

ARTICLES
OF
INCORPORATION
&
BYLAWS
OF

**La Plata Electric
Association, Inc.**

DURANGO, COLORADO

Revised and Adopted
September 14, 2002

LPEA

La Plata Electric Association, Inc.

A Touchstone Energy® Cooperative 

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**CERTIFICATE OF INCORPORATION
OF
LA PLATA ELECTRIC ASSOCIATION, INC.
Revised 9-9-95**

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned citizens of the United States of America of the age of twenty-one (21) years or more by these presents voluntarily associate ourselves together for the purpose of forming a corporation under the Compiled Laws of Colorado and all laws amendatory thereof and supplemental thereto, and we do hereby certify:

ARTICLE I

The name of the corporation is:
LA PLATA ELECTRIC ASSOCIATION, INC.

ARTICLE II

The object or objects and purpose or purposes for which the corporation is formed are:

(a) To generate, manufacture, purchase, acquire and accumulate electric energy for its members and consumers and to transmit, distribute, furnish, sell and dispose of electric energy to its members and consumers only, and to construct, erect, purchase, lease *as* lessee and in any manner acquire, own, hold, maintain, operate, sell, dispose of, lease *as* lessor, exchange and mortgage plants, buildings, works, machinery, supplies, apparatus, equipment and necessary electric transmission and distribution lines or systems;

(b) To acquire, own, hold, use, exercise and, to the extent permitted by law, to sell, mortgage, pledge, hypothecate and in any manner dispose of franchises, rights, privileges, licenses, rights-of-way and easements necessary, useful or appropriate to accomplish any or all of the purposes of the corporation;

(c) To purchase, receive, lease as lessee, or in any manner acquire, own, hold, maintain, use, convey, sell, lease as lessor, exchange, mortgage, pledge or otherwise dispose of any and all real and personal property

or any interest therein necessary, useful or appropriate to enable the corporation to accomplish any or all of its purposes;

(d) To borrow money, to make and issue bonds, notes and other evidences of indebtedness, secured or unsecured, for moneys borrowed or in payment for property acquired, or for any of the other objects or purposes of the corporation; to secure the payment of such bonds, notes, or other evidences of indebtedness by mortgage or mortgages, or deed or deeds of trust upon, or by the pledge of or other lien upon, any or all of the property, rights, privileges or permits of the corporation, wheresoever situated, acquired or to be acquired; convenient or useful for carrying out and accomplishing any or all of the foregoing purposes;

(e) To form one or more subsidiary business organizations to provide such other services as may be permitted by law for the benefit of the cooperative, its members or non-members;

(f) To do and perform, either for itself or its members or consumers, any and all acts and things, and to have and exercise any and all powers, as may be necessary or convenient to accomplish any or all of the foregoing purposes or as may be permitted by the act under which the corporation is formed.

ARTICLE III

Section 1

The corporation is formed without any purpose of direct gain or profit to itself and shall be authorized to issue one hundred thousand (100,000) shares of capital stock, no par value. Capital credits may be credited as set forth in the bylaws. Upon dissolution or liquidation, members are entitled to a prorata payment of capital credits as set forth in the bylaws.

The corporation is a non-profit organization.

Section 2

Except as limited elsewhere in this certificate or in the bylaws of the corporation, the business and affairs of the corporation shall be vested in and managed and controlled by a board of directors.

Section 3

Directors shall not be personally liable to the corporation or its members for monetary damages for breach of any fiduciary director duty, except to the extent that such breach of duty is: A breach of the duty of loyalty to the corporation or its members; an act or omission not in good faith or which involves intentional misconduct or a knowing violation of law; or a transaction resulting in improper personal benefit to said director. The scope of this limitation shall be governed by the provisions set forth in the Corporation Code of The State of Colorado.

ARTICLE IV

The number of the directors of the corporation shall be not less than seven (7) nor more than fourteen (14) elected for terms of not more than three (3) years.

ARTICLE V

The term of existence of the corporation shall be perpetual.

ARTICLE VI

The operations of the corporation shall be carried on in the County of La Plata and Archuleta in the State of Colorado, and in such other counties in the State of Colorado and in the United States as the board of directors may from time to time decide. The principal office and place of business of the corporation shall be in the Town of Durango, in the La Plata County, in the State of Colorado, and the corporation may maintain offices at such other place or places in the State of Colorado and in the United States as the board of directors may from time to time decide.

