



DELTA-MONTROSE ELECTRIC ASSOCIATION



A Touchstone EnergySM Cooperative 

DELTA-MONTROSE ELECTRIC ASSOCIATION

BYLAW

INTRODUCTION

The mission of this cooperative is to purchase, distribute and generate dependable electric power for consumers within the area served by the cooperative. The activities of the cooperative are governed by its articles of incorporation, these bylaws, policies adopted by the board and various state and federal laws and regulations. A copy of these bylaws is available on the DMEA website and a hard copy is available at the cooperative's offices in Montrose. These bylaws are reviewed on a continuing basis and amendments will be made by the Board as necessitated by changing conditions. The effective date of any change is noted in the bylaws.

These bylaws are as amended and readopted on February 25, 2014

Board of Directors

DELTA-MONTROSE ELECTRIC ASSOCIATION

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**BYLAWS OF THE
DELTA-MONTROSE ELECTRIC ASSOCIATION**

**ARTICLE I
MEMBERS**

Section 1. QUALIFICATIONS AND OBLIGATIONS.

Any person, firm, association, corporation, or body politic or subdivision thereof will become a member of this cooperative upon receipt of electric service from the cooperative, provided that the person has first:

- (a) made a written application for membership;
- (b) agreed to purchase from the cooperative electric service; and
- (c) agreed to comply with and be bound by the articles of incorporation, bylaws and policies of the cooperative and any rules and regulations adopted by the board.

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 in the association's policies.

Section 2. JOINT MEMBERSHIP.

Two or more persons sharing in the same service may apply for joint membership or conversion to a joint membership, and, subject to meeting the Qualifications and Obligations stated in Section 1 of this Article, may be accepted for joint membership. The person or persons applying for membership shall be entered on cooperative records as the person or persons to whom billings will be made. 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 a joint membership shall be as follows:

- (a) The presence at a meeting of a joint member shall be regarded as the presence of all joint members and shall constitute a joint waiver of notice of the meeting;
- (b) The vote of one or more joint members on a single ballot shall constitute a total of only one vote;
- (c) A waiver of notice signed by one or more joint members shall constitute a joint waiver.
- (d) Notice to one or more joint members shall constitute notice to all joint members;
- (e) Only one of the joint members may be elected or appointed to serve as an officer or board member;
- (f) Upon the death or withdrawal of one person who is a party to the joint membership, such membership shall be held by the survivors. The withdrawn member or the estate of the deceased member shall not be released from any debts due the cooperative until the account is brought current and such member is removed from the joint membership by the cooperative;
- (g) Patronage capital refunds may be paid to any one of the joint members and it is the responsibility of the joint members to allocate such refunds among the joint members.

Section 3. MEMBERSHIP FEE.

No membership fee shall be charged or collected to

become a member of the cooperative.

Section 4. EVIDENCE OF MEMBERSHIP.

Membership in the cooperative shall be evidenced by a notation in the books of the cooperative. No individual membership certificates will be issued. A current roster of members with additions and deletions will be made by staff on the books of the cooperative as they occur.

Section 5. PURCHASE OF ELECTRIC SERVICE.

Each member shall, as soon as electric service is available, purchase from the cooperative electric service as permitted by the policies of the cooperative and as required by federal and state laws and regulations. Members shall pay for costs of service at rates set by the Board. Production or use of electric service on a member's premises, regardless of the source thereof, by means of facilities interconnected with cooperative facilities shall be subject to policies established by the board.

Amounts paid for electric service in excess of the cost of service are furnished by members as capital and each member shall be credited with the capital so furnished. Each member shall pay to the cooperative a minimum amount as established by the board, regardless of the amount of electrical service consumed. Each member shall pay all amounts owed to the cooperative as and when the same become due and payable.

Section 6. NON-LIABILITY FOR DEBTS OF THE COOPERATIVE.

The private property of the members shall be exempt from execution or other liability for debts of the cooperative and no member shall be liable or responsible for any debts or liabilities of the cooperative.

Section 7. TERMINATION OF MEMBERSHIP.

(a) A member may withdraw from membership upon compliance with such uniform terms and conditions as the board may prescribe.

(b) The board may, by the affirmative vote of not less than two-thirds of all the members of the board, expel any member who fails to comply with any of the provisions of the articles of incorporation, bylaws, or rules or regulations of the association, but only if such member is given written notice by the cooperative that such failure makes the member liable to expulsion and such failure shall have continued for at least ten (10) days after such notice was given. Any expelled member may be reinstated by vote of the board.

