



IRWIN EMC

Your Touchstone Energy® Cooperative 

# Member BYLAWS

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Effective November 9, 2017

Irwin EMC is a member owned electric distribution cooperative serving 8,000 members in Ben Hill, Berrien, Irwin, Tift, Turner and Wilcox Counties.

Adopted August 10, 1937

Amended November 7, 1962  
June 17, 1964  
June 15, 1966  
October 21, 1970  
November 10, 1971  
January 16, 1974  
August 21, 1974  
November 17, 1976  
November 16, 1977  
February 15, 1984  
May 21, 1986  
January 19, 1897  
November 9, 1988  
June 20, 1990  
January 19, 1994  
July 26, 1995  
November 6, 1996  
April 23, 2003  
November 4, 2004  
July 22, 2008  
November 4, 2011  
November 9, 2017

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## BYLAWS OF IRWIN ELECTRIC MEMBERSHIP CORPORATION

The aim of Irwin Electric Membership Corporation (hereinafter called the “corporation”) is to offer electric energy and other services to its members at the lowest cost consistent with sound economy and good management.

### **ARTICLE I: MEMBERSHIP**

#### *Section 1.1 Requirements for Membership*

Any person, firm, corporation, or body politic in rural areas who or which is not receiving electric service from any corporation subject to the jurisdiction of the Georgia Public Service Commission or from any municipal corporation, may become a member in the corporation by: (a) filing a written application for membership therein and paying the membership fee hereinafter specified; and (b) agreeing to purchase from the corporation electric energy as hereinafter specified; and (c) agreeing to comply with and be bound by the articles of incorporation of the corporation and these bylaws and any amendments thereto, and such rules and regulations as may from time to time be adopted by the Board of Directors; provided, however, that no person, firm, corporation, or body politic shall become a member unless and until he or it has been accepted for membership by the Board of Directors or the members. At each meeting of the members, all applications received more than ninety (90) days prior to such meeting which have not been accepted by the Board of Directors shall be submitted by the Board of Directors to the members, and, subject to compliance by the applicant with the conditions set forth in sub-divisions (a), (b), and (c) of this section, may be accepted by a majority vote of the members at such meetings. The action of the members with respect thereto shall be final. The secretary shall give any such applicant at least ten (10) days prior notice of the date of the members’ meeting to which his application will be submitted, and such applicant may be present and heard at such meeting. No person, firm, corporation, or body politic may own more than one (1) membership in the corporation.

A husband and wife may jointly become a member and their application for a joint membership may be accepted in accordance with the foregoing provisions of this section, provided the husband and wife comply jointly with the provisions of the above sub-divisions (a), (b), and (c). Either spouse shall be qualified to attend and vote at all meetings of the members in the absence of the other spouse, but both shall not vote at any meeting.

### ***Section 1.2 - Membership Fee and Certificates***

The membership fee shall be \$10.00, the payment of which shall make the member eligible for one (1) service connection. An additional fee of \$10.00 shall be paid for each additional service connection requested by a member. Membership in the corporation shall become valid and complete upon approval by the Board of Directors of the written application therefore and membership certificates may be issued in such form and manner as shall be determined by the Board of Directors. The Board of Directors may also establish and enforce uniform policies requiring a security deposit with application for membership and/or additional service connections.

### ***Section 1.3 - Purchase of Electric Energy***

Each member, as soon as electric energy is available and for so long as the premises to which electric service is furnished by the corporation through such membership are occupied or used by him, shall purchase from the corporation all electric power and energy used upon the premises and pay therefore monthly, at the rates which shall from time to time be fixed by the Board of Directors; provided, however, that the Board of Directors may limit the amount of electric energy which the corporation shall be required to furnish to any one member. It is expressly understood that amounts paid for electric energy, in excess of the cost of service, are furnished by members as capital, and each member shall be credited with the capital so furnished as provided in these bylaws. Each member shall pay the corporation such minimum amount per month regardless of the amount of electric energy consumed, as shall be fixed by the Board of Directors from time to time. Each member shall also pay all amounts owed by him to the corporation as and when the same shall become due and payable to the corporation. When the member has more than one service connection from the corporation, any payment for service shall be deemed pro-forma, to be allocated and credited on a pro rata basis to his outstanding accounts for all such service connections, notwithstanding that the corporation's actual accounting procedures do not reflect such proration.

