

ARTICLE I — MEMBERSHIP

Section 1. REQUIREMENTS FOR MEMBERSHIP. Any person, firm, association, corporation, or body politic or subdivision thereof may become a member in Continental Divide Electric Cooperative, Inc. (hereinafter called the Cooperative) by:

- (a) filing a written application for membership therein;
- (b) agreeing to purchase from the Cooperative as herein specified;
- (c) agreeing to comply with and be bound by the articles of incorporation and bylaws of the Cooperative and any rules and regulations adopted by the Board of Trustees; and
- (d) no member may hold more than one (1) membership in the Cooperative, and no membership in the Cooperative shall be transferable, except as provided in these bylaws.

Section 2. MEMBERSHIP. Membership in the Cooperative shall be evidenced by a numbered receipt.

Section 3. JOINT MEMBERSHIP. The term "member" as used in these bylaws, shall be deemed to include a husband and wife holding 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 (1) member and shall have the effect of constituting 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 the individual meets the qualifications;
- (h) Upon the death of either spouse who is a party to the joint membership, such membership shall be held solely by the survivor; provided however,

that the estate of the deceased shall not be released from any debts due the Cooperative.

Section 4. MEMBERSHIP AND SERVICE CONNECTIONS FEES. There will not be a membership fee. Any service connection fee shall be charged in accordance with the Cooperative's published tariffs.

Section 5. PURCHASE OF ELECTRIC POWER AND ENERGY; POWER PRODUCTION BY MEMBER; APPLICATION OF PAYMENTS TO ALL ACCOUNTS; PROVISION OF BROADBAND INTERNET AND TELECOMMUNICATIONS AND OTHER SERVICES.

- (a) The Cooperative shall use its best efforts to furnish its members with adequate and dependable electric service, although it cannot and therefore does not guarantee a continuous and uninterrupted supply thereof; and each member, for so long as such premises are owned or directly occupied or used by him, shall purchase from the Cooperative all central station electric power and energy purchased for use on all premises to which electric service has been furnished by the Cooperative pursuant to his membership, unless and except to the extent that the Board of Trustees may in writing waive such requirement, and shall pay therefore at the times, and in accordance with the rules, regulations and rate schedules (including any monthly minimum amount that may be charged without regard to the amount of electric power and energy actually used) established by the Board of Trustees and, if in effect, in accordance with the provisions of any supplemental contract, that may have been entered into. 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. Each member shall also pay all other amounts owed by him to the Cooperative as and when they become due and payable. When the member has more than one (1) service connection from the Cooperative, any payment by him for service from the Cooperative shall be deemed to be allocated and credited on a pro-rata basis to his outstanding accounts for all such service connections, notwithstanding that the Cooperative's actual accounting procedures do not reflect such allocation and proration.

- (b) The Cooperative may provide broadband Internet and telecommunications and other services to cooperative members and non-members upon acquiring state and federal approvals.

Section 6. TERMINATION OF MEMBERSHIP. Upon the withdrawal, death, cessation of existence or expulsion of a member, the membership of such member shall thereupon terminate. Termination of membership in any manner shall not release a member or his estate from any debts due the Cooperative.

ARTICLE II — RIGHTS AND LIABILITIES OF MEMBERS

Section 1. PROPERTY INTEREST OF MEMBERS. In event of dissolution of the Cooperative there shall first be paid all debts and liabilities of the Cooperative and all capital furnished through patronage under Article VII of these bylaws shall next be paid without priority on a pro-rata basis, and the remainder of its property and assets shall be distributed to the members in proportion to the aggregate patronage of each such member during the seven (7) years next preceding the date of filing of the certificate of dissolution.

Section 2. NON-LIABILITY FOR DEBTS OF THE COOPERATIVE. The private property of the members shall be exempt from execution of other liability for the debts of the Cooperative, and no member shall be liable or responsible for any debts or liabilities of the Cooperative.

ARTICLE III — MEETINGS OF MEMBERS

Section 1. ANNUAL MEETING. The annual meeting of the members shall be held either in the month of April or May of each year as set by the Board of Trustees, at such place in the counties of Cibola or McKinley, in the State of New Mexico, as shall be designated in the notice of the meeting, for the purpose of electing trustees, passing upon reports for the previous fiscal year and transacting such other business as may come before the members. It shall be the responsibility of the Board of Trustees to make adequate plans and preparations for the annual meeting. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the Cooperative.