(c) Upon the withdrawal, death, cessation of corporate existence or expulsion, the membership of such member shall terminate. Termination of membership shall not release a member or the member's estate from any debts due to the cooperative.

**ARTICLE II
MEETINGS OF MEMBERS**

Section 1. ANNUAL MEETING.

The annual meeting of members shall be held during each calendar year at a place within the cooperative's service area and at a date and time designated by the board of directors. The date of the annual meeting shall be posted on the Association's web site and otherwise publicized no less than six (6) months before the date of the meeting. The ballot mailing deadline shall be posted on the Association web site at least three (3) months before the deadline and shall remain posted until after the election. The primary purposes of the annual meeting are the election of directors and such other business as may properly come before the meeting. It shall be the responsibility of the board to make adequate plans and preparations for the annual meeting. Failure to hold the annual meeting at the designated time shall not cause any forfeiture or dissolution of the cooperative.

Section 2. SPECIAL MEETINGS.

Special meetings of members may be called by resolution of the board or by a written request signed by at least ten percent (10%) of all the members and it shall be the duty of the secretary to cause notice of such meeting to be given as herein provided. Special meetings of members may be held at any place within the service area.

Costs for special meetings of members, convened in accordance with the foregoing, shall be borne by the cooperative.

Section 3. NOTICE OF MEMBERS' MEETINGS.

In addition to the notice provided in Section 1 above written or printed notice stating the place, day and hour of the meeting and, in case of 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-five days before the date of the meeting, either personally or by mail, by or at the direction of the secretary, or upon a default in duty by the secretary, by the person(s) calling the meeting. If mailed, notices shall be deemed 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 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.

At all member meetings, fifty (50) voting members, properly registered and present in person, shall constitute a quorum. If less than a quorum is present at a meeting, a majority of those present may adjourn the meeting from time to time without further notice. The registration records will constitute proof of a quorum. The inability to obtain a quorum at an annual meeting shall neither invalidate the

ballots received by mail nor prevent the seating as directors of those candidates elected in accordance with section 4(c) of article III of these bylaws.

Section 5. ORDER OF BUSINESS.

The Order of Business for all meetings of members shall be determined by the President of the Board of Directors.

Section 6. VOTING.

Only persons who have been members for a period of not less than forty-five (45) days prior to the regular or special meeting may vote. Each eligible member shall be entitled to one (1) vote upon each matter submitted to a vote at a meeting of the members. At all meetings of 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, except as otherwise provided by law, the articles of incorporation and these bylaws. Voting by proxy or by cumulative voting is prohibited.

**ARTICLE III
DIRECTORS**

Section 1. GENERAL POWERS.

The business and affairs of the cooperative shall be managed by the board of nine directors which shall:

(a) exercise all 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.

(b) appoint a Chief Executive Officer who will reside within the geographical area of the service area. The Chief Executive Officer shall be the principal administrative officer of the cooperative and shall be accountable to the board for the operations of the cooperative. The Chief Executive Officer shall perform such duties as the board of directors may from time to time require and shall have such authority as the board of directors from time to time vest in the Chief Executive Officer.

(c) make diligent effort to see that electric service is extended to persons within the cooperative service area who desire such service and meet all reasonable requirements established by the cooperative as a condition of such service.

Section 2. POLICIES, RULES AND REGULATIONS.

The board shall have power to make and adopt such policies, rules and regulations, not inconsistent with law, the articles of incorporation, or these bylaws, as it may deem advisable for the management of the business and affairs of the cooperative.

Section 3. QUALIFICATIONS. To become and remain a Director, a person must comply with the following qualifications:

- (a) be an individual over 21 years of age;
- (b) be a member of the cooperative and meet the residency requirements in DMEA policies as of the deadline

date for submitting a petition as a candidate and maintain residency during the term of office;

(c) may not have been an employee of DMEA for a period of three years immediately before becoming a Director;

(d) while serving as a Director may not be employed by DMEA in any position and may not be employed by DMEA for a period of three years after leaving the board;

(e) while serving on the board may not be a relative of a DMEA employee (relative defined as a spouse, daughter, son, father, mother, sister, brother, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law).

(f) must adhere to DMEA's Conflict of Interest Policies.

Upon establishment of the fact that a board member is holding office in violation of any of the Qualifications, the board shall remove such board member from office.

