

BYLAWS
Of
THE GUNNISON COUNTY ELECTRIC ASSOCIATION, INC.
First Adopted September 22, 1938
As Amended March 4, 2019

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ARTICLE I – MEMBERS.

1. **Qualifications.** Any person or organization shall become a member (“Member”) of The Gunnison County Electric Association, Inc. (the “Association”) by:
 - A. Using, receiving or purchasing from the Association any electric power, electric utility service or related service or product and
 - B. Executing an Application for Membership and Agreement for Electric Service with the Association agreeing to comply with and be bound by the Association’s Articles of Incorporation and any amendments thereto, these Bylaws and any amendments thereto, such rules, regulations and policies as may from time to time be adopted by the Association’s Board of Directors (the “Board”) and all applicable law and all legally binding agreements regarding the Association, its operations, assets, members and services.

2. **Obligation.** Upon acceptance of a person or organization’s membership in the Association, the new Member shall pay rates or amounts determined by the Board in a manner specified by the Association for all services used, received, or purchased by the Member; all services used or received at any dwelling or structure owned, controlled or directly occupied by the Member; and any other amounts required by these Bylaws or the Board.

3. **Joint Membership.** Two or more persons may apply for joint membership and, subject to each persons’ compliance with the requirements of this Article, may be accepted for joint membership. The following rules shall apply to all joint memberships.
 - A. One person, who is part of a joint membership, shall be designated by the joint membership as a voting delegate for any Association Member Meeting, and the delegate shall represent that joint membership.
 - B. Notice to a joint membership’s delegate shall constitute notice to all persons in that joint membership.
 - C. A joint membership’s delegate may be elected or appointed as an Officer or Director, provided the delegate meets the qualifications for such office.
 - D. If a joint membership is terminated for any reason, then its delegate’s position as Officer or Director shall terminate and the Board shall appoint a replacement as provided for in these Bylaws.
 - E. If joint membership delegate’s position as Officer or Director is terminated for any reason, the Board shall appoint a replacement as provided for in these Bylaws.
 - F. Upon the death of any joint membership’s delegate, such joint membership shall be held solely by the surviving person(s) of the joint membership with the same effect as though such membership had been originally issued solely to such person(s). The estate of the deceased delegate shall not be released from duties, obligations, and liabilities imposed by these Bylaws.
 - G. Any person in a joint membership shall not also hold an individual membership in the Association.

4. **Organization Membership.** An organization may apply for membership and, subject to its compliance with the requirements of this Article, may be accepted for organization membership. The following rules shall apply to all organization memberships.
 - A. The organization shall designate one person associated with it as a voting delegate at any Association Member Meeting, and the delegate shall represent that organization membership.
 - B. Notice to an organization’s address shall constitute notice to that organization membership.
 - C. An organization’s delegate may be elected or appointed as an Officer or Director, provided that the delegate meets the qualifications for such office.
 - D. The organization’s delegate shall be identified on the election ballot as the designated representative of the organization.

- E. If an organization membership is suspended or terminated for any reason, then its delegate's position as Officer or Director shall terminate and the Board shall appoint a replacement as provided for in these Bylaws.
 - F. If organization delegate's position as Officer or Director is terminated for any reason, the Board shall appoint a replacement as provided for in these Bylaws.
 - G. An organization shall not hold more than one (1) membership in the Association.
- 5. Membership List.** The Association shall maintain a record of current Members.
- 6. Member Liability.** A Member is generally not liable to third parties for the Association's acts, debts, liabilities, or obligations, and the Member's private property is exempt from execution for the debts of the Association. A Member may become liable to the Association as:
- A. Provided in these Bylaws;
 - B. Provided by law; or
 - C. Otherwise agreed to by the Association and the Member.
- 7. Transfer of Membership.** Membership shall be transferable to any person, joint membership, or organization, who or which is eligible for the membership in the Association and becomes a Member under the conditions set forth in these Bylaws.
- 8. Termination of Membership.**
- A. Membership in the Association shall terminate under the following circumstances:
 - 1. The Member's death or cessation of existence or business;
 - 2. A Member voluntarily terminating membership upon the Member's completion and fulfillment, to the Board's satisfaction, of any and all duties, obligations and liabilities as imposed by these Bylaws or the Board;
 - 3. A Member fails to timely pay any amounts due the Association;
 - 4. A Member fails to comply with the Bylaws;
 - 5. A Member ceases to use, receive, or purchase any service provided by the Association for six (6) consecutive months;
 - 6. A Member breaches or fails to comply with the terms of the Application for Membership and Agreement for Electric Service or other agreement between the Member and the Association;
 - 7. As otherwise provided in these Bylaws; or
 - 8. As otherwise provided by law.
 - B. Unless a membership is terminated by death, cessation of existence or business, or voluntary termination, written notice of termination ("Termination Notice") shall be provided to the Member, at least ten (10) days prior to the termination of membership.
 - 1. The Termination Notice shall state the effective date of the termination of membership and the reason(s) for the termination.
 - 2. The Termination Notice shall be mailed by certified mail to the Member's current address as shown in the Association's records or emailed to the Member's email address on record with the Association.
 - 3. The Termination Notice shall state, and the Member shall have, at least five (5) days after the date of the Termination Notice to comment, either orally or in writing, upon the reason(s) for the termination.
 - C. Upon termination of a membership, the Association's duties and obligations to the person(s)/entity(ies) whose membership has been terminated and the duties, obligations, and liabilities imposed by these Bylaw shall end, unless otherwise provided for in these Bylaws.

