

# BYLAWS

## Bandera Electric Cooperative, Inc.

### ARTICLE I

#### Members

**Section 1. Qualifications and Obligations.** Any person, firm, corporation or body politic may become a member of the Cooperative by:

- (a) paying the membership fee hereinafter specified;
- (b) agreeing to purchase from the Cooperative electric energy as hereinafter specified; and
- (c) agreeing to comply with and be bound by the articles of incorporation of the Cooperative and these bylaws and any amendments thereto and such rules and regulations as may from time to time be adopted by the Board of Directors,

provided, however, that no person, firm, corporation or body politic shall become a member unless and until he or it has been accepted for membership by the Board of Directors or the members. At each meeting of the members held subsequent to the expiration of a period of six (6) months from the date of incorporation of the Cooperative, all applications received more than ninety (90) days prior to such meeting and which have not been accepted by the Board of Directors shall be submitted by the Board of Directors to such meeting of the members and, subject to compliance by the applicant with the conditions set forth in subdivisions (a), (b) and (c) of this section, such application for membership may be accepted by a vote of the members at such meeting. The Secretary shall give any such applicant at least ten (10) days prior notice of the date of the members' meeting to which his application will be submitted and such applicant may be present and heard at the meeting. No person, firm, corporation or body politic may own more than one (1) membership in the Cooperative.

A husband and wife may jointly become a member and their application for a joint membership may be accepted in accordance with the foregoing provisions of this section provided the husband and wife comply jointly with the provisions of the above subdivisions (a), (b) and (c).

**Section 2. Membership Fee.** The membership fee shall be \$25.00 and the membership shall be in the name of the party being billed.

**Section 3. Purchase of Electric Energy.** Each member shall, as soon as electric energy shall be available, purchase from the Cooperative all electric energy used on the premises specified in his application for membership, and shall pay therefore monthly at rates which shall from time to time be fixed by the Board of Directors; provided, however, that the Board of Directors may limit the amount of electric energy which the Cooperative shall be required to furnish to any one member. Production or use of electric energy 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. It is expressly understood that amounts paid for electric energy in excess of the cost of service are furnished by members as capital and each member shall pay to the Cooperative such minimum amount per month regardless of the amount of electric energy consumed, as shall be fixed by the Board of Directors from time to time. Each member shall also pay all amounts owed by him to the Cooperative as and when the same shall become due and payable.

**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.

**Section 5. Expulsion of Members.** The Board of Directors of the Cooperative 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 of incorporation of the Cooperative or these bylaws or any rules or regulations adopted from time to time by the Board of Directors. Any member so expelled may be reinstated as a member by a vote of the members at any annual or special meeting of the members. The action of the members with respect to any such reinstatement shall be final.

**Section 6. Withdrawal 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 of Directors may prescribe.

- (a) Upon the withdrawal of a member who is indebted to the Cooperative, the membership fee, or so much thereof as may be necessary, shall be applied to the full or partial satisfaction of the indebtedness of such member.

**Section 7. Transfer and Termination of Membership.**

- (a) Membership in the Cooperative and a certificate representing the same shall not be transferable, except as hereinafter otherwise provided, and upon the death, cessation of existence, expulsion or withdrawal of a member the membership of such member shall thereupon terminate and the certificate of membership of such member shall be surrendered forthwith to the Cooperative. Termination of membership in any manner shall not release the member from the debts or liabilities of such member to the Cooperative.
- (b) A membership may be transferred by a member to himself or herself and his or her spouse, as the case may be, jointly upon the written request of such member and compliance by such husband and wife jointly with the provisions of subdivisions (b) and (c) of Section 1 of this article. Such transfer shall be made and recorded on the books of the Cooperative and such joint membership noted on the original certificate representing the membership so transferred.
- (c) When a membership is held jointly by a husband and wife, upon the death of either, such membership shall be deemed to be held solely by the survivor with the same effect as though such membership had been originally issued solely to him or her, as the case may be, and the joint membership certificate may be surrendered by the survivor and upon the recording of such death on the books of the Cooperative the certificate may be reissued to and in the name of such survivor; provided, however, that the estate of the deceased shall not be released from any membership debts or liabilities to the Cooperative.

