

MISSION STATEMENT

Southwestern Electric Cooperative is in existence to provide a higher standard and quality of life to its members by meeting their needs. Providing electrical service at the highest standard while remaining competitive with other fuel sources and electric suppliers is our mission.

The Board of Trustees has the responsibility to the members of Southwestern to make policy, commit the resources and actively involve themselves to the mission of the cooperative. As a requirement of service on the board, the cooperative will provide the opportunities and each board member will spend the necessary time educating themselves for service to the members they represent.

Southwestern's reputation is that of a friendly neighbor that is honest, trustworthy, hardworking, knowledgeable and always helpful. These qualities are marks of an excellent service provider and are our standards.

To insure these high standards, Southwestern will have a philosophy of growth and financial stability. We will market our services aggressively always striving to meet the members' needs. Southwestern's standing in the communities we serve is that of an involved citizen. We recognize we are in partnership with the local governments, economic development organizations and the business community for the good of our members.

Being owned by our members and consumers, we will keep them informed on the operation of the cooperative as well as activities and programs the cooperative has available to them. We will be continually asking for input and feedback then reevaluate our services to make sure we are fulfilling our mission of service.

We require of our employees a high standard of performance and conduct and will provide an environment of a fair and open workplace. Recognizing that employees are the key ingredient for a successful provider, we will provide our employees the necessary training, resources and support to accomplish our mission.

Secretary

President

Date

BY-LAWS

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RESTATED AND AMENDED BY-LAWS
OF
SOUTHWESTERN ELECTRIC COOPERATIVE, INC.
AUGUST 20, 2019

ARTICLE I
MEMBERSHIP

SECTION 1. Requirements for membership.

- (a) Any person, firm, association, corporation, or body politic or subdivision thereof shall become a member of Southwestern Electric Cooperative, Inc. (hereinafter called the "Cooperative") upon receipt of electric service from the Cooperative, provided that such person has first:
- (i) Made a written application for membership therein; and
 - (ii) Agreed to purchase from the Cooperative electric energy as hereinafter specified; and
 - (iii) Agreed to comply with and be bound by the articles of incorporation and bylaws of the Cooperative and any policies, rules and regulations adopted by the board of trustees.
- (b) No member may hold more than one membership in the Cooperative, and no membership in the Cooperative shall be transferable, except as provided in these bylaws. The Cooperative is a public utility, as that term is defined by law, and the Cooperative will sell or furnish electricity, or other similar or related services, including broadband services, to the general public for light, heat, or power or other uses, by members and nonmembers alike, according to its rules and regulations and tariffs and provide such other related services as the board may in its discretion determine is reasonable.

SECTION 2. Joint Membership.

Spouses will be considered a joint membership and, subject to their compliance with the requirements set forth in Section 1 of this Article, may be accepted for such membership. The term "member" as used in these bylaws shall be deemed to include a natural person, firm, association, corporation, business trust, partnership, federal agency, state, or political sub-division or agency thereof, and shall include spouses who hold a joint membership, and any provisions relating to the rights and liabilities of membership shall apply equally with respect to the holders of a joint membership. Without limiting the generality of the foregoing, the effect of the hereinafter specified actions by or in respect of the holders of a joint membership shall be as follows:

- (a) The presence at a meeting of either or both shall be regarded as the presence of one member and shall constitute a joint waiver of notice of the meeting;
- (b) The vote of either separately or both jointly shall constitute one joint vote;
- (c) A waiver of notice signed by either or both shall constitute a

- joint waiver;
- (d) Notice to either shall constitute notice to both;
- (e) Expulsion of either shall terminate the joint membership;
- (f) Withdrawal of either shall terminate the joint membership;
- (g) Either but not both may be elected or appointed as an officer or trustee, provided that both meet the qualifications for such office.

SECTION 3. Conversion of Membership.

- (a) A membership may be converted to a joint membership upon the written request of the holder thereof and the agreement by such holder and that individual's spouse to comply with the articles of incorporation, bylaws and rules and regulations adopted by the board.
- (b) Upon the death of either spouse who is a party to the joint membership, such membership shall be held solely by the survivor. The estate of the deceased shall not be released from any debts due the Cooperative.

SECTION 4. Purchase of Electric Energy.

Each member shall, after payment of any required service security deposit, service connection deposit or fee, facilities extension deposit or contribution in aid of construction and as soon as electric energy shall be available, purchase from the Cooperative all electric energy purchased for use on the premises specified in his application for membership or electric service extension agreement, as the case may be, and all future service connections and shall pay therefor at rates which shall from time to time be fixed by the board of trustees. Production or use of electric energy on such premises, regardless of the source thereof, by means of facilities which shall be interconnected with Cooperative facilities, shall be subject to appropriate regulations as shall be fixed from time to time by the Cooperative. It is expressly understood that such amounts as are paid to the Cooperative which is in excess of the expenses in providing electric energy to its members and consumers shall be capital and each member shall be credited with the capital so furnished as provided in Article VII of these bylaws.

Each member shall pay to the Cooperative such fee as the Cooperative deems reasonably necessary to cover fixed costs for providing service to the member, regardless of the amount of electric energy consumed, as shall be fixed by the board from time to time. Each member shall also pay all amounts owed to the Cooperative as the same shall become due and payable. Nothing contained in these bylaws shall be construed to be repugnant to any provision of the New Mexico Public Utility Act, as now or hereafter amended.

SECTION 5. Termination of Membership.