- D. Person(s)/entity(ies) whose membership has been terminated shall not be released from any debts, liabilities, or obligations owed to the Association.
 - E. Person(s)/entity(ies) whose membership has been terminated shall be entitled to receive any amounts authorized by the Board and generally returned to person(s)/entity(ies) whose membership has been terminated.
 - F. Person(s)/entity(ies) whose membership has been terminated shall not sign any member-initiated petition, nominate or vote for Directors, qualify as a candidate for Director, count toward a quorum, or vote on any matter submitted to Members.
 - G. Unless otherwise determined by the Board in good faith, a terminated membership shall be rescinded and membership reinstated upon the person(s)/entity(ies) whose membership has been terminated rectifying, within twenty (20) days, to the Association's reasonable satisfaction, the underlying reason(s) for the termination of membership. The Board may also rescind a membership termination and reinstate membership for good cause as determined by the Board.
- 9. Provision of Service and Limitation of Liability.** The Association shall endeavor to provide reasonably continuous and adequate service. The Association does not ensure, guarantee or warrant that it will provide adequate, continuous, or non-fluctuating electric power or energy or other Association service. The Association shall not be liable for any damages, costs, or expenses, including attorney's fees or legal expenses, caused by the Association providing inadequate, noncontinuous, or fluctuating electric power or energy or other Association service unless the damages, costs, or expenses are caused by the Association's gross negligence or willful and wanton misconduct.
- 10. Member Responsibilities.** In addition to responsibilities set forth in these Bylaws, the Application for Membership and Agreement for Electric Service and the Association's rules, regulations and policies, each Member shall not tamper with, alter, interfere with, damage, impair or destroy Association property or equipment or engage in conduct that adversely affects the Association's ability to safely, reliably, and efficiently operate the Association or provide power to its Members. Each Member shall also protect all Association equipment and follow any protective procedure(s) required by the Association regarding Association equipment.
- 11. Maintaining Member Property.** Each Member shall maintain any real or personal property owned or controlled by the Member in a way that does not interfere with the Association's operation of its equipment and system.
- 12. Member Grant of Easements and Access.** Each Member shall grant to the Association easements over the Member's property to construct, operate and maintain electric facilities to serve the Member and shall grant the Association safe access to and over the Member's property for Association operations.

ARTICLE II – MEETING OF MEMBERS.

1. Annual Member Meeting.

- A. The Annual Member Meeting shall be held in June of each year. The Board shall determine the date, time and location of the Annual Member Meeting.
- B. The purpose of the Annual Member Meeting shall be designated in the notice of the meeting, and may include:
 - 1. Electing Directors;
 - 2. Addressing reports covering the previous fiscal year; and
 - 3. Transacting other business set forth as an action item(s) in the meeting agenda.
- C. The failure to hold the Annual Member Meeting shall not affect any action taken by the Association or cause forfeiture by or dissolution of the Association.

2. Special Member Meetings.

- A. Special Member Meetings shall be called
 - 1. By a written request detailing the purpose of the meeting signed by at least three (3) Directors and presented to the Association or

2. By a written request detailing the purpose of the meeting signed and dated within sixty (60) days following the first signature, by at least ten percent (10%) of the Association's Members and presented to the Association.

B. Within a reasonable time after receipt of a valid written request for a Special Member Meeting, the Board shall schedule the time, date and location of the Special Member Meeting.

The failure to hold a Special Member Meeting shall not affect any action taken by the Association and shall not cause forfeiture by or dissolution of the Association.

3. **Public Meetings.** The Annual Member Meeting and all Special Member Meetings shall be open meetings and open to Members, consumers and news media at all times.

4. **Notice of Annual and Special Member Meetings.**

A. The date, time, location and purpose of the Annual Member Meeting shall be fixed and posted on the Association's website, and otherwise publicized no less than six (6) months before the election.

B. The Association shall give notice to the Members of the Special Member Meeting within thirty (30) days of receiving a valid written request for a Special Member Meeting.

C. Notice of the Annual Member Meetings and Special Member Meetings indicating date, time, location and purpose of the meeting shall be posted in every service office maintained by the Association and on the Association's website, published in the newspaper(s) of general circulation in the area served by the Association and emailed to the Members' email addresses recorded in the Associations records not less than ten (10) days, nor more than thirty (30) days, prior to the meeting. Notice of the Annual Member Meeting shall also be mailed to Members at the Members' addresses recorded in the Association's records or emailed to the Members' email addresses recorded in the Associations records not less than ten (10) days, nor more than thirty (30) days, prior to such meeting.

D. The inadvertent and unintended failure of any Member to receive notice of an Annual or Special Member Meeting shall not invalidate any action which may be taken by the Members at any such meeting.

5. **Notice of Adjourned Meetings.** Unless otherwise provided in these Bylaws, the Association shall notify Members of any Annual or Special Member Meeting adjourned to another date, time or location in the same manner and same time as for Special Member Meeting notices, unless:

A. The meeting is adjourned to another date occurring within sixty (60) days following the original date of the meeting; and

B. The new date, time, or location, is announced at the meeting prior to the adjournment.

6. **Quorum.** A quorum for the election of Directors, amending the Articles of Incorporation, and conducting normal business at all Member Meetings, shall be five percent (5%) of the Members, or fifty (50) Members present at the meeting in person, whichever is less, unless Colorado law shall provide otherwise.

A. If less than a quorum is present at any Member Meeting, then a majority of the members present attending the meeting in person may adjourn the meeting, to a date no more than ninety (90) days following the original meeting.

B. If less than a quorum is present at any Member Meeting, the only business item that can be voted on is the election of the Directors. The election shall be decided by a vote of the plurality of those Members who vote, either by mail or in person.