Section 2. SPECIAL MEETINGS. Special Meetings of the Members may be called by resolution of the board of trustees, or upon a written request signed by any three trustees, by the president or by ten percentum (10%) or more of all the members, and it

shall thereupon by the duty of the secretary to cause notice of such meeting to be given as hereinafter provided. Special meetings of the members may be held at any place within the County of Cibola or McKinley County, in the State of New Mexico, specified in the notice of the Special Meeting.

Section 3. NOTICE OF MEMBERS' MEETINGS. Written or printed notice stating the place, day and hours 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 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 his 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 shall of the members shall not invalidate any action which may be taken by the members at any such meeting.

Section 4. QUORUM. Three percent (3%) of the members present in person shall constitute a quorum at any annual meeting. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice. For the purpose of the election of trustees in any one district, a quorum of three percent (3%) of the members residing in such district must be present in person. A District with a quorum shall conduct its election for Trustee(s) even if the Annual Meeting (of all Districts) has no quorum.

Section 5. VOTING. Each member shall be entitled to only one (1) vote. Questions shall be decided by a vote of a majority of the members voting thereon in person, except where disposition of property is an issue, (see Article VIII), or removal of trustees is an issue, (see Article IV, Section 5).

Section 6. ORDER OF BUSINESS. The order of business at the annual meeting of the members and so far as possible at all other meetings of the members shall be essentially as follows:

- (a) call the meeting to order by the President;
- (b) registration and voting by members;
- (c) commencement of business session by President;
- (d) report as to the number of members present in order to determine the existence of quorum;

- (e) reading of the notice of the meeting and proof of publication or mailing thereof; or the waiver or waivers of notice of the meeting as the case may be;
- (f) reading of the unapproved minutes of previous meeting of the members and the taking of necessary action thereon;
- (g) presentation and consideration of reports of officers, trustees and committees;
- (h) election results;
- (i) unfinished business;
- (j) new business; and
- (k) adjournment.

ARTICLE IV — TRUSTEES

Section 1. GENERAL POWERS. The business and affairs of the Cooperative shall be managed by a board of nine (9) trustees, one from each of the eight (8) voting districts as defined in Section 7 of Article IV and one of whom shall be a trustee at large. The board of trustees shall exercise all of the powers of the Cooperative except such as are by law, the articles of incorporation, or these bylaws conferred upon or reserved to the members.

Section 2. ELECTION AND TENURE OF OFFICE. At the annual meeting of the members to be held in the year 1974, the members shall elect three (3) trustees, one each from Districts 1, 3 and 4, and said trustees shall serve for a term of three (3) years. In the year 1975, the members shall elect three (3) trustees, one each from Districts 2 and 7, and the trustee at large, and said trustees shall serve for a term of three (3) years. In the year 1976, the members shall elect three (3) trustees, one each from Districts 5, 6 and 8, and said trustees shall serve for a term of three (3) years. Thereafter, at each annual meeting, the members shall elect three (3) trustees from the districts represented by trustees whose term expires in said year. All trustees shall serve for a term of three (3) years or until their successors are elected and qualify. In the event an election cannot be held due to lack of a quorum, for either the Annual Meeting or the district holding an election at the Annual Meeting, then the incumbent trustee shall serve the new three (3) year term, if he is eligible to do so. If the incumbent trustee is not eligible for re-election, the board of trustees will appoint a successor for the new three (3) year term. A trustee shall be elected only by the vote of the members in the district from which such trustee is to be elected, except the trustee at large shall be elected by the vote of the members in all districts.

Section 3. QUALIFICATIONS. No person shall be eligible to become or remain a trustee or to hold any position of trust in the Cooperative who:

- (a) Is not a member and bona fide resident in the area served by the Cooperative and of the district which he is to represent. The member at large may be a resident of any of the eight (8) voting districts;
- (b) Is in any way employed by or financially interested in a competing enterprise or a business selling electric energy.

Upon establishment of the fact that a trustee is holding office in violation of any of the foregoing provisions, the board of trustees shall 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 of trustees.

Section 4. NOMINATION AND PROCEDURE FOR ELECTION OF TRUSTEES.

