5.01 shall be thereby reduced. If the Board declines to take action to fill or eliminate the seat prior to the date that Member Petition Nominations concerning the next Annual Meeting are due under Section 5.05, then the Members may in accordance with all requirements of this Article elect a new Trustee to the seat for the remainder of the term, or if the seat is otherwise scheduled for election, the subsequent term.

Trustees who are appointed or elected under this Section shall be a resident of, or a representative of a Cooperative Member which is not a natural person and whose premises served by the Cooperative are located within, the same District as was the Trustee whose office was vacated.

A vacancy exists under this Section upon the death or resignation of a Trustee, upon a Trustee’s ceasing to be a Member of the Cooperative, upon removal under the provisions of Section 5.09 of these Bylaws, upon an increase in the number of Trustees, or upon a final adjudication that a Trustee is incompetent.

SECTION 5.11 – Trustee Compensation.

The Cooperative may reasonably reimburse actual expenses based on the requirements of written board policy and may reasonably compensate Trustees for actual service through payment of a fixed fee (“per diem”), as determined in the Board’s reasonable discretion, for attending any:

1. Monthly Board Meeting;
2. Special Board Meetings; or
3. Function involving the Cooperative; or
4. Meeting of State, National or other Cooperative or industry organization, or
5. Function reasonably enhancing the Trustee’s ability to serve as a Trustee.

A presumption of reasonableness shall attach to the amount of the per diem if the average reportable compensation for Trustees of the Cooperative does not exceed the statewide average reportable compensation for trustee of all other New Mexico electric cooperatives by more than 10%.

No Trustee shall receive compensation for serving the Cooperative in any other capacity, nor shall any Close Relative of a Trustee receive compensation for serving the Cooperative, unless the payment and amount of compensation shall be specifically authorized by a vote of the members or such payment and amount shall be specifically authorized by the remaining Trustees upon their certification of such as an emergency measure. However, a Trustee who is also an Officer of the Board, and who as such performs regular or periodic duties of a substantial nature for the Cooperative in its fiscal affairs, may be compensated in such amount as shall be fixed and authorized in advance of such service by the remaining Trustees.

Notwithstanding the forgoing and irrespective of whether otherwise allowed by law, the Cooperative shall not on behalf of its Trustees pay pensions or establish pension plans, pension trusts, bonus plans, health insurance plans, savings plans and any other incentive plans for the benefit of Trustees, regardless of whether any such plans may from time to time be established for employees of the Cooperative. However, if the terms of any such plan so allow, Trustees may use their per diem payments or other funds for the purpose of paying the entire premium associated with their participation in such plans.

Members are advised that the Cooperative’s Form 990, including details of Trustee compensation, is accessible to each member through GuideStar (<http://www.guidestar.org>) or through other legally required channels or means.

Former trustees shall not be entitled to compensation or benefits from the Cooperative.

SECTION 5.12 – Trustee Conduct.

Unless modified or prohibited by Law:

1. Trustee Standard of Conduct. A Trustee shall discharge the Trustee’s duties,

including duties as a Board Committee Member:

- a. In good faith;
 - b. With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
 - c. In a manner the Trustee reasonably believes to be in the Cooperative's best interests.
2. Trustee Reliance on Others. Unless a Trustee possesses knowledge concerning a matter making reliance unwarranted, then in discharging a Trustee's duties, including duties as a Board Committee Member, a Trustee may rely upon information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by:
- a. One (1) or more Cooperative Officers or employees whom the Trustee reasonably believes to be reliable and competent in the matters prepared or presented;
 - b. Legal counsel, public accountants, or other individuals regarding matters the Trustee reasonably believes are with- in the individual's professional or expert competence; and
 - c. If the Trustee reasonably believes a Board Committee of which the Trustee is not a Member merits confidence, then the Board Committee regarding matters within the Board Committee's jurisdiction.
3. Trustee Liability. If a Trustee complies with this Bylaw, then the Trustee is not liable to the Cooperative, any Member, or any other individual or entity for action taken, or not taken, as a Trustee. No Trustee is deemed a trustee regarding the Cooperative or any property held or administered by the Cooperative, including without limit, property potentially subject to restrictions imposed by the property's donor or transferor.

SECTION 5.13 – Policies, Rules, Regulations, Rate Schedules and Contracts.

The Board shall have power to make, adopt, amend, abolish and promulgate such policies, rules, regulations, rate classifications, rate schedules, contracts, security deposits and any other types of deposits, payments or charges, including contributions in aid of construction, not inconsistent with law or the Cooperative's Articles of Incorporation or Bylaws, as it may deem advisable for the management, administration and regulation of the business and affairs of the Cooperative.

SECTION 5.14 – Accounting System and Reports.

The Board shall cause to be established and maintained a complete accounting system of the Cooperative's financial operations and condition, and shall, after the close of each fiscal year, cause to be made a full, complete and independent audit of the Cooperative's accounts, books and records reflecting financial operations during, and financial condition as of the end of, such year. A full and accurate summary of such audit reports shall be published to the members as

soon after their completion as practicable. The Board may authorize special audits, complete or partial, at any time and for any specified period of time.

SECTION 5.15 – “Close Relative” Defined.

As used in these Bylaws, the term “close relative” means an individual who is a spouse, child, stepchild, grandchild, parent, grandparent, brother, sister, aunt, uncle, nephew, or niece of the principal person (“Close Relative”).

SECTION 5.16 – Indemnification of Trustees, Officers and Employees.