7. **Member Voting.**

A. Each Member shall be entitled to vote on all matters requiring a vote of the membership at an Annual or Special Membership Meeting.

B. Voting at a Member Meeting shall be in person or both in person and by mail ballots, but if the vote is both in person and by mail ballots, a Member, who has voted by mail, is not entitled to vote in person at a Member Meeting.

C. In person and mail voting must be in writing on ballots provided by the Association.

D. Members, who are Members of the Association forty-five (45) days prior to the Annual or Special Membership Meeting, shall receive mail ballots if the vote is by both in person and by mail ballots.

- E. The procedure for mail voting shall be as follows:
1. The mail ballot shall be voted by the Member;
 2. The Association shall provide a secrecy sleeve and the mail ballot shall be placed in the secrecy sleeve provided for the purpose so as to conceal the marking on the ballot, but a mail ballot received in a signed return envelope without a secrecy sleeve is valid and shall be counted;
 3. The voted mail ballot and secrecy sleeve shall be placed in the return envelope;
 4. The return envelope (with the voted mail ballot and secrecy sleeve enclosed) shall be signed by the voting Member;
 5. The return envelope (with the voted mail ballot and secrecy sleeve enclosed) shall be mailed to an independent Certified Public Accountant or other independent third party designed by the Association's Chief Executive Officer to oversee storage and counting of ballots;
 6. The independent Certified Public Accountant or other independent third party shall count the ballots; and
 7. The independent Certified Public Accountant or other independent third party shall deliver the ballots to the Association under seal promptly after the count.

F. The independent Certified Public Accountant or other independent third party shall count all in person ballots at the time of the Annual or Special Membership Meeting.

G. The independent Certified Public Accountant or other independent third party's counting of ballots (in person and mail ballots) shall be final.

8. Member Voting with Quorum Present. At all meetings at which a quorum is present, all matters shall be decided by a vote of a majority of the Members voting, whether in person or by mail ballot, or as otherwise provided by law, the Articles of Incorporation of the Association, or these Bylaws.

9. No Voting by Proxy or Cumulative Voting. Member voting by proxy or cumulative voting is prohibited.

10. Order of Business. The order of business at the Annual Member Meeting and, so far as possible at any Special Member Meeting(s), shall be determined by the Board. The order of business shall generally be as follows:

- A. Reporting on the number of Members present to determine the existence, or non-existence, of a quorum;
- B. Reading of the notice of the meeting and proof of the posting, publication or mailing thereof;
- C. Reading of unapproved minutes of previous meetings of the Members and the taking of necessary action;
- D. Presentation and consideration of reports of Officers, Directors, and committees;
- E. Consideration, voting, or acting upon a matter for which the Board and Members are authorized and were properly notified;
- F. Election of Directors;
- G. Any unfinished business;
- H. Any new business; and
- I. Adjournment.

11. Conducting Member Meetings. The President of the Board ("President") may exercise any power reasonably necessary for efficiently and effectively conducting any Member Meeting, including the removal of any person from any Member Meeting for unruly or disruptive behavior.

ARTICLE III – BOARD OF DIRECTORS.

1. General Powers. The business and affairs of the Association shall be managed by the Board, which shall be comprised of seven (7) Directors. The Board shall exercise all of the powers of the Association except those powers conferred upon the Members by

law, the Articles of Incorporation of the Association, or these Bylaws. The Board's powers include, but are not limited to, making and adopting such policies, rules and regulations, consistent with the law, the Articles of Incorporation of the Association or these Bylaws, as the Board may deem advisable for the management, administration and regulation of the business and affairs of the Association.

- 2. Director Districts.** The Association shall equitably divide the general area in which Members are located or reside into seven (7) districts ("Director Districts"). If necessary, the Board shall revise the Director Districts to ensure that Members are equitably represented. One (1) natural person residing within each Director District shall be elected by the entire membership. The Director Districts are described as follows:
- A. District No. 1. The northwest corner of the certificated service area of the Association, including the Town of Crested Butte and the Slate River area along Colorado State Highway 135 to approximately one-half (1/2) mile north of Jack's Cabin cut-off.
 - B. District No. 2. The northeast corner of the certificated service area of the Association, including Mt. Crested Butte and Gothic to the Continental Divide.
 - C. District No. 3. The Ohio Creek and Taylor River drainage areas beginning approximately one-half (1/2) mile north of the Jack's Cabin cut-off to the City of Gunnison's service area on the south and extending to the western and eastern boundaries of the certificated service area of the Association.
 - D. District No. 4. The Gunnison River area west of the City of Gunnison, Curecanti recreation area, to the West Elk Wilderness area on the north and the Continental Divide on the south within the certificated service area of the Association.
 - E. District No. 5. The Lake Fork of the Gunnison drainage from Gateview to the Continental Divide, including Lake City and Lake San Cristobal within the certificated service area of the Association.
 - F. District No. 6. The Tomichi Creek area east of the City of Gunnison to the Continental Divide within the certificated service area of the Association.
 - G. District No. 7. This District shall be considered an "at-large" district encompassing the entire certificated area of the Association. A Member residing in any of the Association's Director Districts may seek nomination for this position, subject to the qualification, nomination and election standards and procedures applicable to all other Director Districts.

A more detailed description and map of the Director District boundaries shall be available at the offices of the Association for public inspection during normal business hours.

