

**RESTATED
BYLAWS OF
A&N ELECTRIC COOPERATIVE
NOVEMBER 30, 2011**

TABLE OF CONTENTS

BYLAWS

| | | <u>Page No.</u> |
|-------------|---|-----------------|
| ARTICLE I | DEFINITIONS | 1 |
| | Section 1.1 General Provisions | 1 |
| ARTICLE II | COOPERATIVE MEMBERSHIP..... | 1 |
| | Section 2.1 Membership Eligibility | 1 |
| | Section 2.2 Membership Procedure | 1 |
| | Section 2.3 Automatic Membership | 1 |
| | Section 2.4 Member Classes | 2 |
| | Section 2.5 Joint Membership | 2 |
| | Section 2.6 Provision of Utility Services..... | 3 |
| | Section 2.7 Purchase of Utility Services | 3 |
| | Section 2.8 Indemnification | 3 |
| | Section 2.9 Member Termination | 4 |
| | Section 2.10 Member Liability | 4 |
| ARTICLE III | MEMBER MEETINGS AND MEMBER VOTING | 5 |
| | Section 3.1 Annual Meetings..... | 5 |
| | Section 3.2 Special Member Meetings | 5 |
| | Section 3.3 Notice of Member Meetings..... | 5 |
| | Section 3.4 Record Date | 5 |
| | Section 3.5 Member Waiver of Notice | 6 |
| | Section 3.6 Member Quorum..... | 6 |
| | Section 3.7 Member Voting | 6 |
| | Section 3.8 Member Voting by Member Proxy | 7 |
| | Section 3.9 Credentials and Election Committee | 8 |
| | Section 3.10 Member Meeting Order of Business | 9 |
| | Section 3.11 Member Proposal of Issues to be Voted Upon at the Annual Member Meeting | 9 |
| ARTICLE IV | BOARD OF DIRECTORS..... | 10 |
| | Section 4.1 Director Districts..... | 10 |
| | Section 4.2 Board..... | 10 |
| | Section 4.3 Director Qualifications..... | 11 |
| | Section 4.4 Director Nominations..... | 11 |
| | Section 4.5 Director Elections | 12 |
| | Section 4.6 Director Terms | 13 |
| | Section 4.7 Director Resignation | 13 |
| | Section 4.8 Director Removal..... | 13 |
| | Section 4.9 Director Vacancy..... | 14 |
| | Section 4.10 Director Compensation | 14 |
| | Section 4.11 Close Relative | 14 |
| ARTICLE V | BOARD MEETINGS AND DIRECTOR VOTING | 14 |
| | Section 5.1 Regular Board Meetings | 14 |
| | Section 5.2 Special Board Meetings | 14 |
| | Section 5.3 Conduct of Board Meetings..... | 15 |

| | | | |
|--------------|---|--|----|
| | Section 5.4 | Waiver of Board Meeting Notice..... | 15 |
| | Section 5.5 | Director Quorum and Voting | 15 |
| | Section 5.6 | Policies, Rules and Regulations..... | 15 |
| | Section 5.7 | Committees | 15 |
| | Section 5.8 | Board Executive Committee..... | 16 |
| | Section 5.9 | Conflict of Interest Transaction | 16 |
| ARTICLE VI | OFFICERS | | 17 |
| | Section 6.1 | Required Officers..... | 17 |
| | Section 6.2 | Chairman..... | 18 |
| | Section 6.3 | Vice Chairman | 18 |
| | Section 6.4 | Secretary | 18 |
| | Section 6.5 | Treasurer | 18 |
| | Section 6.6 | Other Officers | 18 |
| | Section 6.7 | Officer Resignation and Removal | 19 |
| | Section 6.8 | Authority to Execute Documents | 19 |
| | Section 6.9 | Officer Compensation..... | 19 |
| | Section 6.10 | Bonds | 19 |
| | Section 6.11 | Indemnification..... | 19 |
| ARTICLE VII | COOPERATIVE OPERATION | | 20 |
| | Section 7.1 | Not-for-profit and Cooperative Operation..... | 20 |
| | Section 7.2 | Allocating and Crediting Capital..... | 20 |
| | Section 7.3 | Retiring and Refunding Capital Credits | 23 |
| | Section 7.4 | Donation of Unclaimed Patronage Capital..... | 24 |
| | Section 7.5 | Non-Member Patrons and Non-Member Non-Patrons | 24 |
| | Section 7.6 | Reasonable Reserves..... | 24 |
| ARTICLE VIII | DISPOSITION OF COOPERATIVE PROPERTY | | 24 |
| | Section 8.1 | Power to Dispose of Cooperative | 24 |
| | Section 8.2 | Disposition of Property | 25 |
| ARTICLE IX | MISCELLANEOUS | | 26 |
| | Section 9.1 | Bylaw Amendments..... | 26 |
| | Section 9.2 | Rules of Order..... | 26 |
| | Section 9.3 | Fiscal Year..... | 26 |
| | Section 9.4 | Notice..... | 26 |
| | Section 9.5 | Governing Law | 27 |
| | Section 9.6 | Titles and Headings | 27 |
| | Section 9.7 | Partial Invalidity | 27 |
| | Section 9.8 | Cumulative Remedies | 27 |
| | Section 9.9 | Successors and Assigns..... | 28 |
| | Section 9.10 | Waiver | 28 |
| | Section 9.11 | Lack of Notice | 28 |
| | Section 9.12 | Subscription to Cooperative Living..... | 28 |
| | Section 9.13 | Subsidiaries | 28 |

ARTICLE I – DEFINITIONS

SECTION 1.1 – General Provisions. Unless the context requires otherwise, capitalized words (“Defined Terms”) shall have the meaning specified in the appropriate Bylaw section.

ARTICLE II – COOPERATIVE MEMBERSHIP

SECTION 2.1 – Membership Eligibility. Any natural person, firm, association, cooperative, corporation, limited liability company, business trust, partnership, limited liability partnership, state, state agency, or state political subdivision, subdivision, or other body politic (collectively, “Person”), that purchases any products, services or equipment related to energy, telecommunication, water or sewerage (collectively, “Utility Services”) from the Cooperative is eligible to become a Member.

No Person may hold more than one membership in the Cooperative. Except as otherwise provided in these Bylaws, no Cooperative membership, and no right or privilege associated with Cooperative membership, may be sold, purchased, assigned, or otherwise transferred.

SECTION 2.2 – Membership Procedure. Any Person seeking to become a Member (“Applicant”) must complete the following procedures (“Membership Procedures”):

- A. Membership in the Cooperative shall be upon a verbal, written or electronic application, payment of a membership fee as determined in advance by the Board of Directors of the Cooperative, not to exceed ten dollars (\$10.00) and upon compliance with and be bound by (a) the Cooperative’s Articles of Incorporation (“Articles”), (b) these Bylaws and (c) any policies and regulations adopted by the Cooperative’s Board of Directors (“Directors”) (items a, b and c are collectively referred to as the “Governing Documents”);
- B. Purchase one or more Utility Services from the Cooperative;
- C. Complete any additional or supplemental document or contract required by the Board for the Utility Service that the Applicant is seeking to use;
- D. Unless waived in writing by the Cooperative, pay the Cooperative any outstanding amounts owed the Cooperative by the Applicant; and
- D. Pay the Cooperative any dues, assessment, fee, deposit, contribution, or other amount required by the Governing Documents of the Cooperative.

SECTION 2.3 – Automatic Membership. Unless the Board determines otherwise as provided in these Bylaws, an Applicant automatically becomes a member of the Cooperative (“Member”) effective upon the later of the date the Applicant began using any Utility Service and the date the Applicant has completed the Membership procedure to the Cooperative’s satisfaction.

The Cooperative may issue membership certificates to each Member in a manner, method, and form determined by the Board.

The Board may refuse any Applicant membership in the Cooperative for cause.

SECTION 2.4 – Member Classes. The Cooperative shall assign each Member to one (1) of the following classes (“Member Classes”):

Class A Member: Any member who purchases electric distribution service from the Cooperative, and all associated power supply requirements from the Cooperative.

Class B Member: Any member who purchases electric distribution service but no power supply requirements from the Cooperative.

Class C Member: Any member who purchases any other utility service.