Any member may withdraw from membership upon compliance with such uniform terms and conditions as the board may prescribe. The board may by affirmative vote of not less than two-thirds of all the trustees, expel any member who fails to comply with any of the provisions of the articles of incorporation, by-laws or rules and regulations adopted by the board, thirty (30) days after the Cooperative has given written notice to such member that such failure makes the member liable to expulsion and such failure shall have continued for at

least ten (10) days after such notice was given. Any expelled member may be reinstated by majority vote of the board or of the members present at any annual or special meeting. The membership of a member shall automatically terminate on the date all service to the member is disconnected. Termination of membership in any manner shall not release a member or the member's estate from any debts due to the Cooperative.

ARTICLE II RIGHTS AND LIABILITIES OF MEMBERS

SECTION 1. Property Interest of Members.

Upon dissolution and after all debts and liabilities of the Cooperative shall have been paid, and all capital furnished through patronage shall have been retired as provided in these bylaws, the remaining property and assets of the Cooperative shall be distributed among the members and former members in the proportion which the aggregate membership capital of each bears to the total membership capital of all members during the period prescribed for such purpose in the Rural Electric Cooperative Act.

SECTION 2. Non-liability for Debts of the Cooperative.

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

SECTION 3. Easements Across Property.

Each member shall grant, upon the request to the Cooperative, execute and deliver to the Cooperative an easement or easements and right-of-way over, on and under lands owned by or mortgaged to the member, in accordance with such reasonable terms and conditions as the Cooperative shall require, for the furnishing of electric service, or any future services, provided by the Cooperative to members, and for the construction, operation, maintenance or relocation of the Cooperative's facilities. Such easement shall be for distribution lines and related facilities but shall not include easement or easements for transmission lines or sub-stations.

SECTION 4. Set-off.

Any funds to be paid by the Cooperative to a member, whether a retirement of capital credits or otherwise, shall first be reduced and set-off by any amounts due the Cooperative as provided in Article VII, Section 2 and as shown on the records of the Cooperative regardless of the time or times such amounts became due and owing.

ARTICLE III MEETING OF MEMBERS

SECTION 1. Annual Meeting.

The annual meeting of the members shall be held in the month of August of each year at such place within the area served by the Cooperative as shall be selected by the board and which shall be designated in the notice of the meeting, for the purpose of electing board members, passing upon reports for the previous fiscal year and transacting such other business as may come before the meeting. It

shall be the responsibility of the board to make adequate plans and preparations for the annual meeting. Failure to hold the annual meeting at the designated time shall not work as forfeiture or dissolution of the Cooperative.

SECTION 2. Special Meetings.

Special meetings of the members may be called by resolution of the board, or upon a written request signed by any three board members, or by the President, or by ten per centum or more of all the members, and it shall there upon 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 any county served by the Cooperative as shall be designated by the board and shall be specified in the notice of the special meeting.

SECTION 3. Notice of Members' Meetings.

Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting or an annual meeting at which business requiring special notice is to be transacted, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) days nor more than twenty-five (25) days before the date of the meeting, either personally or by mail, by or at the direction of the Secretary, or upon a default in duty by the Secretary, by the persons calling the meeting, to each member. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at the address as it appears on the records of the Cooperative, with postage thereon prepaid. The failure of any member to receive notice of an annual or special meeting of the members shall not invalidate any action which may be taken by the members at any such meeting.

SECTION 4. Quorum.

Business may be transacted at any meeting of the members at which there is at least three (3%) percent of the Cooperative's members present in person. If less than a quorum is present in person at any meeting, a majority of those present may adjourn the meeting from time to time without further notice. The Secretary shall or cause to be annexed to the minutes of each meeting, or incorporated by reference, a list of the members present in person.

SECTION 5. Voting.

Each member shall be entitled to only one vote upon each matter submitted to a vote at a meeting of the members. All questions shall be decided by a vote of a majority of the members voting thereon in person except as otherwise provided by law, the articles of incorporation or these bylaws.

SECTION 6. Proxies.

A member may vote by proxy executed in writing by the member. Such proxy shall be filed with the Secretary before or at the time of the meeting. No proxy shall be valid after sixty days from the date of its execution. No proxy shall be valid unless it shall designate the particular meeting at which it is to be voted and no proxy shall be voted at any

meeting other than the one so designated or any adjournment of such meeting. A member may give a proxy only to another member or to an adult relative living in the same home with such member. No person may hold more than one proxy at any meeting. The presence of a member at a meeting shall revoke a proxy theretofore executed by the member and such member shall be entitled to vote at such meeting in the same manner and with the same effect as if the proxy had not been executed. The Secretary shall or cause to be, annexed to the minutes of each meeting, or incorporated by reference, a list of the members represented by proxy and of their respective proxies.

SECTION 7. Order of Business.

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

1. Report on the number of members present in person in order to determine the existence of a quorum.
2. Reading of the notice of the meeting and proof of the due publication or mailing thereof, or the waiver or waivers of notice of the meeting, as the case may be.
3. Reading of unapproved minutes of previous meetings of the members and the taking of necessary action thereon.
4. Presentation and consideration of reports of officers, trustees and committees.
5. Election of board members.
6. Unfinished business.
7. New business.
8. Adjournment.

ARTICLE IV
BOARD TRUSTEES

SECTION 1. General Powers.