- 3. Qualifications of a Director.** Any Director or Director candidate shall possess the following qualifications:
- A. Is a natural person, who is eighteen years of age or older;
 - B. Has the capacity to enter into legally binding contracts;
 - C. Is a Member or the voting delegate of an organization Member under Article I, Section 5;
 - D. Is a bona fide resident in an area served by the Association and the Director District represented;
 - E. Does use, receive or purchase an Association service at his/her primary residence or is a voting delegate of an organization Member under Article I, Section 5.
 - F. Is not materially, directly, regularly or substantially, in any way, employed by, affiliated with, or financially interested in a competing enterprise; and
 - G. Has not been convicted of or pled guilty to a felony while a Director and during the five (5) years immediately prior to becoming a Director;
 - H. Has not been employed by the Association within one (1) year of becoming a Director; and
 - I. Has not been an owner or employee of a consultant or contractor retained and paid \$10,000 or more by the Association within one (1) year of becoming a Director.

Nothing contained in this section shall, or shall be construed to, affect the validity of any action taken at any meeting of the Board.

4. Term of a Director. All Directors shall serve for a term of three (3) years or until a successor Director is elected and qualified, subject to the provisions of the Bylaws with respect to the removal of Directors. The Association shall stagger Director terms by dividing the total number of Directors into three (3) groups of approximately even number and holding elections for one group each year.

5. Nomination of Directors.

A. A nomination to fill a vacancy on the Board shall be made by a written nomination petition signed by at least fifteen (15) Members and filed with the Board no later than forty-five (45) days prior to the date of the election.

B. Each nomination petition shall contain

1. The name of the nominee;
2. The term for which nominated; and
3. The Director District from which nominated.

C. The nominee's name shall appear on the ballot as a candidate if the Secretary determines that the nominee's nomination petition conforms with the requirements of this section.

6. Membership Lists. Candidates shall be entitled to receive membership lists, in a usable format, on the same basis and at the same time as such lists are made available to incumbent Directors running for reelection and in accordance with the Association's policy regarding Director Election and Campaigning rules. Candidates shall use such lists only for purposes of the election and shall return or destroy them immediately after the election.

7. Board Election of Directors. In the event that no more than one (1) qualified candidate for each available Director position submits a valid nomination petition, the Board may, by resolution, cancel the election and elect the non-contested candidate as a Director effective the date of the forthcoming Annual Member Meeting.

8. Campaigning.

A. Neither the Association nor the Board shall endorse or oppose any candidate (either a new candidate or an incumbent Director running for reelection) for a position on the Board.

During the two (2) months immediately preceding the election, Directors shall not send individual newsletters using the Association's resources.

9. Voting on Election of Directors.

A. Member voting for election of Directors shall be governed by the standards and procedures set forth in Article II, Section 7 of these Bylaws.

B. All candidates shall be given the opportunity to be present to observe the counting of the in person ballots voted at the Annual Member Meeting.

C. Upon the request of any candidate, the mail ballots delivered to the Association under seal shall be made available to the candidate for inspection.

D. A plurality of votes is necessary to elect a Director. In case of a tie vote, the winner will be determined by drawing straws.

E. The order of names on the ballot shall be determined randomly in a manner that does not automatically assign the top line to the incumbent.

10. Director Standard of Conduct and Obligation.

- A. A Director shall discharge his/her duties in good faith, with the care an ordinarily reasonable and prudent person in a like position would exercise under similar circumstances and in a manner the Director reasonably believes to be in the best interests of the Association.
- B. A Director shall attend at least two-thirds (2/3) of all Board meetings during any twelve (12) month period, unless excused for good cause by the Board.

11. Director Contact Information. All Directors shall make available to Members some means for direct contact, whether by telephone, electronic mail, or regular mail, and such contact information shall be available on the Association web site.

12. Removal of Director.

- A. A Director elected by the voting Members or by the Board may be removed from his/her position as Director only for good cause. Good cause shall include, without limitation, any willful and wanton, fraudulent, criminal or other act or omission by the Director that significantly and adversely affects the Association or any breach of fiduciary duty by the Director. A Director elected by the Board to fill the vacancy of a Director elected by the voting Members may be removed from his/her position as Director without cause.
- B. A Director elected by the voting Members and a Director elected by the Board to fill the vacancy of a Director elected by the voting Members may only be removed by vote of the Members. A Director elected by the Board may only be removed by a vote of the majority of Directors then in office.
- C. Removal of a Director shall be initiated by:
 - 1. A Director submitting a removal petition to the Secretary of the Board (Secretary) or
 - 2. At least ten percent (10%) of the Members submitting a removal petition to the Secretary.
- D. The removal petition shall be in writing, set forth the reasons and evidence supporting removal of the Director and be signed by the petitioning Director or by at least ten percent (10%) of the Members.
- E. Upon receipt of a valid removal petition seeking removal of a Director elected by the Board to fill the vacancy of a Director elected by the voting Members, the removal petition shall be presented for a vote by the Members at a Special Member Meeting scheduled within sixty (60) days of receipt of the removal petition.
- F. Upon receipt of a valid removal petition seeking removal of a Director elected by the Members or a Director elected by the Board, the Secretary shall transmit the removal petition to the Board for determination of whether good cause exists and shall promptly inform the Director, who is subject to the removal petition, of the removal petition.
- G. The Board may, in its discretion, conduct an investigation into the grounds underlying the removal petition, and the Board may consider information or evidence obtained in the investigation in determining whether good cause exists.
- H. After the Board concludes its investigation, if any, the Directors, who are not the subject of the removal petition, shall determine if good cause for removal exists by majority vote. If there are fewer than three (3) Directors, who are not the subject of the removal petition, then the Association shall retain an attorney, who is duly licensed to practice in Colorado for at least five (5) years and who has not represented the Association, to determine whether good cause exists based on the removal petition and all information and evidence obtained by the Board in its investigation, if any.
- I. If it is determined that there is good cause for the removal of a Director elected by the voting Members, the petition for removal shall be presented for vote by the Members at a Special Member Meeting scheduled within sixty (60) days of the good cause finding. If it is determined that there is good cause for removal of a Director elected by the Board, the petition for removal shall be presented for vote by Board at the next monthly Board Meeting. If it is determined that there is not good cause for removal of a Director, the removal petition shall be denied and dismissed by the Board.
- J. Notice of a Special Member Meeting to vote on the removal of a Director shall be posted in every service office maintained by the Association, published in the newspaper(s) of general circulation in the area served by the Association and mailed or emailed to Members at the Members' addresses or email addresses recorded in the Association's records not less than ten (10) days nor more than thirty (30) days prior to such meeting. The notice shall indicate the date, time and location of the meeting and shall state the purpose of the meeting is removal of a Director.