It shall be the duty of the board of trustees to appoint not less than sixty (60) days nor more than eighty (80) days before the meeting of the members at which trustees are to be elected, a committee on nominations. The committee selected to make nominations to be acted upon at the Annual Meeting shall consist of three (3) members, one from each district from which a trustee is to be elected. No member of the board of trustees may serve on such committee. The committee shall meet at the principal office of the Cooperative at least fifty (50) days before the meeting of the members at which the trustees are to be elected and shall nominate one (1) or more candidates from each district from which a trustee is to be elected, and in the year in which the trustee at large is to be elected, the committee shall nominate one (1) or more candidates for trustee at large. The names of the candidates for trustees so nominated shall be posted in a conspicuous place in the principal office of the Cooperative not less than fifty (50) days before such Annual Meeting.

Any fifteen (15) or more members, residents of any district in which a trustee is to be elected, acting together, may make and file with the secretary of the Cooperative, at the Cooperative's office in Grants, New Mexico; other nominations by petition not less than thirty (30) days prior to the meeting of the members; and the secretary shall post such nominations at the place where the list of nominations made by the committee is posted. The secretary shall mail with the notice of the meeting, or separately, but at least ten (10) days before the meeting of the members, a statement of the number of trustees to be elected and the names and addresses of the candidates nominated by the committee or by petition, designated by district. The candidate for trustee at large shall be so designated. Such statement shall also designate the candidates nominated by the committee and those nominated by petition.

The members may, at any meeting at which a trustee shall be removed, as provided by these bylaws, elect a successor thereto without compliance with the foregoing

requirements with respect to nomination, provided, however, that any such successor must reside in the same district as the trustee in respect of whom the vacancy occurs. Notwithstanding anything herein contained, failure to comply with any of the provisions of this subsection shall not affect in any manner whatsoever the validity of any election of trustees.

Election of trustees shall be printed or mimeographed ballot. The ballots shall list the names of the candidates nominated by the committee and by petition. Separate ballots shall be used for each district in which trustees are to be elected, and at the time of registration of the members at the Annual Meeting, members shall be given a ballot containing only the name or names of candidates for trustees to be elected from the district in which such member resides. The names of candidates for trustee at large shall appear on all ballots. The chairman of the annual meeting shall appoint three (3) judges to conduct the election and canvass the ballots.

Each member of the Cooperative present at the Annual Meeting shall be entitled to vote on one candidate for trustee at large in the year in which a trustee at large is to be elected. The candidate from each district from which a trustee is to be elected receiving the highest number of votes at such meeting shall be declared elected as trustee. The candidate at large receiving the highest number of votes at such meeting shall be declared elected as trustee. All tie votes shall be decided by flipping a coin.

Section 5. REMOVAL OF TRUSTEES BY MEMBERS. Any member may bring charges for cause against a trustee and, by filing with the secretary such charges in writing together with a petition signed by at least ten per centum (10%) of the members, may request the removal of such trustee by reason thereof. Such trustee shall be informed in writing of the charges at least ten (10) days prior to the meeting of the members at which time 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 him shall have the same opportunity. The question of the removal of the trustee shall be considered and voted upon at the meeting of the members, by two thirds (2/3) majority vote of members present and any vacancy created by such removal may be filled by vote of the members at such meeting without compliance with the foregoing provisions with respect to nominations.

Provided, however, that the successor must reside in the same district as the trustee in respect of whom the vacancy occurs.

Section 6. VACANCIES. Subject to the provisions of these bylaws with respect to the filling of vacancies caused by the removal of trustees by the members, a vacancy occurring in the board of trustees shall be filled by the affirmative vote of a majority of the remaining trustees for the unexpired portion of the term.

The member elected as trustee to fill the vacancy must reside in the same district as the trustee to whose office he succeeds.

Section 7. VOTING DISTRICT. The territory served by the Cooperative shall be divided into eight (8) districts, each of which shall be an area having, as nearly as possible, the same number of members and having service problems peculiar to the district. Each district shall be represented by one (1) trustee. There shall be one trustee at large.

The districts shall be described by reference to an official district map of the area served by the Cooperative, subdivided into a grid map bearing numbers, each being ten (10) miles square. The area embraced in the said districts is as follows:

DISTRICT NO. 1: The area within the limits of the incorporated City of Grants.

DISTRICT NO. 2: All of maps 433, 453 and 454 excepting the parts thereof within the corporate limits of the City of Grants.

DISTRICT NO. 3: All of maps 455 to 458 inclusive; 474 to 478 inclusive; 497, 498, 517 and 518.

