

BYLAWS

HOLY CROSS ELECTRIC ASSOCIATION, INC./HOLY CROSS ENERGY

Holy Cross Electric Association, Inc. is also legally known by the name Holy Cross Energy (herein collectively the "Association" or "Cooperative"). The objective of the Association is to make electric energy available to its patrons at the lowest cost consistent with sound financial practices and good management.

The Association is a cooperative association organized (in 1939) and existing under the laws of the State of Colorado.

BYLAWS - REVISED JUNE 2010

ARTICLE I MEMBERSHIP

SECTION 1. Requirements for Membership. Any natural person, firm, partnership, limited liability company, corporation or body politic or subdivision thereof will become a member of Holy Cross Electric Association, Inc., (hereinafter called "Association") upon receipt of electric service from the Association.

Any member may withdraw from membership upon compliance with such uniform terms and conditions as the Board may prescribe.

Members and non-members agree to purchase from the Association electric energy as hereinafter specified, and agree to comply with and be bound by the Articles of Incorporation and Bylaws of this Association and any Rules and Regulations adopted by the Board of Directors (hereinafter called the "Board").

No member may hold more than one (1) membership in the Association and no such membership shall be sold, purchased, assigned, or otherwise transferred.

SECTION 2. Membership Certificates. Membership in the Association 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.

SECTION 3. Membership Fees. No fees shall be charged or collected to become a member of this Association.

SECTION 4. Service to Non-members. The Association may serve non-members as well as members, all pursuant to the laws of the State of Colorado and the lawful rules and regulations of any agencies having jurisdiction over this Association. Non-members so served shall, collectively with members, be herein called "patrons." All patrons must, upon receipt of electric service from the Association, agree to comply with and be bound by the Articles of Incorporation and Bylaws of the Association and any rules and regulations adopted by the Board. Non-members shall be restricted from voting at meetings of members, from becoming a Director of the Association, from receiving capital credits, from sharing in the property of the Association upon dissolution, and shall be restricted in other ways expressly provided or implied by these Bylaws.

SECTION 5. Purchase of Electric Energy. Each patron shall, as soon as electric energy shall be available, net of self generation on the premises, purchase from the Association all electric energy required for use on the premises specified in their application for service, and shall pay therefor at rates which shall from time to time be fixed by the Board, provided, however, that the Board may limit the amount of electric energy which the Association shall be required to furnish to any one (1) patron. Each patron shall pay to the Association such minimum amount regardless of the amount of electric energy consumed, as shall be fixed by the Board from time to time. Each patron shall also pay all amounts owed by such to the Association as and when the same shall become due and payable.

SECTION 6. Termination of Membership.

Upon the withdrawal, death, or cessation of existence of a member or joint member, or when a member ceases to receive electric service from the Association, the membership of such member shall thereupon terminate. Termination of membership in any manner shall not release a member or the estate of such from any debts due the Association, and shall not act to forfeit the equity interest such member may have in the assets of the Association.

SECTION 7. Joint Members or Other Accounts.

- (a) Persons who qualify to be members may hold a joint membership in the Association. A joint membership may consist only of a legally married couple. Joint non-member accounts shall not be allowed. Sole proprietorship commercial accounts shall only be established in the name of one (1) individual regardless of whether such account is a member or a non-member account.

Except as otherwise provided in these Bylaws, the term "joint member" has the same meaning as the term "member," and such a joint member has and enjoys the rights, benefits and privileges, and is subject to all the obligations, requirements, and liabilities, of being a member.

Such individual(s) shall be the person(s) entitled to receive all patronage capital refunds paid by the Association.

Individual account holders may not be solely responsible for payment for electric energy furnished to such individual's household by the Association. Any individual over the age of eighteen (18) years who resides with a residential patron, and who accepts electric service provided by the Association, shall be jointly and severally liable for payment therefor.

- (b) Effect of Joint Member Actions. For each Joint Membership:
 1. Notice to any meeting provided to either joint member, or waiver of notice of any meeting signed by either joint member, constitutes notice or waiver of notice for both joint members comprising the joint membership.
 2. The presence of either joint member at any meeting constitutes the presence of one (1) member at the meeting, and waives notice of both joint members comprising the joint membership.
 3. If only one (1) joint member votes on any matter, then the vote binds the joint membership and constitutes one (1) vote.

4. If only one (1) joint member signs a document or otherwise acts, then the signature or action binds the joint membership.
5. A joint member otherwise qualified is eligible to serve as a member of the Board. If both joint members are otherwise qualified to serve as a Director, then either one (1) joint member, but not both joint members simultaneously, is eligible to serve as a Director.
6. Upon the death of one (1) joint member or the legal conclusion of the marriage between joint members, the joint membership terminates and any subsequent use of electric service by either joint member shall be by a new application for service and membership.

