

BYLAWS OF DS&O ELECTRIC COOPERATIVE, INC.

ARTICLE I - MEMBERSHIP

SECTION 1.01 Eligibility. Any person, including but not limited to proprietorships, corporations, associations, limited liability companies, partnerships, general or limited, body politics, or subdivisions therefore or other form of legal entity (hereinafter sometimes referred to as an "Entity") will become a member of DS&O Electric Cooperative, Inc. (hereinafter called the "Cooperative") upon receipt of electric service from the Cooperative, provided that he, she or it has first:

- (1) Made an application for membership on forms provided by the Cooperative;
- (2) Agreed to purchase, accept delivery of or use electric energy and energy-related services or other products or services from the Cooperative;
- (3) Agreed to comply with and be bound by the Articles of Incorporation, Bylaws, and Rules and Regulations adopted and amended from time to time by the Board of Directors (hereinafter called the "Board"); and
- (4) Paid the membership fee.

No individual or other entity may hold more than one membership. No membership is transferable, except on the books of the Cooperative and as provided for in these bylaws.

SECTION 1.02 Membership Record. The Cooperative shall maintain membership records at its principal office, including a roll of members which shall include the name and address of each member of the Cooperative and such other information as may be deemed advisable by the Board. No membership certificates shall be issued.

SECTION 1.03 Membership Fees. The membership fee shall be set by the Board and the Board has the absolute right to change the same at any time and from time to time.

SECTION 1.04 Membership Definitions. Memberships in the Cooperative are extended to individual or joint members or entities which meet the requirements of Article I.

The term "member" as used in these bylaws shall refer to an individual, entity or joint membership. Any provisions relating to the rights and liabilities of membership shall apply equally with respect to the holders of a joint membership. The effect of the following actions by the holders of a joint membership shall be as follows:

- (1) The presence at a meeting of either or both shall be regarded as the presence of one member, and shall constitute a joint waiver of notice of the meeting;
- (2) Either separately or both jointly shall cast only one vote on behalf of the joint membership;

- (3) A waiver of notice signed by either or both shall constitute a joint waiver;
- (4) Notice to either shall constitute notice to both;
- (5) Expulsion of either shall terminate the joint membership;
- (6) Withdrawal of either shall terminate the joint membership;
- (7) Either but not both may be elected or appointed as an officer or director, provided that both meet the qualifications for such office.

SECTION 1.05 Conversion of Membership. An individual membership may be converted to a joint membership upon the written request of the individual member, and the agreement of the member and the additional person to be added to comply with the Articles of Incorporation, bylaws, and rules and regulations adopted by the Cooperative.

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

SECTION 1.06 Purchase of Electric Service. The term electric service as used in these bylaws shall mean the purchase, sale, and delivery of electric energy and all ancillary and related services and products incidental thereto, including services provided by the Cooperative with or through a partnership, limited liability company or similar organization. Electric services purchased by the member for use on the premises specified in the membership application shall be purchased from or delivered by the Cooperative. Rates and terms shall be fixed by the Board and may be changed by the Board from time to time. Production or use of electric energy by facilities which are interconnected with cooperative facilities shall be subject to regulation by the Cooperative.

It is expressly understood that amounts paid for services to the Cooperative in excess of the cost of service are furnished by members as capital. Each member's account shall be credited with the capital so furnished as provided in these bylaws.

SECTION 1.07 Termination of Membership. Any member may withdraw from membership upon compliance with terms and conditions set forth in this article. The Board may expel a member who fails to comply with the Articles of Incorporation, bylaws, or rules and regulations by an affirmative vote of two-thirds of all members of the Board. The member shall have been given written notice of the failure and such failure shall have continued for at least ten days after the notice was given. Any expelled member may be reinstated by vote of the Board or by vote of the members at any annual or special meeting.

The membership of a member who has ceased to purchase electric service from the Cooperative may be terminated by resolution of the Board.

A membership shall terminate upon the withdrawal, death, cessation of existence or expulsion of the member. Membership termination shall not release an obligation to pay any debt due the Cooperative.

In case of withdrawal or termination of membership, the Cooperative shall return the membership fee, after deducting any debts or obligations owed to the Cooperative.

SECTION 1.08 Membership Required. Membership in the Cooperative is required to receive electric service from the Cooperative. If a patron receives electric service from the Cooperative without becoming a member, the Board may furnish the patron with a membership retroactive to the date such service was first furnished and the books and records of the Cooperative, to the extent practicable, shall be revised to reflect such membership.

SECTION 1.09 Inactive Membership. A membership shall be considered inactive if the member is not purchasing electric service from the Cooperative. An inactive member shall not have the right to vote, hold office, receive notice or participate in meetings of the members.

SECTION 1.10 Suspension and Reinstatement of Membership. Memberships will automatically be suspended upon the failure to pay, after proper notice, amounts due the Cooperative or upon violation of the Cooperative bylaws or the rules and regulations adopted by the Board. A suspended member may not vote at any meeting of the members. Payment of all amounts due the Cooperative, including any additional charges required for such reinstatement, and/or the cure of any breach of membership obligations or violations of rules and regulations shall automatically reinstate the membership.

ARTICLE II - RIGHTS AND LIABILITIES OF MEMBERS

SECTION 2.01 Property Interest of Members. Upon dissolution, after (a) all debts of the Cooperative have been paid, and (b) all membership fees shall have been repaid, the remaining property and assets of the Cooperative shall be distributed among the members of the Cooperative as specified in these bylaws or as otherwise provided by the Kansas Electric Cooperative Act or other applicable law. Termination of membership shall operate as a release of all right, title and interest of the members in the property or assets of the Cooperative.

SECTION 2.02 Non-Liability For Debts of the Cooperative. The private property of the members shall be exempt from execution or other liability for the debts of the Cooperative and no member shall be personally liable or responsible for any debts or liabilities of the Cooperative.

ARTICLE III - MEETINGS OF MEMBERS

SECTION 3.01 Annual Meeting. The Annual Meeting of the Members shall be held each year on a date and at a time and place designated by the Board, in any county where the Cooperative is providing electric service, for the purpose of electing Directors, passing upon reports covering the previous fiscal year and transacting such other business as may come before the meeting. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the Cooperative.

SECTION 3.02 Special Meetings. Special meetings of the members may be called by resolution of the Board, by the President, by written request of three or more Directors, or by petition signed by at least ten percent of all members. It shall be the duty of the Secretary to cause notice of the meeting to be given as specified in Section 3.03. Special meetings of the members may be held at any place within any of the counties served by the Cooperative as designated by the Board and specified in the notice of the special meeting.

SECTION 3.03 Notice of Member Meetings. Written notice of membership meetings stating the date, time, location and purpose of the meeting shall be delivered not less than ten days nor more than thirty-five days before the date of the meeting, either personally or by mail. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail, postage prepaid and addressed to the member at such member's address as it appears on the records of the Cooperative. 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 3.04 Quorum. Business may not be transacted at any meeting of the members unless there are present in person at least fifty members, except that, if less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting to another time and date.

SECTION 3.05 Voting. Each member shall be entitled to only one vote upon each matter submitted to a vote at a meeting of the members. The representative of an entity shall be permitted to vote upon presenting to the Secretary satisfactory credentials and authority to vote on behalf of such member. All questions, except those involving multiple choice issues or determinations, shall be decided by a vote of a majority of the members voting thereon except as otherwise provided by law, the Articles of Incorporation or these bylaws. Multiple choice issues or determinations shall be decided by a plurality vote. If in the election of Directors there is a tie, such tie may be resolved by means of a coin flip. No proxy voting shall be allowed.

If the number of qualified candidates nominated by petition for election as a Director in each district or at-large is less than or equal to the number of vacancies in each district or at-large, then the election of Directors shall automatically be dispensed with and the nominees shall be deemed elected.

SECTION 3.06 Mail Ballot. Issues may be presented to the members by means of a written ballot forwarded to the members and returned to the Cooperative by mail. The Board shall determine which issues are decided by a mail ballot and what terms and conditions will regulate its use. Issues decided by a mail ballot in which the number of votes cast is equal to or greater than the number of members needed to constitute a quorum for a membership meeting shall have the same force and effect as a vote taken at a meeting of the members. If, at anytime, an election of Directors is had by mail ballot, subsequent elections of Directors shall be by mail ballot unless members vote otherwise.

SECTION 3.07 Electronic Ballot. Issues may be presented to the members by means of a written ballot forwarded to the members electronically and returned to the Cooperative electronically or other acceptable means. The Board shall determine which issues are decided by an electronic ballot and what terms and conditions will regulate its use. Issues decided by an electronic ballot in which the number of votes cast is equal to or greater than the number of members needed to constitute a quorum for a membership meeting shall have the same force and effect as a vote taken by such members at a meeting duly called and held by the members.

SECTION 3.08 Combination Ballot. Issues may be presented to the members by means of a combination of written ballots forwarded to the members electronically or by mail and returned to the Cooperative electronically, by mail or other acceptable means and by written ballot submitted to members at an actual meeting of the members duly called, attended and held by the members (herein a "Combination Ballot"). The Board shall determine which issues are decided by a Combination Ballot and what terms and conditions will regulate its use. Issues decided by Combination Ballot in which the number of votes cast is equal to or greater than the number of members needed to constitute a quorum for a membership meeting

shall have the same force and effect as a vote taken by such members at a meeting duly called and held by the members.

SECTION 3.09 Balloting Procedures. In the case of all balloting by members, the Board shall establish written procedures designed to accomplish the following objectives:

- (1) That each member has a reasonable opportunity to cast a vote which will be counted.
- (2) That no member has the ability to cast votes in excess of those to which such member is entitled.
- (3) That no non-member has the ability to cast a vote.

The Board shall draft such procedures with respect to all votes of members, regardless of whether conducted by actual attendance at a meeting of the members, by mail ballot, by electronic ballot or by Combination Ballot. No deviation from such written procedures, no failure to adhere to such written procedures or no failure of the above procedures to accomplish the intended objectives shall invalidate any vote or action of the members except to the extent resulting from gross and wanton negligence,

SECTION 3.10 Order of Business. The order of business at the annual meeting of members and, so far as possible at all other meetings of the members, shall be conducted under policies established by the Board and under an agenda essentially as follows:

- (1) Determine the existence of a quorum.
- (2) Proof of the timely mailing of the notice of meeting and the satisfaction of any other legal requirements or the waiver of the notice of meeting,
- (3) Review and approval of minutes of previous meetings of the members.
- (4) Election of board members.
- (5) Presentation and consideration of reports of officers, Directors, managers and committees.
- (6) Unfinished business.
- (7) New Business.
- (8) Adjournment.

ARTICLE IV - BOARD OF DIRECTORS

SECTION 4.01 General Powers. The business and affairs of the Cooperative shall be directed by a Board of eleven Directors, which shall exercise all the powers of the Cooperative, except those that are by law, the Articles of Incorporation, or these bylaws, conferred upon or reserved to the members. For purposes of these bylaws, reference to a "Director" or "Directors" shall be deemed to be references to "Trustee" or "Trustees", as the case may be, within the meaning of K.S.A. 17-4612 of the Kansas Electric Cooperative Act.

SECTION 4.02 Election and Tenure of Office. Directors shall be elected from each district described in section 4.04 for a term of three years as terms of office expire or until successors shall have been elected and qualified. The Board may grant exceptions to the three year term under special circumstances (i.e. redistricting), but no terms shall exceed three years.

SECTION 4.03 Qualifications to be Nominated, Elected and Remain a Director. Any natural person shall be eligible to be nominated, elected and remain a Director of the Cooperative who:

- (1) Is a member and bona fide resident in the particular district which the member is to represent;
and
- (2) Has not been employed by the Cooperative within the past thirty six months; and
- (3) Is not in any way financially interested in a competing enterprise or a business engaged in selling energy, energy services or energy supplies or maintaining energy producing or selling facilities; provided however, this provision shall not be applicable solely by reason of ownership of up to five percent (5%) of the outstanding capital stock of any publicly traded corporation. The Board may grant exceptions for "de minimus" competing enterprises; and
- (4) Is not closely related to an incumbent Director or an employee of the Cooperative. The term "closely related" means the relationship of spouse, father, mother, brother, sister, son, daughter, grandparent and grandchild existing by reason of blood, marriage or adoption.

Upon establishment of the fact that a Director is holding the office in violation of any of the foregoing provisions, the Board shall remove the Director from office.

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

SECTION 4.04 Districts. The Cooperative, for purposes of Director elections, shall be divided into three (3) districts. Each district shall be represented by three (3) Directors and one district at large which shall be represented by one Director.

The boundaries of such district shall be described as follows:

West District: shall be areas served by the cooperative west of highway I-135/US 81.

Central District: shall be the area served by the cooperative east of highway I-135/ US 81 and west of highway K-15.

East District: shall be the area served by the cooperative east of highway K-15.

SECTION 4.05 Nominations of Directors. The Board shall appoint an elections committee not less than sixty (60) days nor more than one hundred eighty (180) days before any meeting of the members at which Directors are to be elected. The committee shall consist of not less than five nor more than thirteen members who shall be selected from different areas served by the Cooperative. No member of the Board may serve on such committee.

Nominations shall be made by petition. A petition signed by at least fifteen (15) members may nominate a member for Director Elections.

The elections committee shall validate the qualifications of candidates nominated by petition and shall prepare and post a list of nominations for Directors at the office of the Cooperative at least forty five (45) days before the meeting. The Secretary shall mail a statement of the number of Directors to be elected, and the names and addresses of the candidates nominated at least ten days before the date of the meeting.

If the Directors determine that the election of Directors shall be by mail, electronic or combination ballot, only those nominees nominated by petition received at least sixty (60) days before the meeting, shall be on the ballot and there shall be no nominations from the floor. Minor or immaterial deviations from strict compliance with the provisions of this section shall not affect the validity of any elections of Directors.

SECTION 4.06 Removal of Directors by Members and Resignations. Members may request the removal of a Director by filing a petition stating the reasons, and signed by at least ten percent of the members. The Director shall be given written notice of the reasons listed on the petition at least ten days prior to the meeting of the members at which the removal is to be considered, and shall have an opportunity at the meeting to be heard in person or by counsel, and the person requesting the removal shall have the same opportunity. The question of removal of such Director shall be considered and voted upon at the meeting of the members, and any vacancy created by such removal may be filled by vote of the members at such meeting without compliance with the foregoing provisions with respect to nominations.

A Director may resign at any time by written notice delivered to the Board, President, or Secretary of the Cooperative. A resignation is effective when the notice is delivered unless it specifies a future date.

SECTION 4.07 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 shall be filled by the affirmative vote of a majority of the remaining Directors for the unexpired portion of the term.

SECTION 4.08 Compensation. Directors shall not receive any salaries for their services as Directors and except in emergencies, shall not be employed by the Cooperative in any capacity involving compensation without the approval of the members. These bylaws may, however, provide that a fixed fee and expenses of attendance may be allowed to each Director for attendance at each meeting of the Board and for other functions duly authorized for and on behalf of the Cooperative.

ARTICLE V - MEETINGS OF THE BOARD

SECTION 5.01 Regular Meetings. A regular meeting of the Board shall be held periodically, but not less than bi-monthly, at such time and place as the Board may provide by resolution. Such regular meetings may be held without notice other than such resolution fixing the time and place thereof.

SECTION 5.02 Special Meetings. Special meetings of the Board may be called by the President or by any three Directors, and it shall be the duty of the Secretary to cause notice of such meeting to be given as provided in Section 5.03. The President or the Directors calling the meeting shall fix the time and place for the holding of the meeting.

SECTION 5.03 Notice of Meeting. The Secretary shall cause written notice of the time, place and purpose of any special meeting of the Board to be delivered to each Director not less than two (2) days prior to the meeting, either personally, electronically or by mail. Upon a default in duty of the Secretary, the President or the Directors calling the meeting shall cause notice to be given. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail, addressed to the

Director at the address as it appears on the records of the Cooperative, with postage prepaid.

SECTION 5.04 Quorum. A majority of the Board shall constitute a quorum. If less than a majority of the Directors are present at a meeting, a majority of the Directors present may adjourn the meeting from time to time and the Secretary shall notify any absent Directors of the time and place of such adjourned meeting. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board.

SECTION 5.05 Unanimous Consent in Writing. To the extent not prohibited by law, Board action may be taken without a meeting, and without a vote if unanimous consent of all Directors is obtained in writing setting forth the action to be taken in detail, and the document is signed by all Directors entitled to vote.

SECTION 5.06 Telephone Board Meetings. Directors may participate in and hold a meeting of the Board by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other. Participation in a meeting in this manner shall constitute presence in person at such meeting. Board meetings conducted in this way are subject to all requirements for notices of meetings.

ARTICLE VI - OFFICERS

SECTION 6.01 Number. The officers of the Cooperative shall be President, Vice-President, Secretary, Treasurer, (all of whom shall be elected annually by and from the Board of Directors) and such other officers as may be determined by the Board. The offices of Secretary and Treasurer may be held by the same person.

SECTION 6.02 Election and Term of Office. The officers shall be elected by ballot, annually by and from the Board without prior nomination, at the first meeting of the Board following the annual meeting of the members. Each officer shall hold office until the first meeting of the Board following the next succeeding annual meeting of the members or until his or her successor has been elected and qualified. Except as otherwise provided in these bylaws, the vacancy in any office shall be filled by the Board for the unexpired portion of the term. When a person holding the office of President, Vice-President, Secretary or Treasurer ceases to be a Director, he or she shall cease to hold such office.

SECTION 6.03 Removal of Officers and Agents by Directors. Any officer or agent elected or appointed by the Board may be removed by the Board whenever in its judgment the best interests of the Cooperative will be served. Members may request the removal of an officer by filing with the Secretary a petition stating the reasons, which must be signed by at least ten percent of the members. The officer shall be given written notice of the reasons at least ten days prior to the board meeting at which the removal is to be considered, and shall have an opportunity at the meeting to be heard in person or by counsel. The person requesting the removal shall have the same opportunity. In the event the Board does not remove the officer, the question of his/her removal shall be considered and voted upon at the next meeting of the members.

SECTION 6.04 President. Unless otherwise determined by the Board and unless otherwise required by law, the Articles, or these Bylaws, the President:

- (1) Shall preside, or designate another individual to preside, at all Board and Member Meetings;
- (2) On the Cooperative's behalf, sign any document properly authorized or approved by the Board or Members; and

- (3) In general perform all duties, shall have all other responsibilities, and may exercise all other authority, prescribed by the Board.

SECTION 6.05 **Vice-President.** Unless otherwise determined by the Board and unless otherwise required by law, the Articles, or these Bylaws, the Vice-President:

- (1) Upon the President's death, absence, disability, improper refusal, or inability to act, shall perform the duties, and have the powers, of the President; and
- (2) Shall perform all other duties, shall have all other responsibilities, and may exercise all other authority, prescribed by the Board.

SECTION 6.06 **Secretary.** Unless otherwise determined by the Board and unless otherwise required by law, the Articles, or these Bylaws, the Secretary:

- (1) Shall be responsible for preparing minutes of Board and Member Meetings;
- (2) Shall be responsible for authenticating the Cooperative's records;
- (3) Shall give notices of Board and Member meetings;
- (4) May affix the Cooperative's seal to any document authorized or approved by the Board or Members; and
- (5) Shall perform all other duties, shall have all other responsibilities, and may exercise all other authority, prescribed by the Board.

SECTION 6.07 **Treasurer.** Unless otherwise determined by the Board and unless otherwise required by law, the Articles, or these Bylaws, the Treasurer shall perform all duties, shall have all responsibility, and may exercise all authority, prescribed by the Board.

SECTION 6.08 **General Manager.** The General Manager shall:

- (1) Be the Chief Executive Officer responsible for the general direction, coordination and control of all operations in accordance with the policies adopted by the Board, subject to the direction and instruction of the Board;
- (2) Have supervision over and be responsible for the operations of the Cooperative and, in performing this duty, carry out and administer the policies adopted by the Board;
- (3) Prepare for the Board such reports and budgets as are necessary to inform the Board concerning the operation of the Cooperative; and
- (4) In general perform all duties incident to the office of Chief Executive Officer and perform such other duties as may be assigned by the Board.

SECTION 6.09 **Bonds.** The Treasurer and any other officer or agent of the Cooperative charged with responsibility for custody of any of its funds or property may 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 to be bonded in such amount and with such surety as it shall determine. The costs of all such bonds shall be borne by the Cooperative.

SECTION 6.10 **Compensation.** The powers, duties and compensation of officers, agents and employees shall be fixed by the Board, subject to the provisions of these bylaws.

SECTION 6.11 Reports. The officers of the Cooperative shall submit at each annual meeting of the members reports covering the business of the Cooperative for the previous fiscal year. Such reports shall set forth the conditions of the Cooperative at the close of the fiscal year.

SECTION 6.12 Delegation of Secretary's and Treasurer's Responsibilities. The Board of Directors may delegate, wholly or in part, the responsibility and authority of one or more of each such officer's duties to one or more agents, other officers, or employees of the Cooperative who are not Directors. To the extent the Board does so delegate the responsibilities, that officer shall be released from such duties, responsibilities, and authorities.

ARTICLE VII - INDEMNIFICATION OF OFFICERS, DIRECTORS AND EMPLOYEES

SECTION 7.01 Scope of Indemnification. The Cooperative shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending, or completed action, suit or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Cooperative) by reason of the fact that such person is or was a director, officer, or employee of the Cooperative, or who is or was serving at the request of the Cooperative as a director, officer, or employee of another cooperative, association, corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, provided such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to the best interests of the Cooperative and, with respect to any criminal action or proceedings, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon pleas of *nolo contendere* or its equivalent, shall not, of itself create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Cooperative and, with respect to any criminal action or proceeding, had reasonable excuse to believe that the conduct of such person was not unlawful.

SECTION 7.02 Indemnification for Good Faith Action. The Cooperative shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Cooperative to procure a judgment in its favor by reason of the fact that such person is or was a director, officer or employee of the Cooperative, or is or was serving at the request of the Cooperative as a director, officer or employee of another cooperative, association, corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit, if such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to the best interests of the Cooperative. No indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of the duty of such person to the Cooperative, unless, and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity of such expenses as the court shall deem proper.

SECTION 7.03 Cost of Defense Indemnified. To the extent that a director, officer or employee of the Cooperative has been successful on the merits or otherwise, in the defense of any action, suit or proceeding referring to in Sections 7.01 and 7.02, or in defense of any claim, issue or

matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therein.

SECTION 7.04 Amount of Indemnification. Any indemnification under Sections 7.01 and 7.02 (unless ordered by a court) shall be made by the Cooperative only as authorized in the specific case, upon a determination that indemnification of the director, officer or employee is proper in the circumstances because such person has met the applicable standard of conduct set forth in Sections 7.01 and 7.02. Such determination shall be made:

- (1) By the Board by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding; or
- (2) If such a quorum is not obtainable, or, even if obtainable, a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion; or
- (3) By the members.

SECTION 7.05 Expenses Advanced. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Cooperative in advance of the final disposition of such action, suit or proceeding, as authorized by the Board in the specific case, upon receipt of a firm commitment by or on behalf of the director, officer or employee to repay such amount, unless it shall ultimately be determined that he or she is entitled to be indemnified by the Cooperative as authorized in this Article.

SECTION 7.06 Rights of Persons Indemnified. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of members or disinterested Director, or otherwise, both as to action in his/her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer or employee, and shall inure to the benefit of the heirs, executors and administrators of such person.

SECTION 7.07 Insurance Coverage. The Cooperative may purchase and maintain insurance on behalf of any person who is or was a director, officer or employee of the Cooperative, or who is or association, corporation, limited liability company, partnership, joint venture, trust or other enterprise or entity, against liability asserted against such person and incurred by such person in any capacity, or arising out of the status of such person as such, whether or not the Cooperative would have the power to indemnify such person against any liability under the provisions of this Article.

ARTICLE VIII - COOPERATIVE OPERATION

SECTION 8.01 Nonprofit and Cooperative Operation. The Cooperative shall operate on a nonprofit, cooperative basis for the mutual benefit of all Members. The Cooperative may not pay interest or dividends on capital furnished by patrons.

SECTION 8.02 Allocating and Crediting Capital. In operating the Cooperative:

- (1) **Patron.** A Cooperative patron is defined to include all members, purchasing electric service from the Cooperative and all other person approved as a patron by the Board of Directors who purchase other products or services from or through the Cooperative.

- (2) **Capital Credits.** Patrons shall furnish and contribute to the Cooperative, and the Cooperative shall receive from Patrons, as capital (“Capital”) the amount (“Operating Margins”) by which the funds and amounts received by the Cooperative from Patrons for providing a Cooperative service (“Operating Income”) exceed the Cooperative’s costs and expenses of providing the Cooperative service (“Operating cost”). The Cooperative is specifically authorized to maintain one or more pools of income through which it determines the patronage sourced income which it is obligated to distribute in this section 8.02.

For each Cooperative service, the Cooperative shall annually allocate to each Patron, and pay by credit to a Capital account for each Patron, Operating Margins from the Cooperative service in proportion to the value or quantity of the Cooperative service used by each Patron during the applicable fiscal year (“Capital Credits”). Capital Credits must be treated as though the Cooperative paid the Capital Credit amounts to each Patron in cash pursuant to a pre-existing legal obligation, and each Patron furnished or contributed the Capital to the Cooperative in the corresponding Capital Credit amounts.

- (3) **Affiliated Capital Credits.** If the Cooperative is a member, owner or patron of an Entity providing a goods or service used by the Cooperative in providing a Cooperative service (Affiliated Entity”), then, to the extent the Affiliated Entity allocates or credits funds, amounts, or capital to the Cooperative in proportion to the value or quantity of the goods or service used by the Cooperative in providing the Cooperative service (Affiliated Entity Allocated Capital”), the Cooperative may separately allocate and credit to Patrons the Affiliated Entity Allocated Capital (“Affiliated Capital Credits”) in proportion to the value or quantity of the Cooperative service used by each Patron if the cooperative determines, and separately identifies, the Affiliated Capital Credits.

For the purposes of these Bylaws, Affiliated Entity Allocated Capital is Operating Income.

- (4) **Non-Operating Margins.** Other than Operating Margins, funds and amounts received by the Cooperative that exceed the Cooperative’s costs and expenses (“Non-Operating Margins”) may be allocated as Capital Credits to Patrons in the same manner as the Cooperative allocates Operating Margins to Patrons, retained or used by the Cooperative as permanent, non-allocated capital, used to pay or offset any Cooperative cost or expense, or used as otherwise determined or approved by the Board.
- (5) **Partnership.** Subject to Section 8.02(3) hereof, for purposes of determining the Cooperative’s Operating Margins, Non-Operating Margins, Operating Income and Operating Cost, the Cooperative shall take into account any activities conducted by the Cooperative through a partnership, limited liability company or similar organization (hereinafter, a “Partnership”) and treat the Cooperative’s share of such activities as if they were conducted directly by the Cooperative. In addition, for purposes of determining the Capital Credit to be allocated to the Patron and paid to the Capital for a Patron, the Cooperative shall take into account its share of the Cooperative service provide by a Partnership to a Patron as though the Cooperative provided such Cooperative service to such Patron directly.

- (6) **Assignment and Notification.** Unless otherwise determined by the Board or provided in these Bylaws, Capital Credits and Affiliated Capital Credits may be assigned or transferred only upon a Patron delivering a written assignment or transfer to the Cooperative, the Patron complying with any other reasonable requirement determined by the Board, and the Board approving the assignment or transfer.

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

- (7) **Joint Memberships.** The Cooperative, upon receiving written notice and adequate proof of termination, conversion, or alteration, shall re-allocate and re-credit to each Joint Member a proportionate share of the Capital Credits and Affiliated Capital Credits previously allocated and credited to the Joint Membership when it is terminated or converted unless otherwise instructed by a court or administrative body of competent jurisdiction. If a Joint Membership is terminated or converted through the death of one or more Joint Member(s), the Cooperative shall re-allocate and re-credit to the surviving Joint Member(s) all Capital Credits previously allocated and credited to the Joint Membership.

SECTION 8.03 Retiring and Refunding Capital Credits. At any time prior to the cooperative's dissolution or liquidation; and if the board determines that the Cooperative's financial condition will not be adversely impacted; the Board may authorize the Cooperative to, and the Cooperative shall, wholly or partially retire and refund Capital Credits to Patrons and former Patrons. If an Affiliated Entity retires and refunds Affiliated Entity Allocated Capital to the Cooperative, the Board may authorize the Cooperative to, and the Cooperative shall, retire and refund the corresponding Affiliated Capital Credits to Patrons and former Patrons.

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

Upon the death of any individual Patron or individual former Patron who is a natural person, and pursuant to a written request from the deceased Patron's legal representative, the Board may retire the deceased Patron's Capital Credits and Affiliated Capital Credits under terms and conditions agreed upon by the deceased Patron's legal representative and the Cooperative.

ARTICLE IX - DISPOSITION AND PLEDGE OF PROPERTY; DISTRIBUTION OF SURPLUS ASSETS ON DISSOLUTION

SECTION 9.01 Disposition and Pledging of Property.

- (1) The Board, without authorization by the members, shall have full power and authority to authorize the sale, lease, lease-sale, exchange or other disposition of less than a substantial portion of the Cooperative's properties and assets ("Substantial portion" as used in this section, means ten per centum or more of the fair market value of the Cooperative's total properties and assets), and to authorize the execution of mortgages, or deeds of trust, or the pledging or encumbering of, any or all of the property, assets, rights, privileges, licenses, franchises and

permits of the Cooperative, whether acquired or to be acquired, and wherever situated, as well as the revenues and income therefrom, all upon such terms and conditions as the Board shall determine, to secure any indebtedness of Cooperative.

- (2) Not in conflict with, or in lieu of, but rather as supplementary to the other subsections of this 9.01, the following procedures shall be followed in authorizing a sale, lease, lease- back, exchange or other disposition of all or a substantial portion of the Cooperative's properties and assets:
- a) Before allowing any plan or proposal therefore to be submitted to the members, the Board shall appoint at least one, but not more than three independent appraisers expert in such matters, to render their individual opinions as to the fair market value of the Cooperative's assets and properties, including its good will and going business value, and as to any other terms and conditions which, in their respective judgments, should be considered. The Board, after receiving such appraisals (and other terms and conditions which are recommended, if any), shall then give every other electric cooperative in Kansas (which has not submitted such a plan or proposal) an opportunity to submit competing plans or proposals. Such opportunity shall be in the form of a written notice to such electric cooperatives, which notice shall attach a copy of the initial plan or proposal being then considered and a copy of the reports of the appraisers. Such electric cooperatives shall be given not less than thirty days within which to submit competing plans or proposals, and the actual minimum period within which plans or proposals are to be submitted shall be stated in the written notice given to them.
 - b) 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 adopt a resolution to that effect and so notify members, expressing in detail each of any proposals, and shall call a special meeting of the members for consideration thereof, which meeting shall be held not sooner than twenty days nor later than fifty days after the giving of such notice to the members: PROVIDED, that consideration thereof by the members may be had at the next annual member meeting if the Board so determines and if such annual meeting is held not sooner than twenty days nor later than fifty days after the giving of such notice.
 - c) Ten percent or more of the members, by so petitioning the Board not less than twenty days before the date of the special or annual member meeting at which such a plan or proposal will be considered, may cause the Cooperative, with the cost to be borne by the Cooperative, to mail to all other members at least ten days prior to such member meeting, any opposing positions or alternate plans or proposals which the petitioners may have.
 - d) Any such proposal shall be deemed adopted if approved by a majority vote of the Members voting thereon.
 - e) The provisions of this section shall not apply to any sale, lease or other disposition to another Kansas electric cooperative if the legal or substantive effect of such sale, lease or other disposition is a merger or consolidation pursuant to the act under which the cooperative is incorporated.

- (3) Otherwise, the Cooperative may not sell, lease, mortgage, encumber or otherwise dispose of all or any substantial portion of its property unless such action is authorized at a meeting of the members thereof by the affirmative vote of not less than two-thirds of all members of the Cooperative, and unless the notice of such proposed sale, lease, mortgage, encumbrance or other disposition shall have been contained in the notice of meeting.

SECTION 9.02 Distribution of Surplus Assets on Dissolution. Upon the Cooperative's dissolution any assets remaining after all of the Cooperative's liabilities and obligations, including outstanding capital credits, have been satisfied or discharged or a plan therefore appropriately established, shall be distributed in accordance with the provisions of these bylaws and applicable laws, including but not limited to the Kansas Electric Cooperative Act.

ARTICLE X - SEAL

SECTION 10.01 Corporate Seal. The corporate seal of the Cooperative shall have inscribed thereon the name of the Cooperative and the words: "Corporate Seal, Kansas".

ARTICLE XI - FINANCIAL TRANSACTIONS

SECTION 11.01 Contracts. Except as otherwise provided in these bylaws, the Board may authorize any officer, agent or employee 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 11.02 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 or countersigned by such officers, agents, or employees of the Cooperative in such manner as shall be determined by resolution of the Board.

SECTION 11.03 Deposits. All funds of the Cooperative, exclusive of petty cash, shall be deposited to the credit of the Cooperative in such banks as the Board may select.

SECTION 11.04 Fiscal Year. The fiscal year of the cooperative shall begin on the first day of January of each year and shall end on the thirty-first day of December of the same year.

ARTICLE XII - MISCELLANEOUS

SECTION 12.01 Membership in Other Organizations. The Cooperative may become a member or purchase stock in other profit or nonprofit organizations, associations, corporations, limited liability companies, cooperatives, partnerships, joint ventures or other entities when the Board finds that the general and long-term interests of the membership will be served by such investments or participation.

SECTION 12.02 Waiver of Notice. Any member or Director may, either before or after the meeting, waive, in writing, any notice of the meeting required by these bylaws. The attendance of a member or Director at any meeting shall constitute a waiver of notice of such meeting, except in case a

member or Director shall attend a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.

SECTION 12.03 Rules, Regulations, Rate Schedules, and Contracts. In addition to the powers conferred upon the Board by law, the Board shall have power to make, adopt, amend, abolish and promulgate such rules, regulations, rate schedules, contracts, security deposits and any other types of deposits, payments or charges, including contributions in aid of construction, not inconsistent with law or the Cooperative's Articles of Incorporation or bylaws, as it may deem advisable for the management, administration and regulation of the business and affairs of the Cooperative.

SECTION 12.04 Rules of Order. Parliamentary procedure at all meetings of the members, of the board, of any committee provided for in these bylaws, and of any other committee shall be governed by the most recent edition of Robert's Rules of Order, except to the extent such procedure is not otherwise determined by law or by the Cooperative's Articles of Incorporation or bylaws.

SECTION 12.05 Accounting System and Reports. The Board shall cause to be established and maintained a complete accounting system in conformance with Generally Accepted Accounting Practices (GAAP) and the Administrator of the Rural Utility Service of the United States of America or other regulatory authority. 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.

ARTICLE XIII - AMENDMENTS OF BYLAWS

SECTION 13.01 Amendments. These bylaws may be altered, amended or repealed by the members at any annual or special member meeting by the affirmative vote of the majority of the members voting thereon, provided the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal, or an accurate summary explanation thereof.