DISTRICT NO. 4: All of maps 333 to 338 inclusive; 353 to 358 inclusive; 373 to 378 inclusive; 394 to 398 inclusive; 414 to 418 inclusive; and 434 to 438 inclusive.

DISTRICT NO. 5: All of maps 432, 451, 452; 471 to 473 inclusive; 491 to 496 inclusive.

DISTRICT NO. 6: All of maps 427, 428; 447 to 450 inclusive; 467 to 470 inclusive; and 490.

DISTRICT NO. 7: All of maps 331, 332; 350 to 352 inclusive; 369 to 372 inclusive; 389 to 393 inclusive; 409 to 413 inclusive; and 429 to 431 inclusive.

DISTRICT NO. 8: All of maps 347, 348; 366 to 368 inclusive; 386 to 388 inclusive; 405 to 408 inclusive; 425, 426; 443 to 446 inclusive; and 463 to 466 inclusive.

Not less than sixty (60) days before any meeting of the members at which trustees are to be elected, the board of trustees shall review the composition of the several districts and, if it should be found that inequities in representation have developed which can be corrected by a redelineation of districts, the board of trustees shall reconstitute the districts so that each shall contain as nearly as possible the same number of members and/or having service problems peculiar to the district.

Section 8. COMPENSATION. Trustees shall not receive any salary for their services, as trustees, except that by resolution of the board of trustees a fixed sum and expenses of attendance may be allowed for attendance of each meeting of the board of trustees, and for attendance at any other meeting or Cooperative function which the board of trustees may request a member to attend.

ARTICLE V — MEETINGS OF TRUSTEES

Section 1. REGULAR MEETINGS. A regular meeting of the board of trustees shall also be held monthly at such time and place in Cibola or McKinley Counties, in the State of New Mexico, as the board of trustees may provide by resolution. Such regular monthly meetings may be held without notice other than such resolution fixing the time and place thereof.

Section 2. SPECIAL MEETINGS. Special meetings of the board of trustees may be called by the president or by any three (3) 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 the trustees calling the meeting shall fix the time and place for the holding of the meeting. Special board meetings may be held within or outside the State of New Mexico.

Section 3. NOTICE OF TRUSTEES' MEETINGS. Written notice of the time, place and purpose of any special meeting of the board of trustees shall be delivered to each trustee not less than five (5) days previous thereto, 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 trustees calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail addressed to the trustee at his address as it appears on the records of the Cooperative, with postage thereon prepaid.

Section 4. QUORUM. A majority of the board of trustees shall constitute a quorum, provided, that if less than such majority of the trustees is present at said meeting, a majority of the trustees present may adjourn the meeting from time to time; and provided further, that the secretary shall notify any absent trustees of the time and place of such adjournment. The act of the majority of the trustees present at a meeting at which a quorum is present shall be the act of the board of trustees.

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 of trustees from time to time. The offices of secretary and of treasurer may be held by the same person.

Section 2. ELECTION AND TERM OF OFFICE. The officers shall be elected by ballot, annually by and from the board of trustees at the first regular meeting of the board of trustees held after the Annual Meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon as conveniently may be. Each officer shall hold office until the first regular meeting of the board of trustees following the next succeeding Annual Meeting of the members or until his successor shall have been elected and shall have qualified. A vacancy in any office shall be filled by the board of trustees for the unexpired portion of the term.

Section 3. REMOVAL OF OFFICERS AND AGENTS BY TRUSTEES. Any officer or agent elected or appointed by the board of trustees may be removed by the board of trustees 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 (10%) 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 him shall have the same opportunity. In the event the board does not remove such officer, the question of his removal 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 Cooperative and, unless otherwise determined by the members of the board of trustees, shall preside at all meetings of the members and the board of trustees;
- (b) sign with the secretary 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 of trustees from time to time.

Section 5. VICE PRESIDENT. In the absence of the president, or in the event of his inability or refusal to act, the vice president shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. The vice president shall also perform such other duties as from time to time may be assigned to him by the board of trustees.

Section 6. SECRETARY. The Secretary shall:

- (a) keep the minutes of the meetings of the members and of the board of trustees in one (1) or more books provided for that 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 Cooperative and affix the seal of the Cooperative 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) keep a register of the names and post office addresses of all members;
- (e) have general charge of the books of the Cooperative;
- (f) keep on file, at all times, a complete copy of the articles of Incorporation 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, forward to a copy of the bylaws and of all amendments thereto to each member upon request; and
- (g) in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the board of trustees.