The business and affairs of the Cooperative shall be managed by a board of seven (7) trustees which shall exercise all of the powers of the Cooperative except as are bylaw, the articles of incorporation or these bylaws conferred upon or reserved to the members.

SECTION 2. Qualifications.

In order to be eligible to become or remain a trustee of the Cooperative a person shall:

- (a) be a member of the Cooperative;
- (b) be a bonafide resident of the trustee's district and a permanent occupant receiving electric service from the Cooperative at the person's primary residential abode; the at large trustee shall be a bonafide permanent resident of one of the three Cooperative Districts receiving electric service from the Cooperative at his or her primary residential abode;
- (c) not be in any way employed by a supplier of electric energy or

merchandise to the Cooperative; or

(d) not miss more than three consecutive regular meetings in a calendar year. or miss more than four regular meetings in any calendar year.

Upon establishment of the fact that a trustee is holding the office in violation of any of the foregoing provisions, the board may remove such trustee from office.

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

SECTION 3. Election and Tenure.

(a) Trustees of the board shall be elected by secret ballot at the annual meeting of the members to serve a term of four years or until their successor shall have been elected or appointed and shall have qualified. However, with respect to a particular election, when there is a single nominee, and if there is no objection, secret written balloting may be dispensed with in respect of that particular election and voting may be conducted in any other proper manner. If an election of trustees shall not be held on the day designated herein for the annual meeting, or at any adjournment thereof, a special meeting of the members shall be held for the purpose of electing trustees within a reasonable time thereafter.

(b) The area served by the cooperative shall be divided into three (3) trustee districts, which districts shall be as follows:

District 1 – Des Moines/Cimarron

The boundaries for the Des Moines/Cimarron District are as follows:

Bounded on the North by the New Mexico/Colorado State Line;

Bounded on the South by the section line approximately one-mile North of the township line common to Township Twenty-six (26) North and Twenty-seven (27) North, N.M.P.M. from the Colfax/ Union County Line on the West to the Oklahoma/New Mexico state line;

Bounded on the West by the Colfax County/Union County Line;

Bounded on the East by the New Mexico/Oklahoma State Line.

District 2 – Clayton/Clapham

The boundaries for the Clayton/Clapham District are as follows:

Bounded on the North by the South line of District 1;

Bounded on the East by the New Mexico/Oklahoma and New Mexico/Texas State Line;

Bounded on the West and South by the following described line:

Commencing at the Southwest corner of District 1, a point being the Northwest corner of Section Thirty (30), Township Twenty-seven (27) North, Range Twenty-eight (28) East, N.M.P.M., which point is on the Union/Colfax County Line;

Thence, South on the Union/Colfax and Union/Harding County Lines to the Southwest corner of Township Twenty-three (23) North, Range Twenty-eight (28) East, N.M.P.M.;

Thence, East on the township line common to Township Twenty-three (23) North and Twenty-two North to point of intersection with Ute Creek;

Thence, South along Ute Creek to point of intersection of Ute Creek with the South section line of Section 10 in Township Twenty (20) North, Range Thirty (30) East;

Thence, East along the section lines approximately two miles South of the North township line of Township Twenty (20) North to point of intersection with Highway 402;

Thence, North along the center line of Highway 402 to the township line common to Townships Twenty-one (21) and Twenty-two (22);

Thence, East to the New Mexico/Texas State Line.

District 3 – Amistad/Nara Visa

The boundaries for the Amistad/Nara Visa District are as follows:

On the North by the South District line of District 2;

On the East by the New Mexico/Texas State Line;

On the West and South by a line commencing at the Southwest corner of District 2, being the point of intersection of Ute Creek with the South section line of Section Ten (10), Township Twenty (20) North, Range Thirty (30) East, N.M.P.M.

Thence, Southeasterly along the course of Ute Creek to point of intersection with Highway 102;

Thence, along the Springer Electric Cooperative and Farmer's Electric Cooperative territorial boundaries in a line bearing South and East from the Ute Creek crossing on Highway 102 to the Northwest corner of Section Thirty-four (34) in Township Fourteen (14) North, Range Thirty-four (34) East;

Thence, East to the Texas State Line.

- (c) Two trustees from each of the three districts shall serve on the board along with one at large trustee from any one of the three Cooperative Districts. The two trustees from each district will be designated in position A or B. The election schedule will be as follows: trustees for positions 1B and 2B shall be elected in 2020 and each four (4) years thereafter; trustees for positions 1A and 3B will be elected in 2021 and each four (4) years thereafter; trustees for positions 2A and 3A will be elected in 2022 and each four (4) years thereafter; the at large trustee position will be up for election in 2023 and each four (4) years thereafter.
- (d) The initial at large trustee position will be designated by majority vote of the Board of Trustees to serve until the 2023 at-large election. The existing Board of Trustees will organize into the initial A and B positions for each district and confirm said designations by majority vote of the Board of Trustees.
- (e) Each member present in person and by proxy shall have the right to vote for one candidate from each of the three districts. Election shall be by majority vote of the members.

SECTION 4. Nominations.