## **ARTICLE II Meetings of Members**

**Section 1. Annual Meeting.** The annual meeting of the members shall be held on the second Saturday in May of each year, at a location within any county in which the Cooperative provides retail electric service as may be designated by the Board of Directors 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 may come before the meeting. The Board of Directors may for any reason deemed by it to be sufficient, advisable or proper, at any regular or special meeting of the Board of Directors, change the date for the annual meeting of members, providing that such date is changed at least thirty (30) days prior to the date so fixed for such annual meeting of members. If the election of directors shall not be held on the day designated for any annual meeting, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the members as soon thereafter as conveniently may be. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the Cooperative.

**Section 2. Special Meetings.** Special meetings of the members may be called only by the president, a majority of the Board of Directors, or upon a written request signed by at least ten per centum (10%) of all the members and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. Special meetings of the members may be held at a location within any county in which the Cooperative provides retail electric service as specified in the notice of the special meeting.

**Section 3. Notice of Members' Meetings.** Written or printed notice stating the place, day and hour of the meeting, and in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) days nor more than thirty (30) days before the date of the meeting, either personally or by mail, by or at the direction of the Secretary, or by the persons calling the meeting, 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 address as it appears on the records of the Cooperative, with postage thereon prepaid. 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.** As long as the total number of members does not exceed one thousand (1000) at least fifteen per centum (15%) of the total number present in person or represented by proxy shall constitute a quorum for the transaction of business at all meetings of the members provided at least five per centum (5%) of the total number of members are present in person. In case the total number of members shall exceed one thousand (1000) then at least one hundred fifty (150) of the members present in person or represented by proxy shall constitute a quorum for the transaction of business at all meetings 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. When voting by mail is authorized by the Board of Directors, members so voting shall be counted as present.

**Section 5. Voting.** Each member shall be entitled to one (1) vote and no more upon each matter submitted to a vote at a annual 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 or by proxy, except as otherwise provided by law, the articles of incorporation of the Cooperative, or by these bylaws. If a husband and wife hold a joint membership, they shall jointly be entitled to one (1) vote and no more upon each matter submitted to a vote at a meeting of the members.

**Section 6. Proxies.** At all meetings of members, a member may vote by proxy executed in writing by the member. Such proxy shall be filed with the Secretary before or at the time of the meeting. No proxy shall be voted at any meeting of the members unless it shall designate the particular meeting at which it is to be voted, and no proxy shall be voted at any meeting other than the one so designated or any adjournment of such meeting. No member shall vote as proxy for more than three (3) members at any meeting of the members except where such person is exercising a proxy in connection with the borrowing of funds from the United States of America or a sale, mortgage, lease or other disposition or encumbrance of property to United States of America or any agency or instrumentality thereof or in connection with an amendment to the articles of incorporation of the Cooperative. No proxy shall be valid after sixty (60) days from the date of its execution. The presence of a member at a meeting of the members shall revoke a proxy theretofore executed by him and such member shall be entitled to vote at such meeting in the same manner and with the same effect as if he had not executed a proxy. In case of a joint membership, a proxy may be executed by either husband or wife. The presence of either husband or wife at a meeting of the members shall revoke a proxy theretofore executed by either of them and such joint member or members shall be entitled to vote at such meeting in the same manner and with the same effect as if a proxy had not been executed.

**Section 7. Voting by Mail.** The Board of Directors may authorize voting by mail on any matter submitted to a vote by the members. When such procedure is authorized by the Board of Directors, such mail votes shall be upon ballot forms to be furnished to the member at the time notice of any members meeting is given to the members.

**Section 8. Order of Business.** 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:

1. Call of the roll.
2. 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.
3. Reading of unapproved minutes of previous meetings of the members and the taking of necessary action thereon.
4. Presentation and consideration of, and acting upon reports of officers, directors and committees.
5. Election of directors.
6. Unfinished business.
7. New business.
8. Adjournment.

## **ARTICLE III**

### **Directors**

**Section 1. General Powers.** The business affairs of the Cooperative shall be managed by a Board of nine (9) directors which shall exercise all of the powers of the Cooperative except such as are by law, or by the articles of incorporation of the Cooperative, or by these bylaws, conferred upon or reserved to the members.

