

BYLAWS  
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**BYLAWS**  
**LYNTEGAR ELECTRIC COOPERATIVE, INC.**  
**As Amended September 27, 2022**

**ARTICLE I**  
**MEMBERSHIP**

SECTION 1. Requirements for Membership. Any eligible person, firm, association, corporation, or body politic or subdivision thereof may become a member of Lyntegar Electric Cooperative, Inc., (hereinafter called the "Cooperative") by:

- (a) Making a written or electronic application for membership therein;
- (b) Agreeing to purchase from the Cooperative service as hereinafter specified;
- (c) Agreeing to comply with and be bound by the Articles of Incorporation and Bylaws of the Cooperative and any rules and regulations adopted by the board of directors; and
- (d) Paying the membership fee, hereinafter specified; provided, however, that no person, firm, association, corporation, or body politic or subdivision thereof shall become a member unless and until the applicant has been accepted for membership under rules established by the board of directors or the members. No member may hold more than one membership in the Cooperative, and no membership in the Cooperative shall be transferable, except as provided in these Bylaws, or the laws of Texas. At each meeting of the members, all applications received more than ninety days prior to such meeting which have not been accepted or which have been rejected by the board of directors shall be submitted by the Secretary to such meeting and, subject to compliance by the applicant with the requirements hereinabove set forth, any such application may be accepted by vote of the members. The Secretary shall give such applicant at least ten days written notice of the date of the members' meeting to which the application will be submitted, and such applicant shall be entitled to be present and heard at the meeting.
- (e) The Board will determine under rules and/or policies of general application the types and amounts of revenue streams, or the types and amounts of patronage that give rise to the privileges of membership and to the allocation of patronage credits.
- (f) The Cooperative may have one or more classes of members in order to recognize differences in contribution to margin of different classes. If the Board establishes more than one class of membership, it shall determine the definitions, the types, the qualifications of rights of each class and make such information readily available to the membership.

SECTION 2. Membership Certificates. Membership in the Cooperative shall be evidenced by a membership certificate which shall be in such form and shall contain such provisions as shall be determined by the board of directors. Such certificate shall be signed by the President and by

the Secretary of the Cooperative and the corporate seal shall be affixed thereto, or the requirement for a certificate can be satisfied by membership being evidenced on the books of the Cooperative. Signatures may be by facsimile. No membership certificate shall be issued for less than the membership fee fixed in these Bylaws, nor until such membership fee has been fully paid. In case a certificate is lost, destroyed or mutilated, a new certificate may be issued therefore upon such uniform terms and indemnity to the Cooperative as the board of directors may prescribe. Certificates may be kept on file in the Cooperative office.

SECTION 3. Joint Membership. Legal Spouses may apply for a joint membership and, subject to their compliance with the requirements set forth in Section 1 of this Article, may be accepted for such membership. The term "member" as used in these Bylaws 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 a joint membership. Without limiting the generality of the foregoing, the effect of the hereinafter specified actions by or in respect of the holders of a 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, or both jointly, shall constitute one joint vote;
- (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 of 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 director, provided that both meet the qualifications for such office.

SECTION 4. Conversions of Membership.

- (a) A membership may be converted to a joint membership upon the written request of the holder thereof and the agreement by such holder's spouse to comply with the Articles of Incorporation, Bylaws and rules and regulations adopted by the board of directors. The Board shall take all necessary action to indicate the changed membership status.
- (b) Upon the death of either party to the joint membership, such membership shall be held solely by the survivor. The Board shall take all necessary action to indicate the changed membership status; provided, however that the estate of the deceased spouse shall not be released from any debts due the Cooperative.

SECTION 5. Organizational Memberships. A non-natural entity or organization may apply or continue membership in the Coop pursuant to the requirements for membership specified in Section 1 of the Article. Any such non-natural person accepted, or continuing membership, must designate to the Coop an individual to represent its voting interests in any meeting of members or any otherwise needed representation of that membership interests.

SECTION 6. Membership and Service Connection Fees. The membership fee shall be not less than five dollars. An additional fee may be charged for each service connection, extension,

and other available service in accordance with rules and regulations established by the board of directors from time to time.

