

Fort Belknap Electric Cooperative, Inc.

By-Laws

Revised 03-15-18

ARTICLE I MEMBERSHIP

Section 1. Requirements for Membership. Any eligible person, firm, association, corporation, or body politic or subdivision thereof will become a member of Fort Belknap Electric Cooperative Inc., upon receipt of electric service from the Cooperative, provided that he/she or it has first:

- (a) Paid the membership fee hereinafter specified;
- (b) Agreed to purchase from the cooperative electric energy as hereinafter specified;
- (c) Agreed to comply with and be bound by the Articles of Incorporation and By-Laws of the Cooperative and any rules and regulations adopted by the Board.

Section 2. Membership Applications and Membership Certificates. Membership in the Cooperative shall be evidenced by a membership application which shall be in a form and shall contain such provisions as shall be determined by the Board of Directors of the Cooperative. No membership application shall be accepted for less than the membership fee fixed in the By-laws, nor until such membership fee has been fully paid. The accepted membership application and evidence of membership on the books of the cooperative shall serve to satisfy the requirement of a Membership Certificate.

Section 3. Joint Membership. Legal Spouses may apply for a joint membership and, subject to their compliance with requirements set forth in Section 1 of this Article, may be accepted for such membership. The term "Member" as used in the By-laws shall be deemed to include legal spouses holding a joint membership and any provisions relating to the rights and liabilities of membership shall apply equally with respect to the holders of joint membership. Without limiting the generality of the foregoing, the effect of the hereinafter specified actions by or in respect of the holders of joint membership shall be as follows:

- (a) The presence at a meeting of either or both shall be regarded as the presence of one member and shall constitute a joint waiver of notice of the meeting;
- (b) The vote of either separately or both jointly shall constitute one joint vote; provided, however, either spouse, in addition to voting the joint membership may as an officer of a corporation vote the membership of the corporation and/or if duly authorized by a resolution, vote the membership of a church, community center, or body politic.
- (c) A waiver of notice signed by either or both shall constitute a joint waiver;
- (d) Notice to either shall constitute notice to both;
- (e) Expulsion to either shall terminate the joint membership;
- (f) Withdrawal of either shall terminate the joint membership;
- (g) Either, but not both, may be elected or appointed as an officer or board member, provided that both meet the qualification for such office.

Section 4. Conversion of Membership. A membership may be converted to a joint membership upon the written request of the holder thereof and the agreement by such holder and his or her spouse to comply with Articles of Incorporation, By-laws and rules and regulations adopted by the Board.

Upon the death of either spouse who is a party to the joint membership, such membership shall be held solely by the survivor. The estate of the deceased shall not be released from any debts due the Cooperative.

Section 5. Membership Fees. The membership fee shall be set by the Board of Directors.

No additional membership fee shall be collected for additional connections requested by the member.

Section 6. Organizational Memberships. A non-natural entity or organization may apply or continue membership in the Cooperative pursuant to the requirements for membership specified in this Article. Any such non-natural person accepted, or continuing membership, must designate to the Cooperative an individual to represent its voting interests in any meeting of members or any otherwise needed representation of that membership's interests.

Section 7. Purchase of Electric Energy. Each member shall, as soon as electric energy shall be available, limit his purchase of power to the Cooperative for all electric energy used on the premises specified in his application for membership. He shall pay therefore at the rates which shall from time to time be fixed by the Board. It is expressly understood that amounts paid for electric energy in excess of the cost of service are furnished by members as capital and each member shall be credited with the capital so furnished as provided in these By-laws. Each member shall pay to the Cooperative such minimum amount regardless of the amount of electric energy consumed, and shall also pay all amounts owed by him to the Cooperative as and when the same shall become due and payable.

Section 8. Termination of Membership

(a) Any member may withdraw from membership upon compliance with such uniform terms and conditions as the Board may prescribe. The Board may, by the affirmative vote by not less than two-thirds of the members of the Board, expel any member who fails to comply with any of the provisions of the Articles of Incorporation, By-laws, or rules and regulations adopted by the Board, but only if such member shall have been given written notice by the Cooperative that such failure makes him liable to expulsion and such failure shall have continued for at least ten days after such notice was given. Any expelled member may be reinstated by vote of the Board or by vote of the members at any annual or special meeting. The membership of a member who, for a period of six (6) months after service is available to him, has not purchased electric energy from the Cooperative, or of a member who has ceased to purchase energy from the Cooperative may be canceled and the fee returned to him.