1. Trustees’ Limited Liability. A trustee shall not be personally liable to the Cooperative or to its members for monetary damages for breach of fiduciary duty as a trustee unless:
 - a. The trustee has breached or failed to perform the duties of his/her office in compliance with Section 62–15–9.1 NMSA 1978; and
 - b. The breach of failure to perform constitutes willful misconduct or recklessness.
2. Officers’ and Trustees’ Indemnification. Subject to paragraphs 4, 5 and 6 of this Section, the Cooperative shall indemnify any person who is or was a trustee or an elected or appointed officer of the Cooperative and any person who, while a trustee or officer of the Cooperative is or was serving at the request of the Cooperative as a director, officer, partner, trustee, employee or agent of another cooperative or of a foreign or domestic corporation or non–profit corporation, partnership, joint venture, trust, unincorporated association, or other incorporated or unincorporated enterprise or employee benefit plan or trust, and who is made party to any action, suit or proceeding, civil or criminal, by reason of holding or having held such an office or position.
3. Employees’ and Agents’ Indemnification. Subject to paragraphs 4, 5 and 6 of this Section, the Board of Trustees may indemnify any person other than a trustee or an officer acting as such who has or had an employment or agency relationship with the Cooperative and who is made a party to any action, suit or proceeding, civil or criminal, by reason of service during the course of such relationship, including service at the request of the Cooperative as a director, officer, partner, trustee, employee or agent of another cooperative or of a foreign or domestic corporation or non–profit corporation, partnership, joint venture, trust, unincorporated association, other incorporated or unincorporated enterprise or employee benefit plan or trust.
4. Indemnification Disqualification. The trustee, officer or other person shall not be indemnified if he/she shall be adjudged to be liable on the basis that he/she breached or failed to perform the duties of his/her office or position and the breach or failure to perform constitutes willful misconduct or recklessness. The trustee, officer or other person shall, further, not be indemnified in respect to any proceeding charging improper personal benefit to him/her, whether or not involving action in his/her official capacity, in which he/she shall have been adjudged to be liable on the basis that personal benefit was improperly received, or for violations of Section 6.08 of these Bylaws. There shall be no indemnification (of a person other than a trustee)

unless the Board of Trustees finds that the indemnitee:

- a. Acted in good faith;
- b. Reasonably believed that he/she was acting in the course of his/her office, employment or agency and in a manner to be in or at least not opposed to the best interests of the Cooperative; and
- c. In the case of any criminal proceeding, had no reasonable cause to believe the person's conduct was unlawful.

Termination of any proceeding by judgment, order, settlement, conviction or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, be determinative that the person is disqualified from receiving indemnification.

5. Indemnification Amount. Indemnification shall be made against judgments, penalties, fines, settlements and compromises, cost and expenses, including attorney's fees, reasonably incurred by or on behalf of the indemnitee in connection with the defense of such proceeding. Reasonable expenses incurred by a trustee, officer, or other person who is a party to a proceeding may be paid or reimbursed by the Cooperative in advance of the final disposition of such proceeding if:
 - a. Such person furnished the Cooperative a written affirmation of his/her good faith that he/she is not disqualified from receiving indemnification;
 - b. Such person furnished the Cooperative a written undertaking by or on behalf of the person to repay such amount if it shall ultimately be determined that he/she is disqualified or, in the case of a person other than a trustee or an officer as such, not fully indemnified in the Board of Trustees' discretion; and
 - c. A determination is made that the facts then known to those making the determination would not preclude indemnification.
6. Indemnification Procedures. No indemnification shall be made unless authorized in the specific case after determination has been made that indemnification is permissible in accordance with the Rural Electric Cooperative Act and these Bylaws. Such determination shall be made:
 - a. By the Board of Trustees by a majority vote of a quorum of trustees not at the time parties to the proceeding;
 - b. If such a quorum cannot be attained, by a majority vote of a committee of the Board of Trustees duly designated to act in the matter by a majority vote of the full Board of Trustees in which designated trustees who are parties may participate and consisting solely of two or more trustees not at the time parties to the proceeding;
 - c. By special legal counsel, selected by the Board of Trustees or a committee thereof by vote as set forth in sub-paragraph (a) or (b) of this paragraph 6, or, if the requisite quorum of the full Board of Trustees cannot be obtained therefore and such committee cannot be established, by a majority vote of the full Board of Trustees, in which selection trustees who are parties may participate; or
 - d. Pursuant to a resolution of a majority of the members present and voting at any

annual or special meeting.

Authorization of indemnification and determination as to the amount shall be made in the same manner as the permissibility determination, except that if the permissibility determination is made by special legal counsel, authorization and amount determination shall be made in a manner specified in subsection (c) of this Section 6 for the selection of such counsel.

7. Employee Benefit Plans. The Cooperative shall be deemed to have requested a person to serve as director, trustee, employee or agent of an employee benefit plan or trust whenever the performance of his/her duties to the Cooperative also imposed duties on him/her or otherwise involved his/her services to the plan or trust of the participants or beneficiaries of the plan or trust; excise taxes assessed on him/her with respect to an employee benefit plan or trust pursuant to applicable law shall be deemed “fines” and action taken or omitted with respect to an employee benefit plan or trust in the performance of duties for a purpose reasonably believed to be in the interests of the Cooperative and to be neither willful misconduct or reckless.
8. Non-Exclusive. The indemnification authorized under these Bylaws shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under an agreement approved by the Board of Trustees, a resolution of the members or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office or position, and shall continue as to a person who has ceased to be a trustee, officer, employee or agent and inure to the benefit of his/her personal representatives and heirs.