### ***Section 1.4 - Non-Liability for Debts of the Corporation***

All property of the members of the corporation shall be exempt from execution for the debts of the corporation, and no member shall be individually liable or responsible for any debts or liabilities of the corporation.

### ***Section 1.5 - Termination of Membership***

A member may withdraw from membership upon either (a) ceasing to directly use or occupy or own the premises being furnished electric energy through his membership, or (b) resigning his membership, with the approval of the Board of Directors in favor of another person, firm, corporation, or body politic, who or which shall directly use or

occupy or own the premises being furnished electric service through his membership, or (c) permanently abandoning totally the use of electric service on all of such premises.

### ***Section 1.6 - Expulsion of Members***

The Board of Directors of the corporation may, by the affirmative vote of not less than two-thirds of all of the directors, expel any member who shall have refused or failed to comply with any of the provisions of the articles of incorporation, bylaws, policies, and rules and regulations duly adopted by the Board of Directors, but only if such member shall have been given written notice by the secretary of the corporation that such refusal or failure makes him liable to expulsion and such refusal or failure shall have continued for at least ten days after such written notice was placed in the mail, properly addressed with sufficient postage affixed thereon, directed to such member at his last address as shown on the books of the corporation. Any expelled member may be reinstated by vote of the Board of Directors or by a majority of the members present at an annual or special meeting thereof.

### ***Section 1.7 - Return of Membership Fee***

The membership of any member shall terminate upon the termination thereof under these bylaws or the expulsion, death or cessation of existence of the member and the membership certificate shall be forthwith surrendered to the corporation but the member or his estate shall not be released from the payment of any debts or obligations owing to the corporation. The membership fee shall be refunded to the member or his estate only after all debts due the corporation have been paid.

### ***Section 1.8 - Joint Membership by Husband and Wife***

Any membership held jointly by husband and wife may be assigned by one person to the other, or upon death of one spouse the same shall vest in the other and be deemed to be held solely by the assignee or survivor, and the membership certificate may be reissued accordingly.

### ***Section 1.9 - Property Interest of Members***

Members shall have no individual or separate interest in the property or assets of the corporation, except that upon dissolution of the corporation, the property and assets of the same, remaining after all debts and liabilities of the corporation are paid, shall be distributed among the members in the proportion which the aggregate patronage of each member bears to the total patronage of all members during the ten years next preceding the date of the filing of the proceedings for dissolution of the corporation. The Board of Directors are authorized to annually compute the proportion which the aggregate patronage of each member bears to the total patronage of all members for that year, and to so indicate the amount thereof on the records of each member's account, without

obligation to reimburse members in that or any lesser amount until such time and in such rotation as the Board of Directors may determine to be consistent with the financial soundness, stability and progress of the corporation.

## ARTICLE II: MEETING OF THE MEMBERS

### ***Section 2.1 - Annual Meeting***

The annual meeting of the members shall be held during the month of November of each year on such date as may be fixed by resolution of the Board of Directors within a county in which electric service is provided by the cooperative as shall be designated in the notice of the meeting, for the purpose of electing directors, passing upon reports covering the previous fiscal year and transacting such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday, such meeting shall be held on the succeeding business day. If the election of directors shall not be held on the day designated herein for any annual meeting, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the members as soon thereafter as conveniently may be. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

### ***Section 2.2 - Special Meetings***

Special meetings of the members may be called by at least three (3) directors or upon a written request signed by at least ten per cent (10%) of all the members and it shall thereupon be the duty of the secretary to cause notice of such meeting to be given as hereinafter provided. Special meetings of the members may be held at any place within a county in which electric service is provided by the cooperative as specified in the notice of the special meeting.

### ***Section 2.3 - Notice of Members' Meeting***

Written or printed notice stating the place, day, and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered personally, by mail, or by the November newsletter or at the direction of the secretary or by the persons calling the meeting, to each member; provided, however, that with respect to all meetings at which directors are to be elected, such notice shall be so delivered by the November newsletter. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the corporation 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 2.4 - Quorum***

One hundred fifty (150) members present in person shall constitute a quorum at all meetings of the members for the transaction of business and election of directors as long as the corporation has one thousand (1,000) or more members. In case the membership of the corporation should be less than one thousand, at least fifteen percent (15%) of the members of the corporation must be present in person to constitute a quorum. If less than a quorum is present at any meeting of the members, a majority of those present in person may adjourn the meeting from time to time without further notice.

