



May 17, 2022

VIA ELECTRONIC MAIL jbender@brblegal.com

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RE: Annual Meeting and Larry Sharpe, II

Dear Jay:

I represent Larry Sharpe, II (“Sharpe”). I trust the Co-op Board of Trustees (“Board”) has received and reviewed the attached Report of the South Carolina Office of Regulatory Staff (“ORS”). I have also included Mr. Sharpe’s Request that resulted in the ORS Report. The ORS found that the April 11, 2022 Board “meeting” that purported to disqualify Sharpe from standing for election/serving on the Board of Trustees violated S.C. Code Ann. Section 33-49-625.

Based on the ORS finding, the fact that Mr. Sharpe was not given an opportunity to respond to the allegation that Sharpe has a “direct business relationship” with the Co-op, and that the minutes of the April 11, 2022 Board “meeting” have not been approved, I request I be allowed to address the Board of Trustees during the Annual Meeting or Business Meeting taking place later this week, in order that the Board conduct a proper consideration of the facts.

The Board owes the Membership of the Co-op transparency and an explanation of why the Board overturned the decision of the Nominating Committee in a hurried and improper manner. Likewise, bedrock principles of open governance require the Board to address and discuss all the salient facts surrounding Mr. Sharpe’s candidacy, and not just the selective and immaterial facts the Board considered at its emergency “meeting.” Surely the Board would not object a debate or discussion between the two of us, or between Board members and me, in order to hash out these issues and create a full and fair record?

I look forward to the opportunity to discuss these issues with you and the Board.

Sincerely,

s/ John J. Pringle, Jr.
John J. Pringle, Jr.

Cc: J. Kennedy DuBose, Jr., Esquire (via email)



CHRISTOPHER M. HUBER
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May 11, 2022

VIA EMAIL ONLY

Board of Trustees
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RE: Request for Inspection, Audit, Examination, and Other Relief from
Larry Sharpe, II

Dear Members of the Board:

The South Carolina Office of Regulatory Staff (“ORS”) received a request in writing on April 26, 2022, from counsel for Larry Sharpe, II, that ORS inspect, audit, and examine (“Request for Inspection”) Fairfield Electric Cooperative, Inc. (“Fairfield”). The Request for Inspection relates to the decision of the Board of Trustees of Fairfield (“Board”) to disqualify Mr. Sharpe as a nominee or candidate for a position on the Board for purposes of the upcoming election. ORS forwarded a copy of the Request for Inspection to Fairfield’s Board on April 27, 2022. ORS served the Board with its First and Continuing Request for Production of Books, Records and Other Information (“Requests for Information”) on May 3, 2022. ORS also served Mr. Sharpe with a set of Requests for Information that same day. ORS received responses from the Board and Mr. Sharpe. By this letter, ORS submits its report of findings to the management and board of Fairfield pursuant to S.C. Code Ann. § 33-49-150(A).

Summary of Information Provided:

The Request for Inspection included a notarized Verification signed by Mr. Sharpe that the contents are true and correct to the best of his knowledge, information, and belief. According to the Request for Inspection, Mr. Sharpe is the Corporate Treasurer of Blythewood Oil Co., Inc. (“Blythewood Oil”), which is a wholesale distributor of petroleum products such as gasoline, kerosene, and diesel. Prior to August 31, 2021, Blythewood Oil sold Fairfield gasoline and diesel fuel for its vehicles.

Mr. Sharpe filed an application seeking nomination to be placed on the ballot for the election to Fairfield's Board on March 11, 2022. According to the Request for Inspection, Mr. Sharpe interviewed with the Nominating Committee for Fairfield on March 14, 2022. Mr. Sharpe reported he discussed his position with Blythewood Oil during the interview and answered questions regarding the business relationship that existed between Blythewood Oil and Fairfield. Mr. Sharpe reported he indicated to the Nominating Committee that Blythewood Oil did not have a direct business relationship with Fairfield and that late summer 2021 "sounded right" as the last date Blythewood Oil had such a relationship with Fairfield. According to the Request for Inspection, Mr. Sharpe also indicated during the interview he understood Blythewood Oil could not have a direct business relationship with Fairfield if he were to serve as a member of the Board.

Mr. Sharpe indicated in the Request for Inspection that the last time Blythewood Oil provided Fairfield with any goods or services was August 18, 2021, and Blythewood Oil received payment for those goods and services on August 31, 2021. Consequently, Mr. Sharpe asserts that August 31, 2021, was the last date Blythewood Oil had a direct business relationship with Fairfield. Mr. Sharpe reported the business relationship ended because the Board removed Blythewood Oil from Fairfield's supplier list.

The Request for Inspection describes a meeting between Mr. Sharpe and Fairfield's employees on March 11, 2022, to discuss fuel purchasing procedures. Mr. Sharpe asserts this meeting was at Fairfield's request. According to Mr. Sharpe, when asked by Fairfield employees if Blythewood Oil would consider being placed on Fairfield's supplier list, Mr. Sharpe declined because he was seeking to serve as a Trustee.

On March 14, 2022, the Nominating Committee for Fairfield met to consider nominees for the Board. The Committee nominated Mr. Sharpe for a seat representing an At Large District.

On Monday, April 11, 2022, the Board held, what it termed, a Special Board Meeting at 3:00 p.m. to consider disqualification of Mr. Sharpe as a Board nominee. In response to the Requests for Information sent to Fairfield, the Board reported that the April 11th meeting was an emergency meeting. Notice of the meeting was posted at a location accessible and visible to the cooperative membership at Fairfield's principal place of business on Friday, April 8, 2022, and on Fairfield's website at 3:55 p.m. the same day. Fairfield provided documentation supporting the accuracy of these dates and times. The notice placed in Fairfield's principal place of business indicated it was a "Notice of Special Board Meeting" and that the purpose was to "discuss the disqualification of a nominee for the position of trustee." The notice on the website similarly indicated it was a "Special Called Meeting" and contained the same purpose. Neither notice used the term "emergency." Both the Board and Mr. Sharpe reported in response to questions from ORS that no additional notice of the meeting was provided directly to Mr. Sharpe.

Fairfield provided ORS a copy of the Board-approved minutes from the April 11th meeting. All members of the Board were in attendance. Trustee Hopkins recused himself from the meeting and did not participate in the meeting or vote. The minutes contain the following information regarding the subject matter of the meeting:

1. Act No. 56 of the 2019-2020 General Assembly of South Carolina prohibits board members from having a business relationship with the cooperative separate from membership in the cooperative.
2. The bylaws prohibit a “direct business relationship” between a trustee and the cooperative.
3. Under the bylaws the Chairman and the Board of Trustees have the duty to disqualify ineligible candidates for trustee positions.
4. Larry Sharpe, Jr. is associated with Blythewood Oil Co., and as recently as March of this year had met with cooperative employees to discuss fuel purchasing procedures.
5. Over the past 25 months Blythewood Oil Co. has received payments from the cooperative of more than \$10,000 per month for purchases.
6. Over the past five years Blythewood Oil Co. has received payment in excess of \$1 Million dollars for sales to the cooperative.

The minutes further state the context of Act 56 was to eliminate self-dealing between cooperatives and the trustees of the cooperatives. Following discussion, a motion was made to disqualify Mr. Sharpe as a consequence of his business relationship with the cooperative through Blythewood Oil. The motion was seconded and carried unanimously. Mr. Sharpe learned of the meeting the same day it was held and received a copy of the minutes from the meeting on April 12, 2022.

In response to the Requests for Information ORS served, the Board indicated that based on the evidence presented Mr. Sharpe was found unqualified to serve as a Trustee “as a consequence of a business relationship between a company he represents, Blythewood Oil Co., and Fairfield.” Further, the Board stated it does not agree the business relationship between the two entities terminated on August 31, 2021. Rather, Fairfield’s position is “given the more than One Million (\$1,000,000) Dollars paid to Blythewood Oil Co. over several years, and Mr. Sharpe’s recent communications with Fairfield . . . both Mr. Sharpe and Fairfield understand a business relationship . . . continues.” The recent communications Fairfield referenced are as follows:

- December 8, 2021: Mr. Sharpe engaged in a conversation with Mr. Bruce Bacon, Fairfield CEO, regarding Fairfield’s fuel purchasing policy which was developed by accountants for Fairfield, and Mr. Sharpe submitted a request to attend the December 13, 2021 Fairfield Board meeting. Fairfield provided a copy of this request to ORS.
- December 13, 2021: Mr. Bacon advised Mr. Sharpe that he would not be able to put Mr. Sharpe on the agenda for the December board meeting but would put him on the agenda for the January board meeting.
- January 14, 2022: Mr. Sharpe declined an opportunity to attend the January 24, 2022 board meeting due to a scheduling conflict.
- March 11, 2022: Mr. Sharpe met with Mr. Kevin Shull of Fairfield to discuss Fairfield’s fuel purchasing procedures.

Fairfield does not agree that its business relationship with Blythewood Oil has ended.

In response to a question from ORS about whether a decision regarding Board composition was made at the April 11, 2022 Board meeting, the Board responded “[n]o” and that Board composition is established by Fairfield’s bylaws.

In response to ORS’s Requests for Information, Mr. Sharpe reported he has not made a request in writing that the Board reconsider its decision to disqualify him and has not requested judicial relief related to this matter.

ORS’s Authority Under Act 56:

ORS’s authority and jurisdiction regarding this matter is set forth in S.C. Code Ann. § 33-49-150(A), which was enacted as part of Act 56. Under this statute, ORS is vested with the authority and jurisdiction to make inspections, audits, and examinations of electric cooperatives related to compliance with the provisions of certain enumerated statutes.¹ Upon completion of an authorized inspection, audit, or examination, ORS must report its findings to the management and board of the electric cooperative and attempt to resolve with the management and board any compliance issues identified. The Public Service Commission of South Carolina (“Commission”) is vested with the authority and jurisdiction to resolve any disputed issues arising from ORS inspections, audits, or examinations.

Section 33-49-150(A) does not vest ORS with authority to inspect, audit, or examine compliance with a cooperative’s bylaws. This is further demonstrated by S.C. Code Ann. § 33-49-160(E), which expressly vests ORS with such authority with respect to the bylaws of an association of electric cooperatives. No similar express grant of authority exists in section 33-49-150(A). ORS expresses no opinion regarding the violations of bylaws Mr. Sharpe alleges occurred except to the extent necessary as part of assessing compliance with the statutes listed in section 33-49-150(A) that Mr. Sharpe asserts were violated.

Further, with respect to Mr. Sharpe’s request that ORS require the Board to reinstate Mr. Sharpe as a candidate prior to Fairfield’s Annual Meeting. ORS does not have authority under section 33-49-150(A) to direct the Board to take such action.

Findings:

Regarding the Board’s general authority with respect to the nominations and elections process, Fairfield’s bylaws delegate certain responsibilities related to Board nominations and elections to the Committee on Nominations and Credentials and Election Committee. However, pursuant to S.C. Code Ann. § 33-49-610(A), “[t]he business and affairs of a cooperative must be managed by a board of not less than five trustees.” The nominations and elections process are inherently part of the business and affairs of a cooperative, and the Board retains oversight authority in these areas, including with respect to disqualification of a nominee or candidate.