**Section 2. Tenure of Office.** In the year 1972, nine (9) Board members shall be elected to office by the members, each Board member shall represent one of the nine districts outlined and approved at the meeting of the Board of Directors held on December 6, 1967, and each shall be elected in conformance with the procedures hereinafter set forth except that the term of office for each shall be as follows:

The Board members representing districts seven, eight and nine shall each be elected to serve until the annual meeting to be held in the year 1974, or until their successors shall have been elected and shall have qualified.

The Board members representing districts one, two and three shall be elected to serve until the annual meeting to be held in the year 1975, or until their successors shall have been elected and shall have qualified.

Beginning with the year 1973, and continuing each year thereafter, three (3) Board members shall each be elected for a three (3) year term to fill vacancies caused by expiration of the incumbents' term of office. Each such Board member shall be elected at an annual meeting of the members to serve until the annual meeting in his third year in office, or until his successors have been elected and shall have qualified. If an election of Board members shall not be held on the day designated herein for the annual meeting, or at any adjournment thereof, a special meeting of the members shall be held for the purpose of electing Board members within a reasonable time thereafter.

**Section 3. Qualifications.** No person shall be eligible to become or remain a Board member of the Cooperative who is not a member in good standing and bona fide resident of the district represented, or who is engaged in business with employed by, materially affiliated with or has a material financial interest with another director or in a competing enterprise or business selling electric energy or supplies to the Cooperative, or who does not within one (1) year of becoming a director unless excused by the board for good cause, receive a Credentialed Cooperative Director designation, Director's Certificate, or similar certification from the National Rural Electric Cooperative Association. No person shall take or hold office as a Board member who is the incumbent of or candidate for an elective public office in connection with which a salary is paid. When a membership is held jointly by husband and wife, either one, but not both, may be elected a director, provided, however, that neither one shall be eligible to become or remain a director of the Cooperative unless both shall meet the qualifications hereinabove set forth. Nothing in this section contained shall affect, or shall be construed to affect in any manner whatsoever, the validity of any action taken at any meeting of the Board of Directors.

**Section 4. Nomination and Election of Directors.**

(a) **Voting Districts** --The territory served or to be served by the Cooperative shall be divided into nine (9) districts, each of which shall be represented by one (1) director. The original nine (9) districts shall be those outlined and approved at the meeting of the board of directors held December 6, 1967. Not less than sixty (60) days before any meeting of the members at which directors are to be elected, the board of directors shall review the composition of the several districts, and, if it should be found that inequities in representation have developed which can be corrected by a redelineation of the districts, the board of directors shall reconstitute the districts. Factors including, but not limited to, the number of persons in each district, community boundaries, commonality of interests, area demographics and population density shall be considered by the board of directors in its delineation, if any, of the districts. Failure of the board to review or redelineate, or failure to do so within such sixty (60) day period shall not, however, invalidate any election.

(b) **Nomination by Petition** – Nominations for official director candidates may be made by written petition. A petition is valid only if:

- (1) it designates, on each page of the petition, the 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 at least ten (10) percent of the current Cooperative members of that voting district. If a husband and wife hold a joint membership, they jointly shall be entitled to only one signature;
- (4) at least the number of signatures required for Section 4(b)(3) above are dated no later than sixty (60) days after the earliest signature on the petition;
- (5) it contains the member's printed name and mailing address of where the member receives the Cooperative's electric bill next to the member's signature; and

- (6) the petition is submitted to the corporate office of the Cooperative by 5:00 p.m. on the first Friday in February.

Not later than thirty (30) days after the petition is submitted, the Cooperative's board of directors shall determine whether or not the petition is valid and pass a resolution stating its finding. If the Cooperative's board of directors fails to act within the time allowed, the petition shall be treated as if it had been found valid.

- (c) **Nomination at District Meetings**—Not less than twenty (20) days nor more than sixty (60) days before any meeting at which directors are to be elected, the Board of Directors shall call a separate meeting of the members of each district in which the terms of incumbent Board members are due to expire, at a suitable place reasonably accessible to the members of that district, for the purpose of nominating one or more persons as candidates for director to represent the members located within such district. Written or printed notice of such meeting, stating the day, place and hour of such meeting shall be delivered, either personally or by mail, not less than five (5) days nor more than thirty (30) days before the date of such meeting to each member of the district, and shall indicate the district to which such member belongs. The notice shall state that nominations for a director are to be made 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 of Directors.