#### ***Section 2.5 - Voting***

Each member may be entitled to one (1) vote and not more upon each matter submitted to a vote at all meetings of the members. All questions shall be decided by a vote of the majority of the members voting thereon in person at all meetings of the members at which a quorum is present, except as otherwise provided in these by-laws (for the election of directors), the charter of the corporation or the laws of Georgia. If a husband and wife hold a joint membership they shall jointly be entitled to one (1) vote and no more at meetings of the members. Voting for directors shall be by secret ballot but all other questions may be decided by voice or show of hands. Provided, that if there is no contest as to any office of director (for example, only one person nominated for each office of director), it shall not be necessary for such unopposed director or directors to be voted upon by secret ballot, but such directors may be elected by a majority of the members in the same manner other questions are determined by the members. Voting by mail or proxy shall not be permitted, except that any member may be represented at meeting of the members in all matters, including the determination of quorum and voting upon all questions and the election of directors, by his or her spouse, if recognized or properly identified by the clerks and/or credentials and election committee members. The members who receive the highest number of votes for any office on the Board of Directors being voted upon shall be elected and, if otherwise qualified under these bylaws to serve as a director of the corporation, shall be so certified by the credentials and election committee.

#### ***Section 2.6 - Determination and Certification of Questions submitted to vote***

The result of the election for directors, as declared by the chairman and secretary of the meeting from certification of the tally of votes by the credentials and election committee, shall be final as to result, and the secretary shall certify and the chairman approve the result of said election and the successful candidates therein, and cause the

same to be transmitted forthwith to the secretary of the Board of Directors of the corporation, who shall record said result in the records of the corporation. All other questions, matters of actions, including amendments to these bylaws, presented to any meeting, shall be voted upon as prescribed in Section 2.5 of Article II of these bylaws.

### ***Section 2.7 - Order of Business***

The order of business at the annual meetings of members, and so far as possible at all other meetings of members shall be essentially as follows: 1. Report of members present to determine the existence of a quorum. 2. Reading of notice of the meeting and proof of the due mailing thereof, or of waivers of notice of the meetings as the case may be. Proof shall be made by the secretary of the Board of Directors. 3. Reading of unapproved minutes of previous meetings of the members and the taking of necessary actions thereon. 4. Presentation and consideration of reports of officers, directors, and committees. 5. Election of directors. 6. Unfinished business. 7. New business. 8. Adjournment.

### ***Section 2.8 –Election Committee***

The Chairman of the Board of Directors shall appoint an Election Committee by the regularly scheduled board meeting in August in preparation of the annual meeting of the members in November or at least (10) days before any other meeting of the members. The Committee shall consist of an uneven number of members not less than (5) and not more than (15) who are not members of the Nominating Committee or existing Cooperative employees, agents, officers, directors or known candidates for director, and who are not close relatives (as defined in section 3.12) of the aforementioned. In appointing the committee, the Chairman of the Board shall have regard for the equitable representation of the several areas served by the Cooperative. The Committee shall automatically disband and have no further authority upon the completion of its duties arising from the Member Meeting for which it was appointed. The Committee shall elect its own chairman and secretary prior to the member meeting.

The committee shall enforce the Meeting Rules and Regulations as approved by the Board of Directors. Using these Rules and Regulations as a guide, the committee's responsibilities will be to: establish or approve the manner of conducting member registration and any ballot or other voting; to pass upon all questions that may arise with respect to the registration of members in person; to count all ballots or other votes cast in any election or in any other manner; to rule upon the effect of any ballots or other voting irregularly or indecisively marked or cast; to rule upon all other questions that may arise relating to member voting; and to pass upon any protest or objection filed with respect to any election or conduct affecting the results of any election. In the exercise of its

responsibility, the committee shall have available to it the advice of counsel provided by the Cooperative.

The winner shall be determined by a majority vote of the members. A runoff election if needed to determine the majority vote will be held in accordance with the rules and regulations for the annual meeting.

