

**POLICY ~~AND PROCEDURE ESTABLISHING PROCEDURES~~ FOR THE
DISPOSITION OF
ALL OR A SUBSTANTIAL PORTION OF THE COOPERATIVE'S
PROPERTY
PEDERNALES ELECTRIC COOPERATIVE, INC.
BOARD ADOPTED: JULY 19, 2010**

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REGITALS:

~~1. Pedernales Electric Cooperative (the "Cooperative") was created, and for more than 50 years has served, to bring electric service to homes, businesses, farms and ranches in areas where service was not otherwise available;~~

~~2.—The Cooperative was organized to provide its members with adequate and reliable electric service and to assist its members in the efficient and economical use of energy;~~

~~3.—The Cooperative is a viable business, which is efficiently performing the services for which it was organized;~~

~~4.—The Cooperative is also a vital part of the numerous communities which it serves, and as such, has concerns that include the interests of those communities as well as of other constituencies of the Cooperative;~~

~~5.—The Cooperative is operated as a nonprofit corporation, whereby all revenues not required for payment of its operating and maintenance expenses, principal and interest on its outstanding obligations, and reserves for improvements, new construction, depreciation, and contingencies are allocated to its members in proportion to the amount of business done with such members, as capital credited to the members' accounts, and those capital credits are retired to the members in accordance with state law and the Articles of Incorporation and Bylaws of the Cooperative;~~

~~6.—The Board of Directors (the "Board") recognizes the possibility that the Cooperative could in the future receive an unsolicited offer to acquire all or a substantial portion of the Cooperative's assets of various types (referred to in this Policy as "Property"), whether by purchase, merger, lease, or otherwise;~~

~~7.—The Board has determined that in order for the Directors to carry out their fiduciary duties to the Cooperative, minimize the costs and disruption to the Cooperative involved in undertaking repeated due diligence reviews, and abide by the terms of its Articles of Incorporation, Bylaws, and any applicable laws or regulations, it is in the best interest of the Cooperative and its members to establish certain procedures to govern the Cooperative's receipt, consideration, and final action on such an offer; and~~

~~8.1. The Cooperative's objectives in establishing this Policy are to (i) identify requirements for an unsolicited proposal to be considered as a Qualified Offer, as defined in this Policy; and (ii) identify the process by which a Qualified Offer will be~~

~~evaluated, in a manner consistent with the Directors' fulfillment of their fiduciary responsibilities and which will allow assessment of such proposals in sufficient depth to determine whether a sale of the Cooperative's assets under the terms of the proposal would be in the best interest of the Cooperative and its members.~~

~~NOW, THEREFORE, BE IT RESOLVED:~~

~~1.—That the Board of the Cooperative hereby adopts the following Policy in order to establish certain policies and procedures relating to offers, which shall be followed unless, the Board determines that an exception is required by the particular circumstances; and~~

~~2.—That this Policy is designed only to provide guidance for the Cooperative's Board and shall not be construed to create rights in the Cooperative's members, a party submitting an offer to the Cooperative, or any other person, corporation, or other entity.~~

~~POLICY:~~

Policy for the Disposition of All or a Substantial Portion of the Cooperative's Property

I. Purpose ~~GENERAL POLICY~~

~~The Pedernales Electric Cooperative ("PEC" or "Cooperative")'s and its Board of Directors ("Board") has established objectives in establishing this Policy, and accompanying Procedure, for the Disposition of All or a Substantial Portion of the Cooperative's Property. Policy are in order to (i) identify requirements for an unsolicited proposal to be considered as a Qualified Offer (as defined within the accompanying Procedure), as defined in this Policy; and (ii) identify the process by which a Qualified Offer will be~~

~~evaluated, in a manner consistent with the Directors' fulfillment of their fiduciary responsibilities and which will allow assessment of such proposals in sufficient depth to determine whether a sale of the Cooperative's assets under the terms of the proposal would be in the best interest of the Cooperative and its members.~~

II. Scope

~~This Policy, and accompanying Procedure, applies to the Board and all PEC employees and Members.~~

III. Policy Implementation

~~Article X of the Cooperative's PEC Bylaws addresses the requirements and procedures to be met and followed with respect to the disposition sale of all or a substantial portion of the the Cooperative's Ppropertyies. The PEC Articles of Incorporation separately requires Member approval prior to any sale or transfer of all or substantially all of the assets of the Cooperative.~~

