

**BY-LAWS  
OF THE  
MORA-SAN MIGUEL  
ELECTRIC COOPERATIVE, INC.**

As revised and adopted at the  
June 24, 2017 Annual Meeting

**ARTICLE I - MEMBERSHIP**

**Section 1. Requirements for membership.** Any person, firm association, corporation or body politic or subdivisions thereof may become a member in the Mora-San Miguel Electric Cooperative, Inc., (hereinafter called the "Cooperative") by:

- (a) filing a written application for membership therein;
- (b) agreeing to purchase from the cooperative electric energy as hereinafter specified;
- (c) agreeing to comply with and be bound by the articles of incorporation and by-laws of the Cooperative and any rules and regulations adopted by the Board of Trustees; and,
- (d) paying the membership fee hereinafter specified, provided however, that no person, firm association, corporation or body politic or subdivision thereof shall become a member unless and until the applicant has been accepted by the Board of Trustees. No Member may hold more than one (1) membership in the cooperative for each active meter owned by the member to whom electric service is being delivered ("active meter"), and no membership in the Cooperative shall be transferable.

**Section 2. Membership Certificate.** Membership in the Cooperative shall be evidenced by a membership certificate which shall be in such form and shall contain such provisions as shall be determined by the Board of Trustees. Such certificate shall be signed by the President and by the Secretary of the Cooperative and the corporate seal shall be affixed thereto. No membership certificate shall be issued for less than the membership fee fixed in these by-laws, nor until such membership fee has been fully paid.

**Section 3. Types of Membership.** The Cooperative will consider memberships to be either single memberships or entity memberships as follows:

- (a) A membership may be issued to a natural person. If a membership is issued to a husband or wife, or to other persons maintaining a lawfully recognized domestic relationship, it shall be deemed a joint membership. In the event of death, divorce or legal dissolution of the joint member relationship, the joint membership shall be owned by the surviving member retaining possession of the property served by the Cooperative. In the event such property shall continue to be held jointly, the membership shall be

considered owned by the person designated by Court order or by that person paying the Cooperative. In the event the joint members own more than one meter and the properties associated with such meters are divided between the joint members, each joint member shall be an individual member with respect to the property and meter retained by such person.

- (b) A membership may be issued to a legal entity, including any firm, association, corporation, limited liability company, business trust, partnership, Federal agency, state or political subdivision thereof, or body politic. Such entity memberships shall be voted by a person designated by the entity in writing. The existence of a private legal entity shall be established by verification with the corporations division of the office of the New Mexico Secretary of State or by presentation of the legal entity's Federal Tax Identification Number.
- (c) in regard to a joint membership, the following rights shall apply:
  - (i) presence at a meeting of either one or both joint members shall be regarded as presence of one member and shall have the effect of constituting a waiver of notice of the meeting;
  - (ii) the vote of one (1) joint member shall be considered to be the vote of both joint members;
  - (iii) a waiver notice signed by one or both of the joint members shall constitute a waiver;
  - (iv) notice to either joint member shall constitute notice to both;
  - (v) expulsion of either joint member shall terminate the joint membership;
  - (vi) withdrawal of either member from the membership shall terminate the joint membership except in the case of death, divorce or other legal dissolution of the joint member relationship;
  - (vii) either, but not both joint members may be elected or appointed as an officer or trustee of the Mora-San Miguel Electric Cooperative, Inc., provided that any person so elected or appointed must meet the qualifications for such office.

**Section 4. Conversion of Sole Membership to Joint Membership.** In the event of the marriage or other legal union of a person who already has a membership in the Cooperative to another person, the membership shall continue to be held in the name of the original member until such time as a statement signed by both the member and the member's spouse or other person maintaining a lawfully recognized domestic relationship is delivered to the offices of the Cooperative directing that the membership be held as a joint membership.

**Section 5. Membership Fee.** The membership fee shall be five dollars for each electric meter providing service to the member, upon the payment of which a member shall be eligible for

service to each such meter.

**Section 6. Purchase of Electric Energy.** Each member shall, as soon as electric energy is available, purchase from the Cooperative all electric energy used on the premises specified on the member's application for membership, and shall pay therefor monthly at rates which shall from time to time be fixed by the Board of Trustees. Provided, however, that the Board of trustees may limit the amount of electric energy which the Cooperative shall be required to furnish to any one member. It is expressly understood that the 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 a capital so furnished as provided in these by laws. Each member shall pay to the Cooperative such minimum amount per month per meter, regardless of the amount of electric energy consumed, as shall be fixed by the Board of Trustees from time to time. Each member shall also pay all amounts owed by him to the Cooperative as and when the same shall become due and payable.

**Section 7. Termination of Membership.** Any member may withdraw from membership upon compliance with such uniform terms and conditions as the Board of Trustees may prescribe. The Board of Trustees of the Cooperative may by the affirmative vote of a majority of all the trustees, expel any member who shall have refused or failed to comply with any of the provisions of the articles of incorporation, by-laws or rules or regulations adopted by the Board of Trustees, but only if such member shall have been given written notice by the Secretary of the Cooperative 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 notice was given. Any expelled member may be reinstated by vote of the Board of Trustees or by vote of the members at any annual or special meeting.