(b) Upon the withdrawal, death, cessation of existence or expulsion of a member, the membership of such member shall thereupon terminate. Termination of membership in

any manner shall not release a member or his estate from any debts due the Cooperative.

(c) In case of withdrawal or termination of membership in any manner, the Cooperative shall repay to the member the amount of the membership fee paid by him, provided, however, that the Cooperative shall deduct from the amount of the membership fee the amount of any debts or obligations owed by the member to the Cooperative.

ARTICLE II RIGHTS AND LIABILITIES OF MEMBERS

Section 1. Property Interest of Members. Upon dissolution, after

(a) All debts and liabilities of the Cooperative shall have been paid, and

(b) All capital furnished through patronage shall have been retired as provided in these By-laws, the remaining property and assets of the Cooperative shall be distributed among the members and former members in the proportion which the aggregate patronage of each bears to the total patronage of all members during the ten years next preceding the date of the filing of the certificate of dissolution.

Section 2. Non-liability for Debts of the Cooperative. The private property of the members shall be exempt from execution or other liability for the debts of the Cooperative and no member shall be liable or responsible for any debts or liabilities of the Cooperative.

ARTICLE III MEETING OF MEMBERS

Section 1. Annual Meeting. The annual meeting of the members shall be held each year at such time and place within a county served by the Cooperative as shall be designated by the Board of Directors.

Section 2. Special Meetings. Special meetings of the members may be called by resolution of the Board of Directors, or upon a written request signed by any three members of the Board of

Directors, by the President, or by ten per centum or more of all the members, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. Special meetings of the members may be held at any place within one of the counties served by the Cooperative, and at such date and hour as may be designated by the Board of Directors and shall be specified in the notice of the special meeting. Provided further that if such meeting is for the purpose of the removal of the majority of the Board of Directors, then such meeting shall be held in Olney, Young County, Texas.

Section 3. Notice of Members' Meetings. Written notice of each meeting of the members shall be delivered to each member of record, either in person or by mail, not earlier than the 30th day or later than the 10th day before the date of the meeting. The notice must be delivered by or at the direction of the President, the Secretary, or the officers or other persons calling the meeting and must state the time and place of the meeting and in the case of a special meeting each purpose for which the meeting is called. A notice that is mailed is considered to be delivered when the notice is deposited in the United States mail in a sealed envelope with postage prepaid addressed to the member's

address as it appears on the records of the Cooperative.

Section 4. Quorum. Except to the extent provided otherwise in the Articles of Incorporation, to constitute a quorum at any meeting of the Members of the Cooperative, there must be at least 150 members of record of the Cooperative present in person. For purposes of determining a quorum, ballots submitted by mail shall be considered to be members present in person. If less than a quorum is present at any meeting, the majority of those present in person may adjourn the meeting from time to time without further notice.

Notwithstanding anything contained in these Bylaws to the contrary, any meeting of the members of the Cooperative called for the purpose of removing one or more directors shall require a quorum of twenty percent (20%) of the members of record of the Cooperative be present in person.

Section 5. Voting. Each member shall be entitled to one vote and no more on each matter submitted to a vote at each meeting of the members. At all meetings of the members at which a quorum is present, all questions, including elections of directors, shall be decided by a vote of a majority of the members voting thereon in person, except as otherwise provided by law, the Articles of Incorporation of the Cooperative, or these By-laws. Multiple choice issues or determinations shall be decided by a plurality vote. In no event shall any individual, utilizing any combinations of that individual's single or joint membership, or as a representative of a non-natural person entity, be entitled to cast more than three (3) votes on any issue submitted to a vote at a meeting of the members. There shall be no voting by proxy.

Section 6. Voting by Mail or Electronically. Voting by mail shall be permitted at all meetings of the members, unless otherwise prohibited by law. The procedure for voting by mail shall be developed by the Board of Directors. At its discretion, the Board may authorize electronic voting for elections and develop, by policy, methods of validation of ballots prior to the distribution of ballots in any given election cycle.

Section 7. Order of Business. The order of business at the annual meeting of the members, and so far as possible, at all other meetings of the members, shall be essentially as follows, except as otherwise determined by the members at such meeting:

1. Report on the number of members in person or that have voted by absentee ballot in order to determine the existence of a quorum.
2. Reading of the notice of the meeting, the proof of the due publication or mailing thereof, or the waiver or waivers of notice of the meeting, as the case may be.
3. Reading of unapproved minutes of previous meetings of the members and the taking of necessary action thereon.
4. Presentation and consideration of reports of officers, directors and committees.
5. Election of Board members.
6. Unfinished business.
7. New business.
8. Adjournment.
9. If quorum is not present, meeting shall adjourn.

**ARTICLE IV
BOARD MEMBERS**

Section 1. General Powers. The business and affairs of the Cooperative shall be managed by a board of directors of nine (9) members which shall exercise all of the powers of the Cooperative, except such as are by law, the Articles of Incorporation or these By-Laws conferred upon or reserved to the members. The territory served by the Cooperative shall be divided by three (3) director districts. Director districts will be drawn to be easily distinguished using existing physical or geographical boundaries (i.e. rivers, roads, etc.). District boundaries may encompass some areas that are not within the cooperatives certificated service territory. Each district shall be represented by three directors and are described as follows:

<u>Director District No.</u>	<u>Description</u>
One (1)	Olney/Jean/Newcastle/Loving Area
Two (2)	Graham/Bryson Area
Three (3)	Elbert/Proffitt/Throckmorton/Woodson Area

Section 2. Qualifications and Tenure. There shall be elected each year three (3) directors to serve three (3) year terms, or until their successors shall have been elected and qualified, subject to the provisions of these By-Laws with respect to the removal of directors.

Any member who is a natural person shall be eligible to become or remain a director provided that he/she:

- Is a member in good standing and presently resides in the district served, or to be served, by the Cooperative.
- Is not an employee of the Cooperative or in any way financially interested in a competing enterprise or a business engaged in selling electric energy, or supplies to the Cooperative, or a business primarily engaged in selling electrical or plumbing appliances, fixtures or supplies to the members of the Cooperative. However, the Board may grant exceptions for “de minimis” competing enterprises.
- Is not a former employee of the Cooperative who was terminated for cause. A former employee who was not terminated for cause may be eligible to become a Director no sooner than a date three (3) years from the time the member’s employment with the Cooperative ended.

- Has not, while a Director, and during the ten (10) years immediately before becoming a Director, been convicted of, or plead guilty to, a felony, two (2) misdemeanors (excluding minor traffic violations), or any offense involving moral turpitude.
- Is not the incumbent of an elected or appointed public office in connection with which a salary is paid if that elected or appointed office has jurisdiction or oversight authority over the operations of the Cooperative.
- Is not closely related to an incumbent Director or an employee of the Cooperative. As used in these Bylaws, “closely related” means a person who is related to the principal person by consanguinity or affinity, to the second degree or less—that is, a person who is either a spouse, child, grandparent, parent, brother, sister, aunt, uncle, nephew or niece, by blood or in law, of the principal. However, no incumbent Director shall lose eligibility to remain or be reelected as a Director if he becomes a close relative of another incumbent Director or of a Cooperative employee because of a marriage to which he or she was not a party; neither shall an employee lose eligibility to continue in the employment of the Cooperative if he or she becomes a close relative of a Director because of a marriage to which he or she was not a party.
- To remain a Director, the incumbent must attend at least two-thirds of the regular monthly board meetings during each 12-month period, beginning with the month of his/her election, unless the remainder of the board excuses such violation because of medical or personal emergency reasons.
- Upon establishment of the fact that a Director nominee, or incumbent Director, is in violation of any of the provisions of this section, then that nomination or incumbent office shall be deemed vacant, and the Board shall take the necessary action to remove such nominee from the election or the incumbent from office.
- Nothing in this section shall affect in any manner whatsoever, the validity of any action taken at any meeting of the Board.

Section 3. Nominations. It shall be the duty of the Board of Directors to appoint, not less than 30 days nor more than 120 days before the date of a meeting of the members at which directors are to be elected, a committee on nominations consisting of not less than 5 nor more than 11 members who shall be selected so as to give equitable representation on the committee to the geographical areas served or to be served by the Cooperative. No officer or member of the Board of Directors shall be appointed a member of such committee. The committee shall prepare and post at the principal office of the Cooperative at least 60 days before the meeting a list of nominations for directors (one or more candidates may be nominated for each director position, as the judgement of the nominating committee may direct, to be filled by an “at-large” election of the members), but any 15 or more members may make other nominations in writing over their signature not less than 45 days prior to the meeting and the Secretary shall post the same at the same place where the list of nominations made by the committee is posted. The Secretary shall mail with the notice of the meeting, or separately but at least 5 days prior to the meeting, a statement of the number of directors to be elected and showing separately the nominations and the nominations made by petition, if any. There shall be no

nominations from the floor at the annual meeting, except as may be required pursuant to the following regarding removal and replacement of directors. The members may, at any meeting at which a director or directors shall be removed, as hereinbefore provided, elect a successor or successors thereto without compliance with the foregoing provisions with respect to nominations. Notwithstanding anything in this section contained, failure to comply with any of the provisions of this section shall not affect in any manner whatsoever the validity of any election of directors. In any year in which any of the nominees, as determined by this section, do not have formal challenges for the position after the posted deadline for nominating petitions and prior to the date for distribution of ballots, the Secretary may certify to the Board of Directors that the election for the year is uncontested. In the event the Secretary certifies the election is uncontested, the Board of Directors may, for that election year, declare the election uncontested and suspend the distribution of ballots for that particular election at their discretion. Such certification shall be announced at the Annual Meeting for election by consent.

Section 4. Removal of Board Member by Members. Any member may bring charges against a board member and, by filing with the Secretary such charges in writing together with a petition signed by at least ten per centum of the members may request the removal of such board member by reason thereof. Such board member shall be informed in writing of the charges at least ten days prior to the meeting of the members at which the charges are to be considered and shall have an opportunity at the meeting to be heard in person or by counsel and to present evidence in respect to the charges; and the person or persons bringing the charges against him shall have the same opportunity. The question of the removal of such board member shall be considered and voted upon at the meeting of the members and 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.

Section 5. Vacancies. Subject to the provisions of these By-laws with respect to the removal of directors, vacancies occurring in the Board of Directors shall be filled by a majority vote of the remaining directors and the directors thus chosen shall serve out the unexpired term of the directors so vacating office. Such directors so chosen shall serve out the unexpired term of the replaced director, and until their successors shall have been qualified.

Section 6. Compensation. Directors will not receive any salaries for their service. A fixed per diem, plus expenses, for attendance at cooperative meetings is allowed as approved by board policy.

Section 7. Rules and Regulations. The board of directors shall have power to make and adopt such rules and regulations, not inconsistent with law, the Articles of Incorporation of the Cooperative or these By-Laws, as it may deem advisable for the management, administration and regulation of the business and affairs of the Cooperative.

Section 8. Accounting System and Reports. The Board of Directors shall cause to be established and maintained a complete accounting system which, among other things, subject to applicable laws and rules and regulations of any regulatory body, shall conform to such accounting system as may from time to time be deemed appropriate by the Board of Directors. The board of directors shall, after the close of each fiscal year, cause to be

made a full and complete audit of the accounts, books and financial condition of the Cooperative as of the end of such fiscal year. A financial report shall be provided to the members after the close of the fiscal year.

Section 9. Removal of Board Member for Cause and/or Absence from Meetings.

Any director who is absent from three (3) consecutive meetings of the Board of Directors without excuse satisfactory to said Board shall be deemed to have surrendered his office as a director. A majority vote of said Board shall determine the validity of any said excuse, but an affirmative vote of 75% of all the Board of Directors shall be necessary to remove a director from the Board for Cause.

Section 10. Catastrophic Loss of Board Members

The loss of four (4) or more Board members arising from an event of natural or human origin shall be deemed a catastrophic loss of Board members. In the event of a catastrophic loss of Board members, the remaining Board members shall appoint, within one hundred twenty (120) days, individuals qualified, pursuant to the qualifications, set out in these By-laws, to serve as Board members for each of the Districts which suffered the loss of a Board member, keeping in mind the principle of equitable geographic representation. Board members so appointed shall serve until the next annual meeting of the membership, at which time all Board positions appointed under this Section shall stand for election. In the event of a catastrophic loss wherein two (2) or less Board members remain, the remaining Board member(s), or if no Board remains, the highest ranking Cooperative staff member, shall call a special meeting of the membership within ninety (90) days of the occurrence of the vacancy to elect the applicable number of Board members to fill the vacant positions in accordance with all provisions of these By-laws wherein these specially elected Board member(s) shall serve until the next regularly scheduled annual meeting of the membership at which time all such appointed positions shall stand for election.

Section 11. Quorum During Catastrophe

In the event of a catastrophic loss as defined in Section 10, the traditional quorum requirements are simplified pending the appointment of new Board members, in order to allow the remaining Board members to meet and conduct business. All actions of the Board during this time period shall stand for ratification at the next Board meeting wherein a traditional quorum is present.

**ARTICLE V
MEETING OF BOARD**

Section 1. Regular Meetings. A regular meeting of the Board of Directors shall be held without notice, as soon after the annual meeting of the members as possible, for the purpose of electing officers of the Cooperative for the ensuing year. A regular meeting of the Board of Directors shall also be held monthly at such time and place within one of the counties served by the Cooperative as designated by the Board, such regular monthly meeting may be held without notice other than such resolution fixing the time and place thereof.

Section 2. Special Meetings. Special meetings of the Board may be called by the

President or by any three board members, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. The President or board members calling the meeting shall fix the time and place for the holding of the meeting.

Section 3. Notice. Notice of the time, place and purpose of any special meeting of the Board of Directors shall be given at least 5 days previous thereto, by written notice, delivered personally, by mail, electronic facsimile telephone transmission, or by email, by or at the direction of the Secretary, or upon default in duty by the Secretary, by the President or the directors calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with first-class postage thereon prepaid. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except in case a director shall attend a meeting for the express purpose of objecting to the transaction of any business because the meeting shall not have been lawfully called or convened.

Section 4. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, provided, that if less than a majority of the directors is present at said meeting, a majority of the directors present may adjourn the meeting. The act of the directors present at a meeting at which a quorum is present shall be the act of the Board, except as otherwise provided by these By-laws.

ARTICLE VI OFFICERS

Section 1. Number. The officers of the Cooperative shall be President, Vice-President, Secretary, Treasurer, and such other officers as may be determined by the Board of Directors from time to time. The offices of Secretary and of Treasurer may be held by the same person.

Section 2. Election and Term of Office. The officers shall be elected annually, by/and from the Board at the meeting of the Board held after the annual meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until the first meeting of the Board following the next succeeding annual meeting of the members, or until his successor shall have been elected and qualified. A vacancy in any office shall be filled by the Board for the unexpired portion of the term.

Section 3. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interest of the Cooperative will be served thereby.

Section 4. President. The President shall:

- (a) Preside at all meetings of the members and the Board.
- (b) Sign, with the Secretary, any deeds, mortgages, deeds of trust, notes, bonds,

contracts or other instruments authorized by the Board to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the Board or by these By-laws to some other officer or agent of the Cooperative, or shall be required by law to be otherwise signed or executed and

(c) In general, perform all duties incident to the office of president and such other duties as may be prescribed by the Board from time to time.

Section 5. Vice President. In the absence of the President, or in the event of his inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all 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 to him by the Board of Directors.

Section 6. Secretary. The Secretary shall:

(a) See that the minutes of the meetings of the members and the Board of Directors are kept in one or more books provided for that purpose;

(b) See that all notices are duly given in accordance with these By-laws or as required by law;

(c) Be responsible for the corporate records and of the seal of the Cooperative and see that the seal of the Cooperative is affixed to all documents, the execution of which on behalf of the Cooperative under its seal is duly authorized in accordance with the provisions of these By-laws;

(d) Supervise the keeping of a register of the post office address of each member, which shall be furnished to the Secretary by such member;

(e) See that the Cooperative keeps on file at all times a complete copy of the By-laws of the Cooperative, containing all amendments thereto, which copy shall always be open to the inspection of any member, and at the expense of the Cooperative, forward a copy of these By-laws and of amendments thereto to each member; and

(f) In general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Board of Directors.

(g) The Secretary shall also have the authority, with the approval of the Board, to delegate to a member of management the authority to appoint employees of the Cooperative to actually carry out certain administrative duties set forth in this Section.

Section 7. Treasurer. The Treasurer shall:

(a) Have charge and custody of and be responsible for all funds and securities of the Cooperative;

(b) Receive and give receipts for moneys due and payable to the Cooperative from any source whatsoever, and deposit all such moneys in the name of the Cooperative in such bank or banks as shall be selected in accordance with the provisions of these By-laws; and

(c) In general, perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the Board of Directors.

(d) The Treasurer shall also have the authority, with the approval of the Board, to delegate to a member of management the authority to appoint employees of the Cooperative to actually carry out certain administrative duties set forth in this Section.

Section 8. Chief Executive Officer. The Chief Executive Officer shall be the principal executive officer of the Cooperative. The Chief Executive Officer shall perform such duties, carry such titles, and take such action as the Board of Directors may from

time to time require of him and shall have such authority as the Board of Directors may vest in him.

Section 9. Bonds of Officers. The Board of Directors shall require the Treasurer or any other officer of the Cooperative charged with responsibility for the custody of any of its funds or property, to give bond in such sum and with such surety as the Board of Directors shall determine. The Board of Directors in its discretion may also require any other officer, agent or employee of the Cooperative to give bond in such amount and with such surety as it shall determine.

Section 10. Compensation. The compensation, if any of an officer, agent or employee who is also a director or close relative of a director, shall be determined by the members, as provided elsewhere in these By-laws, and the powers, duties and compensation of any other officers, agents, and employees shall be fixed by the Board of Directors.

Section 11. Reports. The officers of the Cooperative shall submit at each annual meeting of the members reports covering the business of the Cooperative for the previous fiscal year and showing the condition of the Cooperative at the close of such fiscal year.

ARTICLE VII NON-PROFIT OPERATION

Section 1. Definition. As used in this Article,

- “Capital credits” shall mean the amounts allocated to and contributed by the Patron to the Cooperative as capital.
- “Patron” shall mean (1) a member in accordance with the provisions of these By-laws and (2) a non-member to whom the Cooperative furnishes electric energy on a patronage basis as evidenced by Board policies, Board resolutions or contract.

Section 2. Interest or Dividends on Capital Prohibited. The Cooperative shall at all times be operated on a cooperative non-profit basis for the mutual benefit of its patrons. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its patrons; however, interest on security deposits will be paid annually at the approved PUC rate.

Section 3. Patronage Capital in Connection with Furnishing Electric Energy (Patronage Electric Business).

- In the furnishing of electric energy, the Cooperative’s operations shall be so conducted that all patrons will, through their patronage, furnish capital for the Cooperative.
- (b) In order to induce patronage and to assure that the Cooperative will operate

on a

non-profit basis, the Cooperative is obligated to account on a patronage basis to its patrons all amounts received and receivable from and directly related to the furnishing of electric energy in excess of operating costs and expenses properly chargeable against the furnishing of electric energy hereinafter referred to as margins from patronage electric business. All such margins from patronage electric business at the moment of receipt by the Cooperative are received with the understanding that they are furnished by the patrons as capital. The Cooperative is obligated to pay by credits to a capital

account for each patron all such margins. The books and records of the Cooperative shall be set up and kept in such a manner that at the end of each fiscal year the amount of capital, if any, so furnished by each patron is clearly reflected and credited in an appropriate record to the capital account of each patron, and the Cooperative shall, within a reasonable time after the close of the fiscal year, notify each patron of the amount so credited to his account.

- All such amounts credited to the capital account of any patron shall have the same status as though they had been paid to the patron in cash in pursuance of a legal obligation to do so and the patron had then furnished the Cooperative corresponding amounts for capital.
- If the costs and expenses exceed the amounts received and receivable from patronage electric business, hereinafter referred to as “loss”, then the Board of Directors shall have the authority under accepted accounting practices, loan covenants and federal cooperative tax law to prescribe the manner in which such loss shall be handled.
- In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credits shall be retired without priority on a pro rata basis before any payments are made on account of property rights of members. If, at any time prior to dissolution or liquidation, the Board of Directors shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital then credited to patrons' accounts, both current and former patrons, may be retired in full or in part. Any such retirement of capital shall be made by the Board of Directors, which shall, in its sole discretion, determine the method, basis, priority and order of retirement, if any, for all such amounts furnished as capital. Such method, basis, priority and order of retirement considered by the Board of Directors may include the retirement of amounts furnished as capital on a discounted and net present value basis. Criteria in determining the discounted and net present value of retired capital credits shall be established in accordance with policies and procedures set forth by the Board of Directors.
- When the capital credits of any patron no longer receiving service from the Cooperative comes to a total amount of less than a fixed sum determined by the Board of Directors, the same shall be retired in full with such retirements made only when and at the same time that general retirement to other patrons is made.
- When such retirements of capital are made to the patrons, the Cooperative shall be obligated to pay each patron or former patron his share of the capital so retired in accordance with these By-laws in whatsoever manner (i.e. cash, check or bill credit) that the Board of Directors determines most efficient and convenient. The Board of Directors may also establish a fixed amount below which a check shall not be issued and the amount of such retired but unpaid capital credits will be paid in the first following year when the total amount of capital credits qualifying for retirement exceeds that amount set by the Board

of Directors, including the amount carried over. Regardless of the fixed amount set by the Board of Directors, however, a check shall be issued to a former patron if all such retirements fully retire the capital credits balance of such former patron.

- Patronage capital ordered to be retired by the Board of Directors shall from the date of such order constitute an indebtedness of the Cooperative to the patron, the patron's heirs, executors or assigns. Such indebtedness shall be enforceable by the patron, the patron's heirs, executors or assigns, against the Cooperative in accordance with the laws of the State of Texas. In opposition to any effort to collect such indebtedness, the Cooperative may assert any defense thereto available to it under the laws of the State of Texas.
- At any time after a period of four years from the date of such order, should any part of such indebtedness not have been paid to the patron, the patron's heirs, executors or assigns by the Cooperative, the same shall be transferred on the books of the Cooperative to a "Retired Capital CreditsGain" account or to such other account as the Board of Directors, acting under policies of general application, may determine.
- After perfection, 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 perfected security interest in the Capital Credits of every patron and former patron. Before retiring and redeeming any Capital Credits, the Cooperative may deduct from the Capital Credits any amounts owed to the Cooperative by patron or former patron, including any reasonable compounded interest, and late payment fee, determined by the Board.
- The Cooperative before retiring and paying any capital credited to any patron's account, shall deduct therefrom any amount owing by such patron to the Cooperative, together with interest thereon at the Texas legal rate on judgments in effect when such amounts became overdue. The right of offset applies to the amount retired and approved for payment. If such retirement is on a discounted and net present value basis, the right of offset applies to the discounted amount approved for payment.
- Capital credited to the account of each patron shall be assignable only on the books of the Cooperative only on such terms and conditions and under such circumstances as the Board of Directors acting under policies of general application or laws of the State of Texas, shall direct and nothing contained herein shall give unto any patron a vested right to assign any part of such capital credit. Any attempt to assign or transfer the capital credited to the account of a patron pursuant to state or federal law is subject to a right of first refusal vested in the Cooperative for a period of sixty (60) days following notice to the Cooperative of a proposed transfer of such capital to the extent the Cooperative meets any compensation terms of the proposed transfer.
- Subject to the right of offset for any amounts owed the Cooperative, however, current and former Patrons, may at any time irrevocably assign their capital credits back to the Cooperative. Such irrevocable assignment and contribution of capital shall not be allocated to the patrons and is distributable only upon

dissolution of the Cooperative pursuant to the property rights of patrons. The Board of Directors is authorized, but not required, to negotiate capital credit settlement arrangements with estates of deceased natural persons, and/or inactive Patrons.

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

Section 4. Patronage Capital from Associated Organizations. If the Cooperative is a member, patron or owner of an entity or organization from which the Cooperative uses or purchases a good or service in the furnishing of electric energy, goods or other services on a patronage basis and from which the Cooperative is allocated a capital credit or similar amount, then as determined by the Board of Directors and consistent with this By-law, the Cooperative may separately identify and allocate on the basis of patronage to the Cooperative's patrons this capital credit or similar amount allocated by the entity or organization. If the Cooperative separately identified and allocated to its patrons such capital credits received from an entity or organization, the Cooperative may retire and pay such capital credits only after the entity or organization retires and pays the capital credits or similar amounts to the Cooperative.

Section 5. Patronage Capital in Connection with Furnishing Goods or Other Services. In the event that the Cooperative should engage in the business of furnishing goods and services other than electric energy, all amounts received and receivable therefrom which are in excess of costs and expenses properly chargeable against the furnishing of such goods and services shall, insofar as permitted by law, be prorated annually on a patronage basis and returned to those patrons from whom such amounts were obtained at such time and order of priority as the Board of Directors shall determine. Capital credits allocated and retired pursuant to this section shall be made consistent with the following:

- The Board of Directors shall determine which goods or other services and to whom such goods or other services are provided on a patronage basis. Accordingly, the term "patron" may refer to members only or to all patrons, members and nonmembers alike. All such determinations, required from time to time under this section and made by the Board of Directors, shall be through applicable policies or resolutions or evidenced by contracts;
- The Board of Directors shall have the authority under accepted accounting practices, loan covenants and tax law to prescribe the manner in which losses derived from such goods or other services may be handled;
- The retirement of patronage capital allocated to such patrons shall be considered and made by the Board of Directors from time to time subject to

- the same limitations and guidance of Section 3 of this Article VII; and
- To the extent goods or other services are provided on a non-patronage basis, the purchasers of which are not entitled to receive patronage capital, the respective net margin derived from such non-patronage sales shall be used to (i) offset losses incurred in the current or prior years, and (ii) create unallocated reserves and retained capital not currently assignable to the patrons.