~~The present unanimous position of the Board is that the Cooperative is not for sale. The sale of all, or substantially all, of PEC's Pproperty ies and the transfer to a purchaser of the Cooperative's consumers and service areas would cause the Cooperative to cease its legal existence (it would be dissolved); and, therefore, unless the sale is to another nonprofit cooperative entity, PEC would also to cease furnishing electric service on a cooperative, nonprofit basis. Similarly, the sale of PEC's facilities serving a substantial portion of the Cooperative's service area could significantly affect PECthe Cooperative's ability to provideion of service to the remainder of its service area.~~

~~This position of the Board does not mean that a proposal to purchase the necessarily would Cooperative would not be recommended by the Board or approved by vote of the Cooperative's Mmembers. Rather, the position is simply that the Board presently views the Cooperative as an excellent, viable cooperative enterprise, performing well and beneficially the services for which it was organized on the basis of the principles and purposes embodied in its organization, and. Therefore, the Board perceives there is no need or useful purpose into inviteing, much less encourageing, a proposal to purchase. The Board believes special considerations are in order in connection with a proposal made by any prospective purchaser.~~

IV. Procedure Implementation

~~The Board has established the accompanying Procedure to be followed in the event that an~~

unsolicited offer to purchase all or a substantial portion of the Cooperative's Property is made.

V. Enforcement

The Board will enforce this Policy and accompanying Procedure. Violation of this Policy may result in disciplinary action up to, and including, termination.

VI. References and Related Documents

Articles of Incorporation

Bylaws

<u>Policy Title:</u>	<u>Policy and Procedures for the Disposition of All or a Substantial Portion of the Cooperative's Property</u>
<u>Review Frequency:</u>	<u>Every Five Years</u>
<u>Last Reviewed:</u>	<u>September 16, 2022</u>
<u>Date Adopted:</u>	<u>July 19, 2010</u>
<u>Effective Date:</u>	<u>September 16, 2022</u>
<u>Amendment Dates:</u>	<u>July 19, 2010, September 16, 2022</u>
<u>Approver:</u>	<u>Board of Directors</u>
<u>Applies to:</u>	<u>This Policy, and accompanying Procedure, applies to the Board, and all PEC employees and Members</u>
<u>Administrator:</u>	<u>Board of Directors</u>
<u>Superseding Effect</u>	<u>This Policy supersedes all previous policies and memoranda concerning the subject matter. Only the Approver may authorize exceptions to this policy.</u>

Procedure for the Disposition of All or a Substantial Portion of the Cooperative's Property

I. Purpose

~~The purpose of this Procedure is to describe the process for In-receiving, evaluating, and acting upon an unsolicited proposal by an prospective purchaser ("Interested Party") to purchase all or a substantial portion of part of the Cooperative's Property in accordance with the PEC Bylaws's Property, the following rules and procedures will be applicable and adhered to except as may and Articles of Incorporation.~~

II. Scope

~~This Procedure applies when the proposal is to purchase or lease all or a substantial portion of the Cooperative's Property representing all or a substantial portion of the Cooperative's service area.~~

III. Procedure

~~In receiving, evaluating and acting upon an unsolicited proposal by a prospective purchaser ("Interested Party") to purchase all or part of the Cooperative's Property, the following rules and procedures will be applicable and adhered to except as may These rules and procedures shall apply when the proposal is to purchase all or a substantial portion of the Cooperative's Property representing, in the Board's determination, all or a substantial portion of the Cooperative's service area, or when the proposal is for the Cooperative to lease and/or sell such Property.~~

1. Notify the Board

~~Upon receipt of a proposal that is within the scope of this Procedure, representatives of management of the Cooperative ("Management") as identified by the PEC Board of Directors ("Board") in connection with each proposal shall promptly notify the Board in writing and attach a copy of the received proposal.~~

2. Provide an Opportunity for the Interested Party to Re-Submit the Proposal

~~Management Preliminary Determination. Upon its receipt of a proposal, the Cooperative's management shall promptly notify the Board in writing and attach a copy of the proposal. After notifying the Board, Management shall provide the Interested Party with a copy of this Policy, and Policy and Procedure and notify the Interested Party in writing that the proposal will be evaluated based on the provisions of this Policy and Procedure.~~

~~The Interested Party shall be given not more than ten (10) calendar days after receipt of the Policy and Procedure to (i) notify the Cooperative of a date certain by which the Interested Party will re-submit its proposal in compliance with the terms of this Procedure, or alternatively (ii) notify the Cooperative that it wishes its initial submittal to be considered under the terms of this Procedure.~~

~~If the proposal is timely re-submitted or reconfirmed by the Interested Party, Management shall make a preliminary determination as to whether the proposal constitutes a Qualified Offer, based on the criteria set out below.~~

3. Make Preliminary Determination of a Qualified Offer-Criteria

If the proposal is re-submitted in a timely manner or reconfirmed by the Interested Party, Management shall make a preliminary determination as to whether the proposal constitutes a "Qualified Offer", based on the criteria set out below, -In order for the proposal to be considered a "Qualified Offer" and, as such, to be officially evaluated and acted upon by the Board, it must

