

Pedernales Electric Cooperative, Inc. Bylaws
Table of Contents

Preamble	1
ARTICLE I	1
Members	1
Section 1. Membership Procedure	1
Section 2. Membership Fee	2
Section 3. Membership Certificates	2
Section 4. Purchase of Services	2
Section 5. Non-liability for Debts of the Cooperative	2
Section 6. Expulsion of Members	2
Section 7. Withdrawal of Membership	3
Section 8. Termination of Membership	3
Section 9. Dispute Resolution	3
Section 10. Membership Lists	3
ARTICLE II	4
Meetings of Members	4
Section 1. Annual Meeting	4
Section 2. Special Member Meeting	4
Section 3. Notice of Member Meeting	4
Section 4. Agenda, Attendance, and Action at Member Meetings	4
Section 5. (a) Member Meeting Quorum	4
Section 5. (b) Director Election Quorum	5
Section 6. Voting	5
Section 7. Election Service Provider	5
Section 8. Ballots	5
Section 9. Record Date	5
ARTICLE III	6
Directors	6
Section 1. General Powers and Director Districts	6
Section 2. Qualifications and Terms of Directors	6
Section 3. Nominations	9
Section 4. Election of Directors	10
Section 5. Director Removal and Discipline	10
Section 6. Vacancies	12
Section 7. Compensation	13
Section 8. Limiting Liability of Directors; Indemnification	13
Section 9. Subsequent Relationship with the Cooperative	14
Section 10. Rules and Regulations	14
Section 11. Accounting System and Reports	14
Section 12. Change in Rates	14
ARTICLE IV	14
Meetings of Directors	14
Section 1. Regular Board Meetings	14
Section 2. Special Board Meetings	14
Section 3. Telephonic or Electronic Participation in Board Meetings	14
Section 4. Notice	15
Section 5. Board Quorum	15

Section 6. Executive Committees of the Board of Directors	15
ARTICLE V	15
Officers.....	15
Section 1. Board Officers.....	15
Section 2. Election and Term of Office.....	15
Section 3. Removal	16
Section 4. Officer Vacancies.....	16
Section 5. President	16
Section 6. Vice President.....	16
Section 7. Secretary	16
Section 8. Treasurer.....	16
Section 9. Chief Executive Officer.....	16
Section 10. Bonds	16
ARTICLE VI	16
Contracts, Checks and Deposits.....	16
Section 1. Contracts	16
Section 2. Checks, Drafts	16
ARTICLE VII	17
Nonprofit Operation	17
Section 1. Interest or Dividends on Capital Prohibited	17
Section 2. Patronage Capital in Connection with Furnishing Electric Service or Other Services	17
Section 3. Carry Over of Losses to Future Years.....	18
ARTICLE VIII	18
Waiver of Notice	18
ARTICLE IX	18
Disposition of Property.....	18
Section 1. Board Approval	18
Section 2. Membership Approval	18
Section 3. Delegated Approval for Certain Property.....	18
ARTICLE X	18
Fiscal Year	18
ARTICLE XI	18
Amendments	18

Pedernales Electric Cooperative Inc.

Bylaws

Preamble

The Pedernales Electric Cooperative, Inc. (the "Cooperative") is a democratic organization owned and controlled by its Members (as defined herein), who directly elect the Cooperative's governing body and who actively participate in setting policies and making decisions. The Cooperative is committed to serving our communities by providing excellent member services, and safe and reliable energy services at a competitive price.

These Bylaws shall be liberally construed so as to ensure that the Cooperative operates with accountability and transparency to its Members. It is the fundamental philosophy and policy of the Cooperative to conduct its operations with a clear presumption of disclosure to its Members, so that in the face of doubt, openness prevails. Members shall have a special right of access, beyond any right of the general public, to the policies, procedures, information, meetings, and records of the Cooperative.

ARTICLE I - Members

Section 1. Membership Procedure. Any individual or entity ("Applicant") with the capacity to enter into legally binding contracts that seeks Electric Service (as defined herein) within the Cooperative's Service Area (as defined herein) may become a member of the Cooperative ("Member"):

To establish status as a Member of the Cooperative ("Membership"), an Applicant must agree to:

- (a) make application for Membership, in whatever form then specified by the Board of Directors;
- (b) agree to purchase electric service or energy from the Cooperative ("Electric Service");
- (c) pay the Membership Fee described in Section 2 below and any other amounts specified in the Cooperative's business rules ("Business Rules") and tariff ("Tariff"); and
- (d) agree to comply with and be bound by the Articles of Incorporation of the Cooperative and these Bylaws and any amendments thereto and such Business Rules and Tariff as may from time to time be adopted by the Board of Directors (collectively, the "Governing Documents"). The Governing Documents shall be called to the attention of each Member of the Cooperative by posting in a conspicuous place in the Cooperative's headquarters office and on the Cooperative's website.

A husband and wife may jointly become members ("Joint Membership") or convert an individual Membership to a Joint Membership in accordance with the foregoing provisions of this section. Holders of a Joint Membership: shall enjoy the rights, benefits, and privileges, and are subject to the obligations, requirements, and liabilities, of being a Member; shall notify the Cooperative in writing of a cessation of marriage or the death of a holder of a Joint Membership; and, shall have a single vote for all matters subject to voting.

Other than a Joint Membership, no Membership may be shared or held by more than one person or entity simultaneously, though the Business Rules and Tariff may allow multiple parties to guaranty payment on an account.