The district meeting shall be called to order by the director representing the district, or by another designated representative of the Board of Directors, or in his absence, by any member residing within the district. The members shall then proceed to elect a chairman, who shall be someone other than a director, and who shall appoint a secretary to act for the duration of the meeting. Ten percent (10%) of the members residing in the district present at such duly called meeting shall constitute a quorum. Nominations for candidates shall be made from the floor at the meeting, and any member residing in the district shall have the right to nominate one (1) candidate. If a husband and wife hold a joint membership, they jointly shall be entitled to only one (1) nomination. Members of other districts present at the meeting may be heard but shall have no authority to nominate a candidate. The meeting shall remain open for nominations until no further nominations are forthcoming, but in no case less than five (5) minutes. All persons nominated at the meeting shall become official candidates. Candidates must be members residing in the district and must possess the qualifications for director specified in Section 3 of Article III of these bylaws.

The minutes of such district meeting shall set forth, among other matters, the name of the person(s) nominated at the meeting, and shall specify that each qualified nominee is an official candidate for the district. A certified copy of the minutes, signed by the secretary and chairman of the district meeting, shall be delivered to the secretary of the Cooperative within five (5) days after such district meeting.

In the event a quorum is not present at such district meeting, then the incumbent director of such district shall be an official candidate from that district.

- (d) **Election of Directors**—Not less than ten (10) days, nor more than thirty (30) days before an annual or special meeting of the members at which directors are to be elected, the secretary of the Cooperative shall mail to each member a list of the candidates nominated at all district meetings and by petition, the names to be arranged by districts, together with ballots for mail voting and appropriate instructions for mail voting.

If there is more than one candidate for a district, the order of the names of the candidates for that district shall be determined by drawing, which will be conducted by the Cooperative. Each candidate affected by such drawing will be provided at least 72 hours notice of such drawing and is entitled to be present or have a representative present for the drawing.

This list and ballots may be included with the notice of the meeting. At the meeting the secretary of the Cooperative shall place in nomination the names of the official candidate(s) for each district. Election of directors shall be by printed ballot; provided, however, that if all candidates are unopposed, then by a majority vote of the members present or voting by proxy, the election may be made by acclamation. The ballot shall list the candidates nominated at the district meetings and by petition, the names to be arranged by districts and in the order determined by the drawing described above. Each member of the Cooperative, whether voting by mail in ballot, voting in person at the meeting or voting by proxy (subject to the limitations of Article II, Section 6) shall be entitled to vote for one (1) candidate from each district.

The candidate for any particular voting district receiving the highest number of votes shall be declared the director of that particular voting district. In the event the election results in a tie, an automatic recount shall be

conducted. If the recount does not resolve the tie, the tied candidates shall draw from a container containing a series of numbers equaling the number of candidates up for election. The candidate who draws the highest number shall be declared the director of that particular voting district.

**Section 5. Vacancies.** Subject to the provisions of these bylaws with respect to the removal of directors, vacancies occurring in the board of directors may be filled by:

- (1) nomination and election by the members consistent with these bylaws;
- (2) nomination by a two thirds (2/3) majority vote of the remaining directors and election by the members at a meeting called for such purpose;
- (3) a two thirds (2/3) majority vote of the remaining directors; or
- (4) such other procedures as may be approved by a majority vote of the remaining directors.

Directors thus elected shall serve until the next regular election of directors.

**Section 6. Compensation.** As allowed by law and as determined or approved by the Board, the Cooperative may reasonably reimburse, compensate, or provide insurance or other benefits to Directors. The Board shall determine or approve the manner, method, and amount of any Director reimbursement, compensation, or benefits.

In consideration for serving as a Director, as determined by the Board, and without granting a Director of former Director any contract or other vested rights, the Cooperative may promise to reasonably compensate, or provide insurance or other benefits to a Director after the Director ceases serving as a Director. After a Director ceases serving as a Director, the Board shall determine or approve, and may change or eliminate for any reason, the manner, method, and amount of any compensation or benefits provided to the former Director.

**Section 7. Rules and Regulations.** The Board of Directors shall have power to make and adopt such rules and regulations, not inconsistent with law, the articles of incorporation of the Cooperative, or these bylaws, as it may deem advisable for the management, administration and regulation of the business and affairs of the Cooperative.