(a) It shall be the duty of the board to appoint, not less than thirty (30) days nor more than sixty (60) days prior to the date of the meeting at which trustees are to be elected, a nominating committee consisting of, three members residing in each of the trustee districts for which a trustee is to be elected and one member at large who shall act as chairperson. The time and place for the holding of the nominating meeting shall be fixed by the board and written notice shall be mailed or caused to be mailed by the Secretary of the Cooperative to each member in the district from which a trustee is to be elected, not less than five nor more than thirty (30) days prior thereto. Such meeting shall be called to order and be presided over by the member appointed as chairperson, or, in the absence or refusal to act of such member, by some other member selected from among those members of the committee. A quorum at the nomination meeting shall be a majority of the appointed members. The action of a majority of those present shall be the action of the meeting. The members present shall select a secretary to keep a record of the proceedings. The committee may nominate as many nominees for trustee to be elected from any trustee district as it deems desirable. The chairperson shall in writing within three days thereafter certify to the board the names of the nominees.

(b) Nominations for district trustee may also be made by petition. Ten (10) percent or more members of a district may petition the board to place such candidate's name upon the official ballot at the annual meeting. Such petition must be on file with the Cooperative not less than ten (10) days prior to the annual meeting.

(c) The Secretary shall mail or cause to be mailed with the notice of the meeting or separately, but at least four (4) days before the date of the meeting, a statement of the number of trustees to be elected and the names and addresses of the candidates, specifying separately the nominations made by the committee on nominations and also the

nominations made by petition, if any.

SECTION 5. Removal of Trustee by Members.

Any member may bring charges against a trustee and, by filing with the Secretary such charges in writing together with a petition signed by at least ten (10) per centum of the members may request the removal of such board trustee by reason thereof. Such trustee shall be informed in writing of the charges at least thirty (30) days prior to the meeting of the members at which the charges are to be considered and shall have an opportunity at the meeting to be heard in person or by counsel and to present evidence in respect of the charges; and the person or persons bringing the charges against the trustee shall have the same opportunity. The question of the removal for cause of such trustee shall be considered and voted upon at a meeting of the members at which a quorum is present and any vacancy created by such removal may be filled after nominations taken from the floor by majority vote of the members at such meeting without compliance with the foregoing provisions of Section 4, above, with respect to nominations. Any trustee nominated must reside in the same district as was the trustee whose office was vacated.

SECTION 6. Vacancies.

Subject to the provisions of these bylaws with respect to the filling of vacancies caused by the removal of trustee by the members as provided in Section 5, above, a vacancy occurring in the board shall be filled by the affirmative vote of a majority of the remaining trustees for the unexpired portion of the term and until a successor is elected and qualified. The new trustee shall be from the same trustee district as was the trustee whose office was vacated.

SECTION 7, Compensation.

Trustees shall not receive any salary for their services, as such unless authorized by the members. Regardless of whether a salary is approved, the board by resolution, may from time to time, fix a fee for each day or portion thereof spent on Cooperative business and authorize payment or reimbursement of travel and lodging expenses, for attendance at meetings, conferences, and training programs or performing committee assignments as authorized by the board. If authorized by the board, a trustee may also be reimbursed for expenses actually and necessarily incurred in carrying out such Cooperative business or granted a reasonable per diem allowance by the board in lieu of detailed accounting for some of these expenses. No trustee or close relative of a trustee shall receive compensation for serving the cooperative, unless the payment and amount of compensation shall be specifically authorized, by a vote of the board. In the event of emergency or circumstances requiring immediate action, the manager may contract for services or goods from a trustee or close relative of a trustee subject

to board approval at the next regular board meeting.

SECTION 8. Definition of "Close Relative".

As used in these bylaws, "close relative" means a person who, by blood or in-law, including step-child and adoptive kin, is either a spouse, child, parent, grandparent, brother or sister of the principal.

SECTION 9. Committees.

The board may create committees consisting partially or wholly of others than trustees and, by resolution adopted by a majority of its full membership, designate from among its members one or more board committees, including an executive committee. The board shall, from time to time, designate the authority of any such committee except that no such committee shall have authority to take any action on behalf of the board to retire the capital credited to member's accounts pursuant to Article VII or an any matter which, under the articles of incorporation, these bylaws or the Rural Electric Cooperative Act, requires the members' approval, such as merger, consolidation, dissolution or the disposition of all or any substantial portion of the Cooperative's property.

ARTICLE V
MEETINGS OF TRUSTEES'

SECTION 1. Regular Meetings.

A regular meeting of the board of trustees shall be held without notice other than these bylaws, immediately after the annual meeting. A regular meeting of the board shall also be held monthly at such time and place within one of the counties served by the. Cooperative as designated by the board. Such regular monthly meeting may be held without notice other than such resolution fixing the time and place thereof.

SECTION 2. Special Meetings.

Special meetings of the board may be called by the President or by any three trustees, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. The President or trustees calling the meeting shall fix the time and place for the holding of the meeting.

SECTION 3. Notice of Board Meetings.

Written notice of the time, place and purpose of any special meeting of the board shall be delivered to each trustee either personally or by mail, by or at the direction of the Secretary, or upon a default in duty by the Secretary, by the President or the trustee calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the board member at his address as it appears on the records of the Cooperative, with postage thereon prepaid, at least five (5) days before the date set for the meeting.

SECTION 4. Quorum.

A majority of the board shall constitute a quorum, provided, that if less

than such majority of the board is present at said meeting, a majority of the board present may adjourn the meeting from time to time; and provided further, that the Secretary shall notify or cause to be notified any absent trustee of the time and place of such adjourned meeting. The act of a majority of the trustee present at a meeting at which a quorum is present shall be the act of the board, except as otherwise provided in the bylaws.

ARTICLE VI

OFFICERS

SECTION 1. Number.