Section 7. TREASURER. The Treasurer shall:

- (a) have charge and custody of and be responsible for all funds and securities of the Cooperative;
- (b) be responsible for 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 as shall be selected in accordance with the provisions of these bylaws; and
- (c) In general, perform all 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 trustees.

Section 8. CHIEF EXECUTIVE OFFICER AND GENERAL MANAGER. The board of trustees may appoint a chief executive officer and general manager who may be, but who shall not be required to be, a member of the Cooperative. The chief executive officer and general manager shall perform such duties and shall exercise such authority as the board of trustees may from time to time vest in him.

Section 9. BONDS OF OFFICERS. 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 give bond in such sum and with such surety as the Board of Trustees shall determine. The Board of Trustees in its discretion, may also require any other officer, agent or employee of the Cooperative to give bond in such amount and with such surety as it shall determine.

Section 10. COMPENSATION. The powers, duties and compensation of officers, agents and employees shall be fixed by the board of trustees.

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 — DISPOSITION OF REVENUES AND RECEIPTS

Section 1. APPORTIONMENT OF REVENUES. The board of trustees shall apportion the revenues of the Cooperative for any fiscal year for the following purposes in the order named:

- (a) to pay or provide for the expenses of operation and maintenance of its facilities during such fiscal year;
- (b) to provide a reasonable reserve for working capital;
- (c) to pay or provide for the payment at interest due in such fiscal year;
- (d) to pay or provide for the payment of principal obligations due in such fiscal year;
- (e) to provide a reserve for the payment of indebtedness of the Cooperative;
- (f) to finance, or to provide, a reserve for the financing of the construction or acquisition by the Cooperative of additional facilities to the extent determined by the board of trustees;

- (g) to provide a fund for education in cooperation for the dissemination of information concerning the effective use of electric energy and other services made available by the Cooperative; and
- (h) to provide a reasonable reserve for contingencies.

Nothing herein contained shall be construed to prohibit the payment by the Cooperative of all or any part of its indebtedness prior to the date when same shall become due.

Section 2. NON-PROFIT OPERATION. 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.

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 each calendar 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, and the Cooperative shall, within a reasonable time, publish a notice in the *Enchantment* magazine or a publication of general circulation that any patron may inspect the capital credited to his account any time during business hours at the Cooperative's headquarters in Grants, New Mexico. 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.

If at any time, prior to dissolution or liquidation, the board of trustees shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital then credited to patron's account from the Cooperative operations of such capital credits as the Cooperative may receive may be retired in full, or in part, as determined by the board of trustees, so long as after the proposed retirement, the capital of the Cooperative shall equal at least twenty per centum (20%) of the total assets of the Cooperative.

Capital credited to the account of each person 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 in part of such patron's premises served by the Cooperative unless the board of trustees, acting under policies of general application, shall determine otherwise.

Notwithstanding any other provisions of these bylaws, the board of trustees, at its discretion, shall have the power at any time upon the death of any patron, if the legal representatives 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 any such patron immediately upon such terms and conditions, as the board of trustees, acting under policies of general application, and the legal representatives of such patrons' estate shall agree upon; provided however, that the financial condition of the Cooperative will not be impaired thereby.

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.

(2a). SPECIAL RIGHT TO ASSIGN. Any member or patron may assign all or any portion of his patronage capital earned or credited or expected to be earned or credited in the future to the Continental Divide Electric Education Foundation, a charitable tax-exempt trust, effective as of the date of assignment, subject in all cases to the Cooperatives prior lien for unpaid charges.

(2b). ASSIGNMENT BY FAILURE TO PROVIDE ADDRESS. Notwithstanding any other bylaw provision, capital credits and capital credit payments, notice or delivery of which cannot be made for failure of a patron or former patron to claim the same in person, or to furnish an effective mailing address for a period of two [2] years after the Cooperative has mailed the same with sufficient postage to the last known address and 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 patron to the Continental Divide Electric Education Foundation, a charitable tax-exempt trust, of such credit or payment remaining after the Cooperative's prior claim for charges due has been satisfied.

