

Bylaws



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Bylaws

GuadalupeValleyElectricCooperative, Inc.

(Amended April 14, 2020)

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BYLAWS OF GUADALUPE VALLEY ELECTRIC COOPERATIVE, INC.

The purposes for which the Corporation (hereinafter also called the "Cooperative") is organized are the provision of electric energy and other goods and services, without regard to geographic location, to any person, corporation, organization, governmental entity or governmental subdivision, business trust, estate, partnership, association and any other legal entity, without restriction and, except as otherwise expressly excluded by the Electric Cooperative Corporation Act ("Act"), the transaction of any or all lawful business.

ARTICLE I (MEMBERS)

Section 1. Qualifications and Obligations

Any person, corporation, organization, governmental entity or governmental subdivision, business trust, estate, partnership, association and any other legal entity ("Person") may become a member in the Cooperative by:

- (a) requesting service and paying the Membership Fee hereinafter specified; and
- (b) consuming or agreeing to consume, receive, purchase or otherwise use electric energy and/or services for the purchase, distribution, delivery or metering of electric energy (hereinafter referred to as "electric energy and/or services" or collectively as "electric service"); and
- (c) agreeing to comply with and be bound by the Articles of Consolidation of the Cooperative ("Articles") and these Bylaws and any amendments thereto and such rules and regulations as may from time to time be adopted by the Board.

No Person may own more than one (1) membership in the Corporation regardless of the number of delivery points at which it receives delivery of electric energy. A husband and wife may jointly become a member in the Corporation provided the husband and wife jointly comply with the terms set forth in the Bylaws of the Corporation (See Article I, Section 6).

Section 2. Membership Fee

The member shall pay a Membership Fee in an amount specified by the Board. Such additional consumer Deposits as the Board directs may be required for one or more service connections.

Upon termination of service with the Cooperative the member shall keep the Cooperative informed of a current mailing address in order that the Cooperative may refund any remaining balance of the Membership Fee and Deposit which exists after payment of all final bills.

Section 3. Purchase of Electric Energy and/or Services

Each member shall, as soon as electric energy shall be available, purchase from the Cooperative all electric energy used on the premises referred to in the request of such member for membership and shall pay therefor monthly at rates which shall from time to time be fixed by resolution of the Board or; provided, however, that the electric energy and/or services which the Cooperative shall furnish to any member under this Section 3 may be limited to such an amount as the Board shall from time to time determine and that each member shall pay to the Cooperative such minimum amount per month as shall be fixed by the Board, from time to time, regardless of the amount of electric energy and/or services consumed. Each member shall also pay all obligations which may from time to time become due and payable by such member to the Cooperative.

Section 4. Non-Liability for Debts of the Cooperative

The private property of the members of the Cooperative shall be exempt from execution for the debts of the Cooperative and no member shall be individually liable or responsible for any debts or liabilities of the Cooperative, except for a debt contracted between the member and the Cooperative.

Section 5. Indemnification

As determined by the Board and to the extent allowed by applicable law, including Chapter 8 of the Texas Business Organizations Code as it may be amended from time to time:

- (a) As requested by the Cooperative, a member shall indemnify the Cooperative for, and hold the Cooperative harmless from, any expenses, costs, liabilities, or damages, including reasonable attorneys' fees and legal expenses incurred by the Cooperative or by any Cooperative Director, officer, employee, agent, representative, or contractor, related to any property damage, personal injury, or death directly or indirectly caused by the member's negligence, gross negligence or willful misconduct, by the unsafe or defective conditions of a location occupied by the member, or by the member's failure to comply with the Governing Documents. The "Governing Documents" are the written or Electronic request for service (if any) submitted by an applicant or member and the following documents and actions, all as currently existing or as later adopted or amended: (1) all laws regarding or affecting the Cooperative's property, property rights and assets ("Assets"), the Cooperative's operation, the Cooperative's members and Patrons, the provision and use of electric service, Cooperative equipment, and member equipment connected to Cooperative equipment; (2) the Articles; (3) these Bylaws; (4) the Cooperative's service rules and regulations; (5) the Cooperative's rate or price schedules; and (6) all rules, regulations, requirements, guidelines, procedures, policies, programs, determinations, resolutions, or actions

taken, adopted, promulgated, or approved by the Board. Article IX of these Bylaws ("Electronic Documents and Actions") defines "Electronic" and similar terms.

- (b) The Cooperative shall indemnify, defend and hold harmless Directors, officers, employees or agents of the Cooperative ("Cooperative Officials") from and against all costs, expenses and liabilities, including counsel fees, reasonably incurred by, or imposed upon him or her, in connection with any proceeding to which he or she may be made a party, or in which he or she may become involved, or any settlement thereof, by reason of being or having been a Cooperative Official, whether or not he or she is a Cooperative Official at the time such expenses are incurred, to the maximum extent allowed by applicable law. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Cooperative Official may be entitled. The Cooperative may purchase and maintain insurance on behalf of any person who is or was a Cooperative Official or who is or was serving at the request of the Cooperative as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Cooperative would have the power to indemnify him or her against such liability under the provision of this Article.

Section 6. Joint Membership.

It is the policy of the Cooperative to consider spouses residing with persons named as members on Cooperative records of as joint members ("joint members") and, as such, are qualified for all the rights and are subject to all the obligations of the named member ("joint membership").

- (a) **Rights and Obligations of Joint Members.** For a joint membership:
 - (1) notice of a meeting provided to one joint member constitutes notice to both joint members;
 - (2) waiver of notice of a meeting signed by one joint member constitutes waiver of notice for both joint members;
 - (3) the presence of both 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 both joint members;
 - (5) 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;

- (6) 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;
- (7) except upon the cessation of marriage, the suspension or termination of a joint member constitutes the suspension or termination of both joint members;
- (8) a joint member qualified to be a member of the Board (“Director”) may be a Director, regardless of whether another joint member is qualified to be a Director, but if more than one joint member is qualified to be a Director, then only one joint member may be a Director; and
- (9) upon the death of a joint member, the other joint member shall have the right to receive an allocation of Capital Credits pursuant to Article VIII [Non-Profit Operation], Section 2(f) of the Bylaws.

(b) **Terminating a Joint Membership.** Joint members shall notify the Cooperative in writing of a cessation of marriage. Upon determining or discovering the cessation of marriage:

- (1) if one joint member remains qualified to be a member and continues to use electric service at the same location, then the joint membership converts to a membership comprised of this person; and
- (2) if no joint member remains qualified to be a member and continues to use electric service at the same location, then the joint membership terminates.

Section 7. Expulsion of Members

The Board may, by the affirmative vote of not less than two-thirds (2/3) of the members thereof, expel any member who shall have violated or refused to comply with any of the provisions of the Articles or any amendments thereto or these Bylaws or any rules or regulations adopted from time to time by the Board.