The officers of the Cooperative shall be a President, Vice President, Secretary, Treasurer, and such other officers as may be determined by the board from time to time. The offices of Secretary and Treasurer may be held by the same person.

SECTION 2. Election and Term of Office.

The officers shall be elected, annually by and from the board at the meeting of the board held immediately after the annual meeting of the members. If the election of officers shall not be held such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until the first meeting of the board following the next succeeding annual meeting of the members or until a successor shall have been elected and shall have qualified. A vacancy in any office shall be filled by majority vote of the board for the unexpired portion of the term.

SECTION 3. Removal of Officers and Agents by the Board.

Any officer or agent elected or appointed by the board may be removed by the board whenever in its judgment the best interests of the Cooperative will be served thereby. In addition, any member of the

Cooperative may bring charges against an officer, and by filing with the Secretary such charges in writing together with a petition signed by ten per centum of the members may request the removal of such officer. The officer against whom such charges have been brought shall be informed in writing of the charges at least ten (10) days prior to the board meeting at which the charges are to be considered and shall have an opportunity at the meeting to be heard in person or by counsel and to present evidence in respect of the charges; and the person or persons bringing the charges against the officer shall have the same opportunity. In the event the board does not remove such officer, the question of removal of that officer shall be considered and voted upon at the next meeting of the members.

SECTION 4. President.

The President shall:

- (a) be the principal executive officer of the board of trustees and,

unless otherwise determined by the members or the board, shall preside at all meetings of the members and the board;

(b) sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the board of trustees to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the board of trustees 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 perform all duties incident to the office of President and such other duties as may be prescribed by the board from time to time.

SECTION 5. Vice-President.

In the absence of the President, or in the event of the President's inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. The Vice President shall also perform such other duties as from time to time may be assigned by the board.

SECTION 6. Secretary.

The Secretary shall be responsible for:

- (a) keeping, or causing to be kept, the minutes of the meeting of the members and of the board in books provided for that purpose;
- (b) seeing that all notices are duly given in accordance with these bylaws or as required by law;
- (c) the safekeeping of the corporate books and records and the seal of the Cooperative and affixing the seal of the Cooperative to all certificates of membership prior to the issue thereof, and to all documents, 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 names and post office addresses of all members;
- (e) keeping on file at all times a complete copy of the office of Secretary and action and 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, furnishing a copy of the bylaws and of all amendments thereto to any member upon request; and
- (g) in general performing all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the board.

SECTION 7. Treasurer.

The Treasurer shall be responsible for:

- (a) custody of all funds and securities of the Cooperative;
- (b) The receipt of and the issuance of receipts for all monies due and

payable to the Cooperative and for the deposit of all such monies in the name of the Cooperative in such bank or banks, or institutions or other financial organizations or in such financial institutions or sureties as shall be selected in accordance with the provisions of these bylaws; and

(c) The general performance of all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the board.

SECTION 8. Manager/Chief Executive Officer.

The board may appoint a manger who may be, but who shall not be required to be a member of the Cooperative. The manager shall perform such duties and shall exercise such authority as the board may from time to time assign or vest in such person.

SECTION 9. Insurance and Bonds.

The Treasurer and any other officer or agent of the Cooperative charged with responsibility for the custody of any of its funds or property shall be bonded or the Cooperative insured for losses occasioned from such officer or agent in such sum and with such surety or insurance company as the board shall determine. The board in its discretion may also require any other officer, agent or employee of the Cooperative to be bonded in such amount or the Cooperative insured in such amount and with such surety or insurance company as it shall determine.

SECTION 10. Compensation.

The powers, duties and compensation of officers, agents and employees shall be fixed by the board subject to the provisions of these bylaws with respect to compensation for a trustee and close relatives of a trustee.

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. Such reports shall set forth the condition of the Cooperative at the close of such fiscal year.

ARTICLE VII
MEMBERSHIP CAPITAL

SECTION 1. Interest or Dividends on Capital Prohibited.

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

SECTION 2. Membership Capital in Connection with Furnishing Electric Energy.

In the furnishing of electric energy, the Cooperative's operations shall be so conducted that all members will through their patronage furnish capital for the Cooperative. In order to induce membership and to assure

that the Cooperative is obligated to account on a membership basis to all its members 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 members as capital. The Cooperative is obligated to pay by credits to a capital account for each member all such amounts in excess of operating costs and expenses. The books and records of the Cooperative shall be set up and kept in such manner that at the end of each fiscal year the amount of capital, if any, so furnished by each member is clearly reflected and credited in an appropriate record to the capital account of each member, and the Cooperative shall within a reasonable time after the close of the fiscal year notify each member of the amount of capital so credited to the member's account. All such amounts credited to the capital account of any member shall have the same status as though they had been paid to the member in cash in pursuance of a legal obligation to do so and the member had then furnished the Cooperative corresponding amounts for capital.

All other amounts received by the Cooperative from its operations 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 on a membership basis and any amount so allocated shall be included as part of the capital credited to the accounts of members, as herein provided.

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 pro rata basis before any payments are made on account of property rights of members. If, at any time prior to dissolution or liquidation, the board shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital credited to members' accounts may be retired in full or in part. Any such retirements of capital shall be made in such manner as in the discretion of the board seems fair, reasonable and equitable; PROVIDED however, that the board shall have the power to adopt rules providing for the separate retirement of that portion of capital credited to the accounts of members which corresponds to capital credited to the Cooperative by an organization furnishing power or any

other service or supply to the Cooperative. Such rules shall (a) establish a method for determining the portion of such capital credited to each member for each applicable fiscal year, (b) provide for separate identification on the Cooperative's books of such portions of capital credited to the Cooperative's members, (c) provide for appropriate notifications to members with respect to such portions of capital credited to their accounts and (d) preclude a general retirement of such portions of capital credited to members for any fiscal year prior to the general retirement of other capital credited to members for the same year or of any capital credited to members for any prior fiscal year.