¹ The enumerated statutes are S.C. Code Ann. §§ 33-49-255, 33-49-280, 33-49-420, 33-49-430, 33-49-440, 33-49-450, 33-49-610, 33-49-615, 33-49-620, 33-49-625, 33-49-630, 33-49-640, 33-49-645, 33-49-1410, 33-49-1420, 33-49-1430, 33-49-1440, 58-27-820, and 58-27-840.

Moreover, section 4.02 of Fairfield’s bylaws grants the Chairman of the Board the authority to disqualify a nominee upon establishment of the fact the nominee lacks eligibility. While section 4.02 states such decision shall be made at the meeting at which the nominee is up for election, ORS finds no violation of any of the statutes set forth in S.C. Code Ann. § 33-49-150(A) solely from the fact the Board made the disqualification decision at a meeting earlier than the Annual Meeting of Fairfield’s members at which the election was scheduled to occur. It is unclear how compliance with other provisions of chapter 49 of Title 33 of the South Carolina Code (“chapter 49”), including the requirement of the availability of early voting under certain circumstances as set forth in S.C. Code Ann. § 33-49-440, could be achieved if the disqualification decision was made at the meeting when the election is scheduled to occur.

1. S.C. Code Ann. § 33-49-630

Mr. Sharpe asserts Fairfield violated S.C. Code Ann. § 33-49-630. The pertinent portion of this statute states that a member of an electric cooperative’s board of trustees may not “have a business relationship with the electric cooperative that is distinct from or in addition to the trustee’s mandatory cooperative membership pursuant to Section 33-49-610(A) or his service on the board of trustees.” S.C. Code Ann. § 33-49-630(B)(2). Mr. Sharpe asserts the Board violated this statute by determining that he has a “direct business relationship” with Fairfield because he asserts August 31, 2021, was the last date Blythewood Oil had a business relationship with Fairfield. Fairfield does not agree with Mr. Sharpe’s assertion that the business relationship has ended. ORS notes that neither party points to any further purchases occurring after September 2021.

An electric cooperative is not prohibited from having additional qualification requirements for trustees beyond those set forth in section 33-49-630 and elsewhere in chapter 49. Indeed, Fairfield lists qualification requirements in section 4.02 of its bylaws, including that “[a] Trustee may not have a direct business relationship with the Electric Cooperative that is distinct from or in addition to the Trustee’s mandatory Cooperative membership.”

Based on the information Mr. Sharpe and the Board provided and the examination procedures performed, a factual dispute exists regarding whether a business relationship continues between them through Mr. Sharpe’s position with Blythewood Oil. ORS makes no finding of non-compliance with respect to section 33-49-630.

2. S.C. Code Ann. § 33-49-625

Mr. Sharpe also asserts the April 11, 2022 Board meeting at which the disqualification decision was made did not comply with S.C. Code Ann. § 33-49-625. Subsection (A) of this statute provides that ten-days-notice of all nonemergency board of trustee meetings must be provided through posting on the cooperative’s website and at its principal place of business. Under subsection (B) of section 33-49-625, written notice of emergency meetings of a board must be provided in the same manner as nonemergency meetings at least twenty-four hours before the meeting. “Emergency meetings of the board may be called when appropriate to deal with extraordinary circumstances, but the board of trustees must not make decisions regarding rates,

Letter – Board of Trustees of Fairfield Electric Cooperative, Inc.

May 11, 2022

Page 6 of 6

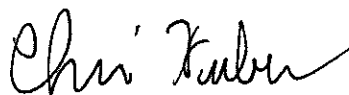
fees, charges, board of trustees composition or board of trustees compensation at an emergency meeting.” S.C. Code Ann. § 33-49-625(B).

Fairfield posted notice of the Monday, April 11th Board meeting at its principal place of business on the preceding Friday, April 8th. Fairfield posted notice on its website at 3:55 p.m. on the same day. While Fairfield stated in response to ORS’s Requests for Information that this was an emergency meeting, neither the principal place of business notice nor website notice describe it as such. Rather, they described the meeting as a Special Meeting. Further, a decision was made at the meeting to disqualify a nominated individual from being a nominee or candidate for the Board, which impacts Board composition. Under section 33-49-625(B), decisions regarding Board composition cannot be made at an emergency meeting. ORS finds that the April 11, 2022 Board meeting did not comply with section 33-49-625.

Recommendations:

ORS recommends Fairfield undertake a review of its processes for determining when an emergency meeting of the Board is appropriate. As stated in section 33-49-625(B), such meetings are reserved for “extraordinary circumstances” and there are limitations on the scope of decisions which can be made at such meetings. ORS further recommends Fairfield undertake a comprehensive review of its bylaws, including assessing whether any sections need updating to make them consistent with chapter 49 and Act 56. In particular, ORS recommends Fairfield review use of the terminology special board meeting versus emergency board meeting in its bylaws and review the sections of its bylaws on trustee qualifications, nominations, and elections, including section 4.02, for improvements or clarifications. Finally, ORS recommends Fairfield review its process for assessing trustee candidates’ credentials and qualifications during the process of nominating candidates for the Board.

Sincerely,



Christopher M. Huber

IN RE:)
)
Fairfield Electric Cooperative, Inc.) **REQUEST FOR INSPECTION, AUDIT,**
) **EXAMINATION, AND OTHER RELIEF**
)

Larry Sharpe, II (“Sharpe” or “Complainant”) hereby requests that the South Carolina Office of Regulatory Staff (“ORS”), pursuant to S.C. Code Ann. Section 33-49-150, inspect, audit and examine Fairfield Electric Cooperative, Inc. (“Fairfield”), and take those actions authorized by statute and requested herein. In support of this request, Sharpe would show the ORS the following:

1. Fairfield is an “electric cooperative” as that term is defined in South Carolina law.
2. Larry Sharpe, II (“Sharpe”) is a member of Fairfield.
3. Sharpe is the Corporate Treasurer of Blythewood Oil Co., Inc. (“Blythewood Oil”).
4. On March 11, 2022, Sharpe filed an application seeking election to the Board of Trustees for Fairfield (Board).
5. For reference purposes, the Fairfield Bylaws are attached hereto as **Exhibit 1**.
6. On March 14, 2022, Sharpe met with the Fairfield Committee on Nominations (the Nominating Committee) and was interviewed. In that interview, Sharpe explained to the Nominating Committee his status as Treasurer of Blythewood Oil, and provided the Nominating Committee with a biography.
7. The Nominating Committee asked Sharpe if any Fairfield employee had asked Sharpe to run for election to the Board. Sharpe responded that no Fairfield employee had asked him to run.

8. Citing Section 4.02 of the Bylaws (“[a] Trustee may not have a direct business relationship with the Electric Cooperative that is distinct from or in addition to the Trustee’s mandatory Cooperative membership.”), the Nominating Committee asked Sharpe if Blythewood Oil has a “direct business relationship” with Fairfield. Sharpe responded that Blythewood Oil does not currently have a “direct business relationship” with Fairfield.

9. The Nominating Committee asked Sharpe if he recalled the last time Blythewood Oil had a “direct business relationship” with Fairfield. Sharpe responded that he did not know the exact date.

10. The Nominating Committee asked Sharpe if the Summer of 2021 “sounded right” as the last date Blythewood Oil had a “direct business relationship” with Fairfield. Sharpe agreed that date sounded accurate.

11. S.C. Code Ann. Section 33-49-630(B)(2) also prohibits a Trustee from having a “direct business relationship” with Fairfield:

(B) A member of an electric cooperative’s board of trustees may not:

...

(2) have a business relationship with the electric cooperative that is distinct from or in addition to the trustee’s mandatory cooperative membership pursuant to Section 33-49-610(A) or his service on the board of trustees;

12. The Nominating Committee, and asked Sharpe if complying with that requirement “would be a problem.” Sharpe responded that compliance would not be a problem, because Blythewood Oil does not currently have a “direct business relationship” with Fairfield, and Sharpe understood that Blythewood Oil could not have a “direct business relationship” with Fairfield if Sharpe were to serve as a Trustee.

13. Crucially, the Nominating Committee knew, at the time Sharpe was interviewed, that Blythewood Oil does not have a “direct business relationship” with Fairfield. More specifically, the Nominating Committee knew exactly when the “direct business relationship” between Blythewood Oil and Fairfield ended.

14. The last time Blythewood Oil provided Fairfield with any goods and services was August 18, 2021, and Blythewood Oil received payment for those goods and services on August 31, 2021. Consequently, the last date Blythewood Oil had a “direct business relationship” with Fairfield was August 31, 2021.

15. Ironically, the reason Blythewood Oil’s business relationship with Fairfield came to an end is because the Board removed Blythewood Oil from Fairfield’s supplier list.

16. On March 11, 2022, Sharpe met with Fairfield employees to discuss fuel purchasing procedures. This meeting took place at Fairfield’s request. This meeting did not involve in any way, shape, or form an effort by Sharpe to secure business for Blythewood Oil.

17. On the contrary, when asked by Fairfield employees if Blythewood Oil would consider being placed on Fairfield’s supplier list, Sharpe declined same because Sharpe was seeking to serve as a Trustee.

18. On March 14, 2022, the Fairfield Nominating Committee meet to consider nominees for the Fairfield Board of Trustees. A copy of the minutes of the March 14, 2022 meeting (Nominating Committee Minutes) are attached as **Exhibit 2**.

19. As set out in the Nominating Committee Minutes, the Nominating Committee “completed personal interviews” of candidates for the Board of Trustees, and “reviewed and discussed personal information provided from candidates”

20. As also set out in the Nominating Committee Minutes, Sharpe was nominated for a Board of Trustees seat, his nomination was seconded, and the Motion to nominate Sharpe was approved.

21. On April 11, 2022, Sharpe learned that the Fairfield Board of Trustees (the Board) had held a special meeting. The minutes of that meeting (“Board Minutes”) are attached as **Exhibit 3.**

22. The “special meeting” conducted by the Board on April 11, 2022 violates S.C. Code Ann. Section 33-49-625:

(A) Notwithstanding all other notice requirements, written notice of all nonemergency meetings of the board of trustees or the membership of the cooperative, including membership meetings pursuant to the provisions of Section 33-49-620, must be posted at a location accessible and visible to the cooperative membership on the cooperative’s website and at the cooperative’s principal place of business at least ten days before the meeting. The notice must state the time, place, location, and purpose of the meeting.

(B) Written notice of emergency meetings of the board of trustees must be posted at a location accessible and visible to the cooperative membership on the cooperative’s website and at the cooperative’s principal place of business at least twenty-four hours before the meeting. *Emergency meetings of the board may be called when appropriate to deal with extraordinary circumstances, but the board of trustees must not make decisions regarding rates, fees, charges, board of trustees composition or board of trustees compensation at an emergency meeting.*

(Emphasis added).

23. The “special meeting” was clearly not a “nonemergency meeting” of the Board, as notice was not posted “at least ten days before the meeting.”