Section 2. Membership Fee. A Membership Fee shall be fixed by the Board of Directors ("Membership Fee"). The payment of the Membership Fee and any other amounts required by the Cooperative's Business Rules and Tariff shall make the Member eligible for one (1) service connection. Additional fees may be required for each additional service connection requested by the Member, but no further Membership Fee shall be charged and no additional Memberships shall be created by the creation of additional service connections by the Member.

Section 3. Membership Certificates. Membership in the Cooperative shall be evidenced by a certificate of Membership ("Membership Certificate") 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.

Section 4. Purchase of Services.

- a) Each Member shall, as soon as Electric Service shall be available, purchase from the Cooperative such Electric Service, and shall pay therefore at the rates that shall from time to time be fixed by resolution of the Board of Directors.
- b) Unless otherwise required by law, the Cooperative shall not offer or provide customer choice of electric energy providers unless and until approval to participate in customer choice is adopted by resolution upon an affirmative vote of two-thirds (2/3) of the entire Board of Directors.
- c) Amounts paid in excess of the cost of Electric Service are furnished by Members as capital, and each Member shall be credited with the capital the Member furnished as provided in these Bylaws ("Patronage Capital"). Each Member shall pay such minimum amount per month as shall be fixed by the Board of Directors of the Cooperative, from time to time, regardless of the amount of services used. Each Member shall also pay all obligations that may from time to time become due and payable by such Member to the Cooperative as and when the same shall become due and payable.

Section 5. 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 6. Expulsion of Members. The Board of Directors of the Cooperative may, by the affirmative vote of not less than five (5) Directors, expel any Member who shall have violated or refused to comply with any of the provisions of the Articles of Incorporation of the Cooperative, these Bylaws, the Business Rules or the Tariff adopted from time to time by the Board of Directors. Any Member so expelled may be reinstated as a Member by the vote of five (5) or more of the members of the Board of Directors at any meeting of such Board of Directors. The action of the Board of Directors with respect to any such reinstatement shall be final unless and until a new cause for expulsion arises.

Section 7. 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. The Membership Fee may be refunded to the Member withdrawing from Membership upon payment of all outstanding obligations; the foregoing refund provision shall not apply to Members for whom service has been provided, but who have refused connection.

Section 8. Termination of Membership. Membership in the Cooperative and a Membership Certificate representing the same shall not be transferable, and upon the death, cessation of existence, expulsion or withdrawal of a Member, the Membership of such Member shall thereupon terminate and the Membership Certificate of such Member shall be effectively revoked. Termination of Membership in any manner shall not release the Member from the debts or liabilities of such Member to the Cooperative. When a Membership is a Joint Membership, upon death of either husband or wife, such Joint 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 upon the recording of such death on the books of the Cooperative, the Membership 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 until the satisfaction of such debts or liabilities.

When a Membership is held jointly by a husband and wife, upon legal termination of such marriage, the Membership shall be deemed to be held solely by the spouse continuing to meet the Membership requirements who presents his or her personal affidavit assuming the Membership and responsibility of all debts and liabilities owed to the Cooperative or a court order of similar effect. In the event of the change in a Member's legal name, an affidavit or court order shall also be required to enact the name change on the Membership roster.

Subject to the payment of all debts and liabilities of a Member to the Cooperative, upon termination of Membership, the Cooperative shall pay to such a Member or the Member's personal representative, an amount equal to the Membership Fee paid by such Member.

Section 9. Dispute Resolution. A Member shall submit any claim or dispute between the Member and the Cooperative regarding the Governing Documents, the Cooperative's provision of Electric Service, or other matter to the Board of Directors for resolution before pursuing any other action against the Cooperative, except as provided by law.

Section 10. Membership Lists. The Cooperative shall maintain a record of current Members in a form permitting the Cooperative to alphabetically list the names and addresses and Director Districts of all Members ("Membership List"). Upon twenty-five (25) days prior written notice or request to the Cooperative, and upon providing a sworn affirmation of a proper purpose, as defined by the Board, a Member may inspect or obtain a copy of the Membership List. The Member's use of the list shall be limited to the proper purpose affirmed by the Member.

ARTICLE II - Meetings of Members

Section 1. Annual Meeting. The annual meeting of the Members shall be held on a Saturday in the second quarter of the calendar year, or such date and time each year, as may be designated by the Board of Directors of the Cooperative, at such place in any county in which the Cooperative provides service as is designated by the Board of Directors of the Cooperative no later than the last quarter of the calendar year preceding the annual meeting ("Annual Meeting"). The purposes of the Annual Meeting are to formally announce the election of Directors and transact such other business as listed in the notice of the Annual Meeting. If the election of Directors shall not be held on the day designated by the Board of Directors for any Annual Meeting, or at any adjournment thereof, the Board of Directors of the Cooperative shall cause the election to be held at a Special Member Meeting (as defined herein) as soon thereafter as may be convenient. Failure to hold the Annual Meeting as designated herein shall not result in forfeiture or dissolution of the Cooperative. At the Annual Meeting, a report shall be provided regarding the activities of the Cooperative during the past year, and audit reports of the accounts, books and financial condition presented to the Board shall be submitted to the Members.

Section 2. Special Member Meeting. A special meeting of the Members ("Special Member Meeting") may be called by the President, or a majority of the Directors, or by a petition signed by at least 10% of the Members ("Member Petition"). A Special Member Meeting shall be held at any place within a county in which the Cooperative provides service, and shall include on the agenda any items listed on the Member Petition or as otherwise specified by the President or a majority of Directors.

Section 3. Notice of Member Meeting. Written or printed notice stating the place, day and hour of an Annual Meeting or Special Member Meeting (each a "Member Meeting") and purpose for which the Member Meeting is called, shall be delivered, either personally or by mail, to each Member not less than ten (10) days nor more than thirty (30) days before the date of the Member Meeting, by or at the direction of the President, the Secretary, or other persons calling the Member Meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at the Member's address as it appears on the records of the Cooperative with postage thereon prepaid. The failure of any Member to receive notice of any Member Meeting shall not invalidate any action that may be taken by the Members at any such meeting.