Upon the withdrawal, death, cessation of existence or expulsion of a member, the membership of such member shall thereupon terminate, and the membership certificate of such member shall be surrendered forthwith to the Cooperative. Termination of membership in any manner shall not release a member or the member's estate from any debts due the Cooperative. If service is discontinued to a member of the Cooperative at the request of the member, for non-payment for electric service available, or for other violations of by-laws, or rules or regulations of the Cooperative, without prior arrangements made for re-connection within sixty (60) days of such discontinuance, such member so disconnected shall forfeit the membership and return the membership certificate. The failure of such former member to return the membership certificate to the Cooperative shall not prevent the membership from being considered terminated and cancelled.

## **ARTICLE II - RIGHTS AND LIABILITIES OF MEMBERS**

**Section 1. Property Interests of Members.** Upon dissolution and after (a) all debts and liabilities of the Cooperative shall have been paid, and (b) all capital furnished through patronage shall have been retired as provided by these by-laws, the remaining property and assets of the Cooperative shall be distributed among the members and former members in the proportion which the aggregate patronage of each bears to the total patronage of all such members, unless otherwise provided by law.

**Section 2. Non-liability for debts of the Cooperative.** The private property of the members shall be exempt from execution or other liability for the debts of the Cooperative and no member shall be individually liable or responsible for any debts or liabilities of the Cooperative.

**Section 3. Voting Qualifications.** No member may vote in any election unless they have been approved as a member of the Cooperative by the Board of Trustees at least thirty (30) days prior to such election.

**Section 4. Legal Counsel.** At any MSMEC election where board members or individuals are seeking to be elected or re-elected to the board of trustees, MSMEC shall not provide or pay for legal counsel for any board member or individual vying for the position.

### **ARTICLE III - MEETING OF MEMBERS**

**Section 1. Annual Meeting.** The annual meeting of the members, beginning with the year 1967, shall be held on the last Saturday in June of each year, at such place in the county of Mora, State of New Mexico as designated in the notice of the meeting, for the purpose of passing upon reports for the previous fiscal year and transacting such other business as may properly come before the meeting. Failure to hold the annual meeting at the designated time shall not work as forfeiture or dissolution of the Cooperative. The Mora San Miguel Electric Cooperative shall provide polling places as needed in all five districts 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 per cent or more of all the members, and it shall thereupon be the duty of the Secretary to cause notice of such meetings to be given as hereinafter provided. Special meetings of the members may be held at any place within the county of Mora, State of New Mexico, specified in the notice of the special meeting. The Mora San Miguel Electric Cooperative shall provide polling places as needed in all five districts of the Cooperative.

**Section 3. Notice of Members' Meetings.** Written or printed notice stating the place, day and hour of meeting at which business other than that listed in Section 6 of these articles to be transacted, and the purpose or purposes for which the meeting is called, shall be delivered no 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 the 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 on the United States Mail addressed to the member at the member's address as it appears on the records of the Cooperative, with postage thereon prepaid. The failure of any member to receive notice of an annual or special meeting of members shall not invalidate any action which may be taken by the members at any such meeting.

**Section 4. Quorum.** A quorum shall consist of five percent of the total membership, present in person, or one hundred members, present in person, whichever is less. For purposes of establishing a quorum each member shall be counted as one person for each active meter owned by that member. If less than a quorum is present at any meeting, the meeting shall adjourn. The

determination as to whether or not a quorum is present shall be made one hour after the announced starting time of the meeting. In the event the membership at such meeting is to vote for a Trustee, and no quorum is present, and no competition for office, the incumbent Trustee shall continue in office for an additional term of three years. If there is competition and no quorum, the meeting shall be adjourned and be rescheduled within 30 days. If no quorum can be obtained at the rescheduled meeting, the incumbent will continue in office for an additional term of three years.

**Section 5. Voting.** At any Annual or Special Meeting, where MSMEC members are to vote on by-laws or election, MSMEC shall provide polling places in Mora, Las Vegas, San Miguel and Pecos, NM. Members voting at these sites shall be counted toward the quorum. Voting shall be in a public place and commence and end simultaneously.

(a) Eligibility for voting in Annual or District elections shall be determined by the location(s) of the active meter(s) owned by the member. Each member shall be entitled to one vote for each active meter owned by the member and each member shall be treated as a separate “member” of the Cooperative for each active meter for voting purposes under the New Mexico Rural Cooperative Act Section 62-15-8(G). A member may vote in a District election in each District in which the member owns an active meter. Each vote shall be cast only in the District in which the active meter is located. Any member in line at the time the polls close shall be allowed to vote.

**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:

1. Determination that a quorum is present.
2. Reading of a notice of the meeting and proof of the due publication or mailing thereof, or the waiver or waivers of the meeting, as the case may be.
3. Reading of unapproved minutes of previous meeting of the members and the taking of necessary action thereon.
4. Presentation and consideration of reports of officers, trustees and committees.
5. Unfinished business.
6. New business.
7. All other business which may come before the meeting or any adjournment or adjournments thereof.
8. Adjournment.

#### **ARTICLE IV - TRUSTEES**

**Section 1. General Powers.** The business and affairs of the Cooperative shall be managed by a Board of five trustees who shall exercise all of the powers of the Cooperative except such as are by law, the Articles of Incorporation or these by-laws conferred or reserved to the members.

**Section 2. Election and Tenure.** All members of the Board of Trustees holding office at the date of adoption of this amendment shall continue to hold office until expiration of their term of office. Beginning with the year 2018 Trustees shall be elected as follows:

a. One trustee shall be elected in each district

- District No. 1 - One (1) Trustee
- District No. 2 - One (1) Trustee
- District No. 3 - One (1) Trustee
- District No. 4 - One (1) Trustee
- District No. 5 - One (1) Trustee

After Adoption of this amendment, the first year in which a trustee election is slated for a particular district, that election shall be the election for the Trustee position for that district. Thereafter, trustees shall be elected in each district for a term of three (3) years according to the number of trustees whose term expires at the annual meeting following each district election.

b. The total Board membership shall be five (5).

**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 a bonafide resident of the district the member represents in the area served or to be served by the Cooperative, or
- (b) is an owner of a competing enterprise, or
- (c) misses three (3) consecutive monthly board meetings without a valid doctor's written statement (Exceptions: Military duty), or
- (d) is a former employee of the Cooperative within the last three years, or
- (e) is a former employee who was terminated for cause or
- (f) violates the Nepotism policy set forth in Section 12 of this Article IV, or
- (g) has been convicted of a felony.

Upon establishment of the fact that a trustee is holding office in violation of any of the foregoing provisions, it shall immediately become incumbent upon the Board of Trustees to 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. District.** The territory served or to be served by the Cooperative shall be divided into five (5) districts, each of which shall contain as nearly as possible the same number of members. Trustees elected from each district will be apportioned so that each member of the Board represents substantially the same number of members. The original five (5) districts shall be as follows:

1. Chacon-Mora-Holman-Guadalupita-Buena Vista N. of 518-Ledoux-N & S El Carmen-Lucero-Penasco Blanco Mora Co.- Turquillo-Upper Gascon Mora Co.-Vallecitos
2. Rociada-Rainsville E. of 442-Mineral Hill-Sapello-Trujillo-Valmora-Watruos E. of Wagon Mound-Golondrinas-El Porvenir- Las Tusas – Buena Vista E. of 518 – Gallinas - Manuelitas - Ojo Feliz - Onava-Pendaries-South Commerce-Trout Springs-Las Dispensas- La Cueva E. of 442
3. Anton Chico-Bernal-Chapelle-Ribera-Romeroville S. of I-25-Sheridan-Villanueva-Blanchard-Los Montoyas -Myers-Sena-San Miguel-Tecolote E. of I-25 -Telcolotito
4. Glorieta-Rowe-Gabaldon-Ilfeld N. of RR Tracks-Ojitos Frios-San Jose-Valencia-Glorieta Estates - La Manga-Lagunas - Pajarito-San Pablo-Serafina N. of I-25 - San Geronimo S. of Co. Rd. A18A-Falls Creek S. of Co. Rd. A18A-Frontage Rd. 50 S.
5. Pecos-Cowles-Dalton Canyon-Grass Mountain-Holy Ghost- Terrero-Tres Lagunas-Bull Creek N. of Forest Rd. 86-Cow Creek N. of Forest Rd. 86-El Macho-La Joya North Hwy. 50-Upper La Cueva Rd. East-Lower La Posada-Upper La Posada- N. Glorieta Creek-Pecos State Rd. 223 North-E Pecos Rd. -Pecos St. Rd. 63 N of Glorieta Creek

Not less than sixty (60) days before any meeting of the members at which Board members are to be elected, the Board may review the composition of the several districts and, if it should find inequalities in representation which could be corrected by a redelineation of districts, the Board may reconstitute the districts, so that each shall contain nearly as possible the same number of members.

**Section 5. District Meetings.** Not less than thirty (30) days, or more than sixty (60) days before each Annual Meeting, the Board shall call a separate meeting of the members of each district in which a vacancy exists for the purpose of electing a member to the Board of Trustees to represent the members located within such district. All such district meetings shall be held in a public building within the geographic boundaries of the district. If there is no public building within the district, then the meeting may be held in a private residence as approved by a majority of the Board.

**Section 6. Notice of District Meetings.** Written or printed notice stating the place, day, and hour of the meeting shall be delivered not less than seven (7) days before the date of each

meeting, either personally or by mail, by or at the direction of the Secretary, to each member of the district. The notice shall indicate the district to which each member belongs, and shall state that election of a Board Member is to be the purpose of the meeting. It shall also contain the name of all nominees to be voted on at said election.

**Section 7. Nominations.** Not less than thirty (30) days or more than sixty (60) days before each district meeting, any member residing in the voting district may file a petition for the office of Board Member. Said petition must bear the signatures of twenty-five or more members of the district. Such nominations by petitions shall be posted at the principal office of the Cooperative at least fifteen (15) days before the district meeting.

**Proclamation of Election.** Not less than sixty (60) days, nor more than ninety (90) days, before each district meeting, the Secretary shall cause notice to be mailed of the district meetings. Such notices may be mailed in conjunction with other Cooperative business and may be mailed to all members of the Cooperative regardless of district. The notice of election shall read as follows:

Proclamation of Election

Notice is hereby given to you that an election of \_\_\_\_\_ Trustees in District \_\_\_\_\_ of the Mora-San Miguel Electric Cooperative, Inc. will be held. Any member wishing to become a candidate for the Board of Trustees of the Mora-San Miguel Electric Cooperative, Inc., must file in the office of the Cooperative in Mora, Mora County, New Mexico, not Later than the \_\_\_ day of \_\_\_\_\_ a petition for nomination for the office of Board Member. Said petition must bear the signatures of 25 or more members of the district in which such candidate resides. Forms of Petition are available in the offices of the Mora-San Miguel Electric Cooperative, Inc.

**Section 8. Election.** At any district election/meeting of the members the quorum shall consist of one percent of the members in that district. If less than a quorum is present at the time stated in the notice of the meeting, the meeting shall adjourn and be rescheduled within 30 days. If no quorum can be obtained at the rescheduled meeting, the affairs of cooperative shall remain the same until the next regularly scheduled district meeting/election and the incumbent will continue in office for an additional term of three years.

- 1) At any district election if there is competition the election shall continue, no quorum being required and a majority vote prevails. If there is no competition, the incumbent shall remain in office for an additional three year term. MSMEC shall provide one polling place in the most centralized populated area of that district in a public place.
2. Each member in attendance at the district membership meeting shall be entitled to one vote for each active meter located in the district providing service to such member. No members at any district membership meeting shall be permitted to vote by proxy or mail. The President, Vice-President or Secretary of the Cooperative may act as Chairman and preside over any district membership meeting, or a chairman may be selected from the members present.
3. A Secretary for said meeting may be furnished by the Cooperative or selected by the



members present, which Secretary shall record the proceedings of said meeting and together with the Chairman, shall certify said proceedings to the Board.

4. The Board Member elected at the district membership meeting must be an actual resident of the voting district from which the Board Member is elected. The Board Member shall take office and assume the duties and responsibilities thereof at the first meeting of the Board, whether special or regular, after the annual membership meeting as provided by Article V, Section 1.
5. Should a Board Member move his or her place of residence from the Board Member's voting district, a vacancy in such Board Member's office shall be declared by the Board of Trustees, and a Board Member from said district to fill the unexpired term shall be named as is provided in and by these bylaws.
6. Any error or omission in the giving of notice of the holding of any meeting as herein provided, shall not affect in any manner whatsoever the validity of the election of any Board Member.
7. The Board of Trustees is empowered to adopt policies for the conduct of elections which shall provide for proper control and canvassing of the membership votes.

## **Section 9. Removal of Trustees**

**1. Removal by Members.** Any member may bring charges against a Trustee by filing such charges in writing with the Secretary of the Cooperative, together with a petition signed by at least ten per centum of the members of the Cooperative. The charges and specifications against a Trustee must relate to the conduct of the Trustee in regard to the affairs of the Cooperative. The petition referred to above must set forth, above signature lines, the specifications and charges brought against the Trustee. The petition must also set forth the name of the member or members bringing such charges. Upon receipt of a petition and charges, the Secretary of the Cooperative shall advise the Trustee in writing of the charges and shall establish a date for a meeting of the District membership of the District which selected the subject Trustee. The purpose of this meeting shall be to hear evidence and to decide whether to conduct a recall election. The meeting date shall be at least forty (40) days, but not more than sixty (60) days from the date of presentation of the petition to the Cooperative. The Trustee charged shall be heard in person or by counsel and shall be permitted to present evidence in respect to the charges. The person or persons bringing the charges against him shall have the same opportunity. The order of presentation shall be as follows: the person or persons bringing the charges shall present evidence; the Trustee shall then be permitted to present evidence; the person or persons bringing the charges shall then be permitted to address the meeting and the Trustee may then address the meeting. No rebuttal or surrebuttal will be permitted in the closing arguments of the meeting.

Legal counsel for the Cooperative shall conduct the meeting and shall be charged with the determination as to whether or not the charges are sufficiently specific to permit the

Trustee to answer thereto and the legal counsel for the Cooperative shall also be charged with the obligation of determining whether or not there is evidence in support of each charge. In the event no evidence is presented, the Membership shall not vote.

Following the presentation of the evidence by the members and the members of the Board of Trustees, those present at the meeting shall vote by secret, written ballot. In the event of a majority vote to recall the Trustee, then and in that event, a special meeting of the District from which the Trustee has been elected, the members of the entire Cooperative, shall be notified of a special meeting to be held for the purpose of voting whether or not the member shall be recalled. The meeting shall be called within thirty (30) days. In the event of a majority of the members of the Cooperative or the district members present at the recall election meeting should vote in favor of recall, then the recalled member shall immediately cease to serve as a member of the Board of Trustees.

**2. Removal by Trustees.** Upon a Trustee's loss of membership status under Article III of these Bylaws, loss of eligibility or qualification under this Article IV or other disqualification set forth in this Section 9, the Board may remove a Trustee from office and such Trustee's seat may be declared vacant by the remaining members of the Board and such vacancy shall be filled in accordance with Section 10 of this Article IV.

A Trustee may be removed by the Trustees for failure to abide by the following standards of conduct after reasonable notice:

a. General Conduct of Board Members. Trustees shall conduct themselves, personally, and professionally, in accordance with the highest ethical standards. Trustees shall refrain from (a) interfering with, or endeavoring to exercise undue influence upon, the General Manager any other employee or agent of the Cooperative in the performance of their duties, and (b) comporting themselves in any manner as to encourage or promote insubordination on the part of employees of the Cooperative or to undermine proper support of, and respect for, the General Manager, any other Trustee, employee or agent of the Cooperative.

b. Conduct with Respect to Fellow Trustees. Regardless of the personal relations or differences between Board members, they should respect each other in the following ways:

(1). Each Board member should allow ample opportunity for every other Board member to speak on any matter being considered by the Board of Trustees and listen carefully to the opinions and factual observations of the other Board members.

(2). Except when in the best interest of the Cooperative, Board member shall not reveal differences of position among Board members on matters considered and acted upon by the Board of Trustees, except to other Board members or the General Manager. This standard applies to informal as well as formal communications.

**Section 10. Vacancies.** Subject to the provisions of the by-laws with respect to filling vacancies due to lack of a quorum at an annual or district meeting, all vacancies due to the death, resignation or removal of a Trustee, shall be filled by special election. A special election of the district of which such member was elected shall be held within ninety (90) days from the date of the death, resignation or removal of a Trustee. The election shall be held for the purpose of filling the unexpired term.

**Section 11. Compensation.** The Cooperative may reasonably reimburse actual expenses based on the requirements of written board policy and may reasonably compensate Trustees for actual service through payment of a fixed fee (“per diem”), as determined in the Board’s reasonable discretion, for attending any:

1. Monthly Board Meeting;
2. Special Board Meetings; or
3. Function involving the Cooperative; or
4. Meeting of State, National or other Cooperative or industry organization, or
5. Function reasonably enhancing the Trustee’s ability to serve as a Trustee.

A presumption of reasonableness shall attach to the amount of the per diem if the average reportable compensation for Trustees of the Cooperative does not exceed the statewide average reportable compensation for trustee of all other New Mexico electric cooperatives by more than 10%.

No Trustee shall receive compensation for serving the Cooperative in any other capacity, nor shall any Close Relative of a Trustee receive compensation for serving the Cooperative, unless the payment and amount of compensation shall be specifically authorized by a vote of the members or such payment and amount shall be specifically authorized by the remaining Trustees upon their certification of such as an emergency measure. However, a Trustee who is also an Officer of the Board, and who as such performs regular or periodic duties of a substantial nature for the Cooperative in its fiscal affairs, may be compensated in such amount as shall be fixed and authorized in advance of such service by the remaining Trustees.

Notwithstanding the forgoing and irrespective of whether otherwise allowed by law, the Cooperative shall not on behalf of its Trustees pay pensions or establish pension plans, pension trusts, bonus plans, health insurance plans, savings plans and any other incentive plans for the benefit of Trustees, regardless of whether any such plans may from time to time be established for employees of the Cooperative. However, if the terms of any such plan so allow, Trustees may use their per diem payments or other funds for the purpose of paying the entire premium associated with their participation in such plans.

**Section 12. Nepotism.** No close relative or domestic partner of a Trustee shall be employed by the Cooperative who is a third degree relation by blood or marriage nor shall a Trustee serve while a person who is a domestic partner or third degree relation by blood or marriage is employed by the Cooperative. This includes a Trustee's parent, grandparent, spouse, sibling, child, step child, grandchild, great grandchild, aunt/uncle, niece/nephew, grandniece/nephew,

first cousin and second cousin.

## **ARTICLE V - MEETING OF TRUSTEES**

**Section 1. Regular Meetings.** A regular meeting of the Board of Trustees shall be held without notice other than this by-law, immediately after, and at the same place as, the Annual Meeting of the Members. A regular meeting of the Board of Trustees shall also be held monthly at such time and place in Mora County, 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 of the Trustees calling the meeting shall fix the time and place for the holding of the meeting.

**Section 3. Notice of Trustees Meeting.** Written notice of the time, place and purpose of any special meeting of the Board of Trustees shall be delivered 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 to each Trustee. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail addressed to the Trustee at the Trustee's address as it appears on the records of the Cooperative, with postage thereon prepaid.

**Emergency Meeting.** In the event that an emergency arises, as determined by the President, the members of the Board of Trustees may be given telephonic notice of an emergency meeting, said notice to be given at least six (6) hours prior to the emergency meeting of the Board of Trustees. The President shall also be authorized to order that a telephone poll of the Board of Trustees be taken. In the event such telephone poll is taken, the Secretary shall direct that person taking the telephone poll shall prepare a statement reciting the question presented and the vote of each member polled. A simple majority of the Board of Trustees shall control on any emergency measure and the record of the emergency and/or the telephone poll shall be entered in the minutes of the Cooperation at the next regular meeting of the Board of Trustees.

**Section 4. Quorum.** A Majority of the Board of Trustees present in person shall constitute a quorum, provided that if less than such majority of the Trustees is present in person 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 Trustee of the time and place of such adjourned meeting. 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. Trustees participating in a meeting telephonically shall not be counted in the quorum and shall not be permitted to vote on any matter.

**Section 5. Closed Meetings.** The following categories of meetings shall be conducted in private or "closed" meetings of the Board of Trustees:

1. Meetings concerning the legal affairs of the Cooperative;
2. Discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any employee, officer or trustee of the Cooperative; unless privacy is waived in writing by the employees, officer or trustee;
3. Deliberations of confidential business information, the disclosure of which could provide an unfair advantage in favor of other persons or entities;
4. The discussion of personally identifiable information about any member or individual, unless the member or individual requests otherwise;
5. Meetings for the discussion of collective bargaining or related matters;
6. Matters related to wholesale power, procurement contacts and sealed bids.
7. Meetings subject to the attorney–client privilege pertaining to threatened or pending litigation in which the Cooperative is or may become a participant;
8. Meetings for the discussion of the purchase, acquisition or disposal of real property; and
9. Those portions of meetings of committees or boards where strategic and long–range business plans or trade secrets are discussed.

Proceedings of closed meetings shall not be recorded and no formal action shall occur during a closed meeting. Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or in the notice of the separate closed meeting.

Disclosure of information subject to the Closed Meeting section of these Bylaws shall constitute a breach of fiduciary duty and said Trustee shall not be indemnified for legal expenses or liabilities relating to the disclosure.

## **ARTICLE VI - OFFICERS**

**Section 1. Number.** The Officers of the Cooperative shall be a President, Vice-President, Secretary/Treasurer and representatives to such electric utility boards as the Cooperative may be a member (e.g. Tri-State Electric Cooperative Board, New Mexico Rural Electric Cooperative Association).

**Section 2. Election and Term of Office.** The President, Vice-President and Secretary/Treasurer shall be elected annually. Representative to other electric utility boards of which the Cooperative is a member, shall be elected at such intervals as outlined by the by-laws of such Board. The Officers shall be elected by and from the Board of Trustees at the meeting of the Board of Trustees held directly 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 thereafter as may be convenient. Each officer shall hold office until the first meeting of the Board of Trustees following the next succeeding annual meeting or until the Trustee’s successor shall have been elected and shall have qualified, or in the case of a representative to an electric utility board until

the representative's term on the board shall have expired in accordance with the board's by-laws. 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. Removal of such officer or agent shall require a majority of all members of the Board of Trustees.

**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, certificates of membership, the issuance of which shall have been authorized by the Board of Trustees, or the members, and may sign any deeds, mortgages, deeds of trust, notes, contracts or other instruments authorized by the Board of Trustees to be executed, except in cases in which signing and execution thereof shall be expressly delegated by the Board of Trustees or by-laws 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 the President's inability or refusal to act, the Vice-President shall perform the duties of 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 or more books provided for that purpose.
- (b) See that all notices are duly given in accordance with these by-laws 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 certificates of member ships prior to the issue thereof and to all documents, the execution of which on behalf of the Cooperative under its seal, is duly authorized in accordance with the provisions of these by-laws.
- (d) keep a register of the name and post office addresses of all members,
- (e) sign, with the President, certificates of memberships, the issuance of which shall have

been authorized by the Board of Trustees or the members,

- (f) have general charge of the books of the Cooperative in which a record of the members is kept,
- (g) keep on file at all times a complete copy of the articles of incorporation and the by-laws of the Cooperative containing all amendments thereto, which copy shall always be open to the inspection of any members, and at the expense of the Cooperative, forward a copy of the by-laws and of all amendments thereto to each member and,
- (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 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 the issuance of receipts for money due and payable to the Cooperative from any source whatsoever, 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 the by-laws 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. Manager.** The Board may appoint a manager who may be, but who shall not be required to be a member of the Cooperative. The Manager shall perform such duties and exercise such authority as the Board of Trustees may from time to time vest in the Manager.

**Section 9. Bond of Officers.** The Treasurer and any officer or agent of the Cooperative charged with the responsibility for the custody of any of its funds or property shall give a bond in such sum and with such security 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 surety as it shall determine.

**Section 10. Compensation.** The powers, duties and compensation of any officers, agent and employees shall be fixed by the Board of Trustees. The Cooperative shall indemnify trustees, officers, including the general manager, agents and employees, as provided for present or former trustees or officers in section 62-15-3Q, N.M.S.A., 1978. The Cooperative may purchase insurance to cover such indemnification.

**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 REVENUE AND RECEIPTS

**Section 1. Interest of Dividends of 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 dividends shall be paid or payable by the Cooperative on any capital furnished by its patrons.

**Section 2. Patronage Capital in Connection with Furnishing Electric Energy.** In furnishing electric energy, the Cooperative operation shall be so conducted that all patrons, members and non-members alike, 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, members and nonmembers alike, 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, members and non-members alike, 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 fiscal year the amount of capital, if any, so furnished by each patron is clearly reflected and credited in the appropriate record to the capital account of each patron, and the Cooperative shall within a reasonable time after the close of the fiscal year notify each patron of the amount so credited to the patron's account. 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.

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 prorata 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. Any such retirements of capital furnished prior to June 27, 1986, shall be made in order of priority according to the year in which the capital was furnished and credited, the capital first received by the Cooperative, being first retired. After June 28, 1986, the Board of Trustees shall determine the method, basis, and priority and order of retirement, if any, for all amounts thereafter furnished as capital. Provided that the Board of Trustees shall have the power to adopt rules providing for the separate retirement of that portion of capital credited to the account of patrons which corresponds to capital (designated as investments in associated organizations-patronage capital and others) credited to the account of the Cooperative by organizations furnishing electric energy or providing financing to the Cooperative. These rules shall (a) establish a method for determining such portion of capital credited to each patron for each applicable year, (b) provide for separate identification on the Cooperative's books of such capital credited to the Cooperative's patrons, (c) provide for appropriate notification with respect to such capital credited to their accounts, (d) preclude a general retirement of other capital credited to patrons for the same year or of any



capital credited to patrons for any year prior to the fiscal year. Capital credited to the account of each patron 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 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 provision of these by-laws, the Board of Trustees at its discretion, shall have the power at any time upon the death of any patron, who was a natural person, if the personal representatives of the patron's 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 by-laws, to retire capital credited to such patron immediately upon such terms and conditions as the Board of Trustees, acting under policies of general application, and the personal 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 be set by the Board of Trustees each year, but the aggregate amount retired in any one year shall be a minimum of Twelve Thousand Dollars (\$12,000.00) and provided further, however, that, if acting under policies of general application to 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 are made in such succeeding year. The patrons of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of Articles of Incorporation and by-laws shall constitute and be a contract between the Cooperative and each patron, and both the Cooperative and the patrons are bound by such a 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 by-laws shall be called to the attention of each patron of the Cooperative by posting in a conspicuous place in the Cooperative's office.

### **Section 3. Creation of Mora-San Miguel Electric Education Foundation.**

#### **3.1 Special right to assign.**

Members or patrons may assign all or any portion of their patronage capital, earned or credited or expected to be earned or credited in the future, to the Mora-San Miguel Electric Education Foundation, a charitable tax exempt trust, effective as of the date of assignment, subject in all cases to the Cooperative's prior lien for unpaid charges.

#### **3.2 Assignment by failure to provide address.**

Notwithstanding any other by-law 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 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 had in good faith attempted to deliver such notice or payment, shall be and constitute an irrevocable gift by the patron to the Mora-San Miguel 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.

### **3.3 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 New Mexico Taxation and Revenue Department 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.

### **3.4 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 capital credit or payment which is not needed to satisfy an unpaid balance for electric service may be transferred to the Mora-San Miguel Electric Education Foundation under the provisions hereof for the purpose of educational grants to our present active immediate families.

### **3.5 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.

### **3.6 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 furnishings of such services.

## **ARTICLE VIII - DISPOSITION OF PROPERTY**

The Cooperative may not sell, convey, lease, exchange, transfer or otherwise dispose of all or any substantial portion of its property unless such sale, conveyance, lease, exchange, transfer or other disposition is authorized at a duly held meeting of the members thereof by the affirmative vote of not less than two thirds of all the members of the Cooperative, and unless the notice of such proposed sale, lease or other disposition shall have been contained in the notice of the meeting; provided, however, that notwithstanding anything herein contained, or any other provisions of law, 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, assignment for security purposes 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.

## **ARTICLE IX - SEAL**

The Cooperative Seal of the Corporate shall be in the form of a circle and shall have inscribed

there on the name of the Cooperative and the words "Cooperative Seal."

## ARTICLE X - FINANCIAL TRANSACTION

**Section 1. Contracts.** Except as otherwise provided in these by-laws, 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.** Except as otherwise provided by law or in these by-laws, all checks, drafts or other evidence of indebtedness issued to the name of the Cooperative shall be signed by such officer or officers, agent or agents, or employee or employees, of the Cooperative in such a 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 Utility Service of the United States of America not less than ninety (90) days prior to the date upon which any proposed change in rates charged by the Cooperative for electric energy becomes effective.

**Section 5. Fiscal Year.** The fiscal year of the Cooperative shall begin on the first day of January and end on the thirty-first day of December of the same year.

## ARTICLE XI - MISCELLANEOUS

**Section 1. Membership in other Organizations.** The Cooperative shall not become a member of any organization without an affirmative vote of the members at a meeting called as provided in these by-laws, and the notice of said meeting shall specify that action is to be taken upon such proposed membership as an item of business.

**Section 2. Waiver of Notice.** Any member or Trustee may waive in writing, any notice of a meeting required to be given by these by laws. 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 because the meeting shall not have been lawfully called or convened.

**Section 3. Policies, Rules, Regulations, Rate Schedules, Regulatory Filings, Reports and Contracts.** The Board shall have power to approve, make, adopt, amend, abolish and promulgate such policies, rules, regulations, rate classifications, rate schedules, contracts, security deposits and any other types of deposits, payments or charges, including contributions in aid of construction, not inconsistent with law or the Cooperative's Articles of Incorporation or Bylaws, as it may deem advisable for the management, administration and regulation 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 shall conform, so long as the Cooperative is indebted to the Government or any agency or instrumentality thereof, to such accounting system as may from time to time be designated by the Administrator of the Rural Utility Services of the United States of America. All accounts of the Cooperative shall be examined by a committee of the Trustees appointed by the Board of Trustees which shall render reports to the Board of Trustees at least four times a year at regular meetings of the Board of Trustees. The Board of Trustees shall also, after the close of each 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 annual meeting next following the close of such fiscal year.

**Section 5.** The cooperative shall not refund any membership fee paid by any member

**Section 6.** In the event the membership certificate is not surrendered after termination of membership death or otherwise, the membership fee shall be transferred to the operating funds of the Cooperative and all rights to its return shall cease.

**Section 7.** Membership fees paid are not to be considered as deposits and no interest on such fees shall be paid by the Cooperative. Such fees are voluntarily paid for the privilege of exercising the rights of a member of the Cooperative.

**Section 8.** The application for a membership and granting of the same shall be construed as the granting to The Cooperative of an easement, or easements for the construction, erection and maintenance of its electric lines, poles, and guys and guy wires over and across the property of such member, and such member's heirs, assigns or successors. Termination of membership shall not terminate such grant of easement or easements unless released by the Cooperative.

**Section 9. Area Coverage.** The Board will endeavor to see that electric service is extended to all unserved persons within the Cooperative service area who, consistent with Board policies, (a) desire such service, and (b) meet all reasonable requirements established by the Cooperative as a condition of such service.

**Section 10. Headquarters.** The headquarters for Mora-San Miguel Electric Cooperative shall be in the town of Mora, County of Mora, State of New Mexico. Headquarters relocation shall be authorized by the affirmative vote of not less than two-thirds vote of all the active members of the Cooperative at the annual meeting.

## **ARTICLE XII - AMENDMENTS**

Unless otherwise provided in these Bylaws or N.M. Stat. Ann. § 62-15-7 (2013), these Bylaws may be adopted, amended, or repealed ("Amended") by the affirmative ballot vote of the majority of the members voting in person at any regular Annual Meeting or Special Meeting called for that purpose, a quorum being present.

Notice of any Member Meeting at which the Members will consider a proposed Bylaw Amendment must:

1. State that the purpose, or one (1) of the purposes, of the Meeting is to consider the proposed Bylaw Amendment;
2. Contain, or be accompanied by, a copy or summary of the proposed Bylaw Amendment.

Upon resolution of a majority of those present and voting at an Annual or Special Member Meeting, at which a quorum is present, recommending an amendment of the Bylaws in a particular way, the Cooperative will bring a recommendation back to the membership at its next Annual Meeting or Special Meeting called for the purpose of considering the proposed Bylaw amendment, or alternatively publish a response in a newsletter or other correspondence to the Membership on action proposed by the Trustees in response to the resolution.

Except for amendments relating to the sale or disposition of Cooperative assets or territory, any group of members may by petition containing the names, authenticated signatures, addresses of not less than fifty (50) non-suspended Members in each District or ten percent (10%) of the cooperative's Total Membership, have a proposed Bylaw amendment included in the agenda and put to vote at the next Annual Meeting, so long as the petition is received by the Cooperative not less than 180 days prior to the Annual Meeting.

Corrections of typographical errors, adjustments to formatting or other non-substantive modification of the Bylaws shall not be considered "amendments" hereunder and may be made in the ordinary course of business upon approval in an open meeting of the Board of Trustees.

**MORA-SAN MIGUEL ELECTRIC COOPERATIVE, INC.  
P.O. BOX 240  
MORA, NEW MEXICO 87732**

**APPENDIX A**

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) Mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410
- (2) Fax: (202)690-7742; or
- (3) Email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

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