**Section 8. Accounting System and Reports.** The Board of Directors 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 such accounting system as may from time to time be designated by the administrator of the Rural Utilities Service of the United States of America. The Board of Directors shall, 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. A report on such audit shall be made to the members at the following annual meeting.

**Section 9. Removal of Directors.**

- (a) Removal by the members. The members may remove a director for cause only upon the affirmative vote of two thirds (2/3) of the votes of the members present at a duly constituted meeting of the members; however, only one director may be removed by the members in any 12 month period.
  - (1) "Cause" for removal by the members shall mean that the director is alleged to have violated applicable policies of the Cooperative, or committed an act or omission adversely affecting the business and affairs of the Cooperative and amounting to gross negligence, fraud or criminal conduct, a substantial breach of the director's fiduciary duties, or mental incompetence.
  - (2) No director shall be removed by the members except upon certification that the following procedures have been followed:
    - (A) A written petition must be presented to the Board, which shall:
      - (i) Describe in detail each of the charges and the basis for such charges; and
      - (ii) Be signed by a minimum of 10% of the members of the Cooperative within 60 days of the date of the petition.
    - (B) If a majority of the Board determines that the petition complies with paragraph (A),

and only if the Secretary certifies the authenticity of the petition, a meeting of the members shall be noticed in accordance with these Bylaws and shall be held within sixty (60) days after receipt by the Cooperative of the written petition.

(C) At such meeting, facts must be presented in support of the charges. The director shall be entitled to be represented by counsel and shall have the opportunity to refute such charges before a vote of the members is taken.

(b) Removal by the Board. The Board may remove a director for cause only as provided in this section.

(1) "Cause" for removal by the Board shall mean that the director has failed to comply with or meet any Director Qualification, is alleged to have violated applicable policies of the cooperative, or has been convicted of a felony.

(2) No director shall be removed by the Board except upon certification that the following procedures have been followed:

(A) A written motion must be presented to the Board, which shall:

(i) Describe in detail the basis for the proposed removal; and

(ii) Be signed by a minimum of a majority of the directors;

(B) Written notice must be provided to the director of the basis for the proposed removal within seven (7) days of receipt by the Board of the written motion;

(C) If a majority of the Board determines that the petition complies with paragraph (A), a meeting of the directors shall be noticed in accordance with these Bylaws and shall be held within ninety (90) days after receipt by the Board of the written motion;

(D) At such meeting, facts must be presented in support of the proposed removal. The director shall be entitled to be represented by counsel and shall have the opportunity to refute the basis for the proposed removal before a vote of the directors is taken; and

(E) At least two-thirds (2/3) of the directors present at duly constituted meeting of the Board called to consider the proposed removal affirmatively vote to approve the proposed removal.

(c) Vacancies created by the removal and/or disqualification of directors shall be filled as otherwise provided in these bylaws.

(d) Nothing contained herein, however, shall affect in any manner whatsoever the validity of any action taken at any meeting of the Board of Directors.

## **ARTICLE IV**

### **Meetings of Directors**

**Section 1. Regular Meetings.** A regular meeting of the Board of Directors shall be held without notice other than this bylaw, immediately after, and at the same place as, the annual meeting of the members. A regular meeting of the Board of Directors shall also be held monthly at such time and place in Bandera County, Texas, as the Board of Directors may provide by resolution. Such regular monthly meetings may be held without notice other than such resolution fixing the time and place thereof.

**Section 2. Special Meetings.** Special meetings of the Board of Directors may be called by the President or any three (3) directors. The person or persons authorized to call special meetings of the Board of Directors may fix the time and place, which shall be in Bandera County, Texas, for the holding of any special meeting of the Board of Directors called by them.

**Section 3. Notice.** Notice of the time, place and purpose of any special meeting of the Board of Directors shall be given at least five (5) days previous thereto, by written notice, delivered personally or mailed, to each director at his 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. 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 of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, provided, that if less than a majority of the directors are present at said meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

**Section 5. Manner of Acting.** The act of a two thirds (2/3) majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

## **ARTICLE V Officers**

**Section 1. Number.** The officers of the cooperative shall be President, Vice President, Secretary, Treasurer, and such other officers as may be determined by the Board of Directors 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 by ballot annually, by and from the Board of Directors at the first meeting of the Board of Directors 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 conveniently may be. Each officer shall hold office until the first meeting of the Board of Directors following 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 these bylaws with respect to the removal of officers.