Section 4. Agenda, Attendance, and Action at Member Meetings. Except as otherwise provided in these Bylaws, before or at a Member Meeting, the Board of Directors shall determine the agenda, program, or order of business for the Member Meeting. Except as otherwise provided by the Board of Directors, the President shall preside at the Member Meeting and may exercise duties and take actions reasonably necessary for efficiently and effectively conducting the Member Meeting. Members attending the Member Meeting may consider, vote, or act only upon matters listed in the notice of the Member Meeting.

Section 5. (a) Member Meeting Quorum. A quorum of Members is five thousand (5,000) Members ("Member Meeting Quorum") casting a vote by mail, electronically or on their own behalf by any other method approved by the Board of Directors. If less than the Member Quorum casts a vote by mail, electronically or by

other method authorized by the Board of Directors at a Member Meeting, then a majority of Members attending the Member Meeting in person may adjourn the Member Meeting.

(b) Director Election Quorum. A quorum of Members for a Director Election is at least one thousand (1,000) votes cast in each individual district if the vote being taken regards the election of the Director of that district by the Members of that district. Directors are elected if they receive a plurality with a Quorum.

Section 6. Voting. Each Member shall be entitled to one (1) vote upon each matter submitted to a vote of the Membership. Each Member of a Director district shall be entitled to one (1) vote upon each Director election for that individual Director district, and only Members of a Director district may vote in that Director district election. Except as otherwise provided in these Bylaws, Members shall be deemed to have approved a matter, or elected a Director, if: (1) an appropriate Quorum is established and (2) a majority of the Member Quorum vote in favor of the matter or a plurality of the Quorum in a Director election. Except in instances specifically mandated by law or the Articles of Incorporation, a Member may not appoint another individual person ("Member Proxy") to vote on any matter for the Member.

Section 7. Election Service Provider. The Cooperative shall designate an independent election service provider to conduct services as specified in these Bylaws, or otherwise determined by the Board of Directors (the "Election Service Provider").

Section 8. Ballots. Prior to all Member Meetings, or individual district Director elections, a Member may vote by ballot. Members may vote their ballot prior to the Member Meeting, may deliver their ballot to the Election Service Provider either in person, by mail, or, when the option is made available to Members, electronically or by any other method authorized by the Board of Directors. All ballots must be filed for certification with the Election Service Provider no later than seven (7) days before a Member Meeting to be valid at said meeting. Not less than twenty-five (25) days nor more than thirty (30) days prior to a Member Meeting at which the results of a Director Election (as defined herein) are announced, the Secretary shall deliver, either personally or by mail, a ballot to each Member that is eligible to vote that includes (1) Director Districts scheduled for election by Members; (2) names of all Director Candidates and corresponding Director Districts; and (3) any other matters to be voted on by the Members.

Section 9. Record Date. The "Record Date" is the date for determining the total number of Members and Members entitled to: (1) sign any petition, request, demand, consent, appointment, or similar document; (2) receive a ballot, notice of a Member Meeting, or similar document; or (3) vote. If a party is not a Member on the Record Date, then the party may not sign a document, receive a document, or vote. The Record Date for voting is eight (8) days before the date of the Member Meeting.

ARTICLE III - Directors

Section 1. General Powers and Director Districts.

General Powers. The business and affairs of the Cooperative shall be managed by a Board (the "Board of Directors"), consisting of a director (a "Director") from each of the Cooperative's seven (7) Director Districts (as defined herein), except for such vacancies as are allowed by law or these Bylaws. The Board of Directors shall exercise all of the powers of the Cooperative except such as by law, by the Articles of Incorporation of the Cooperative, or by these Bylaws are conferred upon or reserved to the Members or otherwise delegated to the Chief Executive Officer. The Board of Directors shall have the ability to appoint member advisory Committees.

Director Districts. Based upon Memberships, Cooperative growth or other equitable considerations determined by the Board of Directors, the Board of Directors shall divide the general area in which the Cooperative provides Electric Service (the "Service Area") into seven (7) districts that equitably represent the Members (the "Director Districts"). As necessary, based upon equitable considerations determined by the Board of Directors, the Board of Directors may revise the Director District boundaries.

Section 2. Qualifications and Terms of Directors.

Qualifications. To be eligible for election as a Director or to remain a Director a person must meet the following qualifications (collectively, the "Director Qualifications"):

- (a) Be twenty-one (21) years of age or older;
- (b) Have earned a high school diploma from an accredited institution, or obtained state certification through General Educational Development tests (GED), by the date of the Annual Meeting at which the Director is elected;
- (c) Be a United States citizen;
- (d) Be a Member in good standing of the Cooperative, by having met and adhered to the Cooperative's payment policies in accordance with credit requirements contained in the Cooperative's Tariff and Business Rules, as amended from time to time, and any other requirements for membership in good standing established by Board resolution;
- (e) While a Director and during the five (5) years immediately prior to becoming a Director, not have been an employee of the cooperative;
- (f) While a Director, not have a child, spouse, domestic partner, parent, sibling, parent-in-law, stepchild, grandparent, or grandchild who is an employee or Director of the Cooperative;
- (g) Have his or her primary residence receiving continuous electric service from the Cooperative for one year, and be located at the beginning of the calendar year of the election, in the district for which election is sought. Primary residence shall be determined based on factors including, but not limited to, real property rights, homestead exemption,

electricity usage patterns, voter registration location, and address on a driver's license;

(h) Annually complete and sign a conflict-of-interest certification and disclosure form approved by the Board of Directors;

~~(i) While a Director and during the three (3) years immediately prior to becoming a Director, not have sought to advance or have advanced the individual's pecuniary interest by competing with the Cooperative or by having a financial interest or relationship that would likely impair the ability of the Director to serve the best interests of the cooperative, if that impairment presents a conflict with the interests of the Cooperative. The receipt of retirement compensation or other passive income, in and of itself, is not a conflicting financial interest. Examples of competing or conflicting interest include, but are not limited to, employment or service, including as a consultant, sales representative, trustee, director, or agent, with:~~

~~i. a consultant, contractor, or vendor of the Cooperative;~~

~~ii. a financial institution which has engaged in financial transactions with the Cooperative;~~

(i) While a Director or during the three (3) years immediately prior to becoming a Director, not sought to advance or have advanced a:

i. Competing Interest with the Cooperative;

ii. Financial Interest that would likely impair the ability of the Director to serve the best interests of the Cooperative; or

iii. Conflicting Position that would likely impair the ability of the Director to serve the best interests of the Cooperative.

~~—A “competing interest with the Cooperative” exists when judgment concerning the cooperative (such as financial, legal or general business decisions) is influenced or may be reasonably influenced by another interest (such as financial or non-financial gain or interest). A “Financial Interest” is likely to impair a Director’s ability to serve the best interests of the Cooperative if that Director has received more than ten percent (10%) of the Director’s annual gross income from serving as an employee, consultant, or contractor with or for a person or an entity that has done business with the Cooperative in the preceding three years.~~

A “Conflicting Position” is likely to impair a Director’s ability to serve the best interests of the Cooperative if there exists a possibility of that position requiring the Director to make business, legal or policy decisions adverse to the Cooperative or its membership. Examples of such conflicting positions include, but are not limited to:

Serving as an employee, consultant, or contractor assigned to negotiating or managing contracts with the Cooperative for any person or entity that has been a consultant, contractor, vendor, or bidder of the Cooperative during the preceding three years;

Having held an executive level or board position of a financial institution that has held Cooperative assets during the preceding three years; or

—Having held an elected position to a public entity which has the authority to lawfully impose franchise fees.

- (j) Not be or have been convicted of a misdemeanor involving moral turpitude or a felony pursuant to state or federal laws;
- (k) Not currently be a member of the Qualifications and Elections Committee described herein;
- (l) Not have been previously removed or disqualified as a Director as provided for under these Bylaws;
- (m) Have the capacity to enter into legally binding contracts;
- (n) Be willing to devote such time and effort to his or her duties as a Director as may be necessary to oversee the Cooperative's business and affairs including: except as otherwise provided by the Board of Directors for good cause, beginning with election to the Board of Directors, attend at least seventy-five (75) percent of all regular and special called Board Meetings during each period from Annual Meeting to Annual Meeting; and obtain the Credentialed Cooperative Director (CCD) designation from NRECA within the first eighteen (18) months after election to the Board; attend state and national association meetings and Director continuing education training as needed to maintain current knowledge and improve awareness of potential risks to the Cooperative;
- (o) Not be employed by another Director, or be employed by an entity over which another Director exercises substantial control;
- (p) Execute and provide the relevant documents, waivers, or other materials reasonably needed to verify satisfaction of these qualifications, including criminal background checks to be performed by the Cooperative. A person subject to this provision shall not be requested or required to provide personal or business tax returns, financial or business records, or non-public, personal details unless legal counsel has justified and certified in writing and the majority of disinterested Qualifications and Elections Committee have determined by record vote that conformity with Director Qualifications cannot be determined without such records. If such certification is made and the records are provided, the Cooperative and its agents shall not publicly disclose such records except with the consent of the person providing them, or in the course of a legal proceeding or as required by law;
- (q) While a Director, act in good faith and represent the best interests of the cooperative as a

whole, representing all members on an impartial basis.

Terms. Except as otherwise provided in these Bylaws, a Director's term is three (3) years and until a successor Director is elected ("Director Term") which may be more or less than three (3) full years depending on the actual dates of the Director's election at Annual Meeting and service through the Annual Meeting in the third year after such Director's election. Three years shall be measured as the period from the date of the Annual Meeting at which the Director's election is announced until the date of the Annual Meeting in the third year after the announcement of such Director's election. A Director Term begins immediately upon adjournment of the Member Meeting at which the Director's election is announced. A Director Term ends immediately upon adjournment of the Member Meeting at which his or her successor's election is announced. A Director may not serve more than four (4) consecutive full Director Terms ("Term Limit"). The count of consecutive terms shall be reset to zero (0) upon the expiration of three (3) years from the date a Director ended his or her most recent term. Therefore, a Director disqualified under this provision and who is otherwise qualified is eligible to run as a candidate for a term commencing at least three (3) years after completion of the Director's last term. Nothing in this section shall affect in any manner whatsoever the validity of any action taken at any meeting of the Board of Directors. Subject to Term Limits, any Director may succeed himself or herself.

Section 3. Nominations.

Petition Process. Nominations for Directors may be made by written petition, in the form promulgated by the Cooperative, executed by fifty (50) or more Members with Voting Residence (as defined herein) within the Director District for which the election is being held ("Director Nomination Petition"). Attached to the Director Nomination Petition shall be: biographical information about the person seeking nomination ("Nominee") in the form specified by the Cooperative; conflict-of-interest certification and disclosure form approved by the Board of Directors, signed by the Nominee, which certification shall be made available to the Membership along with the Nominee's biographical information; and a written consent executed by Nominee for the release of background information and conflict of interest certification. The Secretary shall make the form for Director Nomination Petitions available at all district offices and on the Cooperative's website. The written Director Nomination Petitions and all accompanying materials must be delivered to the Secretary at the Cooperative's principal office not later than (five) 5 p.m. on the last business day at least seventy-five (75) days prior to the Annual Meeting.

Residence for Nomination Purpose. For purposes of signing a Director Nomination Petition, but not for purposes of establishing Primary Residence for eligibility to serve as a Director, a Member shall be deemed to have residence ("Voting Residence") in the Director District in which the Member uses Electric Service. If a Member uses Electric Service in more than one (1) Director District, the Member shall be deemed to have a Voting Residence in the district in which the Member first used, and continues to use, Electric Service. However, a Member who uses Electric Service in more than one (1) Director District may designate a Voting Residence other than the district where the Member first used Electric Service. Any such designation must be in writing and submitted to the Cooperative.

Qualifications and Elections Review Committee.

- (a) At least ninety (90) days before any Membership vote for Election of a Director, the Board of Directors shall, appoint, by resolution, a qualifications and election review committee ("Qualifications and

Elections Committee") consisting of no less than three (3) nor more than seven (7) members who are not existing Cooperative officers, employees, Directors or known candidates for Directors, or close relatives or members of the same household thereof. The Qualifications and Elections Committee shall elect its own chairman and secretary, and shall be dissolved without further action required at the conclusion of the fifth day following the Member Meeting for which the Qualifications and Elections Committee was appointed, or upon the conclusion of any business before the Qualifications and Elections Committee, whichever is later. The Board may set compensation, reimbursement, allowances for telephonic meetings, and any other terms for the Qualifications and Elections Committee not otherwise specified by these Bylaws.

- (b) It shall be the responsibility of the Qualifications and Elections Committee to verify the qualifications of Director Nominees.
- (c) In the exercise of its responsibility, the Qualifications and Elections Committee shall have available to it the assistance of staff and the advice of legal counsel provided by the Cooperative, and shall be subject to the limits of Article III, Sec. 2 (p) of these Bylaws.
- (d) The Qualifications and Elections Committee's decisions (as reflected by a majority of those actually present and voting) on all matters covered by this Section shall be final.
- (e) In all matters, the Qualifications and Elections Committee shall assume the truth of matters asserted by Director Nominees, and act accordingly, unless the Committee has identified a reasonable and specific basis for acting otherwise.

Section 4. Election of Directors. The Secretary shall have the names of Director Candidates printed on ballots. The Director District of each Director Candidate shall be printed beside his or her name. All Directors shall be elected by ballot ("Director Election"). The Director Candidate for each directorship receiving the highest number of votes shall be elected. In the event of a tie, the Director shall be determined by a drawing by lot to be conducted by the Election Service Provider.

In the event of a tie in a Director Election, in conducting a drawing by lot, a representative of the Election Service Provider will place in a box as many slips of paper as there are nominees in the tie, with a single slip marked "elected" and the remaining slips marked "not elected." In alphabetical order by last name, each of the Director Candidates in the tie shall blindly draw one (1) slip from the box. The Director Candidate drawing the slip marked "elected" shall be elected to the directorship in question.

Section 5. Director Removal and Discipline

- a) Director Discipline. The Board shall create a Committee to investigate any formal written complaint made about a Director. The Board shall provide the complaint to the Director who is the subject of the complaint after creation of a Committee to investigate. The Committee shall be composed of the current Board President, or next highest officer if the Board President is the subject of the complaint, and two (2) other Directors selected by the Board. The Board or the Committee may deliberate director

discipline in Executive Session and maintain confidentiality of records to protect personal privacy or safety. Following investigation, the Committee shall make its report to the full Board with recommendations of discipline, if any, of the affected Director. The affected Director shall be given an opportunity to respond prior to the Board vote on any recommended action. Discipline action may range to include: (1) a verbal warning; (2) a written reprimand; (3) censure; (4) a reduction in Director privileges or compensation; or (5) removal pursuant to subsection (b) of this section. The formal complaint must be in writing and filed by another Director or by the General Counsel of the Cooperative; and must be verified as a good faith complaint by majority vote of the remaining Directors. The Director who is subject of the complaint shall not participate in the Board's deliberation or vote on any matter related to the issue, except as requested by the Board or as allowed in this section.

- b) Removal by the Board. A Director may be removed for Cause, by a vote of at least two-thirds (2/3) of the non-affected remaining Directors, who are not subject to the current complaint, at a Regular or Special Board meeting called for such purpose. The Director shall be informed thereof in writing at least thirty (30) days in advance of the meeting at which such a removal vote is scheduled to take place, and shall have an opportunity to respond, or be heard in person or by counsel, at such meeting.
- c) Cause Defined. Cause includes: (1) a conviction or judicial determination involving a felony crime or a crime of moral turpitude; (2) becoming ineligible to serve as a Director due to failing to meet the qualifications in the Bylaws, in Section 2 of this Article; (3) violation of a Director's fiduciary duty or the Code of Conduct/Ethics policies; or (4) the bringing of such disrepute or disparagement to the Cooperative by unacceptable personal conduct.
- d) Director Removal by Members. A Director may be removed for Cause at any time by the Members pursuant to the procedures specified in this Section.
 - 1) Filing of Charges. Any Member may bring charges for removal against a Director, by filing such charges in writing with the Secretary of the Board. The charges must be specific as to the Director's misconduct, pursuant to the Causes as defined in this section.
 - 2) Removal Petition. The filed charges shall be accompanied by a petition of Cooperative Members, and shall demand either a District vote, by the Members residing within the charged Director's district; or it shall demand a full Cooperative Member vote. If the petition requests a District vote, the petition must contain the valid signatures of at least fifteen percent (15%) of the membership of the affected district; or, if a full Membership vote is requested, then the petition must contain the valid signatures of at least 5 percent (5%) of all Members.
 - 3) Determination by Board and Opportunity for Response. Upon determination by the Board of Directors that the Removal Petition meets the requirements of this section, the Board of Directors shall schedule an opportunity for the charged Director to respond and be heard in person or by counsel, before the District Members or Membership, as appropriate. The person(s) bringing charges shall also have opportunities to be heard. The opportunity to respond and be heard shall be set no sooner than 30 days after the Board of Director's determination. The charged Director shall be provided a copy of the charges alleged.

- 4) Removal Vote. The removal vote shall be scheduled following the opportunity to respond and be heard by District Members, or full Membership, as appropriate. Members shall be allowed to vote in person, by mail, or electronically by a date established by the Board. A majority of the voting Members, of either the District or the full Membership, as appropriate, shall be required to effect the charged Director's removal. A Director is removed immediately upon the announcement of the vote in which a majority of voting members approves such removal.
- 5) Charged Director's Conduct. While the Board determines whether a Removal Petition meets the requirements of this section, the charged Director shall withdraw from Board deliberation and any action on the matter, as well as any subsequent matters relating to the Removal process.
- 6) Multiple Charges. If charges involve more than one Director, a separate charge and Removal Petition is required for each Director.

Section 6. Vacancies.

If one or more vacancy occurs on the Board of Directors, ("Vacancy"), the Board of Directors shall address the Vacancy by any of the following methods:

- (a) If there is just one (1) Vacancy, the Board of Directors may leave that seat unfilled until the next Annual Meeting, prior to which the Members in the vacant Director District will elect a Director to fill the unexpired term of the Director's predecessor; or,
- (b) The Board of Directors may call a Special Meeting to conduct a Director Election to fill the unexpired term of the Director whose departure led to each Vacancy; or,
- (c) The Board of Directors may appoint a Committee consisting of from three (3) to seven (7) Members, each with a Voting Residence in a different Director District ("Search Committee"). No Search Committee Member may be an existing Director or a Close Relative of an existing Director or the Director whose departure created the vacancy. The Search Committee shall accept Director Nomination Petitions as defined in these Bylaws, on a schedule and with a signature requirement as determined by the Board, in no case to exceed the number of signatures required for a Director Candidate in an election. If no such petitions are received for any seat, or if no Nominee submitting a petition meets the Director Qualifications, the Search Committee shall attempt to identify at least one (1) and preferably more than one (1) individual who is qualified and willing to fill that Vacancy ("Committee Nominee"), and is not a member of the Search Committee. The Search Committee shall review all Nominee and Committee Nominee Director Qualifications, including primary residence, and present to the Board of Directors a list of those persons qualified for appointment to fill each Vacancy. The Board of Directors shall then appoint a Nominee or Committee Nominee to fill a Vacancy until the next Annual Meeting, prior to which the Members in the vacant Director District shall elect a Director to serve the unexpired term of the Director whose departure created the Vacancy. If a Search Committee fails to present a Nominee or Committee Nominee for any seat, or if the Board fails to appoint or call a Special Meeting and Director Election fill a Vacancy, the Vacancy shall remain unfilled until the next Annual Meeting, prior to which the Members in the vacant Director District shall elect a Director to fill

each Vacancy for the unexpired term of the Director whose departure led to each Vacancy.

Catastrophic Loss of Directors. The loss of a majority of Directors arising from an event of natural or human origin shall be deemed a catastrophic loss of Directors. In the event of a catastrophic loss of Directors, the remaining Directors shall appoint, within one hundred twenty (120) days, individuals qualified to serve as a Director pursuant to Section 6 hereof from each of the Districts which suffered a loss of a Director, keeping in mind the principle of equitable geographic representation. Directors so appointed shall serve until the next Annual Meeting, at which time all Board positions so appointed under this Section shall stand for election under the same terms as their respective, deceased predecessors. In the event of a catastrophic loss wherein two (2) or fewer Directors remain, the remaining Directors, or if no Director survives, the highest-ranking Cooperative employee, shall call a Special Member Meeting within one hundred twenty (120) days of the occurrence of the vacancy to elect the applicable number of Directors to fill the vacant positions in accordance with all provisions of the Bylaws wherein these specially elected Directors) shall serve until the next regularly scheduled Annual Meeting, at which time all appointed positions shall stand for election to the same terms as their respective deceased predecessors.

Quorum and Procedures During Catastrophe. In the event of a catastrophic loss as defined above, the traditional quorum requirements are simplified and expedited temporary election procedures may be adopted pending the installation of new Directors, in order to allow the Cooperative to conduct business. All actions of the Cooperative during this time period shall stand for ratification at the next Board meeting wherein a traditional quorum is present.

Section 7. Compensation. By resolution of the Board of Directors, a fixed sum and reasonable expenses of attendance may be allowed for attendance at each Regular Board Meeting, Special Board Meeting or Member Meeting and for attendance at each Committee meeting. By resolution of the Board of Directors, Directors may be allowed a monthly fee and reasonable expenses, which shall not be a salary, for performance of other Board duties.

Section 8. Limiting Liability of Directors; Indemnification

(a) To the fullest extent permitted by the laws of the State of Texas, a Director, manager, officer, employee or person appointed to a Committee under these Bylaws of the Cooperative ("Indemnatee") shall not be liable to the Cooperative or its Members for monetary damages for an act or omission in that person's performance of functions for the Cooperative, except that this Section does eliminate or limit the liability of an Indemnatee for (a) a breach of an Indemnities' duty of loyalty to the Cooperative or its Members, if any; (b) an act or omission not in good faith or that involves intentional misconduct or knowing violation of law; (c) a transaction from which an Indemnatee received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the Indemnatee's performance of functions for the Cooperative; (d) an act or omission for which the liability of the Indemnatee is expressly provided for by statute; or (e) an act related to an unlawful distribution to Members.

(b) The Cooperative shall indemnify an Indemnatee against the claims of third parties against the Indemnatee for acts done in good faith in the capacity that established the person's status as an Indemnatee, and shall advance or reimburse his or her expenses of defending such claims, to the fullest extent permitted by the laws of the State of Texas.

Section 9. Subsequent Relationship with the Cooperative. A Director may not be compensated by the Cooperative for employment or otherwise engage in a contractual relationship with the Cooperative for a period of five (5) years after the last day served as a Director.

Section 10. Rules and Regulations. The Board of Directors shall have the 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 affairs of the Cooperative.

Section 11. 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 Public Utility Commission of Texas. Financial statements of the Cooperative shall be examined monthly by the Board of Directors at Regular Board Meetings. The Board of Directors shall also after the close of each fiscal year cause to be made a full and complete audit of the accounts, books and financial condition of the Cooperative as of the end of such fiscal year by an independent certified public accountant.

Section 12. Change in Rates. Any change in rates, Business Rules, or Tariff charged by the Cooperative must be approved by the Board of Directors.

ARTICLE IV - Meetings of Directors

Section 1. Regular Board Meetings. A regular meeting of the Board of Directors shall be held on the third Monday of each month at the E. Babe Smith Headquarters Building of the Cooperative in Blanco County, Texas, unless another meeting location, time and/or date is set by the Board of Directors ("Regular Board Meeting").

Section 2. Special Board Meetings. Special meetings of the Board of Directors ("Special Board Meetings") may be called by the President or any four (4) Directors. The person or persons authorized to call a Special Board Meeting may fix the time and place for the holding of any Special Board Meeting called by them.

Section 3. Telephonic or Electronic Participation in Board Meetings. For good cause and with approval of the Board of Directors, a Regular Board Meeting or Special Board Meeting (each a "Board Meeting") may be conducted with Directors participating but not physically present but deemed present in person through a means of communication by which all Directors participating in the Board Meeting may simultaneously hear, reasonably and verifiably identify themselves, and generally simultaneously and instantaneously communicate with each other during the Board Meeting. Directors that are not physically present may deliberate and vote on the question of approving telephonic or electronic participation. A vote to approve telephonic or electronic participation in any Board Meeting is exempt from the notice requirements herein specified. Such Board Meeting shall be compliant with the Cooperative's Open Meetings Policy, and Members shall have the opportunity to monitor the Board Meeting electronically or in person. A Director may be compensated for a Board Meeting at which that Director participated but was not physically present only with Board approval.

Section 4. Notice. Notice of the time, place and purpose of any Regular Board Meeting shall be given at least seventy-two (72) hours previous thereto, by written notice, delivered personally, electronically, or by mail, to each Director at the Director's 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. Meeting notices and agendas will be posted on the Cooperative's website at least seventy-two (72) hours before each Regular Board Meeting. In an emergency or when there is an urgent necessity, the notice of a Board Meeting or the supplemental notice of a subject added as an item to the agenda for a Board Meeting for which notice has been posted in accordance with this Section is sufficient if it is posted for at least two (2) hours before the Board Meeting is convened. An emergency or an urgent necessity exists only if immediate action is required because of a reasonably unforeseeable situation. The Board of Directors shall clearly identify the emergency or urgent necessity in the notice or supplemental notice under this Section.

Section 5. Board Quorum. Four (4) or more Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, except in the case when four (4) or more vacancies exist on the Board, in which case a majority of the Board shall constitute a quorum ("Board Quorum").

Section 6. Executive Committees of the Board of Directors. Notwithstanding the quorum requirements set forth in Article IV, Section 5, two-thirds (2/3) of the then current members of the Board, pursuant to Texas Utilities Code 161.077, may elect from among its members one or more Executive Committees, which shall be composed of at least three (3) of the Directors, and may designate one or more of the Directors as alternate members of such Executive Committees, who may, subject to any limitations imposed by the Board, replace absent or disqualified members at any meeting of such Executive Committees. Such Executive Committees may exercise the authority of the Board to the extent provided in the resolutions electing the Executive Committees, except where action of the Board is required by applicable law or by the Articles of Incorporation. Any member of such Executive Committees may be removed, for or without cause, by the vote of two-thirds (2/3) of the then current Directors. If any vacancy or vacancies occur in the Executive Committees, the vacancy or vacancies shall be filled by the Board.

ARTICLE V - Officers

Section 1. Board Officers. The officers of the Board of Directors of the Cooperative shall be a President, Vice President, Secretary and Treasurer ("Officers"). The offices of Secretary and Treasurer may be held by the same person.

Section 2. Election and Term of Office. The Officers shall be elected annually by and from the Board of Directors at the first regular meeting of the Board of Directors, or first special meeting of the Board of Directors called for that purpose, held after a Member Meeting at which Director elections were announced. Unless removed from office under Section 3 below, each Officer shall hold office until a successor shall have been duly elected. An Officer may hold the same office for no more than two (2) consecutive annual terms.

Section 3. Removal. The Board of Directors may remove an Officer elected by the Board of Directors by an affirmative vote of four (4) or more Directors whenever in its judgment the best interests of the Cooperative will be served.