In classifying Members:

1. No Member may be a member of more than one Member Class;
2. Based upon a Member’s use of one (1) or more Utility Services, the Cooperative shall designate the Member in descending order of priority as a Class A Member, Class B Member, Class C Member; and
3. Upon the Cooperative learning of, or upon a Member demonstrating to the Cooperative’s reasonable satisfaction, a change in any Member’s use of Utility Services, then, if applicable, within thirty (30) days, the Cooperative shall re-classify the Member.

Unless otherwise provided in these Bylaws, the term “Member” includes all Member Classes.

SECTION 2.5 – Joint Membership. As provided in this Bylaw, a husband and wife may apply for joint membership in the Cooperative (“Joint Membership”).

A. *Creating Joint Memberships.* By jointly completing the membership procedure, a husband and wife may apply for Joint Membership. By written request, and by jointly executing a new membership application, any Member may apply to convert the Member’s individual membership to a Joint Membership with the Member’s spouse.

B. *Joint Member Rights and Obligations.* Unless otherwise specified by these Bylaws, each natural person comprised by a Joint Membership (“Joint Member”) has and may enjoy all the rights, benefits, and privileges, and is subject to all the obligations, requirements, and liabilities, of being a Member. As used in these Bylaws, Membership includes any Joint Membership, and Member includes any Joint Member.

C. *Effect of Joint Member Actions.* For each Joint Membership:

1. Notice of any meeting provided to either Joint Member, or waiver of notice of any meeting signed by either Joint Member, constitutes notice or waiver of notice for both Joint Members;
2. The presence of either Joint Member at any meeting:
 - a. Constitutes the presence of one (1) Member at the meeting;
 - b. Waives notice of the meeting for both Joint Members;

3. There shall be only one (1) vote per Joint Membership on any matter. The action of either Joint Member shall be deemed to be the action of both in all Cooperative affairs. A Member Proxy Appointment issued or revoked by either Joint Member shall be deemed issued or revoked by both and the date of the last issuance or revocation shall control;
4. Except upon the death of a Joint Member or divorce between Joint Members, the termination of either Joint Member constitutes termination of both Joint Members; and
5. A Joint Member otherwise qualified is eligible to serve as a member of the Board (“Director”). If both Joint Members are otherwise qualified to serve as a Director, then either Joint Member, but not both Joint Members simultaneously may be elected to serve as a Director.

D. *Joint Membership Conversion and Termination.* Upon a death or divorce of Joint Members:

1. If, in the case of death or of divorce, one (1) Joint Member continues to legally use, receive, or purchase a Utility Service at the same location, then the Joint Membership converts to a membership in the name of the Joint Member continuing to legally use, receive, or purchase a Utility Service at the same location;
2. If, in the case of divorce, both Joint Members continue to legally use, receive, or purchase a Utility Service at the same location, then the Joint Membership converts to a membership in the name of the Joint Member determined by the Cooperative; or
3. If, in the case of death or divorce, neither Joint Member continues to legally use, receive, or purchase a Utility Service at the same location, then the Joint Membership terminates.

SECTION 2.6 – *Provision of Utility Services.* The Cooperative shall provide Utility Services to Members in a reasonable manner. The Cooperative, however, neither guarantees nor warrants continuous or flawless provision of Utility Services. The Cooperative’s responsibility and liability for providing Utility Services terminates upon delivery of any Utility Service to a Member or other Person acting for a Member.

SECTION 2.7 – *Purchase of Utility Services.* As required by Law, each Member shall use at least one (1) Utility Service provided by the Cooperative.

SECTION 2.8 – *Indemnification.* Each Member shall indemnify the Cooperative for, and hold the Cooperative harmless from, any expenses, costs, liabilities, or damages, including reasonable attorney fees and legal expenses, incurred by the Cooperative, or by any Cooperative Director, Officer, employee, agent, representative, or contractor, because of any property damage, personal injury, or death resulting from the Member’s negligence or failure to comply with the Governing Documents.

SECTION 2.9 – Member Termination. The Cooperative may terminate Members as provided in this Bylaw and allowed by Law.

A. *Termination Reasons.* The Cooperative may terminate a Member if the Member:

1. Fails to timely pay any amounts due the Cooperative;
2. Fails to timely comply with the Governing Documents;
3. For six (6) consecutive months, fails to use a minimum of one Utility Service;
4. Dies, legally dissolves, or legally ceases to exist; or
5. Voluntarily requests termination; or as otherwise provided in these Bylaws, or for other good cause determined by the Board.

Items 1—5 are referred to in these Bylaws as “Termination Reasons.”

B. *Termination.* Unless otherwise provided in these Bylaws, following the occurrence of a Termination Reason, the Cooperative may terminate, without notice, the membership of any member if they fail to comply with the above provisions.

C. *Effect of Member Termination Upon Cooperative.* Upon a Member’s termination, the Cooperative’s duties, obligations, and liabilities imposed by these Bylaws for the Member cease and the Cooperative may cease providing any or all Utility Service to the Member. The Cooperative retains the obligation to allocate Capital Credits and Affiliated Capital Credits for the period during which the Member purchased utility service.

D. *Effect of Member Termination Upon Member.* Other than the right to receive allocated Capital Credits and Affiliated Capital Credits when they are retired and refunded, a terminated Member forfeits and relinquishes all rights provided in the Governing Documents. In particular, a terminated Member forfeits and relinquishes any voting rights provided by these Bylaws. A terminated Member, however, remains subject to all obligations imposed by the Governing Documents. Termination of a Member does not release the former Member from any debts, liabilities, or obligations owed the Cooperative. Upon a Member’s termination from the Cooperative, and after deducting any amounts owed the Cooperative, the Cooperative shall return to the Member any membership fee or deposit paid by the Member.

E. Notwithstanding the foregoing, the Cooperative may suspend or terminate service to a Member in accordance with the Governing Documents, without first terminating such Member.

SECTION 2.10 – Member Liability. A Member’s liability to third parties for the Cooperative’s acts, debts, liabilities, or obligations is generally limited, by law, to the unpaid portion of such Member’s Membership fee unpaid subscription to capital stock, and unpaid bills from the Cooperative. A Member, however, may become liable to the Cooperative as provided in these Bylaws or as otherwise agreed to by the Cooperative and Member.

ARTICLE III – MEMBER MEETINGS AND MEMBER VOTING

SECTION 3.1 – Annual Meetings. The Cooperative shall annually hold a meeting of Members (“Annual Member Meeting”). The Board shall determine the date, time, and location of the Annual Member Meeting.

At the Annual Member Meeting, the Chairman and Treasurer shall provide a written report, or oral presentation, regarding the Cooperative’s activities and financial condition. The Cooperative’s failure to hold an Annual Member Meeting does not affect any action taken by the Cooperative.

SECTION 3.2 – Special Member Meetings. The Cooperative shall hold a special meeting of Members at a date, time, and location, each selected by the Board in its discretion, (“Special Member Meeting”) upon receipt by the Cooperative of a written request from a majority of the Directors; or at least ten percent (10%) of the Cooperative’s total current Members (“Total Membership”) requesting, and describing the purpose of, a special meeting of Members (“Member Demand”).

SECTION 3.3 – Notice of Member Meetings. As directed by the Chairman, Secretary, or any Officer or Member properly calling a Member Meeting, the Cooperative shall provide written notice of the Member Meeting to all Members entitled to vote at the Member Meeting. Such written notice shall be provided at least ten (10) but no more than sixty (60) days prior to the Member Meeting, and shall indicate the date, time, and location of the Member Meeting. Written notice of a Member’s Meeting to act on an amendment to the Articles, a plan of merger, or a proposed sale of assets other than in the course of regular business shall be provided at least twenty-five (25) but no more than sixty (60) days prior to the Member Meeting.

For any Special Member Meeting, written notice shall state and describe the purpose and matters to be considered or voted at the Special Member Meeting.

The failure of any Member to receive notice of any Member Meeting shall not affect any action taken at the Member Meeting.

Unless otherwise provided in these Bylaws, the Cooperative shall notify Members of a Member Meeting adjourned to another date, time, or location unless:

- A. The Member Meeting is adjourned to another date occurring within sixty (60) days following the Record Date for the original Member Meeting; and
- B. The new date, time, or location is announced at the Member Meeting prior to adjournment.

SECTION 3.4 – Record Date. The Board may fix a date (“Record Date”) for determining the Total Membership and the Members entitled to receive a Notice of a Member Meeting and vote at a Member Meeting.