ARTICLE VII

The corporation may amend, alter, change or repeal any provisions contained in this certificate of incorporation in the manner now or hereafter prescribed by law.

IN WITNESS WHEREOF, we have hereunto set our hands and affixed our seals this 5th day of August, 1939.

W. E. Tyner (SEAL) James F. Gore (SEAL)

J. Fred Hill (SEAL) George Morgan (SEAL)

Edna M. Coppuck (SEAL) E. E. Hively (SEAL)

Frank L. Gray (SEAL) Betty Stock (SEAL)

J. H. Drury (SEAL) Mildred Laurie (SEAL)

Signed and sealed in the presence of:

Charles J. Beise
Witness

STATE OF COLORADO)
)ss:
COUNTY OF LAPLATA)

On this 5th day of August, 1939, before me personally appeared W. E. Tyner, J. Fred Hill, Edna M. Coppuck, Frank L. Gray, J. H. Drury, James F. Gore, George Morgan, E. E. Hively, Betty Stock, Mildred Laurie, to me known to be the persons described in and who executed the foregoing certificate of Incorporation, and acknowledged that they executed the same as their free act and deed.

Witness my hand and seal the day and year in this Certificate of Acknowledgment first above written.

My commission expires December 28, 1939.

GILBERT R. PERKINS
Notary Public
(SEAL)

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**BYLAWS OF
LAPLATA ELECTRIC ASSOCIATION, INC.
Revised 9-14-2002**

ARTICLE I - MEMBERS

Section 1 - Acceptance into Membership

Any person, firm, corporation or body politic will become a member in the cooperative by:

a. Agreeing to comply with and be bound by the certificate of incorporation of the cooperative and these bylaws and any amendments thereto and such rules and regulations as may from time to time be adopted by the board of directors and;

b. Acceptance of the board of directors at the first meeting after the date of connection for electrical service.

No person, firm, corporation or body politic may own more than one (1) membership in the cooperative.

A husband and wife may jointly become a member and their application for a joint membership may be accepted in accordance with the foregoing provisions of this section provided the husband and wife comply jointly with the provisions of the above subdivisions a and b.

As referred to in these bylaws, a "consumer" shall mean a recipient of electric service from this cooperative who has either declined to become a member or whose membership has been withdrawn in accordance with the bylaws, rules and regulations, and decisions of the association. In addition to such other rights and privileges conferred by law, consumers shall be entitled to the benefits conferred upon them by these bylaws and by such rules and regulations as may be adopted from time to time by the board of directors. A consumer shall not be entitled to vote at any meeting of the association or to cast a written ballot on any issue submitted to the members for decision.

The members/consumers of the cooperative, by dealing with the cooperative, acknowledge that the terms and provisions of the Articles of Incorporation and bylaws shall constitute and be a contract between the cooperative and each member/consumer, and both the cooperative and the members/consumers are bound by such contract, as fully as though each member/

consumer had individually signed a separate instrument containing such terms and provisions. The provisions of this article and the bylaws shall be called to the attention of each member/consumer of the cooperative by posting in a conspicuous space in the cooperative's office.

Section 2 - Membership Fee

There shall be no fee charged to become a member of this association.

Section 3 - Non-liability for Debts of the Cooperative

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

Section 4 - Expulsion of Members

The board of directors may, by the affirmative vote of not less than two thirds (2/3) of the members thereof, expel any member if such member shall have violated or refused to comply with any of the provisions of the Articles of Incorporation of the cooperative, or these bylaws or any rules or regulations adopted from time to time by the board of directors. Any member so expelled may be reinstated as a member by two thirds (2/3) vote of the board.

Section 5 - Withdrawal of Membership

Any member may withdraw from membership upon compliance with such terms and conditions as the board of directors may prescribe.

Section 6 - Termination of Membership

a. Upon the death, cessation of existence, expulsion or withdrawal of a member or when the member ceases to receive service, the membership shall terminate. Termination of membership in any manner shall not release the member from the debts or liabilities of such member to the cooperative.

b. When a membership is held jointly by a husband and wife, upon the death of either, such

membership shall be deemed to be held solely by the survivor with the same effect as though such membership has been originally issued solely to him or her, provided, however, that the estate of the deceased shall not be released from any membership debts or liabilities to the cooperative.