Appointment of a Director to serve as a DMEA representative on the board of CREA, Tri-State, Co-Bank or other such entity shall not disqualify a person from serving on the board.

Section 4. DISTRICTS, NOMINATIONS AND ELECTIONS

(a) **Districting.** The service area of the cooperative is governed by a nine (9) member board who serve seven (7) districts and two (2) regions. The regions are defined as the service territory north of the Delta/Montrose County line ("North Region") and the service territory south of the Delta/Montrose County line ("South Region"). A description of the districts and regions by map shall be available for inspection at the cooperative headquarters. The number of districts may be increased or decreased from time to time by the board, but no such change shall enlarge or shorten the term of office for any director. The North Region and South Region shall remain unchanged.

District Boundaries may be revised at any time described in the adopting resolution, but any such revision shall not operate to terminate the office of any director holding office at the time of adoption of the resolution.

Directors affected by a change in district boundaries shall continue to hold office in accordance with policies adopted by the Board. Each director shall serve a staggered term of three (3) years, with not more than one-third of the terms of office expiring each year and with not more than one regional director term expiring in the same year.

(b) **Candidate Notices.** Information on Board qualifications, the procedure for becoming a candidate and the schedule for elections shall be posted on the Association's web site and shall be communicated to each member in a mailing no later than two months before petitions to become a candidate are due.

(c) **Petitions for Candidacy.** Elections for positions on the Board of Directors are held at the annual meeting of members. An individual may become a candidate for a board position by meeting the Qualifications of Section 3, of this Article III, and by meeting the following requirements:

I. The candidate must be a member of the Association and must reside within the director district or within the director

region for a period of at least 45 days before the date of the annual meeting of members; and

II. Must submit to the Association a written petition of candidacy signed by at least fifteen (15) members not less than 45 days and not more than 75 days prior to the date of the annual meeting of members. The secretary of the Association shall verify that only members of the Association have signed the candidate petitions.

Any petition so filed shall designate the name of the nominee, the term for which nominated and the district or region to be served. Specific procedures and instructions will be furnished to any interested member upon request. A candidate may not run for a district position and for a regional position during the same election.

(d) **Election Process.** Each member of the Association shall be entitled to vote in the election of directors, either at a meeting held for such purpose or by mail, but not both. A member who has voted by mail shall not be entitled to vote at the meeting. Mail voting shall be in writing on ballots provided by the Association with candidates identified thereon by districts. The mail ballot shall be voted by the member, placed in a special envelope provided for the purpose so as to conceal the marking on the ballot, deposited in a return envelope which must be signed by the voting member, and mailed back to the Association. The order of names on the ballot shall be determined randomly in a manner that does not automatically assign the top line to the incumbent. The board may by appropriate resolution designate an impartial organization to hold the mail ballots until such meeting. In the alternative, the ballots shall be collected and stored in a manner that protects the privacy of their content.

The Credentials Committee shall count the ballots and announce the election returns as soon as the tabulation is completed. All candidates for the board shall be given the opportunity to be present to observe the ballot tabulation. The eligibility for each member voting will be verified against cooperative records prior to the time votes are counted. The eligible candidate receiving the highest number of votes shall be declared the duly elected director of the particular district or region for which he or she was a candidate.

(e) **Cancellation of Election.** If on the 44th day before the election and if the only matter before the members is the election of individuals to serve on the board of directors, and if no contest exists for any of the board positions to be filled, then at the direction of the board the election may be cancelled pursuant to C.R.S. 1-5-208, and in such event at the annual meeting the board shall declare the candidate for each vacant position to be deemed elected. Notice of cancellation shall be mailed to each member and posted on the association web page at least twenty-one days before the date set for the annual meeting. Cancellation of the election shall not cancel the annual meeting of members.

Section 5. COMPENSATION.

Board members shall receive no salary for their services. The cooperative may provide to the directors a stipend or other benefits such as travel insurance. The cooperative may pay directors a fixed fee for each day, or portion thereof,

spent on cooperative business, such as attendance at meetings, conferences, and training programs or performing committee assignments. If authorized by the board, board members may be reimbursed for expenses actually and necessarily incurred in carrying out the business of the cooperative, or may be granted a reasonable per diem allowance in lieu of maintaining a detailed accounting for such expenses. The board shall determine the manner, method, and amount of the fixed fee, reimbursement, insurance or other benefits. 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 6. COMMITTEES.

The board by resolution adopted by a majority of the directors in office may designate and appoint one or more committees, each of which shall consist of two or more directors. Board committees shall have the power to act for the board only to the extent authorized by appropriate resolution.

Section 7. REMOVAL OF DIRECTORS.

(1) Recall by Members

(a) Removal of a director by a vote of the members shall be initiated by written petition submitted to the board and signed by voting members equal in number to 10% of the members. No single petition shall seek removal of more than one director. Within thirty-five days after receipt of the petition, the board shall schedule a hearing to be held within thirty-five days to determine if cause has been stated. The director named in the removal petition shall be informed in writing by the board and shall have the opportunity, in person and by counsel, to be heard and to present evidence before the board to determine if cause exists. A designated representative of the persons seeking removal shall have the same opportunity to be heard and to present evidence to the board. In determining if cause has been stated, the board will only determine if the Petition states a prima facie showing of cause and the ruling by the board will not be determinative of whether sufficient cause exists. Sufficiency of cause for removal is a matter to be determined by the members.

(b) The members may remove directors only for cause. The term "cause" means a criminal act involving a breach of moral turpitude, breach of a fiduciary duty, malfeasance, misfeasance or nonfeasance that adversely affects the Association's interests, or that the director engaged in fraudulent or dishonest conduct or gross abuse of authority or discretion with respect to the Association. "Cause" does not mean conflict, disagreement or decisions of discretionary nature or good faith acts of a director exercising best business judgment.

(c) If after the hearing the board determines cause does not exist, the petition will be dismissed. If after the hearing the board by a 2/3 majority vote determines that cause has

been stated, then the board shall approve the petition and call for a vote of the members to occur within 120 days; provided, however, if the annual meeting of members is within six months of the date of the decision by the board, the vote shall be held as a part of the annual meeting.

(d) At a regular or special meeting of members, the director may be removed upon an affirmative vote of a majority of the members present and voting in person or by mail-in ballot as authorized by C.R.S. 7-40-9.5-110. If the vote is in favor of recall, the board member shall be immediately removed from the board and a vacancy shall be declared.

(2) Removal for Cause.

A director may be removed by action of the board of directors for failure to maintain necessary qualifications to serve. To consider the matter, a director appointed by the board president shall prepare a written statement describing the failure to qualify as a director. The affected director shall be notified and be given an opportunity to appear and be heard at either an open meeting or at an executive session as determined by the board. If the reasons for removal are based on ineligibility as stated in Article III, Section 3 of these bylaws, then by an affirmative vote of the board members present, the director may be removed and a vacancy shall be declared. If the reasons given for removal are for cause as defined in Section 1(b) above, the board may certify the question of removal to a special vote of the membership as provided in subsection (1)(a) above and no petition for removal from members shall be required.

Section 9. VACANCIES.

Vacancies occurring in the board of directors shall be filled by a majority vote of the remaining directors and directors thus elected shall serve the remainder of such unexpired term. Vacancies in the board of directors created by an increase in the number of directors shall be filled in a like manner but shall serve only until the next meeting for election of directors. Vacancies shall be filled within four months of the date of the vacancy unless the vacancy occurs within nine months of the annual meeting in which case the vacancy shall be filled by a vote of the Members at the annual meeting.

Section 10. TERM LIMITS.

No board member shall serve more than four consecutive three-year terms as a member of the board. Any person appointed or elected to fill a vacancy on the board and who serves at least one-half of a three-year term of office shall be considered to have served a full term in that office for purposes of this section 10. Terms are considered consecutive unless they are at least two years apart.

**ARTICLE IV
MEETINGS OF DIRECTORS**

Section 1. PUBLIC MEETINGS.

(a) All regular and special meetings of the board of directors of this cooperative are declared to be open meetings and open to the members, consumers and news media at all times. The board of directors may, by a two-thirds affirmative vote of the members present, go into executive session for consideration of documents or testimony given in confidence. The board of directors shall not make any final policy decisions or adopt or approve any resolution, rule, regulation or formal action, any contract or any action calling for the payment of money at any session which is closed to the members, consumers, or news media. Prior to the time the board of directors convenes an executive session, the board shall announce the general topic of such executive session.

(b) At every regular and special meeting of the board of directors, members of the Association shall be given an opportunity to address the board on any matter concerning the policies and business of the Association. The Board may place reasonable, view-point neutral restrictions on the amount and duration of the public comment.