The Record Date for determining the Total Membership and the Members entitled to:

- A. Receive Notice of a Member Meeting is the close of business on the business day preceding the day the Cooperative notifies Members of the Member Meeting;

- B. Vote at a Member Meeting is the date of the Member Meeting;
- C. Sign a Member Demand is the close of business on the thirtieth day prior to the Cooperative's receipt of Member Demands; and
- D. Receive notice of or vote at a Member Meeting is effective for any Member Meeting adjourned to a date not more than seventy (70) days following the Record Date for determining the Total Membership and the Members entitled to notice of the original Member Meeting.

SECTION 3.5 – Member Waiver of Notice. A Member may waive notice of a Member Meeting, or waive notice of any matter to be voted on at a Member Meeting, by signing and delivering to the Cooperative a written waiver of notice (“Member Meeting Waiver of Notice”) either prior to the Member Meeting, or within thirty (30) days following the Member Meeting. Unless a Member objects to holding, or to transacting business at, a Member Meeting, a Member’s attendance in person or by Member Proxy waives the Member’s objection to lack of notice, or to defective notice, of the Member Meeting. Unless a Member objects to considering a matter at a Member Meeting, a Member’s attendance in person or by Member Proxy waives the Member’s objection to voting on the matter at the Member Meeting.

SECTION 3.6 – Member Quorum. A quorum of Members [either in person or represented by Member Proxy] is two and one-half (2½%) percent of the Total Membership (“Member Quorum”).

If less than the Member Quorum are present at any Member Meeting, then a majority of Members attending the Member Meeting in person may adjourn the Member Meeting to a date no more than ninety (90) days following the original Member Meeting.

SECTION 3.7 – Member Voting. Upon presenting identification or proof of Cooperative membership as reasonably required by the Cooperative, and regardless of the value or quantity of Utility Services used, received, or purchased, each Member may cast one (1) vote on any matter for which the Member is entitled to vote. Individuals voting on behalf of non-natural person Members must present evidence satisfactory to the Cooperative that the individual is duly authorized to vote for the non-natural person Member.

Unless otherwise provided by Law, the Articles, or these Bylaws, Members approve a matter and act if:

- A. A Member Quorum exists; and
- B. A majority of Members present in person (or represented by Member Proxy) entitled to vote on a matter, and voting on the matter, vote in favor of the matter.

At any Member Meeting, the individual presiding over the Member vote may require the Members to vote by voice. If the individual presiding over the Member vote determines, in good faith, that a written vote is required to determine the vote results, then the Members shall vote by written ballot (“Member Meeting Written Ballot”).

Cumulative voting by Members is not allowed.

SECTION 3.8 – Member Voting by Member Proxy. A Member may appoint another Member (“Member Proxy”) to vote on any matter for the Member as described on a proxy form prepared by or caused to be prepared by the Board of Directors and timely distributed to the Membership. All Members properly represented by Member Proxy shall be counted in determining whether a Member Quorum exists.

A. *Member Proxy Appointment.* At all meetings of Members, a Member may vote by proxy executed in writing by the Member. Such proxy shall be filed at the principal office of the Cooperative in Tasley, Virginia, at least two (2) full days in advance of the day set for the beginning of the meeting at which such proxy is to be voted, and no proxy shall be voted at any meeting other than the one so designated or any adjournment of such meeting. No Member shall vote as proxy for more than three (3) Members at any meeting of the Members except where such person is exercising a proxy in connection with the borrowing of funds from any source; including without limitation, additional sums from United States of America; and/or in connection with a sale, mortgage, lease or other disposition or encumbrance of property to the United States of America or any agency or instrumentality thereof; and/or in connection with a mortgage, deed of trust, lease or other encumbrance of property to any other person, firm, or corporation; and/or in connection with an amendment to the articles of incorporation of the Cooperative; and/or in connection with the election of directors of the Cooperative. No proxy shall be valid after sixty (60) days from the date of its execution. The presence of a Member at a meeting of the Members shall revoke a proxy theretofore executed by him and such Member shall be entitled to vote at such meeting in the same manner and with the same effect as if he had not executed a proxy. In case of joint membership, a proxy may be executed by either husband or wife. The presence of either husband or wife at a meeting of the Members shall revoke a proxy theretofore executed by either of them and such joint Member or Members shall be entitled to vote at such meeting in the same manner and with the same effect as if a proxy had not been executed. All voting by proxy shall be done on a proxy form prepared by or caused to be prepared by the Board of Directors and timely distributed to the Membership. Only such matters as appear on the proxy form prepared by or caused to be prepared by the Board of Directors and timely distributed to the Membership may be voted upon at any Member Meeting.

B. *Member Proxy Appointment Revocation.* A Member Proxy Appointment may be revoked prior to the Member Proxy voting for a Member by:

1. The Cooperative Proxy Manager receiving a Member Proxy Appointment more recently dated than the Member Proxy Appointment appointing the Member Proxy;
2. The Cooperative Proxy Manager receiving a written revocation of Member Proxy Appointment signed by the Member appointing the Member Proxy

- and dated after the Member Proxy Appointment;
3. The Member appointing the Member Proxy attending and voting at a Member Meeting specified in, or occurring during the dates specified in, the Member Proxy Appointment, including any Member Meeting properly adjourned and reconvened; or
 4. The Cooperative Proxy Manager receiving notice of the death or legal incapacity of the Member appointing the Member Proxy.

SECTION 3.9 – Credentials and Election Committee. The Board may appoint a Credentials and Election Member Committee (“C&E Committee”) consisting of an uneven number of Members between three (3) and nine (9) or the Board may appoint a Committee of three (3) tellers to oversee elections. The Committee of tellers may oversee any challenges which may occur.

A. *C&E Committee Members.* A C&E Committee member may not be:

1. A member of the Nominating Committee; or
2. An existing, or a Close Relative of an existing:
 - a. Director, Officer, employee, representative, or agent of the Cooperative; or
 - b. Known Director candidate.

As determined by the Board, the Cooperative may reasonably compensate or reimburse C&E Committee members.

B. *C&E Committee Duties.* The C&E Committee shall:

1. Elect a chairperson and secretary;
2. Establish, or approve, the manner or method of Member registration and voting;
3. Observe Member registration and voting and the tabulation of Member votes; and
4. Consider and decide all questions, issues, or disputes regarding:
 - a. Member registration and voting;
 - b. The tabulation of Member votes;
 - c. Director nominations; and
 - d. Whether a Director nominee or newly elected Director satisfies the Director Qualifications.

Items a—d are referred to in these Bylaws as “Member Meeting Issues.”

The C&E Committee may meet, consider, or decide Member Meeting Issues, or otherwise act, only if a majority of the C&E Committee members are present. Any C&E Committee decision or action requires a vote of at least a majority of the C&E Committee members present and voting. Unless properly challenged under this Bylaw, all C&E Committee decisions made prior to, at, or within a reasonable time following, a Member Meeting are final.

C. *Member Challenge.* Any Member may comment upon a Member Meeting Issue; or challenge the C&E Committee’s decision regarding a Member

Meeting Issue by filing a written description of the Member's comments or challenge ("Member Challenge") with the Cooperative within three (3) business days following the Member Meeting addressed by the Member Challenge.

Within thirty (30) days of receiving any Member Challenge, the C&E Committee shall:

1. As determined by the C&E Committee, meet and receive oral or written evidence from any Member, or legal counsel representing any Member, directly and substantially implicated in, or affected by, the Member Challenge; and
2. Consider, decide, and rule upon the Member Challenge.

The C&E Committee's decision regarding any Member Challenge is final. Upon written request by any Member received by the C&E Committee within thirty days of a C&E Committee decision, the C&E Committee shall prepare a written report summarizing and explaining the C&E Committee's decision.

The failure of the Cooperative or C&E Committee to act as required by this Bylaw shall not, by itself, affect any vote, or other action taken at a Member Meeting.

SECTION 3.10 – *Member Meeting Order of Business.* The Board shall determine the agenda and order of business for Member Meetings.

SECTION 3.11 – *Member Proposal of Issues to be Voted Upon at the Annual Member Meeting.* Members may propose that a vote be taken at the Annual Members Meeting by submitting a petition signed by not less than ten percent (10%) of the Total Membership of the Cooperative regarding any specifically described matter for which the power to consider, vote, or act is conferred upon the Members by law, the Cooperative's Articles, or these Bylaws ("Member-proposed Issue"). Such petition, which shall include clear, precise, and specific language of a motion, resolution, Bylaw amendment, or other written statement upon which the Members will be asked to vote or act, shall be submitted to the Secretary of the Cooperative not less than seventy-five (75) days prior to the Annual Member Meeting. The number and authenticity of the collected Member signatures shall be subject to review by the Secretary, and the legal validity of the issue, meaning that the issue as described is a matter for which the power to consider, vote, or act is conferred upon Members by law, the Cooperative's Articles, or these Bylaws, shall be determined by the General Counsel before any such proposed issue shall be submitted to a Member vote. The Secretary shall post such Member-proposed Issues at each place where a list of issues to be voted on is posted and shall include any such issues on the proxy form for the Annual Member Meeting prepared by or caused to be prepared by the Board of Directors and timely distributed to the Membership. The procedures described herein provide the exclusive means by which Members may raise issues to be voted on at the Annual Member Meeting.

ARTICLE IV – BOARD OF DIRECTORS

SECTION 4.1 – Director Districts. The Cooperative shall divide the general area in which Members are located or reside (“Cooperative Service Area”) into at least four (4) districts (collectively “Director Districts”). If necessary, the Board may revise the Director Districts to ensure that Members are equitably represented by the Director Districts. The Board may also revise the Director District to create one (1) or more separate Director Districts for one (1) or more Classes of Members; provided, however that each Member, regardless of Class, shall be eligible to vote for at least one (1) Director. Director Districts for any Class need not but may have the same territorial boundaries as the Director Districts for any other Class. In addition, the Board may authorize the election of one (1) or more at large directors, who shall be elected by any class or classes of Members without regard to Director Districts.

Within thirty (30) days following any Director District revision, and at least thirty (30) days before the next Annual Member Meeting, the Cooperative shall notify, in writing, any Members affected by the Director District revision. Director District revisions are effective on the date the Cooperative releases written notice of the Director District revision. No Director District revision may:

- A. Increase an existing Director’s Term; or
- B. Unless the affected Director consents in writing, shorten any existing Director’s Term.

SECTION 4.2 – Board. The Cooperative shall have a Board consisting of one (1) or more persons from each Director District elected by the Members located or residing and belonging to the Class entitled to elect a Director from such Director District and such at large directors as the Board shall authorize. Except as otherwise provided by Law, the Articles, or these Bylaws:

- A. All Cooperative powers must be exercised by the Board, or under the Board’s authority; and
- B. All Cooperative affairs must be managed under the Board’s direction.

To the extent the Law, the Articles, or these Bylaws authorize any Person to exercise any power that the Board would otherwise exercise, the Person exercising the power has, and is subject to, the same duties, responsibilities, and standards of care of the Board.

SECTION 4.3 – Director Qualifications. Any Director or Director candidate must comply with this Section.

- A. *Director Qualifications.* A Director or Director candidate must:
 1. Eligibility – No Member shall be eligible to become a member of the Board of Directors until he or she has been a Member of the Cooperative for at least four (4) years, except for previously elected Board members;
 2. Have the capacity to enter into legally binding contracts;

3. Be a Member in good standing residing in the Director District from which the Director is elected or chosen;
4. If the Cooperative has any separate Director Districts for any Class, be a Member of such Class; and
5. Not have a felony conviction.

Items 1—5 collectively, “Membership Director Qualifications.”

B. *Conflict of Interest Director Qualifications.* While a Director, and during the one (1) year immediately prior to becoming a Director, a Director or Director candidate must not be, nor have been:

1. A Close Relative of any existing Director, other than an existing Director who will cease being a Director within one (1) year;
2. An existing, or a Close Relative of an existing, non-Director Cooperative Officer, employee, agent, or representative;
3. Employed by, materially affiliated with, or share a material financial interest with, any other Director; or
4. Engaged in, nor employed by, materially affiliated with, or have a material financial interest in, any individual or entity other than an entity in which the Cooperative possessed an ownership interest (other than an entity in which the Cooperative possesses an ownership interest):
 - a. Directly and substantially competing with the Cooperative;
 - b. Selling goods or services in substantial quantity to the Cooperative or to a substantial number of Members; or
 - c. Possessing a substantial conflict of interest with the Cooperative.

Items a—c collectively, “Conflict of Interest Director Qualifications”.

C. *Continuing Director Qualifications.* Only natural persons complying with the Membership Director Qualifications, and Conflict of Interest Director Qualifications (collectively, “Director Qualifications”) may serve, or continue to serve, as a Director.

After being elected or appointed a Director, if any Director fails to comply with any Director Qualification, as determined by the Board, then the Board shall remove the Director. If at least a majority of Directors authorized by these Bylaws comply with the Director Qualifications and approve a Board action, then the failure of any Director to comply with all Director Qualifications does not affect the Board action.

SECTION 4.4 – Director Nominations. Director candidates shall be nominated as follows:

A. *Nominating Committee Nominations.* The Board shall appoint a Nominating Committee consisting of at least one (1) Member from each Director District for Directors being elected (“Nominating Committee”). Nominating Committee members may not be an existing, or a close relative of existing, Cooperative Director, Officer, employee, agent, representatives, or known Director candidate.

At least thirty (30) days prior to the Member Meeting at which Members are scheduled to elect Directors, the Nominating Committee shall:

1. Nominate at least one (1) individual to run for election for each Director position for which Members are scheduled to vote at the Member Meeting (“Nominating Committee Nominations”); and
2. Post the Nominating Committee Nominations at the Cooperative’s principal office and publish the Nominating Committee Nominations in “Cooperative Living” magazine.

The Cooperative may reasonably compensate or reimburse Nominating Committee members as determined by the Board.

B. *Member Petition Nominations.* Members may nominate additional individuals to run for election for any Director position for which Members are scheduled to vote at any Member meeting (“Member Petition Nominations”). Members may make Member Petition Nominations by delivering to the Secretary at least seventy-five (75) days prior to the Member meeting a writing for each Member Petition Nomination (“Member Petition”):

1. Listing the name of the Member Petition Nominee;
2. Indicating the Director position for which the Member Petition Nominee will run; and
3. Containing the printed names, addresses, and original signatures, of at least 10 percent (10%) of the Members.

After verifying that the Member Petition complies with this Bylaw, the Cooperative shall post the Member Petition Nomination in approximately the same location as the Nominating Committee Nominations.

C. *Notice of Director Nominations.* At least ten (10) days prior to any Member Meeting at which Members are scheduled to elect Directors, the Cooperative shall notify Members of the:

1. Director positions for which Members are scheduled to vote;
2. Names and corresponding Director positions of all Nominating Committee Nominations; and
3. Names and corresponding Director positions of all Member Petition Nominations.

No nominations shall be made from the floor at the Annual Member Meeting.

SECTION 4.5 – *Director Elections.* At the Annual Member Meeting, Members present, or by proxy, shall annually elect Directors for which the incumbent Director’s Term is expiring. In any election for Director, each Member shall have the right to vote for the duly nominated candidate of his/her choice in person at the Annual Member Meeting or upon a proxy form prepared by or caused to be prepared by the Board of Directors and timely distributed to the Membership.

SECTION 4.6 – Director Terms. A Director’s term is three (3) years (“Director Term”). The Cooperative shall stagger Director Terms by dividing the total number of authorized Directors into groups of approximately equal number and Members will annually elect an approximately equal number of Directors.

Decreasing the number of Directors or length of Director Terms may not shorten an incumbent Director’s Term. Despite the expiration of a Director Term, the Director continues to serve until a new Director is elected, or until the number of Directors is decreased. Unless otherwise provided in these Bylaws, the Director Term of a Director filling a vacant Director’s position is the remaining unexpired Director Term of the vacant Director’s position.

SECTION 4.7 – Director Resignation. A Director may resign at any time by delivering written notice of resignation to the Board, Chairman, or Secretary. Unless the written notice of resignation specifies a later effective date, a Director’s resignation is effective upon the Board, Chairman, or Secretary receiving the written notice of resignation. If a Director’s resignation is effective at a later date, and if the successor Director does not take office until the effective date of the Director’s resignation, then the pending Director vacancy may be filled before the effective date of the Director’s resignation.

SECTION 4.8 – Director Removal.

- A. A Director may be removed for cause by the affirmative vote of a majority of the Members.
- B. “Cause” for removal shall mean that the Director is alleged to have committed an act or omission adversely affecting the business and affairs of the Cooperative and amounting to gross negligence, fraud or criminal conduct.
- C. No Director shall be removed except upon certification that the following procedures have been followed:
 1. A written petition must be presented to the Board, which shall:
 - a. Describe in detail each of the charges and the basis therefor. If more than one (1) Director is sought to be removed, individual charges for removal shall be specified.
 - b. Be signed by a minimum of 10 percent (10%) of the Members of the Cooperative within sixty (60) days of the date of the petition.
 2. If the Board determines that the petition complies with paragraph (C)(1.), and only if the Secretary certifies the authenticity of the petition, a meeting of the Members shall be noticed in accordance with these Bylaws and shall be held within sixty (60) days after receipt by the Cooperative of the written petition.
 3. At such meeting, evidence must be presented in support of the charges. The Director shall be entitled to be represented by counsel and shall have the opportunity to refute such charges and present evidence in his or her defense before a vote of the Members is taken.

D. Any vacancy created by such removal may be filled by vote of the Members at such meeting without compliance with the foregoing provisions with respect to nominations.

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

SECTION 4.9 – Director Vacancy. Unless otherwise provided in these Bylaws:

A. The Board shall, by majority vote, fill any vacant Director position, including any vacant Director position resulting from increasing the number of Directors; and

B. Any Director elected by the Board to fill any vacant Director position shall serve until the next Annual Member Meeting, at which time the Members shall elect a new Director to fill the previously vacant Director position.

An individual elected to fill a vacant Director position must comply with the Director Qualifications. As used in this Bylaw, “vacant Director position” and “Director vacancy” do not include Director positions vacated due to an expired Director Term.

SECTION 4.10 – Director Compensation. As allowed by Law and the Articles, the Cooperative may reasonably reimburse, compensate, or provide benefits to, Directors. The Board shall determine the manner and method of any reasonable Director reimbursement, compensation, or benefits.

SECTION 4.11 – Close Relative. As used in these Bylaws, the term “Close Relative” means an individual who:

A. Is, either by blood, law, or marriage, including half, step, foster, and adoptive relations, a spouse, child, grandchild, parent, grandparent, or sibling; or

B. Principally resides in the same residence.

Any individual properly qualified and elected or appointed to any position does not become a Close Relative while serving in the position because of any marriage or legal action to which the individual was not a party.

ARTICLE V – BOARD MEETINGS AND DIRECTOR VOTING

SECTION 5.1 – Regular Board Meetings. The Board shall regularly meet at the date, time, and location determined by the Board (“Regular Board Meeting”). Unless otherwise required by these Bylaws, the Board may hold Regular Board Meetings without notice. For good cause, the Chairman may change the date, time, or location of any Regular Board Meeting.

All Directors are entitled to receive notice of a Chairman’s change in a Regular Board Meeting date, time, or location at least five (5) days before the changed Regular Board Meeting.

SECTION 5.2 – Special Board Meetings. The Chairman, or a majority of the Directors may call a special meeting of the Board (“Special Board Meeting”) by

providing each Director at least five (5) days' prior written notice indicating the date, time, and location and purpose of the Special Board Meeting.

SECTION 5.3 – *Conduct of Board Meetings.* Unless otherwise provided in these Bylaws, any Regular Board Meeting or Special Board Meeting may be:

- A. Held in, or out of, any state in which the Cooperative provides any Utility Service; and
- B. Conducted with absent Directors participating, and deemed present in person, through any means of communication by which all Directors participating in the Board Meeting may simultaneously hear each other during the Board Meeting.

SECTION 5.4 – *Waiver of Board Meeting Notice.* At any time, a Director may waive notice of any Board Meeting by delivering to the Cooperative a written waiver of notice signed by the Director and later filed with the Board Meeting minutes or the Cooperative's records. Unless a Director:

- A. Upon arriving at a Board Meeting or prior to the vote on a particular matter, objects to lack of, or defective, notice of the Board Meeting or a matter being considered at the Board Meeting; and
- B. Does not vote for, or assent to, an objected matter; then the Director's attendance at, or participation in, a Board Meeting waives notice of the Board Meeting and any matter considered at the Board Meeting.

SECTION 5.5 – *Director Quorum and Voting.* A quorum of Directors is a majority of the Directors in office immediately before a Board Meeting begins ("Director Quorum"). If a Director Quorum is present at the time a matter is voted or acted upon, and unless the vote of a greater number of Directors is required, then the affirmative vote of a majority of Directors present is the act of the Board.

SECTION 5.6 – *Policies, Rules and Regulations.* The Board shall have power to make and adopt such policies, rules and regulations, not inconsistent with law, the articles of incorporation or these Bylaws, as it may deem advisable for the management of the business and affairs of the Cooperative.

SECTION 5.7 – *Committees.* The Board may create committees of the Board ("Board Committees") and appoint Directors to serve on the Board Committees. Each Board Committee must consist of two (2) or more Directors, and serves at the Board's discretion. The Board may create committees of the Members ("Member Committees") and appoint Members, including Directors, to serve on the Member Committees.

- A. *Creation and Appointment of Committees.* Except as otherwise provided in these Bylaws, at least a majority of Directors currently in office must approve the:
 - 1. Creation of any Board Committee or Member Committee;
 - 2. Appointment of Directors to any Board Committee; and
 - 3. Appointment of Members to any Member Committee.

B. *Conduct of Committee Meetings.* To the same extent as the Board and Directors, the Bylaws addressing Regular Board Meetings, Special Board Meetings, Conduct of Board Meetings, Waiver of Board Meeting Notice, Board Action by Written Consent, and Director Quorum and Voting apply to Board Committees and Directors serving on Board Committees, and to Member Committees and Members serving on Member Committees.

C. *Committee Authority.* Except as prohibited or limited by Law, the Articles, or this Bylaw, the Board may authorize a Board Committee to exercise Board authority. Although a Board Committee may recommend, a Board Committee may not act, to:

1. Retire and refund Capital Credits and Affiliated Capital Credits;
2. Approve the Cooperative's dissolution or merger, or the sale, pledge, or transfer of all, or substantially all, Cooperative Assets;
3. Elect, appoint, or remove Directors, or fill any Board or Board Committee vacancy; or
4. Adopt, amend, or repeal these Bylaws.

Member Committees may act as specified by the Board, but may not exercise Board authority.

SECTION 5.8 – Board Executive Committee. Unless otherwise determined by the Board:

- A. A Board Executive Committee comprises the Chairman, Vice-Chairman, Secretary, and Treasurer (“Board Executive Committee”); and
- B. Except as prohibited by Law, the Articles, or these Bylaws, the Board Executive Committee may exercise Board authority regarding a matter.

The Board Executive Committee:

- A. Is a Board Committee;
- B. May exercise all Board authority granted by the Board and permitted by Law, the Articles, and these Bylaws; and
- C. At the next Board Meeting following any exercise of Board authority, shall report to the Board regarding the Board Executive Committee's exercise of Board authority.

SECTION 5.9 – Conflict of Interest Transaction. A conflict of interest transaction is a transaction with the Cooperative in which a Director has a direct or indirect interest (“Conflict of Interest Transaction”).

A. *Indirect Interest.* A Director has an indirect interest in a Conflict of Interest Transaction if at least one (1) party to the transaction is another entity:

1. In which the Director has a material interest or is a general partner; or
2. Of which the Director is a director, officer, or trustee.

- B. *Approval of Conflict of Interest Transaction.* Regardless of the presence or vote of a Director interested in a Conflict of Interest Transaction, a Conflict of Interest Transaction may be approved, and any Board Quorum or Member Quorum satisfied, if the Conflict of Interest Transaction’s material facts, and the Director’s interest, are:
1. Disclosed or known to the Board or Board Committee, and a majority of more than one (1) Director or Board Committee member with no interest in the Conflict of Interest Transaction votes to approve the Conflict of Interest Transaction; or
 2. Disclosed or known to the Members, and a majority of votes cast by Members not voting under the control of a Director or entity interested in the Conflict of Interest Transaction approves the Conflict of Interest Transaction.
- C. *Fair Conflict of Interest Transaction.* A Conflict of Interest Transaction that is fair when entered shall be neither:
1. Voidable; nor
 2. The basis for imposing liability on a Director interested in the Conflict of Interest Transaction.

ARTICLE VI – OFFICERS

SECTION 6.1 – Required Officers. The Cooperative must have the following officers: Chairman, Vice-Chairman, Secretary, and Treasurer (“Required Officers”). The Board shall elect Required Officers:

- A. At the first Regular Board Meeting following each Annual Member Meeting, or as soon after each Annual Member Meeting as reasonably possible and convenient;
- B. By affirmative vote of a majority of Directors in office; and
- C. By secret written ballot without prior nomination.

Only Directors may be elected, and serve, as a Required Officer. One Director may simultaneously be Secretary and Treasurer. Unless allowed by Law, however, this Director may not execute, acknowledge, or verify any document in more than one capacity.

Subject to removal by the Board, each Required Officer shall hold office until the Required Officer’s successor is duly elected. The Board shall fill any vacant Required Officer’s position for the remaining unexpired portion of the Required Officer’s term.

SECTION 6.2 – Chairman. Unless otherwise determined by the Board or Members, and unless otherwise required by Law, the Articles, or these Bylaws, the Chairman:

- A. Shall preside, or designate another individual to preside, at all Board and Member Meetings;

- B. On the Cooperative's behalf, may sign any document properly authorized or approved by the Board or Members; and
- C. Shall perform all other duties, shall have all other responsibilities, and may exercise all other authority, prescribed by the Board or Members.

SECTION 6.3 – Vice Chairman. Unless otherwise determined by the Board or Members, and unless otherwise required by Law, the Articles, or these Bylaws, the Vice-Chairman:

- A. Upon the Chairman's death, absence, disability, or inability or improper refusal to act, shall perform the duties, and have the powers, of the Chairman; and
- B. Shall perform all other duties, shall have all other responsibilities, and may exercise all other authority prescribed by the Board or Members.

SECTION 6.4 – Secretary. Unless otherwise determined by the Board or Members, and unless otherwise required by Law, the Articles, or these Bylaws, the Secretary:

- A. Shall be responsible for preparing minutes of Board and Member Meetings;
- B. Shall be responsible for authenticating the Cooperative's records;
- C. May affix the Cooperative's seal to any document authorized or approved by the Board or Members; and
- D. Shall perform all other duties, shall have all other responsibilities, and may exercise all other authority, prescribed by the Board or Members.

SECTION 6.5 – Treasurer. Unless otherwise determined by the Board or Members, and unless otherwise required by Law, the Articles, or these Bylaws, the Treasurer shall perform all duties, shall have all responsibility, and may exercise all authority, prescribed by the Board.

SECTION 6.6 – Other Officers. The Board may elect or appoint other officers including, without limitation, a President, one or more Vice-Presidents, one or more Assistant Secretaries, and one or more Assistant Treasurers, ("Other Officers"). Other Officers:

- A. May be Directors, Cooperative employees, or other individuals;
- B. Must be elected or appointed by the affirmative vote of a majority of current Directors;
- C. May be elected by secret written ballot and without prior nomination;
- D. May assist Required Officers; and
- E. Shall perform all duties, shall have all responsibilities, and may exercise all authority, prescribed by the Board.

The same individual may simultaneously hold more than one (1) office. Unless

allowed by Law, however, this individual may not execute, acknowledge, or verify any document in more than one (1) capacity.

SECTION 6.7 – *Officer Resignation and Removal.* At any time, any Required Officer or Other Officer (collectively, “Officer” or “Cooperative Officer”) may resign by delivering to the Cooperative or Board an oral or written resignation. Unless the resignation specifies a later effective date, an Officer resignation is effective when received by the Cooperative or Board. If an Officer resignation is effective at a later date, then the Board may fill the vacant Officer position before the later effective date, but the successor Officer may not take office until the later effective date. At any time, the Board may remove any Officer for any reason, with or without cause.

SECTION 6.8 – *Authority to Execute Documents.* On the Cooperative’s behalf, any two (2) Required Officers (except in the case of Chairman, whose signature alone is sufficient) may sign, execute, and acknowledge any document properly authorized or approved by the Board or Members. The Board may authorize additional Cooperative Directors, Officers, employees, agents, or representatives to sign, execute, and acknowledge any document on the Cooperative’s behalf.

SECTION 6.9 – *Officer Compensation.* Unless otherwise provided in a Bylaw addressing Director compensation, reimbursement, or provision of benefits, and as determined by the Board, the Cooperative may reasonably compensate, reimburse, or provide benefits to, any Officer.

SECTION 6.10 – *Bonds.* At the Cooperative’s expense, the Cooperative may purchase a bond covering any Cooperative Director, Officer, employee, agent, or representative.

SECTION 6.11 – *Indemnification.* The Cooperative shall indemnify any Director or Officer of the Cooperative against expenses (including legal fees), judgments, fines, and amounts paid in settlement, actually and reasonably incurred, to the fullest extent now or hereafter permitted by law in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, brought or threatened to be brought against a person by reason of performance as a Director or Officer of the Cooperative, its parent or any of its subsidiaries or in any other capacity on behalf of the Cooperative, its parent or any of its subsidiaries.

The Board of Directors, by resolution adopted in each specific instance, may similarly indemnify any person other than a Director or Officer of the Cooperative for liabilities incurred in connection with services rendered for or at the request of the Cooperative, its parent or any of its subsidiaries.

The provisions of this section shall be applicable to all actions, suits or proceedings commenced after its adoption, whether such arise out of acts or omissions which occurred prior or subsequent to such adoption and shall continue as to a person who has ceased to be a Director or Officer or to render services for or at the request of the Cooperative and shall inure to the benefit of the heirs, executors, and administrators of such a person.

The rights of indemnification provided for herein shall not be deemed the exclusive rights to which any Director, Officer, employee or agent of the Cooperative may be entitled. The Cooperative may pay the expenses incurred by any person entitled to be indemnified by the Cooperative in defending a civil or criminal action, suit or proceeding in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking, by or on behalf of such person, to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Cooperative as authorized by law.

ARTICLE VII – COOPERATIVE OPERATION

SECTION 7.1 – *Not-for-profit and Cooperative Operation.* The Cooperative:

- A. Must operate on a not-for-profit basis (but may have for-profit affiliates and subsidiaries); and
- B. Must operate in accordance with cooperative principles for the mutual benefit of its Members.

SECTION 7.2 – *Allocating and Crediting Capital.*

- A. *Patron.* A Cooperative patron is any Class A, B, or C Member, or any Non-Member Person who:
 - 1. Uses, receives, or purchases any service, product or commodity from the Cooperative (“Cooperative Service”); and
 - 2. Receives an allocation of, and payment by credit to a Capital account for, Capital Credits and Affiliated Capital Credits (collectively, “Patron”).
- B. *Capital Credits.* Patrons shall furnish, and the Cooperative shall receive, as capital (“Capital”) all funds and amounts received by the Cooperative from Patrons for the Cooperative’s provision of a Cooperative Service that exceed the Cooperative’s costs and expenses of providing the Cooperative Service (“Operating Margins”). For each Cooperative Service, the Cooperative shall annually allocate to each Patron, and pay by credit to a capital account for each Patron, Operating Margins from the Cooperative Service a value or quantity of the Cooperative Service used, received, or purchased by each Patron during the applicable fiscal year (“Capital Credits”). Capital Credits must be treated as though the Cooperative paid the Capital Credit amounts to each Patron in cash pursuant to a legal obligation, and each Patron furnished the Cooperative capital in the corresponding Capital Credit amounts.

All other amounts received by the Cooperative from its operations in excess of costs and expenses shall, insofar as permitted by law, be (a) used to offset any losses incurred during the current or any prior fiscal year and (b) to the extent not needed for that purpose, be retained by the Cooperative as permanent capital.

In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding Capital Credits shall be retired without priority on a pro rata basis before any payments are made on account of

property rights of Members. If, at any time prior to dissolution or liquidation, the Board shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital then credited to Patrons' accounts may be retired in full, or in part in such amounts as the Board from time to time may determine. The Board shall determine the method, basis, priority and order of retirement, if any, for all amounts heretofore and hereafter furnished as capital. Provided, however, that the Board shall have the power to adopt rules providing for the separate retirement of that portion ("power supply portion") of Capital credited to the accounts of Patrons which corresponds to capital credited to the account of the Cooperative by an organization furnishing electric service to the Cooperative. Such rules shall (a) establish a method for determining the power supply portion of capital credited to each Patron for each applicable fiscal year, (b) provide for separate identification on the Cooperative's books of the power supply portion of capital credited to the Cooperative's Patrons, (c) provide for appropriate notifications to Patrons with respect to the power supply portion of capital credited to their accounts and (d) permit a general retirement of the power supply portion of the capital credited to Patrons upon a receipt of payment of such capital.

The Board of the Cooperative may, at its discretion, provide for the separate retirement of capital credited to A&N Electric Cooperative by other associated organizations in a manner similar to that of a power supply organization.

Capital credited to the account of each Patron shall be assignable only on the books of the Cooperative pursuant to written instructions from the assignor and only to successors in interest or successors in occupancy in all or a part of such Patron's premises served by the Cooperative unless the Board, acting under policies of general application, shall determine otherwise. In the event that a non-member patron shall elect to become a Member of the Cooperative the capital credited to the account of such non-member patron may be applied by the Cooperative toward the payment of a membership fee on behalf of such non-member patron.

Notwithstanding any other provision of these Bylaws, the Board, at its discretion, shall have the power at any time upon the death of any Patron who is a natural person, if the legal representatives of his estate or others authorized by law shall request in writing that the capital credited to any such Patron be retired prior to the time such capital would otherwise be retired under the provisions of these Bylaws. Any such retirement for estates of deceased Patrons shall be upon such terms and conditions as the Board, acting under policies of general application, and the legal representatives of such Patron's estate or others authorized by law shall agree upon; provided, however, that the financial condition of the Cooperative will not be impaired thereby, and any such payments shall not violate any contractual obligations of the Cooperative.

If at any time the Cooperative undertakes to return any Capital Credits to or on behalf of a Member or a Member's estate, the Cooperative shall first deduct and set off from the monies to be paid over to or on behalf of the Member or the Member's estate any amount which the Member or the Member's estate may then owe to the Cooperative.

If the patronage capital accruing to a Member or former Member's account is

sought to be returned by the Cooperative and said Member or former Member fails to claim such patronage capital for three (3) years from the date it is mailed to his last known billing address by first class mail, then such patronage capital shall be deemed to have been transferred as a gift to the Cooperative and shall thereafter be the property of the Cooperative; provided however (1) there is no spouse or next of kin identified in the records of the Cooperative for any deceased person for whom Capital Credits are being held, or (2) there is no current address on file with the Cooperative for a former Member who has terminated the service; and provided further that such credits shall be deemed gifts to the Cooperative only if the Cooperative published notice of such unclaimed Capital Credits in its regular Member publication and also in a publication of general circulation in the territory served by the Cooperative and such Capital Credits are not claimed by such Member, former Member, or next of kin within 120 days of such publication. However, the deceased Member's personal representative, spouse or next of kin or former Member may at any time make claim to any unclaimed Capital Credits previously authorized to be paid by the Cooperative.

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

C. *Affiliated Capital Credits.* The Cooperative may separately allocate and credit to Patrons capital allocated and credited to the Cooperative by any organization furnishing services, supplies, or products to the Cooperative ("Affiliated Capital Credits"):

1. In proportion to the value or quantity of each service, supply, or product furnished by the organization that is used, received, or purchased by each Patron; and
2. If the Cooperative determines, and separately identifies, the Affiliated Capital Credits.

D. *Non-Operating Margins.* Funds and amounts, other than Operating Margins, received by the Cooperative that exceed the Cooperative's costs and expenses ("Non-Operating Margins") may be:

1. Allocated as Capital Credits to Patrons in the same manner as the Cooperative allocates Capital Credits to Patrons; or
2. Used by the Cooperative as permanent, non-allocated capital.

E. *Assignment and Notification.* Unless otherwise determined by the Board or provided in these Bylaws, Capital Credits and Affiliated Capital Credits may be assigned only upon a Patron:

1. Delivering a written assignment to the Cooperative; and

2. Complying with any other requirements reasonably determined by the Board.

The Cooperative shall annually notify each Patron of the dollar amount of Capital Credits or Affiliated Capital Credits allocated or credited to the Patron during the applicable fiscal year.

- F. *Joint Memberships*. Upon the termination, conversion, or alteration of a Joint Membership, and upon the Cooperative receiving written notice and adequate proof of the Joint Membership termination, conversion, or alteration, all Capital Credits and Affiliated Capital Credits shall be allocated as follows:

For any Joint Membership:

1. Terminated or converted through the death of one (1) Joint Member, the Cooperative shall re-allocate and re-credit to the surviving Joint Member all Capital Credits and Affiliated Capital Credits previously allocated and credited to the Joint Membership; and
2. Otherwise terminated or converted, and unless otherwise instructed by a judicial or administrative authority of competent jurisdiction, the Cooperative shall re-allocate and re-credit to each Joint Member one-half (1/2) of the Capital Credits and Affiliated Capital Credits previously allocated and credited to the Joint Membership.

SECTION 7.3 – *Retiring and Refunding Capital Credits*. At any time prior to the Cooperative’s dissolution or liquidation:

- A. The Board may authorize the Cooperative to wholly or partially retire and refund Capital Credits to Patrons and former Patrons; or
- B. After an organization furnishing services, supplies, or products to the Cooperative retires and refunds capital to the Cooperative, the Board may authorize the Cooperative to retire and refund the corresponding Affiliated Capital Credits to Patrons and former Patrons.

The Board shall determine the manner and method of retiring and refunding Capital Credits and Affiliated Capital Credits.

When there is held by the Cooperative any patronage capital to the credit of a deceased person, in an amount not exceeding \$1,000, upon whose estate there shall have been no qualification, the Cooperative may after 120 days from the death of such person, pay such balance to his or her personal representative, and if none, to his/her spouse and if none, to his or her next of kin, whose receipt therefore shall be a full discharge and acquittance to the Cooperative to all persons whomsoever on account of such patronage capital.

To secure payment of any amounts owed by a Patron or former Patron to the Cooperative, including any reasonable compounded interest, and late payment fee, determined by the Board, the Cooperative has a security interest in the Capital Credits and Affiliated Capital Credits of every Patron and former Patron. Before retiring and

refunding any Capital Credits or Affiliated Capital Credits, the Cooperative may deduct and set off from the Capital Credits or Affiliated Capital Credits any amounts owed to the Cooperative by the Patron or former Patron, including any reasonable compounded interest, and late payment fee, determined by the Board.

SECTION 7.4 – *Donation of Unclaimed Patronage Capital.* In the event there are retired Capital Credits or Affiliated Capital Credits which belong to:

- A. A Deceased Patron who has no spouse or next of kin identified in the records of the Cooperative; or
- B. A Patron or former Patron who has terminated service and the records of the Cooperative do not have a current address on file.

The Cooperative shall publish notice of such Capital Credits or Affiliated Capital Credits in “Cooperative Living” magazine and in a publication of general circulation. If such Capital Credits or Affiliated Capital Credits are not claimed by such Patron, former Patron or next of kin within 120 days of such publication then, in either event, such Patronage Capital shall be deemed to have been transferred as a gift to the Cooperative and shall thereafter be the property of the Cooperative.

SECTION 7.5 – *Non-Member Patrons and Non-Member Non-Patrons.* As a condition of using, receiving, or purchasing any Cooperative Service, and unless otherwise determined by the Board:

- A. To the same extent as Members, Patrons who are not Members (“Non-Member Patrons”) and Persons using, receiving, or purchasing any Cooperative Service who are neither Members nor Patrons (“Non-Member Non-Patrons”) shall abide by, and be bound to, all the duties, obligations, liabilities, and responsibilities imposed by the Governing Documents upon Members;
- B. To the same extent as Members, Non-Member Patrons shall have the rights to:
 - 1. Be allocated Capital Credits and Affiliated Capital Credits; and
 - 2. Receive retired and refunded Capital Credits and Affiliated Capital Credits, but shall have none of the other rights granted by the Governing Documents to Members; and
 - 3. Non-Member Non-Patrons shall have none of the rights granted by the Governing Documents to Members or Non-Member Patrons.

SECTION 7.6 – *Reasonable Reserves.* Based upon the Cooperative’s reasonable needs, the Cooperative may accumulate and retain Operating Margins (“Reasonable Reserves”). As provided in these Bylaws, however, the Cooperative shall allocate and credit Reasonable Reserves as Capital Credits.

ARTICLE VIII – DISPOSITION OF COOPERATIVE PROPERTY

SECTION 8.1 – *Power to Dispose of Cooperative Property.* The Cooperative may not sell, lease or dispose of all or substantially all of its property (other than property which, in the judgment of the Board, is neither necessary nor useful in

operation and maintaining the Cooperative's system and which in any one (1) year shall not exceed ten percent (10%) in value of the value of all the property of the Cooperative, or merchandise), unless authorized so to do by the vote of at least two-thirds majority of the Members. Notwithstanding the foregoing, the Cooperative (a) may mortgage, finance (including, without limitation, pursuant to a sale and leaseback or lease and leaseback transaction), or otherwise encumber its assets by a vote of at least two-thirds of the Board; (b) may sell or transfer its assets to another cooperative upon the vote of a majority of the Members at any regular or special meeting if the notice of such meeting contains a copy of the terms of the proposed sale or transfer; (c) may sell or transfer distribution system facilities to a city or town at any time following the annexation of additional territory pursuant to Law by a vote of at least two-thirds of the Board; or (d) may sell, lease or dispose of its property pursuant to a plan for functional separation of utility functions that has been approved by any relevant regulatory authority and at least two-thirds of the Board.

SECTION 8.2 – *Disposition of Property. Offer for Competing Proposals.* No sale, lease, lease-sale, exchange, or other disposition of all or a substantial portion of the Cooperative's assets to any other entity shall be authorized except in conformity with the following:

- A. If the Board of Directors looks with favor upon any proposal for such sale, lease, lease-sale, exchange, or other disposition, it shall first obtain an independent appraisal as to the value of the Cooperative with respect to such a sale, lease, lease-sale, exchange, or other disposition and as to any other terms and conditions which should be considered.
- B. If the Board of Directors, after receiving such appraisal, determines that the proposal should be submitted for consideration by the Members, it shall first give every other power supply or distribution electric cooperative with the same power supplier (which has not made such an offer for such sale, lease, lease-sale, exchange, or other disposition) an opportunity to submit competing proposals. Such opportunity shall be in the form of a written notice to such other cooperatives, which notice shall be attached to a copy of the proposal which the Cooperative has already received and a copy of the appraisal. Such other cooperatives shall be given not less than sixty (60) days during which to submit competing proposals, and the actual minimum period within which proposals are to be submitted shall be fixed and shall be stated in the written notice given to them giving due consideration to the time required for the Rural Utilities Service loan approval process.
- C. If the Board then determines that favorable consideration should be given to the initial or any subsequent proposal which has been submitted to it, it shall so notify the Members, expressing in detail each of any such proposals, and shall call a special meeting of the Members for consideration thereof which meeting shall be held within sixty (60) days after the giving of such notice to the Members: PROVIDED, that consideration thereof by the Members may be given at the next Annual Member Meeting if the Board so determines and if such Annual

Member Meeting is held within sixty (60) days after the giving of such notice.

- D. Any one hundred (100) or more Members, by so petitioning the Board not less than thirty (30) days prior to the date of such special or Annual Member Meeting, may cause the Cooperative, with the cost to be borne by the Members submitting such petition, to mail to all Members any opposing or alternative positions which they may have to the proposals that have been submitted or any recommendations that the Board has made. The foregoing provisions shall not apply to a sale, lease, lease-sale, exchange, or other disposition to one or more other such cooperatives if the substantive effect thereof is to merge or consolidate with such other one or more cooperatives.

ARTICLE IX – MISCELLANEOUS

SECTION 9.1 – *Bylaw Amendments.* These Bylaws may be altered, amended, or repealed and new Bylaws adopted by the Board of Directors at any regular meeting or at any special meeting called for such purpose.

Bylaws made by the Board of Directors may be repealed or changed and new Bylaws made by the Members and the Members may prescribe that any Bylaw made by them shall not be altered, amended, or repealed by the Directors.

SECTION 9.2 – *Rules of Order.* Unless the Board determines otherwise, and to the extent consistent with Law, the Articles, and these Bylaws, all:

- A. Member Meetings;
- B. Board Meetings;
- C. Member Committee meetings; and
- D. Board Committee meetings are governed by the latest edition of Robert’s Rules of Order: Revised 75th Anniversary Edition, Copyright 1943, 1951, by Isabel H. Robert.

SECTION 9.3 – *Fiscal Year.* The Board shall determine, and may modify, the Cooperative’s fiscal year.

SECTION 9.4 – *Notice.* In these Bylaws:

- A. *Notice Type.* Unless otherwise provided in these Bylaws, notice may be:
 - 1. Oral or written; and
 - 2. Communicated:
 - a. In person;
 - b. By telephone, telegraph, teletype, facsimile, electronic communication, or other form of wire or wireless communication;
 - c. By mail or private carrier;
 - d. In “Cooperative Living”; or
 - e. If the above-listed forms of communicating notice are impractical, then by:

(1) A newspaper of general circulation in the area where published; or
(2) Radio, television, or other form of public broadcast communication.
If addressed, or delivered, to an address shown in the Cooperative's records, then a written notice or report delivered as part of a newsletter, magazine, or other publication regularly sent to Members constitutes a written notice or report to all Members:

- (a) Residing at the address; or
- (b) Having the same address shown in the Cooperative's records.

B. *Notice Effective Date.* If communicated in a comprehensible manner, then unless otherwise provided in these Bylaws:

1. Oral notice is effective when communicated; and
2. Written notice is effective upon the earliest of:
 - a. When received;
 - b. With the postmark evidencing deposit in the United States Mail, if correctly addressed and:
 - (1) Mailed with first class postage affixed, then five (5) days after deposit in the United States Mail; or
 - (2) Mailed with other than first class, registered, or certified postage affixed, then thirty (30) days after deposit in the United States Mail; or
 - c. If sent by registered or certified mail, return receipt requested, and if the return receipt is signed by, or on behalf of, the addressee, then on the date indicated on the return receipt.

Written notice is correctly addressed to a Member if addressed to the Member's address shown in the Membership List.

SECTION 9.5 – *Governing Law.* These Bylaws must be governed by, and interpreted under, the laws of the Commonwealth of Virginia.

SECTION 9.6 – *Titles and Headings.* All titles and headings of Bylaw articles, sections, and sub-sections are for convenience and reference only, and do not affect the interpretation of any Bylaw article, section, or sub-section.

SECTION 9.7 – *Partial Invalidity.* When reasonably possible, every Bylaw article, section, sub-section, paragraph, sentence, clause, or provision (collectively, "Bylaw Provision") must be interpreted in a manner by which the Bylaw Provision is valid. The invalidation of any Bylaw Provision by any entity possessing proper jurisdiction and authority, which does not alter the fundamental rights, duties, and relationship between the Cooperative and Members, does not invalidate the remaining Bylaw Provisions.

SECTION 9.8 – *Cumulative Remedies.* The rights and remedies provided in these Bylaws are cumulative. The Cooperative or any Member asserting any right or remedy provided in these Bylaws does not preclude the Cooperative or Member from asserting other rights or remedies provided in these Bylaws.

SECTION 9.9 – *Successors and Assigns.* To the extent allowed by Law:

- A. The duties, obligations, and liabilities imposed upon the Cooperative or any Member by these Bylaws are binding upon the successors and assigns of the Cooperative or Member; and
- B. The rights granted to the Cooperative by these Bylaws inure to the benefit of the Cooperative’s successors and assigns.

The binding nature of the duties, obligations, and liabilities imposed by these Bylaws upon the successors and assigns of the Cooperative and any Member does not relieve the Cooperative or Member of the duties, obligations, and liabilities imposed by these Bylaws upon the Cooperative or Member.

SECTION 9.10 – *Waiver.* The failure of the Cooperative to assert any right or remedy provided in these Bylaws does not waive the right or remedy provided in these Bylaws.

SECTION 9.11 – *Lack of Notice.* To the extent allowed by Law and the Articles, the failure of any Member or Director to receive notice of any Meeting, action, or vote does not affect, or invalidate, any action or vote taken by the Members or Board.

SECTION 9.12 – *Subscription to Cooperative Living.* The Board of Directors shall be empowered and authorized, on behalf of and for circulation to the individual Members of the Cooperative, to subscribe to “Cooperative Living.” The yearly subscription rate per Member for such magazine shall not exceed ten dollars (\$10.00), and the subscription shall be paid for each Member by the Cooperative from any funds accruing in each Member’s favor so as to reduce such funds in the same manner as would any other expense of the Cooperative.

SECTION 9.13 – *Subsidiaries.* A&N Electric Cooperative may establish a wholly-owned subsidiary. The purpose for which the subsidiary is formed is to transact any and all lawful business permitted under Virginia State Statute, including but not limited to business ventures and operations as the Cooperative shall deem fit, and such other business not required to be specifically stated in these Bylaws.