In the event a protest or objection is filed concerning any election, such protest or objection must be filed during, or within three (3) business days following, the meeting in which the voting is conducted. The Committee shall hear such evidence as is presented by the protestor(s) or objector(s), who may be heard in person, by counsel, or both, and any opposing evidence; and the Committee, by vote of a majority of those present and voting, shall, within a reasonable time but not later than (10) days after such hearing, render its decision, the result of which may be to affirm the election, to change the outcome thereof, or to set it aside. The Committee may not affirmatively act on any matter unless a majority of the Committee is present. The Committee's decision (as reflected by a majority of those actually present and voting) on all matters covered by this Section shall be final. Without limiting the foregoing duties and prerogatives of the Committee, on request of the person presiding at the meeting of the members or on request of any member entitled to vote thereat, such Committee shall make a report in writing of any challenge, questions, count, or matter determined by the Committee and execute a certificate of any fact found by them. Any such report or certificate made by them shall be prima-facie (A fact presumed to be true unless it is disproved) evidence of the facts stated and of the vote as certified by them.

## ARTICLE III: DIRECTORS

### ***Section 3.1 - General Powers***

The business and affairs of the corporation shall be managed by a board of nine (9) directors which shall exercise all of the powers of the corporation except such as are by law or by the charter of the corporation or by these bylaws conferred upon or reserved to the members.

### ***Section 3.2 - Qualification for office of director***

The territory served by the corporation is divided into six (6) counties in these bylaws to effect and maintain equitable and geographical representation of the members of the Board of Directors. Three directors shall be elected each year by the members to serve on the Board of Directors for terms of three (3) years or until their successors are duly elected and qualified, so that, at all times, the board will consist of two (2) members

from the counties of Irwin, Ben Hill and Turner, and one (1) member from the counties of Tift, Berrien, and Wilcox. The staggered system of electing directors originally adopted by the members in 1952 shall continue in force after the adoption of these bylaws at the annual meeting of the members to be held in November of 1962.

No person shall be eligible to become or remain a director in the corporation who is not a member of the corporation and a bona fide resident of a rural area of the county from which he is nominated and elected to serve and receiving electric service from the corporation at his principal residence, and if elected and seated as a director will continue to be a close relative (as defined in Section 3.12) of an incumbent director or of an employee of the cooperative or who is in any way employed by or financially interested in a competing enterprise or a business selling electric energy or electrical supplies to the corporation. When a membership is held jointly by a husband and wife, either one, but not both, may be elected a director, provided, however, that neither one shall be eligible to become or remain a director in the corporation unless both shall meet the qualifications hereinabove set forth. Nothing in this section contained shall, or shall be construed to, affect in any manner whatsoever the validity of any action taken at any meeting of the Board of Directors.

No person shall be eligible to become or remain a director in the corporation unless they meet these additional qualifications: minimum age of 18; member in good standing with the corporation for at least a year prior to the date of the meeting in which the voting is to take place; no felony convictions; and, not an existing employee.

### ***Section 3.2.1 – Application for Candidacy for Director***

All candidates for director, whether by nomination or by petition, shall submit an application for consideration by the credentials and nomination committee by or on the Friday immediately preceding the third Tuesday of September at the main office of the cooperative.

### ***Section 3.3 - Responsibility of the Board for Election Facilities and Manner of Voting***

The Board of Directors shall provide an appropriate number of ballot boxes and a sufficient number of people to check off the names of members, at the time of registration; determine the qualifications of the members to vote and provide facilities for balloting. All elections shall be supervised by members of the corporation appointed by the presiding chairman of the annual meeting as members of the credentials and election committee who shall, after the polls are closed, count or cause the ballots to be counted and the reports certified to the presiding chairman of the meeting. The certification of the credentials and election committee, unless rejected or

disapproved by the members for good or sufficient reasons, shall be conclusive as to the results of the election and the presiding chairman of the meeting shall declare that the person certified as receiving the highest number of votes for each office being voted upon as members of the board of directors. The certification and declaration shall be recorded in the minutes of the meeting and all balance and tally sheets and other material used in the election shall be sealed and kept in the vault of the corporation for a period of sixty (60) days.