SECTION 5.17 – Insurance and Similar Protection.

The Board of Trustees may purchase and maintain insurance or furnish similar protection, including but not limited to providing a trust fund, a letter of credit or self-insurance, on behalf of any person who is or was a trustee, officer, employee or agent of the Cooperative or, who, while a trustee, officer, employee or agent of the Cooperative, is or was serving at the request of the Cooperative as a director, officer, partner, trustee, employee or agent of another cooperative or a foreign or domestic corporation, partnership, joint venture, trust, unincorporated association, or incorporated or unincorporated enterprise or employee benefit plan or trust, against any liability asserted against and incurred by the person in such capacity or arising out of that person’s status as such, whether or not the Cooperative could indemnify the person against such liability.

SECTION 5.18 – Conflict of Interest Transaction.

A conflict of interest transaction is a transaction with the Cooperative in which a Trustee has a direct or indirect interest (“Conflict of Interest Transaction”).

1. Indirect Interest. A Trustee has an indirect interest in a Conflict of Interest Transaction if at least one (1) party to the transaction is another entity:
 - a. In which the Trustee or Close Relative of a Trustee has a material financial interest or is a general partner; or

- b. Of which the Trustee or Close Relative is a Trustee, officer, or trustee.
2. Approval of Conflict of Interest Transaction. Regardless of the presence or vote of a Trustee interested in a Conflict of Interest Transaction, a Conflict of Interest Transaction may be approved, and any Board Quorum or Member Quorum satisfied, if the Conflict of Interest Transaction's material facts, and the Trustee's interest, are:
- a. Disclosed or known to the Board or Board Committee, and a majority of more than one (1) Trustee or Board Committee Member with no interest in the Conflict of Interest Transaction votes to approve the Conflict of Interest Transaction; or
 - b. Disclosed or known to the Members, and a majority of votes cast by Members not voting under the control of a Trustee or entity interested in the Conflict of Interest Transaction approves the Conflict of Interest Transaction.
3. Fair Conflict of Interest Transaction. A Conflict of Interest Transaction that is fair when entered is neither:
- a. Voidable; nor
 - b. The basis for imposing liability on a Trustee interested in the Conflict of Interest Transaction.

Article VI –Meetings of Trustees

SECTION 6.01 – Regular Meetings.

A regular meeting of the Board shall be held, without notice, immediately after, and at the same place as, the annual meeting of the members; PROVIDED, however, that upon unanimous consent of all the Trustees present, the meeting may be moved to another place, or as soon thereafter as conveniently may be, at such site as designated by the Board in advance of the annual meeting.

A regular meeting of the Board shall also be held monthly at such date, time and place in Socorro, New Mexico, as the Board may provide by resolution (“Regular Board Meeting”). Except when business to be transacted thereat shall require special notice, such regular monthly meeting may be held without notice other than such resolution fixing the date, time and place thereof; PROVIDED, any Trustee absent from any meeting of the Board at which such a resolution initially determines or makes any change in the date, time or place of a regular meeting shall be entitled to receive written notice of such determination or change at least five (5) days prior to the next meeting of the Board.

SECTION 6.02 – Special Meetings.

Special meetings of the Board (“Special Board Meeting”) may be called by Board resolution, by the Chairman, or by any three (3) Trustees, and it shall thereupon be the duty of

the Secretary to cause notice of such meeting to be given as hereinafter provided in Section 6.03. The Board, the Chairman or Trustees calling the meeting shall fix the date, time and place for the meeting, which shall be held in one of the counties in which the Cooperative operates unless all Trustees consent to its being held in some other place in New Mexico or elsewhere. Special meetings may also be held via telephone conference call, without regard to the actual location of the Trustees at the time of such a telephone conference meeting, if all the Trustees consent thereto. An audio recording of any such telephone meeting shall be made available on the Cooperative's website.

SECTION 6.03 – Notice of Trustees' Meetings.

Written notice of the date, time, place (or telephone conference call) and purpose or purposes of any Regular Board Meeting or Special Board Meeting of the Board and, when the business to be transacted thereat shall require such, of any regular meeting of the Board ("Board Meeting") shall be delivered to each Trustee at least five (5) days prior thereto, either personally or by mail, by or at the direction of the Secretary or, upon his default in this duty, by him or those calling it in the case of a special meeting or by any other Trustee or officer in the case of any meeting whose date, time and place have already been fixed by Board resolution. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Trustee at his address as it appears on the records of the Cooperative, with first class postage thereon prepaid, and postmarked at least five (5) days prior to the meeting date. The attendance of a Trustee at any meeting of the Board shall constitute a waiver of notice of such meeting unless such attendance shall be for the express purpose of objecting to the transaction of any business, or of one or more items of business, on the ground that the meeting shall not have been lawfully called or convened.

In the event of a telephone conference call, the Notice shall also contain a phone number by which Members may listen in on the call and a recording of the call shall be made available on the Cooperative's website or by some similar means of facilitating member access to the meeting.

SECTION 6.04 – Waiver of Board Meeting Notice.

At any time, a Trustee may waive notice of any Board Meeting by delivering to the Cooperative a written waiver of notice signed by the Trustee and later filed with the Board Meeting minutes or the Cooperative's records. Unless a Trustee:

1. Upon arriving at a Board Meeting or prior to the vote on a particular matter, objects to lack of, or defective, notice of the Board Meeting or a matter being considered at the Board Meeting; and
2. Does not vote for, or assent to, an objected matter;

then the Trustee's attendance at, or participation in, a Board Meeting waives notice of the Board Meeting and any matter considered at the Board Meeting.