~~a.~~ bbe tendered in good faith;

~~b.a.~~

~~c.~~ Bbe in typewritten/word-processed or printed form;

~~d.b.~~

~~e.~~ Reasonably address all substantive aspects of an offer, including specification of an acquisition price and all other material terms, which are binding upon the Interested Party until a specified date or until rejected, and which, if accepted, will, subject to the required legal approval of the Cooperative's Members and any others, ripen into an approved Definitive Agreement~~enforceable contract~~;

~~f.c.~~

~~g.~~ Not contain provisions that ~~are in conflict with~~conflict with this Policy and Procedure as determined by the Board, or with the Cooperative's Articles of Incorporation, Bylaws, or any applicable law or other policies;

~~h.d.~~

~~i.~~ sSpecify a date, not earlier than 180 days next following the proposal's (or as, applicable, re-submitted proposal's) delivery to the Cooperative, on and after which, if not accepted by the Board, the proposal will expire;

~~j.e.~~

~~k.~~ Bbe accompanied by the name(s), address(es) and telephone number(s) of the person(s) representing the Interested Party with whom Management may communicate and from whom it may secure authoritative answers and decisions relating to the proposal;

~~f.~~

~~l.~~ dDisclose the identity of the Interested Party and be executed by authorized representatives of the Interested Party;

~~m.g.~~

~~n.~~ pProvide substantiation, in reasonable detail satisfactory to the Board, of the financial ability of the Interested Party to finance the transaction described in the proposal;

~~e.h.~~

~~p.~~ Contain an agreement by the Interested Party to the following non-disclosure provisions: The Interested Party shall not issue press releases or discuss the Qualified Offer with the media, or disclose provisions of the Qualified Offer or the existence or content of discussions or negotiations between the Interested Party and the Cooperative to the public or to any third party without prior written consent of the Cooperative; provided, however that such disclosures may be made by the

Interested Party to its accountants, attorneys, lenders, and investors on a “need-to-know” basis only when such parties agree to be bound by the non-disclosure provisions of this Policy Procedure; and the Interested Party shall cause such parties to comply with these non-disclosure provisions;

q.i.

~~f.~~ i Indicate facts in the proposal which can be reasonably assessed on an initial basis as providing significant value to the Cooperative in the following areas;

s.i.

- (1) Level of retail rates that would be charged to the Cooperative’s Mmembers;
- (2) Quality of customer service provided to the Cooperative’s Mmembers;
- (3) Benefits associated with local presence and support of communities in which the Cooperative’s Mmembers reside and in which it provides service; and
- (4) Ability of Mmembers to participate and have influence in the operation of the Cooperative through their representation on the Board;

~~t.~~ Demonstrate adequate financial capability and creditworthiness to implement the proposal, including an indication in writing of the Interested Party’s willingness to deposit with a financial institution mutually agreed to by the parties in an interest-bearing account an administrative cost reserve in the amount of \$ 500,000 or such greater amount the Board may determine to be appropriate, promptly upon the Interested Party’s being informed in writing by the Cooperative that the proposal is otherwise qualified for consideration under this Procedure Policy. The agreement providing for the administrative cost reserve deposit shall be in a form acceptable to the Cooperative. The administrative cost reserve deposit shall be subject to conditions approved by the Cooperative, including a provision that the

u.k. principal amount of the deposit may be drawn on by the Cooperative, without reimbursement to the Interested Party, to:

- (1) Pay all costs (including but not limited to accounting, engineering, and legal) of studies, reviews, analyses, and appraisals by and for the Cooperative in its evaluation and consideration of the Qualified Offer (including the Cooperative's internal staff costs associated with such evaluation and consideration), whether or not ultimately accepted; and
- (2) Pay costs incurred by the Cooperative in seeking regulatory approvals.

If the proposal is withdrawn or rejected, any remaining balance in the administrative cost reserve shall be paid to the Interested Party without interest when the Board certifies that all costs set forth in ~~clauses II.3(k)(i) and II.3(k)(ii)~~ of this section have been paid in full.

4. Submit Qualified Offer to the Board for Final Determination Decision as to Qualified Offer

~~Based on its application of the foregoing factors to the proposal, representatives of management of the Cooperative as identified by the Board in connection with each particular proposal ("Management") shall submit their assessment to the Directors, Board and the Directors Board shall make a final determination as to whether the proposal is a Qualified Offer.~~

v.a. ~~Board Determines that the~~ Proposal is Not Qualified. ~~If the Board determines that the proposal is not a thus Qualified Offer, it shall be summarily rejected by the Board. The Interested Party shall have no opportunity to correct or re-submit a proposal that has been rejected by the Board as unqualified. Any subsequent proposal submitted by an Interested Party within three (3) years following the Board's rejection of the Interested Party's initial proposal pursuant to this process shall not be considered by the Cooperative, and Cooperative and shall be summarily rejected.~~

b. ~~Board Determines that the Proposal is Qualified. Initiation of Phase I and Phase II Evaluations.~~ If the proposal is ~~thus~~ determined to be a Qualified Offer, and the administrative cost reserve provided for in ~~Part Section III.3(k) above II.3(k)~~ is properly deposited under a form of agreement approved by the Board, the Board shall promptly institute ~~the following procedures as~~ Phase I and Phase II of ~~the~~ evaluation process:

2.5. Conduct Phase I Evaluation

a. Commencement of Evaluation. The Board shall undertake an evaluation of the Qualified Offer. The evaluation shall ~~take into account~~ consider the provisions of this ~~Procedure~~ Policy, including the Standards for Evaluation set out in ~~Part III Appendix A.~~ Management may retain such consultants, advisors, and outside counsel as it deems appropriate in connection with its evaluation.

~~b.~~

~~c.~~ Determine Communications Liaison. The Board shall designate one or more individuals from the Cooperative to receive all communications, including telephone calls and written communications, from the Interested Party, the

_____ ~~M~~members, and the media. The designated individual ~~{s}~~ shall understand and follow this ~~Procedure~~, but not have authority to bind the Board or the Cooperative on any matter regarding the Qualified Offer. The Interested Party shall not communicate or discuss the proposal with any Member of the Cooperative other than the designated individual ~~{s}~~.

b. _____

d. ~~Send Copies of Qualified Offer Copies to Counsel and Address Loan Effect Inquiries.~~ The Board shall send a copy of the Qualified Offer to the Cooperative's attorney and such other attorneys and advisors as appropriate; and it shall determine, through appropriate inquiries, the effects of the Qualified Offer upon the Cooperative's mortgage, loan, or bond documents, or other instruments relating to the Cooperative's outstanding debt.

c. _____

e. ~~Conduct Rate and Service Quality Comparisons.~~ The Board shall obtain an initial comparison of the Cooperative's and the Interested Party's present (if the Interested Party is presently engaged in the provision of electric services) and reasonably foreseeable future rates, fees, and charges, assuming the future operation of the Cooperative by the Interested Party, including service extension requirements, other service rules and regulations, adequacy and reliability of service, and any other considerations relevant to the provision of electric service.

f.d. _____

g. ~~Gather Information From Interested Party.~~ The Board shall request detailed information from the Interested Party, such as annual reports, tax returns, and form 10-K filings dating back at least five (5) years; full copies of all relevant audits, internal planning documents, and employee policy manuals; a current stockholder or proposed investor list; a list of all pending court and administrative proceedings relevant to the proposed transaction; and any relevant operations manuals, engineering studies, construction plans, and environmental impact statements.

h.e. _____

i. ~~Obtain Tax Impact Opinion.~~ The Board shall request the Interested Party to submit an expert opinion, from such experts acceptable to the Cooperative, setting forth the potential tax liabilities of the transaction to the Cooperative and the ~~M~~members.

j.f. _____

k.g. ~~Complete Phase I Evaluation/Recommendation.~~ If the Board determines that, after preliminary investigation, which shall be reported to the Board with Management's assessment, the Board determines that, based on the findings to date, the Qualified Offer warrants proceeding with the expense of further investigation in greater depth, the Board shall implement Phase II - a second phase of the investigation.

3. _____

4. ~~Conduct Phase II Evaluation Phase II Evaluation. If the Board has determined that the Qualified Offer justifies further investigation in greater depth, Phase II of the investigation shall be conducted with the following features, and with the assistance of such consultants, advisors, and outside counsel as deemed appropriate in connection with its evaluation:~~

6.

a. Provide Additional Investment Cost Reserve Addition. As a condition of ~~this second~~ ~~Phase II~~, the Interested Party shall be required to deposit an additional sum of not less than \$750,000 into the administrative cost reserve. The additional deposit amount may be increased if the ~~Board Directors~~ determines that the Cooperative's evaluation efforts so require, and the Interested Party shall deposit the additional sum so required.

~~b. Provide Additional~~

~~e.b.~~ Cooperative Information. If requested, the Cooperative shall provide additional information to the Interested Party regarding the Cooperative's finances and operations, subject to the Interested Party's execution of a confidentiality agreement in form acceptable to the Cooperative.

~~d. Provide a~~

~~e.c.~~ Revised and Final Proposal. The Interested Party may thereafter submit a revised and final proposal to the Cooperative, reflecting the complete and definitive terms and conditions associated with the proposed transaction that is contemplated by the Qualified Offer.

~~f. Conduct a~~

~~g.d.~~ Valuation Study. In evaluating the Interested Party's proposal or final proposal (if a revised final proposal is submitted), Management shall obtain reports by two or more independent persons or firms that are ("valuers") expert in such matters, utilizing commonly accepted valuation methods, who shall be appointed by the Board and who shall render their respective opinions and findings as to valuation matters specified by Management, which matters may include the following:

~~(1)~~

~~(2)~~(1) The value of the Cooperative's physical properties and assets;

~~(3)~~

~~(4)~~(2) The value of its Property interests (including intangible interests such as, for instance, its service area rights);

~~(5)~~

~~(6)~~(3) The competitive going concern business value of the Cooperative, taking into account the present and reasonably foreseeable future market for its electric services;

~~(7)~~

~~(8)~~(4) The value of new and expanded residential, industrial, ~~commercial~~commercial, and other-type growth that may be reasonably anticipated within the Cooperative's service areas in the immediate and reasonably foreseeable future;

~~(9)~~

~~(10)~~ A comparison of the Cooperative's and the Interested Party's present (if the Interested Party is presently engaged in providing electric service) and reasonably foreseeable future adequacy and reliability of service, rates,

fees and

~~(11)~~(5) charges, service rules, regulations, and other terms and conditions of service, and;

~~(12)~~—

~~(13)~~(6) All other considerations meaningfully bearing upon the ability, willingness, intent, and expected effects of the respective parties in providing electric service. Such reports shall be limited to that portion of the Cooperative's Property which is the subject of the Qualified Offer, if such offer applies to less than all or substantially all the Cooperative's Property. Such ~~valuer~~ experts may also be assigned the responsibility of rendering their opinions as to the value of the loss to the Cooperative's ~~consumers of a cooperative Member or~~ mutual benefit organization for providing their electric services on a nonprofit, area-coverage basis at the lowest cost consistent with sound business principles, as opposed to receiving such service from a for-profit investor-owned utility, and as to the effect on the value and continued operations of the Cooperative's remaining systems, if any. However, Management shall also study the foregoing value factors and report its conclusions to the Board and the Board shall make its own final determination thereof, with the assistance of recommendations made by Management. The Board will review in accordance with their fiduciary duties give good faith regard to the reports and opinions of such ~~experts~~ valuers on all matters covered by their reports and opinions, reserving the right, however, to reject or accept such aspects thereof as the Board, after due consideration, may in its own sole discretion and judgment so determine.

h.e. Other Phase II Measures. Taking into consideration the provisions of this Policy Procedure, and the Standards for Evaluation set out in Part III Appendix A, the Board shall also undertake such other consultations, studies, deliberations, and other measures, and engage such advisors as it deems appropriate and sufficient to enable it to inform itself of all matters that are relevant and material to its decision as to whether to approve and recommend to the Mmembers or to reject the Qualified Offer.

7. Notify the Interested Party of a ~~Notice on~~ Rejection

—If the Board rejects the Qualified Offer in connection with the Phase I or Phase II ~~investigation~~ evaluation, it shall promptly ~~so~~ notify the Interested Party.

8. Provide Offer for Expanded ~~Option for~~ Solicitation Process

—If at any point in its evaluation process the Board determines that an expanded process for soliciting proposals from other potentially qualified entities is desirable and in the best interests of the Cooperative and its Mmembers, upon a vote of two-thirds (2/3) of the Directors, such a process may be implemented in lieu of continuing with ~~this~~ se p ~~Procedures set out in this Policy~~. In such event, the Interested Party will be ~~so~~ informed in writing and any remaining balance in the administrative cost reserve fund shall be paid, without interest, to the Interested Party.

5.9. Provide Consideration by Board of Approval of Qualified Offer

If, after evaluation of the Qualified Offer in accordance with their fiduciary duties and the standards in Appendix A and mutual agreement by the Board and the Interested Party to any changes in the Interested Party's proposed definitive agreement, two-thirds (2/3) of the Directors comprising the Board may determine by affirmative vote that the sale, transfer, lease, merger, or other acquisition proposed by the Qualified Offer is in the best interest of the Cooperative and its Mmembers under the terms of such definitive agreement with any changes in the Interested Party's proposed definitive agreement as required by the Board.