Capital credited to the account of each member shall be assignable only on the books of the Cooperative pursuant to written instruction from

the assignor and only to successors in interest or successors in occupancy in all or a part of such member's premises served by the Cooperative unless the board, acting under policies of general application, shall determine otherwise.

Notwithstanding any other provision of these bylaws, the board at its discretion, shall have the power at any time upon the death of any member, who was a natural person, if the legal representatives of the estate shall request in writing that the capital credited to any such member be retired prior to the time such capital would otherwise be retired under the provisions of these bylaws, to retire capital credited to any such member immediately upon such terms and conditions as the board, acting under policies of general application, and the legal representatives of such member's estate shall agree upon; provided, however, that the financial condition of the Cooperative will not be impaired thereby.

The Cooperative, before retiring any capital credited to any member's account, shall deduct therefrom any amount owing by such member to the Cooperative, together with interest thereon at the New Mexico legal rate on judgements in effect when such amount became overdue, compounded annually.

The patrons 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 patron, and both the Cooperative and the patrons are bound by such contract, as fully as though each patron had individually signed a separate instrument containing such terms and provisions. The provisions of this article of the bylaws shall be called to the attention of each patron of the Cooperative by posting in a conspicuous place in the he Cooperative's office.

SECTION 3. Charitable Assignment of Membership Capital.

The board may cause the establishment of a charitable trust, foundation or non-profit corporation ("charity") for the purpose of receiving transfers of membership capital in accordance with these bylaws and using the same for educational scholarships or other charitable uses. The declaration, charter or other organizational instruments approved by the board shall set forth the purposes of the organization, the duties of the trustees, officers and employees of the Cooperative who administer such funds and shall provide and be entitled to indemnification from that these persons shall be from the Cooperative to the same extent as if such service were to the Cooperative itself

If the board so establishes an educational fund,

(a) Any member may assign in writing in a form acceptable to the Cooperative all or any portion of that member's capital, vested or expected, to such an educational fund, effective as of the date of assignment; and

(b) Any distribution of membership capital to a member or former member who has not claimed such distribution, or corresponded in writing with the Cooperative concerning it, within two years after the Cooperative has mailed the same with sufficient postage to the last known address or to the last address provided to the Cooperative, or after the Cooperative has in good faith attempted to deliver such notice or payment, shall be and constitute an irrevocable gift by the member to the educational fund; and

(c) Any assignment or gift and donation under these bylaws shall be first offset, by way of deduction, by any unpaid amounts owed to the Cooperative as provided in Section 2 of this article.

Section 4. Savings Clause.

If any portion of this Article shall be held invalid or not effective to accomplish its purposes, the remaining portions of the Article shall not be affected thereby, and in no event shall this Article be construed to adversely affect the exemption of the Cooperative from liability for payment of income taxes on its revenue from the distribution of electricity of its patrons.

ARTICLE VIII

DISPOSITION OF PROPERTY

SECTION 1. Disposition and Pledging of Property.

- (a) The Cooperative may not sell, lease or otherwise dispose of all or any substantial portion of its property unless such sale, lease or other disposition is authorized at a meeting of the members thereof by the affirmative vote of not less than two-thirds (2/3), of all of the members of the Cooperative, and unless the notice of such proposed sale, lease or other disposition shall have been contained in the notice of the meeting.
- (b) Notwithstanding anything herein contained to the contrary: a majority of the members at a duly noticed meeting where a quorum is present, may vote to merge or consolidate with another cooperative; and (2) the board, without authorization by the members thereof, shall have full power and authority to authorize the execution and delivery of a mortgage or mortgages or a deed or deeds of trust upon, or the pledging or encumbering of, any or all of the property, assets, rights, privileges, licenses, franchises and permits of the Cooperative, whether acquired or to be acquired, and wherever situated as, as well as the revenues and income therefrom, all upon such terms and conditions as the all board shall determine, to secure any indebtedness of the Cooperative;
- (c) If the board is considering any proposal for the sale of all or substantially all of its property, it shall first cause three (3) independent appraisers, expert in such matters, to render their individual opinions as to the value of the Cooperative with respect to such a sale and as to any terms and conditions which should be considered. The board shall designate the three appraisers.
- (d) If, after reviewing the appraisals, the board then determines that such sale is in the best interest of the members, the board shall so notify the members not less than forty-five (45) days before calling a special meeting of the members, expressing the details of any and all proposals and the findings of the three appraisals. The board shall then call a special meeting of the members to vote upon the proposed sale.

SECTION 2. Distribution of Surplus Assets on Dissolution.

Upon the Cooperative's dissolution, any assets remaining after all liabilities and obligations of the Cooperative have been satisfied and discharged shall, to the extent practicable as determined by the board and consistent with the provisions of Article VII, Section 2, be distributed among its members in proportion to the aggregate capital of each such member during the seven years next proceeding the date of the filing of a certificate of election to dissolve; PROVIDED, however, that if in the judgement of the board the amount of such surplus is too small to justify the expense of making such distribution, the board may, in lieu thereof, donate, or provide for the donation of, such surplus to one or more non-profit charitable or educational organizations that are exempt from federal income taxation.

ARTICLE IX SEAL

The corporate seal of the Cooperative shall have inscribed thereon the name of the Cooperative and the words "Corporate Seal, New Mexico".

ARTICLE X FINANCIAL TRANSACTIONS

SECTION 1. Contracts.

Except as otherwise provided in these bylaws, the board 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 and/or countersigned by such officer or officers, agent or agents, employee or employees of the Cooperative and in such manner as shall from time to time be determined by resolution of the board.

SECTION 3. Deposits.

All funds except petty cash of the Cooperative shall be deposited from time to time to the credit of the Cooperative in such bank, banks, savings and loan or other financial institution or institutions as the board may select.

SECTION 4. Fiscal Year.

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

ARTICLE XI MISCELLANEOUS

SECTION 1. Membership in Other Organizations.

The Cooperative shall not become a member of or purchase stock in any other organization without an affirmative vote of a majority of the members at a duly held meeting, the notice of which shall specify that action is to be taken upon such proposed membership or stock purchase, provided, however, that the Cooperative may upon the authorization of the board, purchase stock in or become a member of any corporation or organization organized on a non-profit basis for the purpose of engaging in or furthering the cause of rural electrification, or of any other corporation for the purpose of acquiring electric facilities.

SECTION 2. Waiver of Notice.

Any member or board member may waive in writing any notice of a meeting required to be given by these bylaws. The attendance of a member or board member at any meeting shall constitute a waiver of notice of such meeting by such member or board member, except in case a member or board member shall attend a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.

SECTION 3. Policies, Rules and Regulations.

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

SECTION 4. Accounting System and Reports.

The board shall cause to be established and maintained a complete accounting system which, among other things, and subject to applicable laws and rules and regulations of any regulatory body, shall conform to such accounting system as may from time to time be designated by the Administrator of the Rural Electrification Administration of the United States of America. The board shall also after the close each fiscal year cause to be made by a certified public accountant a full and complete audit of the accounts, books and financial condition of the Cooperative as of the end of such fiscal year. A report of such audit shall be submitted to the members at the next following annual meeting.

SECTION 5. Area Coverage.

The board shall make diligent effort to see that electric service is extended to all unserved persons within the Cooperative service area who (a) desire such service and (b) meet all reasonable requirements established by the Cooperative as a condition of such service.

SECTION 6. Enchantment Magazine.

The Board of Directors shall be empowered and authorized to subscribe to Enchantment Magazine on behalf of and for circulation to the members of the Cooperative at an annual subscription rate and such subscription shall be paid for each member of the Cooperative from any funds accruing in favor of each member so as to reduce such funds in the same manner as would any other expense of the Cooperative.

ARTICLE XII
AMENDMENTS

These bylaws may be altered, amended or repealed by majority vote of the members present in person and by proxy at any regular or special meeting, provided the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal.

ARTICLE XIII
LIABILITY AND INDEMNIFICATION

SECTION 1. Trustees' Limited Liability.

A trustee shall not be personally liable to the Cooperative or to its members for monetary damages for breach of fiduciary duty as a trustee unless:

- (a) the trustee has breached or failed to perform the duties of office in compliance with Section 62-15-9.1, NMSA 19789; and
- (b) the breach or failure to perform constitutes willful misconduct or recklessness.

SECTION 2. Officers' and Trustees; Indemnification.

Subject to Sections 4, 5 and 6 of this Article XIII, the Cooperative shall indemnify any person who is or was a trustee or an elected or appointed officer of the Cooperative and any person who, while a trustee or officer of the Cooperative, is or was serving at the request of the Cooperative as a director, officer, partner, trustee, employee or agent of another cooperative or of a foreign or domestic corporation or nonprofit corporation, partnership, joint venture, trust, unincorporated association, other incorporated or unincorporated enterprise or employee benefit plan or trust, and who is made a party to any action, suit or proceeding, civil or criminal, by reason of holding or having held such an office or position.

SECTION 3. Employees' and Agents' Indemnification.

Subject to Sections 4, 5 and 6 of this Article XIII, the board of trustees may indemnify any person other than a trustee or an officer acting as such who has or had an employment or agency relationship with the Cooperative and who is made a party to any action, suit or proceeding, civil or criminal, by reason of service during the course of such relationship, including service at the request of the Cooperative as a director, officer, partner, trustee, employee or agent of another cooperative or of a foreign or domestic corporation or nonprofit corporation, partnership, joint venture, trust, unincorporated association; other incorporated association or unincorporated enterprise or employee benefit plan or trust.

SECTION 4. Indemnification Disqualification.

The trustee, officer or other person shall not be indemnified if such person shall be adjudged to be liable on the basis of a breach or failure to perform the duties of that person's office or position and the breach or failure to perform constitutes willful misconduct or recklessness. The trustee, officer or other person shall further, not be indemnified in respect to any proceedings charging improper personal benefit, whether

or not involving action in such person's official capacity, in which that person shall have been adjudged to be liable on the basis that personal benefit was improperly received. There shall be no indemnification [of a person other than a trustee] unless the board of trustees finds that the indemnitee;

(a) acted in good faith;

(b) reasonably believed that the actions taken were in the course of the individual's office, employment or agency and in a manner to be in or at least not opposed to the best interests of the Cooperative; and

(c) in the case of any criminal proceeding, had no reasonable cause to believe the person's conduct was unlawful. Termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, be determinative that the person is disqualified from receiving indemnification.

SECTION 5. Indemnification Amount.

Indemnification shall pursuant to Section 2, and may pursuant to Section 3, be made against judgments, penalties, fines, settlements and compromises, cost and expenses, including attorney's fees, reasonably incurred by or on behalf of the indemnitee in connection with the defense of such proceeding. Reasonable expenses incurred by a trustee, officer or other person who is a party to a proceeding may be paid or reimbursed by the Cooperative in advance of the final disposition of such proceeding if:

(a) such person furnishes the Cooperative a written affirmation of a good faith belief that such person is not disqualified from receiving indemnification under Section 4 of this Article XIII.

(b) such person furnishes the Cooperative a written undertaking to repay such amount if it shall ultimately be determined that such person is disqualified or, in the case of a person other than a trustee or an officer acting as such, not fully indemnified in the board of trustee's discretion; and

(c) a determination is made that the facts then known to those making the determination would not preclude indemnification.

SECTION 6. Indemnification Procedure.

No indemnification under Sections 2 and 3 shall be made unless authorized in the specific case after a determination has been made that indemnification is permissible in accordance with the Rural Electric Cooperative Act and this Article XIII. Such determination shall be made:

(a) by the board of trustees by a majority vote of a quorum of trustees not at the time parties to the proceeding;

(b) if such a quorum cannot be attained, by a majority vote of a committee of the board of trustees duly designated to act in the matter by a majority vote of the full board of trustees, in which designated trustees who are parties may participate, and consisting solely of two or more trustees not at the time parties to the proceeding;

(c) by special legal counsel, selected by the board of trustees or a committee thereof by vote as set forth in paragraph 1 or 2 of this

Section 6 or, if the requisite quorum of the full board of trustees cannot be obtained therefor and such committee cannot be established, by a majority vote of the full board of trustees, in which selection trustees who are parties may participate; or
(d) pursuant to a resolution of a majority of the members present and voting at any annual or special meeting. Authorization of indemnification and determination as to the amount shall be made in the same manner as the permissibility determination, except that if the permissibility determination is made by special legal counsel, authorization and amount determination shall be made in a manner specified in subsection (c) of this Section 6 for the selection of such counsel.

SECTION 7. Employee Benefit Plans.

For the purposes of this Article XIII, the Cooperative shall be deemed to have requested a person to serve as a director, trustee, employee or agent of an employee benefit plan or trust whenever the performance of such person's duties to the Cooperative also imposes duties or otherwise involves such person's services to the plan or trust or the participants or beneficiaries of the plan or trust; excise taxes assessed on such person with respect to an employee benefit plan or trust pursuant to applicable law shall be deemed "fines"; and action taken or omitted with respect to an employee benefit plan or trust in the performance of duties for a purpose reasonably believed to be in the interest of the participants and beneficiaries of the plan or trust shall be deemed to be for a purpose which is not opposed to the best interests of the Cooperative and to be neither willful misconduct or reckless.

SECTION 8. Insurance and Similar Protection.

The board of trustees may purchase and maintain insurance or furnish similar protection, including but not limited to providing a trust fund, a letter of credit or self-insurance, on behalf of any person who is or was a trustee, officer, employee or agent of the Cooperative or who, while a trustee, officer, employee or agent of the Cooperative, is or was serving at the request of the Cooperative as a director, officer, partner, trustee, employee or agent of another cooperative or a foreign or domestic corporation, partnership, joint venture, trust, unincorporated association, other incorporated or unincorporated enterprise or employee benefit plan or trust, against any liability asserted against and incurred by the person in such capacity or arising out of that person's status as such, whether or not the Cooperative could indemnify the person against such liability under the provisions of this Article XIII.

SECTION 9. Non-Exclusive.

This indemnification authorized by this Article XIII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under an agreement approved by the board of trustees, a resolution of the members or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office or position, and shall continue as to a person who has ceased to be a trustee, officer, employee or agent and inure to the benefit of that individual's personal representatives and heirs.

UNITED STATES DEPARTMENT OF AGRICULTURE
Rural Electrification Administration

APPENDIX A

Statement of Nondiscrimination

Southwestern Electric Cooperative, Inc. has file with the Federal Government a Compliance Assurance in which it assures the Rural Electrification Administration that it will comply fully with all requirements of Title VI of the Civil Rights Act of 1964 and the Rules and Regulations of the Department of Agriculture issued thereunder, to the end that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination facilities. Under this Assurance, this organization is committed not to discriminate against any person on the ground of race, color or national origin in its policies and practices relating to treatment of beneficiaries and participants including rates, conditions and extensions of service, use of any of its facilities, attendance at and participation in any meetings of beneficiaries and participants or the exercise of any rights of such beneficiaries and participants in the conduct of the operations of this organization.

Any person who believes himself, or any specific class of individuals, to be subjected by this organization to discrimination prohibited by Title VI of the Act and the representative, file with the Secretary of Agriculture, Washington, D.C., 20250, or the Rural Electrification Administration, Washington, D.C., 20250, or this organization, or all, a written complaint. Such complaint must be filed not later than 180 days after the alleged discrimination, or by such later date to which the Secretary of Agriculture or the Rural Electrification Administration extends the time for filing. Identity of complainants will be kept confidential except to the extent necessary to carry out the purposes of the Rules and Regulations.