SECTION 6.05 – Quorum.

The presence in person of a majority of the Trustees in office shall be required for the transaction of business (“Trustee Quorum”) and the affirmative votes of a majority of the Trustees in office present and voting shall be required for any action to be taken except that any action by the Trustees under Article IX of these Bylaws shall require three-fourths (3/4) affirmative votes of the Trustees in office present and voting; PROVIDED, a Trustee who by law or these Bylaws is disqualified from voting on a particular matter shall not, with respect to consideration of and action upon that matter, be counted in determining the number of Trustees in office or present; AND PROVIDED FURTHER, if less than a quorum be present at a meeting, a majority of the Trustees present may adjourn the meeting from time to time, but shall cause the absent Trustees to be duly and timely notified of the date, time and place of such adjourned meeting.

SECTION 6.06 – Board Action by Written Consent.

Without a Board Meeting, the Board may take any action required, or permitted, to be taken at a Board Meeting if the action is:

1. Taken by all Trustees; and
2. Evidenced by one (1), or more, written consents (“Trustee Written Consent”):
 - a. Describing the action taken;
 - b. Signed by each Trustee; and
 - c. Included with the Cooperative’s Board Meeting minutes.

Unless the Trustee Written Consent specifies a different effective date, action taken by Trustee Written Consent is effective when the last Trustee signs the Trustee Written Consent. A Trustee Written Consent has the effect of, and may be described as, a Board Meeting vote.

Section 6.07 – Open Meetings.

Except as set forth below with respect to Closed Meetings, Members shall be permitted to attend and observe regular and special meeting of the Board of Trustees. Further, video and audio recordings of meetings shall be posted to the Cooperative’s website for a period of 12 months.

Meeting notices shall include an agenda containing a list of specific items of business to be discussed or transacted at the meeting or information on how the members may obtain a copy of such an agenda. Except in the case of an emergency, the agenda shall be available to the members at least twenty-four hours prior to the meeting. Except for emergency matters, the Board shall take action only on items appearing on the agenda. For purposes of this Subsection, an “emergency” refers to unforeseen circumstances that, if not addressed immediately by the Board, will likely result in injury or damage to persons or property or substantial financial loss to the Cooperative or any member.

The Board shall keep written minutes of all its meetings. The minutes shall include at a minimum the date, time and place of the meeting, the names of members in attendance and those absent, the substance of the proposals considered and a record of any decisions and votes taken, and if requested by a Member, a statement of how each member voted. Minutes shall be posted on the Cooperative's website for a period of 12 months.

Section 6.08 – Closed Meetings.

Notwithstanding the forgoing Section with respect to Open Meetings, the following categories of meetings shall be conducted in private or "closed" meetings of the Board of Trustees:

1. Meetings concerning the legal affairs of the Cooperative;
2. Discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any employee, officer or trustee of the Cooperative; unless privacy is waived in writing by the employees, officer or trustee;
3. Deliberations of confidential business information, the disclosure of which could provide an unfair advantage in favor of other persons or entities;
4. The discussion of personally identifiable information about any member or individual, unless the member or individual requests otherwise;
5. Meetings for the discussion of collective bargaining or related matters;
6. Matters related to wholesale power, procurement contacts and sealed bids.
7. Meetings subject to the attorney–client privilege pertaining to threatened or pending litigation in which the Cooperative is or may become a participant;
8. Meetings for the discussion of the purchase, acquisition or disposal of real property; and
9. Those portions of meetings of committees or boards where strategic and long–range business plans or trade secrets are discussed.

Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or in the notice of the separate closed meeting.

Disclosure of information subject to the Closed Meeting section of these Bylaws shall constitute a breach of fiduciary duty and said Trustee shall not be indemnified for legal expenses or liabilities relating to the disclosure.

Article VII – Officers; Miscellaneous

SECTION 7.01 – Number and Title.

The officers of the Cooperative shall be a Chairman, Vice Chairman, Secretary and Treasurer ("Required Officers"), and such other officers ("Other Officer") as may from time to

time be determined by the Board. The offices of Secretary and Treasurer may be held by the same person.

SECTION 7.02 – Election and Term of Office.

The officers named in Section 7.01 shall be elected by secret written ballot, annually and without prior nomination, by and from the Board at the first meeting of the Board held after the annual meeting of the members. If the election of such officers shall not be held at such meeting, it shall be held as soon thereafter as conveniently may be. Each such officer shall hold office until the meeting of the Board first held after the next succeeding annual meeting of the members or until his successor shall have been duly elected and shall have qualified, subject to the provisions of the Bylaws with respect to the removal of Trustees by the members and to the removal of officers by the Board. Any other officers may be elected by the Board from among such persons, and with such title, tenure, responsibilities and authorities, as the Board may from time to time deem advisable. When necessary, tie votes for any election shall be resolved by drawing of lots.

SECTION 7.03 – Removal.

Any officer, agent or employee elected or appointed by the Board may be removed by the Board whenever in its judgment the best interests of the Cooperative will thereby be served; PROVIDED, however, the Board shall be obligated to honor the terms of any employment contract previously entered into by the existing or a prior Board.

SECTION 7.04 – Vacancies.

A vacancy in any office elected or appointed by the Board shall be filled by the Board for the unexpired portion of the term.