Section 8. Withdrawal and Termination of Membership

Any member may withdraw from membership upon payment in full of all debts and liabilities of such member to the Cooperative and upon compliance with such terms and conditions as the Board may prescribe. Should any member fail or refuse for any reason whatsoever to receive electric energy from the Cooperative for a consecutive period of one (1) year after electric energy is available on the member’s premises, such failure or refusal shall constitute such member’s request to withdraw from membership in the Cooperative, which request, upon approval by the Board and upon the compliance with such terms and conditions as the Board shall prescribe, shall terminate such membership for all purposes. Upon the death, cessation of existence, expulsion or withdrawal of a member, the membership of such member shall thereupon terminate. Termination of membership in any manner shall not release the member or his/her estate from the debts and liabilities of such member to the Cooperative. Upon termination of membership in any manner, the

Cooperative may apply any Membership Fee or Deposit of such former member to any debt or liability owed to the Cooperative by such former member.

Section 9. Transfer of Membership

Except as provided in Article I [Members], Section 6 of these Bylaws with respect to joint memberships, membership in the Cooperative shall not be transferable.

ARTICLE II (MEETINGS OF MEMBERS)

Section 1. Annual Meeting

The Annual Meeting of the members shall be held on the fourth Friday in June of each year, at such place as shall be designated by the Board and specified in the notice of the meeting for the purpose of electing Directors, passing upon reports covering the previous fiscal year and transacting such other business as properly noticed in the notice of the meeting. Failure to hold the Annual Meeting at the designated time shall not result in a forfeiture or dissolution of the Cooperative. For cause deemed adequate by the Board, to be recited in the resolution, the Annual Meeting of the members and election of Directors may be postponed for a period not to exceed one hundred (100) days by resolution of the Board adopted at a meeting at least thirty (30) days prior to the date of the Annual Meeting and the date upon which such postponed Annual Meeting shall be held shall be fixed by resolution of the Board, to be adopted within forty-five (45) days after the fourth Friday in June of the year in which such Annual Meeting is postponed; provided however that in case of a Force Majeure Event, such Annual Meeting and election of Directors may be postponed until as soon as reasonably practicable after the removal of the cause, including postponement until the next Annual Meeting of the members. “Force Majeure Event” includes, but is not limited to, any intervening act of God or public enemy, war, invasion, act of terror, natural disaster, disease outbreak, epidemic, pandemic, or other declaration of public health emergency, quarantine restriction, and any action of any governmental body or authority. Any action taken in any such postponed Annual Meeting shall have the same force and effect to all intents and purposes and shall be held in the same manner and after the same notice as though such meeting were held on the date hereinabove set for such meetings.

Section 2. Special Meetings

Special Meetings of the members may be called by the President, at least a majority of the Directors or upon a written request signed by at least ten percent (10%) of all the members and it shall thereupon be the duty of the Secretary of the Board (“Secretary”) to cause notice of such meeting to be given as hereinafter provided. The place of any Special Meeting shall be set by the Board.

Section 3. Notice of Members Meetings

Written, printed or Electronic notice stating the place, day and hour of the meeting and, in the case of a Special Meeting, the purpose or purposes for which

the meeting is called, shall be distributed not less than ten (10) days nor more than thirty (30) days before the date of the meeting, by or at the direction of the Secretary, to each member. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his/her address as it appears on the records of the Cooperative with the postage thereon prepaid. Except as otherwise provided in these Bylaws, an Electronically transmitted notice of a Member Meeting is delivered when Electronically sent to a member at the member's Electronic mail address shown in the Cooperative's records. The failure of any member to receive notice of an Annual or Special Meeting of the members, shall not invalidate any action which may be taken by the members at any such meeting.

Section 4. Quorum

At least one hundred fifty (150) of the members present in person (which includes votes received by (i) regular mail ballot returned to the Cooperative or its designee, (ii) Electronic mail, (iii) the Cooperative's website; or (iv) a website or information processing system that the Cooperative has designated or uses to send, receive or transmit Electronic documents or Electronic information, or to Electronically conduct an action, transaction, business, meeting or activity) or represented by proxy shall constitute a quorum for the transaction of business at all General Membership Meetings of the members. Notwithstanding the foregoing, five percent (5%) of the total number of all members of the Cooperative (including votes received by mail, Electronic mail or by proxy) shall constitute a quorum if amendments to the Articles are submitted to a vote of the members. If less than a quorum is present at any meeting, a majority of those present in person or represented by proxy may adjourn the meeting from time to time without further notice. Members voting by mail or Electronically are counted as present for purposes of determining whether a quorum is present. This Section 4 shall in no way supersede, impair or affect Article X [Disposition of Property] of these Bylaws insofar as Article X pertains to the minimum number of members required to be present and the minimum of affirmative votes necessary to authorize a sale of the Cooperative's property in such instances when an affirmative vote of members is necessary to authorize such a sale.

Section 5. Voting

Each member shall be entitled to one (1) vote and no more upon each matter submitted to a vote at a meeting of the members. At all meetings of the members at which a quorum is present all questions shall be decided by a vote of a majority of the members voting thereon in person, by mail, Electronically or by proxy, as determined by the Board except as otherwise provided by law, the Articles or any amendments thereto, or by these Bylaws. If a husband and wife hold a joint membership, they shall be entitled to one (1) vote and no more upon each matter submitted to a vote at a meeting of the members.

Section 6A. Proxies

At any meeting of the members, any member may vote by proxy by assigning such proxy to the designee or designees established by the Board, but only if such proxy (A) is registered with the Cooperative or its designee before 5:00 p.m. on the fifth business day next preceding the date of the Member Meeting; (B) is executed by the member in writing or Electronically; (C) specifies the particular meeting at which it is to be voted; and (D) is dated not more than forty-nine (49) days prior to the date of such meeting; PROVIDED that any mailed proxies not otherwise dated shall be deemed dated as postmarked. Accounts in the name of non-natural members shall be voted only by proxy and shall be bound by all provisions regarding proxies as stated in this section. The proxy shall be voted by the Board's designee or designees, in accordance with the directions designated by the member on the Proxy Card as such is defined below. All proxies will be received, validated, counted and maintained by the General Manager or his/her designee. All proxies, which identify the members, shall be held confidential, except as may be necessary to meet applicable legal requirements. Voted proxies shall not be seen by, nor reported to, any Director Candidate except in aggregate number or to determine if (rather than how) a member has voted.

Section 6B. Proxy Committee Recommendations for Director Elections

The Proxy Committee of the Cooperative shall consist of its Directors whose Districts are not up for election. Following the nomination of Director Candidates as described in Article III [Directors], Section 4 of these Bylaws, the Proxy Committee shall meet to establish a recommendation regarding its preferred candidate for each Director position up for election. The recommendations shall be established by a majority vote of the Proxy Committee. In the event that the vote ends in a tie, the recommendation shall be not to take a position on the Director election.

Section 6C. Proxy Recommendations for Other "Appropriate" Items

The Board shall meet to establish a recommendation from the Cooperative regarding other "appropriate" items to be voted on at a Member Meeting as such is defined in Article II [Meetings of Members], Section 9 of these Bylaws. The meeting shall be held not less than sixty (60) days prior to the Member Meeting. The recommendation shall be established by a majority vote of the Directors. In the event that the vote ends in a tie, the recommendation shall be not to take a position on the "appropriate" item.