ARTICLE II - MEETINGS OF MEMBERS

Section 1 - Annual Meeting

The annual meeting of the members shall be held each year within the service area of the cooperative within the State of Colorado as shall be determined by the board of directors at their last regular meeting before the giving of the notice of the annual meeting. Said annual meeting shall be for the purpose of electing directors, passing upon reports covering the previous fiscal year, and transacting such other business as may properly 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 2 - Special Meetings of Members

Special meetings of the members may be called by a majority of the directors or upon a written request signed by at least five hundred (500) members, and, upon such action by the directors or upon the secretary's determining the sufficiency of the member signatures, it shall thereupon be the duty of the secretary to cause notice of such meeting to be given as hereinafter provided. Special meetings of the members may be held at any place within the service area of the cooperative specified in the notice of the special meeting.

Section 3 - Notice of the Members' Meetings

Written or printed notice stating the place, day and hour of each meeting of the members, and the purposes for which the meeting is called, shall be delivered by mail, to each member, not less than ten (10) days nor more than forty-five (45) days before the date of the meeting, and no business shall be transacted at any meeting except as shall be mentioned in the notice. Such notice shall be deemed to be delivered when

deposited in the United States Mail, addressed to the member at his address as it appears on the records of the cooperative, with postage thereupon prepaid. The failure of any member to receive notice of 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 meetings of the members, fifty (50) of the members, present in person, shall constitute a quorum for conducting business. If less than a quorum is established at any meeting of the members, a majority of those present may adjourn the meeting from time to time without further notice. If at said meeting a quorum is at any time established, a quorum shall be deemed constituted throughout such meeting, regardless of the physical presence of members thereafter.

Section 5 - Voting

Each member shall be entitled to one (1) vote and no more upon each matter submitted to a vote at a meeting of the members. At all meetings of the members at which a quorum is established all questions shall be decided by a vote of a majority of the members voting thereon in person, and, where authorized by resolution of the board of directors, by mail; except as otherwise provided by law, the certificate of incorporation, or these bylaws. If a husband and wife hold a joint membership, they shall jointly be entitled to one (1) vote and no more upon each matter submitted to a vote at a meeting of the members. The spouse of a member may vote or petition in place of and instead of the member.

A member may vote by mail on any matter of any meeting of the members, including the election of directors, provided that (a) the mail voting on such matter is authorized by a resolution of the board of directors adopted prior to the members' meeting, except in the case of the election of the board of directors where mail voting is allowed, (b) such a vote is in writing on forms provided by the association, and (c) such vote is signed by such member. The presence of a member at a meeting of the members shall revoke a mail

vote, theretofore executed by such member and such member shall be entitled to vote at such meeting in the same manner and with the same effect as if such member had not voted by mail.

Regardless of whether by mail or at a meeting of the members, when voting in an election of directors, those members eligible to vote for any particular director candidate, shall be limited to those members who receive service within the voting district of the nominee. If a member receives service in more than one voting district, the member's voting district shall be that in which the member resides or the district in which the member's billing address is located. If a member receives service in more than one voting district and said member's residence and billing address are not located within a voting district, then the member's voting district shall be the one in which the member pays the highest amount of revenue for electric service.

A member may bring to mail vote a matter to be considered at any meeting of the members by filing such request for mail vote in writing with the association's secretary, together with a petition signed by ten percent (10%) of the members, provided that said petition is submitted no less than thirty (30) days prior to the meeting at which such issue is to be considered.

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

Section 6 - Order of Business

The order of business at the annual meeting of the members, and so far as possible at all other meetings of the members shall be essentially as follows:

- a. Report on the number of members present in person in order to determine existence of a quorum.
- b. Reading of the notice of the meeting and proof of the due publication of mailing thereof, or the waiver or waivers of notice of the meeting as the case may be.
- c. Reading of unapproved minutes of previous meetings of the members and the taking of necessary action thereon.
- d. Election of directors.
- e. Presentation and consideration of, and acting

upon, reports of officers, directors and committees.

- f. Unfinished business.
- g. New business.
- h. Adjournments.

ARTICLE III - DIRECTORS

Section 1 - General Powers

The business and affairs of the cooperative shall be managed by a board of directors, which shall exercise all of the powers of the cooperative except such as are by law or by the certificate of incorporation of the corporation or by these bylaws conferred upon or reserved to the members.

From and after September 14, 2002, LPEA shall not create, finance, or control any new for-profit entity unless and until such action shall be submitted to and approved in a vote by the members.

Section 2 - Qualifications and Tenure

Approximately one third of the directors, no two (2) of whom shall be from the same district, shall be elected by and from the members at each annual meeting and shall hold office until the third succeeding annual meeting. If the number of directors is increased or decreased, the proper tenure rotation may be established by the following procedures:

- a. One or more directors may be elected for a term of less than three years.
- b. More than one third of the directors may be elected in one year.
- c. More than one director may be elected from a director district.

In case of the failure for any reason of the members at any annual meeting to elect directors as above specified, the directors whose terms expire at such annual meeting shall be deemed elected and shall hold office until the third annual meeting thereafter.

In order to be eligible to become or remain a director of the cooperative a person shall:

- a. be a member of the cooperative,
- b. be a bona fide resident of his director district and a permanent occupant receiving electric service from the cooperative at his primary residential abode,

c. not be in any way employed by a business selling electric energy or a major supplier of the cooperative,

d. not be employed by or have a close relative employed by the cooperative in any position. As used in these bylaws, “close relative” means a person who, by blood or in-law, including half, foster, step and adoptive kin, is either a spouse, child, grandchild, parent, grandparent, brother, sister, aunt, uncle, nephew or niece of the principal.

Discrepancies in the foregoing, subsequent or otherwise, shall not affect the validity of any action taken at any meeting of the board of directors.

Section 3 - Voting Districts

The territory served or to be served by the corporation shall be divided into districts as determined by the board of directors, each of which shall contain as nearly as possible the same number of members. Districts are to be reviewed and revised if necessary not less than sixty (60) days prior to any meeting of the members at which directors are to be elected. Each district shall be represented by not less than one director nor more than three directors. Each district shall be represented by an equal number of directors.

Section 4 - Nomination of Directors

At least sixty (60) days before an election for the board of directors, the secretary of the board of directors shall have posted at the principal office of the cooperative and shall have published once in a newspaper of general circulation in the area served by the cooperative a list of each position on the board of directors which is expiring, the district from which each director is to be elected and instructions for filing a nominating petition.

A nomination for director may be made by written petition signed by at least fifteen (15) members of the cooperative from the district in which the director’s term expires. The nomination petition must be filed with the board of directors no later than forty-five (45) days prior to the date of the election. Any petition so filed shall designate the name of the nominee, the district

to be represented by the nominee, and the term for which nominated. The secretary shall post the same at the principal office of the cooperative.

Section 5 - Election of Directors

The secretary shall mail to each member the notice of the election for that member's district(s) (as applicable) and notice of the annual meeting. Unless the election for the member's district has been canceled for lack of a contest for that district's position, the secretary shall also mail to each member a ballot with the notice of election and the annual meeting. Voting shall be as set forth in Article II, Section 5. The candidates, properly designated by district, receiving the highest number of votes shall be elected. In the event of a tie, the president of the board shall decide which candidate shall be elected by toss of coin. In the event that the president is one of the candidates involved in the tie, then the vice president shall toss the coin.

If after the close of the period for filing nomination petitions, there is only one nominee for a position on the board of directors for a district, the board may cancel the election for that district and by resolution declare the nominee elected. Upon such declaration, the nominee shall be deemed elected. Notice of such cancellation shall be posted at the principal office of the cooperative and shall be published once in a newspaper of general circulation in the area served by the cooperative. The secretary shall notify the nominee that the election was canceled and that the nominee was elected by declaration.

Section 6 - Removal of Directors

Any member may seek the removal of a director at any time by filing with the association's secretary a petition signed by at least one thousand (1000) members then eligible to vote in a director election from that director's district, specifying the cause for removal. Within ten (10) business days from the date of submission of such a petition, the secretary shall verify the sufficiency of member signatures. At the first meeting following verification at which the board can

lawfully act, the board of directors shall establish a date for a special meeting at which eligible members from that director's district may vote and the board shall also pass a resolution authorizing voting by mail. The director against whom such charges have been brought shall be provided a copy of the petition. The board may establish any procedures it deems reasonable or necessary for informing the members of the charges and of defenses against the charges. The election on removal called for in a properly signed petition shall be held no later than 90 days following petition submission. The director shall be removed if a majority of those voting in the election vote in favor of removal. Removal of a director shall create a vacancy.

Section 7 - Vacancies

Vacancies occurring in the board of directors shall be filled by an affirmative vote of a majority of the remaining directors though less than a quorum of the board of directors. Any director so appointed to fill a vacancy shall be elected for the unexpired term of his predecessor in office and shall possess the same qualifications as those required by such predecessor.

If a director is absent from three consecutive regular meetings, without cause, or fails to attend a minimum of two-thirds (66.67%) of all regular meetings of the board during any twelve-month period, without cause, said director shall be automatically deemed to have submitted his resignation. Said director shall then be advised that his resignation shall be voted upon by the board at the next regular meeting and that he may, if he wants to do so, attend the next meeting and request that his resignation be withdrawn. The board shall then vote, at the next regular meeting, on whether to accept the resignation or to allow it to be withdrawn. If said resignation is accepted, the board shall fill the vacancy as indicated in this section of these bylaws.

Section 8 - Compensation

Directors as such shall not receive any salary for their services, but by resolution of the board of directors a fixed sum and expenses of attendance, if any, may be allowed for attendance at each meeting of

the board of directors. Allowance may also be made for attending meetings, conferences, training programs or performing committee assignments when authorized by the board.

Section 9 - Rules and Regulations

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

ARTICLE IV - MEETINGS OF DIRECTORS

Section 1 - Regular Meetings

A regular meeting of the board of directors shall be held monthly at such time and place within the service area of the cooperative as the board of directors may provide by resolution. Each director shall be notified in writing of each regular meeting.

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

Section 2 - Special Meetings of Directors

Special meetings of the board of directors may be called by the president or any three (3) directors. The person or persons authorized to call special meetings of the board of directors may fix the time and place for the holding of any special meeting of the board of directors called by them. Each director shall be notified in writing of each special meeting. Notice of such meetings are subject to notification requirements stated in Section 1 above.

Section 3 - Notice

Notice of the time, place and purpose of any special

meeting of the board of directors shall be given at least ten (10) days previous thereto, by written notice, delivered personally or mailed, to each director at his last known address. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail so addressed, with postage thereon prepaid. The attendance of a director at any meeting shall constitute a waiver of such notice of such meeting, except in case a director shall attend a meeting for the express purpose of objecting to the transaction of any business because the meeting shall not have been lawfully called or convened.

Section 4- Quorum

A majority of the board of directors shall constitute a quorum for the transaction of business at any meeting of the board of directors, provided, that if less than a majority of the directors is present at said meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

Section 5 - Manner of Acting

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 of directors, except as provided elsewhere in these bylaws.

ARTICLE V - OFFICERS

Section 1 - Number

The officers of the cooperative shall be a president, vice president, secretary and treasurer and other such officers as may be determined by the board from time to time.

Section 2 - Election and Term of Office

The officers shall be elected by ballot annually by and from the board of directors at the first meeting of the board of directors held after each annual meeting of the members at which a quorum is present. Each officer shall hold office until the first meeting of the board of directors following the next succeeding annual meeting of the members or until his successor shall have been duly elected and shall have qualified, subject

to the provisions of these bylaws with respect to the removal of officers.

Section 3 - Removal

Any officer elected by the board of directors may be removed by two-thirds (2/3) vote of the board of directors whenever in its judgment the best interests of the cooperative will be served thereby.

Section 4 - Vacancies

Except as otherwise provided in these bylaws, a vacancy in any office may be filled by the board of directors for the unexpired portion of the term.

Section 5 - President

The president:

a. shall be the principal executive officer of the cooperative and shall preside at all meetings of the members and of the board of directors.

b. may sign, with the secretary, any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the board of directors to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the board of directors or by these bylaws to some other officer or agent of the cooperative, or shall be required by law to be otherwise signed or executed; and

c. in general, shall perform all duties incident to the office of president and such other duties as may be prescribed by the board of directors from time to time.

Section 6 - Vice-President

In the absence of the president, or in the event of his inability or refusal to act, the vice-president shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president and shall perform such other duties as from time to time may be assigned to him by the board of directors.

Section 7 - Secretary

The secretary shall be responsible for:

a. keeping the minutes of the meetings of the

members and the board of directors in one or more books provided for that purpose;

b. seeing that all notices are duly given in accordance with these bylaws or as required by law;

c. the safekeeping of the corporate records and of the seal of the cooperative and see that the seal of the cooperative is affixed to all documents customarily sealed or required to be sealed by law, the execution of which on behalf of the cooperative under its seal is duly authorized in accordance with the provisions of these bylaws;

d. keeping a register of the post office address of each member which shall be furnished to the secretary by such member;

e. having general charge of the books of the cooperative in which a record of the members is kept;

f. keeping on file at all times a complete copy of the bylaws of the cooperative containing all amendments thereto, which copy shall always be open to the inspection of any member, and at the expense of the cooperative forward a copy of the bylaws and of all amendments thereto to each member, and

g. in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the board of directors.

Section 8 - Treasurer

The treasurer shall be responsible for:

a. the safekeeping of all funds and securities of the cooperative;

b. the receiving and giving of receipts for moneys due and payable to the cooperative from any source whatsoever, and depositing such moneys in the name of the cooperative in such banks or financial institutions as shall be selected in accordance with the provisions of these bylaws; and

c. in general, perform all the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the board of directors.

Section 9 - Manager

The board of directors shall hire a manager who shall be or become a member of the cooperative. The

manager shall perform such duties as the board of directors may from time to time require of him and shall have such authority as the board of directors may from time to time vest in him.

Section 10 - Bonds of Officers

The board of directors shall require the treasurer or any other officer of the cooperative charged with responsibility for the custody of any of its funds or property, to give bond in such sum and with such surety as the board of directors shall determine. The board of directors in its discretion may also require any other officer, agent or employee of the cooperative to give bond in such amount and with such surety as it shall determine.

Section 11 - Reports

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

ARTICLE VI—CONTRACTS, CHECKS, AND DEPOSITS

Section 1 - Contracts

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

Section 2 - Checks, Drafts, Etc.

All checks, drafts, or other orders for the payment of money, and all notes, bonds or other evidences of indebtedness issued in the name of the cooperative shall be signed by such officer or officers, full time agent or agents, full time employee or employees, of the cooperative and in such manner as shall from time to time be determined by resolution of the board of directors.

Section 3 - Deposits

All funds of the cooperative shall be deposited from time to time to the credit of the cooperative in such banks or financial institutions as the board of directors may select.

ARTICLE VII - NON-PROFIT ORGANIZATION

Section 1 - Interest or Dividends on Capital Prohibited

The cooperative shall at all times be operated on a cooperative basis for the mutual benefit of its members/consumers. No interest or dividends shall be paid or payable by the cooperative on any capital furnished by its members/consumers.

Section 2 - Purchase of Electric Energy

Each member/consumer shall, as soon as electric energy shall be available, purchase from the cooperative all electric energy purchased for the premises specified in his application for service, and shall pay therefor monthly at rates which shall from time to time be fixed by the board of directors. It is expressly understood that amounts paid for electric energy in excess of the cost of service are furnished by members/consumers as capital, and each member/consumer shall be credited with the amount of said capital so furnished as provided in the bylaws. Each member/consumer shall pay all amounts owed by him to the cooperative as and when the same shall become due and payable.

Section 3 - Capital members/Consumers in Connection with Furnishing Electric Energy

In the furnishing of electric energy, the cooperative's operations shall be so conducted that all members/consumers will, through their patronage, furnish capital for the cooperative. In order to induce patronage and assure that the cooperative will operate on a nonprofit basis, the cooperative is obliged to account on a patronage basis to all its members/consumers for all amounts received and receivable from the furnishing of electric energy in excess of operating costs and expenses properly chargeable against the

furnishing of electric energy. All such amounts in excess of operating costs and expenses at the moment of receipt by the cooperative are received with the understanding that they are furnished by the member/consumer as capital. The cooperative is obligated to credit to a capital account all such amounts in excess of cost of power, operating costs, and expenses. The books and records of the cooperative shall be set up and kept in such a manner that at the end of each fiscal year, the amount of capital, if any, so furnished by each member/consumer is clearly reflected and credited in an appropriate record to the capital account of each member/consumer, and the cooperative shall within a reasonable time after the close of the fiscal year notify each member/consumer of the amount of capital so credited to his account.

All other amounts received by the cooperative from its operation in excess of costs and expenses shall, insofar as permitted by law, 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 members/consumers on a patronage basis and any amount so allocated shall be included as part of the capital credited to the accounts of members/consumers as herein provided.

“Patronage” shall be defined as electric energy charges, and will not include penalties added because of nonpayment of billings or miscellaneous revenues, since these charges are more in the nature of expense recoveries for extra costs incurred in connection with the operations of the cooperative, and made because of additional costs incurred besides those for normal electric energy service charges. “Operating costs and expenses” shall be defined as cost of power, expenses of operation including operating expense, depreciation, amortization, taxes, interest and other deductions less credits from miscellaneous electric revenues mentioned in the preceding paragraph, and from interest on investments, which are in the nature of expense recoveries.

Except as provided herein, “operating costs and expenses” or “cost of service” for any year, shall be prorated to members/consumers in arriving at their share

thereof, on the basis of the same percentage of their gross patronage for all members/consumers as defined above.

Provided, however, that the board of directors shall have the power to adopt rules providing for the separate segregation and allocation of the cost of purchased power to each rate class for purposes of determining patronage, and for the separate retirement of that portion (“power supply or other service or supply portion”) of capital credited to the accounts of patrons which corresponds to capital credited to the account of the association by an organization furnishing electric service or any other service or supply to the association.

If franchise taxes or contributions are levied by certain towns served by the cooperative on energy charges to consumers in those towns, these expenses shall be separately segregated and not prorated to all consumers on the basis of gross revenue, but only to those consumers served in the towns involved on the basis of gross revenue within those towns, as a separate cost allocation. Except for this class of expense, no distribution shall be made as to percentage of individual expenses, allocable to certain classes of consumer or consumers within a class, but all other expenses shall be shared in proportion to gross patronage provided, however, that members/consumers who purchase electricity for resale shall have cost of service, patronage and capital credits determined and retired separately and independently from all other members/consumers.

In the event of dissolution or liquidation of the cooperative, after all outstanding indebtedness of the cooperative shall have been paid, outstanding capital credits shall be retired without priority on a prorated basis before any payments are made on account of property rights of members/consumers. If any time prior to dissolution or liquidation, the board of directors shall determine that the financial condition will not be impaired thereby, the capital then credited to members’/consumers’ accounts may be retired in full or in part; provided, however, that such retirement or partial retirement shall not be contrary to mortgages issued or to be issued by the cooperative. If the board of

directors decides to retire the capital then credited to the members'/consumers' accounts, in whole or in part, the board may distribute such capital to the members/consumers on a first-in-first-out (FIFO) basis, on a percentage basis, on a combination of FIFO and percentage basis, or any other reasonable method which the board deems appropriate and which is not contrary to law.

Capital credited to the account of each member/consumer shall be assignable on the books of the cooperative pursuant to written instructions from the assignor and only to successors in occupancy in all or a part of such members'/consumers' premises served by the cooperative unless the board of directors, acting under the policies of general application shall determine otherwise.

Whenever a member/consumer no longer receives electricity from the cooperative, and is delinquent in the payment of his/her inactive account, the board of directors, in its discretion, shall have the power to retire capital credits allocated to such member/consumer's account and apply them to the delinquent balance. The amount of capital credits allocated to the member/consumer's account shall be discounted to present value so as to be retired on an equitable basis with the retirement of capital credits for all other member/consumers. The portion of capital credit, if any, that is not necessary to satisfy the delinquent account shall remain in the member/consumer's capital credit account and be distributed as otherwise set forth in these bylaws.

Notwithstanding any other provision of these bylaws, the board of directors, at its discretion, shall have the power at any time upon the death of any member/consumer, if the legal representative of his estate shall request in writing that the capital credited to any such member/consumer be retired prior to the time such capital would otherwise be retired under the provisions of these bylaws, to retire the capital credited to any such individual member/consumer immediately. The amount of capital credits allocated to the deceased member/consumer's account shall be discounted to present value so as to be retired on an equitable basis

with the retirement of capital credits for all other member/consumers. Discounted amounts shall be segregated as equity and, to the extent not otherwise lawfully used, shall be allocated and distributed to assigned member/consumers upon dissolution or liquidation of the association. The dissolution of a partnership or corporation shall not be considered as the death of a member/consumer.

ARTICLE VIII - WAIVER OF NOTICE

Any member or director may waive, in writing, any notice of meetings required to be given by these bylaws.