SECTION 7. Purchase of Electric and Other Services. Each member shall purchase from the Cooperative services used on the premises specified in the application for service, and shall pay therefore monthly at rates which shall from time to time be fixed by the board of directors; provided, however, that the board of directors may limit the amount of electric energy which the Cooperative shall furnish to any one member. It is expressly understood that amounts paid for services 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 Bylaws. Each member shall pay for services in such minimum amount per month as shall be fixed by the board of directors from time to time. Each member shall also pay all amounts owed by the member 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 of directors may prescribe. The board of directors of the Cooperative may, by the affirmative vote of not less than two-thirds of all the directors, expel any member who fails to comply with any of the provisions of the Articles of Incorporation, Bylaws or rules or regulations adopted by the board of directors, but only if such member shall have been given written notice by the Secretary of the Cooperative that such failure makes the member liable to expulsion and such failure shall have continued for a least ten days after such notice was given. Any expelled member may be reinstated by vote of the board of directors 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 and has not purchased services from the Cooperative or of a member who has ceased to purchase services from the Cooperative shall be cancelled.
- (b) Upon the withdrawal, death, cessation of existence or expulsion of a member, the membership of such member shall thereupon terminate, and the membership certificate of such member shall be surrendered forthwith to the Cooperative. Termination of membership in any manner shall not release a member or the member's 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 after first deducting there from any debts owed by the member to the Cooperative.

## ARTICE 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 Bylaws, the remaining property and assets of the Cooperative shall be distributed among the members in the proportion which the aggregate patronage of each bears to the total patronage of all such members, unless otherwise provided by law.

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.

SECTION 3. Former Members. A member shoes membership has terminated shall continue to own the members capital credit in accordance with Article VII hereof.

SECTION 4. Conditions of Service. The Cooperative will make reasonable provisions to supply steady and continuous electric service but does not guarantee the electric service against fluctuations or interruptions. Cooperative will not be liable for any damages, whether direct or consequential, including, without limitation, loss of profits, loss of revenue, or loss of production capacity, occasioned by fluctuations or interruptions unless it be shown that the Cooperative has not made reasonable provisions to supply steady and continuous electric service, consistent with the members class of service. In the event of a failure to make such reasonable provisions (whether as a result of negligence or otherwise), COOPERATIVE'S LIABILITY SHALL BE LIMITED to the cost of necessary repairs of physical damage proximately caused by the service failure to those electrical facilities of member which were then equipped with the protective safeguards recommended or required by the then current edition of the National Electrical Code. The Cooperative does not assume any duty of inspecting members wiring, apparatus, machinery, or equipment, and therefore will not be responsible for any defects therein. It is particularly understood that members assumes full responsibility for electric current, and for the wires, apparatus and appurtenances used in connection therewith, from the point of delivery, and will protect, indemnify and save Cooperative harmless from all claims for injury, including death, or damage to person or property occurring from the point of delivery, occasioned by such electric current or said wires, apparatus, appurtenances.

## ARTICLE III MEETINGS OF MEMBERS

SECTION 1. Annual Meeting. The annual meeting of the members shall be held at least once each calendar year, at a place and time determined by the Board, at such time and place as shall be designated in the notice of the meeting, for the purpose of electing directors, passing upon reports of the previous fiscal year and transacting such other business as may come before the meeting. It shall be the responsibility of the board of directors to make adequate plans and preparations for the annual meeting. If the day fixed for the annual meeting should fall on a legal

holiday, such meeting shall be held at the same time and place on the next succeeding business day. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the Cooperative.

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 a majority of the 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 specified in the notice of the special meeting.

SECTION 3. Notice of Members' Meetings. Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting or an annual meeting at which business requiring special notice is to be transacted, the purpose or purposes for which the meeting is called, shall be delivered to each member not less than ten days nor more than thirty days before the date of the meeting, either personally, by mail, or notice published in the Texas Coop Power Magazine, by or at the direction of the Secretary, or upon a default in duty by the Secretary, by the persons calling the meetings. If notice is mailed or placed in the Texas Coop Power Magazine, by or at the direction of the Secretary, or upon a default in duty by the Secretary, by the persons calling the meetings. If notice is mailed or placed in the Texas Coop Power Magazine, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at the address as it appears on the records of the Cooperative, with postage thereon prepaid. The failure of any member to receive notice of an annual or special meeting of the members shall not invalidate any action which may be taken by the members at any such meeting.

SECTION 4. Quorum. Two hundred members of the Cooperative present in person or five per centum of the total members of the Cooperative present in person, whichever figure is smaller, shall constitute a quorum for the transaction of business at all meetings. If less than a quorum, as set out herein, is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice. The minutes of each meeting shall contain a list of the members present in person.

SECTION 5. Voting. Each member shall be entitled to only one vote upon each matter submitted to a vote at a meeting of the members. 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 or these Bylaws. 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 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.

In any year which any of the nominees for election as director, as determined in accordance with ARTICLE IV. Section 4, do not have formal challenges for the position after the posted deadline for nominating petitions, secret balloting for that director position may be dispensed with respect to the election, and voting may be conducted in any other property manner.

At its discretion, the Board may authorize mail and/or electronic voting for elections and develop, by policy, methods of validation of ballots prior to the distribution of ballots in any given

election cycle. Any mail or electronic balloting requirements and policies shall be developed and approved by the Board of Directors and reviewed on an annual basis. All mail and/or electronic voting shall count toward the making of a meeting quorum.

SECTION 6. 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 meetings:

1. Report on the number of members present in person in order to determine the existence of a quorum.
2. Reading of the notice of the meeting and 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 taking of necessary action thereon.
4. Election of directors.
5. Presentation and consideration of reports of officers, directors and committees.
6. Unfinished business.
7. New business.
8. Adjournment.

#### **ARTICLE IV DIRECTORS**

SECTION 1. General Powers. The business and affairs of the Cooperative shall be managed by a board of seven directors which shall exercise all of the powers of the Cooperative except such as are by law, the Articles of Incorporation or these Bylaws conferred upon or reserved to the members.

SECTION 2. Election and Tenure of Office. Each director currently serving, and hereafter elected in accordance with the terms and provisions of this section, shall be elected for a period of three years or until their successors shall have been elected and shall have qualified. If an election is not held due to failure to reach a quorum at any annual meeting where an election is scheduled, that election shall take place either at a special meeting of the members held for that purpose, or at the next regularly scheduled annual meeting. A director elected under these circumstances, at a special meeting or at the next annual meeting, shall serve only the remainder of the three-year term as if elected on the date of the originally scheduled election. The total area served by the Cooperative shall be, from time to time, divided by the board of directors into seven districts, so that each district will contain a representative portion of said total area, and a representative percentage of the total members of the Cooperative. At the annual meeting of the members on the second Tuesday in August, 1961, directors were elected for Districts Five and Two; at the annual meeting on the second Tuesday in August, 1962, directors were elected for Districts One, Seven and Six; and at the annual meeting on the second Tuesday in August, 1963, directors were elected for Districts Three and Four; and thereafter, as said director's tenure of office expired, a director has been and shall be elected from each of said districts. No director

shall be nominated or be elected at any time, in the manners as hereinafter set out, who does not reside in the district for which said director is being nominated or elected.

SECTION 3. Qualifications. Any member who is a natural person shall be eligible to become or remain a director provided that he/she:

- (a) Is a member in good standing and presently resides in the district for which said person is seeking to be nominated or elected.
- (b) Is not an employee of the Cooperative or an owner or principal of an entity who advances the pecuniary interest of the business by providing electric energy, or a good or service or product related to providing electric energy in competition with the Cooperative. However, the Board may grant exceptions for “deminimus” competing enterprises.
- (c) 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 two (2) years from the time the member’s employment with the Cooperative ended.
- (d) 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, or has been indicted by a state or federal grand jury which remains pending at the time of application.
- (e) Is not closely related to an incumbent Director or an employee of the Cooperative. As used in these Bylaws, “closely related” or “close relative” means a person who is related to the principal person as a spouse, child, grandparent, grandchild, parent, brother or sister by blood, legal adoption or as a matter of 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.
- (f) To remain a Director, the incumbent must:
  - i. 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; and
  - ii. Directors shall remain informed on industry information necessary to fulfill their fiduciary duties as a Director. Directors are encouraged, during each three-year term, to attend board-approved workshops and/or seminars related or pertaining to the continuing education, training, or industry information updates necessary to fulfill their duties as Directors.
- (g) 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.

- (h) Nothing in this section shall affect in any manner whatsoever, the validity of any action taken at any meeting of the Board.

SECTION 4. Nominations. It shall be the duty of the board of directors to appoint, not less than thirty days nor more than the date of the board meeting held three months before the date of a meeting of the members at which directors are to be elected, a committee on nominations. Members of such committee shall possess the same qualifications herein required of a person to be eligible to become or remain a director. One member of such committee shall be nominated from each of the seven districts. No member of the board of directors may serve on such committee. The committee, keeping in mind the principle of geographical representation, shall prepare and post at the principal office of the Cooperative at least twenty days before the meeting a list of nominations for directors which may include a greater number of candidates than are to be elected. Any fifteen or more members acting together may make other nominations by petition not less than fifteen days prior to the meeting and the Secretary shall post, or cause to be posted, a copy of such petition 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 seven days before the date of the meeting, a statement of the number of directors to be elected and the names and addresses of the candidates, specifying separately the nominations made by the committee on nominations and also the nominations made by petition, if any. There will be no nominations from the floor.

SECTION 5. Removal of Directors by Members. Any member may bring charges against a director 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 director by reason thereof. The petition shall be sworn to, and state with specificity, the grounds for such charges. Such director shall be furnished with a copy of the petition, by certified mail or in person, 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 present evidence in respect to the charges, and the person or persons bringing the charges against the director shall have the same opportunity. The question of the removal of such director shall be considered and voted upon at the meeting of the members and any vacancy created by such removal shall be filled in accordance with section 6 hereof.

SECTION 6. Vacancies. A vacancy occurring in the board of directors shall be filled by the affirmative vote of a majority of the remaining directors for the unexpired portion of the term.

SECTION 7. Compensation.

- (a) Board members shall not receive any salary for their services as such, except that the Board may, by resolution, authorize a fixed sum for each day or portion thereof spent on Cooperative business, such as attendance at meetings, industry-related conferences and training programs or performing committee assignments when authorized by the Board. If authorized by the Board, Board Members may also be reimbursed for expenses actually and necessarily incurred in carrying out such Cooperative business or be granted a reasonable per diem

allowance in lieu of a detailed accounting for the sum of these expenses. Board Members, who elect to participate, may be extended various forms of liability and accident insurance coverage, as well as participation in benefits in the same manner as provided to Cooperative employees, except benefits based on salary.

- (b) No Board Member shall receive compensation for serving the Cooperative in any other capacity, nor shall any close relative of a Board Member receive compensation for serving the Cooperative, unless the payment and amount of compensation shall be specifically authorized by a vote of the members or the service by the Board Member or his close relative shall have been certified by the board as an emergency measure.

SECTION 8. Liability of Directors. Directors of the Cooperative shall not be liable to the Cooperative or its members for monetary damages for an act or omission in the director's capacity as a director except that this section does not eliminate or limit the liability of a director for:

- (a) A breach of a director's duty of loyalty to the Cooperative or its members;
- (b) An act or omission not in good faith or that involves intentional misconduct or a knowing violation of the law.
- (c) A transaction from which a director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the director's office;
- (d) An act or omission for which the liability of a director is expressly provided for by statute; or
- (e) An act related to an unlawful stock repurchase or payment of a dividend.

## **ARTICLE V MEETING OF DIRECTORS**

SECTION 1. Regular Meetings. A regular meeting of the board of directors may be held without notice, immediately after and at the same place as, the annual meeting of the members. A regular meeting of the board of directors shall also be held monthly at such time and place within or without the State of Texas, as the board of directors may provide by resolution. Such regular 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 of directors may be called by the President or by any three directors, 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 the directors calling the meeting shall fix the time and place within or without the State of Texas for the holding of the meetings.

SECTION 3. Notice of Directors' Meetings. Written notice of the time, place and purpose of any special meeting of the board of directors shall be delivered to each director not less than

five days previous thereto either personally or by mail, electronic facsimile telephone transmission, or by email, by or at the direction of the Secretary, or upon a 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 addressed to the director at the director's address as it appears on the records of the Cooperative, with first-class postage thereon prepaid.

SECTION 4. Quorum. A majority of the board of directors shall constitute a quorum, but if less than such majority of the directors is present at any meeting, a majority of the directors present may adjourn the meeting from time to time; and provided further, that the Secretary shall notify any absent directors of the time and place of such adjourned meeting. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors.

SECTION 5. Meetings By Telephone Conference or Other Remote Communications Technology.

- A. Subject to the provisions required or permitted by law for notice of meetings, members of the board of directors of the Cooperative, or members of any committee designated by such board may participate in and hold a meeting of the board, or the committee, by means of:
  - (1) conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other; or
  - (2) another suitable electronic communications system, including videoconferencing technology or the Internet, only if:
    - (a) each member entitled to participate in the meeting consents to the meeting being held by means of that system; and
    - (b) the system provides access to the meeting in a manner or using a method by which each member participating in the meeting can communicate concurrently with each other participant.
- B. Participation in a meeting pursuant to this Article shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**ARTICLE VI  
OFFICERS**

SECTION 1. Number. The officers of the Cooperative shall be a 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 of directors at the meeting of the board of directors held immediately 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 of directors following the next succeeding annual meeting of the members or until his successor shall have been elected and shall have qualified. A vacancy in any office shall be filled by a majority vote of the board of directors for the unexpired portion of the term.

SECTION 3. Removal of Officers and Agents by Directors. Any officer or agent elected or appointed by the board of directors may be removed by a majority vote of the board of directors whenever in its judgment the best interests of the Cooperative will be served thereby. In addition, any member of the Cooperative may bring charges against an officer, and by filing with the Secretary such charges in writing together with a petition signed by ten per centum of the members, may request the removal of such officer. The officer against whom such charges have been brought shall be informed in writing of the charges at least ten days prior to the board meeting 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. In the event the board does not remove such officer, the question of his removal shall be considered and voted upon at the next meeting of the members.

SECTION 4. President. The President shall:

- (a) be the principal executive officer of the Cooperative and, unless otherwise determined by the members or the board of directors, shall preside at all meetings of the members and board of directors;
- (b) sign, with the Secretary, certificates of membership, the issue of which shall have been authorized by the board of directors or the members, and may sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the board of directors to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the board of directors or by these Bylaws to some other officer 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 of directors from time to time.

SECTION 5. Vice President. In the absence of the President, or in the event of the President's 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. The Vice President shall also perform such other duties as from time to time may be assigned by the board of directors.

SECTION 6. Secretary. The Secretary shall:

- (a) keep the minutes of the meetings of the members and of the board of directors in one or more books provided for that purpose;

- (b) see that all notices are duly given in accordance with these bylaws or as required by law;
- (c) be custodian of the corporate records and of the seal of the Cooperative and affix the seal of the Cooperative to all certificates of membership prior to the issue thereof and 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 Bylaws;
- (d) keep a register of the names and post office addresses of all members;
- (e) sign, with the President, certificates of membership, the issue of which shall have been authorized by the board of directors or the members;
- (f) have general charge of the books of the Cooperative;
- (g) keep on file at all times a complete copy of the Articles of Incorporation and Bylaws 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 the Bylaws and of all amendments thereto to any member upon request; and
- (h) in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the board of directors.
- (i) The Secretary shall also have the authority, with the approval of the Board, to delegate a member of management the authority to appoint employee(s) of the Cooperative to actually carry out certain administrative duties set forth in this Section.

SECTION 7. 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 Bylaws, 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 Bylaws 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 8. Quorum During Catastrophe. In the event of a catastrophic loss as defined in Section 7, 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.

SECTION 9. Treasurer. The Treasurer shall:

- (a) have charge and custody of and be responsible for all funds and securities of the Cooperative;
- (b) be responsible for the receipt of and the issuance of receipts for all moneys due and payable to the Cooperative and for the deposit of 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 Bylaws; 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 by the board of directors.
- (d) The Treasurer shall also have the authority, with the approval of the Board, to delegate 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 10. Manager. The board of directors may appoint a manager who may be, but who shall not be required to be, a member of the Cooperative. The manager shall perform such duties, shall carry such titles, and shall exercise such authority as the board of directors may from time to time vest in the manager.

SECTION 11. Bonds of Officers. The Treasurer and any other officer or agent of the Cooperative charged with responsibility for the custody of any of its funds or property may be required 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 12. Compensation. The powers, duties and compensation of officers, agents and employees shall be fixed by the board of directors, subject to the provisions of these Bylaws with respect to compensation for directors and close relatives of directors.

SECTION 13. 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. Such reports shall set forth the condition of the Cooperative at the close of the fiscal year.

SECTION 14. Indemnification of Officers and Directors.

- (a) Indemnification for expenses and liability. Every director and officer of the Cooperative shall be indemnified by the Cooperative against all judgments, penalties, fines, liabilities, amounts paid in settlement and reasonable expenses, including counsel fees actually incurred by or imposed upon such director or officer in connection with any proceeding to which the director or officer was, or is threatened to be made a party, or in which the director or officer of the Cooperative, whether or not the director or officer is a director or officer, at the time such expenses are incurred, to the maximum extent consistent with the provisions of Article 2.22A of the Texas Non-Profit Corporation Act; provided that in the event of a settlement of the indemnification herein shall apply only when the board of directors approves such settlement and reimbursement as being for the best interests of the Cooperative. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

- (b) Power to purchase insurance. The Cooperative shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Cooperative, or is or was serving at the request of the Cooperative as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against the person and incurred by the person in any such capacity, or arising out of the person's status as such, whether or not the Cooperative would have the power to indemnify the person against such liability under the provision of this section.
- (c) Continuing offer, reliance. The provisions of this section are for the benefit of, and may be enforced by, each director and officer of the Cooperative as a contract for valuable consideration and constitute a continuing offer to all present and future directors and officers of the Cooperative. The Cooperative, by the adoption of this section agrees that each present and future director and officer of the Cooperative has relied upon and will continue to rely upon the provisions of this section in accepting, serving or continuing to serve as a director or officer.
- (d) Effect of Amendment. No amendment, modification or repeal of this section or any provision hereof shall in any manner terminate, reduce or impair the right of any past, present or future director or officer of the Cooperative to be indemnified by the Cooperative, nor the obligation of the Cooperative to indemnify any such director or officer, under and in accordance with the provisions of the section as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

## **ARTICLE VII NON-PROFIT OPERATION**

SECTION 1. 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.

SECTION 2. Patronage Capital in Connection with Furnishing Electric Services (Patronage Business).

- (a) In the furnishing of Patronage Business, 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 for all amounts received and receivable

from, and directly related to, the furnishing of electric services in excess of operating costs and expenses properly chargeable against such services, hereinafter referred to as margins from patronage business. All such margins from patronage 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 of capital so credited to his account.

- (c) 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.
- (d) If the costs and expenses exceed the amounts received and receivable from patronage business, hereinafter referred to as "loss", then the Board shall have the authority under accepted accounting practices, loan covenants and tax law to prescribe the manner in which such loss shall be handled.
- (e) 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 both current and former patrons' accounts may be retired in full or in part. The Board of Directors shall determine the method, basis, priority and order of retirement, if any, for all amounts furnished as capital. Such method, basis, priority and order of retirement considered by the Board may include the retirement of amounts furnished as capital at a discount.
- (f) 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. During a general capital credit retirement, no checks shall be issued for less than a fixed amount determined by the Board, and the amount of such unretired capital credits will be retired in the first following year when the total amount of



- capital credits qualifying for retirement exceeds that amount set by the Board, including the amount carried over.
- (g) 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.
  - (h) 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 as donated capital to such account as the Board of Directors, acting under policies of general application, may determine.
  - (i) 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 the patron or former patron, including any reasonable compounded interest, and late payment fee, determined by the Board.
  - (j) Capital credited to the account of each patron shall be assignable only on such terms and conditions and under such circumstances as the board of directors acting under policies of general application, or the 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. Patrons at any time may 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 is authorized, but not required, to negotiate capital credit settlement arrangements with estates of deceased natural persons, and/or inactive Patrons.
  - (k) 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.
  - (l) 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.

- (m) 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.