**Section 3. Removal.** Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors 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 of Directors for the unexpired portion of the term.

**Section 5. President.** The President shall:

- (a) be the principal executive officer of the cooperative and, unless otherwise determined by the members of the Board of Directors, shall preside at all meetings of the members and the Board of Directors;
- (b) sign with the Secretary, certificates of membership, the issue of which shall have been authorized by the Board of Directors or the members, and may sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the Board of Directors to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the Board of Directors or by these bylaws, to some other office 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 of Directors from time to time.

**Section 6. Vice-President.** In the absence of the President or in the event of his inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting, shall have all 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 him by the Board of Directors.

**Section 7. Secretary.** The Secretary shall be responsible for:

- (a) keeping the minutes of the meetings of the members and of the Board of Directors in books provided for that purpose;
- (b) seeing that all notices are duly given in accordance with these bylaws or as required by law;
- (c) the safekeeping of the corporate books and records and the seal of the Cooperative and affixing the seal of the Cooperative to all certificates of membership prior to the issue thereof, and to all documents, the execution of

which on behalf of the Cooperative under its seal is duly authorized in accordance with the provisions of these bylaws;

- (d) keeping a register of the names and post office addresses of all members;
- (e) signing, with the President, certificates of membership, the issue of which shall have been authorized by the Board of Directors or the members;
- (f) keeping on file at all times a complete copy of the articles of incorporation and bylaws of the Cooperative containing all amendments thereto (which copy shall always be open to the inspection of any member) and at the expense of the Cooperative, furnishing a copy of the bylaws and of all amendments thereto to any member upon request; and
- (g) in general performing all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Board of Directors.

**Section 8. Treasurer.** The Treasurer shall be responsible for:

- (a) custody of all funds and securities of the Cooperative;
- (b) the receipt of and the issuance of receipts for all monies due and payable to the Cooperative and for the deposit of all such monies in the name of the Cooperative in such bank or banks as shall be selected in accordance with the provisions of these bylaws; and
- (c) the general performance of 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 of Directors.

**Section 9. Manager.** The Board of Directors may appoint a manager who may be, but who shall not be required to be, a member of the Cooperative. The manager shall perform such duties as the Board of Directors may from time to time require of him and shall have such authority as the Board of Directors may from time to time vest in him.

**Section 10. Bonds of Officers.** The Board of Directors shall require the treasurer or any other officer of the Cooperative charged with responsibility for the custody of any of its funds or property, to give bond in such sum and with such surety as the Board of Directors shall determine. The Board of Directors in its discretion may also require any other officer, agent or employee of the Cooperative to give bond in such amount and with such surety as it shall determine.

**Section 11. Compensation.** The compensation, if any, of any officer, agent or employee who is also a director or close relative of a director, shall be determined by the members, as provided elsewhere in these bylaws, and the powers, duties and compensation of any other officers, agents and employees shall be fixed by the Board of Directors.

**Section 12. 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 VI**

### **Contracts, Checks and Deposits**

**Section 1. Contracts.** Except as otherwise provided in these bylaws, the Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name and on behalf of the Cooperative, and such authority may be general or confined to specific instances.

**Section 2. Checks, Drafts, etc.** All checks, drafts or other orders for the payment of money, all notes, bonds or other evidence 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 of Directors.

**Section 3. Deposits.** All funds of the Cooperative shall be deposited from time to time to the credit of the Cooperative in such bank or banks as the Board of Directors may select.

## **ARTICLE VII**

### **Membership Certificates**

**Section 1. Certificates of Membership.** Membership in the Cooperative shall 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 of Directors not contrary to, or inconsistent with, the articles of incorporation of the Cooperative or these bylaws. Such certificate shall be signed by the President and by the Secretary of the Cooperative and the corporate seal shall be affixed thereto.

**Section 2. Issue of Membership Certificates.** No membership certificates shall be issued for less than the membership fee fixed in these bylaws, nor until such membership fee has been fully paid for in cash, and such payment has been deposited with the Treasurer.

**Section 3. Lost Certificates.** In case of a lost, destroyed or mutilated certificate, a new certificate may be issued therefore upon such terms and such indemnity to the Cooperative as the Board of Directors may prescribe.