(2c). CHARITABLE TRUST. It shall be the duty of the Cooperative to take the necessary steps to establish a tax-exempt charitable trust and to obtain approval of the Internal Revenue Service of the United States and the Department of Revenue of New Mexico and to cause to be named as trustees the officers, from time to time, of the Cooperative, being the President, Vice President, the Secretary and Treasurer, who are to serve as trustees without compensation.

(2d). PRIORITY OF COOPERATIVE'S CLAIM FOR AMOUNTS DUE FROM PATRON. Nothing contained in this article shall be construed to deprive the Cooperative of its first lien against any capital credits to satisfy any unpaid electric bill of the patron; only that portion of a capital credit or payment which is not needed to satisfy any unpaid balance for electric service may be transferred to the Continental Divide Electric Education Foundation under the provisions hereof for the purpose of educational grants to our present active members' immediate families.

(2e). 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 revenues from the distribution of electricity to its patrons.

Section 3. EFFECTIVE DATE. The benefits accruing members under the capital credits plan of operation under this article shall be retroactive and effective as of the first calendar year in which the records of the Cooperative show that its members and consumers for said year paid for electric service a sum in excess of the operating costs and expenses properly chargeable against the furnishing of such service.

ARTICLE VIII — DISPOSITION OF PROPERTY

The Cooperative may not sell, mortgage, lease or otherwise dispose of or encumber all or any substantial portion of its property unless such sale, mortgage, lease or other disposition or encumbrance 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, mortgage, lease or other disposition or encumbrance shall have been contained in the notice of the meeting; provided, however, that notwithstanding anything herein contained, the board of trustees of the Cooperative, 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 well as the revenues and income therefrom, all upon such terms and conditions as the board of trustees shall determine, to secure any indebtedness of the Cooperative to the United States of America, or any instrumentality or agency thereof, or the Cooperative Finance Corporation and any other lending agency.

ARTICLE IX — SEAL

The corporate seal of the Cooperative shall be in the form of a circle and shall have inscribed thereon the name of the Cooperative and the words "Corporate Seal, State of New Mexico."

ARTICLE X — FINANCIAL TRANSACTIONS

Section 1. CONTRACTS. Except as otherwise provided in these bylaws, the board of trustees may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name and on behalf of the Cooperative, and such authority may be general or confined to specific instances.

Section 2. CHECKS, DRAFTS, ETC. All checks, drafts or other orders for the payment of money, and all notes, bonds or other evidences of indebtedness issued in the name of the Cooperative shall be signed by such officer or officers, 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 of trustees.

Section 3. DEPOSITS. All funds of the Cooperative shall be deposited from time to time to the credit of the Cooperative in such bank or banks as the board of trustees may select.

Section 4. CHANGE IN RATES. Written notice shall be given to the Administrator of the Rural Development Utility Program 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 Cooperative for electric energy becomes effective.

Section 5. FISCAL YEAR. The fiscal year of the Cooperative shall be the calendar year beginning January 1 of each year and ending on the 31st 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 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 purchased, provided, however, that the Cooperative may upon the authorization of the board of trustees, purchase stock in or become a member of any corporation organized on a non-profit basis for the purpose of engaging in or furthering the cause of rural electrification, or with the approval of the Administrator of the Rural Development Utility Program, of any other corporation for the purpose of acquiring electric facilities.

Section 2. WAIVER OF NOTICES. Any Member or trustee may waive, in writing, any notice of a meeting required to be given by these bylaws. The attendance of a member or trustee at any meeting shall constitute a waiver of notice of such meeting by such member or trustee, except in case a member or trustee shall attend a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting has not been lawfully called or convened.

Section 3. RULES AND REGULATIONS. The board of trustees shall have power to make and adopt 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 of trustees 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 Development Utility Program of the United States of America. The board of trustees shall after the close of the fiscal year cause to be made a full and complete audit of the accounts, books and financial condition of the

Cooperative as of the end of such fiscal year. Such audit reports shall be submitted to the members at the next following annual meeting.

Section 5. AUTHORIZATION FOR U.S. POSTAL MAILING OF *enchantment*

MAGAZINE. The board of trustees shall be empowered and authorized to subscribe to *enchantment* magazine on behalf of and for circulation to the individual consumers of the Cooperative at an annual subscription rate which shall not be less than \$4.00 nor more than \$8.00, and such subscription shall be paid for each member by 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 a majority of members present at any regular or special meeting, provided the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal.