

2017 ANNUAL REVIEW OF DIRECTORS CODE OF CONDUCT

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OVERVIEW OF PEC CODE OF CONDUCT



- Outlines directors' fiduciary duties
- Establishes standards of conduct



DIRECTOR RESPONSIBILITIES

- **Mission and Purpose:** Establish the overall goals and objectives of PEC “to deliver low-cost, reliable and safe energy solutions for the benefit of our Members”
- **Legal and Ethical Accountability:** Adopt and enforce policies governing ethical conduct, accountability and compliance
- **Ethics and Compliance Program Oversight:** “Tone at the Top”; “Set Goals and Program Oversight”; and “Review Reports and Outcomes”
- **Delegation of Authority:** Define Board Responsibilities and then delegate day-to day management of PEC to CEO, with certain exceptions; respecting delegation
- **Governance:** Approves and may amend the PEC Bylaws, Business Rules and Tariff, and governing Policies



DIRECTOR RESPONSIBILITIES (CONTINUED)

Financial Oversight:

- Establish financial risk tolerances
- Define targets and goals
- Approve PEC's budget (operational & capital)
- Review and approve significant investments, loans and acquisitions, real estate
- Establish Rates and terms for providing electric service to Members
- Evaluate financial statements, audits, and reports
- Review and approve annual report and audited financial statements
- Oversight of litigation and regulatory actions



DIRECTORS AND OFFICERS

- Are under an obligation of trust and confidence to those they represent.
- Must act in good faith and for the interests of the corporation.
- Have a duty to see the organization stays within its authorized powers and obeys the law.
- May face personal liability for intentional or negligent departure from their duties.



DIRECTOR FIDUCIARY DUTIES

- Duty of Due Care and Diligence – “Attending to Business”
- Duty of Obedience – “Company Obeys the Law”
- Duty of Loyalty – “Avoiding Conflicts”
- Duty of Confidentiality – “Maintain Confidences and Proprietary Information”



LEGAL DUTIES – DUE CARE AND DILIGENCE

- Required to conduct business with same degree of fidelity and care as an ordinarily prudent person should exercise in management of their own affairs.
- Business Judgment Rule:
 - Fiduciary duty to act according to best judgment.
 - Liable for negligence in performing duties, but not liable for errors of judgment or for mistakes while acting with reasonable skills and prudence.

Obligations	Fiscal	Duties
Legal	Fulfill	Corporate
Required	Mandates	Regulations



DUTY OF CARE AND DILIGENCE

- **The degree of care that a prudent person would exercise under similar circumstances:**
 - ✓ Regularly attend meetings
 - ✓ Review materials furnished for meetings
 - ✓ Participate in Board discussions
 - ✓ Inquire as needed until fully informed
 - ✓ Exercise independent judgment
 - ✓ Acquire knowledge necessary to oversee PEC's business
 - ✓ Attend training and professional development



DUTY OF OBEDIENCE

- Avoid *ultra vires* acts (beyond powers of company or as individual Director)
- Must operate within the authority granted by the articles of incorporation, the bylaws and any statutes and regulations.
- Directors can only bind association then they act at a legal meeting of the board.
- Directors cannot ordinarily bind the association while acting in their individual capacity.
- Directors must establish policies and procedures and ensure their execution.
- Assure that PEC acts within its authority
 - ✓ AOI
 - ✓ Bylaws
 - ✓ Policies
 - ✓ Federal & State statutes and regulations



DUTY OF LOYALTY

- Act in good faith and in the best interests of PEC and its Members
- Avoid or Disclose conflicts of interest
- Eliminated any Self-Dealing
- Conflicting transactions
- Using Coop information for private gain
- Gratuities
- Annual reporting of conflicts, including potential conflicts or appearance of conflict
- May not be employed by PEC or engaged in any nature by PEC for a period of 5 years after serving as a director



DUTY OF CONFIDENTIALITY

- Competitive and Contract Issues
- Commercial and Financial Information and Trade Secrets
- Privacy Issues of Members and Employees
- Attorney-Client Communications
- Maintain Confidences Among Board and Staff



BASIC DIRECTOR RESPONSIBILITY

General Supervision of Operation:

Provide general overall supervision of operations of the company –

- Responsibility is not to manage but to review and supervise the management team.
- Fiduciary responsibility for company & member funds.



BOARD OF DIRECTORS: THE PUBLIC ROLE

- Democratically Elected by District Members
- Member right to attend & speak at all Board meetings
- Board meetings are live-streamed on website
- Board votes are taken in open meetings
- Committee meetings are audio recorded
- Meeting videos & Board materials are posted to website
- PEC Directors actions are available to Members, legislators, media, and public
- IRS Form 990 disclosures and publication



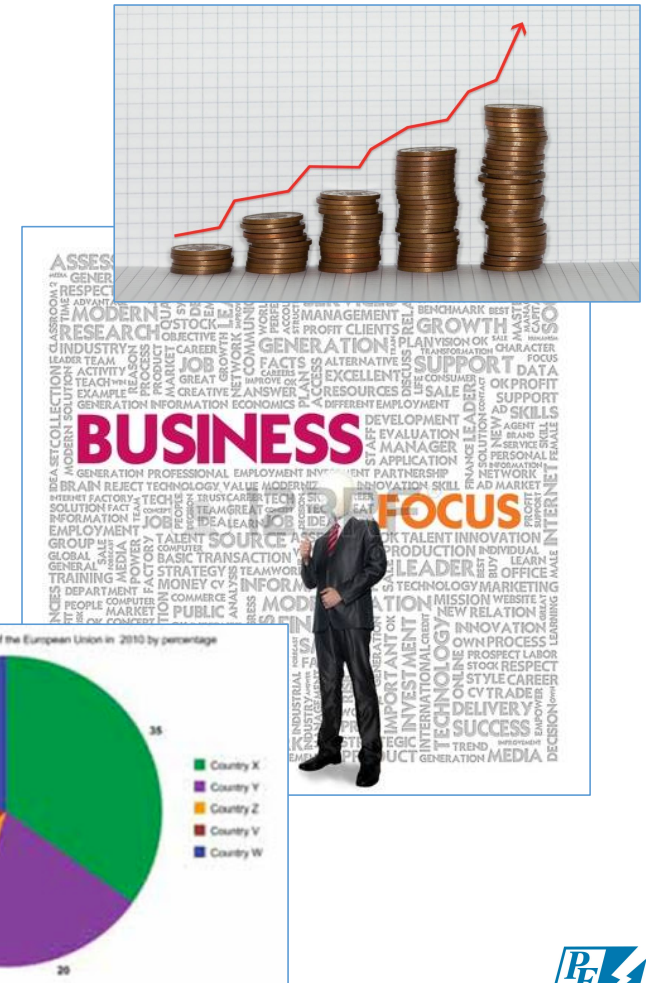
TIME COMMITMENT & COMPENSATION

- **Time Commitment**
 - Directors are required to track hours spent on co-op business, which in the most recent reporting year ranged from 8 to 24 hours per week, per director
- **Board Meetings**
 - 1 per month, and any special or emergency called meetings
 - Annual Membership Meeting
- **National Meetings and Trainings**
 - Required Director training credential from national organization (NRECA)
 - \$5,000 annual travel budget per director (required training not included)
 - Registration fees, travel and other expenses reimbursed up to annual budget
 - No additional compensation for time spent on these activities
- **Other Duties**
 - Public and PEC events
 - Member correspondence and calls (Director's PEC email address is generally provided to Members)
- **Compensation**
 - \$3,000 per month retainer
 - Reimbursement of allowable expenses (Director Travel & Expense Reimbursement Policy)



ACCESS TO PEC INFORMATION

- Every director is entitled to cooperative information for a proper purpose:
 - Should relate to cooperative business; and
 - Can't be used for personal gain.
- Request from full board if significant resources required.
- All directors are to receive the same information.



DIRECTOR LIABILITY, INDEMNIFICATION AND INSURANCE

- Bylaws Article III, Section 8, Liability limited when performing functions for PEC (exceptions: breach of loyalty, act not in good faith, improper benefit, limited by statute, unlawful distribution to Members).
- Indemnification for claims by 3rd party actions as a director when act done in good faith.
- PEC provides D&O and Fiduciary Insurance
 - Pays for director loss arising from a “wrongful act” if not otherwise indemnified by PEC
 - “Wrongful act” includes claims of breach of legal duty and neglect
 - No coverage for criminal acts, fraud, harassment, or acts outside of duties.



QUESTIONS



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