SECTION 7.05 – Chairman.

The Chairman –

1. Shall be the principal executive officer of the Cooperative exercising the authorities and responsibilities of the office of “president”;
2. Preside at all meetings of the Board, and, unless determined otherwise by the Board, at all meetings of the members;
3. May sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the Board to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the Board or by these Bylaws to some other officer or agent of the Cooperative, or shall be required by law to be otherwise signed or executed; and
4. In general, shall perform all duties incident to the office of Chairman and such other duties as may be prescribed by the Board from time to time.

SECTION 7.06 – Vice Chairman.

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

SECTION 7.07 – Secretary.

The Secretary shall –

1. Keep, or cause to be kept, the minutes of meetings of the members and of the Board in one or more books provided for that;
2. See that all notices are duly given in accordance with these Bylaws or as required by law;
3. Have charge of the corporate records and of the seal of the Cooperative and see that the seal of the Cooperative is affixed 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 or is required by law;
4. Keep, or cause to be kept, a register of the name and post office address of each Member, which address shall be furnished to the Cooperative by such Member;
5. Have general charge of the books of the Cooperative in which a record of the members is kept;
6. Keep on file at all times a complete copy of the Cooperative's Articles of Incorporation and Bylaws, together with all amendments thereto, which copies shall always be open to the inspection of any Member, and, at the expense of the Cooperative, furnish a copy of such documents and of all amendments thereto upon request to any Member; and
7. In general, perform all duties incident to the office of the Secretary and such other duties as from time to time may be assigned to him by the Board.

SECTION 7.08 – Treasurer.

The Treasurer shall –

1. Have charge of and be responsible for all funds and securities of the Cooperative;
2. Receive and give receipts for monies due and payable to the Cooperative from any source whatsoever, and deposit or invest all such monies in the name of the Cooperative in such bank or banks or securities as shall be selected in accordance with the provisions of these Bylaws; and
3. In general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him 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 each such officer’s such duties to one or more agents, other officers or employees of the Cooperative who are not Trustees. To the extent that the Board does so delegate with respect to either such officer, that officer as such shall be released from such duties, responsibilities and authorities.

SECTION 7.10 – General Manager.

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

SECTION 7.11 – Committees.

The Chairman may create committees of the Board (“Board Committees”) and appoint Trustees to serve on the Board Committees. Each Board Committee must consist of two or more Trustees and serves at the Chairman’s discretion. The Board may create committees of the members (“Member Committees”) and appoint members including Trustees, to serve on the Member Committees.

1. Conduct of Committee Meetings. To the same extent as the meetings of the Board of Trustees, these Bylaws addressing Regular Board Meetings, Special Board Meetings, Waiver of Board Meeting Notice, Board Action by Written Consent, and Trustee Quorum and Voting apply to Board Committees and Trustees serving on Board Committees, and to Member Committees and Members serving on Member Committees.
2. Committee Authority. Except as prohibited or limited by Law, the Articles, or this Bylaw, the Board may authorize a Board Committee to exercise Board authority. Although a Board Committee may recommend, a Board Committee may not act, to:
 - a. Retire and refund Capital Credits and Affiliated Capital Credits;
 - b. Recommend to Members or approve the Cooperative’s dis– solution or merger, or the sale, pledge, or Transfer of all, or substantially all, Cooperative Assets;
 - c. Elect, appoint, or remove Trustees, or fill any Board or Board Committee vacancy; or
 - d. Adopt, amend, or repeal these Bylaws or the Articles of Incorporation.

Member Committees may act as specified by the Board, but may not exercise Board authority.

SECTION 7.12 – Reserved.

SECTION 7.13 – Bonds.

The Board shall require the Treasurer and any other officer, agent or employee of the Cooperative charged with responsibility of any of its funds or property to be bonded in such sum and with such surety as the Board shall determine. The Board in its discretion may also require that any other officer, agent or employee of the Cooperative be bonded in such amount and with such surety as it shall determine. The costs of all such bonds shall be borne by the Cooperative.

SECTION 7.14 – Compensation.

The compensation, if any, of any officer, agent or employee who is also a Trustee or close relative of a Trustee shall be determined as provided in Section 5.11 of these Bylaws, and the powers, duties and compensation of any other officers, agents and employees shall be fixed or a plan therefor approved by the Board.

SECTION 7.15 – Reports.

The officers of the Cooperative shall submit at each annual meeting of the members' 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.

Article VIII – Cooperative Operation

SECTION 8.01 – Non-profit and Cooperative Operation.

The Cooperative:

1. Must operate on a non-profit basis;
2. Must operate on a cooperative basis for the mutual benefit of its members; and
3. May not pay interest or dividends on Capital furnished by its members.

SECTION 8.02 – Allocating and Crediting Capital.

In operating the Cooperative:

1. Capital Credits. Patrons shall furnish, members and nonmembers alike, and the Cooperative shall receive, as capital ("Capital") all funds and amounts received by the Cooperative from Patrons for the Cooperative's provision of a Cooperative Service that exceed the Cooperative's costs and expenses of providing the Cooperative Service ("Operating Margins"). For each Cooperative Service, the Cooperative shall annually allocate to each Member, and pay by credit to a Capital account for each Member, Operating Margins from the Cooperative Service in proportion to the value or quantity of the Cooperative Service used, received, or

purchased by each Member during the applicable fiscal year (“Capital Credits”). Capital Credits shall be treated as though the Cooperative paid the Capital Credit amounts to each Member in cash pursuant to a legal obligation, and each Member furnished the Cooperative Capital in the corresponding Capital Credit amounts.