24. The Board could not consider Sharpe’s disqualification at a special (“emergency” meeting of the Board, because that decision affects “board composition” in violation of S.C. Code Ann. Section 33-49-625.

25. Moreover, the Board did not follow the provisions of the Bylaws that would apply in the event a nominee “lacks eligibility.” As is plainly set out in Section 4.02 of the Bylaws:

Upon establishment of the fact that a nominee for Board members lacks eligibility under this section or as may be provided elsewhere in these Bylaws, it shall be the duty of the Chairman, presiding at the meeting at which such nominee would be voted on to disqualify such nominee.

26. Mr. Sharpe was not invited to attend this meeting, and was not given an opportunity to respond to the allegation that he should be disqualified from serving as a Trustee.

27. Additionally, the facts as alleged in the Board Minutes, even if true, do not “establish” that Mr. Sharpe has a “direct business relationship” with Fairfield.

28. First, the Board Minutes ignore the facts known to the Nominating Committee and described above: namely that Blythewood Oil has no “direct business relationship” with Fairfield.

29. Second, the fact that Mr. Sharpe met with Fairfield employees to discuss fuel purchasing procedures is not evidence of a “direct business relationship” between Blythewood Oil and Fairfield.

30. Third, the fact that “over the past 25 months Blythewood Oil Co. has received payments from the cooperative of more than \$10,000 per month” leaves out the only material and relevant facts: that Blythewood has received NO payments from Fairfield since August 31, 2021, or for more than seven (7) months.

31. Similarly, the fact that “over the past five years Blythewood Oil Co. has received payment in excess of \$1 Million dollars for sales to the cooperative” leaves out the undisputed fact that Blythewood Oil Co. has received no payment whatsoever from Fairfield since August 31, 2021.

32. A previous “direct business relationship” between Blythewood Oil and Fairfield is not a basis for disqualifying Sharpe.

33. The Nominating Committee was aware of all the material and salient facts about Sharpe, Blythewood Oil, and Blythewood Oil’s *previous* direct business relationship with Fairfield. And the Nominating Committee approved Sharpe’s nomination.

34. The Board, on the other hand:

- a. called a Special Meeting prohibited by South Carolina law and the Bylaws without informing Mr. Sharpe or allowing him to offer testimony;
- b. ignored those facts considered by the Nominating Committee that clearly demonstrated Blythewood Oil has no “direct business relationship” with Fairfield;
- c. considered selective facts that do not establish that Sharpe or Blythewood Oil has a direct business relationship with Fairfield; and
- d. voted to disqualify Sharpe without any legitimate basis for doing so.

35. Perhaps most disturbing is that the Board did not consider those facts that Sharpe provided to the Nominating Committee, but picked certain facts that still don’t demonstrate that Sharpe/Blythewood Oil has a direct business relationship with Fairfield.

36. Moreover, the Board’s action violated Section 3.06 of the Bylaws:

Incumbent Trustees seeking re-election shall not directly or indirectly influence the nomination or credentials process.

37. The Board directly influenced the “nomination or credentials process” by ignoring the Nominating Committee’s decision and the facts considered by the Nominating Committee that showed Sharpe has no “direct business relationship” with Fairfield.

38. The acts and omissions of the Board were not an exercise of “its business judgment in accordance with sound business and management practices and consistent with the

long-term financial stability of the cooperative and the benefit of its members” On the contrary, the Board’s actions were inconsistent with both applicable state law and the Bylaws.

39. Sharpe requests that to the extent possible, ORS consider this matter on an expedited basis. Fairfield has scheduled its annual meeting to elect members to the Board of Trustees, and voting is scheduled to begin on May 16, 2022.

40. Sharpe requests that the ORS:
- a. Inspect, audit, and examine Fairfield, pursuant to S.C. Code Ann. Section 33-49-150;
 - b. Find that Fairfield violated S.C. Code Ann. Section 33-49-625 by purporting to disqualify Sharpe at a “special” or “emergency” meeting;
 - c. Find that Fairfield violated Section 4.02 of the Bylaws by purporting to disqualify Sharpe in a manner inconsistent with that provision in the Bylaws;
 - d. Find that Fairfield violated S.C. Code Ann. Section 33-49-630 by determining that Sharpe has a “direct business relationship” with Fairfield, when in fact Sharpe has no such “direct business relationship” with Fairfield;
 - e. Find that Fairfield violated Section 3.06 of the Bylaws, by directly influencing the nomination or credentials process as described herein;
 - f. Report these findings to the Board of Fairfield;
 - g. Resolve this matter by requiring the Board to reinstate Sharpe as a candidate prior to the Fairfield annual meeting; and
 - h. Take such other actions as are just and proper.

Respectfully submitted,


ADAMS AND REESE, LLP

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Attorneys for Larry Sharpe, II

April 26, 2022
Columbia, South Carolina



Your Touchstone Energy® Partner 

The text 'Your Touchstone Energy® Partner' is in a black serif font. To the right is the Touchstone Energy logo, which consists of a stylized human figure with arms raised, colored in red, blue, and orange, with a green arc below it.

Bylaws

Compiled through May 21, 2021

Table of Contents – Bylaws
Compiled through May 21, 2021

ARTICLE I	
Membership	3
ARTICLE II	
Membership, Suspension and Termination	7
ARTICLE III	
Meetings of Members.....	10
ARTICLE IV	
Trustees.....	13
ARTICLE V	
Meetings of Trustees.....	22
ARTICLE VI	
Officers, Miscellaneous.....	23
ARTICLE VII	
Contracts, Checks and Deposits.....	27
ARTICLE VIII	
Non-Profit Operation.....	27
ARTICLE IX	
Waiver of Notice.....	30
ARTICLE X	
Disposition of Property, Distribution of Surplus Assets on Dissolution.....	30
ARTICLE XI	
Fiscal Year.....	32
ARTICLE XII	
Rules of Order.....	32
ARTICLE XIII	
Seal.....	33

ARTICLE XIV

Amendments..... 33

Bylaws
of
FAIRFIELD ELECTRIC COOPERATIVE, INCORPORATED

ARTICLE I - MEMBERSHIP

Section 1.01. Eligibility

Any natural person, firm, association, corporation, business trust, partnership, Federal agency, state or political subdivision or agency thereof, or anybody politic or subdivision thereof (each hereinafter referred to as "person," "applicant," "him" or "his") shall be eligible to become a member of, and at one or more premises owned or directly occupied or used by him to receive electric service from Fairfield Electric Cooperative, Inc. (hereinafter called the "Cooperative"). No person shall hold more than one membership in the Cooperative.

Section 1.02. Application for Membership; Renewal of Prior Application

Application for membership - whereby the applicant agrees to purchase electric power and energy from the Cooperative and to be bound by and to comply with all of the other provisions of the Cooperative's Articles of Incorporation and Bylaws, and all rules, regulations and rate schedules established pursuant thereto, as all the same then exist or may thereafter be adopted or amended (the obligations embraced by such agreement being hereinafter called "membership obligations") shall be made in writing on such form as is provided therefore by the Cooperative, or shall be made in such manner as provided by the Cooperative as approved by the Board of Trustees. With respect to any particular classification of service for which the Board of Trustees shall require it, such application shall be accompanied by a supplemental contract executed by the applicant on such form as is provided therefore by the Cooperative or such application shall be accompanied by a supplemental contract agreed to and binding on the applicant on such form or in such manner as is provided therefore by the Cooperative. The membership application shall be accompanied by the membership fee provided in Section 1.03 (together with any service security deposit, service connection deposit or fee, facilities extension deposit, contribution in aid of construction or executed supplemental contract that may be required by the Cooperative), which fee (and such service security deposit, service connection deposit or fee, facilities extension deposit or contribution in aid of construction, if any) shall be refunded in the event the application is not approved. Any former member of

the Cooperative may, by the act of paying a new membership fee and any outstanding account, plus accrued interest, at the South Carolina legal rate on judgments in effect when such account first became overdue, compounded annually, (together with any service security deposit, service connection, deposit or fee, facilities extension deposit or contribution in aid of construction that may be required by the Cooperative), renew and reactivate any prior application for membership to the same effect as though the application had been newly made on the date of such payment. For members with multiple accounts, the membership voting district assignment will correlate to the account which has the membership fee associated with it and shall be deemed the residence of the member.

Section 1.03. Membership Fee; Service Security and Facilities Extension Deposits; Contribution in Aid of Construction

The membership fee shall be as fixed from time-to-time by the Board. The membership fee (together with any service security deposit, service connection deposit or fee, facilities extension deposit, contribution in aid of construction or any combination thereof, if required by the Cooperative), shall entitle the member to one service connection. A service connection deposit or fee, in such amount as shall be prescribed by the Cooperative (together with a service security deposit, a facilities extension deposit, a contribution in aid of construction or any combination thereof, if required by the Cooperative shall be paid by the member for each additional service connection requested by him.

Section 1.04. Joint Membership

- a) A husband and wife, or other legally recognized domestic partner, by specifically so requesting in writing, may be accepted into joint membership or, if one of them is already a member, convert such membership into a joint membership. The words "member," "applicant," "person," "his" and "him," as used in these Bylaws shall include a husband and wife applying for or holding a joint membership, unless otherwise clearly distinguished in the text; and all provisions relating to the rights, powers, terms, conditions, obligations, responsibilities and liabilities of membership shall apply equally, severally, and jointly to them. Without limiting the generality of the foregoing - the presence at a meeting of either or both shall constitute the presence of one member and a joint waiver of notice of the meeting;
- b) the vote of either or both shall constitute, respectively, one joint vote; notice to, or waiver of notice signed or otherwise effected by, either or both shall constitute, respectively, a joint notice or waiver of notice;

- c) suspension or termination in any manner of either shall constitute, respectively, suspension or termination of the joint membership;
- d) each, but not both concurrently, shall be eligible to serve as an officer or Trustee of the Cooperative but only if both meet the qualifications required therefore; and
- e) neither will be permitted to have any additional service connections except through their one joint membership.

Section 1.05. Acceptance into Membership

Upon complying with the requirements set forth in Section 1.02, any applicant shall by Board resolution, be accepted into membership, and become eligible to receive electric service from the Cooperative, unless the Board shall determine that such applicant is not willing or is not able to satisfy and abide by the Cooperative's terms and conditions of membership or that such application should be rejected for other good cause: PROVIDED, that any person whose application for sixty (60) days or longer, has been submitted to but not approved by the Board may, by filing written request therefore with the Cooperative at least thirty (30) days prior to the next meeting of the members, have his application submitted to and approved or disapproved by the vote of the members at such meeting, at which the applicant shall be present and be heard.

Section 1.06. Purchase of Electric Power and Energy; Power Production by Member; Application of Payments to All Accounts

The Cooperative shall use its best efforts to furnish its members with adequate and dependable electric service, although it cannot and does not guarantee a continuous and uninterrupted supply thereof; and each member, for so long as such premises are owned or directly occupied or used by him, shall purchase from the Cooperative all central station electric power and energy purchased for use on all premises to which electric service has been furnished by the Cooperative pursuant to his membership, unless and except to the extent that the Board may in writing waive such requirement and shall pay therefore at the time, and in accordance with the rules, regulations, and rate schedules (including any monthly minimum amount that may be charged without regard to the amount of electric power and energy actually used) established by the Board, and, if in effect, in accordance with the provisions of any supplemental contract that may have been entered into as provided for in Section 1.02. Production or use of electric energy on such premises, regardless of the source thereof, by means of facilities which shall be interconnected with Cooperative facilities, shall be subject to

appropriated regulations as shall be fixed from time-to-time by the Cooperative. Each member shall also pay all other amounts owed by him to the Cooperative as and when the same shall become due and payable. When the member has more than one service connection from the Cooperative, any payment for service to him by the Cooperative shall be deemed to be allocated and credited on a pro rata basis to his outstanding accounts for all such service connections, notwithstanding that the Cooperative's actual accounting procedures do not reflect such allocation and proration.

Section 1.07. Excess Payments to be Credited as Member-Furnished Capital

All amounts paid for electric service in excess of the costs thereof are furnished by members as capital, and each member shall be credited with the capital so furnished as provided in Article VIII of these Bylaws.

Section 1.08. Wiring of Premises; Responsibility Therefore; Responsibility for Meter Tampering or Bypassing and for Damage to Cooperative Properties; Extent of Cooperative Responsibility; Indemnification

Each member shall cause all premises receiving electric service pursuant to his membership to become and to remain wired in accordance with the specifications of the National Electrical Code, any applicable state code or local government ordinances, and of the Cooperative.

Each member shall be responsible for and shall indemnify the Cooperative and its employees, agents and independent contractors against death, injury, loss or damage resulting from any defect in or improper use or maintenance of such premises and all wiring and apparatuses connected thereto or used thereon. Each member shall make available to the Cooperative a suitable site, as determined by the Cooperative, whereon to place the Cooperative's physical facilities for the furnishing and metering of electric service and shall permit the Cooperative's authorized employees, agents and independent contractors to have access thereto for inspection, maintenance, replacement, relocation or repair thereof at all reasonable times. As part of the consideration of such service, each member shall be the Cooperative's bailee of such facilities, and shall accordingly desist from interfering with, impairing the operation of or causing damage to such facilities, and shall use his best efforts to prevent others from so doing. In the event such facilities are interfered with, impaired in their operation or damaged by the member, or by any other person when the member's reasonable care and surveillance should have prevented such, the member shall indemnify the Cooperative and its employees, agents and independent contractors against death, injury, loss or damage resulting

therefrom, including but not limited to the Cooperative's cost of repairing, replacing or relocating any such facilities and its loss, if any, of revenues resulting from the failure or defective functioning of its metering equipment. The Cooperative shall, however in accordance with its applicable service rules and regulations, indemnify the member for any overcharges for service that may result from a malfunctioning of its metering equipment, or any error occurring in the Cooperative's billing procedures. In no event shall the responsibility of the Cooperative extend beyond the point of delivery.

Section 1.09. Member to Grant Easements to Cooperative and to Participate in Required Cooperative Load Management Programs

Each member shall, upon being requested so to do by the Cooperative, execute and deliver to the Cooperative grants of easement or right-of-way over, under, and on such lands owned or leased by or mortgaged to the member, and in accordance with such reasonable terms and conditions, as the Cooperative shall require for the furnishing of electric service to him or other members, or for the construction, operation, maintenance or relocation of the Cooperative's electric facilities. Each member shall participate in the required program that may be established by the Cooperative to enhance load management, more efficiently to utilize or conserve electric energy or to conduct load research.

Section 1.10. Law and Articles

These Bylaws are subject to the Law and the Articles of Incorporation of the Cooperative (“Articles.”) If, and to the extent that, a Bylaw conflicts with Law or the Articles, then the Law or Articles control. “Law” includes applicable local, state, and federal constitutions, statutes, ordinances, regulations, holdings, rulings, orders, and similar documents or actions, whether legislative, executive, or judicial.

ARTICLE II - MEMBERSHIP SUSPENSION AND TERMINATION

Section 2.01. Suspension; Reinstatement

Upon his failure, after the expiration of the initial time limit prescribed either in a specific notice to him or in the Cooperative's generally publicized applicable rules and regulations, to pay the amounts due the Cooperative, or to cease any other noncompliance with his membership obligations, a person's membership shall automatically be suspended; and he shall not during such suspension be entitled to receive electric service from the Cooperative or to cast a vote at any meeting of the members. Payment of

all amounts due the Cooperative, including any additional charges required for such reinstatement, and/or cessation of any other non-compliance with his membership obligations, within the final time limit provided in such notice or rules and regulations shall automatically reinstate the membership, in which event the member shall thereafter be entitled to receive electric service from the Cooperative and to vote at the meetings of its members.

Section 2.02. Termination by Expulsion; Renewed Membership

Upon the failure of a suspended member to be automatically reinstated to membership, as provided in Section 2.01, he may, without further notice, but only after due hearing before the Board if such is requested by him, be expelled by resolution of the Board of Trustees at any subsequently held regular or special meeting of the Board. Any person so expelled may, by delivering written notice to that effect to the Cooperative not less than ten (10) days prior to the next meeting of the members, appeal to and be present and heard at such meeting, which may vote approval of such expulsion or disapproval, thereof, in which latter event such person's membership shall be reinstated retroactively to the date of his expulsion. After any finally effective expulsion of a member, he may not again become a member except upon new application therefore duly approved as provided for in Section 1.05. The Board of Trustees acting upon principles of general application in such cases, may establish such additional terms and conditions for renewed membership as it determines to be reasonably necessary to assure the applicant's compliance with all his membership obligations.

Section 2.03. Termination by Withdrawal or Resignation

A member may withdraw from membership upon such generally applicable conditions as the Board shall prescribe and upon either (a) ceasing to (or, with the approval of the Board, resigning his membership in favor of a new applicant who also shall) own or directly occupy or use all premises being furnished electric service pursuant to his membership, or (b) except when the Board specifically waives such condition, abandoning totally and permanently the use of central station electric service on such premises.

Section 2.04. Termination by Death or Cessation of Existence; Continuation of Membership in Remaining or New Partners

Except as provided in Section 2.06, the death of an individual human member shall automatically terminate his membership. The cessation of the legal existence of any other type of member shall automatically terminate

such membership: PROVIDED, that upon the dissolution for any reason of a partnership, or upon the death, withdrawal or addition of any individual partner, such membership shall continue to be held by such remaining and/or new partner or partners as continue to own or directly to occupy or use the premises being furnished electric service pursuant to such membership in the same manner and to the same effect as though such membership had never been by different partners.

PROVIDED FURTHER, that neither the withdrawing partner nor his estate shall be released from any debts then due the Cooperative.

Section 2.05. Effect of Termination

Upon the termination in any manner of a person's membership, he or his estate, as the case may be, shall be entitled to refund of his membership fee and, if any service security deposit(s), less any amounts due the Cooperative; neither he nor his estate, as the case may be, shall be released from any debts or other obligations then remaining due the Cooperative. Notwithstanding the suspension or expulsion of a member, as provided for in Sections 2.01 and 2.02, such suspension or expulsion shall not, unless the Board shall expressly so resolve, constitute such release of such person from his membership obligations as to entitle to purchase from any other person any central station electric power and energy for use at the premises to which such service has theretofore been furnished by the Cooperative pursuant to such membership.

Section 2.06. Effect of Death, Legal Separation or Divorce upon a Joint Membership

Upon the death of either spouse of a joint membership, such membership shall continue to be held solely by the survivor, in the same manner and to the same effect as though such membership had never been joint; PROVIDED, that the estate of the deceased spouse shall not be released from any debts due the Cooperative.

Upon the legal separation or divorce of the holders of a joint membership, such membership shall continue to be held solely by the one who continues directly to occupy or use the premises covered by such membership, in the same manner and to the same effect as though such membership had never been joint; PROVIDED, that the other spouse shall not be released from any debts due the Cooperative.

Section 2.07. Board Acknowledgment of Membership Termination; Acceptance of Members Retroactively

Upon the termination of a person's membership for any reason, the Board of Trustees, as soon as practicable after such termination is made known to it, shall by appropriate resolution formally acknowledge such termination, effective as of the date on which the Cooperative ceased furnishing electric service to such person upon discovery that the Cooperative has been furnishing electric service to any person other than a member, it shall cease furnishing such service unless person applies for, and the Board approves, membership retroactively to the date on which such person first began receiving such service, in which event, the Cooperative, to the extent practicable, shall correct its membership and all related records accordingly.

ARTICLE III - MEETINGS OF MEMBERS

Section 3.01. Annual Meeting

For the purpose of electing Trustees, hearing and passing upon reports covering the previous fiscal year, and transacting such other business as may properly come before the meeting, the annual meeting of the members shall be held during May, June, July, or August of each year at such place in one of the counties, in South Carolina within which the Cooperative serves on such date and beginning at such hour as the Board shall from year to year fix.

It shall be the responsibility of the Board to make adequate plans and preparations for, and to encourage member attendance at, the annual meeting. Failure to hold the annual meeting at the designated time and place shall not constitute a forfeiture or dissolution of the Cooperative.

Section 3.02. Special Meetings

A special meeting of the members may be called by the Board of Trustees, by the President, by any three (3) Trustees or upon the written petition of not less than ten percent (10%) of the members, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided in Section 3.03. Such a meeting shall be held at such place, in one of the counties in South Carolina within which the Cooperative serves, on such date, not sooner than sixty (60) days after the call for such meeting is made or a petition therefore is filed, and beginning at such hour as shall have been designated by him or those calling or petitioning for the same.

Section 3.03. Notice of Member Meetings

Written or printed notice stating the place, day, and hour of the meeting and, in case of a special meeting or an annual meeting at which special business is to be transacted, the purpose or purposes for which the meeting is called, shall be delivered to each member not less than ten days, or thirty days if the meeting includes an election, nor more than forty-five days before the date of the meeting, either personally or by mail, by or at the direction of the Secretary, or upon a default in duty by the Secretary by the persons calling the meeting. No matter, the carrying of which, as provided by law or these Bylaws, requires the affirmative votes of at least a clear majority of all the Cooperative's members shall be acted upon at any meeting of the members unless notice of such matter shall have been contained in the notice of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the Cooperative, with postage thereon prepaid. The failure of any members to receive notice of an annual or special meeting of the members shall not invalidate any action which may be taken by the members at any such meeting.

Section 3.04. Quorum

At least five percent (5%) of the total members of the Cooperative shall be required and registered for the transaction of business at any meeting of the members, except that, if less than a quorum is present, a majority of those present may adjourn the meeting to another time and date, no sooner than sixty (60) days later, and to any place in one of the counties in South Carolina within which the Cooperative serves: PROVIDED, that the Secretary shall notify any absent members of the time, date and place of such adjourned meeting by delivering notice thereof as provided in Section 3.03. At all meetings of the members, whether a quorum be present or not, the Secretary shall annex to the meeting minutes, or incorporate therein by reference, a list of those who were registered.

Section 3.05. Voting

Each member registered, who is not in a status of suspension as provided for in section 2.01, shall be entitled to only one vote upon each matter submitted to a vote at any meeting of the members. Voting by members other than natural persons shall be allowed upon the presentation to the Cooperative prior to, or upon registration at, each member meeting satisfactory evidence as prescribed by the Board of Trustees entitling the person presenting the same to vote. At all meetings of the members, all questions shall be decided by a majority of the members voting thereon, except as otherwise provided by laws or by the Cooperative's Articles of Incorporation or these Bylaws. Members may not cumulate their votes or vote by proxy or by mail.

Section 3.06. Credentials and Election Committee

The Board shall, at least ten (10) days before any meeting of the members, appoint a Credentials and Election Committee consisting of an uneven number of members, not less than five (5) nor more than nineteen (19), who are not existing Cooperative employees, agents, officers, trustees or known candidates for trustee, and who are not family members (as hereinafter defined) or members of the same household of existing Cooperative employees, agents, officers, trustees or known candidates for trustee. "Incumbent Trustees seeking re-election shall not directly or indirectly influence the nomination or credentials process. Said Trustees shall recuse themselves from participation in appointing the Committee, and Cooperative members on the Committee from their Trustee District, shall be selected without their input or participation. Trustees may not appoint, direct, or cause a family member to become a member of the Committee. For purposes of this Section, "family member" includes spouse, parent, brother, sister, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, and a member of the individual's immediate family."

In appointing the Committee, the Board shall have regard for equitable representation of the several areas served by the Cooperative. The Committee shall elect its own chairman and secretary prior to the member meeting. It shall be the responsibility of the Committee to establish or approve the manner of conducting member registration and any ballot or other voting to pass upon all questions that may arise with respect to the registration of members in person, to count all ballots or other votes cast in any election or in any other matter, to rule upon the effect of any ballots or other vote irregularly or indecisively marked or cast, to rule upon all other questions that may arise relating to member voting and the election of trustees (including but not limited to the validity of petitions of nomination or the qualifications of candidates and the regularity of the nomination and election of directors), and to pass upon any protest or objection filed with respect to any election or to conduct affecting the results of any election. In the exercise of its responsibility, the Committee shall have available to it the advice of counsel provided by the Cooperative. In the event a protest or objection is filed concerning any election, such protest or objection must be filed during or within three (3) business days following the adjournment of the meeting in which the voting is conducted. The Committee shall thereupon be reconvened, upon notice from its chairman, not less than seven (7) days after such protest or objection is filed. The Committee shall hear such evidence as is presented by the protester(s) or objector(s), who may be heard in person, by counsel, or both, and any opposing evidence; and the Committee, by a vote of a majority of those present and voting, shall, within a reasonable time but not later than thirty (30) days after such hearing, render its decision, the result of which may be to affirm the election, to change the outcome thereof, or to set it aside. The Committee's decision (as reflected by a majority of those actually present and voting) on all matters covered by this Section shall be final. The Committee may not affirmatively act on any matter unless a majority of the Committee is present.

Section 3.07. Order of Business

The President or such other person as the members of the Board may designate to preside at any meeting of members shall first declare such meeting be open and in session at the place, day, and hour established for such meeting, as stated in the notice of the meeting delivered to the members. After opening the meeting, the order of Business at any annual meeting of the members and, so far as possible, at all other meetings of the members, shall be essentially as follows:

1. Registration of members
2. Voting to elect the Board members
3. Receive report from the Secretary on the number of members present and registered to determine the existence of a quorum.
4. Reading of the notice of the meeting and proof of due publication or mailing thereof, or the waiver of notice of the meeting, as the case may be.
5. Reading of unapproved minutes of previous meetings of the members and taking necessary action thereon.
6. Presentation and consideration of information and reports by officers, trustees, and committees.
7. Unfinished Business
8. New Business
9. Adjournment

Notwithstanding the foregoing, the Board of Trustees may from time-to-time establish a different order of business.

ARTICLE IV- TRUSTEES

Section 4.01. Number and General Powers

The business and affairs of the Cooperative shall be managed by a Board of Trustees consisting of eleven (11) members. The Board shall exercise all of the powers of the Cooperative except such as are by law, the Articles of Incorporation or these Bylaws conferred upon or reserved to the members. The Board of Trustees shall not appoint or elect any committee to exercise the authority of the Board. However, the Board may appoint or elect from its own membership one or more committees, each consisting of at least two Trustees, for the purpose of serving in an advisory or recommendatory capacity to the Board.

Section 4.02. Qualifications

No person shall be eligible to become or remain a Board member of the Cooperative who is a family member of an incumbent trustee or of an

employee of the Cooperative, or is not a member of the Cooperative and receiving service therefrom at his primary residence. For purposes of this Section, the terms “primary residence” or “principal residence” shall be determined according to South Carolina voter registration law. “Family member” includes a spouse, parent, brother, sister, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, and a member of the individual’s immediate family. PROVIDED, that the operating or chief executive of any member which is not a natural person, such as a corporation, church, etc., or his designee, shall, notwithstanding that he does not receive service from the Cooperative at his primary residence be eligible to become a trustee from the Trustee District in which such member is located if he or such designee (1) is in substantial permanent occupancy, direction or use of the premises served by the Cooperative, and (2) is a permanent and year-round resident within or in close proximity to an area served by the Cooperative; BUT PROVIDED FURTHER, that no more than one (1) such person may serve on the Board at the same time. No person shall be eligible to become or remain a Trustee of or hold any other position of trust in the Cooperative who is not at least eighteen (18) years of age. A Trustee may not have a direct business relationship with the Electric Cooperative that is distinct from or in addition to the Trustee’s mandatory Cooperative membership. A Trustee may not be or may not have been employed by the Cooperative as a regular employee within the last twelve (12) years of current election or has been convicted, in a state of Federal Court of record, of a crime punishable by imprisonment of more than one (1) year and their civil rights has not been restored by pardon or amnesty. A person is deemed as being convicted if found guilty by a jury, judge, or plead guilty, or entered nolo contendere, to any crime that could carry a penalty of more than one (1) year. Upon establishment of the fact that a nominee for Board members lacks eligibility under this section or as may be provided elsewhere in these Bylaws, it shall be the duty of the Chairman, presiding at the meeting at which such nominee would otherwise be voted upon to disqualify such nominee. Upon the establishment of the fact that any person being considered for, or already holding, a Trusteeship or other position of trust in the Cooperative lacks eligibility under this section, it shall be the duty of the Board to withhold such position from such person, or to cause him to be removed therefrom, as the case may be. Nothing in this section contained shall or shall be construed to, affect in any manner whatsoever the validity of any action taken at any meeting of the Board, unless such action is taken with respect to a matter which is affected by the provisions of this section and in which one or more of the Trustees have an interest averse to that of the Cooperative.

Section 4.03. Election

In respect of each of the nine single-member voting districts, one (1) trustee shall be elected in each district by the voting members residing therein. At

each annual meeting of the members, trustees shall be elected by secret ballot by the members residing in that trustee's voting district. The two District At Large trustees shall be elected by secret ballot by all of the members.

At each annual meeting of the members, Trustees shall be elected by the members and, except as provided in the first proviso of Section 4.02 of these Bylaws, from among those members who are natural persons: PROVIDED, that, when there is no contest for the representation of a particular trustee position, secret balloting may be dispensed with.

If only one individual is nominated to run for election for a Trustee position scheduled for election by Members at the Member Meeting, then the individual presiding at the Member Meeting may announce that the nominated individual is elected by acclamation and no vote is required.

Section 4.04. Tenure

The persons named as Board members, at previous meetings of the meetings of the members, shall compose the Board until their successors have been elected and shall have qualified and shall be classified as Class A, B and C.

Beginning with the Annual Meeting in 2022, Class A Board member consisting of three members, one to be a resident of District 1, one to be a resident of District 2, and one to be a resident of District 3, and one District at Large member shall be elected by members of their district and shall serve a term of three years or until their successors have been elected and qualified. At the Annual Meeting in 2023, Class B Board members consisting of three members, one to be a resident of District 4, one to be a resident of District 5, and one to be a resident of District 6, and one District at Large member shall be elected by and from the members of their district and shall serve a term of three years or until their successors have been elected and qualified. Class B Board members consisting of three members, one to be a resident of District 4, one to be a resident of District 5, and one to be a resident of District 6, and one District at Large member shall be elected by and from the members of their district and shall serve a term of three years or until their successors have been elected and qualified. At the Annual Meeting in 2024, Class C Board members consisting of three members, one to be a resident of District 7, one to be a resident of District 8, and one to be a resident of District 9 shall be elected by and from the members of their district and shall serve a term of three years or until their successors have been elected and qualified.

Thereafter, at each annual meeting of the members, Directors shall be elected for three (3) year terms with respect to the directorships, which are expiring, and therefore will need to be filled at such meeting. If for any reason an election of Trustees shall not be held at an annual meeting of the members

duly fixed and called pursuant to these Bylaws, such election may be held at an adjournment of such meeting or at a subsequently held special or regular meeting of the members. Failure of an election for a given year shall allow the incumbents whose directorships would have been voted on to hold over only until the next member meeting at which a quorum is present.

Section 4.05. Trustee Districts

The entire territory served by the Cooperative shall be divided by the Board of Trustees into nine Trustee Districts to be implemented and used for trustee elections at the annual meeting of members beginning in 2022 known as District 1, District 2, District 3, District 4, District 5, District 6, District 7, District 8, and District 9. The Districts at Large consists of the entire area served by the Cooperative. District 1 will consist of the area served and designated as District 1 on the map of the service area served by the Cooperative; District 2 will consist of the area served and designated as District 2 on the map of the service area served by the Cooperative; District 3 will consist of the area served and designated as District 3 on the map of the service area served by the Cooperative; District 4 will consist of the area served and designated as District 4 on the map of the service area served by the Cooperative; District 5 will consist of the area served and designated as District 5 on the map of the service area served by the Cooperative; District 6 will consist of the area served and designated as District 6 on the map of the service area served by the Cooperative; District 7 will consist of the area served and designated as District 7 on the map of the service area served by the Cooperative; District 8 will consist of the area served and designated as District 8 on the map of the service area served by the Cooperative; District 9 will consist of the area served and designated as District 9 on the map of the service area served by the Cooperative.

For specific reference as to the description and boundaries of each of the nine districts, reference is made to the map which bears the signed approval of the Board of Trustees and filed in the office of the Chief Executive Officer (CEO) of the Cooperative. Notwithstanding the foregoing Trustee District descriptions, every 6 years (at six year intervals) the Board of Trustees, not less than one hundred, twenty (120) days prior to the earliest date on which the annual member meeting may be scheduled by these Bylaws to be held, shall review and alter as necessary the Districts to adjust substantial inequitable factors regarding the residence of the members, the geographic locations, or other equitable considerations and shall change and re-describe one or more Districts accordingly, in which event, the map describing the boundaries of each of the Districts as re-described and bears the signed approval of the Board may be examined by any member in the office of the CEO of the Cooperative. After such redefinition of the Districts, these Bylaws shall have been effectively amended accordingly, except that the areas embraced within such Districts may be changed by amendment of these Bylaws by the members

from time-to-time in order to establish the most equitable and geographical representation of the Board of Trustees: PROVIDED, that any change so made by action of the Board shall be in full force and effect until at least the completion of the election of directors at the annual meeting of the members first held in accordance with such changes effectuated by the Board of Trustees; AND PROVIDED FURTHER, that no such change, whether effective so as to compel the vacancy of any director's office prior to the time such director's term would normally expire.

Section 4.06. Nominations of Trustees

Nominations for Trustees to be elected shall be as follows:

a) Nomination by Committee on Nominations

It shall be the duty of the Board of Trustees to appoint not less than ninety (90) or more than one hundred twenty (120) days before the date of the meeting of the members at which trustees are to be elected, a Committee on Nominations, consisting of eleven (11) members of the Cooperative, who are not existing Cooperative employees, agents, officers, trustees or known candidates for trustee. "Incumbent Trustees seeking re-election shall not directly or indirectly influence the nomination or credentials process. Said Trustees shall recuse themselves from participation in appointing the Committee, and Cooperative members on the Committee from their Trustee Districts shall be selected without their input or participation. Trustees may not appoint, direct, or cause a family member to become a member of the Committee. For purposes of this Section, "family member" includes a spouse, parent, brother, sister, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, and a member of the individual's immediate family." Nominating Committee members shall be appointed so that each of the Cooperative's nine Single Member Trustee Districts shall have at least one (1) and the District At Large shall have at least two (2) members thereon. The Committee shall prepare and post at the principal office of the Cooperative at least sixty (60) days before the meeting of the members a list of nominations for trustee to be elected, listing separately the nominee or nominees with respect to each Trustee District from which a trustee is to be elected at the meeting and listing any nominee or nominees for Trustee at Large to be elected at such meeting. The Committee on Nominations may include more nominees than there are Trustees to be elected, but it shall clearly show which nominees are opposed with respect to the same Trustee District or any Trustee at Large.

b) Nomination by Petition of Members

1. Any one percent (1%) or more than one percent (1%) of the members of the Cooperative as determined and established on the first business day of the current calendar year, acting together over their signatures, not less than fifty (50) days prior to the meeting of the members, may make

by petition additional nominations, in like manner listing separately the nominee or nominees with respect to the Trustee District from which they are nominated, or listing the nominee or nominees for Trustee at Large, and the Secretary of the Cooperative shall post such nominations made by petition as herein provided at the same place where the list of nominees made by the Committee on nominations is posted.

2. Said petition in addition to containing the signatures of the required number of members shall also contain the printed or typed name of the member and the address at which said member receives electrical service from the Cooperative. Upon verification that the petition contains the signatures of one percent (1%) or more of the members of the Cooperative and verification the candidate is qualified as provided in Section 4.02 by the CEO of the Cooperative or his designees, said petition candidate shall be added and listed as a nominee as provided herein.
3. The Board of Trustees shall, by policy, adopt a process allowing petition signatures to be collected electronically according to procedures or standards approved by the Board.
4. Said petition must designate the Trustee District from which the nomination is made, or designate nominee or nominees for Trustee at Large, and must contain a statement indicating that the member signing the petition is in support of the nomination.
5. Any person signing on behalf of a member which is not a person shall indicate their authority to sign on behalf of the member.

c) Notification of Members of Nominee or Nominees

The Secretary shall mail to the members with the notice of the meeting, or separately, but at least ten (10) days before the date of the meeting, a statement showing the names and addresses of all nominee(s) from and with respect to each Trustee District and also showing the nominee or nominees for District at Large, said statement to clearly show those nominated by the Committee on Nominations and those nominated by petition, if any.

Section 4.07. Election of Board Members

The Secretary shall be responsible for providing ballots which may include electronic balloting to be used in the election of the Board members at each annual meeting of the members. The ballots shall list only the names of those candidates who were duly nominated either by the Nominating Committee or

nominated by Petition in accordance with Section 4.06 of these Bylaws. The ballots shall designate which of the candidates, if any, were nominated by petition.

Each member of the Cooperative who registers at an annual meeting of the members within a minimum of four (4) hours after the opening of the meeting (or at alternative early voting if applicable) shall be entitled to vote for one candidate from their membership voting district and District At Large (when applicable), as the case may be, at the particular meeting. Each member shall cast his votes by marking his ballot. At any annual meeting of the members at which the total number of members registering at such meeting should equal or exceed the number of members required for a quorum, as defined by these Bylaws, then the election of Board members held at that meeting shall be valid and the candidate from each district, or District at Large, as the case may be, receiving the highest number of votes shall be duly elected to the Board. If the total number of members who register at an annual meeting of the members within four (4) hours after the opening of such meeting should be less than the number of members required for a quorum as defined by these Bylaws, then all votes cast at such meeting shall be void and no members shall be elected at the meeting. No Board members shall be elected at any meeting of the members unless the number of members sufficient to constitute a quorum, as defined by these Bylaws, shall be registered at such meeting.

Section 4.08. Removal of Trustees by Members

Any member may bring one or more charges for cause against any one or more Trustees and may request the removal of such trustee(s) by reason thereof by filing with the Secretary such charge(s) in writing, together with the petition signed by not less than ten percent (10%) of the total membership of the Cooperative, which petition calls for a special member meeting thereon and specifies the place, time and date thereof not less than sixty (60) nor more than sixty-five (65) days after filing of such petition, or which requests that the matter be acted upon at the subsequent annual member meeting if such meeting will be held no sooner than sixty (60) nor more than ninety (90) days after the filing of such petition. Each page of the petition shall, in the forepart thereof, state the name(s) and address(es) of the member(s) filing such charge(s), and a verbatim statement of such charge(s), and the name(s) of the trustee(s) against whom such charge(s) is (are) being made. The petition shall be signed by each member in the same name as he is billed by the Cooperative and shall state the signatory's address as the same appears on such billings. Notice of such charge(s) verbatim, of the trustee(s) against whom the charge(s) have been made and of the member(s) filing the charge(s) shall be contained in the notice of the meeting, or separately noticed to the members not less than ten (10) days prior to the member meeting at which the matter will be acted upon: PROVIDED, that the notice shall set forth only twenty (20) of the names (in alphabetical order) of the members filing one or more charges, if twenty (20) or

more members file the same charge(s) against the same trustee(s). Such trustee(s) shall be informed in writing of the charges after they have been validly filed and at least twenty (20) days prior to the meeting of the members at which the charge(s) is (are) to be considered, and shall have an opportunity at the meeting to be heard in person, by witnesses, by counsel, or by any combination of such, and to present evidence in respect of the charge(s); and the person(s) bringing the charge(s) shall have the same opportunity, but must be heard first. The question of the removal of such trustee(s) shall, separately for each if more than one has been charged, be considered and voted upon at such meeting, and any vacancy created by such removal shall be filled by vote of the members at such meeting without compliance with the foregoing provisions with respect to nominations, except that nominations shall be made from the floor: PROVIDED, that the question of removal of a trustee shall not be voted upon at all unless some evidence in support of the charge(s) against him shall have been presented during the meeting through oral statements, documents or otherwise. A newly elected trustee shall be from or with respect to the same Trustee District as was the trustee whose office he succeeds.

Section 4.09. Vacancies

Subject to the provisions of these Bylaws with respect to the filling of vacancies caused by the removal of Trustees by the members, a vacancy occurring on the Board must be filled by the membership at the next annual meeting for the remainder of the unexpired term. However, if the vacancy occurs more than six months from the next annual meeting, a Nominations Committee may be appointed by the Board of Trustees to choose an Interim Trustee to serve until the next annual meeting. At the next annual meeting, the Interim Trustee may run for the remainder of the unexpired term. In exercising its authority pursuant to this provision, the Nominations Committee may not appoint a family member of the Trustee whose departure created the vacancy. For purposes of this Section, “family member” means a spouse, parent, brother, sister, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, and a member of the individual’s immediate family. Additionally, the Nominations Committee may not appoint an individual associated with the Trustee whose departure created the vacancy. For purposes of this Section, “associated” includes an individual with whom the person or a member of their immediate family mutually has an interest in any business of which the person or a member of their immediate family is a director, officer, owner, employee, compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent (5%) or more of the total outstanding stock of any class. Any Interim Trustee or successor Trustee must be from the same trustee District as the Trustee whose office was vacated.

Section 4.10. Compensation; Expenses

Trustees shall, as determined by a resolution of the Board of Trustees, receive on a per diem basis a fixed fee, which may include insurance benefits, (a) for attending meetings of the Board of Trustees and, when such has had prior approval of the Board of Trustees (b) for the performance of other Cooperative business. Trustees shall also receive advancement or reimbursement of such travel and out-of-pocket expenses as are actually, necessarily, and reasonably incurred in attending such meetings and performing such business.

Section 4.11. Rules, Regulations, Rate Schedules and Contracts

The Board shall have power to make, adopt, amend, abolish and promulgate such rules, regulations, rate schedules and 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 4.12. Accounting System and Reports

The Board of Trustees shall cause to be established and maintained a complete accounting system of the Cooperative's financial operations and condition, and shall, after the close of each fiscal year, cause to be made a full, complete and independent audit of the Cooperative's accounts, books and records reflecting operations during, and financial condition as of the end of such year. A full and accurate summary of such audit reports shall be submitted to the members at or prior to the succeeding annual meeting of the members. The Board may authorize special audits, complete or partial, at any time and for any specified period of time.

Section 4.13. Subscription to Cooperative's Newsletter or Magazine

For the purpose of disseminating information devoted to the economical, effective and conservative use of electric energy and governance and operation of the cooperative, the Board is authorized, on behalf of and for circulation to the members and patrons periodically, to subscribe to Cooperative's newsletter, if any, and at the Board's discretion to subscribe to and communicate by magazine or newsletter subscription to its members and patrons.

Section 4.14. “Family Member” Defined

As used in these Bylaws, “family member” or “close relative” means a spouse, parent, brother, sister, child, mother-in-law, father-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, and a member of the individual’s immediate family.

ARTICLE V - MEETINGS OF TRUSTEES

Section 5.01. Regular Meetings

A regular meeting of the Board of Trustees shall be held monthly at such time and place as the Board of Trustees may provide by resolution. Such regular monthly meetings may be held without notice to Trustees other than such resolution fixing the time and place thereof.

Section 5.02. Special Meetings

Special meetings of the Board of Trustees may be called by the President or by any three Trustees, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. The President or the Trustees calling the meeting shall fix the time and place. During special meetings, the Board may not act regarding rates, fees, charges, Board composition, or Board compensation.

Section 5.03. Notice of Trustee Meetings

Written notice of the time, place, and purpose of any regular meeting of the Board of Trustees shall be posted on the Cooperative’s website and at the Cooperative’s principal place of business at least ten days (10) in advance of the regular meeting. Written notice of the time, place, and purpose of any special meeting of the Board of Trustees shall be posted on the Cooperative’s website and at the Cooperative’s principal place of business at least twenty-four (24) hours in advance of a special meeting. Such special meeting notice shall be delivered not less than two days (2) previous thereto, by written, oral, or electronic means, 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 his address as it appears on the records of the Cooperative, with postage thereon prepaid.

Section 5.04. Quorum

The presence in person of a majority of Trustees in office shall be required for the transaction of business, and the affirmative votes of at least a majority of

the Trustees present and voting shall be required for any action to be taken: PROVIDED, that a trustee who by law or these Bylaws is disqualified from voting on a particular matter shall not, with respect to consideration of and action upon that matter, be counted in determining the number of Trustees in office or present; AND PROVIDED FURTHER, that if less than a quorum be present at a meeting, a majority of the Trustees present may adjourn the meeting from time-to-time, but shall cause absent Trustees to be duly and timely notified of the time, date and place of such adjourned meeting.

ARTICLE VI – OFFICERS, MISCELLANEOUS

Section 6.01. Number and Title

The officers of the Cooperative shall be a President, also known as Chairman, Vice President, also known as Vice Chairman, 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 6.02. Election and Term of Office

The officers named in Section 6.01 shall be elected by secret, written ballot, annually and without prior nomination, by and from the Board of Trustees at the first meeting of the Board of Trustees held after the annual meeting of the members. If the election of such officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until the first meeting of the Board of Trustees following the next succeeding annual meeting of the members or until his successor shall have been duly elected and shall have qualified, subject to the provisions of the Bylaws with respect to the removal of the Trustees by the members and to the removal of officers by the Board. Any other officers may be elected by the Board from among such persons, and with such title, tenure, responsibilities and authorities, as the Board may from time-to-time deem advisable.

Section 6.03. Removal

Any officer, agent or employee 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 thereby be served.

Section 6.04. Vacancies

A vacancy in any office elected or appointed by the Board shall be filled by the Board for the unexpired portion of the term.

Section 6.05. President, also known as Chairman

The President, also known as Chairman, shall:

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

Section 6.06. Vice President, also known as Vice Chairman

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

Section 6.07. Secretary

The Secretary shall:

- a) keep, or cause to be kept, the minutes of the meetings of the members and of the Board in one or more books provided for that purpose;
- b) see that all notices are duly given in accordance with these Bylaws or as required by law;

- c) be custodian of the corporate records and of the seal of the Cooperative, and see that the seal of the Cooperative is affixed to all documents, the execution of which on behalf of the Cooperative under its seal is duly authorized in accordance with the provisions of these Bylaws or is required by law;
- d) keep, or cause to be kept, a register of the name and post office address of each member, which address shall be furnished to the Cooperative by such member;
- e) have general charge of the books of the Cooperative in which a record of the members is kept;
- f) keep on file at all times a complete copy of the Articles of Incorporation and Bylaws of the Cooperative, together with all amendments thereto, which copies shall always be open to the inspection of any member, and at the expense of the Cooperative, furnish a copy of such documents and of all amendments thereto to any member upon request and
- g) in general, perform all duties incident to the Office of Secretary and such other duties as from time-to-time may be assigned to him by the Board of Trustees.

Section 6.08. Treasurer

The Treasurer shall:

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

Section 6.09. Delegation of Secretary's and Treasurer's Responsibilities

Notwithstanding the duties, responsibilities and authorities of the Secretary and of the Treasurer hereinbefore provided in Section 6.07 and 6.08, the Board by resolution may, except as otherwise limited by law, delegate, wholly or in part, the responsibility and authority for, and the regular or routine administration of, one or more of such officer's such duties to one or more agents, other officers or

employees of the Cooperative who are not Trustees. To the extent that the Board does so delegate with respect to either such officer, that officer as such shall be released from such duties, responsibilities and authorities.

Section 6.10. Office of the Corporation / Chief Executive Officer

The Board of Trustees shall appoint a CEO who may be, but who shall not be required to be, a member of the Cooperative, and who also may be designated CEO. Such officer shall perform such duties as the Board of Trustees may from time-to-time require and shall have such authority as the Board of Trustees may from time-to-time vest in him.

Section 6.11. Bonds

The Board shall require the Treasurer and any other officer, agent or employee of the Cooperative charged with responsibility for the custody of any of its funds or property to give bond in such sum and with such surety as the Board of Trustees shall determine. The Board of Trustees in its discretion may also require any other officer, agent or employee of the Cooperative to give bond in such amount and with such surety as it shall determine. The costs of all such bonds shall be borne by the Cooperative.

Section 6.12. Compensation; Indemnification

The compensation, if any, of any officer, agent or any person who is a family member of a Trustee shall be determined as provided in Section 4.10 of these Bylaws, and the powers, duties and compensation of any other officers, agents and employees shall be fixed or a plan therefore approved by the Board of Trustees. The Cooperative shall indemnify trustees, officers, including the CEO, (and / or, if so titled, the Executive Vice President), agents and employees against liability to the extent that their acts or omissions constituting the grounds for alleged liability were performed in their official capacity and, if actionable at all, were based upon good faith business judgments in the belief the acts or omissions were in the best interests of the Cooperative or were not against the best interests of the Cooperative. The Cooperative may purchase insurance to cover such indemnification.

Section 6.13. 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 and showing the condition of the Cooperative at the close of such fiscal year.

ARTICLE VII - CONTRACTS, CHECKS AND DEPOSITS

Section 7.01. Contracts

Except as otherwise provided in these Bylaws, the Board of Trustees may authorize any Cooperative officer, agent or employee 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 7.02. Checks, Drafts, and Other Orders for Payment

All checks, drafts or other orders for the payment of money, and all notes, bonds or other evidences of indebtedness issued in the name of the Cooperative, shall be signed or countersigned by such officer, agent or employee of the Cooperative and in such manner as shall from time-to-time be determined by resolution of the Board of Trustees.

Section 7.03. Deposits; Investments

All funds of the Cooperative shall be deposited or invested from time-to-time to the credit of the Cooperative in such bank or banks or in such financial securities or institutions as the Board of Trustees may select.

ARTICLE VIII - NON-PROFIT OPERATION

Section 8.01. 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 8.02. Patronage Capital in Connection with Furnishing Electric Energy

Not inconsistently with South Carolina Code Ann. Section 33-49- 460, in the

furnishing of electric energy, the Cooperative's operations shall be so conducted that all patrons will through their patronage furnish capital for the Cooperative. In order to induce patronage, and to assure that the Cooperative will operate on a nonprofit basis, the Cooperative is obligated to account on a patronage basis to all its patrons for all amounts received and receivable from the furnishing of electric energy in excess of operating costs and expenses properly chargeable against the furnishing of electric energy. All such amounts in excess of operating costs and expenses at the moment of receipt by the Cooperative are received with the understanding that they are furnished by the patrons as capital. The Cooperative is obligated to allocate, 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 account; PROVIDED, that individual notices of such amounts furnished by each patron shall not be required if the Cooperative notifies all patrons of the aggregate amount of such excess and provides a clear explanation of how each patron may compute and determine for himself the specific amount of capital so credited to him. All such amounts credited to the capital account of any patron shall have the same status as though they had been paid to the patron in cash in pursuance of a legal obligation to do so and the patron had then furnished the Cooperative corresponding amounts for capital.

All other amounts received by the Cooperative from its operations in excess of costs and expenses shall, insofar as permitted by law, be (a) used to offset any losses incurred during the current or any prior fiscal year and (b) to the extent not needed for that purpose, allocated to its patrons on a patronage basis, and any amount so allocated shall be included as a part of the capital credited to the accounts of patrons, as herein provided.

In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding Capital Credits shall be retired without priority on a pro rata basis before any payments are made on account of property rights of members. PROVIDED, that insofar as gains may at that time be realized from the sale of any appreciated asset, such gains shall be distributed to all persons who were patrons during the period the asset was owned by the Cooperative in proportion to the amount of business done by such patrons during the period insofar as is practicable as determined by the Board of Trustees, 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 then credited to the patrons' accounts may be retired in full or in part. Any such retirements of capital 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 May 16, 1995, and thereafter, the

Board of Directors shall determine the method, basis, priority, and the order of retirement, if any, for all amounts furnished as capital. PROVIDED, however, that the Board of Trustees shall have the power to adopt rules providing for the separate retirement of that portion (“power supply or other service or supply portion”) of capital credited to the accounts of patrons which corresponds to capital credited to the account of the Cooperative by an organization furnishing electric service to the Cooperative. Such rules shall (a) establish a method for determining the power supply portion of capital credited to each patron for each applicable fiscal year, (b) provide for separate identification on the Cooperative’s books of the power supply portion of capital credited to the Cooperative’s patrons, (c) provide for appropriate notifications to patrons with respect to the power supply portion of capital credited to their accounts, and (d) preclude a general retirement of the power supply portion of capital credited to patrons for any fiscal year prior to the general retirement of other capital credited to patrons for the same year or of any capital credited to patrons for any prior fiscal year. Should any Capital Credit retired by the Board remain unclaimed by the owner for seven years after the date of retirement, the Board may elect to use the unclaimed but retired Capital Credit amount for any purpose allowed by law.

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

Notwithstanding any other provisions of these Bylaws, the Board of Trustees, at its discretion, shall have the power at any time upon the death of any patron, who was a natural person, (or, if as so provided for in the preceding paragraph, upon the death of an assignee of the Capital Credits of a patron, which assignee was a natural person), if the legal representatives of his estate shall request in writing that the capital so credited or assigned, as the case may be, be retired prior to the time such capital would otherwise be retired under the provisions of these Bylaws, to retire such capital immediately upon such terms and conditions as the Board of Trustees, acting under policies of general application to situations of like kind, and such legal representatives shall agree upon: PROVIDED, however, that the financial condition of the Cooperative will not be impaired thereby. The Cooperative, before retiring any capital credited to any patrons account, shall deduct therefrom any amount owing by such patron to the Cooperative, together with interest thereon at the South Carolina legal rate on judgments in effect when such amount became overdue, compounded annually.

The patrons of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the Articles of Incorporation and Bylaws shall constitute and be a contract between the Cooperative and each patron, and both the Cooperative and the patrons are bound by such contract, as fully as though each patron had individually signed a separate instrument containing such terms

and provisions. The provisions of this article of the Bylaws shall be called to the attention of each patron of the Cooperative by posting in a conspicuous place in the Cooperative's office.

Section 8.03. Patronage Capital – Right of Recoupment

The right to receive capital credit payments is dependent upon the member's compliance with member obligations, including the payment of all service and other charges due from the member to the Cooperative. In the event that the member is delinquent or in default in payment of charges due to the Cooperative, or the member has otherwise breached or failed to comply with the Cooperative's member obligations, the Cooperative will withhold payment of capital credit payments to the member until such time as the member has cured the payment default or the breach of member obligations.

In the event a member owes a delinquent account indebtedness or other debt obligation to the Cooperative, the Cooperative will apply any capital credit payments that would be due to the member as payment (full or partial payment, as may result from the payment) of the account indebtedness or other debt obligation, as a recoupment based upon member rights and obligations. This right of recoupment shall exist without regard to the age of the unpaid indebtedness and without regard to any bankruptcy discharge of the member, as a requirement of member rights with regard to capital credit payments to members."