- K. The removal petition, any information or evidence alleged to support the removal of the Director, and the good cause finding shall be presented to the Members by the President or Chief Executive Officer at the Special Member Meeting prior to the vote on the removal petition by the Members. The Director, who is the subject of the removal petition, shall be allowed to respond to the removal petition and to any information or evidence alleged to support the removal of the Director at the Special Member Meeting prior to the vote on the removal petition by the Members. Thereafter, the Members shall vote whether to remove or retain the Director.
- L. If the Members or Board, as applicable, vote to remove the Director, then the Director is removed effective the time and date of the vote. Any vacancy created by such removal may be filled by the process set forth in these Bylaws.

13. Resignation of Director. A Director may resign at any time by delivering written notice to the Board, President, or Secretary. Unless the resignation specifies a later effective date, a Director's resignation is effective upon the Board, President, or Secretary receiving the written notice of resignation.

14. Director Vacancy. A vacancy on the Board shall be filled using the following process:

- A. Within fifteen (15) days following the creation of the vacancy, the Association shall post in every service office maintained by the Association and on the Association's website and shall publish in all newspapers of general circulation within its certificated area:
 - 1. Notice of the vacancy;
 - 2. Description of the Director District represented by the vacant Director position; and
 - 3. Request for Members residing within that Director District to submit, in writing, a request for consideration to be appointed to the vacant Director position.
- B. If, after thirty (30) days from the date of the publication, no qualified Member residing in the vacant Director District submits a request for consideration, then the Board may solicit or consider requests for consideration from qualified Members residing in any of the other Director Districts.
- C. The vacancy shall be filled by the qualified Member, who receives a majority vote of the remaining Directors.
- D. A Director elected by the Board to fill a vacant Director position, shall serve for the remaining portion of the term.

15. Compensation. The Association may provide reasonable compensation for the time actually spent by Directors in its service. Such service may include, but is not limited to: (i) Board meetings; (ii) functions involving the Association; or (iii) functions reasonably enhancing the Director's ability to serve as a Director. The Board shall determine or approve the manner, method and amount of any Director compensation.

16. Accounting System and Reports. The Board shall establish and maintain a complete accounting system, which complies with applicable laws, rules and regulations. The Board shall, within a reasonable time after the close of each fiscal year, have a full and complete audit of the accounts, books, and financial condition of the Association performed by a qualified independent auditor. A report of the audit shall be submitted to the Members at the following Annual Member Meeting.

17. Director Liability. A current or former Director shall not be personally liable to the Association or its Members for monetary damages for breach of fiduciary duty as a Director except for:

- A. Any breach of the Director's duty of loyalty to the Association or its Members;
- B. Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or
- C. Any transaction from which the Director derived an improper personal benefit.

18. Indemnification of Director. The Association shall indemnify a person made a party to a proceeding because the person is or was a Director against liability, including judgment, settlement, penalty or fine, and associated legal costs and fees, and reasonable expenses, in any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative if:

- A. The person's conduct was in good faith; and

B. The person reasonably believed:

1. in the case of conduct in an official capacity with the Association, that such conduct was in the Association's best interests; and
2. in all other cases, that such conduct was at least not opposed to the Association's best interests; and

C. In the case of any criminal proceeding, the person had no reasonable cause to believe his or her conduct was unlawful.

Indemnification in connection with a proceeding by or in the right of the Association is limited to reasonable expenses incurred in connection with the proceeding.

Notwithstanding the above, there shall be no indemnification for the following:

1. In connection with a proceeding by or in the right of the Association in which the person was adjudged liable to the Association or
2. In connection with a proceeding charging that the person derived an improper personal benefit, whether or not involving action in an official capacity, in which proceeding the person was adjudged liable on the basis that the person derived an improper benefit.

19. Director Insurance. The Association shall purchase and maintain insurance on behalf of current or former Directors insuring against liability arising out of the current or former Director's acts, omissions or status as a Director.

20. Committees/Representatives. The Board may create committees of the Board ("Board Committees") and appoint Directors to serve on the Board Committees pursuant to the procedures set forth in the Rules, Regulations and Policies of the Association.

ARTICLE IV – MEETING OF DIRECTORS.