Notwithstanding any provision of this Article VIII, the amount to be credited to the capital of members on account of their patronage shall be the greater of alternative minimum taxable income or regular taxable income resulting from their patronage as determined under Federal income tax law.

2. Non-Operating Margins. Funds and amounts, other than Operating Margins, received by the Cooperative that exceed the Cooperative’s costs and expenses (“Non-Operating Margins”) may be:
 - a. Allocated as Capital Credits to members in the same manner as the Cooperative allocates Capital Credits to members; or
 - b. Used by the Cooperative as permanent, non-allocated capital.
3. Assignment and Notification. Unless otherwise determined by the Board or provided in these Bylaws, Capital Credits and Affiliated Capital Credits may be assigned only upon a Member:
 - a. Delivering a written assignment to the Cooperative; and
 - b. Complying with any other requirements reasonably determined by the Board.

The Cooperative shall annually notify each Member of the dollar amount of Capital Credits or Affiliated Capital Credits allocated or credited to the Member. Notwithstanding the forgoing, such credits shall be distributed only in accordance with provisions of Section 8.03, below.

4. Joint Memberships. Upon the termination, conversion, or alteration of a Joint Membership, and upon the Cooperative receiving written notice and adequate proof of the Joint Membership termination, conversion, or alteration:

For any Joint Membership:

- a. Terminated or converted through the death of one (1) Joint Member, the Cooperative shall re-allocate and re-credit to the surviving Joint Member all Capital Credits and Affiliated Capital Credits previously allocated and credited to the Joint Membership; and
- b. Otherwise terminated or converted, and unless otherwise instructed by a court or administrative body of competent jurisdiction, the Cooperative shall re-allocate and re-credit to each Joint Member one-half (1/2) of the Capital Credits and Affiliated Capital Credits previously allocated and credited to the Joint Membership.

SECTION 8.03 – Retiring and Refunding Capital Credits.

At any time prior to the Cooperative's dissolution or liquidation, the Board may authorize the Cooperative to, and the Cooperative shall, wholly or partially retire and refund Capital Credits to members and former members. The Board shall determine the method, basis, priority, and order of retiring and refunding Capital Credits and Affiliated Capital Credits.

The Board of Trustees shall have the power to adopt rules providing for the separate retirement of that portion ("power supply or other service or supply portion") of capital credited to the accounts of members which corresponds to capital credited to the account of the Cooperative by an organization furnishing power supply or any other service or supply to the Cooperative. Such rules shall (a) establish a method for determining the portion of such capital credited to each Member for each applicable fiscal year, (b) provide for separate identification on the Cooperative's books of such portions of capital credited to the Cooperative's members, (c) provide for appropriate notifications to members with respect to such portions of capital credited to their accounts and (d) preclude a general retirement of such portions of capital credited to members for any fiscal year prior to the general retirement of other capital credited to members for the same year or of any capital credited to members for any prior fiscal year.

Before retiring and refunding any Capital Credits or Affiliated Capital Credits, the Cooperative may deduct from the Capital Credits or Affiliated Capital Credits any amounts owed to the Cooperative by the Member or former Member, including any reasonable compounded interest and late payment fee, as determined by the Board.

Upon the death of any Member or former Member ("Deceased Member"), and pursuant to a written request from the Deceased Member's legal representative, the Board may retire the Deceased Member's Capital Credits and Affiliated Capital Credits on a discounted basis and under such other terms and conditions agreed upon by the Deceased Member's legal representative and the Cooperative; provided, however, that the financial condition of the Cooperative will not be impaired thereby. The Cooperative shall be entitled to approve or deny the request, in the exercise of its discretionary business judgment. Discounted Capital Credit retirements shall be calculated based on the WSJ prime rate as of the January 1 preceding the date of application for capital credits, regardless of the date the member died. Unpaid balances will be deducted from discounted account balance before any payment is made. All amounts of capital allocated to members but retained by the Cooperative after retirements on a discounted basis shall be considered a contribution of capital to the Cooperative and part of the "net savings" of the Cooperative. "Net savings" of the Cooperative will not be reallocated as excess margins to any former or current Cooperative members.

SECTION 8.04 – Reasonable Reserves.

Based upon the Cooperative's reasonable needs, the Cooperative may accumulate and retain Operating Margins ("Reasonable Reserves"). As provided in these Bylaws, however, the Cooperative shall allocate and credit Reasonable Reserves as Capital Credits.

SECTION 8.05 – Acknowledgment of Articles of Incorporation and Bylaws.

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 such 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.

Article IX – Disposition of Cooperative Assets

SECTION 9.01 – Transfer of Cooperative Assets.

The Cooperative shall not sell or dispose (collectively “Transfer”) any Cooperative property or assets (other than merchandise and property not in excess of eight percent (8%) of the total value of the Cooperative’s assets (“Assets”), or which in the judgment of the Board are not necessary or useful in operating the Cooperative) unless:

1. The Board, appoints three (3) independent appraisers, each of whom, within a reasonable time, evaluates the Cooperative’s Assets and renders an appraisal valuing the Cooperative’s Assets (“Appraisal”);
2. The Board approves the Transfer;
3. At least two-thirds (2/3) of the Total Membership, without proxies, approves the Transfer;
4. All entities having a security interest in the assets approve the Transfer;
5. Notice of any Member Meeting at which Members will consider the Transfer states that one (1) of the purposes of the Member Meeting is to consider the Transfer, and includes a copy or summary of the Transfer; and
6. In proportion to the value or quantity of Cooperative Services used, received, or purchased by Members during the period in which the Cooperative owned a Cooperative Asset, the Cooperative allocates and credits to Members as Capital Credits any consideration received for the Cooperative’s Assets that exceeds the Cooperative’s debts, obligations, and liabilities.

Unless otherwise determined by the Members, after the Members approve a Transfer, the Board may abandon the Transfer.

Notwithstanding the forgoing, the Board may borrow money from any source and in such amounts as the Board may from time to time determine, and may mortgage or otherwise pledge or encumber any or all of the Cooperative’s property or assets as security therefor.

SECTION 9.02 – Merger or Consolidation.

In a manner determined by the Board that is consistent with this Bylaw, the Cooperative may consolidate or merge with any other entity incorporated under the same act as the Cooperative that provides electric power (“Consolidate or Merge”).

1. Board Approval. The Board must approve an agreement or plan to Consolidate or Merge (“Consolidation or Merger Agreement”) stating the:
 - a. Terms and conditions of the Consolidation or Merger and the mode of carrying the same into effect;
 - b. Name and address of the principal office of each entity Consolidating or Merging;
 - c. Name and address of the principal office of the new or surviving Consolidated or Merged entity (“New Entity”);
 - d. Manner and basis, if any, of converting memberships, or ownership rights, of each Consolidating or Merging entity into memberships or ownership rights of, or payments from, the New Entity;
 - e. A statement that each Cooperative agrees to the Consolidation or Merger;
 - f. Names and addresses of New Entity Trustees who will serve until the New Entity’s first annual meeting; and
 - g. Any other information required by Law or necessary or advisable for the conduct of the business of the New Entity.
2. Member Approval. After the Board approves a Consolidation or Merger Agreement, two-thirds (2/3) of the Members present and voting in person must approve the Consolidation or Merger Agreement, at a meeting held thereon.
3. Notice. The Cooperative shall notify Trustees of any Board Meeting, and Members of any Member Meeting, at which Trustees or Members may consider a Consolidation or Merger Agreement. This notice must contain, or be accompanied by, a copy of the Consolidation or Merger Agreement.
4. Other Requirements. The New Entity Trustees named in the Consolidation or Merger Agreement must sign and file articles of Consolidation or Merger in a manner, and stating the information, required by Law. The Cooperative shall comply with all other requirements for Consolidation or Merger specified by Law.

SECTION 9.03 – Distribution of Cooperative Assets Upon Dissolution.

Upon the Cooperative’s dissolution:

1. The Cooperative shall pay, satisfy, or discharge all Cooperative debts, obligations, and liabilities, including retiring and refunding without priority all Capital Credits and Affiliated Capital Credits to all Patrons and former Patrons in proportion to the value or quantity of Cooperative Services used, received, or purchased by each Patron or former Patron; and
2. After paying, satisfying, or discharging all Cooperative debts, obligations, and liabilities:
 - a. To the extent practical, the Cooperative shall first distribute gains from selling any appreciated Cooperative Asset to Members who used, received, or purchased Cooperative Services during the period in which the Cooperative owned the Cooperative Asset in proportion to the value or quantity of Cooperative Services

- used, received, or purchased by the Member during the period the Cooperative owned the Cooperative Asset; and
- b. To the extent practical, the Cooperative shall then pay or distribute any remaining Cooperative Assets, and any amounts received from selling any remaining Cooperative Assets, to:
 - i. The Members in proportion to the value or quantity of Cooperative Services used, received, or purchased by each Member during the six (6) years prior to the Cooperative's dissolution; or
 - ii. Any nonprofit charitable or educational entity or organization exempt from paying Federal income tax.

Article X – Miscellaneous

SECTION 10.01 – Bylaw Amendments.

Unless otherwise provided in these Bylaws or N.M. Stat. Ann. § 62–15–7 (2013), these Bylaws may be adopted, amended, or repealed (“Amended”) by the affirmative ballot vote of the majority of the members voting in person or by mail-in ballot at any regular Annual Meeting or Special Meeting called for that purpose, a quorum being present. Solely for the purposes of voting for or against a Bylaw amendment, a member shall be deemed present for purposes of a quorum if the member has submitted an official written ballot by mail to vote for or against the proposed Bylaw amendment.

Notice of any Member Meeting at which the Members will consider a proposed Bylaw Amendment must:

1. State that the purpose, or one (1) of the purposes, of the Meeting is to consider the proposed Bylaw Amendment;
2. Contain, or be accompanied by, a copy or summary of the proposed Bylaw Amendment.

Upon resolution of a majority of those present and voting at an Annual or Special Member Meeting, at which a quorum is present, recommending an amendment of the Bylaws in a particular way, the Cooperative will bring a recommendation back to the membership at its next Annual Meeting or Special Meeting called for the purpose of considering the proposed Bylaw amendment, or alternatively publish a response in a newsletter or other correspondence to the Membership on action proposed by the Trustees in response to the resolution.

Except for amendments relating to the sale or disposition of Cooperative assets or territory, any group of members may by petition containing the names, authenticated signatures, addresses and account numbers of 500 members, have a proposed Bylaw amendment included in the agenda and put to vote at the next Annual Meeting, so long as the petition is received by the Cooperative not less than 180 days prior to the Annual Meeting.

Corrections of typographical errors, adjustments to formatting or other non-substantive modification of the Bylaws shall not be considered “amendments” hereunder and may be made in the ordinary course of business upon approval in an open meeting of the Board of Trustees.

SECTION 10.02 – Rules of Order.

Unless the Board determines otherwise, and to the extent consistent with Law, the Articles of Incorporation, and these Bylaws, all:

1. Member Meetings;
2. Board Meetings;
3. Member Committee meetings; and
4. Board Committee meetings

are intended to be governed by the latest edition of Robert’s Rules of Order.

SECTION 10.03 – Fiscal Year.

The Board shall determine, and may modify, the Cooperative’s fiscal year.

SECTION 10.04 – Notice.

In these Bylaws:

1. Notice Type. Unless otherwise provided in these Bylaws, notice may be:
 - a. Oral or written; and
 - b. Communicated:
 - i. In person;
 - ii. By telephone, telegraph, teletype, facsimile, electronic communication, or other form of wire or wire– less communication;
 - iii. By mail or private carrier; or
 - iv. If the above–listed forms of communicating notice are impractical, then by:
 - (1) Newspaper of general circulation in the area where published; or
 - (2) Radio, television, or other form of public broadcast communication.

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

2. Notice Effective Date. If communicated in a comprehensible manner, then unless otherwise provided in these Bylaws:

- a. Oral notice is effective when communicated; and
- b. Written notice is effective upon the earliest of:
 - i. When received;
 - ii. With the postmark evidencing deposit in the United States Mail, if correctly addressed
 - (1) Mailed with first class postage affixed, then five (5) days after deposit in the United States Mail; or
 - (2) Mailed with other than first class, registered, or certified postage affixed, then thirty (30) days after deposit in the United States Mail; or
 - iii. If sent by registered or certified mail, return receipt requested, and if the return receipt is signed by, or on behalf of, the addressee, then on the date indicated on the return receipt.

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

SECTION 10.05 – Governing Law.

These Bylaws must be governed by, and interpreted under, the laws of the state of New Mexico.

SECTION 10.06 – Titles and Headings.

All titles and headings of Bylaw articles, sections, and sub-sections are for convenience and reference only, and do not affect the interpretation of any Bylaw article, section, or sub-section.

SECTION 10.07 – Partial Invalidity.

When reasonably possible, every Bylaw article, section, sub-section, paragraph, sentence, clause, or provision (collectively, "Bylaw Provision") must be interpreted in a manner by which the Bylaw Provision is valid. The invalidation of any Bylaw Provision by any entity possessing proper jurisdiction and authority, which does not alter the fundamental rights, duties, and relationship between the Cooperative and Members, does not invalidate the remaining Bylaw Provisions.

SECTION 10.08 – Cumulative Remedies.

The rights and remedies provided in these Bylaws are cumulative. The Cooperative or any Member asserting any right or remedy provided in these Bylaws does not preclude the Cooperative or Member from asserting other rights or remedies provided in these Bylaws.

SECTION 10.09 – Entire Agreement.

Between the Cooperative and any Member, the Governing Documents:

1. Constitute the entire agreement; and
2. Supersede and replace any prior or contemporaneous oral or written communication or representation.

SECTION 10.10 – Successors and Assigns.

To the extent allowed by Law:

1. The duties, obligations, and liabilities imposed upon the Cooperative or any Member by these Bylaws are binding upon the successors and assigns of the Cooperative or Member; and
2. The rights granted to the Cooperative by these Bylaws inure to the benefit of the Cooperative's successors and assigns.

The binding nature of the duties, obligations, and liabilities imposed by these Bylaws upon the successors and assigns of the Cooperative and any Member does not relieve the Cooperative or Member of the duties, obligations, and liabilities imposed by these Bylaws upon the Cooperative or Member.

SECTION 10.11 – Waiver.

The failure of the Cooperative to assert any right or remedy provided in these Bylaws does not waive the right or remedy provided in these Bylaws.

SECTION 10.12 – Lack of Notice.

To the extent allowed by Law and the Articles, the failure of any Member or Trustee to receive notice of any Meeting, action, or vote does not affect, or invalidate, any action or vote taken by the Members or Board.

Section 10.13 – Member Inspection of Cooperative Records.

Members shall have the right to inspect corporate records at reasonable times and places, for proper purposes reasonably related to the Member's interest in the Cooperative, but not for any purpose that would be harmful to the Cooperative or other Members.

Paper and/or scanned copies of records shall be made available to members at a cost reasonably calculated not to exceed the actual cost of labor and materials by more than 10%. For scanned copies of records, charges shall include the cost printing or making any copies needed for the purpose of compiling the set of records for scanning.

SECTION 10.14 – Contributions, Donations and/or Community Assistance

The Cooperative shall not make financial contributions or donations to other persons or organizations. However, if the Cooperative establishes a separate 501(c)(3) tax exempt organization to accept voluntary “round up” donations from Member utility bills, nothing in this section shall be deemed a limitation on the 501(c)(3) organization’s ability to disburse funds in accordance with the organization’s charter and bylaws, but in any event there shall be no interlocking directorates or trusteeships between the Cooperative and the 501(c)(3) organization. Further, this Section shall not be deemed a limitation on the Cooperative’s ability to provide aid, cooperation and non-monetary assistance to municipalities and public charities, or to enter into financial transaction relating to franchises or other mutually-beneficial arrangements.

Nothing in this Section shall be deemed a limitation on the Cooperative’s ability to contribute proceeds from unclaimed capital credits in accordance with New Mexico law.

APPENDIX

COOPERATIVE SERVICE AREA