### ***Section 3.4 - Disqualification of Directors***

If any director shall be elected who is disqualified under these bylaws, or shall thereafter become disqualified, it shall be incumbent upon the board of directors to remove such disqualified director from his office immediately. Nothing contained in this section or elsewhere in these bylaws with reference to directors shall affect the validity of any action taken at any meeting of the Board of Directors.

### ***Section 3.5 – Credentials and Nominations***

It shall be the duty of the Board of Directors to appoint a committee consisting of not less than five (5) nor more than eleven (11) members who shall be selected so as to give equitable representation on the committee to the geographical areas served by the corporation. The committee will be appointed in August at the regularly scheduled board meeting in preparation of the annual meeting of members in November. No person who is an employee or member of the Board of Directors or a close relative of an employee or a director (as defined in section 3.12) shall be appointed a member of such a committee. The nominating committee shall meet on the third Tuesday of September at the principal office of the Corporation to validate that all candidates for director qualify according to section 3.2 (also see section 3.5.1).

The committee shall prepare and post at the principal office of the corporation by the fourth Tuesday in September a list of nominations containing at least one (1) qualified nominee for each of the three (3) offices on the Board of Directors to be voted upon at such annual meeting.

A qualified candidate who is not nominated must obtain a petition with fifteen (15) or more member's signatures before or on the Friday immediately following the third Tuesday of September and the secretary shall post the same at the same place where the list of nominations made by the committee is posted. The secretary shall mail with the notice of the meeting a statement of the number of directors to be elected showing separately the nominations made by the committee on nominations and the nominations made by petition if any.

### ***Section 3.6 - Removal of Directors and Officers***

Any member may bring charges against an officer or director by filing them in writing with the secretary, together with a petition signed by ten per cent (10%) of the members, requesting the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the members and any vacancy created by such removal may be filled by the members at such meeting. The director or officer against whom such charges have been brought shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present evidence; and the person or persons bringing the charges against them shall have the same opportunity.

### ***Section 3.7 - Vacancies***

Subject to the provisions of these bylaws, vacancies occurring in the Board of Directors shall be filled by a majority vote of the members at the next annual meeting and directors thus elected shall serve the unexpired term of the directors in respect to when the vacancy occurs.

### ***Section 3.8 - Compensation***

Directors shall, on a per diem basis, receive such compensation, which may include insurance benefits, as is fixed by the Board of Directors. Directors shall also receive advancement or reimbursement of any travel and/or out-of-pocket expenses, actually, necessarily, and reasonably incurred, in performing their duties. The Cooperative shall indemnify Directors and may purchase insurance to cover such indemnification as provided for in Georgia code Section 46-3-306. A relative, by blood or marriage within the first or second degree of kinship to any director, shall not receive compensation for serving the corporation unless the payment of such compensation shall be specifically authorized by a vote of the members prior to the payment of any such compensation, except a relative of a director who is temporarily employed by the corporation for a period of 120 days or less in any calendar year. Noncompliance with this provision shall immediately disqualify any director and be cause for summary removal by the Board.

### ***Section 3.9 - Rules and Regulations***

The Board of Directors shall have power to make and adopt such rules and regulations not inconsistent with law, the charter of the corporation or these bylaws, as it may deem advisable for the management, administration and regulation of the business and affairs of the corporation.

### ***Section 3.10 - Accounting System and Reports***

The Board of Directors shall maintain at the headquarters of the corporation a complete accounting system, conformable to the system of accounts as may from time to time be designated by the Administrator of the Rural Utilities Service of the United States of America. The Board of Directors shall cause all accounts of the corporation to be examined by a finance committee from the Board of Directors which shall approve or reject all payments of funds of the corporation at least once each month, and shall report to the Board of Directors. The Board shall cause a full and complete audit of the accounts, books and financial condition of the corporation to be made by certified public accountants at least once in each year. Such audits shall be available to any member of the corporation at its headquarters during business hours.

### ***Section 3.11 - Change in Rates***

Written notice shall be given to the Administrator of the Rural Utilities Service of the United States of America not less than ninety (90) days prior to the date upon which any proposed change in the rates charged by the corporation for electric energy becomes effective.

### ***Section 3.12 - "Close Relative" Defined***

As that term is used in these Bylaws, "close relative" means a person who, by blood or in law, including step, half, foster and adoptive kin, is either a spouse, child, grandchild, parent, grandparent, brother, sister, aunt, uncle, nephew or niece of the principal or anyone living in the same household with the principal.

## **ARTICLE IV: MEETING OF DIRECTORS**

### ***Section 4.1 - Regular Meetings***

A regular meeting of the Board of Directors shall be held without notice other than this bylaw immediately after the annual meeting of the members. A regular meeting of the Board of Directors shall also be held monthly at such time and place in Irwin County, Georgia, as the Board of Directors may provide by resolution. Such regular monthly meetings may be held without notice other than such resolution fixing the time and place thereof.

### ***Section 4.2 - Special Meetings***

Special meetings of the Board of Directors may be called by the Chairman or any three (3) directors. The person or persons authorized to call special meetings of the Board of Directors may fix the time and place (which shall be in Irwin County, Georgia), for the holding of any special meeting of the Board of Directors called by them.

### ***Section 4.3 - Notice***

Notice of the time, place, and purpose of any special meeting of the Board of Directors shall be given at least five (5) days previous thereto by written notice delivered personally or mailed to each director at his known address. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail so addressed with postage thereon prepaid. The attendance of a director at any meeting shall constitute a waiver of notice thereof, except in case a director shall attend a meeting for the express purpose of objecting to the transaction of any business because the meeting shall not have been lawfully called or convened.

### ***Section 4.4 - Quorum***

A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors; provided, if less than a majority of the directors are present at said meeting, a majority of those directors present may adjourn the meeting from time to time without further notice.

### ***Section 4.5 - Manner of Acting***

The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

## **ARTICLE V: OFFICERS**

### ***Section 5.1 - Number***

The officers of the corporation shall be a Chairman, Vice-Chairman, Secretary, and Treasurer. The offices of Secretary and Treasurer may be held by the same person.

### ***Section 5.2 - Election and Term of Office***

The officers shall be elected annually by and from the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the members. Voting for officers shall be by secret ballot if there is more than one person nominated for any office, however, provided that there is no contest for an officer position, it shall not be necessary for such unopposed officer or officers to be voted on by secret ballot, but such officers may be elected by a majority vote of the directors in the same manner other questions are determined by the directors. If the election of officers shall not be held at 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 of Directors following the next succeeding annual meeting of the members or until his successor shall have been duly elected and shall have qualified, subject to the provisions of these bylaws with respect to the removal of officers.

### ***Section 5.3 - Removal***

Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the corporation will be served thereby.

### ***Section 5.4 - Vacancies***

Except as otherwise provided in these bylaws, a vacancy in any office may be filled by the Board of Directors whenever in its judgment the best interests of the corporation will be served thereby.

### ***Section 5.5 - Chairman***

The Chairman: (a) shall be the principal executive officer of the corporation and shall preside at all meetings of the members and the Board of Directors. (b) Shall sign, with the Secretary, certificates of membership, the issue of which shall have been authorized by resolution of the Board of Directors, and may sign any deeds, mortgages, deeds of trust, notes, bonds, contracts, or other instruments authorized by the Board of Directors to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the Board of Directors or by these bylaws to some other officer or agent of the corporation, or shall be required by law to be otherwise signed or executed; and (c) in general shall perform all duties incident to the office of Chairman and such other duties as may be prescribed by the Board of Directors from time to time.

### ***Section 5.6 - Vice-Chairman***

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

### ***Section 5.7 - Secretary***

The Secretary shall: (a) keep the minutes of meetings of the Board of Directors in one or more books provided for the purpose; (b) see that all notices are duly given in accordance with these bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the corporation and see that the seal of the corporation is affixed to all certificates of membership prior to the issue thereof and to all documents, the execution of which on behalf of the corporation under its seal is duly authorized in accordance with the provisions of these bylaws; (d) keep a register of the post office address of each member which shall be furnished to the Secretary by such member; (e) sign with the Chairman certificates of membership, the issue of which shall have been

authorized by resolution of the Board of Directors; (f) have general charge of the books of the corporation in which a record of the minutes is kept; (g) keep on file at all times a complete copy of the bylaws of the corporation containing all amendments thereto, which copy shall always be open to the inspection of any member, and at the expense of the corporation forward a copy of the bylaws and of all amendments to each member; (h) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Board of Directors.

### ***Section 5.8 - Treasurer***

The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the corporation; (b) receive and give receipts for money due and payable to the corporation from any source whatsoever, and deposit all such moneys in the name of the corporation in such bank or banks as shall be selected in accordance with the provisions of these bylaws; and (c) in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the Board of Directors.

### ***Section 5.9 - President/CEO***

The Board of Directors may appoint a President/CEO who may but shall not be required to be a member of the corporation. The President/CEO shall perform such duties as the Board of Directors may from time to time require for him and shall have such authority as the Board of Directors may from time to time vest in him.

### ***Section 5.10 - Bonds of Officers***

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

### ***Section 5.11 - Compensation***

The compensation, if any of any officer, agent, or employee who is also a director or close relative of a director, shall be determined by the members, as provided elsewhere in these bylaws, and the powers, duties and compensation of any other officers, agents, and employees shall be fixed by the Board of Directors.

### ***Section 5.12 - Reports***

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

## **ARTICLE VI: CONTRACTS, CHECKS & DEPOSITS**

### ***Section 6.1 - Contracts***

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

### ***Section 6.2 - 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 corporation shall be signed by such officer or officers of the corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

### ***Section 6.3 - Deposits***

All funds of the corporation shall be deposited from time to time to the credit of the corporation in such bank or banks as the Board of Directors may select.

## **ARTICLE VII: MEMBERSHIP CERTIFICATES**

### ***Section 7.1 - Certificates of Membership***

Membership in the corporation shall be evidenced by a certificate of Membership which shall be in such form and shall contain such provisions as shall be determined by the Board of Directors not contrary to or inconsistent with the charter of the corporation or these bylaws. Such certificates shall be signed by the Chairman and by the Secretary of the corporation and the corporate seal shall be affixed thereto. Provided, the signatures of the Chairman and/or Secretary may be affixed to membership certificates by facsimile if so authorized by the Board of Directors.

### ***Section 7.2 - Issue of Membership Certificates***

No membership certificate shall be issued for less than the membership fee fixed in these bylaws nor until such membership fee has been fully paid for in cash, and such payment has been deposited with the Treasurer.

### ***Section 7.3 - Lost Certificates***

In case of a lost, destroyed, or mutilated certificate, a new certificate may be issued therefore upon such terms and such indemnity to the corporation as the Board of Directors may prescribe.

## **ARTICLE VIII: NON-PROFIT OPERATION**

### ***Section 8.1 - Interest or Dividends or Capital Prohibited***

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

### ***Section 8.2 - Patronage Capital in Connection with Furnishing Electric Energy***

In the furnishing of electric energy the cooperative's operations shall be so conducted that all patrons will through their patronage furnish capital for the cooperative. In order to induce patronage and to assure that the cooperative will operate on a non-profit basis the cooperative is obligated to account on a patronage basis to all its patrons 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 patrons as capital. The cooperative is obligated to pay by credits to a capital account for each patron 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 a manner that at the end of the fiscal year the amount of capital, if any, so furnished by each patron is clearly reflected and credited in an appropriate record to the capital account of each patron. All such amounts credited to the capital account of any patron shall have the same status as though they had been paid to the patron in cash in pursuance of a legal obligation to do so and the patron 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 patrons on a patronage basis and any amount so allocated shall be included as a part of the capital credited to the accounts of patrons, 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 of Directors shall determine that the financial condition of the cooperative will not be impaired thereby, the capital then credited to patrons' accounts may be retired in full or in part. After November 17, 1976, the Board of Directors shall determine the method, basis, priority, and order of retirement, if any, for all amounts heretofore and hereafter furnished as capital.

### ***Section 8.3 - Transfer of Funds in Capital Accounts***

Capital credited to the account of each patron shall be assignable only on the books of the cooperative pursuant to written instructions from the assignor and only to successors in interest or successors in occupancy in all or in part of such patron's premises served by the cooperative unless the Board of Directors, acting under policies of general application, shall determine otherwise.

### ***Section 8.4 - Retirement of Capital of Deceased Members***

Notwithstanding any other provisions of these bylaws, the Board of Directors, at its discretion shall have the power at any time upon the death of any patron, who was a natural person, if the legal representative of his estate shall request in writing that the capital credited to any such patron be retired prior to the time such capital would otherwise be retired under the provisions of these bylaws, to retire capital credited to such patron immediately upon such terms and conditions as the Board of Directors, acting under policies of general application, and the legal representatives of such patron's estate shall agree upon; provided, however, that the financial condition of the cooperative will not be impaired thereby; provided, further, however, that the aggregate amounts so retired in any one year shall not exceed \$200,000 and provided, further, however, that, if acting under policies of general application the amount mentioned above is not sufficient to retire the capital credited to any such patron or patrons, such patron or patrons shall have the capital credited to them retired in the next succeeding year before any other retirements.

### ***Section 8.5 - Agreement of Members***

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 cooperative's office.

### ***Section 8.6 - Repeal of Conflicting Provisions***

All terms or provisions, or parts thereof, contained in the cooperative bylaws that are or may be construed to be in conflict with the terms of this proposed amendment are hereby expressly repealed, or modified to the extent that such provisions may remain in force consistently herewith. If any of the terms or provisions of this amended Article VIII of the cooperative bylaws are or may be construed to be in conflict with or contrary to the provisions contained in the Georgia Electric Membership Corporation Act, the Corporate Charter, any Mortgages, Deeds of Trust, or other agreements or obligations given or assumed by the Cooperative, or any applicable requirements or regulations of the Rural Utilities Service, or any future amendments or supplements thereto, such provisions of this Article VIII of the cooperative bylaws shall yield to the such conflicting provisions of the above-specified statute, charter, mortgages or regulations. All parts of the Article VIII not found in conflict with any of the above-specified statute, charter, mortgages or regulations, shall remain in force until repealed or amended as herein elsewhere provided for.

### **ARTICLE IX: WAIVER OF NOTICE**

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

### **ARTICLE X: DISPOSITION OF PROPERTY**

(a) The Board of Directors of the corporation shall have full power and authority, without authorization by the members, to authorize the execution and delivery of a mortgage or mortgages or a deed or deeds of trust, or the pleading or encumbering of, any or all of the property, assets, rights, privileges, licenses, franchises and permits of the corporation, whether acquired or to be acquired and wherever situated, as well as the revenues therefrom, all upon such terms and conditions as the Board of Directors shall determine, to secure any indebtedness of the corporation to the United States of America or any agency or instrumentality thereof, or to a national financing institution, organized on a cooperative plan, for the purpose of financing its member's programs, projects and undertakings, in which the cooperative holds membership. (b) The corporation may not otherwise sell, mortgage, lease or otherwise dispose of or encumber all or a substantial portion of its property to another corporation or a foreign corporation doing business in this State or to the holder or holders of any notes, bonds or other evidences of indebtedness issued to the United States of America or any agency or instrumentality thereof, unless such sale, mortgage, lease or other disposition or

encumbrance is approved by the affirmative vote of seventy-five percent (75%) of all the members of the corporation. The vote is to be held at either a regular or special meeting of the members.

#### **ARTICLE XI: FISCAL YEAR**

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

#### **ARTICLE XII: MEMBERSHIP IN OTHER ORGANIZATIONS**

The corporation may become a member of any other organization with the affirmative vote of two-thirds of the members of the Board of Directors present at any meeting thereof at which a quorum is present.

#### **ARTICLE XIII: AMENDMENTS**

These bylaws may be altered, amended or repealed by the affirmative vote of not less than two-thirds of the members of the Board of Directors in any regular or special meeting, except such portions thereof as affect the election of the Board of Directors and the calling of regular and/or special meetings of the members, provided the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal.

The provisions of these bylaws herein contained which affect the election of the Board of Directors and the calling of regular and special meetings of the members of the corporation may be altered, amended or repealed by the affirmative vote of not less than a majority of the members of the corporation present at a regular or special meeting, provided the notice of such meeting shall have contained a copy of the proposed alteration, amendments or repeal. If any member or members desire to offer an amendment affecting the election of directors or the calling of regular or special meetings of the members such members shall deposit a copy of said proposed amendment with the Secretary of the Board of Directors at least twenty (25) days before the meeting in which such resolution is to be offered and the said secretary shall cause a copy of said proposed resolution to be included in the notice of the meeting.