Section 6D. Proxy Card

The Proxy Card, which shall be distributed to all members not more than forty-nine (49) days prior to the Member Meeting, shall contain (1) the name of the person or persons designated by the Board to vote the proxies; (2) the names of candidates for each Director election; and (3) any other "appropriate" items to be voted on at the Member Meeting. The recommendations as described in Section 6B and Section 6C of this Article shall also be included on the Proxy Card. The member shall have the right to specify on the Proxy Card how such proxy is to be voted on issues at the meeting of the members, including Director elections and other "appropriate" items.

In the event a member executes two or more proxies for the same meeting, the first valid proxy received by the Cooperative or its designee shall prevail. Notwithstanding the foregoing provisions of this section, whenever a member is absent from a meeting but the absent member's spouse attends such meeting, such spouse may vote if present in person, unless such member has given a written proxy to some other person eligible to vote such proxy.

Section 6E. Solicitation of Proxies

Proxies may be solicited on behalf of the Cooperative and the entire cost of solicitation shall be borne by the Cooperative. The Cooperative may use its officers, employees or other designee to solicit proxies from the members either personally, by telephone, mail or Electronically.

Section 6F. Record Date

The Record Date for determining the total membership and the members entitled to vote at a Member Meeting shall be 5:00 p.m. on the fifth (5th) business day next preceding the date of the Member Meeting.

Section 7. Voting by Mail or Electronically

The Board may authorize voting by mail or Electronically on any matter submitted to a vote by the members. When such procedure is authorized by the Board, such votes shall be upon ballot forms furnished to the member at the time notice of any members meeting is given to the members.

Section 8. Rules of Order

The Board may determine the rules, regulations and parliamentary procedures governing all Member Meetings, Board Meetings and Committee Meetings. Such rules, regulations and procedures must treat everyone at the meeting with fairness and good faith. If the Board does not set forth such rules, regulations and parliamentary procedures in writing, the latest edition of Robert's Rules of Order shall govern. In any case, no variation from such rules, irregularities or other procedures shall affect in any way the validity of the action taken at such meeting.

Section 9. Member Meeting Agenda

- (a) **Submitted by Directors.** Except as otherwise provided in these Bylaws, before an Annual, Regular or Special Member Meeting ("Member Meeting"), the Board shall determine the agenda, program or order of business for the Member Meeting, provided, however, an "appropriate" item may be placed on the agenda of any Member Meeting by a majority vote of the Board of Directors.
- (b) **Submitted by Members.** Not less than seventy-five (75) days nor more than one-hundred twenty (120) days before any meeting of the members, a petition may be filed with the Board requesting the placement of an item

on the agenda of the upcoming member meeting. The petition must be signed by not less than ten (10) members and must state the exact wording which the petitioners wish to have placed on the Membership Meeting agenda. Upon receipt of a valid petition, the Board will consider the "appropriateness" of the agenda item proposed. A majority vote of the Board is required to place a member submitted item on the agenda of a member meeting.

For both Director and member items addressed in this section, "appropriateness" shall be defined as any item which the members have the right to determine or act upon pursuant to the Act, the Articles or any amendments thereto or these Bylaws. For member-submitted items, the Board will also consider in determining "appropriateness," the authorities, responsibilities and restrictions vested in, and placed on, the Board by law, contractual obligations and its fiduciary duties.

ARTICLE III (DIRECTORS)

Section 1. Voting Districts

The area served by the Cooperative shall be divided into eleven (11) Districts, to be determined and defined by the Board ("Districts"). Each District shall be represented by one (1) Director. The Districts shall be those outlined and approved periodically at a meeting of the Board and shall be maintained and readily available for review at the Cooperative's principal office. As necessary, the Board shall revise the Districts to ensure that the Districts provide equitable representation on the Board from throughout the Cooperative service area. Within a reasonable time following a District revision and at least one hundred twenty (120) days before the next Annual Member Meeting, the Cooperative must notify, in writing or Electronically, members affected by the District revision. District revisions are effective on the date the Board approves the District revision. The Districts shall be defined by physical landmarks, such as roads and rivers, as nearly as practicable.

If a member's principal place of residence is served by the Cooperative, then such member shall be entitled to vote at meetings of the District in which his/her principal residence is located.

If a member's principal place of residence is not served by the Cooperative, then such member shall be entitled to vote at meetings of the District in which he/she is receiving electric service from the Cooperative; and if he/she is receiving electric service from the Cooperative in more than one District, he/she shall be entitled to vote only at the District Meetings of the District in which he/she has for the longest period of time been continuously receiving such service.

Insofar as government agencies, political subdivisions, corporations, partnerships, and firms are concerned, the phrase "principal place of residence" shall be construed to mean the location of the seat of any political subdivision, principal place of business, main office or headquarters of any such corporation, partnership or firm.

In all other portions of the Bylaws in which the phrase "member residing in the District" is used, it shall have the same meaning as "member entitled to vote at such meeting."

Section 2. General Powers

The business and affairs of the Cooperative shall be managed by a Board of eleven (11) Directors which shall exercise all the powers of the Cooperative except such as are by law or by the Articles or any amendments thereto or by these Bylaws conferred upon or reserved to the members.

Section 3. Qualifications and Tenure

Directors shall be elected on staggered three (3) year terms as follows. The initial Board shall be divided into three classes, with the Directors representing Districts 1, 4, 7 and 10 constituting a class to be elected in 2004; Directors representing Districts 2, 5 and 8 constituting a class to be elected in 2002; and Directors representing Districts 3, 6, 9 and 11 constituting a class to be elected in 2003. At the Annual Meeting of members held each year, the successors to the Directors of the class whose terms of office shall expire at the meeting shall be elected to hold office for a term which shall expire at the third Annual Meeting of members after the Annual Meeting at which such Directors shall have been elected or until their successors have been duly elected, so that the term of one class of Directors shall expire in each year subject to the provisions of these Bylaws with respect to the removal of Directors.

Each Director shall represent a Director District as set by the Board in the Bylaws of the Corporation.

If an election of Directors shall not be held on the day designated in the Bylaws for the Annual Meeting or at any adjournment thereof, the Board shall cause an election to be held at a Special Meeting of the members within a reasonable time thereafter, provided however, that if an election of Directors is not held due to a Force Majeure Event as provided in Article II, Section 1 of these Bylaws, such election can be postponed until as soon as reasonably practicable after removal of the cause, including postponement until the next Annual Meeting of the members.