## **ARTICLE VIII**

### **Non-Profit Operation**

**Section 1. Interest or Dividends on Capital Prohibited.** The Cooperative shall at all times be operated on a cooperative non-profit basis for the mutual benefit of its patrons. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its patrons.

**Section 2. Patronage Capital In Connection with Furnishing Electric Energy.** In the furnishing of electric energy the Cooperative's operations shall be so conducted that all patrons will through their patronage furnish capital for the Cooperative. In order to induce patronage and to assure that the Cooperative will operate on a non-profit basis the Cooperative is obligated to account on a patronage basis to all its patrons for all amounts received and receivable from the furnishing of electric energy in excess of operating costs and expenses properly chargeable against the furnishing of electric energy. All such amounts in excess of operating costs and expenses at the moment of receipt by the amounts in excess of operating costs and expenses at the moment of receipt by the Cooperative are received with the understanding that they are furnished by the patrons as capital. The Cooperative is obligated to pay by credits to a capital account for each patron all such amounts in excess of operating costs and expenses. The books and records of the Cooperative shall be set up and kept in such a manner that at the end of each fiscal year the amount of capital, if any, so furnished by each patron is clearly reflected and credited in an appropriate record to the capital account of each patron. All such amounts credited to the capital account of any patron shall have the same status as though they had been paid to the patron in cash in pursuance of a legal obligation to do so and the patron had then furnished the Cooperative corresponding amounts for capital.

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

In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credits shall be retired without priority on a pro-rata basis before any payments are made on account of property rights of members. If, at any time prior to dissolution or liquidation, the Board of Directors shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital credited to patrons' accounts may be retired in full or in part. Any such retirements of capital shall be made in order of priority according to the year in which the capital was furnished and credited, the capital first received by the Cooperative being first retired; provided however, that beginning with the year 1989, cash made available for retirement in any year may be used to retire capital furnished by all patrons during the most recent fiscal year, subject to the requirement that an amount set by the Board of Directors of such cash shall be applied to the retirement of the oldest outstanding capital credits as herein above provided.

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

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

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

## **ARTICLE IX Waiver of Notice**

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

## **ARTICLE X Disposition of Property**

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

- (a) Property which in the judgment of the Board of Directors neither is nor will be necessary or useful in operating and maintaining the Cooperative's systems and facilities provided, however, that all sales of such property shall not in any one year exceed in value ten per centum (10%) of the value of all of the property of the Cooperative;
- (b) Services of all kinds, including electric energy; and
- (c) Personal property acquired for resale;

unless such sale, mortgage, lease, or other disposition or encumbrance is authorized at a meeting of the members by the affirmative vote of at least fifty-one per centum (51%) of all the members of the Cooperative voting in person, and the notice of such proposed sale, mortgage, lease, or other disposition or encumbrance shall have been contained in the notice of the meeting; provided, however, that notwithstanding anything herein contained, the Board of Directors, without authorization by the members, shall have full power and authority to borrow money, and in connection with such borrowing, to authorize the making and issuance of bonds, notes, or other evidence of indebtedness, and, to secure the payment thereof, to authorize the execution and delivery of a mortgage, or mortgages, or a deed or deeds of trust upon, or the pledging or encumbrancing of any or all of the property, assets, rights, privileges, licenses, franchises and permits of the Cooperative, whether acquired, or to be acquired, and wherever situated, all upon such terms and conditions as the Board of Directors shall determine, provided however, that so long as the Cooperative is indebted to the United States of America, or any agency thereof, no encumbrance of the Cooperative's property shall be created without the consent of the United States of America or the applicable agency thereof. The Policy on Offers to Acquire All or Substantially All of the Cooperative's Assets shall not be amended or repealed except by the affirmative vote of two thirds (2/3) of all directors.

## **ARTICLE XI Fiscal Year**

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

## **ARTICLE XII**

## **Memberships In Other Organizations**

The Cooperative may become a member of, or purchase stock in any other organization upon the authorization of two-thirds of the Board of Directors.

### **ARTICLE XIII**

#### **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 XIV**

#### **Amendments**

These bylaws may be altered, amended or repealed by not less than the affirmative vote of two-thirds (2/3) of all of the Board of Directors at any regular or special meeting.