SECTION 8. Bylaws Are a Contract. The patrons of the Association, by dealing with the Association, acknowledge that the terms and provisions of the Articles of Incorporation and Bylaws shall constitute and be a contract between the Association and each patron, and both the Association 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, except that non-member patrons shall never have the right to (a) be allocated and paid by credit to a capital account any capital credits; or to (b) receive retired and refunded capital credits, or allocations of any kind upon dissolution.

ARTICLE II RIGHTS AND LIABILITIES OF MEMBERS

SECTION 1. Property Interest of Members. In the event of dissolution or liquidation of this Association, and after all outstanding indebtedness of the Association shall have been paid, other obligations of the Association shall be retired or refunded, on a pro rata basis, in the following order: (1) outstanding capital contributions, credits and membership fees, if any, within the classes, if any; (2) unrefunded other equity from prior net present value refunds within the classes, if any; and (3) payments on account of property rights shall be distributed among the members and former members in the proportion which the aggregate capital of each bears to the total allocated capital of all members during the ten (10) years next preceding the date of the filing of the certificate of dissolution.

SECTION 2. Non-liability for Debts of the Association. The Directors, officers, employees and members of the Association shall not, as such, be liable on its obligations.

ARTICLE III MEETINGS OF MEMBERS

SECTION 1. Annual Meeting. A meeting of the members shall be held annually in June or July at any place designated by the Board within the Colorado Counties of Eagle, Garfield, or Pitkin, at such time in June or July as may be designated by the Board, for the purpose of electing Directors, passing upon reports for the previous fiscal year and transacting such other business as may have been properly noticed prior to the meeting. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the Association.

SECTION 2. Special Meetings. Special meetings of the members may be called by the Board, or by the President, or by a petition filed with the Association signed by fifty (50) 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 an annual meeting could be held, as designated by the Board, and shall be specified in the notice of the special meeting.

SECTION 3. Notice of Meetings of Members. 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 by mail not less than twenty (20) days nor more than thirty (30) days before the date of the meeting, by or at the direction of the Secretary or any other officer, to each member. Members may only vote upon matters specifically described and presented in the notice of the meeting of either the annual meeting or the special meeting. Such notice shall be deemed delivered when deposited in the United States mail, addressed to the member at his or her address as it appears on the records of the Association, 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. Five (5) percent of the members, or fifty (50) members present in person, whichever is less, shall be a quorum for the transaction of all business at any annual or special meeting of the members. Votes by mail for election of Directors, and votes by mail on any other specific matter where authorized and directed by the Board, shall be counted in accordance with these Bylaws, but determination of existence of a quorum, as set out above, shall in no manner be affected by votes by mail.

SECTION 5. Voting. Each member shall be entitled to one (1) vote and no more upon each matter submitted to a vote at any meeting of the members. At all meetings of the members at which a quorum is present, all questions shall be decided by a vote of a majority of the members voting thereon in person and, for election of Directors and where authorized by resolution of the Board, by mail; except as otherwise provided by law, the Articles of Incorporation of the Association, or these Bylaws.

At any meeting of the members, a member may vote by mail for election of Directors, and also upon any other matter, provided that:

- (a) The mail voting on such matter (except for election of Directors) is authorized by a resolution of the Board adopted prior to the meetings of members;
- (b) Such a vote is in writing on forms provided by the Association; and
- (c) Such vote is signed by such member. Voting in person shall revoke any voting by mail by that member.

SECTION 6. Proxies and Cumulative Voting. Voting by proxy or cumulative voting is prohibited at any and all meetings of the members.

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:

- (a) Appointment of the Teller Committee, if one (1) is to be appointed.
- (b) Report on the number of members present in person, in order to determine the existence of a quorum.
- (c) Reading of the notice of the meeting, or a motion to dispense with the reading of the notice, and proof of due service thereof.

- (d) Reading of unapproved minutes of the previous meetings of the members, or a motion to dispense with the reading of the minutes, and the taking of necessary action thereon.
- (e) Presentation and consideration of, and acting upon, reports of officers, committees and the Board.
- (f) Election of Directors.
- (g) Unfinished business.
- (h) New business.
- (i) Adjournment.

ARTICLE IV DIRECTORS

SECTION 1. General Powers. The business and affairs of the Association shall be directed by a Board of seven (7) Directors which shall exercise all of the powers of the Association except such as are by law, the Articles of Incorporation or these Bylaws conferred upon or reserved to the members.

SECTION 2. Qualifications. No person shall be eligible to become or remain a Director unless he or she:

- (a) Has been a member of, and has received electric service from, the Association for a consecutive period of at least two (2) years immediately prior to the date of his or her election as a Director;
- (b) Is a member of, and receives electric service from, the Association; and is not employed by a competing enterprise or a business selling electric energy or electrical supplies to the Association;
- (c) Is not or during the three (3) years immediately before becoming a Director, an employee of the Association;
- (d) While a Director, and before becoming a Director, did not plead guilty or was not convicted of a felony;
- (e) Receives electric service from the Association at his or her primary residence which is located in the district he or she is to represent;
- (f) Regularly attends meetings of the Board. The Board shall have the sole discretion to determine when a Director should be removed for failure to regularly attend Board meetings; and
- (g) Except as otherwise provided by the Board for good cause, receive a Credentialed Cooperative Director designation, Director's Certificate, or similar designation or certification from the National Rural Electric Cooperative Association within three (3) years of becoming a Director.