(c) Written minutes shall be made of all meetings of the board of directors. The minutes shall be posted on the web site of the Association as soon as they have been approved and shall remain posted until at least six months after the date of the meeting. Upon request by a member of the board, that member's own vote on any issue shall be noted in the minutes.

Section 2. NOTICE OF MEETING - AGENDA

The date, time, location and agenda of every regular and special meeting of the board of directors shall be posted on the Association's web site no less than ten days before the meeting in the case of regular meeting 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 3. REGULAR MEETINGS.

A regular meeting of the board shall be held on or before ten (10) days following the annual meeting of members for the purpose of electing officers and other delegates on behalf of the board and for the transaction of such other business as may properly come before the board. A regular meeting of the board shall also be held monthly at such time and place within one of the counties served by the cooperative as designated by the board.

Section 4. SPECIAL MEETINGS.

Special meetings of the board may be called by the president or any three directors. The person(s) calling special meetings of the board shall fix the time and place for the holding of any special meeting of the board called by them. The person(s) calling a special meeting of the board

will make reasonable effort to inform each director of the time, place, and purpose of any such special meeting.

Section 5. QUORUM AND VOTING.

A majority of the board shall constitute a quorum for the transaction of business at any meeting of the board. If less than a majority of the directors is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice to permit the secretary to notify any absent board member(s) of the time and place of the adjourned meeting. The act of a majority of the board shall be the act of the board, except as otherwise provided in these bylaws. A director may not vote by proxy. A director may participate in a regular or special meeting by any means of communication by which all directors participating may hear each other; provided, however, electronic attendance shall not exceed four regular all committee meetings and board meetings combined during any calendar year unless additional electronic attendance is approved by the board.

**ARTICLE V
PARLIAMENTARY PROCEDURE**

Parliamentary procedure at all meetings of the members, of the board of directors, and of any committee of the members of the board of directors which may from time to time be duly established shall be governed by Parliamentary Rules adopted by the board.

**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 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 who will fill the positions of President, Vice-President, Secretary, Treasurer and Assistant Treasurer, and the representatives who will serve on the CREA Board, the Western United Electric Board, and the Tri-State Generation and Transmission Board, shall be elected annually by secret ballot by the board of directors at an organizational meeting held after the annual meeting of members. All candidates for an office shall be nominated from the floor by voice nomination and a director may nominate himself or herself. No second is required in the nomination of a candidate. Only candidates who have been so nominated shall be eligible to run for the office. If there are only two candidates nominated for the office, then the candidate who receives the highest number of votes cast shall be elected to the office. If there are more than two candidates for the office, then, after the initial ballot count, a run-off election shall be held by secret ballot between the two candidates receiving the highest number of votes. When nominations for one office have been completed, votes shall be cast for that office and the results announced before the chair calls for nominations for the next office. Each officer shall take office immediately upon being elected and shall hold that office until his or her successor has been duly

elected. The highest officer present from the previous election shall chair the organizational meeting until the office of president is elected. Following the election of the above-described officers and representatives, the directors shall nominate and elect verbally the representatives for other offices and other associated organizations. The board shall fill a vacancy in any office for the unexpired portion of the term in the same manner as described in this paragraph.

Section 3. PRESIDENT.

The President shall:

- (a) be the principal executive officer of the cooperative and, unless otherwise determined by the board shall preside at all meetings of the members and the board;
- (b) sign with the Secretary 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 cooperative, or shall be required by law to be otherwise signed or executed;
- (c) The president shall appoint directors to the various board committees.
- (d) 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 4. 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.

Section 5. SECRETARY.

The Secretary shall be responsible for:

- (a) seeing that minutes of the meetings of the members and the board of directors are taken and maintained;
- (b) seeing that all notices are duly given in accordance with these bylaws or as required by law;
- (c) seeing to the safe keeping of corporate records and the seal of the cooperative and seeing that the seal of the cooperative is affixed to all required documents;
- (d) seeing that a register is maintained of the names and post office addresses of all members as furnished by the members;
- (e) seeing that a file is maintained of the articles of incorporation and the bylaws of the cooperative, and all amendments, and a copy of which shall be open to the inspection of any member; and, at the expense of the cooperative, furnishing a copy of the bylaws to each 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 by the board.

Section 6. TREASURER.

The Treasurer shall be responsible for carrying out such duties as are assigned by the board.

Section 7. BONDS OF OFFICERS.

The board of directors shall require officers or employees of the cooperative charged with responsibility for the custody of any of its funds or property to be bonded 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 be bonded in such amount and with such surety as it shall determine.

Section 8. COMPENSATION.

The compensation guidelines of officers, agents, and employees shall be determined by the board.

Section 9. REMOVAL.

Any officer or agent elected or appointed by the board of directors may be removed from that position by the board of directors whenever in its judgment the best interests of the cooperative will be served thereby.

ARTICLE VII FISCAL MATTERS

Section 1. FISCAL YEAR.

The fiscal year of the cooperative shall begin the first day of January of each year and end on the thirty-first day of December of the same year.

Section 2. CONTRACTS.

Except as otherwise provided in these bylaws, the board shall authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name and on behalf of the cooperative, and such authority may be general or confined to specific instances.

Section 3. 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 and/or countersigned 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.

Section 4. DEPOSITS.

All funds except petty cash of the cooperative shall be deposited from time to time to the credit of the cooperative in such bank or banks or other financial institutions as the board may select.

Section 5. 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 the Administrator of the Rural Utilities Service. The board shall also, after the close of each fiscal year, cause to be made by

a certified public accountant a full and complete audit of the accounts, books, and financial condition of the cooperative as of the end of such fiscal year. A summary report of such audit shall be submitted to the members at the next following annual meeting.

ARTICLE VIII REVENUE AND RECEIPTS

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 SERVICE.

A patron is defined as a member or non-member receiving electric service from the cooperative. In the furnishing of electric service, the cooperative's operation shall be so conducted that all patrons will through their patronage furnish capital for the cooperative.

All amounts in excess of operating costs and expenses are received from the patrons as patronage capital. The cooperative is obligated to allocate by credits to a capital account for each patron all amounts in excess of operating costs and expenses. The books and records of the cooperative shall be 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 the account. At the discretion of the board, capital credits will be allocated on the "percentage" method where all patrons will be allocated a percentage of total margins less G & T allocations and less non-operating margins, based on DMEA's Equity Management Plan. 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.

All amounts received by the cooperative from its operations in excess of costs and expenses insofar as permitted by law shall be: (a) used to offset any losses incurred during the current or any prior fiscal year and (b) to the extent not needed for that purpose, allocated to its patrons on a patronage basis and any amount so allocated shall be included as part of the capital credited to the account of patrons.

Capital credited to the account of each patron shall be assignable only on the books of the cooperative pursuant to written instructions from the patron unless the board of directors, acting under policies of general application, shall determine otherwise.

If at any time prior to dissolution or liquidation of the association the board of directors shall determine that the

financial condition of the cooperative will not be impaired in accordance with DMEA's Equity Management Plan, the capital then credited to the patron's accounts may be retired in full or in part in accordance with DMEA's Equity Management Plan.

The Board of Directors has the authority to pay capital credits at a discounted rate under terms set by the board.

Notwithstanding any other provision of these bylaws, the board of directors shall have the power upon the death of any natural patron, to retire capital credited to any such patron upon such terms and conditions as the board of directors acting under policies of general application, and in accordance with DMEA's Equity Management Plan; provided, that the financial condition of the cooperative will not be impaired.

The cooperative, before the payment in full or in part of the retirement of any capital credit, may deduct therefrom any amount owing by such patron to the cooperative, together with interest thereon at the Colorado legal rate. By becoming members of the cooperative, all members are deemed to have granted a first lien on all capital credits, capital investments, patronage funds and other property or funds of the member held by the cooperative to secure the payment of all indebtedness of the member to the cooperative. This first lien is deemed to be perfected by possession of the collateral by DMEA under the Uniform Commercial Code, or, at the election of the Association notice of the lien may be made through the filing of a financing statement with the office of the Secretary of State. The articles of incorporation, bylaws, tariffs and rules and regulations of the cooperative shall constitute a security agreement under the Uniform Commercial Code. The amount of any lien may, at the sole option of the cooperative, be set-off at any time against any funds to be paid to a member.

The patrons, 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 patron are bound by such contract, as fully as though each patron had individually signed a separate instrument containing such terms and provisions.

Section 3. UNCLAIMED FEES AND CREDITS.

Within a reasonable time after the board declares a retirement of capital credits, or the Association otherwise determines that a patron is entitled to the return of a deposit, book equity or any other property or funds held for the patron by the Association (referred to collectively in this Section as the "Capital Credits") the Association shall mail to each such patron, at the last address shown on the books of the Association, the patron's share of the Capital Credits. If a capital credit remains unclaimed more than five (5) years and six (6) months following such mailing (referred to in this Section as "Unclaimed Capital Credits"), then thirty-five days following Notice to the patrons of the Unclaimed Capital Credits the Association may recover and use the Unclaimed Capital Credits for educational, charitable, alternative or

renewable energy purposes, or for other activities approved by the board of directors that support the Association's mission and goals (referred to collectively in this Section as the "Charitable Fund"). The term "Notice" means publishing a list of the patrons with Unclaimed Capital Credits one time in a newspaper of general circulation in Montrose and Delta Counties and by posting the names of such patrons on the Association's web page for a period of time to be established by the Board. If the patron does not claim such capital credits within the required period of time, all rights of the patron to the Unclaimed Capital Credits shall be extinguished and forever barred. A patron may donate to the Charitable Fund his or her Capital Credits and in such event no Notice need be provided and such donated accounts will be transferred immediately upon retirement of the Capital Credit.

ARTICLE IX PROPERTY

Section 1. DISPOSITION OF PROPERTY.

The cooperative may not sell, lease or otherwise dispose of all or any substantial portion of its property not in the usual and regular course of its business unless such sale, lease, or other disposition is authorized at a meeting of the members by the affirmative vote of not less than two-thirds of all 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, the board, without authorization by the members, 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 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 therefrom, all upon such terms and conditions as the board shall determine, to secure any indebtedness of the cooperative.

Section 2. PROPERTY INTEREST OF MEMBERS.

Upon dissolution, after all debts and liabilities of the cooperative are paid, and all capital furnished through patronage are retired, the remaining property and assets of the cooperative shall be distributed among the members and former members in the proportion which the aggregate patronage of each bears to the total patronage of all members during the ten years next preceding the date of the filing of the certificate of dissolution.

ARTICLE X MEMBERSHIP IN OTHER ORGANIZATIONS

If determined by the board to be in the best interests of the cooperative and its members, the cooperative may form one or more wholly-owned profit or nonprofit subsidiary

business organizations, or may participate with third parties in the ownership of independent profit or nonprofit business organizations, in order to provide services or products to its members. The services or products may be in fields other than that of providing electric facilities or electric power to its members.

ARTICLE XI INDEMNIFICATION

The cooperative shall, to the full extent permitted by law, indemnify each of its officers, directors (whether in office or a former director) and key management employees against all expenses actually and necessarily incurred by them, including, but not limited to, judgments, costs and counsel fees, in connection with the defense of any litigation, including any civil, criminal, or administrative action, suit, investigation or proceeding, to which such individuals may have been made a party because such individual is or was a director, officer or key management employee of the cooperative and was acting in the normal course of assigned duties.

Any indemnification under this article shall be made by the cooperative only as authorized in each specific case upon a determination that indemnification of such individual is proper in the circumstances. Such determination shall be made (a) by the board by a majority of a quorum consisting of directors who were not parties to such action, suit, investigation or proceeding; or (b) if such quorum is not obtainable, or even if obtainable, should a quorum of the disinterested directors so determine, by independent legal counsel in a written opinion. The indemnification provided for in this article shall not be available where the party to be indemnified is adjudged in such action, suit, investigation or proceeding to be liable for willful or fraudulent breaches of trust, gross or willful and wanton negligence, intentional tortious conduct or acts beyond the corporate power of the association.

Expenses incurred in defending a civil or criminal action, suit, investigation or proceeding may be paid by the cooperative in advance of the final disposition of such action, suit, investigation or proceeding as authorized by the board but only upon receipt of any undertaking by or on behalf of the director, officer or key management employee to repay such amounts if and when it should ultimately be determined that no indemnification is to be provided.

The board may exercise the cooperative's power to purchase and maintain insurance on behalf of any person who is or was a director, officer or key management employee against any liability asserted against him or her and incurred in any such capacity, whether or not the cooperative would have the power to indemnify against such liability under this article, or otherwise.

**ARTICLE XII
SEAL**

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

**ARTICLE XIII
CHANGES TO BYLAWS**

These bylaws may be repealed, modified or amended as shall be necessary for the governance of the cooperative by the affirmative vote of a majority of the total members of the board at any regular or special meeting. Prior to adoption of changes to the Bylaws the Association shall post a notice of the meeting and a copy of the proposed bylaw alteration, amendment or repeal on the DMEA web page. .