SECTION 3. Margins from Non-Patronage Business. All amounts received in excess of costs and expenses other than from patronage business, insofar as permitted by law, shall be used by the Cooperative (1) to offset any losses incurred during the current or any prior fiscal year, (2) as retained 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 discretion of the board.

SECTION 4. Patronage Capital Policies. The Board has the authority to determine through policy which services are included in the definition of patronage business. The Board also has the authority to determine the kind, timing, method and type of allocation; provided however, that such method is 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. 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 5. Definitions. As used in this Article, "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 by authorized contractual authority.

## **ARTICLE VIII DISPOSITION OF PROPERTY**

The Cooperative may not sell, lease or otherwise dispose of all or any substantial portion of its property unless such sale, lease or other disposition is authorized at a meeting of the members thereof by the affirmative vote of not less than two-thirds of all of the members of the Cooperative, and unless the notice of such proposed sale, lease or other disposition shall have been contained in the notice of the meeting; provided, however, that notwithstanding anything herein contained, the board of the Cooperative, without authorization by the members thereof, shall have full power and authority 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 Cooperative, whether acquired or to be acquired, and wherever situated, as well as the revenues and income there from, all upon such terms and conditions as the board shall determine, to secure any indebtedness of the Cooperative, provided further that the board may upon the authorization of a majority of the members of the Cooperative, sell, lease, or otherwise dispose of all or a

substantial portion of its property to another Cooperative doing business in this State pursuant to the Act under which this Cooperative is incorporated.

## **ARTICLE IX**

### **SEAL**

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

## **ARTICLE X**

### **FINANCIAL TRANSACTIONS**

SECTION 1. Contracts. Except as otherwise provided in these Bylaws, 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 the behalf of the Cooperative and such authority may be general or confined to specific instances.

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.

SECTION 4. Fiscal Year. The fiscal year of the Cooperative shall begin on the first day of January of each year and shall end on the thirty-first day of December of the same year.

## **ARTICLE XI**

### **MISCELLANEOUS**

SECTION 1. Membership in Other Organizations. The Cooperative may become a member or purchase ownership interests in other profit or non-profit organizations, associations, entities, partnerships, or joint ventures when the Board finds that the general or long-term interests of its membership will be served by such investments or participation.

SECTION 2. Waiver of Notice. Any member or director may waive in writing any notice of a meeting required to be given by these Bylaws. The attendance of a member or director at any meeting shall constitute a waiver of notice of such meeting by such member or director, except in case a member or director 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 3. 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 or these

Bylaws, as it may deem advisable for the management of the business and affairs of the Cooperative.

SECTION 4. Accounting System and Reports. The board of directors shall cause to be established and maintained a complete accounting system which, among other things, and subject to applicable laws and rules and regulations of any regulatory body, shall conform to such accounting system. The board of directors shall also, after the close of each fiscal year, cause to be made a full and complete audit of the accounts, books and financial condition of the Cooperative as of the end of such fiscal year. Such reports shall be submitted to the members at the next following annual meeting.

SECTION 5. Any provisions contained in these Bylaws as may be found to be in conflict with any laws now in existence or as may be hereafter passed shall be deemed to contain such words as would be in accordance with said laws, and these Bylaws shall at all times be construed as containing such words as would be in conformity with the laws of the land.

SECTION 6. Should any part of these Bylaws be held to be unconstitutional or illegal, the same shall have no effect upon the remaining portions of said Bylaws.

SECTION 7. The obligations and relationships of the Cooperative to its members and those of the members to the Cooperative are hereby made performable at the office of the Cooperative in Tahoka, Lynn County, Texas and all suits shall be brought and maintained in Lynn County, Texas.

## **ARTICLE XII AMENDMENTS**

These Bylaws may be altered, amended or repealed by the board of directors at any regular or special meeting, except as to such portion hereof as the law may require to be passed on by the members of said Cooperative in which event the same may be altered, amended or repealed at any regular or special meeting of said members, provided such notice of such meeting shall have been given as is required by these Bylaws and the laws of the State of Texas.

## **ARTICLE XIII FORMER MEMBERS**

Upon any member ceasing to use services from the Cooperative for any reason, such member shall for such period of time as the member is not receiving services by considered a former member, and shall not be entitled to vote in any meeting or participate in the business of the Cooperative in any way.