Section 4. Officer Vacancies. Any vacant Officer position shall be filled by a Director selected by a majority of the Board at the earliest possible date.

Section 5. President. The President shall be the principal executive officer of the Board and shall preside at all Member Meetings and of the Board of Directors; 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 officer of the Cooperative, or shall be required by law to be otherwise signed or executed; and 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. The Vice President shall, in the absence of the President, or in the event of the President's inability or refusal to act, perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President and shall perform such other duties as from time to time may be assigned by the Board of Directors.

Section 7. Secretary. The Secretary shall: be responsible for minutes of meetings of the Members and the Board of Directors; be responsible for authenticating the Cooperative's records; and in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Board of Directors.

Section 8. Treasurer. The Treasurer shall in general, perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the Board of Directors.

Section 9. Chief Executive Officer. The Board of Directors shall select a manager who shall perform the duties of chief executive officer of the Cooperative ("Chief Executive Officer").

Section 10. Bonds. The Cooperative may purchase a bond covering an officer or employee.

ARTICLE VI - Contracts, Checks and Deposits

Section 1. Contracts. Except as otherwise provided in these Bylaws, the Board of Directors may authorize any Director, the Chief Executive Officer, or any other officer or officers 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. All checks, drafts or other orders for the payment of money, and all notes, bonds or other evidences of indebtedness issued in the name of the Cooperative shall be signed by such officer or officers, 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.

ARTICLE VII - Nonprofit Operation

Section 1. Interest or Dividends on Capital Prohibited. An electric cooperative shall operate without profit to its Members and on a cooperative basis for mutual benefit of all Members. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its Members.

Section 2. Patronage Capital in Connection with Furnishing Electric Service. In the furnishing of Electric Service, the Cooperative's operations shall be so conducted that all Members will through their patronage furnish Patronage Capital for the Cooperative. In order to induce patronage and to assure that the Cooperative will operate on a nonprofit basis, the Cooperative is obligated to account on a patronage basis to all Members for all amounts received and receivable from the furnishing of Electric Service, in excess of operating costs and expenses properly chargeable against the furnishing of such services. All such amounts in excess of operating costs and expenses are received with the understanding that they are furnished as capital. The Cooperative is obligated to record and maintain all capital accounts for each Member of such amounts. The books and records of the Cooperative shall be maintained in such a manner that at the end of each fiscal year the amount of capital, if any, so furnished is clearly reflected and recorded to the capital account of each Member, and the Cooperative shall, within a reasonable time after the close of the fiscal year, make available upon request a report as to the amount of capital so credited. All such amounts credited to the capital account of a Member shall have the same status as though they had been paid to the Member in pursuance of a legal obligation and the Member had then furnished the Cooperative corresponding amounts for capital.

If the Board of Directors determines that the financial condition of the Cooperative will not be impaired thereby, the capital then credited to Members' accounts may be retired in full or in part. The Board of Directors shall determine the method, basis, priority, and order of retirement, if any, for all amounts furnished as capital. In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding Patronage Capital shall be retired and paid 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 then credited to Members' accounts may be retired and paid in full or in part.

Regardless of a statute of limitation or other time limitation, the Cooperative may recoup, offset, or setoff an amount owed to the Cooperative by the Member or former Member, including any compounded interest and late payment fee, by reducing the amount of Patronage Capital to be repaid to the Member or former Member by the amount owed to the Cooperative.

As determined by the Board, before the time the Cooperative anticipates normally retiring and paying Patronage Capital, the Cooperative may retire some or all Patronage Capital and pay the net present value of the retired Patronage Capital. If the Cooperative retires and pays the net present value of Patronage Capital to a Member or former Member before the time the Cooperative anticipates normally retiring and paying the Patronage Capital, then the residual amount of Patronage Capital retained by the Cooperative after

discounting shall be classified as permanent equity and not distributed to the Member(s), unless upon dissolution of the Cooperative.

Section 3. Carry Over of Losses to Future Years. No allocations will be made to Members' accounts should the annual determination demonstrate that amounts received from the furnishing of Electric Service were less than operating expenses properly chargeable against the furnishing of such services. The amount by which such expenses exceed such revenues in any annual determination shall be carried forward to the next fiscal year and be used as expenses in the determination of the amount of Patronage Capital assignable to individual Members' accounts for that year.

ARTICLE VIII - Waiver of Notice

Any Member or Director may waive any notice required to be given by these Bylaws, and attendance at any meeting shall constitute waiver of notice of that meeting, unless the person in attendance notifies the presiding officer before the meeting begins that no such waiver is intended.

ARTICLE IX - Disposition of Property

Section 1. Board Approval. The Cooperative may, by a vote of five (5) or more Directors, sell, mortgage, lease or otherwise dispose of or encumber all or substantially all of its property. The Board may not approve the dissolution or any sale of all or substantially all of the Cooperative's assets ("Dissolution or Sale") on terms that would benefit any Director more than any similarly situated non-Director Member. The Board of Directors may not disqualify a Director for lawfully opposing a Dissolution or Sale.

Section 2. Membership Approval. The Cooperative may not dissolve the Cooperative or sell or transfer all or substantially all of its assets without the approval of two-thirds (2/3) of all Members of the Cooperative either in person or by Member Proxy.

Section 3. Delegated Approval for Certain Property. The Cooperative may sell, donate, or otherwise dispose of any of its property that is no longer useful, necessary, desirable, profitable, or advantageous in the conduct of the business of the Cooperative.

ARTICLE X - 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 XI - Amendments

These Bylaws may be amended or repealed by not less than the affirmative vote of five (5) Directors at any Board Meeting.