No member shall be eligible to become or remain a Director of the Cooperative who:

1. has not been a member in his/her individual capacity for at least one (1) year prior to his/her election; or
2. whose principal place of residence is not served with electric power and energy by the Cooperative in the District he/she is to represent; or
3. has been convicted of a felony or a crime of moral turpitude;
4. is currently a full, part-time or seasonal employee, contractor, vendor, supplier, consultant, attorney, or any other person having a contractual, business, financial, employment or other relationship with the Cooperative; or
5. has been a full, part-time or seasonal employee, contractor, vendor, supplier, consultant, attorney, or any other person who has had a contractual, business,

financial, employment or other relationship with the Cooperative within the most recent 5-year period; or

6. is in any way employed by or financially interested in a competing enterprise or a business selling electric energy or supplies to the Cooperative; or
7. is in any way employed by or financially interested in a competing enterprise or a business primarily engaged in selling electrical supplies to the members of the Cooperative; or
8. is the incumbent of or a candidate for an elected public office of the United States of America, the State of Texas, or a county or municipality of the State of Texas, regardless of any compensation or reimbursement, except that an incumbent of or a candidate for public office of a political subdivision of the State of Texas other than a county or municipality is eligible to become or remain a Director of the Cooperative.

Nothing in this section shall affect or shall be construed to affect in any manner whatsoever the validity of any action taken at any meeting of the Board.

Section 4. Nomination of Directors

Names may be placed in nomination for Director by (1) receiving a majority vote of the members present at a District Meeting, (2) submission of a Member Petition or (3) being nominated by the Nominating Committee. The following procedures shall apply:

- (a) **District Meeting Nominee.** Not less than ninety (90) days nor more than one hundred twenty (120) days before any meeting at which Directors are to be elected, the Board shall conduct a separate meeting of the members of each District for which Directors are to be elected. The meeting shall be held at a suitable place to be designated by the Board for the purpose of selecting one (1) individual to be placed in nomination as a Director Candidate. The notice of such meeting shall be delivered to each member located in such District as provided in Section 3 of this Article and shall indicate the District to which the member belongs. The notice shall state that an election for nominating an individual as a Director Candidate for that District will take place at the meeting. The meeting shall, however, be open for discussion of any other matters pertaining to the business of the Cooperative, regardless of whether or not such matters were listed in the notice of the meeting and recommendations with respect thereto may be submitted to the Board for its consideration.

Fifteen (15) members entitled to vote in the District, present at such duly called District Meeting, shall constitute a quorum. If a quorum is not present and thus no business may be officially conducted, the Nominating Committee shall name a Director Candidate to be placed in nomination.

The District Meeting shall be called to order by the Director representing the District or by another designated representative of the Board or, in his/her absence, by any other member entitled to vote within the District. The members shall proceed to elect a Chairman, who shall be someone other than the Director and who shall appoint a Secretary to act for the duration of the meeting. Members of other Districts present at the meeting may be heard but shall have no vote. Nominations for Candidates for Director shall be made from the floor at the meeting and any member entitled to vote in the District shall have the right to nominate one (1) candidate. The Chairman shall call for nominations for Director Candidates. The period to make nominations shall remain open for a reasonable amount of time. Candidates must be members entitled to vote in the District, must possess the qualifications for Director as specified in Article III [Directors], Section 3 of these Bylaws and must be present in person at the meeting in order to formally accept the nomination.

In order to vote at a District Meeting, individuals representing non-natural members must present an authorization executed by an authorized representative of the non-natural member.

Voting shall be by ballot unless only one (1) candidate is nominated, in which event voting may be by a show of hands or voice vote. If only one (1) person is nominated and receives the vote of a majority of the members present and voting, then such person shall be the nominated Director Candidate for such District. If such one (1) person fails to receive a majority vote, then the meeting shall be open for further nominations. If more than one (1) person is nominated, the person receiving a majority of votes cast shall be the nominated Director Candidate for such District. If more than two (2) persons are nominated and no one person receives a majority of the votes cast, then the two (2) persons receiving the highest number of votes shall participate in a second (run-off) election. The person receiving a majority of the votes cast in the second (run-off) election shall be the Nominated Director Candidate for such District. If such second (run-off) election ends in a tie, then a lottery (name drawn from a hat) from the persons whose vote ended in a tie shall determine the Director Candidate.

The minutes of such District Meeting shall set forth, among other matters, the name of each person nominated at the meeting and the number of votes received by each, and shall specify the nominated Director Candidate of the District. A copy of the minutes, signed and certified by the Chairman and Secretary of the District Meeting, shall be delivered to the Secretary of the Cooperative within ten (10) days after such District Meeting. No informality or defect in such minutes or in the proceedings shall void the nominations so made, affect the validity of the election of the Director

Candidate nor affect the validity of the election of Directors at a meeting of the members of the Cooperative.

(b) **Member Petition.** Nominations for official Director Candidates may be made by submitting a written petition. A petition shall be considered valid only if:

- (1) It designates, on each page of the petition, the full name of the nominee;
- (2) It designates, on each page of the petition, the voting District for which the nomination is made;
- (3) It contains original dated signatures of one hundred (100) current Cooperative members of that voting District. If a husband and a wife hold a joint membership, they jointly shall be entitled to only one (1) signature.
- (4) It contains, next to each member's signature, the member's printed name and mailing address of where the member receives the Cooperative's electric bill;
- (5) At least the number of signatures required from Section 4(b)(3) shall be dated no earlier than the day following the District Meeting nor later than thirty (30) days after the date of the District Meeting for which the nomination is made;
- (6) The petition is submitted to the headquarters office of the Cooperative by no later than 5:00 p.m. on the thirtieth (30) day after the date of the District Meeting for which the nomination is made;

Not less than fifty (50) days before any meeting at which Directors are to be elected, the Cooperative's Nominating Committee, as set forth in Section 4(c) shall review each petition to determine whether or not the petition is valid.

If the Cooperative's Nominating Committee fails to act within the time allowed, the petition shall be treated as if it had been found valid, even if the petition fails to meet all requirements as stated in Section 4(b).

(c) **Nominating Committee.** The Cooperative's Nominating Committee shall consist of the Cooperative's Board, exclusive of any Director whose District is up for election. The Nominating Committee may nominate one Director Candidate for each District in which Director elections are to be held.

The Cooperative's Nominating Committee shall also validate all submitted Member Petitions for Director Candidacy appropriate to the submission of a Member Petition as set forth in Section 4(b).

(d) **Nominating Committee Meeting.** Not less than fifty (50) days before any meeting at which Directors are to be elected, the Nominating Committee may meet at a suitable place to be designated by the Board. The Nominating Committee may select one Director Candidate, otherwise eligible under these Bylaws, for each District in which a Director election will be held. Any Nominating Committee member may make nominations for Director for any District up for election. Director Candidates selected shall be by majority vote of the Nominating Committee. If only one (1) person is nominated and receives the vote of a majority of the members present and voting, then such person shall be the nominated Director Candidate for such District. If such one (1) person fails to receive a majority vote, then the meeting shall be open for further nominations. If more than one (1) person is nominated, then the person receiving a majority of the votes cast shall be a Director Candidate for such District. If more than two (2) persons are nominated and no one person receives a majority of the votes cast, then the two (2) persons receiving the highest number of votes shall participate in a second (run-off) election. The person receiving a majority of the votes cast in the second (run-off) election shall be a Director Candidate for such District. If such second (run-off) election ends in a tie, a lottery (name drawn from a hat) from the persons whose vote ended in a tie shall determine the Director Candidate.

A copy of a certificate stating the names of each Director Candidate selected by the Nominating Committee shall be executed by each member of the Nominating Committee and delivered to the Secretary of the Cooperative within ten (10) days after such Nominating Committee meeting. No informality or defect in such certification or in the proceedings shall void the selection of a Director Candidate made by the Nominating Committee or affect the validity of the election of Directors at a meeting of the members of the Cooperative.

(e) **Force Majeure Events.** Notwithstanding any provision of Article III, Section 4 to the contrary, if nominations of Directors do not occur within the time periods specified for nominations at District meetings, by written petition and/or by Nominating Committee due to a Force Majeure Event as defined in Article II, Section 1 of these Bylaws, such nominations can be (i) postponed until as soon as reasonably practicable after removal of the cause, or (ii) made by the Nominating Committee. A meeting of the Nominating Committee as provided in this paragraph (e) may be conducted by using a conference telephone or similar communications equipment, or another suitable Electronic communications system, including videoconferencing technology, the internet, or any combination, if the telephone or other equipment or system permits each person participating in the meeting to communicate with all other persons participating in the meeting. If voting is to take place at the meeting, the entity must: (1) implement reasonable

measures to verify that every person voting at the meeting by means of remote communications is sufficiently identified; and (2) keep a record of any vote or other action taken.

Section 5. Election of Directors

(a) **Voting for Directors.** Not more than forty-nine (49) days before an Annual or a Special Meeting of the members at which Directors are to be elected, the Secretary of the Cooperative shall mail or send Electronically a Proxy Card as described in Article II [Meetings of Members], Section 6D of these Bylaws, or ballot to each member. This Proxy Card may be included with the notice of the meeting. At the meeting, the Chairman or Secretary of the meeting shall inform the members of the Director Candidates nominated at the District Meeting, by Member Petition and by the Nominating Committee for each District from which Directors are to be elected. Election of Directors from any District for which more than one (1) person has been nominated shall be by written ballot. Where only one (1) person has been nominated for Director from any District, voting may be by a show of hands or by voice vote and the result forthwith declared by the Chairman. Where more than one (1) person has been nominated for Director from any District, the name of the candidates shall be printed on the ballot. Each member of the Cooperative present or represented by proxy shall be entitled to vote for one (1) candidate from each District from which Directors are to be elected. The candidate from each District from which a Director is to be elected receiving the highest number of votes at this meeting shall be declared Director.

(b) **Counting Ballots.** At each meeting of the members of the Cooperative at which Directors are to be elected, or at which any other matter is voted on by written or printed ballot, an Election Committee, whose duty it shall be to collect and count the ballots and report the results to the meeting, shall be appointed.

Such Election Committee shall consist of eleven (11) members, one (1) to be selected by each Director. Following the collection of ballots, the committee shall proceed to a suitable location for counting ballots and immediately elect a Chairman from among their number. The Chairman shall then divide the remaining members of the committee into three (3) groups, with two (2) groups containing three (3) committee members and one (1) group containing four (4) committee members. All groups shall remain in the same room. Each group shall designate one (1) member to run a tally sheet, with the remaining members to act as ballot judges. Employees of the Cooperative, appointed by the General Manager in accordance with their qualifications, may be used to assist the groups with the tally sheets by running a second tally sheet and other duties as the Chairman may require. The Chairman of the Election Committee shall supervise the

counting of the ballots by each group and, in case of a tie in decision by the judges of each group, the Chairman shall rule on such tie decision. Upon completion of the ballot counting, the Election Committee shall return to the Membership Meeting. The Election Committee Chairman shall present a certified copy of the report of the Election Committee to the Secretary of the Cooperative. The Election Committee Chairman shall then read said report to the members present at the meeting. A copy of this procedure shall be furnished to each member of the Election Committee upon his/her appointment at the Membership Meeting.

In case of a tie vote where two or more nominees receive the greatest number and an equal number of votes, then another election by secret ballot shall be held, with the members voting only on the nominees involved in such tie vote.

Section 6. Removal of Directors

Any member may bring charges against a Director by filing them in writing with the Secretary, together with a petition signed by ten percent (10%) of the members, requesting the removal of the Director in question; such petition shall state the cause for removal of the Director. For purposes of the removal of a Director, "cause" shall mean (i) the failure of a Director to perform his or her obligations and duties hereunder to the reasonable satisfaction of the Cooperative, which failure is not remedied within 30 days after receipt of written notice from the Cooperative; (ii) the commission by a Director of an act of fraud upon, or willful misconduct toward, the Cooperative or any of its affiliates; (iii) the conviction of the Director of any felony (or a plea of nolo contendere thereto) or any crime involving moral turpitude; or (iv) the failure of the Director to carry out or comply with, in any material respect, any directive of the Board consistent with the terms of these Bylaws, which is not remedied within thirty (30) days after receipt of written notice from the Board or the Cooperative. Any written notice from the Board or the Cooperative pursuant to this Section 6 shall specifically identify the failure that it deems to constitute cause. The removal shall be voted upon at the next regular or Special Meeting of the members following filing of the petition and any vacancy created by such removal shall be filled in accordance with Article III [Directors], Section 7 of these Bylaws. The Director against whom such charges have been brought shall be informed in writing of the charges prior to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present evidence; and the person or persons bringing the charges against the Director shall have the same opportunity.

Section 7. Vacancies

Vacancies occurring in the Board shall be filled by a majority vote of the remaining Directors and Directors thus appointed shall serve until their successors shall have been elected and shall have qualified. The member appointed as Director to fill the vacancy must meet the same qualifications as set out in Article III [Directors], Section 3 of these Bylaws.

Section 8. Compensation

Directors shall not receive any salary for their services as such, except that by resolution of the Board, the Cooperative may pay certain fringe benefits for Cooperative Board members, including, but not limited to, medical insurance premiums, 24-hour accident insurance premiums, business travel insurance premiums, life insurance premiums and other similar benefits. In addition, by resolution of the Board, Directors may be allowed and paid a fixed amount of per diem and the expenses for attendance at each meeting of the Board or any meeting of any other organization of which the Cooperative is a member or in which it has an interest, or at any meeting or session of any other organization, board, commission, court, or other body or agency considering a matter of interest to the Cooperative, or at any other meeting deemed necessary, advisable, or in the best interest of the Cooperative, or while attending to the business or affairs of the Cooperative in their capacities as Directors. Except in emergencies, no Director shall receive compensation for serving the Cooperative in any other capacity, nor shall the mother, father, brother, sister, husband, wife, son or daughter of a Director receive compensation for serving the Cooperative, unless such compensation shall be specifically authorized by a vote of a majority of the Board, exclusive of the vote of the related Director.

Section 9. Rules and Regulations

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

Section 10. Accounting System and Reports

The Board shall cause to be established and maintained a complete accounting system which, among other things, subject to applicable laws and rules and regulations of any regulatory body, shall conform to generally accepted accounting principles. The Board shall also after the close of each fiscal year cause to be made a full and complete audit of the accounts, books and financial condition of the Cooperative as of the end of such fiscal year.

Section 11. Executive Committee

The Board may create an Executive Committee consisting of the President, Vice President, Secretary and Treasurer of its Board and an additional Director appointed by the Board. The Board may delegate to its Executive Committee policy decisions in emergency situations, preparation of reports, recommendations on such matters as the Board may direct, and such other and further duties and authorities as the Board may from time to time impose on it or delegate to it. The designation of such committee and the delegation thereto of authority shall not operate to relieve the Board or any member thereof, of any responsibility imposed upon it or him/her by law.

ARTICLE IV (MEETINGS OF DIRECTORS)

Section 1. Regular Meetings

Regular monthly meetings of the Board may be held without notice other than a resolution fixing the time and place thereof.

Section 2. Special Meetings

Special Meetings of the Board may be called by the President or any three (3) Directors. The person or persons authorized to call Special Meetings of the Board may fix the time and place (which shall be in any county in the State of Texas) for the holding of any Special Meeting of the Board called by them.

Section 3. Notice

Notice of the time, place and purpose of any Special Meeting of the Board shall be given at least five (5) days previous thereto, by written notice, delivered personally or mailed, by regular or Electronic mail, to each Director at his/her last known address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. Except as otherwise provided in these Bylaws, an Electronically transmitted notice of a Directors Meeting is delivered when Electronically sent to a Director at the Director's Electronic mail address shown in the Cooperative's records. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except in case a Director shall attend a meeting for the express purpose of objecting to the transaction of any business because the meeting shall not have been lawfully called or convened.

Section 4. Quorum

A majority of the Board shall constitute a quorum for the transaction of any business, except as provided in Article XIV [Amendments] of these Bylaws, at any meeting of the Board; provided, that if less than a majority of the Directors are present at any meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

Section 5. Manner of Acting

Except as provided in Article XIV [Amendments] of these Bylaws, the act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board. Notwithstanding the foregoing, a meeting of the Board may be conducted by using a conference telephone or similar communications equipment, or another suitable Electronic communications system, including videoconferencing technology, the internet, or any combination, if the telephone or other equipment or system permits each person participating in the meeting to communicate with all other persons participating in the meeting. If voting is to take place at the meeting, the entity must: (1) implement reasonable measures to verify that every person voting at the meeting by means of remote communications is sufficiently identified; and (2) keep a record of any vote or other action taken.

Section 6. Members' Attendance at Board Meetings

A member of the Cooperative who desires to attend a regular or Special Meeting of the Board shall submit a request to the Board not less than 10 days prior to the regular or scheduled meeting. The member's request shall state the specific purpose of the member's attendance; if the member desires to comment on a matter related to the Cooperative, the request shall describe the particular matter on which the member desires to comment. The Board may limit the comment period as determined in its sole discretion.

ARTICLE V (OFFICERS)

Section 1. Number

The officers of the Cooperative shall be a President, Vice President, Secretary, Treasurer and such other officers as may be determined by the Board from time to time. The offices of Secretary and of Treasurer may be held by the same person.

Section 2. Election and Term of Office

The officers shall be elected annually by and from the Board at the first meeting of the Board held after each Annual Meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as convenient. Each officer shall hold office until the first meeting of the Board following the next succeeding Annual Meeting of the members or until his/her successor shall have been duly elected and shall have qualified, subject to the provisions of these Bylaws with respect to the removal of officers.

Section 3. Removal

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

Section 4. Vacancies

Except as otherwise provided in these Bylaws, a vacancy in any office may be filled by the Board for the unexpired portion of the term.

Section 5. President

The President shall:

- (a) preside at all meetings of the Board,
- (b) 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
- (c) in general, perform all duties incident to the office of President and such other duties as may be prescribed by the Board from time to time.

Section 6. Vice President

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

Section 7. Secretary

The Secretary shall:

- (a) see that the minutes of meetings of the Board are properly maintained;
- (b) see that all notices are duly given in accordance with these Bylaws or as required by law;
- (c) be custodian of the corporate records and of the seal of the Cooperative and 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; and
- (d) in general, perform all duties incident to the Office of Secretary and such other duties as from time to time may be assigned by the Board.

The duties necessary to meet the Secretary's responsibilities may be delegated to Cooperative staff.

Section 8. Treasurer

The Treasurer shall:

- (a) be responsible for all funds and securities of the Cooperative; and
- (b) in general, perform all duties incident to the office of Treasurer and such other duties as from time to time may be assigned to the Treasurer by the Board.

The duties necessary to meet the Treasurer's responsibilities may be delegated to Cooperative staff.

Section 9. General Manager

The Board may appoint a General Manager who shall be the Chief Executive Officer of the Cooperative and who may be, but who shall not be required to be, a member of the Cooperative. The General Manager shall perform such duties as the Board may from time to time require of the General Manager and shall have such authority as the Board may from time to time vest in the General Manager.

Section 10. Compensation

The compensation of the General Manager of the Cooperative shall be determined by a vote of a majority of the Board.

Section 11. 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 showing the condition of the Cooperative at the close of such fiscal year.

ARTICLE VI (CONTRACTS, CHECKS AND DEPOSITS)

Section 1. Contracts

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

Section 2. Checks, Drafts, Etc.

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

Section 3. Deposits

All funds of the Cooperative shall be deposited from time to time to the credit of the Cooperative in such financial institution or institutions as the Board may select.

ARTICLE VII (MEMBERSHIP CERTIFICATES)

Membership in the Cooperative may be evidenced by a certificate of membership which shall be in such form and shall contain such provisions as shall be determined by the Board not contrary to or inconsistent with the Articles or these Bylaws.

ARTICLE VIII (NONPROFIT OPERATION)

Section 1. Nonprofit and Cooperative Operation

The Cooperative: (1) shall operate on a nonprofit and cooperative basis for the mutual benefit of all members; and (2) shall not pay interest or dividends on capital furnished by Patrons (defined in Section 2(a) below).

Section 2. Allocating Capital Credits

The Cooperative shall allocate Capital Credits as provided in this section. The Cooperative must allocate Capital Credits in a Patron's name as shown in the Cooperative's records, regardless of the Patron's marital status.

- (a) **Patron.** The term "Patron" means, during a fiscal year: (1) a member; and (2) any other Person using a Cooperative Service.

- (b) **Entity Patron.** The term “Entity Patron” means any Patron that is a distinct legal entity or non-natural Person, such as a corporation, partnership, organization or association.
- (c) **Cooperative Service.** The term “Cooperative Service” means the provision of electric service (electric energy and/or services). Such term shall also include the provision of other utility type goods and services to the extent the provision of such goods and services would qualify an organization for exemption from federal income taxation under Section 501(c)(12) of the Internal Revenue Code and for which the Cooperative has a pre-existing legal obligation to provide on a Patronage basis through the allocation of Capital Credits; provided, however, that such pre-existing legal obligation may be limited to members only. Such pre-existing legal obligation shall be provided for by Board policies, Board resolutions, an affirmative vote of the members or other contractual authority (collectively, “authority”). Notwithstanding any provision of these Bylaws to the contrary, Cooperative Service does not include any good or service provided by an affiliate of the Cooperative to its customers.
- (d) **Allocating Earnings.** For each Cooperative Service provided during a fiscal year, the Cooperative shall equitably allocate to each Patron, in proportion to the quantity or value of the Cooperative Service used by the Patron during the fiscal year and timely paid for by the Patron, the Cooperative’s Patronage earnings from providing the Cooperative Service during the fiscal year. “Patronage earnings” means the amount by which the Cooperative’s Patronage sourced revenues, income and gains from and directly related to providing a Cooperative Service exceed the Cooperative’s Patronage sourced expenses and losses of providing the Cooperative Service, all as determined under federal cooperative tax law.

Provided, however, for each Cooperative Service, if costs and expenses exceed the amounts received and receivable from and directly related to providing such Cooperative Service, hereinafter referred to as “operating loss,” the Board of Directors shall have the authority, under accepted accounting practices, loan covenants and federal cooperative tax law, to prescribe the accounting procedures under which such operating loss may be addressed.

For each fiscal year, the Cooperative may, as determined by the Board, use, retain or equitably allocate the Cooperative’s Non-patronage earnings. “Non-patronage earnings” means revenue, income and gains in excess of expenses and losses from the provision of a good or service

not provided to the Patrons on a Patronage basis, including earnings or losses from a subsidiary corporation. Such Non-patronage earnings may be used to offset an operating loss as determined by the Board.

- (e) **Capital Credits.** For each amount allocated to a Patron, the Patron shall contribute a corresponding amount to the Cooperative as capital. The Cooperative must credit all capital contributions from a Patron to a capital account for the Patron. The Cooperative shall maintain books and records reflecting the capital contributed by each Patron. At the time of receipt by the Cooperative, each capital contribution is treated as though the Cooperative paid the amount allocated to the Patron in cash pursuant to a pre-existing legal obligation and the Patron contributed the corresponding amount to the Cooperative as capital. The term “Capital Credits” means the amounts allocated to a Patron and contributed by the Patron to the Cooperative as capital.

Consistent with this Bylaw, the allocation of Capital Credits is in the discretion of the Board and the Board must determine the manner, method and timing of allocating Capital Credits. The Cooperative may use or invest unretired Capital Credits as determined by the Board. To secure a Patron’s obligation to pay amounts owed to the Cooperative, including any compounded interest and late payment fee, and in return for the Cooperative providing a Cooperative Service to the Patron, the Cooperative has, and by accepting service, each Patron hereby grants to the Cooperative, a security interest in Capital Credits allocated to the Patron. The Patron authorizes the Cooperative to perfect this security interest by filing a financing statement.

- (f) **Different and Separate Allocations.** As reasonable and fair, the Cooperative may allocate Capital Credits to classes of similarly situated Patrons under different manners, methods and timing, provided the Cooperative allocates Capital Credits to similarly situated Patrons under the same manner, method, and timing. If the Cooperative is a member, Patron or owner of an entity from which the Cooperative uses a good or service in providing a Cooperative Service and from which the Cooperative is allocated a Capital Credit or similar amount, then, as determined by the Board and consistent with this Bylaw, the Cooperative may separately identify and allocate to the Cooperative’s Patrons this Capital Credit or similar amount allocated by the entity.
- (g) **Joint Memberships.** Upon the death of a joint member, the Cooperative shall assign and transfer to the surviving joint member an equal portion of Capital Credits allocated or to be allocated, to the surviving member; or upon the death of both members of a joint membership,

the membership will terminate and the balance in the capital account will be subject to the Special Retirement provisions of Article VIII [Non-Profit Operation], Section 4(b) of these Bylaws.

Section 3. Notification and Assignment of Capital Credits

Within a reasonable time after the end of each fiscal year, the Cooperative shall notify all Patrons of the aggregate amount of capital credited to the Capital Accounts of all Patrons and, upon request, the Cooperative shall inform an individual Patron of the specific amount of capital credited to the Patron's capital account. Except as otherwise provided by the Board or these Bylaws, to assign or transfer a Patron's Capital Credits: (1) the Cooperative must receive a written or Electronic request signed by the Patron to assign or transfer the Capital Credits; (2) the Patron and the assignee or transferee must comply with all reasonable requirements specified by the Cooperative; and (3) the Board shall have the right to approve or deny the assignment or transfer in its sole discretion.

Section 4. Retiring Capital Credits

The Cooperative may retire and pay Capital Credits allocated to Patrons and former Patrons as provided in this Bylaw. If the Cooperative retires and pays Capital Credits, then the Cooperative must retire and pay Capital Credits in a Patron's name as shown in the Cooperative's records, regardless of the Patron's marital status. If the Cooperative mails a retired Capital Credit payment, then the Cooperative shall mail the payment to the Patron or former Patron's address as shown in the Cooperative's records.

- (a) **General Capital Credit Retirements.** At any time before the Cooperative's dissolution, liquidation or other cessation of existence, the Cooperative may generally retire and pay some or all Capital Credits allocated to Patrons and former Patrons.
- (b) **Special Capital Credit Retirements.** The Cooperative may specially retire and pay some or all Capital Credits allocated to an individual Patron or former Patron: (1) after the death of the individual; (2) after receiving a written or Electronic request from the deceased individual's legal representative; and (3) according to the terms and conditions agreed upon by the Cooperative and the deceased individual's legal representative. The Cooperative may not specially retire and pay Capital Credits allocated to an Entity Patron or former Entity Patron (A) during or after the entity's dissolution, liquidation or other cessation of existence or (B) during or after the entity's reorganization, transfer, merger or consolidation.
- (c) **Capital Credit Recoupment and Offset.** Regardless of a statute of limitation or other time limitation, after retiring Capital Credits allocated to a Patron or former Patron, the Cooperative may recoup, offset or setoff an amount owed to the Cooperative by the Patron or former Patron, including any compounded interest and late payment

fee, by reducing the amount of retired Capital Credits paid to the Patron or former Patron by the amount owed to the Cooperative.

- (d) **Capital Credit Retirement Discretion.** The Cooperative may retire and pay Capital Credits only if the Board determines that the retirement and payment will not adversely impact the Cooperative's financial condition. Consistent with this Bylaw, the retirement and payment of Capital Credits are in the sole discretion of the Board and are not affected by previous retirements and payments. The manner, method and timing of retiring and paying Capital Credits may be determined only by the Board.
- (e) **Different and Separate Capital Credit Retirements.** As reasonable and fair, the Cooperative may retire and pay Capital Credits to classes of similarly situated Patrons and former Patrons under different manners, methods and timing, provided the Cooperative retires and pays Capital Credits to similarly situated Patrons and former Patrons under the same manner, method and timing. If the Cooperative separately identified and allocated Capital Credits representing Capital Credits or similar amounts allocated to the Cooperative by an entity in which the Cooperative is or was a member, Patron or owner, the Cooperative may retire and pay these Capital Credits only after the entity retires and pays the Capital Credits or similar amounts to the Cooperative.

Section 5. Patron Agreement

Each Patron and former Patron agrees that:

- (1) Capital Credits are not securities under state or federal law;
- (2) The Patron's right to Capital Credits vests, accrues, becomes redeemable and becomes payable only upon the Cooperative retiring the Capital Credits as provided in these Bylaws and not upon the Cooperative allocating the Capital Credits; and
- (3) As required by law, each Patron will: (A) report to the appropriate entity all allocated or retired Capital Credits; and (B) pay the appropriate entity any tax or similar amount on allocated or retired Capital Credits.

Section 6. Non-Member Patrons and Non-Patrons

As a condition of using a Cooperative Service and except as otherwise provided by the Board:

- (1) To the same extent as a member, a Patron who is not a member ("non-member Patron") and a Person using a Cooperative Service who is not a member or Patron ("Non-Patron") must abide by and be bound to the duties, obligations, liabilities and responsibilities imposed by the Governing Documents upon members;
- (2) A non-member Patron or non-member former Patron has none of the rights granted by the Governing Documents to members, other than the rights to: (A) be allocated Capital Credits; and (B) be paid retired Capital Credits; and

- (3) A Non-Patron or former Non-Patron has none of the rights granted by the Governing Documents to members.

ARTICLE IX (ELECTRONIC DOCUMENTS AND ACTIONS)

- (a) As used in these Bylaws, subject to the context requiring otherwise and as determined by the Board:
 - (1) "Electronic" and "Electronically" mean relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities;
 - (2) To sign an Electronic document means, with present intent to authenticate or adopt the Electronic document, to attach to, or logically associate with, the Electronic document an Electronic sound, symbol or process; and
 - (3) Electronic transmission includes transmission through: (A) Electronic mail; (B) the Cooperative's website; or (C) a website or information processing system that the Cooperative has designated or uses to send, receive, or transmit Electronic documents or Electronic information, or to Electronically conduct an action, transaction, business, meeting, or activity.
- (b) If a member or Director owns, controls or has reasonable access to the applicable or necessary hardware and software, the member or Director may choose to transact certain business with the Cooperative in an Electronic format. In such event:
 - (1) the member or Director consents and agrees to: (A) use, accept, send, receive, and transmit an Electronic signature, contract, record, notice, vote, communication, comment and other document regarding an action, transaction, business, meeting, or activity with, for, or involving the Cooperative ("Electronic Document"); (B) Electronically conduct an action, transaction, business, meeting, or activity with, for, or involving the Cooperative; and (C) Electronically give or confirm this consent and agreement;
 - (2) an Electronic document sent or transmitted to, or received or transmitted from, the member or Director satisfies a requirement imposed by the Governing Documents that the underlying signature, contract, record, notice, vote, communication, comment or other document be in writing;
 - (3) Electronically sending or transmitting an Electronic document to, or receiving or transmitting an Electronic document from, the member or Director satisfies a requirement imposed by the Governing

Documents that the underlying signature, contract, record, notice, vote, communication, comment, or other document be sent or received personally or by mail; and

- (4) the member or Director Electronically taking an action provided in these Bylaws satisfies a requirement imposed by the Governing Documents regarding the form or manner of taking the action.

Except as otherwise provided in these Bylaws, an Electronic document Electronically sent or transmitted to a member, Director or former member at the member's, Director's or former member's last known Electronic address is considered sent, received, transmitted and effective on the date sent by the Cooperative. An Electronic document Electronically received or transmitted from a member, Director or former member is considered sent, received, transmitted and effective on the date received by the Cooperative.

ARTICLE X (WAIVER OF NOTICE)

Any member or Director may waive, in writing, any notice of meetings required to be given by these Bylaws.

ARTICLE XI (DISPOSITION OF PROPERTY)

The Corporation may not sell, lease or otherwise dispose of any of its property other than:

- (a) property which, in the opinion of the Board, neither is nor will be necessary or useful in operating or maintaining the Corporation's system or facilities;
- (b) property which may be necessary or useful in the operation or maintenance of the Corporation's system or facilities but which, in the judgment of the Board, is in the best interest of the Corporation, should be sold, disposed of, leased or encumbered; provided, however, that all sales of such property shall not in any one year exceed in value ten percent (10%) of the value of all the property, plant and equipment of the Corporation;
- (c) services of all kinds permitted by law, including, but not limited to, electric energy; and
- (d) personal property acquired for resale;

unless, such sale, lease or other disposition is authorized by an affirmative vote of a majority of the members present at a meeting of the members, at which at least one-half of the total membership of the Corporation are present in person or by proxy and notice of the proposed sale, lease or other disposition shall have been contained in the notice of the meeting; provided, however, that, notwithstanding

anything herein contained, the Board, without authorization by the members, shall have full power and authority to borrow money from the United States of America or any agency or instrumentality thereof, or from any bank, person, firm or corporation whatsoever and in connection with such borrowing to authorize the making and issuance of bonds, notes or other evidences of indebtedness and to secure the payment thereof, to authorize the execution and delivery of a mortgage or mortgages, or a deed or deeds of trust upon, or a security interest in, or the pledging or encumbrancing of any or all of the property, assets, rights, privileges, licenses, franchises and permits of the Corporation, wherever situated, and whether acquired or to be acquired, and wherever situated, all upon such terms and conditions as the Board shall determine.

ARTICLE XII (FISCAL YEAR)

The fiscal year of the Cooperative shall begin on the first of January of each year and end on the thirty-first day of December of the same year.

ARTICLE XIII (MEMBERSHIP IN OTHER ORGANIZATIONS)

The Cooperative may become a member of, or purchase stock in any other organization upon the authorization of a majority of the Board present.

ARTICLE XIV (SEAL)

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

ARTICLE XV (AMENDMENTS)

The Bylaws of the Corporation may be altered, amended or repealed by not less than the affirmative vote of two-thirds (2/3) of all the Board at any regular or Special Meeting.

ARTICLE XVI (STATEMENT OF NON-DISCRIMINATION)

Guadalupe Valley Electric Cooperative, Inc. (GVEC) shall comply fully with all requirements of State and Federal civil rights laws including the Federal Equal Employment Opportunity Commission (EEOC) and the Texas Commission on Human Rights Act. GVEC will recruit, employ and promote employees in all job classifications without regard to race, color, religion, sex, national origin, age or disability.

Furthermore, GVEC is committed not to discriminate against any person on the grounds of race, color, religion, sex, national origin, age or disability in its policies and practices relating to requests for service or any other policies and practices relating to treatment of beneficiaries and participants including rates, conditions

and extensions of service, use of any of its facilities, attendance at and participation in any meetings of beneficiaries and participants or the exercise of any rights of such beneficiaries and participants in the conduct of the operations of this organization.



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GuadalupeValleyElectricCooperative, Inc.