



# **CODE OF REGULATIONS**

*Updated April 2021*

## **ARTICLE I: MEMBERSHIP**

### ***SECTION 1. Requirements for Membership***

Any person, whether a natural person or a firm, association, corporation, partnership, body politic or subdivision thereof, shall become a member of Mid-Ohio Energy Cooperative, Inc. upon receipt of electric service from the Cooperative, provided that such person has first:

- (a) Signed a written application for membership in a form determined by the Cooperative therein; and
- (b) Agreed to purchase from the Cooperative electric power and/or energy as hereinafter specified; and
- (c) Agreed to comply with and be bound by the Articles of Incorporation and Code of Regulations of the Cooperative and any rules and regulations adopted by the Board of Trustees of the Cooperative (hereinafter sometimes referred to herein as the "Board"); and
- (d) Paid the membership fee hereinafter specified.

Where electric systems, or portions thereof, other than those constructed by the Cooperative are acquired, or are merged into or otherwise become a part of the Cooperative's electric system, all persons, firms, corporations, institutions, or other organizations then receiving service from said acquired systems shall become and shall be considered as members of the Cooperative provided that the other requirements for membership specified above have been met. No member may hold more than one membership in the Cooperative and no membership in the Cooperative shall be transferable, unless otherwise authorized by the Board.

### ***SECTION 2. Membership Fees***

The membership fee shall be an amount set by the Board.

### ***SECTION 3. Purchase of Electric Energy***

Each member shall, as soon as electric energy shall be available, purchase from the Cooperative all electric energy purchased for use on the premises specified in the member's application for

membership and shall pay therefore at rates which shall from time to time be fixed by the Cooperative in accordance with all applicable requirements of law. Each member shall pay all amounts owed to the Cooperative as the same shall become due and payable.

**SECTION 4. Termination of Membership**

- (a) Any member may withdraw from membership upon compliance with such uniform terms and conditions as the Board may prescribe. The Board may, by the affirmative vote of not less than two-thirds (2/3) of all the members of the Board, expel any member who fails to comply with any of the provisions of the Articles of Incorporation, this Code of Regulations, or rules or regulations adopted by the Board, but only if such member shall have been given written notice by the Cooperative that such failure makes the member liable to expulsion and such failure shall have continued for at least ten (10) days after such notice was given. Any expelled member may be reinstated by vote of the Board or by vote of the members at any annual or special meeting.
- (b) Upon the withdrawal, death, cessation of existence, voluntary cessation of the Cooperative's electric service to, or expulsion of a member, the membership of such member shall thereupon terminate. The Board may adopt uniform rules governing the membership status of persons whose electric service is temporarily discontinued by the Cooperative. Termination of membership in any manner shall not release a member or the member's estate from any debts or obligations due the Cooperative.
- (c) In case of withdrawal or termination of membership in any manner, the Cooperative shall repay to the member the amount of the membership fee paid by the member, provided, however, that the Cooperative shall deduct from the amount of the membership fee the amount of any debts or obligations owed by the member to the Cooperative.

**SECTION 5. Single Membership**

No membership may be held jointly with any other person or entity.

**ARTICLE II: RIGHTS AND LIABILITIES OF MEMBERS**

**SECTION 1. Property Interest of Members**

Upon dissolution, after:

- (a) All debts and liabilities of the Cooperative have been paid; and
- (b) All capital furnished through patronage has been retired as provided in this Code of Regulations, the remaining property and assets of the Cooperative shall be distributed among all those who were members during the ten years preceding the date of the

filing of the certificate of dissolution in the proportion which the aggregate patronage of each bears to the total patronage of all members during the ten years preceding the date of the filing of the certificate of dissolution.

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

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

**ARTICLE III: MEETING OF MEMBERS**

***SECTION 1. Annual Meeting***

The annual meeting of the members shall be held at a time and place within the service area of the Cooperative as established by the Board. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the Cooperative. In the event that such annual meeting is not held for any reason, a special meeting in lieu thereof shall be called and held as soon thereafter as convenient, and any business transactions or elections held at such meeting shall be as valid as if transacted or held at the annual meeting.

***SECTION 2. Special Meetings***

Special meetings of the members may be called by resolution of the Board, or upon written request signed by any three Board members, by the Chair, or by ten (10) percent or more of all the members, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. Special meetings of the members may be held at any place within the service area of the Cooperative designated by the Board.

***SECTION 3. Notice of Members' Meetings***

Notice stating the place, day and hour of the meeting and, in case of a special meeting or an annual meeting at which business requiring special notice is to be transacted, the purpose or purposes for which the meeting is called, shall be delivered to each member not less than seven (7) days before the date of the meeting, either personally, by mail or by electronic means, by or at the direction of the Secretary, or upon a default in duty by the Secretary by the persons calling the meeting. If mailed, such notice shall be deemed to be delivered three (3) days after being deposited in the United States mail, addressed to the member at the address as it appears on the records of the Cooperative, with postage thereon prepaid. The failure of any member to receive notice of an annual or special meeting of the members shall not invalidate any action which may be taken by the members at any such meeting. Notice of adjournment of a members' meeting need not be given if the time and place to which it is adjourned are fixed and announced at such meeting.

**SECTION 4. Quorum**

The members entitled to vote in person, by mail or other electronic means as established by the Board from time to time shall constitute a quorum.

**SECTION 5. Voting**

- (a) Each member shall be entitled to one vote and no more upon each matter submitted to a vote. Except for the election of Board members, which shall be decided by a plurality vote of the members, all questions shall be decided by a vote of a majority of the members; except for the removal of a Board member pursuant to Section 5 of ARTICLE IV, which matter shall be decided by a majority of the members voting thereon in person. No proxy votes shall be accepted. No mailed or electronic vote shall be counted unless such vote was voted in the time frame and manner established by the Board.
- (b) The vote of a firm, association, limited liability company, corporation, partnership, body politic or subdivision thereof, or any other legal entity, which is a member of the Cooperative shall be cast by the duly authorized representative of said member.
- (c) The Chair of the Cooperative or presiding officer of the meeting shall appoint three (3) inspectors of election for any meeting of members. If the right of any person to vote at any such meeting shall be challenged, the inspectors of election shall determine such right. The inspectors shall receive and count the votes upon each matter submitted to a vote at a meeting of members and shall determine the results. The certificate of any vote, made by the inspectors, shall be prima facie evidence thereof.

**SECTION 6. Election of Board by Members**

- (a) Unless otherwise set forth in this Code of Regulations, Board members shall be elected by the members in accordance with this Section 6.
- (b) The Board may determine to hold elections in person, by mail, electronically, or any combination thereof.
- (c) Election of Board members shall be conducted in advance of the annual meeting or a special meeting called for the purpose of electing Board members. The Board shall establish the time period during which voting will be conducted together with a closing date for voting.
- (d) The results of the election shall be announced at the annual meeting or a special meeting called for the purpose of electing Board members.

**SECTION 7. Order of Business**

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

1. Reading of the notice of the meeting and proof of the due publication or the waiver or waivers of notice of the meeting, as the case may be.
2. Reading of the unapproved minutes of previous meetings of the members and the taking of necessary action thereon.
3. Presentation and consideration of reports of officers, Board members and committees.
4. Unfinished business.
5. New business.
6. Report on the results of election of Board members.
7. Votes on other matters.
8. Adjournment.

**SECTION 8. Holding Member Meetings Electronically**

Notwithstanding anything to the contrary in the Code of Regulations and unless in person meetings or voting is specifically provided for herein, the Board shall have discretion to establish the manner in which meetings shall be held, including the annual meeting, which may be conducted in person, by mail, virtually or other electronic means, including the manner of voting thereat.

**ARTICLE IV: BOARD OF TRUSTEES**

**SECTION 1. General Powers**

The entire business and affairs of the Cooperative shall be managed by a Board of Trustees which shall exercise all of the powers of the Cooperative except such as are by law, the Articles of Incorporation or this Code of Regulations conferred upon or reserved to the members.

**SECTION 2. Districts and Tenure of Office**

The Board shall divide the service area of the Cooperative into nine (9) districts so that equitable representation may be given to the geographic areas served by the Cooperative. The Board shall have the power to change the boundaries of such districts whenever in their discretion the purpose of this Section would be best served. Each district shall be represented by one Board member. Three (3) Board members shall be elected each year on a staggered basis to serve for a term of three (3) years or until their successors shall have been elected and shall have qualified, which term shall commence at the conclusion of the meeting of the members in the year in which such election occurs.

**SECTION 3. Qualifications**

To become or remain a member of the Board, a person must comply with the following:

- (a) be a natural person; and
- (b) be of legal age to vote in the most recent general election; and
- (c) have the capacity to enter legally binding contracts; and
- (d) while a Board member, and during the five (5) years immediately before becoming a Board member, not be convicted of, or plead guilty to, a felony or a misdemeanor involving moral turpitude; and
- (e) except as otherwise provided by the Board, receive a Credentialed Cooperative Director designation, Director’s Certificate, or similar certification from the National Rural Electric Cooperative Association (NRECA) within four (4) years of becoming a member of the Board; and
- (f) while a Board member, and during the year immediately before becoming a Board member:
  - 1) be an active member of the Cooperative in ‘good standing.’ As used in this ARTICLE, ‘good standing’ is defined as: during the previous year, the member has not been assessed more than two (2) delinquent notices and not been disconnected for non-payment; and
  - 2) receive electric service from the Cooperative at a location within the district and permanently reside in an area reasonably close to the service district the Board member serves; and
- (g) At all times abide by the conflict-of-interest policy established by the Board; and
- (h) while a Board member, and during the five (5) years immediately before becoming a Board member, not be and not have been an employee of the Cooperative or an employee of an entity controlled by the Cooperative (hereinafter referred to as a “Cooperative subsidiary”); and
- (i) while a Board member, and during the year immediately before becoming a Board member, have an individual who is a close relative or resides in the same residence as the Board member receive more than ten (10) percent of their annual gross income (other than insurance benefits or Board member compensation), directly or indirectly, from the Cooperative or a Cooperative subsidiary. As used in this ARTICLE, “close

relative” means the relationships of parent, sibling, children, or grandchildren existing by reason of blood, marriage, or adoption; and

- (j) while a Board member, and during the year immediately before becoming a Board member, or have a close relative, as defined above, does not compete with the Cooperative or a Cooperative subsidiary; and
- (k) while a Board member, not be a close relative, as defined above, of another Board member or a close relative, as defined above, of an employee of the Cooperative or of a Cooperative subsidiary; and
- (l) while a Board member, and during the year immediately before becoming a Board member, not be employed by another Board member or be employed by, or receive more than ten (10) percent of annual gross income from an entity which another Board member controls or owns more than ten (10) percent of, or for which another Board member is a director or officer; and
- (m) while a Board member, and during the year immediately before becoming a Board member, not be employed by, control (directly or indirectly), or own more than ten (10) percent of, serve as a director or officer of, or receive more than ten (10) percent of their annual gross income from an entity that:
  - 1) competes with the Cooperative or a Cooperative subsidiary; or
  - 2) receives more than ten (10) percent of its annual gross income directly or indirectly from the Cooperative or a Cooperative subsidiary.

Nothing contained in this Section shall affect in any manner whatsoever the validity of any action taken by the Board.

#### **SECTION 4. Nominations**

It shall be the duty of the Board to appoint, not less than thirty (30) days nor more than one hundred eighty (180) days before the date of the transmittal of the notice of the election of the members of the Board, a committee on nominations consisting of at least one member from each district, and composed so as to ensure equitable representation on the committee to the geographic areas constituting the service area of the Cooperative. No officer or member of the Board may serve on such committee. The committee shall prepare and post at the principal office of the Cooperative or on its website, or any other means prescribed by the Board, a list of nominations for Board membership which shall include two (2) candidates from each district for which a position for a Board member representing such district is to be filled. The Secretary shall be responsible for publishing to the members, a statement of the number of Board members to be elected and the names of the candidates nominated by the committee on nominations, a ballot for their election, and instructions for return of the ballot by mail or

voting by electronic means, if authorized by the Board. Any fifty (50) or more members may make other nominations by petition filed with the Board not more than ten (10) days after the list of candidates is posted. The Secretary shall publish such other nominations of qualified persons in the same manner as the list of nominations made by the committee is published, and the Secretary shall include the names of any persons so nominated if otherwise eligible on the ballot for the election of Board members. Nominations from the floor at any meeting will not be accepted. No person shall be voted upon for membership on the Board who has not indicated a willingness to serve if elected. Failure to comply with any of the provisions of this Section shall not affect in any manner whatsoever the validity of any election of Board members or any action taken by the Board.

**SECTION 5. Removal of Board Members**

Any member may bring specific charges of malfeasance, misfeasance, or nonfeasance in office against a Board member by filing with the Secretary in writing a detailed description of each charge and the evidentiary basis therefore together with a petition signed by at least ten (10) percent of the members requesting the removal of such Board member by reason thereof. For purposes of this ARTICLE, “malfeasance, misfeasance, or nonfeasance” means an act or omission amounting to gross negligence, fraud, or criminal conduct, which has a material adverse effect on the business affairs of the Cooperative. If more than one Board member is sought to be removed, individual charges against each such Board member and the evidentiary basis for each charge shall be specified. A Board member may be removed by an affirmative vote of two-thirds (2/3) of the Board or by a two-thirds (2/3) vote of the members present in person at a meeting of members called for that purpose. The Board member sought to be removed shall have the opportunity to be heard in person or by counsel and to present evidence in response to the charges. No Board member shall be removed from office unless the specific charges against such Board member are supported by clear and convincing evidence.

**SECTION 6. Vacancies**

- (a) A Board member’s seat shall automatically be considered vacant if the Trustee is absent from four (4) regular Board meetings in a calendar year or absent from any three (3) consecutive regular Board meetings unless the absence is excused by vote of the Board.
- (b) Any vacancy occurring in the Board may be filled by the affirmative vote of a majority of the remaining Board members for the unexpired portion of the term and until a successor shall have been qualified and shall have been elected. The vacancy shall be filled by the appointment of a member residing in the district in which the vacancy occurs.



**SECTION 7. Compensation**

Members of the Board shall not receive any salary for their services as such, however, the Board may, by resolution, provide a reasonable compensation to be paid to each Board member for services rendered on behalf of the Cooperative as a Board member, such as attendance at meetings, conferences and training programs or performing committee assignments. The Board may also authorize reimbursement of Board members for expenses actually and necessarily incurred in carrying out such Cooperative business or grant a reasonable per diem allowance in lieu of detailed accounting for such expenses. A Board member may also receive compensation for services rendered as an officer of the Cooperative, but no Board member shall receive compensation for serving the Cooperative in any other capacity, except in an emergency. No close relative, as defined above, of a Board member shall receive compensation for serving the Cooperative, except in an emergency, unless such compensation shall be specifically authorized by a vote of the Board.

**ARTICLE V: MEETINGS OF BOARD OF TRUSTEES**

**SECTION 1. Regular Meetings**

A regular meeting of the Board shall be held monthly in person at such time and place, either within or without the State of Ohio, as designated by the Board by resolution. Such regular monthly meeting may be held without notice other than such resolution fixing the time and place thereof. Board meetings may be cancelled by the Chair when determined to be unnecessary.

**SECTION 2. Special Meetings**

Special meetings of the Board may be called by the Chair or by any three (3) Board members, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. The Chair shall fix the time and place either within or without the State of Ohio, for the holding of the meeting.

**SECTION 3. Notice of Special Board Meetings**

Written notice of the time, place, and purpose of any special meeting of the Board shall be delivered to each Board member either personally, by mail, or by electronic means, by or at the direction of the Secretary, or upon a default in duty by the Secretary, by the Chair or the Board members calling the meeting. Notice shall be given at least three (3) days prior to the date set for the meeting. If mailed, such notice shall be deemed to be delivered on the third day after being deposited in the United States mail addressed to the Board member at his/her address as it appears on the records of the Cooperative, with postage thereon prepaid. Notice of the meeting may be waived. Attendance at the meeting shall be deemed a waiver of notice.

**SECTION 4. Quorum**

A majority of the Board shall constitute a quorum for the transaction of business at any meeting of the Board, provided, that if less than such majority of the Board is present at said meeting a majority of the Board present may adjourn the meeting from time to time; and provided further, that the Secretary shall notify any absent Board members of the time and place of such adjourned meeting. The act of a majority of the Board members present at a meeting at which a quorum is present shall be the act of the Board; except as otherwise provided in this Code of Regulations.

**SECTION 5. Action of Trustees without a Meeting**

Any action which may be authorized or taken at a meeting of the Board may be authorized or taken without a meeting in a writing or writings signed by all of the members of the Board.

**SECTION 6. Virtual Meetings**

The Board may meet virtually or by other electronic means in an emergency as determined by the Chair.

**ARTICLE VI: OFFICERS**

**SECTION 1. Number**

The officers of the Cooperative shall be a Chair, President and Chief Executive Officer (CEO), Vice Chair, Secretary, Treasurer, and such other officers as may be determined by the Board from time to time. The offices of Secretary and Treasurer may be held by the same person.

**SECTION 2. Election and Term of Office**

Each officer, except the President and CEO and any officer appointed pursuant to Section 3 of this ARTICLE VI, shall be elected annually by and from the Board at the first meeting of the Board held after the annual meeting of the members, or as soon thereafter as conveniently possible. Each officer shall hold office until the first meeting of the Board following the next succeeding annual meeting of the members or until the officer's successor shall have been elected and shall have qualified subject to the provisions of this Code of Regulations with respect to the removal of officers. The Board shall choose and employ and set the compensation of the President and CEO.

**SECTION 3. Additional Officers**

In addition to the officers specified in Section 1 of this ARTICLE VI, the Board, in its discretion, may appoint one or more Assistant Vice Chairs, one or more Assistant Secretaries, one or more Assistant Treasurers and such other officers as may be deemed necessary or desirable who shall

have such duties and authority as generally pertains to their respective offices and such as may be prescribed by the Board, and who shall hold office for such period as may be prescribed by the Board.

**SECTION 4. Removal of Officers and Agents by the Board**

Any officer elected or appointed by the Board may be removed by the Board whenever, in its judgement, the best interests of the Cooperative will be served thereby; except that the Board may, in its discretion, authorize a written employment agreement between the Cooperative and the President and CEO containing terms and conditions of employment.

**SECTION 5. Resignations**

Any officer may resign at any time by giving written notice to the Board, to the Chair, or to the Secretary of the Cooperative. Any such resignation shall take effect at the time specified therein and unless otherwise specified therein the acceptance of such resignation shall not be necessary to make it effective.

**SECTION 6. Vacancies**

A vacancy in any office, except that of President and CEO, may be filled by the Board for the unexpired portion of the term. In the event of a vacancy in the office of President and CEO, the Board shall choose and employ a President and CEO upon terms and conditions which the Board considers to be in the best interests of the Cooperative.

**SECTION 7. Chair**

The Chair shall:

- (a) be the principal officer of the Cooperative and, unless otherwise determined by the members or the Board, shall preside at all meetings of the members and the Board; and
- (b) on behalf of the Cooperative, subject to the direction and instruction of the Board, sign, with the Secretary, any deeds, mortgages, deeds of trust, notes, bonds, financing statements, security agreements, contracts or other instruments, except in cases in which the signing and execution thereof shall be expressly delegated by the Board or by this Code of Regulations 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 Chair and such other duties as may be prescribed by the Board from time to time.

**SECTION 8. Vice Chair**

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

**SECTION 9. Secretary**

The Secretary shall be responsible for:

- (a) signing, with the Chair, the minutes of the members and of the Board in books provided for that purpose; and
- (b) seeing that all notices are duly given in accordance with this Code of Regulations or as required by law; and
- (c) the safekeeping of the corporate books and records and the seal of the Cooperative and affixing the seal of the Cooperative or a facsimile to all documents requiring a seal; and
- (d) the execution of which on behalf of the Cooperative under its seal is duly authorized in accordance with the provisions of this Code of Regulations; and
- (e) maintaining a register of the names and post office addresses of all members; and
- (f) maintaining on file at all times a complete copy of the Articles of Incorporation and Code of Regulations of the Cooperative containing all amendments thereto and at the expense of the Cooperative, furnishing a copy of the Code of Regulations and of all amendments thereto to any member upon request; and
- (g) in general, performing all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Board.

**SECTION 10. Assistant Secretary**

The Assistant Secretary, if one is appointed by the Board pursuant to Section 3 of this ARTICLE VI, need not be a member of the Board and shall hold office until relieved by the Board. The Assistant Secretary shall assist the Secretary in the performance of the Secretary's duties as requested by the Board.

**SECTION 11. Treasurer**

The Treasurer shall be responsible for:

- (a) custody of all funds and securities of the Cooperative; and
- (b) the receipt of and the issuance of receipts for all monies due and payable to the Cooperative and for the deposit of all such monies in the name of the Cooperative in such bank or banks as shall be selected in accordance with the provisions of this Code of Regulations; and
- (c) the general performance of all duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the Board.

**SECTION 12. Assistant Treasurer**

If an Assistant Treasurer is appointed by the Board pursuant to Section 3 of this ARTICLE VI, the Assistant Treasurer need not be a member of the Board and shall hold office until relieved by the Board. The Assistant Treasurer shall assist the Treasurer in the performance of the Treasurer's duties as requested by the Treasurer or by the Board.

**SECTION 13. President and CEO**

The President and CEO shall:

- (a) be the CEO responsible for the general direction, coordination and control of all operations in accordance with the policies adopted by the Board, subject to the direction and instruction of the Board; and
- (b) have supervision over and be responsible for the operations of the Cooperative and, in performing this duty, carry out and administer the policies adopted by the Board; and
- (c) prepare for the Board such reports and budgets as are necessary to inform the Board concerning the operation of the Cooperative; and
- (d) in general, perform all duties incident to the office of President and CEO and perform such other duties as may from time to time be assigned by the Board.

**SECTION 14. 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 be bonded in such sum and with such surety as the Board shall determine. The Board, in its discretion, may also require any other officer,

agent or employee of the Cooperative to be bonded in such amount and with such surety as it shall determine.

***SECTION 15. Compensation***

The powers, duties and compensation of officers shall be fixed by the Board.

***SECTION 16. 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: NON-PROFIT OPERATION**

***SECTION 1. Interest or Dividends on Capital Prohibited***

The Cooperative shall at all times be operated on a Cooperative non-profit basis for the mutual benefit of its patrons. No interest or 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 the furnishing of electric energy, the Cooperative's operations 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 non-members 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 an 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 of capital so credited to his/her 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 of 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 part of the capital credited to the accounts of patrons, as herein provided.

In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credits shall be retired without priority, on a pro rata basis before any payments are made on account of property rights of members. If, at any time prior to dissolution or liquidation, the Board shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital credited to patrons' accounts may be retired in full or in part.

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 a part of such patrons' premises served by the Cooperative unless the Board, acting under the policies of general application, shall determine otherwise. Notwithstanding in any other provision of this Code of Regulations, if any patron or former patron fails to claim any cash retirement of capital credits or other payment from the Cooperative within four (4) years after payment of the same has been made available to him/her by notice or check mailed to him/her at his/her last address furnished by him/her to the Cooperative, such failure shall be and constitutes an irrevocable assignment and gift by such patron of such capital credit or other payment to the Cooperative. Failure to claim any such payment within the meaning of this section shall include the failure by such patron or former patron to cash any check mailed to him/her by the Cooperative at the last address furnished by him/her to the Cooperative. The assignment and gift provided for under this section shall become effective only upon the expiration of four (4) years from the date when such payment was made available to such patron or former patron without claim therefore and only after the further expiration of sixty (60) days following the giving of a notice by mail and publication that unless such payment is claimed within said sixty (60) day period, such gift to the Cooperative shall become effective. The notice by mail herein provided for shall be mailed by the Cooperative to such patron or former patron at the last known address and the notice by publication shall be two (2) consecutive insertions in a publication circulated in the service area of the Cooperative, which may be a Cooperative publication. The sixty (60) day period following the giving of such notice shall be deemed to terminate sixty (60) days after the mailing of such notice or sixty (60) days following the last date of publication thereof, whichever is later. Notwithstanding any other provision of this Code of Regulations, the Board at its discretion, shall have the power at any time upon the death of any natural person who was a patron, if the legal representatives of his/her estates 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 this Code of Regulations, to retire capital credited to any such patron immediately upon such terms and conditions as the Board, acting under policies of general application, and the legal representatives of such patron's estate shall agree upon; provided, however, that the financial condition of the Cooperative will not be impaired thereby. After retiring capital credits allocated to a patron or former patron, the Cooperative may recoup, offset, or setoff any amount owed to the Cooperative by the patron or former patron, including any compounded interest and late payment fee, by reducing the amount of retired

capital credits paid to the patron or former patron by the amount owed. The Cooperative may retire and pay capital credits only if the Board determines that the retirement and payment will not adversely impact the Cooperative's financial condition. Consistent with this Code of Regulations, the retirement and payment of capital credits are in the discretion of the Board, and the Board shall determine the manner, method, and timing of retiring and paying capital credits. As reasonable and fair, the Cooperative may retire and pay capital credits to classes of similarly situated patrons under different manners, methods, and timing, provided the Cooperative retires and pays capital credits to similarly situated patrons under the same manner, method, and timing. As determined by the Board, before the time the Cooperative anticipates normally retiring and paying capital credits, the Cooperative may retire some or all capital credits and, in such circumstances, as determined by the Board, the Cooperative may pay the net present value of the retired capital credits. The patrons of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the Articles of Incorporation and Code of Regulations 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.

#### **ARTICLE VIII: DISPOSITION OF PROPERTY**

The Cooperative shall not sell, mortgage, pledge, provide a security interest in, lease or otherwise dispose of or encumber all of any substantial portion of its property, assets, rights, privileges, licenses, franchises or permits, whether acquired or to be acquired, and wherever situated, or the revenues or income therefrom, or merge or consolidate with any other corporation unless such sale, mortgage, lease, other disposition, encumbrance, merger or consolidation is authorized at a meeting of the members thereof by the affirmative vote of not less than two-thirds of all of the members of the Cooperative, and unless notice of such proposed sale, mortgage, lease, other disposition, encumbrance, merger or consolidation shall have been contained in the notice of the meeting; provided, however, that notwithstanding any other provision of this ARTICLE, the Board of the Cooperative, without authorization by the members thereof, shall have full power and authority to authorize the execution and delivery of mortgages, deeds of trust, security agreements and financing statements or otherwise pledging, encumbering, subjecting to a lien or security interest, 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 shall determine, to secure any indebtedness of the Cooperative to the United States of America or any instrumentality or agency thereof or to any other bona fide lender, lending institution or investor; provided, further, however, that notwithstanding any other provision of this ARTICLE, the Board may upon the authorization of a majority of those members of the Cooperative present at a meeting of members thereof, sell, lease, or otherwise dispose of all or a substantial portion of its property to, or merge or consolidate with, another non-profit corporation which is either an electric distribution cooperative that previously was at any time a borrower from the Rural Electrification Administration (now the Rural Utilities Service), or a generation and transmission cooperative



whose members are electric distribution cooperatives. Notwithstanding the foregoing provisions of this ARTICLE, nothing contained herein shall be deemed or construed to prohibit an exchange of plant facilities of another electric company when in the judgement of the Board such facilities are of approximately equal value, but in no event shall the value of the Cooperative's facilities so exchanged within any 12-month period exceed ten (10) percent of the total electric plant of the Cooperative.

#### **ARTICLE IX: SEAL**

The corporate seal of the Cooperative shall have inscribed thereon the name of the Cooperative and the words "Corporate Seal of the State of Ohio," but failure to affix such seal shall not affect the validity of any instrument duly executed on behalf of the Cooperative by its authorized officers.

#### **ARTICLE X: MISCELLANEOUS**

##### ***SECTION 1. Waiver of Notice***

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

##### ***SECTION 2. Policies, Rules and Regulations***

The Board shall have power to make and adopt such policies, rules and regulations, not inconsistent with law, the Article of Incorporation or this Code of Regulations, at it may deem advisable for the management, administration and regulation of the business and affairs of the Cooperative.

##### ***SECTION 3. Accounting System and Reports***

The Board shall cause to be established and maintained a complete accounting system. The Board shall also, after the close of each fiscal year, cause to be made by a certified public accountant a full and complete audit of the accounts, books and financial condition of the Cooperative as of the end of such fiscal year. A report of such audit shall be submitted to the members at the next following annual meeting. The fiscal year of the Cooperative shall begin on the first day of January of each year and shall end on the thirty-first day of December of the same year.

**ARTICLE XI: AMENDMENTS**

This Code of Regulations may be altered, amended or repealed by a majority of the 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; provided, however, that any alteration, amendment or repeal of this ARTICLE XI shall require the affirmative vote of at least two-thirds (2/3) of the members of the Cooperative; and provided further, that no other provision of this Code of Regulations may be altered, amended or repealed by an affirmative vote which is less in number or different in character than the affirmative vote required for action under that provision.

**ARTICLE XII: INDEMNIFICATION AND LIMITED LIABILITY**

***SECTION 1. Third-Party Proceeding Indemnification***

The Cooperative shall, to the fullest extent permitted by Ohio law, as the same now exists or may hereafter be amended or interpreted (but, in the case of any such amendment or interpretation, only to the extent that such amendment or interpretation permits the Cooperative to provide broader indemnification rights thereunder permitted prior thereto), indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed civil, criminal, administrative, or investigative action, suit, or proceeding, including all appeals (other than an action, suit, or proceeding by or in the right of the Cooperative), by reason of the fact that such person is or was a trustee, officer, employee, agent or volunteer (as defined in Chapter 1702 of the Ohio Revised Code) of the Cooperative, or is or was serving at the request of the Cooperative as a trustee, director, officer, employee, member, manager, agent or volunteer of another domestic or foreign nonprofit corporation or corporation for profit, a limited liability company, or a partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with the action, suit, or proceeding, if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Cooperative and, with respect to any criminal action or such person proceeding, such person had no reasonable cause to believe that such person's conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Cooperative and, with respect to any criminal action or proceeding, such person had reasonable cause to believe that such person's conduct was unlawful.

***SECTION 2. Derivative Action Indemnification***

The Cooperative shall, to the fullest extent permitted by Ohio law, as the same now exists or may hereafter be amended or interpreted (but, in the case of any such amendment or interpretation, only to the extent that such amendment or interpretation permits the Cooperative to provide

broader indemnification rights thereunder permitted prior thereto), indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or, completed action or suit, including all appeals, by or in the right of the Cooperative to procure a judgement in its favor, by reason of the fact that such person is or was a trustee, officer, employee, agent or volunteer of the Cooperative, or is or was serving at the request of the Cooperative as a trustee, director, officer, employee, member, manager, agent or volunteer of another domestic or foreign nonprofit corporation or corporation for profit, a limited liability company, or a partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of the action or suit, if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Cooperative, except that no indemnification shall be made in respect of (a) any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of such person's duty to the Cooperative unless, and only to the extent that, the court of common pleas or the court in which such action or suit was brought determines, upon application, that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court of common pleas or such other court shall deem proper, or (b) any action or suit in which the only liability asserted against a trustee is pursuant to Section 1702.55 of the Ohio Revised Code.

***SECTION 3. Indemnification for Expenses***

To the extent that a trustee, director, officer, employee, member, manager, agent or volunteer has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 or Section 2 of this ARTICLE XII, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by such person in connection with that action, suit or proceeding.

***SECTION 4. Determinations of Indemnification Rights***

Any indemnification under Section 1 or Section 2 of this ARTICLE XII (unless ordered by a court and except as provided in Section 4 of this ARTICLE XII) shall be made by the Cooperative only as authorized in the specific case upon a determination that indemnification of the trustee, director, officer, employee, member, manager, agent or volunteer is proper in the circumstances because the person has met the applicable standard of conduct set forth in Section 1 or Section 2 of this ARTICLE XII. The determination shall be made in any of the following manners:

- (a) by a majority vote of a quorum consisting of trustees of the Cooperative who were not and are not parties to or threatened with any such action, suit, or proceeding; or
- (b) whether or not such a quorum is obtainable and if a majority of a quorum of disinterested trustees so directs, in a written opinion by independent legal counsel other than an attorney, or a firm having associated with it an attorney, who has been

retained by or who has performed services for the Cooperative or any person to be indemnified within the past five years; or

- (c) by the members of the Cooperative; or
- (d) by the court of common pleas or the court in which such action, suit, or proceeding was brought.

Any determination made by the disinterested trustees or by independent legal counsel under this Section 4 shall be promptly communicated to the person who threatened or brought the action or suit by or in the right of the Cooperative under Section 2 of this ARTICLE XII, and, within ten (10) days after receipt of such notification, such person shall have the right to petition the court of common pleas or the court in which such action or suit was brought to review the reasonableness of such determination.

#### ***SECTION 5. Advances of Expenses***

Unless the only liability asserted against a trustee in an action, suit, or proceeding referred to in Section 1 or Section 2 of this ARTICLE XII is pursuant to Section 1702.55 of the Ohio Revised Code, expenses (including attorneys' fees) incurred by trustee, officer, employee, agent or volunteer of the Cooperative in defending the action, suit, or proceeding shall be paid, and expenses (including attorneys' fees) incurred by any other trustee, director, officer, employee, member, manager, agent or volunteer in defending the action, suit, or proceeding may be paid, by the Cooperative as they are incurred, in advance of the final disposition of the action, suit, or proceeding, upon receipt of an undertaking by or on behalf of the trustee, director, officer, employee, member, manager, agent or volunteer in which such person agrees both (a) to repay such amount if it is proved by clear and convincing evidence in a court of competent jurisdiction that such person's action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the Cooperative or undertaken with reckless disregard for the best interests of the Cooperative, and (b) to cooperate with the Cooperative concerning the action, suit, or proceeding.

#### ***SECTION 6. Purchase of Insurance***

The Cooperative may purchase and maintain insurance or furnish similar protection, including, but not limited to, trust funds, letters of credit, and self-insurance, for or on behalf of any person who is or was a trustee, officer, employee, agent, or volunteer of the Cooperative, or is or was serving at the request of the Cooperative as a trustee, director, officer, employee, member, manager, agent, or volunteer of another domestic or foreign nonprofit corporation or corporation for profit, a limited liability company, or a partnership, joint venture, trust, or other enterprise, against any liability asserted against the person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Cooperative would have the power to indemnify such person against liability under the provisions of this

ARTICLE XII. Insurance may be purchased from or maintained with a person in whom the Cooperative has a financial interest.

***SECTION 7. Non-Exclusivity***

The indemnification or advancement of expenses authorized by this ARTICLE XII shall not be deemed exclusive of, and shall be in addition to, any other rights granted to any person seeking indemnification or advancement of expenses under the Articles of Incorporation of the Cooperative, this Code of Regulations, any agreement, any vote of the members or disinterested trustees of the Cooperative, or otherwise, both as to action in their official capacities and as to action in another capacity while holding an office or position, and shall continue as to a person who has ceased to be a trustee, director, officer, employee, member, manager, agent or volunteer and shall inure to the benefit of the heirs, executors, and administrators of such a person.

***SECTION 8. Additional Expense Provisions***

The authority of the Cooperative to indemnify persons pursuant Section 1 or Section 2 of this ARTICLE XII does not limit the payment of expenses as they are incurred, indemnification, insurance or other protection that may be provided pursuant to Sections 5, 6 and 7 of this ARTICLE XII. Section 1 and Section 2 of this ARTICLE XII do not create any obligation to repay or return payments made by the Cooperative pursuant to Sections 5, 6 and 7 of this ARTICLE XII.

***SECTION 9. Mergers and Consolidations***

As used in this ARTICLE XII, the "Cooperative" includes all constituent entities in a consolidation or merger, and the new or surviving entity, so that any person who is or was a trustee, director, officer, employee, member, manager, agent, or volunteer of such a constituent entity or is or was serving at the request of a constituent entity as a trustee, director, officer, employee, member, manager, agent, or volunteer of another domestic or foreign nonprofit corporation or business corporation, a limited liability company, or a partnership, joint venture, trust, or other enterprise, shall stand in the same position under this ARTICLE XII with respect to the new or surviving corporation as the person would if the person had served the new or surviving corporation in the same capacity.

***SECTION 10. Amendment or Repeal***

Any amendment or repeal of this ARTICLE XII shall be prospective only and shall not adversely affect or limit the rights or protection of any person or limit the obligations of the Cooperative under any provision of this ARTICLE XII with respect to any claim arising from or relating to actions, omissions or events occurring prior to the time of any such amendment or repeal.

**SECTION 11. Limited Liability of a Trustee or Officer**

Other than in connection with an action or suit in which the liability of a trustee under Section 1702.55 of the Ohio Revised Code is the only liability asserted, a trustee or officer of the Cooperative shall be liable in damages for any action he takes or fails to take as a trustee or as an officer, as the case may be, only if it is proved, by clear and convincing evidence in a court with jurisdiction, that such trustee's or officer's action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the Cooperative or was undertaken with a reckless disregard for the best interests of the Cooperative.