ARTICLE IX - DISPOSITION OF PROPERTY

The cooperative may sell, mortgage, lease or otherwise dispose of or encumber any of its property as provided by law, in such manner and under terms and conditions deemed by the board of directors to be in the association's best interest, except that: all sales of such assets shall not, in any one (1) year, exceed in value ten percent (10%) of the value of all of the assets of the cooperative, unless a majority of the members voting thereon authorize annual sales exceeding that value level, either at a duly-noticed meeting or by mail ballot, as applicable. Notwithstanding anything herein contained, the board of directors, without authorization by the members, shall have full power and authority to borrow money, and in connection with such borrowing to authorize the making and issuance of bonds, notes or other evidences of indebtedness and, to secure the payment thereof, to authorize the execution and delivery of a mortgage or mortgages, or a deed or deeds of trust upon, or the pledging or encumbrancing of any or all of the property, assets, rights, privileges, licenses, franchise and permits of the cooperative, whether acquired or to be acquired, and wherever situated, all upon such terms and conditions as the board of directors shall determine.

ARTICLE X - SET-OFF

Any funds to be paid a member or consumer by the association, whether a retirement of capital credits or otherwise shall first be reduced and set-off by any

amounts due the association as shown on the records of the association regardless of the time or times such amounts became due and owing.

ARTICLE XI - FAILURE TO CLAIM PROPERTY

In all cases where a member or a consumer fails to claim any deposits, stocks, dividends, capital credits, patronage refunds, or any other property held for him by the association after the same have been declared payable (check mailed to the last address furnished to the cooperative) to him, the association may charge a reasonable annual fee for the maintenance of the account for the unclaimed property or funds. The association may treat the failure to claim payments from the cooperative, including capital credits, security deposits, patronage refunds, and any other refunds as an assignment and contribution by the member or former member/consumer, as permitted by and for the purposes allowed by the laws of the State of Colorado, the cooperative's bylaws, membership agreements, or any other document. Any contribution made pursuant to this bylaw provision shall be considered a contribution of capital to the cooperative and considered part of the equity of the cooperative. Prior to recording unclaimed property as equity of the cooperative, the association shall first give notice that unless said property is claimed by the member or former member/consumer, the interest of the member or former member/consumer, thereto shall constitute an assignment and contribution by the member or former member/consumer of the capital credits payment or refund to the cooperative. In any instance in which the laws of the State of Colorado suggest the form or manner of such notice, said form or manner may be utilized by the association. In those instances in which the laws of the State of Colorado do not suggest the form or manner that may be used for such notice, notice shall be mailed by first class United States mail addressed to such member or former member/consumer at his last known address. Further, the association shall cause to be published a notice in a newspaper of general circulation that unless such property is claimed, the interest of said member or former member/consumer shall be considered a

contribution of capital to the cooperative and considered as part of the equity of the cooperative. Unless otherwise provided by the laws of the State of Colorado, unclaimed capital credits and patronage refunds shall not be used by the association until after a period of three (3) years following notice, and other unclaimed property or funds shall not be used by the association until after a period of six (6) years from the date of mailing and publishing such notice, and if the member or former member/consumer does not claim such property or funds within such period, the interest of said member or former member/consumer in such property shall be considered as part of the equity of the cooperative. None of the contributions made pursuant to this bylaw provision will be reallocated as excess margins to any of the cooperative's former or current members.

ARTICLE XII - FISCAL YEAR

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

ARTICLE XIII - MEMBERSHIP IN OTHER ORGANIZATIONS

The cooperative shall not become a member of any other organization without an affirmative vote of the members of the board of directors.

ARTICLE XIV - SEAL

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

ARTICLE XV - AMENDMENTS

These bylaws may be altered, amended, or repealed by the members at any regular or special meeting, provided the notice of such meeting shall have contained a copy of the proposed alteration, amendment, or repeal. Any member may request an amendment to the bylaws by submitting the proposed bylaw amendment in a written petition signed by at

least five hundred (500) members to the association's secretary at least forty-five (45) days prior to the meeting at which the amendment is to be considered. Bylaw amendments may also be proposed to the membership based upon the decision of a majority of the board of directors. Voting regarding proposed bylaw amendments shall be conducted in accordance with these bylaws; provided, that no amendments to proposed bylaw amendments shall be permitted from the floor at any meeting if said proposed amendments have been submitted to the membership through mailed ballots.

ARTICLE XVI - INDEMNIFICATION OF OFFICERS AND DIRECTORS

The association shall, to the full extent permitted by law, indemnify each of its officers and directors, whether or not in office (and his executor, administrator, and heirs), against all expenses actually and necessarily incurred by him, 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 or proceeding, to which he may have been made a part because he is or was a director or officer of the association. The term "officers" of the association shall include key management personnel.