1. **Annual Board Reorganizational Meeting.** An Annual Board Reorganizational Meeting shall be held concurrent with the next monthly Board Meeting following the Annual Member Meeting.
2. **Monthly Board Meeting.** The Board shall regularly meet monthly at such time and place as the Board may provide for by resolution. Notice of the date, time and place of a monthly Board Meeting and a copy of the agenda for such meeting shall be posted in every service office maintained by the Association and on the Association's website at least ten (10) days before the meeting. The agenda shall specifically designate the issues or questions to be discussed or the actions to be taken at the meeting. Copies of the agenda shall be available at each service office for Members and non-member consumers (Consumers). For good cause, the President may change the date, time, or location of any monthly Board Meeting subject to the notice requirements as set forth above. All Directors must be personally notified of a President's change of a monthly Board Meeting date, time, or location, at least ten (10) days before the changed monthly Board Meeting.
3. **Special Board Meeting.** The Board, the President, or at least three (3) Directors may call a Special Board Meeting. Notice of the date, time and place of a Special Board Meeting shall be posted in every service office maintained by the Association and on the Association's website as soon as the meeting is scheduled. The purpose(s) of a Special Board Meeting does not have to be stated in the notice.
4. **Meeting Cancellations.** If any Board Meeting is postponed or cancelled, notice of the postponement or cancellation shall immediately be posted on the Association's website.
5. **Board Action by Written Consent.** Actions of the Board may be taken without a Board Meeting if the action is agreed to by all Directors and is evidenced by one or more written consent describing the action taken and signed by all Directors. Such written consent shall be filed in the Association's records.
6. **Quorum and Voting.** A majority of the number of Directors in office immediately before a Board meeting begins shall constitute a quorum. If less than a majority of the Directors is present at the meeting, a majority of the Directors that are present may adjourn the meeting from time to time without further notice. Any absent Director shall be notified by the Association of the time and place of the adjourned meeting. If a quorum is present at the time of a vote and unless the vote of a greater number of Directors is required, then the affirmative vote of a majority of the Directors present and voting is the act of the Board.
7. **Meeting Control.** The following may preside at the meeting, in descending priority:

- A. President;
 - B. Vice-President;
 - C. Secretary;
 - D. Treasurer; and
 - E. Director.
8. **Presence.** Directors shall be deemed present for purposes of any Board meeting if a Director attends the meeting in person or through any means of communication by which all Directors participating in the meeting may hear each other during the meeting.
 9. **Public Meetings.** All Board Meetings are open meetings and open to the Members, Consumers, and news media at all times, and Members shall be given an opportunity to address the Board in accordance with the policies of the Association, but the Board may place reasonable, view-point neutral restrictions on the amount and duration of public comment.
 10. **Executive Session.** The Board, by a two-thirds (2/3) affirmative vote of the Directors present, may go into executive session for consideration of documents or testimony given in confidence, but the Board shall not make final policy decisions or adopt or approve any resolution, rule, regulation, formal action, or contract, or take any action calling for the payment of money at any session which is closed to the Members, Consumers, and news media.
 - A. Before the Board convenes in executive session, the Board shall announce the general topic of the executive session.
 - B. Any action taken contrary to the provisions of this section 10 shall be null and void and without force or effect.
 11. **Meeting Minutes.** Written minutes shall be made of all Board Meetings, be posted on the Association's website after the minutes have been approved and remain posted until at least six (6) months after the date of the meeting. A Director may request to have his or her vote on any issue noted in the minutes.

ARTICLE V – OFFICERS.

1. **Required Officers.** The Association shall have a President, Vice-President, Secretary, and Treasurer (“Required Officers”). Only Directors shall be elected and serve as Required Officers. The positions of Secretary and Treasurer may be held by the same individual; however, such individual shall not execute, acknowledge, or verify any document in more than one capacity.
2. **Other Officers.** The Board may elect or appoint Directors, Association employees, or other individuals as Other Officers. Election or appointment must be by the affirmative vote of a majority of the current Directors. All Other Officers shall perform all other duties, have all other responsibilities, and exercise all other authority, that are incident to the office or that may be prescribed by the Board from time to time.
3. **Election of Officers.** The Board shall elect the Required Officers at the Annual Board Reorganizational Meeting, by majority vote of Directors in office and by secret ballot without prior nomination. If the election is not held at such meeting, the election shall be held as soon as possible thereafter.
4. **Term of Office.** Each Required Officer shall hold office until the next Annual Board Reorganizational Meeting or until a successor has been duly elected and qualified, subject to the provisions of these Bylaws with respect to the removal of Officers. A vacancy in any office shall be filled by the Board for the unexpired portion of the term.
5. **Contracts of Officers.** Except as otherwise provided in these Bylaws, the Board may authorize any Officer to enter into a contract, or execute and deliver any instrument, in the name and on the behalf of the Association.
6. **Officer Standard of Conduct.** An Officer shall discharge his or her duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the Officer reasonably believes to be in the best interests of the Association.
7. **Removal of Officers.** An Officer may be removed from his/her position as an Officer if removal is in the best interest of the Association. Removal shall require a majority vote of the Board.