Upon such determination, the Board shall:

- a. Formalize such determination, as part of such affirmative vote, by adopting a resolution consistent with the provisions of the Bylaws, and notify the Interested Party of the Cooperative's intent to further pursue the proposed transaction contemplated by the definitive agreement ("~~Approved~~ Definitive Agreement"), subject to the necessary approval thereof by the Cooperative's Mmembers and any other required approvals; and subject to agreement by the Interested Party to the following terms and conditions, to be included in the ~~Approved~~ Definitive Agreement:

~~(1)~~ —

~~(2)~~(1) That the Cooperative is released from or otherwise satisfies its wholesale power contracts;

~~(3)~~ —

~~(4)~~(2) That any adverse tax impacts upon the Cooperative as an entity and its present and former Mmembers will be minimized to the extent practicable;

~~(5)~~ —

~~(6)~~(3) That all existing employees of the Cooperative are offered continued employment for at least three (3) years upon terms at least equal to those enjoyed by the Cooperative's employees at the time the Qualified Offer was submitted to the Board with the employment terms to be considered to include wages, salaries, severance benefits, insurance and pension benefits, fringe benefits, rank and job title, place of employment, and residence;

~~(7)~~ —

~~(8)~~(4) That the total consideration to be paid by the Interested Party will be paid directly to the Cooperative or its account; provided that a Qualified Offer of merger may provide for issuance of stock to the Cooperative's Mmembers in exchange for their capital credits and Mmembership interests;

~~(9)~~ —

~~(10)~~(5) That the transaction will become void if all regulatory, lender, and contractual approvals are not obtained within a reasonable time after Mmember approval;

~~(11)~~ —

~~(12)~~ That earnest money in an amount reasonably determined by majority vote

of the Board be deposited by the Interested Party with the financial institution referenced in ~~Part~~Section -III.3(k) of this ~~Procedure~~Policy to ensure the continued good-faith commitment of the Interested Party to proceed to consummation of the proposed transaction, under terms determined by the Board; to satisfy this requirement, the

~~(13)~~(6) Board may designate any remaining portion of the administrative cost reserve fund not needed for defrayal of evaluation costs to be utilized for such escrow, together with any additional amounts deemed appropriate;

~~(14)~~—

~~(15)~~(7) That the members will be notified of the Approved Definitive Agreement and of its substantive features;

~~(16)~~—

~~(17)~~(8) That there will be a call of a meeting of the Mmembers for the purpose of acting on the proposed transaction contemplated by the Approved Definitive Agreement, consistent with Part Section III.10 below; and

~~(18)~~—

~~(19)~~(9) a Any other terms and conditions reasonably determined by the Board to be necessary or appropriate in implementing the transaction contemplated by the Qualified Offer for inclusion in the Approved Definitive Agreement.

- b. Notify the National Rural Utilities Cooperative Finance Corporation (“CFC”) and/or any other applicable lenders of the Cooperative, to the extent such lenders have not already been notified, of the terms of the Approved Definitive Agreement and of the results of the Board’s evaluation process;

~~c.~~—

~~d.~~c. Upon execution by the Interested Party of the Approved Definitive Agreement incorporating the foregoing elements, notify the Mmembers that a proposal has been received constituting a Qualified Offer and that has been determined by the Board after the two-phase evaluation process to warrant submittal to the Mmembers for their review and consideration determination. The notification shall contain an accurate summary description of the Qualified Offer and of the Approved Definitive Agreement, shall state that the Board has provisionally approved the Approved Definitive Agreement for submittal to the Mmembers based on the evaluation process required by this Procedure policy, shall briefly describe the Procedures that the Board has followed in evaluating the Qualified Offer and the results of such evaluation, shall provide the name of the person Mmembers may contact with questions regarding the Qualified Offer and the evaluation process, and shall apprise the Mmembers that a copy of the formal Qualified Offer, relevant materials relating to the evaluation, and the Approved Definitive Agreement may be reviewed or copied by them at the Cooperative’s principal office and area offices at any reasonable hour during normal business days and in accordance with PEC’s Open Records Policy.

10. Conduct Procedure for a Member Meeting

—The conduct of the Mmember meeting and related mail-balloting on the Approved Definitive Agreement shall be so undertaken as to minimize the financial cost and operational disruption of the conduct of the Cooperative’s business, consistent with the following:

e.a. The Board shall promptly fix the time, date, and place of the meeting and shall prescribe the wording and method of disseminating, collecting, and counting the ~~written~~ ballots to be employed in the voting. In fixing the date of the meeting, the Board shall have due regard for the ability of the ~~M~~members to become fully apprised of the ~~Approved~~ Definitive Agreement so as to enable them to make an informed decision through their votes submitted in connection with the meeting, which shall in any event be called and held in compliance with the Cooperative's applicable Bylaw provisions and policies regarding meetings.

f. _____

g.b. If the Board determines that false or incorrect information is being disseminated by one or more persons, whether in favor of or opposed to the proposed transaction, and that such information may materially affect the outcome of the meeting and election, the Board may abort or withdraw the call of the meeting. Thereafter, the Board may either rescind its determination to approve the ~~Approved~~ Definitive Agreement, if it determines that the Interested Party was responsible, in whole or in substantial part, for the dissemination of such false or incorrect information; or it may reschedule the meeting and voting, conditioned upon the correction of such false or incorrect information by the person(s) responsible and upon their agreement to pay the cost of publishing such corrections in a manner prescribed by the Board, and/or upon their agreement to refrain from disseminating false or incorrect information relative to such newly fixed meeting and voting; and/or the Board may take any other action it deems appropriate in the circumstances.

h. _____

i.c. The Board shall otherwise conduct the meeting and the voting, and count and announce the result of the votes cast, in accordance with such plans and procedures as it shall establish in a manner consistent with any applicable provisions of law or of the Cooperative's Articles of Incorporation or Bylaws.

11. Conditions Applicable on Rejection of Qualified Offer or ~~Approved~~ Definitive Agreement

—If the Qualified Offer is rejected, either initially by the Board at the conclusion of Phase I or Phase II, or by the ~~M~~members in connection with their consideration of the ~~Approved~~ Definitive Agreement, any further proposal from the Interested Party submitting such a Qualified Offer within (3) three years thereafter shall be summarily rejected by the Board unless it materially differs from the rejected Qualified Offer and ~~Approved~~ Definitive Agreement.

12. Approval of ~~Approved~~ Definitive Agreement

In order for a Definitive Agreement to be considered "approved" by Membership, it requires an approval vote of sixty-six 2/3 percent (as stated in the Articles of Incorporation) and two-thirds (2/3) (as stated in the Bylaws) of all Members of the Cooperative, either in person or by Member proxy ("Approved Definitive Agreement").

—If the ~~M~~members vote to approve the ~~Approved~~ Definitive Agreement, the Cooperative shall take all actions reasonably necessary to effect the transaction contemplated thereby and, if necessary, dissolve and wind up the business of the Cooperative; provided, however, that it shall be the responsibility of the Interested Party to obtain all necessary regulatory and contractual approvals. Unless such approvals are obtained within such reasonable

time as determined by the Board included in the Approved Definitive Agreement, the proposed transaction shall be deemed terminated and null and void.

II. _____

IV. Definitions

Interested Party – A prospective purchaser of all or a substantial portion of the Cooperative's Property.

Property – The Cooperative's assets of various types.

Management – Representatives of management of the Cooperative as identified by the PEC Board of Directors.

Qualified Offer – An unsolicited proposal that meets the established criteria as determined by the Board of Directors.

Definitive Agreement – An agreement approved by the Board provisionally between an Interested Party and the Cooperative as to a sale of the assets of the Cooperative in accordance with this Policy and Procedure which then requires Member approval.

Approved Definitive Agreement – An agreement approved by the Members of the Cooperative for the sale of all or a substantial portion of the Cooperative.

V. References and Related Documents

Articles of Incorporation

Bylaws

Open Records Policy

APPENDIX A: STANDARDS FOR EVALUATION BY THE BOARD

After having received and approved the status of a Qualified Offer ~~under Part II.4~~, in evaluating and acting on a Qualified Offer under Phases I and II of the evaluation process set out in the e is Procedure~~icy~~, the following criteria, as well as any other criteria which the Board may determine to be appropriate under the circumstances, will be ~~taken into account~~considered by the Board:

1. **Members' Best Interest.** ~~Whether the Qualified Offer is in the best interest of the Cooperative's members.~~ In determining whether the Qualified Offer is in the Mmembers' best interest, the Board will consider both economic and non-economic matters, both at the present time and for the reasonably foreseeable future.
2. **Electric Service Quality.** If the Interested Party is engaged in the provision of electric service, the reliability and character of the electric service provided by the Interested Party, at the time of the Qualified Offer and as projected into the reasonably foreseeable future, including timeliness and priority of service restoration after outages, and regard for good engineering and operating standards, as compared with the Cooperative.
3. **Consumer Service Quality.** If the Interested Party is engaged in the provision of electric service, the character and quality of consumer services provided by the Interested Party as compared with the Cooperative's, including convenience for consumers of billing and bill-paying procedures, consideration and provision for consumers with special electrical needs or in hardship cases, procedures and personnel available for dealing with consumer complaints, extension/connection/~~and~~ reconnection policy with respect to new and existing consumers, concern for property owners and occupants in obtaining rights of way and constructing and maintaining facilities, and courtesy and personal regard in all official relationships with consumers and service applicants.
4. **Personnel Effects.** Effects on the Cooperative's existing personnel, with respect to job security and advancement potential in a new organization, level of wages, salaries and fringe benefits, relocation policies, and other applicable policies.
5. **Electric Rate Effects.** Effects of the proposed transaction contemplated by the Qualified Offer on electric rates and other fees and charges of the Interested Party, compared with the Cooperative's, looking both at the inception and at the indefinite future (but for a minimum of five years), and also taking into account the value of the Cooperative's capital credit structure. In addition, the Board may consider how the Mmembers' rates may be impacted in the future by the proposed transaction and the effect of the proposed transaction on the Cooperative's regulatory status.

5. —

6. **Community Relationship Effects.** Effects of the proposed transaction contemplated by the Qualified Offer on existing relationships of the Cooperative with the communities which it ~~servesserves~~, or which are adjacent to its service area, and their various civic, educational, business, and other community organizations.

7. —

8-7. **Asset Value Comparison.** Whether the expected value and profitability of the Cooperative's Property to the Interested Party, after ~~taking into account~~ considering, among other relevant factors, the Cooperative's financial forecasts, are of greater future value to the Cooperative's Mmembers through continued or improved Cooperative operations.

9. —

10-8. **Business Organization Comparison.** How the Qualified Offer and its expected consequences, if with an investor-owned utility, a municipal utility, or a financial investor, compare with a possible merger or consolidation with one or more other cooperatives.

11. —

12-9. **Contract Relations Effects.** Effects of the proposed transaction contemplated by the Qualified Offer on present contractual relations of the Cooperative with its wholesale power suppliers, industry associations, CFC and other lenders, and other entities with which the Cooperative has existing executory contracts.

13. —

14-10. **Assessment of Total Consideration.** Whether the proposal clearly states the total consideration to be paid by the Interested Party and its manner of ~~payment, and~~ payment and makes provision for the discharge of the Cooperative's liabilities and the retirement and distribution of any surplus consistent with outstanding capital credit accounts, all in accordance with applicable law and the Cooperative's Articles of Incorporation and Bylaws.

15. —

16-11. **Capital Credit Retirement Evaluation.** The extent to which the proposed transaction would result in a maximization of value of Mmembers' equity interests in the Cooperative, including the value of and any premium to the value of Mmembers' patronage capital accounts upon retirement, ~~taking into account~~ considering all relevant considerations relating to the future service of the Cooperative's end users.

17. —

18-12. **Effects of Partial Purchase.** Effects on any of the foregoing criteria of a Qualified Offer to purchase Property used by the Cooperative to serve only a portion of its service area and distribution facilities, with respect to the resulting effects on the remaining portions of the Cooperative's system.

19. —

20. **Results of Valuation Assessments.** The results of the reports concerning the value of the Cooperative. Although the Board shall consider all such information and opinions, it shall have the final responsibility to make the Cooperative's official determination of value and whether acceptance of the Qualified Offer is in the best interests of the Cooperative and should be presented to the Mmembers for approval.

13.

21.14. Compliance with Laws, Policies. Whether the Qualified Offer complies with all applicable laws, regulations, and requirements of the Cooperative's Articles of Incorporation, Bylaws, and policies, including the provisions of this Policy and Procedure, and with all requirements of any of the Cooperative's mortgage, loan, or bond documents.

22.15. Financial Capability. Whether the Interested Party is financially able to consummate the Qualified Offer. The Board may also consider the source and feasibility of the proposed financing.

23.16. Solicitation of Other Proposals. Whether the Cooperative should seek other potential bidders for the Cooperative ~~in order to~~ maximize the value of the Cooperative for its Members.

24.17. Environmental Factors. Whether operation of the Cooperative's facilities and service to its end-users is likely to be conducted by the Interested Party with continuation or enhancement of the Cooperative's present progressive policies relating to environmental protection, increased use of renewable energy sources and technologies, and energy efficiency, as evidenced by past practice of the Interested Party or credible current commitments.

25. Other Standards. Other standards determined by the Board to be relevant to reasonable assessment of any such Qualified Offer ~~in light of~~ considering its anticipated effects on the Cooperative's system and the Cooperative and its Members.

26.

~~The Board, acting in good faith after informing itself of all relevant information and data and after implementation of relevant provisions of this Policy, will decide whether to reject a Qualified Offer or approve and recommend a Qualified Offer in the form of an Approved Definitive Agreement to the members for approval, based upon its determination of what is in the best interests of the Cooperative and its members.~~

28. RESPONSIBILITY:

29.

~~30.18. It shall be the responsibility of the Board to implement the provisions of this Policy.~~