Section 6. Margins from Non-patronage Business. Revenue, income and gains in excess of expenses and losses from the provision of a good or service not provided to the patrons on a patronage basis, including earnings or losses from a subsidiary corporation, insofar as permitted by law, shall be used by the Cooperative (1) to offset any losses incurred during the current or any prior year, (2) to retain as capital not assignable to the members except in the event of dissolution of the Cooperative and (3) to the extent not needed for these purposes, allocated to the patrons on a patronage basis at the discussion of the Board of Directors.

Section 7. Patronage Capital Policies. The Board has the authority to determine through policy which services are included in the definition of patronage electric business and the margins associated with other goods and services provided on a patronage basis to the patrons. The Board also has the authority to determine the kind, timing, method and type of allocation; provided however, that such methods are fair and equitable on the basis of patronage. Such allocation methods may include separate allocation units for recognizing differences in contributions to margins among rate classes and/or services provided. Such policies shall also consider the separate allocation and retirement of capital credits received by the Cooperative from other entities and organizations providing goods or services to the Cooperative on a patronage basis. Nothing herein contained shall prevent the Cooperative from establishing subsidiaries that are wholly owned by the Cooperative and operated as a separate Cooperative or Corporation.

Section 8. Patron Agreement. The patrons of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the Articles of Incorporation and By-laws shall continue to be a contract between the Cooperative and such 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 By-laws shall be called to the attention of each patron of the Cooperative by posting in a conspicuous place in the Cooperative's office.

ARTICLE VIII CONTRACTS, CHECKS, AND DEPOSITS

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

Section 2. Checks, Drafts, etc. 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, agent or agents, employee or employees of the Cooperative and in such manner as shall from time to time be determined

by resolution of the Board of Directors.

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

ARTICLE IX DISPOSITION OF PROPERTY

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

(a) Property which in the judgment of the Board of Directors neither is nor will be necessary or useful in operating; provided, however, that all sales of such property shall not in any one (1) year exceed in value ten per centum (10%) of the value of all the property of the Corporation;

(b) Services of all kinds, including electric energy; and,

(c) Personal property acquired for resale, unless such sale, mortgage, lease or other disposition or encumbrance is authorized by an affirmative vote of at least two-thirds (2/3) of the total membership of said Cooperative, at a meeting called for that purpose, at such meeting there shall be no voting by proxy, and the notice of such proposed sale, mortgage, lease or other disposition or encumbrance shall have been contained in the notice of such meeting, provided, however, that notwithstanding anything herein contained, the Board of Directors, without authorization by the members, shall have full power and authority to borrow money from the United States of America, or any agency or instrumentality thereof or from a national financing institution, organized on a cooperative plan for the purpose of financing its members programs, projects and undertakings, in which the Cooperative holds membership, or any other financing institution, and in connection with such borrowing to authorize the making and issuance of bonds, notes or other evidences of indebtedness and to secure the payment thereof, to authorize the execution and delivery of a mortgage or mortgages, or a deed or deeds of trust upon, or the pledging or encumbering of any or all of the property, assets rights, privileges, licenses, franchises and permits of the Corporation, and whether acquired or to be acquired, and wherever situated, all upon such terms and conditions as the Board of Directors shall determine.

ARTICLE X

MISCELLANEOUS

Section 1. Waiver of Notice. Any member or Board member may waive in writing any notice of a meeting to be given by these By-laws. The attendance of a member or Board member at any meeting shall constitute a waiver of notice of such meeting by such member or Board member, except in case a member or Board member shall attend a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.

Section 2. Area Coverage. The Board shall make diligent effort to see that electric service is extended to all unserved persons within the Cooperative area who desire such service and meet all reasonable requirements established by the Cooperative as a condition of such service.

ARTICLE XI FISCAL YEAR

The fiscal year of the Cooperative shall begin on the first day of January of each year and end on the 31st day of December of the same year.

ARTICLE XII SEAL

The corporate seal of the Cooperative shall be in the form of a circle and shall have inscribed thereupon the name of the Cooperative and the words "Corporate Seal, Texas".

ARTICLE XIII AMENDMENTS

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