8. **President.** Unless otherwise determined by the Board, required by law, the Articles, or these Bylaws, the President shall:
 - A. Act as the principal officer of the Board;
 - B. Preside or designate another individual pro-tem to preside at all Board and Member Meetings;
 - C. Sign, with the Secretary, any document properly authorized or approved by the Board or Members; and
 - D. Perform all other duties, have all other responsibilities, and exercise all other authority, that are incident to the office or that may be prescribed by the Board from time to time, and not inconsistent with the Bylaws.
9. **Vice-President.** Unless otherwise determined by the Board, required by law, the Articles, or these Bylaws, the Vice-President shall be responsible for:
 - A. Performing the duties and having the powers of the President upon the President's removal, absence, inability, or refusal to act; and
 - B. Performing all other duties, having all other responsibilities, and exercise all other authority, that are incident to the office or that may be prescribed by the Board from time to time, and not inconsistent with the Bylaws.
10. **Secretary.** Unless otherwise determined by the Board, required by law, the Articles, or these Bylaws, the Secretary shall be responsible for:
 - A. Preparing minutes of Board and Member Meetings;
 - B. Authenticating the Association's records;
 - C. Ensuring that all notices are duly given in accordance with these Bylaws or as required by law; and
 - D. Performing all other duties, having all other responsibilities, and exercising all other authority, that are incident to the office or that may be prescribed by the Board from time to time, and not inconsistent with the Bylaws.
11. **Treasurer.** Unless otherwise determined by the Board, required by law, the Articles, or these Bylaws, the Treasurer shall be responsible for:
 - A. Having charge and custody of all funds and securities of the Association;
 - B. Receiving, depositing, investing, and paying all Association monies from or to any sources; and
 - C. Performing all other duties, having all other responsibilities, and exercising all other authority, that are incident to the office or that may be prescribed by the Board from time to time, and not inconsistent with the Bylaws.
12. **Bond of Officers.** Any Officer charged with the responsibility for the custody of any of the Association's funds or property may be bonded, at the Association's expense, in such sum and with such surety as the Board shall determine.
13. **Resignation of Officer.** An Officer may resign at any time by delivering written notice to the Board, President, or Secretary. Unless the resignation specifies a later effective date, an Officer's resignation is effective upon receipt by the Board, President, or Secretary.
14. **Officer Vacancy.** The filling of vacancies caused by the removal or resignation of an Officer, shall occur according to these Bylaws. The Board shall fill any vacancy for an unexpired portion of the term.
15. **Compensation.** The reasonable compensation of Officers shall be fixed by the Board, subject to the provisions of these Bylaws.
16. **Reports.** The Officers shall submit reports covering the business and condition of the Association for the previous year at the Annual Member Meeting.
17. **Officer Liability.** If an Officer complies with these Bylaws and governing Colorado statutory law, then the Officer is not liable to the Association, any Member, other individual, or entity, for action taken, or not taken, as an Officer.

18. Indemnification of an Officer. The Association shall indemnify a person made a party to a proceeding because the person is or was an Officer against liability including judgment, settlement, penalty or fine, and associated legal costs and fees, and reasonable expenses, in any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative if:

- A. The person's conduct was in good faith; and
- B. The person reasonably believed:
 - 1. in the case of conduct in an official capacity with the Association, that such conduct was in the Association's best interests; and
 - 2. in all other cases, that such conduct was at least not opposed to the Association's best interests; and
- C. In the case of any criminal proceeding, the person had no reasonable cause to believe his or her conduct was unlawful.

Notwithstanding the above, there shall be no indemnification for the following:

- A. In connection with a proceeding by or in the right of the Association in which the person was adjudged liable to the Association or
- B. In connection with a proceeding charging that the person derived an improper personal benefit, whether or not involving action in an official capacity, in which proceeding the person was adjudged liable on the basis that the person derived a personal benefit.

19. Officer Insurance. The Association shall purchase and maintain insurance on behalf of an individual who was, or is, an Officer, against any liability and reasonable expenses, including attorney's fees asserted against or incurred by the Officer in any such capacity, or arising out of the Officer's status.

ARTICLE VI – NON-PROFIT OPERATION.

- 1. **Non-Profit Operation.** The Association shall at all times operate on a non-profit basis for the mutual benefit of the Members. No interest or dividends shall be paid or payable by the Association on any capital furnished by Members or Consumers.
- 2. **Capital Credit.** The Association's operations shall be conducted so that all Members and Consumers, will furnish capital for the Association. All funds and amounts received by the Association from Members and Consumers for the furnishing of electric energy that are in excess of operating costs and expenses, shall be furnished by the Members and Consumers as capital. Operating costs and expenses shall be defined as cost of power; costs of operation (including operations and maintenance expense, account and service expense, sales expense and administration and general expense); depreciation and amortization expense; and taxes, interest and other deductions. The Association shall allocate to a capital account for each Member and Consumer all such amounts. All such amounts credited to the capital account of any Member or Consumer shall have the same status as though they had been paid to the Member or Consumer in cash pursuant to a legal obligation to do so and the Member or Consumer had then furnished the Association corresponding amounts for capital.

All other amounts received by the Association shall, insofar as permitted by law, be (a) used to offset any losses incurred during the current or any prior fiscal year; (b) allocated to Members and Consumers on a patronage basis; or (c) used by the Association as permanent, non-allocated capital.

If the costs and expenses exceed the amounts received and receivable from the furnishing of electric energy, hereinafter referred to as "loss", then the Board shall have the authority to prescribe a fair and equitable manner in which such loss shall be handled, including but not limited to, the carrying forward of the loss to offset future allocations of patronage capital to the Members and Consumers resulting from the furnishing of electric energy. Losses subject to this paragraph shall be determined in the same manner and method that patronage capital is calculated and allocated to Members and Consumers as provided above with respect to the pre-existing obligation to allocate patronage capital.

Notwithstanding anything in Article VI to the contrary, the amount to be credited to the capital account of Members or Consumers on account of their patronage shall be no less than the greater of alternative minimum taxable income or regular taxable income resulting from their patronage as determined under Federal income tax law.

- A. **Books and Records.** At the end of each fiscal year, the amount of capital, if any, shall be allocated in an appropriate record to the capital account of each Member or Consumer. The Association shall within a reasonable amount of time after the close

of each fiscal year, notify each Member or Consumer via individual written notice of the amount of capital credits allocated to the Member or Consumer's capital account.

B. Distribution. All capital shall be:

1. Used to offset any losses incurred during the current or any prior fiscal year;
2. Held in reserve for future capital expenditures;
3. Retired by payment to Members and Consumers, if the Board determines that the financial condition of the Association will not be impaired. The Board shall determine the method, basis, priority and order of retirement, if any, for all amounts furnished as capital. The Board may prioritize the payment of patronage credits among deceased natural persons, legally dissolved corporations, and bankrupt corporate Members and Consumers.

3. Reasonable Reserves. Based upon the Association's reasonable needs, the Association may accumulate and retain reasonable reserves. However, the Association shall allocate reasonable reserves as capital credits.

4. Lien and Right of Offset on Retired Capital Credits. If a Member terminates membership with the Association or a Consumer terminates service with the Association and the Member or Consumer owes the Association any unpaid charges or fees, the Association shall have a lien and the right of offset upon the capital credits retired to the Member or Consumer to the extent of the obligation.

5. Distribution on Liquidation or Dissolution. Upon dissolution or liquidation of the Association, assets shall be distributed, pursuant to law, as follows:

- A. All outstanding indebtedness of the Association shall be paid;
- B. All allocated capital credits shall be retired without priority, to all current and former Members and Consumers on a pro rata basis;
- C. All gains from the sale of assets shall be paid to current and former Members and Consumers in proportion to their allocated capital credits; and
- D. All remaining assets to the current and former Members and Consumers in proportion to their allocated capital credits.

6. Capital Credits to a Deceased Natural Person's Estate. The legal representative of a deceased Member or Consumer's estate, and the Board, shall have the power to reach an agreement regarding the early retirement of the deceased Member or Consumer's capital credit, under such terms and conditions if:

- A. The legal representative makes such a request in writing and
- B. The financial condition of the Association will not be impaired.

The amount of such early retirement may be discounted subject to the Rules and Regulations of the Association.

7. Unclaimed Deposits. If any Member or Consumer fails to claim any deposits, retired capital credits, membership refunds, contributed capital, book equities, or any other property or funds held for the Member or Consumer by the Association, the Association may recover and use the property for educational, charitable, or other proper non-profit purposes.

8. Unpaid Member Accounts. Before retiring any capital credits, the Association may deduct any amounts owed to the Association by the current or former Member or Consumer including the Colorado legal rate of interest accruing on judgments, compounded interest, and late payment fee, determined by the Board.

All Members and Consumers grant a first lien on all memberships, deposits, stocks, dividends, capital credits, patronage refunds, and all other property or funds of the Member or Consumer that is held by the Association to secure the payment of all indebtedness of the Member or Consumer to the Association. The lien is perfected by possession of the collateral, and the Association's Articles, Bylaws, Tariffs, and Rules and Regulations constitute a security agreement under the Uniform Commercial Code.

ARTICLE VII – DISPOSITION OF ASSOCIATION ASSETS.

1. **Transfer of Assets.** The Association shall not sell, lease, merge, consolidate, or otherwise dispose of the Association itself, or more than twenty-five percent (25%) of the Association’s assets, in any one calendar year, unless:
 - A. The Board by a two-thirds (2/3) majority of all Directors, shall recommend the transaction; and
 - B. Such sale, lease, merger, consolidation, or other disposition, is authorized at a Member Meeting by an affirmative vote of two-thirds (2/3) of all Members present and voting, in person or by mail; and
 - C. Notice of such proposed sale, lease, merger, consolidation, or other disposition is contained in the notice of the meeting.

The Board, without authorization by the Members, shall have the power and authority to execute and deliver a mortgage(s), a deed(s) of trust, or pledge or encumber any or all of the property assets, rights, privileges, licenses, franchises, and permits of the Association, to secure any indebtedness of the Association.

ARTICLE VIII – AMENDMENT OF BYLAWS.

1. **Procedure for Amending or Repealing Bylaws.**

- A. The Board may move to amend the Bylaws by a two-thirds majority vote of all Directors.
- B. Following an affirmative vote by the Board, the Association shall deliver to each Member a written notice that shall provide notice:
 1. Of the Board’s vote to amend the Bylaws;
 2. That the proposed amendment of the Bylaws is available on the Association’s website for review or will be provided to Members upon request; and
 3. Of each Member’s right to object to the proposed amendment of the Bylaws and the procedure for objecting to the proposed amendment within thirty (30) days after the delivery of the notice.
- C. The Bylaws shall be amended as proposed and such amendment shall take effect thirty-one (31) days after the delivery of the notice unless prior to that date, the Association receives objections to the proposed Bylaw amendment by twenty-five percent (25%) or more of the Members, in which case, the Bylaws shall not be amended as proposed.

ARTICLE IX – MISCELLANEOUS.

1. **Governing Law.** These Bylaws shall be governed by, and interpreted under, the laws of the State of Colorado.
2. **Partial Invalidity.** When reasonably possible, every Bylaw Provision must be interpreted as being valid. The invalidation of any Bylaw Provision by any entity possessing proper jurisdiction and authority, which does not alter the fundamental rights, duties and relationship between the Association and Members, does not invalidate the remaining Bylaw provisions.
3. **Cumulative Remedies.** The rights and remedies provided in these Bylaws are cumulative. The Association or any Member asserting any right or remedy provided in these Bylaws does not preclude the Association or Member from asserting other rights or remedies provided in these Bylaws.

ARTICLE X – SEAL.

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

The Secretary of Gunnison County Electric Association, Inc., has certified that the above is a true and correct copy of the Bylaws of the Gunnison County Electric Association, Inc., as amended to date.