If any Director fails to comply with any of the qualifications described in paragraphs (a) through (f) of this section at any time during the Director's term of office, the Board shall remove the Director from office and fill the vacancy as provided in Section 11 in Article IV of these Bylaws.

Nothing contained in this section shall affect in any manner whatever the validity of any action taken at any meeting of the Board.

SECTION 3. Director Districts. Except as provided herein, the Holy Cross Board of Directors shall consist of seven (7) Directors, who shall be elected from specified geographic districts. Until 2012 there will be six (6) Directors elected from the specified geographic districts and one (1) Director at Large defined as representing the Association's service territory. Thereafter there will no longer be a Director at Large seat and the Northern District will be represented by four (4) Directors. The following shall constitute the three (3) Director districts served by the Association, to wit:

- (a) The Western District shall be defined as and include Townships 6, 7, and 8 South, Ranges 90 through 96 West, generally described as the New Castle to Parachute area, and Townships 6 through 12 South, Ranges 87, 88 and 89 West, lying westerly of the Eagle County/Garfield County line extended to the south, generally described as the Glenwood Springs to Marble area. The Western District shall be represented by one (1) Director.
- (b) The Northern District shall be defined as and include Townships 2 through 5 South, Ranges 87 and 88 West and Townships 2 through 6 South, Ranges 79 through 86 West, generally described as the Gypsum to Vail area. The Northern District shall be represented by three (3) Directors until 2012, when a fourth Director shall be elected from the Northern District, making the Northern District represented by four (4) Directors in 2012.
- (c) The Southern District shall be defined as and include Townships 7 through 12 South, Ranges 82 through 87 West, lying easterly of the Eagle County/Garfield County line extended to the south, generally described as the Basalt to Aspen area. The Southern District shall be represented by two (2) Directors.

SECTION 4. Term of Office. Directors shall be elected, in the manner and numbers herein set out, at each annual meeting of the members beginning with the year 2010, by and from the membership, to serve for the periods hereinafter set out.

At each annual meeting of the members, beginning with the year 2010, Directors shall be elected to fill vacancies caused by expiration of terms of office, for a term to expire at the third annual meeting of members after their election or until their successors shall have been elected and shall have qualified.

In order to provide for continuity in the process of reelection of Directors with the terms of office of Directors who are in office prior to the 2010 annual meeting of members, and beginning with the annual meeting of members in the year 2010, the following Director seats, representing the following districts, shall be reelected for three (3) year terms as follows:

One (1) Director seat in the Northern District shall expire as of the date of the annual meeting of members in 2010 and every three (3) years thereafter.

One (1) Director seat in the Southern District shall expire as of the date of the annual meeting of members in 2010 and every three (3) years thereafter.

One (1) Director seat in the Northern District shall expire as of the date of the annual meeting of members in 2011 and every three (3) years thereafter.

One (1) Director seat in the Western District shall expire as of the date of the annual meeting of members in 2011 and every three (3) years thereafter.

One (1) Director seat in the Southern District shall expire as of the date of the annual meeting of members in 2012 and every three (3) years thereafter.

One (1) Director seat in the Northern District shall expire as of the date of the annual meeting of members in 2012 and every three (3) years thereafter.

One (1) Director at Large seat shall expire as of the date of the annual meeting of members in 2012, at which time one (1) Director seat from the Northern District shall be elected as of the date of the annual meeting in 2012 and shall expire every three (3) years thereafter.

SECTION 5. Nominations. Nominations for Directors shall be made only by petition and in conformance with the following:

- (a) Each petition shall be in writing and be signed by fifteen (15) or more members of the Association who reside in the district for which the Director seat nomination is made;
- (b) Each petition shall nominate one (1), and only one (1), candidate for a Director position to be filled by the election; and
- (c) Each petition shall be filed at the principal office of the Association at least forty-five (45) days before the meeting of the members at which Directors are to be elected.

In the event of any uncertainty or dispute, or upon inquiry by any candidate or nominee for the office of Director, as to the location within or without a district of the primary residence of any candidate or nominee, any officer of the Association or the Chief Executive Officer shall make a written determination as to the proper location of such residence within or without a particular district.

SECTION 6. Notice of Right to Nominate. At least ninety (90) days (and not more than one hundred twenty (120) days) before each meeting of the members at which Directors are to be elected, the Association shall cause to be published in at least one (1) newspaper of general circulation published in each of the Counties of Eagle, Garfield, Gunnison, Mesa and Pitkin, of the State of Colorado, a notice captioned as follows:

Holy Cross Electric Association, Inc.
Notice of Annual Meeting of Members
Notice of Right to Nominate Directors

and include the following information:

That an annual meeting of the members is to be held.

The place, date and hour of such meeting.

The number of Directors to be elected at such meeting.

The name of the district from which each Director is to be elected.

The boundary description of each such district as set forth in these Bylaws.

The date and time at which the petition forms shall be available. Candidates for Director must use the official forms provided by the Association. The candidates for each Director position will be listed on the ballot in the order they were received.

That nominations may be made only by petition signed by fifteen (15) or more members whose residence is within such district(s).

That each nominee must have his/her primary residence within the district of the Director seat for which he/she is nominated.

That such petitions must be filed at the principal office of the Association (giving address).

That such petitions must be so filed on or before a certain date (giving date).

That petition forms and information concerning legally required qualifications for prospective nominees and petition signers is available at the principal office of the Association (giving telephone number).

SECTION 7. Election. At each annual meeting of the members, Directors shall be elected as hereinabove and herein below provided, except that in the event there is no quorum for such purpose or no nominations have been timely and properly made by petition, the incumbents whose terms of office then expired shall continue in office until the third annual meeting of the members thereafter, or until their successors shall have been elected and shall have qualified. If there is a quorum for the purpose of election, and if nominating petitions have been timely and properly made, then those nominees, in the number to be elected, who receive the greatest number of votes, shall be deemed to be those elected.

SECTION 8. Voting. At annual meetings of members, voting for Directors shall be by members present in person and by those who have voted by mail. A member who has voted by mail shall not be entitled to vote at the annual meeting.

SECTION 9. Ballots. In the event that nominating petitions have been properly made and timely filed, there shall be included with the notice of the annual meeting of the members at which such nominations will be acted upon, a printed ballot and a special envelope for the concealing of such ballot by each member who votes, together with a return envelope containing a signature line by the voting member. Each member shall be instructed that if he or she wishes to vote, the ballot shall be marked in accordance with instructions to be placed on each ballot. Such ballot shall then be placed in the special envelope, and the special envelope containing the ballot shall then be mailed to the Association in the return envelope, which must be signed by the member. Return envelopes not signed by a member shall not be counted. The names of all nominees shall appear on the ballot. Ballots shall be distributed to all members attending the annual meeting in person only if the member has not previously submitted a ballot by mail.

In the event no nominating petitions have been properly made and timely filed, or in the event no contest has been created by nominating petitions properly made and timely filed, in either of which events the continuance in office of the incumbents or the election of the sole nominees is assured because no other nominations can be made, then, in order to save useless expense, the election of Directors shall automatically be dispensed with and the nominees shall be deemed elected.

Whenever voting on any matter other than the election of Directors has been authorized by the Board to include voting by mail, the balloting procedures hereinabove described shall generally be followed. A notice shall be mailed to each member not less than twenty (20) nor more than

thirty (30) days before the date of the annual or special meeting of members at which the voted ballots are to be received. The notice shall also contain an explanation of the issue(s) to be voted on which shall fairly and reasonably present each side of such issue(s).

Whenever members shall vote on any issue, or for the election of Directors, only the votes of members who have been of record on the books of the Association for thirty (30) days or more prior to the deadline for receipt of votes by the Association shall be counted.

SECTION 10. Removal of Directors. Any Director may be removed for cause at any time by the members pursuant to the procedure specified in this section.

The members may bring charges requesting the removal of a Director, by filing a petition with the Association's Secretary in writing, specifying in detail the charges constituting the cause for removal. Such petition must be signed by at least three hundred (300) of the members.

No petition for removal shall specify charges against more than one (1) Director. If the removal of more than one (1) Director is requested, a separate petition for each Director sought to be removed must be filed.

The term "for cause" as used in this section is defined as malfeasance, misfeasance or nonfeasance adversely affecting the Association's interest. "Malfeasance" is the doing of an act which is wholly wrongful and/or unlawful. "Misfeasance" is the improper doing of an act which a person may lawfully do. "Nonfeasance" means the omission of an act which a person ought to do. "For cause" does not mean conduct or decisions made in good faith with a reasonable basis for believing that the action authorized was in the lawful and legitimate furtherance of the Association's business.

The Association's Secretary shall, upon receipt of a written petition signed by at least three hundred (300) of the Association's members, transmit such petition to the entire Board of Directors for consideration at the Board's next meeting at which a quorum is present.

The Directors present against whom no charges have been brought, if such shall constitute a quorum of all Directors, shall determine by majority vote if there be cause for removal. If they find that cause, as defined in this section, has been stated in such petition, the request for removal shall be presented to and voted on at the next regular or special meeting of the members. Such a meeting shall be held within ninety (90) days of a finding of cause. If the Directors present shall be less than a quorum of all Directors, a determination as to cause shall be dispensed with, and the request for removal shall be referred to a vote of the members as hereinabove provided.

Written notice shall be given to all of the Association's members within thirty (30) days from the time such determination is made, that cause, as defined in this section, has been stated or has not been stated against a Director in such petition.

The vote of a majority of the members voting thereon in person and, where authorized by resolution of the Board of Directors, by mail, is required to effect such removal.

In the event both the President and Vice President have had charges brought against them, then at any meeting of the members at which such charges are to be voted upon, the Board of Directors shall, by resolution, designate a parliamentarian to conduct that portion of the meeting at which charges are to be heard and voted upon.

The Director against whom such charges have been brought shall have an opportunity at the meeting of members to be heard in person, and/or by counsel, as to the charges against such Director. The persons bringing the charges against such Director shall have the same

opportunity. Either the Director charged or any member(s) bringing the charges may have access to the Association's records of members prior to such meeting in order to disseminate information for or against the charges by mail.

Any vacancy in the Board of Directors created by such removal shall be filled in the manner specified in Section 11, Article IV of these Bylaws.

SECTION 11. Vacancies. Subject to the provisions of these Bylaws with respect to the filling of vacancies caused by the removal of Directors by the members, a vacancy occurring in the Board for reasons other than expiration of term, shall be filled by the affirmative vote of a majority of the remaining Directors for the unexpired portion of the term.

SECTION 12. Compensation. Directors 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 Association business, such as attendance at meetings, conferences and training programs or performing committee assignments when authorized by the Board. If authorized by the Board, Directors may also be reimbursed for expenses actually and necessarily incurred in carrying out such Association business. In addition, the Association may, at its expense, purchase insurance on and for its Directors.

ARTICLE V MEETINGS OF BOARD

SECTION 1. Regular Meeting. A regular meeting of the Board shall be held immediately after, and at the same place as, the annual meeting of the members. A regular meeting of the Board shall also be held monthly at such time and place within the Colorado Counties of Eagle, Garfield or Pitkin as may be designated by the Board.

SECTION 2. Special Meeting. Special meetings of the Board may be called by the President or by any three (3) 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 Directors calling the meeting shall fix the time and place for the holding of the meeting.

SECTION 3. Notice of Board Meetings and Agenda. Written or electronic notice of the time, place and purpose of any regular or special meeting of the Board shall be delivered at least ten (10) days before the date set for the meeting to each Director either personally or by mail, or by electronic mail, 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 his or her address as it appears on the records of the Association, with postage thereon prepaid.

In addition, notice of the time and place of a meeting of the Board of Directors and a copy of the agenda for such meeting shall be posted in every service office maintained by the Association at least ten (10) days before the meeting. The agenda shall specifically designate the issues or questions to be discussed, or the actions to be taken, at the meeting. Copies of the agenda shall be available at each service office for members and consumers.

The date, time, location and agenda of every meeting of the Board of Directors shall be posted on the Association's web site no less than ten (10) days before the meeting in the case of regular meetings and as soon as the meeting is scheduled in the case of special meetings. If a meeting is postponed or cancelled, notice of the postponement or cancellation shall immediately be posted on the web site.

SECTION 4. Quorum. A majority of the Board shall constitute a quorum, provided that if less than such majority of the Board is present at said meeting, a majority of the Board present may adjourn the meeting from time to time; and provided further, that the Secretary shall notify any absent Director 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, except as otherwise provided in these Bylaws.

SECTION 5. Voting. Directors shall vote affirmatively or negatively on each and every issue brought to a vote at any Board meeting. Abstention votes shall only be allowed in the event a Director shall have a genuine conflict of interest on any issue.

ARTICLE VI OFFICERS

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

SECTION 2. Election and Term of Office. The officers shall be elected annually by and from the Board at the meeting of the Board 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 may be convenient. Each officer shall hold office until the first meeting of the Board following the next succeeding annual meeting of the members or until his/her successor shall have been elected and shall have qualified. A vacancy in any office shall be filled by the Board for the unexpired portion of the term.

SECTION 3. Removal of Officers by the Board. Any officer elected or appointed by the Board may be removed (as an officer, not as Director) by the Board whenever in its judgment the best interest of the Association will be served thereby.

SECTION 4. President. The President shall:

- (a) Unless otherwise determined by the members or the Board, 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 Bylaws to some other officer or agent of the Association, 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 or her 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 to him or her by the Board.

SECTION 6. Secretary. The Secretary shall be responsible for:

- (a) Keeping the minutes of the meetings of the members and of the Board in books provided for that purpose;

- (b) Seeing that all notices are duly given in accordance with these Bylaws or as required by law;
- (c) The safekeeping of the corporate books and records and the seal of the Association and affixing the seal of the Association to all documents, the execution of which on behalf of the Association under its seal is duly authorized in accordance with the provisions of these Bylaws;
- (d) Keeping a register of the names and mailing addresses of all members;
- (e) Keeping on file at all times a complete copy of the Articles of Incorporation and Bylaws of the Association containing all amendments thereto (which copy shall always be open to the inspection of any member) and at the expense of the Association, furnishing a copy of the Bylaws and of all amendments thereto to any member upon request; and
- (f) In general performing all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him/her by the Board.

SECTION 7. Treasurer. The Treasurer shall be responsible for:

- (a) Custody of all funds and securities of the Association;
- (b) The receipt of and the issuance of receipts for all monies due and payable to the Association and for the deposit of all such monies in the name of the Association in such bank or banks as shall be selected in accordance with the provisions of these Bylaws; and
- (c) The general performance of all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him/her by the Board.

SECTION 8. Chief Executive Officer. The Board may appoint and establish compensation for a Chief Executive Officer who may be, but who shall not be required to be, a member of the Association. The Chief Executive Officer shall perform such duties and shall exercise such authority as the Board may from time to time authorize by resolution, provided, however, that, in addition to the authority and duties specifically invested by the Board, the Chief Executive Officer shall, on a day-to-day basis, oversee, supervise and direct all business of any nature which may be lawfully conducted by the Association. The Board may specifically limit the duties and authority of the Chief Executive Officer.

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

SECTION 10. Reports. The officers of the Association shall submit at each annual meeting of the members reports covering the business of the Association for the previous fiscal year. Such reports shall set forth the condition of the Association at the close of such fiscal year.

**ARTICLE VII
NON-PROFIT OPERATION**

SECTION 1. Interest or Dividends on Capital Prohibited. This Association shall at all times be operated as a non-profit cooperative pursuant to applicable legal requirements for the mutual benefit of its members. No interest or dividends shall be paid or payable by the Association on any capital furnished by its members.

SECTION 2. Patronage Capital in Connection with the Sale of Electric Energy and Other Services. In the sale of electric energy and other services, the Association's operations will be so conducted that patrons, members and non-members alike, will through their patronage furnish capital for this Association.

- (a) **Allocation to Members.** In order to induce patronage and to assure that the Association will operate on a non-profit basis the Association is obligated to account, on a patronage basis, to all its members for net operating margins, being all amounts received and receivable from the sale of electric energy and other services in excess of the sum of:
1. Operating costs and expenses, including interest on debt service properly chargeable against the sale of electric energy and other services;
 2. Amounts required to offset any losses incurred during the current or any prior fiscal year; and
 3. Maintenance of reserves in accordance with Prudent Utility Practice.

All such amounts in excess of the above at the moment of receipt by the Association are received with the understanding that they are furnished as member capital. This Association is obligated to pay by credits the net amount of operating margins, to a capital account for each member, in proportion to the value or quantity of the Association's goods or services used, received or purchased by each member during the applicable fiscal year. The books and records of this Association shall be set up and kept in such manner that at the end of each fiscal year the amount of capital, if any, so furnished by each member is clearly reflected and credited in an appropriate record to the capital account of each member, and the Association shall within a reasonable time after the close of the fiscal year notify each member of the amount of capital in the dollar amount so credited to its account. All such amounts credited to the capital account of any member shall have the same status as though they had been paid to the member in cash in accordance with a legal obligation to do so and the member had then furnished the Association corresponding amounts to capital.

Notwithstanding any provision of this Article VII, the amount to be credited to the capital of members on account of their patronage shall be not less than the greater of alternative minimum taxable income or regular taxable income resulting from their patronage as determined under Federal income tax law.

- (b) **Allocation of Other Margins.** Funds and amounts, other than operating margins, received by the Association that exceed the Association's costs and expenses may be:
1. Allocated as capital credits to members in the same manner as this Association allocates capital credits to members; or
 2. Used by the Association as permanent, non-allocated capital.

- (c) **Patronage Capital Retirement.** If, at any time prior to dissolution or liquidation, the Board shall determine that the financial condition of the Association will not be impaired thereby, the capital then credited to accounts of members may be retired in full or in part. The Board shall determine the method, basis, priority and order of retirement, if any, for all amounts heretofore and hereafter furnished as capital. The Board, at its discretion, shall have the power at any time upon the death of any member to retire capital credited to any such member immediately, upon such terms and conditions as the Board, acting under policies of general application may direct; provided, however, that the financial condition of the Association will not be impaired thereby.

SECTION 3. Patronage Capital Assignment and Contribution by Failure to Claim.

- (a) Capital credited to the account of each member shall be assignable only on the books of the Association pursuant to written instruction from the assignor and only to successors in interest in the business or the physical assets of such member unless the Board, acting under policies of general application, shall determine otherwise.
- (b) Notwithstanding any other provision of the Association's Bylaws, membership agreement, or any other document, if any member (defined as member or former member), for whom the Association has a valid address, fails to claim any cash retirement of capital credits from the Association, within one (1) year after payment of the same has been made to the member, by check mailed to the member at the last address furnished by the member to the Association, the failure shall be and constitutes an assignment and contribution by the member, of the capital credits payment or refund, to the Association. The failure of a member to provide the Association with a valid address, at the time the capital credit retirement is mailed, shall also constitute an assignment and contribution of the refund.

Failure to claim any payment within the meaning of this section shall include the failure of any member to cash any check mailed by the Association. The assignment and contribution provided for under this section shall become effective only, upon the expiration of one (1) year from the date when the payment was mailed to the member, by the Association.

Any contribution made pursuant to this Bylaw provision shall be considered a contribution of capital to the Association, unless reclaimed, and considered part of the "net savings" of the Association, and none of the contributions made pursuant to this Bylaw provision will be reallocated as excess margins to any of the Association's former or current members. The "net savings" referred to herein shall become a property right of members and former members to be distributed upon dissolution or liquidation.

- (c) The Board of Directors, at its discretion, may establish administrative policies and fees regarding notification to, and late claims by, any member pursuant to this Bylaw revision.

SECTION 4. Capital Credits Defined. As used in these Bylaws, the term "capital credits" shall have the same meaning as the terms "patronage capital" and "member equity."

**ARTICLE VIII
DISPOSITION OF PROPERTY**

SECTION 1. Two Thirds Approval of Certain Transactions. Except pursuant to Order by a Court of competent jurisdiction in condemnation or eminent domain proceedings, the Association may not sell or lease all or any substantial portion of its property unless such sale or lease 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 Association, and unless the notice of such proposed sale or lease shall have been contained in the notice of the meeting; provided, however: (1) that notwithstanding anything herein contained, the Board of the Association, 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 Association, whether acquired or to be acquired, and wherever situated, as well as the revenues and income therefrom, all upon such terms and conditions as the Board shall determine, to secure any indebtedness of the Association; and (2) that no exchange of electric facilities in connection with an exchange of service territory, with another utility, shall be deemed to be a "sale or lease" as hereinabove used.

SECTION 2. Procedure. No sale or lease or other disposition of all or a substantial portion of the Association's assets to any other entity shall be authorized except in conformity with the following:

- (a) If the Board of Directors looks with favor upon any proposal for such sale or lease or other disposition, it shall first designate three (3) independent appraisers, expert in the valuation of electric utilities, to render their individual opinions as to the value of the Association with respect to such a sale or lease or other disposition and as to any other terms and conditions which should be considered.
- (b) If the Board of Directors, after receiving such appraisals (and other terms and conditions which are recommended, if any), determines that the proposal should be submitted for consideration by the members, it shall first give every other cooperative electric association, as defined in the Colorado statutes, corporately sited and operating in the state (which has not made such an offer for such sale or lease or other disposition) an opportunity to submit competing proposals. Such opportunity shall be in the form of a written notice to such cooperative electric associations, which notice shall be attached to a copy of the proposal which the Association has already received and a copy of the report(s) of the three (3) appraisers. Such cooperative electric associations shall be given not less than thirty (30) days during which to submit competing proposals, and the actual minimum period within which proposals are to be submitted shall be stated in the written notice given to them.
- (c) If the Board then determines that favorable consideration should be given to the initial or any subsequent proposal which has been submitted to it, it shall so notify the members, expressing in detail each of any such proposals, and shall call a special meeting of the members for consideration thereof which meeting shall not be held sooner than ninety (90) days after the giving of such notice to the members: PROVIDED, that consideration thereof by the members may be given at the next annual member meeting if the Board so determines and if such annual meeting is not held sooner than ninety (90) days after the giving of such notice.

- (d) Not less than thirty (30) days prior to the date of such special or annual meeting, the Association shall mail to all members any opposing or alternative positions which they may have to the proposals that have been submitted or any recommendations that the Board has made.
- (e) In lieu of holding a meeting of members, or in addition to holding such a meeting, the Board of Directors, in order to obtain the participation of two thirds of the members, may, by resolution, direct that the issue(s) involving the sale or lease of the Association's assets shall be submitted to the members to be voted on exclusively by mail ballot, or by a combination of votes taken at a meeting and by mail. In such event, the Board resolution shall specify the procedures for conducting the vote by mail, and otherwise, which, in general, shall follow the procedures described elsewhere in these Bylaws for various kinds of voting by members.

SECTION 3. Application. The foregoing provisions of Section 2 shall not apply to a sale or lease or other disposition to one (1) or more other cooperative electric associations if the substantive effect thereof is to merge or consolidate with such other cooperative electric association(s).

ARTICLE IX SEAL

The corporate seal of the Association shall have inscribed thereon the name of the Association and the words "Corporate Seal".

ARTICLE X FINANCIAL TRANSACTIONS

SECTION 1. Contracts. Except as otherwise provided in these Bylaws, the Board may authorize any officer or officers, the Chief Executive Officer or any designee of the Chief Executive Officer to enter into any contract or execute and deliver any instrument in the name and on behalf of the Association, and such authority may be general or confined to specific instances.

SECTION 2. Checks, Drafts, Etc. All checks, drafts, wire transfers, or other orders for the payment of money, and all notes, bonds or other evidences of indebtedness issued in the name of the Association shall be signed and/or countersigned by such officer or officers, the Chief Executive Officer or any designee of the Chief Executive Officer, employee or employees of the Association and in such manner as shall from time to time be determined by resolution of the Board.

SECTION 3. Deposits. All funds except petty cash of the Association shall be deposited from time to time to the credit of the Association in such bank or banks as the Board may select, and Association funds may be held in savings and loan associations, U.S. government obligations, certificates of deposit, or invested in rural development projects and organizations which will, in the opinion of a majority of the Board, benefit this Association.

SECTION 4. Fiscal Year. The fiscal year of the Association 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 Association may, upon the authorization of the Board, purchase stock in, or an ownership interest in, or become a member

of any corporation or organization. Such purchase or membership shall be related to its electric utility business, or other business in which the Association is engaged, or may be transacted for the purpose of enabling the Association to engage in a new business or enterprise. Any authorization given the Association upon such matters shall be subject to the approval of all applicable governmental agencies.

SECTION 2. Waiver of Notice. Any member or Board member may waive in writing any notice of a meeting required to be given by these Bylaws. 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 such attendance is for the express and stated purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully held, called or convened.

SECTION 3. Policies, Rules and Regulations. The Board shall have power to make and adopt such policies, rules and regulations, not inconsistent with law, the Articles of Incorporation or these Bylaws, as it may deem advisable for the management of the business and affairs of the Association.

SECTION 4. Accounting System and Reports. The Board 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 as may from time to time be designated by any governmental body or agency having the power to supervise the Association's system of accounts, or as otherwise directed by law. As soon as practicable after April 30 of each year, the Board shall cause to be made by a certified public accountant a full and complete audit of the accounts, books and financial condition of the Association as of said April 30 and covering the preceding twelve (12) months.

SECTION 5. Indemnification. The Association shall indemnify any person made a party to any action, suit or proceeding, whether civil or criminal, by reason of the fact that such person, his or her testator, or intestate, is or was a Director, officer, agent, or employee of the Association, or of any corporation which he or she serves in such capacity at the request of the Association, against the reasonable expenses, including attorney's fees, actually and reasonably incurred by such person in connection with the defense of any action, suit or proceeding, or in connection with any appeal thereon, and against any money judgments or fines incurred by such person in any such action, suit or proceeding. Amounts paid in settlement of such action, suit or proceeding are also indemnified hereunder so long as this Association has the right to approve the settlement prior to any final agreement thereon. This right of indemnification shall not apply in relation to any action, suit or proceeding, or any particular claim within any action, suit, or proceeding as to which said person shall be adjudged liable for willful or fraudulent breaches of trust, gross or willful and wanton negligence, intentional tortious conduct, or ultra vires acts. This right of indemnification shall also not apply in the event, and to the extent, that such person shall be entitled to payment or reimbursement for such expenses and judgments under any policy or policies of insurance, regardless of whether such insurance coverage is provided by this Association, or otherwise. The right to indemnification conferred by this section shall not restrict the power of the Association to make any indemnification permitted by law. The Association may advance funds, to a person who appears to be eligible for indemnification hereunder, for the purpose of defending any such action, suit, or proceeding upon receipt by the Association of an undertaking in writing by or on behalf of the person indemnified to repay such amount unless it is ultimately determined that such person is entitled to be indemnified by the Association as authorized hereunder.

SECTION 6. Limitation of Liability. No person shall be liable to the Association for any loss or damage suffered by it on account of any action taken or omitted to be taken by him/her as Director, officer, agent or employee of the Association in good faith, if such person:

- (a) Relied upon financial statements of the Association represented to him/her to be correct by the President or other officer of the Association having charge of its books of account or stated in a written report by an independent public or certified public accountant or firm of such accountants fairly to reflect the financial condition of the Association or considered assets to be of their book value; or
- (b) Relied upon the advice of legal counsel for the Association.

SECTION 7. Set-off and Lien. To secure the repayment of any and all indebtedness of any member, consumer or other legal entity, this Association shall have a first lien upon the capital investments, capital credits, net margins, construction deposits, and any other property rights and interests in the Association of such member, consumer or other entity. All such members, consumers or other entities of the Association hereby grant a first lien on all deposits, capital credits, capital investments, patronage funds and other property or funds of the member, consumer or other entity held by the Association in order to secure the repayment of all indebtedness of such member, consumer or other entity to the Association. The first lien shall be perfected by possession of the collateral by the Association under the Uniform Commercial Code. The Articles of Incorporation, Bylaws, Tariffs, and Rules and Regulations of the Association shall constitute a security agreement under the Uniform Commercial Code. The amount of any such lien may, at the sole option of the Association, be set-off at any time against any funds to be paid any such member, consumer or other entity by the Association.

SECTION 8. Time Computation. In computing required time intervals pursuant to these Bylaws, the day on which the required act is done, or the date on which any deadline or time limit shall be attained or shall expire, is to be included.

ARTICLE XII AMENDMENTS

These Bylaws may be altered, amended or repealed by the affirmative vote of five (5) or more of the Directors at a regular or special meeting of the Board of Directors convened for such purpose, provided the notice of such meeting shall contain a copy of the proposed alteration, amendment or repeal.