ARTICLE IX - WAIVER OF NOTICE

Any member or trustee may waive, in writing, any notice of meetings required to be given by these Bylaws, or any notice that may otherwise be legally required, either before or after such notice is required to be given.

ARTICLE X

DISPOSITION OF PROPERTY, DISTRIBUTION OF SURPLUS ASSETS ON DISSOLUTION

Section 10.01. Disposition of Property

- a) Not inconsistently with the provisions of South Carolina Code Ann. Sections 33-49-260 and 33-49-270 or subsection (b) hereof, the members of the Cooperative may authorize the sale, lease, lease-sale, exchange, transfer, other disposition of all or substantially all of the Cooperative's property and assets by the affirmative votes at a duly held meeting of the members of at least two-thirds (2/3) of the total members of the Cooperative. The Board of Trustees

without authorization of the members shall have full power and authority, (1) to borrow monies from any source and in such amounts as the Board may from time-to-time determine, (2) to mortgage or otherwise pledge or encumber any or all of the Cooperative's property or assets as security therefore, and (3) to sell, lease, lease-sell, exchange, transfer or otherwise dispose of less than substantially all of the Cooperative's property and assets.

b) Supplementary to the foregoing subsection and (a) any other applicable provisions of law or these Bylaws, no sale, lease, lease-sale, exchange, transfer, or other disposition of all or substantially all of the Cooperative's property and assets to any other entity shall be authorized except in conformity with the following:

1. If the Board of Trustees looks with favor upon any proposal for such sale, lease, lease-sale, exchange, transfer or other disposition, it shall first cause three (3) independent appraisers, expert in such matters, to render their individual opinions as to the value of the Cooperative with respect to such a sale, lease, lease-sale, exchange, transfer or other disposition and as to any other terms and conditions which should be considered. The three (3) such appraisers shall be designated by the Judge of the Court of Common Pleas for the Judicial Circuit of South Carolina in which the Cooperative's headquarters are located.

If the Board of Trustees after receiving such appraisals (and other terms and conditions which are recommended, if any) determines that the proposal should be submitted for consideration by the members, it shall first give every other electric Cooperative corporately sited and operating in South Carolina (which has not made such an offer for such sale, lease, lease-sale, exchange, transfer or other disposition) an opportunity to submit competing proposals. Such opportunity shall be in the form of a written notice to such electric Cooperatives, which notice shall be attached to a copy of the proposal that the Cooperative has already received and copies of the respective reports of the three (3) appraisers. Such Cooperatives shall be given not less than thirty (30) days during which to submit competing proposals, and the actual minimum period within which proposals are to be submitted shall be stated in the written notice given to them.

2. If the Board then determines that favorable consideration should be given to the initial or any subsequent proposal which has been submitted to it, it shall so notify the members not less than sixty (60) days before calling a meeting of the members thereon, expressing in detail every proposal it has received, and shall call a special meeting of the members for consideration thereof, which meeting shall be held not less than twenty-five (25) days after the giving of notice thereof to the members: PROVIDED, that consideration thereof by the members may be given at the next annual member meeting if the Board so determines and if such annual meeting is held not less than twenty-five (25) days after the giving of notice thereof.

3. Any fifty (50) or more members, by so petitioning the Board not less than twenty (20) days before the date of such special or annual meeting, may cause the Cooperative, with the cost to be borne by the Cooperative, to mail to all members any opposing or alternative positions which they may have to the recommendation that the Board has made.

The provisions of this subsection (b), shall not apply to a sale, lease, lease-sale, exchange, transfer or other disposition to one or more other electric Cooperatives if the substantive or actual legal effect thereof is to merge or consolidate with such other one or more electric Cooperatives.

Section 10.02. Distribution of Surplus Assets on Dissolution

Upon the Cooperative's dissolution, any assets remaining after all liabilities or obligations of the Cooperative have been discharged and satisfied, or provision made thereof, shall, to the extent practicable as determined by the Board of Trustees and not inconsistently with the provisions of South Carolina Code Ann. Section 33-49-1070 and of the third paragraph of Section 9.02 of these Bylaws, be distributed without priority but on a patronage basis among all persons who are or who have been members of the Cooperative at any time during the seven (7) years preceding the date of filing the certificate of dissolution: PROVIDED, HOWEVER, that, if in the judgment of the Board the amount of such surplus is too small to justify the expense of making such distribution, the Board may, in lieu thereof, donate, or provide for the donation of, such surplus to one or more nonprofit charitable or educational organizations that are exempt from Federal income taxation.

ARTICLE XI - FISCAL YEAR

The Cooperative's fiscal year shall begin on the first day of the month of January of each year and shall end on the last day of the month of December following.

ARTICLE XII - RULES OF ORDER

Parliamentary procedure at all meetings of the members, of the Board, of any committee provided for in these Bylaws and of any other committee of the members or Board which may from time-to-time be duly established shall be governed by the most recent edition of Robert's Rules of Order, except to the extent such procedure is otherwise determined by law or by the Cooperative's Articles of Incorporation or Bylaws.

ARTICLE XIII - SEAL

The Corporate seal of the Cooperative shall be in the form of a circle and shall have inscribed thereon the name of the Cooperative and the words, "Corporate Seal, South Carolina."

ARTICLE XIV - AMENDMENTS

These Bylaws may be altered, amended or repealed by the members at any regular or special member meeting, but only if the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal, or an accurate summary explanation thereof.

**FAIRFIELD ELECTRIC COOPERATIVE, INC.
2022 NOMINATING COMMITTEE MEETING**

In accordance with the bylaws of Fairfield Electric Cooperative, Inc., a meeting of the Nominating Committee of Fairfield Electric Cooperative, Inc. was held at the cooperative headquarters located at 701 Blythewood Road, Richland County, South Carolina, at 11:00 a.m. on Monday, March 14, 2022. The following members of the committee were present and constituted a quorum:

Brad Douglas	Creighton Taylor	Jimmy Jackson
Henry Long	Lonnie Campbell	Al Bozard
Dora Taylor	John Kubin	
Sherrill Ray	Carlton Payne	

William Ingram was absent due to medical reasons.

Attorney Ken DuBose was present as legal counsel for the committee.

Chairman Lonnie Campbell welcomed everyone and gave the invocation.

Chairman Campbell called the meeting to order and announced candidates by districts for the record.

Chairman Lonnie Campbell reviewed Bylaws Section 4.02 Director Qualifications and discussed the Nominating Committee’s responsibilities and qualifications for board candidates.

Upon completion of personal interviews of candidates and having reviewed and discussed personal information provided from candidates, Chairman Campbell then called for nominations for trustees for each district and At Large District. Thereafter, the following nominations by district were made. Two candidates failed to receive a motion and were, therefore, not approved. The votes were taken after a motion, a second, and discussion.

District 1: Keith Lewis Nominated by: Al Bozard

Seconded by: Dora Taylor

Motion carried unanimously.

District 2: Cynthia Able Nominated by: Creighton Taylor

Seconded by: John Kubin

Motion carried unanimously.

District 2: Dan Ruff, III Nominated by: Brad Douglas

Seconded by: Dora Taylor

Motion carried with one opposed. Al Bozard opposed.

**FAIRFIELD ELECTRIC COOPERATIVE, INC.
2022 NOMINATING COMMITTEE MEETING**

District 3: Mitch Rabon Nominated by: Al Bozard

Seconded by: John Kubin

Motion carried unanimously.

District 3: Gen Palmer: The Chairman opened the floor for nomination and announced if he had a nomination for Mr. Palmer. No nomination was made and the Chairman announced that he was again asking if any member of the committee wished to nominate Mr. Palmer and no nomination was made. The Chairman then announced that inasmuch as no nomination was made he intended to close the nomination absent a nomination by a board member. No nomination being made the nomination was closed.

District 9: Bruce Honeycutt Nominated by: John Kubin

Seconded by: Al Bozard

Motion carried unanimously.

At Large Tim Hopkins Nominated by: Dora Taylor
District:

Seconded by: Carlton Payne

Motion carried unanimously.

At Large Calvin Smith: Mr. Smith did not appear although it was verified that he was notified of the time scheduled for his appearance before the committee. It was noted that the appearance before the committee was voluntary and not required for nomination. The Chairman opened the floor for nomination and announced if he had a nomination for Mr. Smith. No nomination was made and the Chairman announced that he was again asking if any member of the committee wished to nominate Mr. Smith and no nomination was made. The Chairman then announced that inasmuch as no nomination was made he intended to close the nomination absent a nomination by a board member. No nomination being made the nomination was closed.

At Large Larry Sharpe II Nominated by: Brad Douglas
District:

Seconded by: John Kubin

Motion carried with two opposed. The two opposed are Al Bozard and Lonnie Campbell. -----

Upon motion made by Brad Douglas, seconded by Dora Taylor, the nominations were closed by unanimous vote.

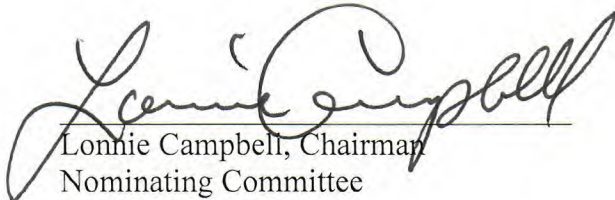
The meeting was adjourned subject to recall for the approval of the meeting minutes.

Chairman Campbell called the Nominating Committee meeting back to order after minutes were prepared and presented. Upon motion by Brad Douglas, seconded by Carl Payne, motion carried, the minutes of the Nominating Committee meeting held today, March 14, 2022, were approved as presented.

There being no further business to come before the Nominating Committee, upon motion made, seconded, and carried, the committee meeting adjourned.



Brad Douglas, Secretary
Nominating Committee



Lonnie Campbell, Chairman
Nominating Committee

MINUTES - (UNOFFICIAL – UNAPPROVED)
SPECIAL CALLED MEETING
BOARD OF TRUSTEES FAIRFIELD ELECTRIC COOPERATIVE, INC
APRIL 11, 2022

The Board of Trustees met in a special called meeting at 3:00 p.m. on April 11, 2022 to consider disqualification of a nominee for a Trustee position.

The meeting was called to order by Chairman Rabon, and a prayer was offered by Robert Entzminger.

Present: Rabon, Entzminger, Good, Lewis, Miles, Hopkins, Able, Ogburn, Swearingen, and Roberts.

Also attending: Bruce Bacon, Shelley Dabney, and special counsel Jay Bender

Agenda was the discussion of disqualification of Larry Sharpe, Jr. who has been nominated for a Trustee position. Mr. Hopkins recused himself from the meeting and did not participate in the discussion or vote.

Mr. Bender made a presentation on the eligibility requirements for Trustees of electric cooperatives under South Carolina law, and under the bylaws of Fairfield Electric Cooperative, Inc.

1. Act No. 56 of the 2019-2020 General Assembly of South Carolina prohibits board members from having a business relationship with the cooperative separate from membership in the cooperative.
2. The bylaws prohibit a "direct business relationship" between a trustee and the cooperative.
3. Under the bylaws the Chairman and the Board of Trustees have the duty to disqualify ineligible candidates for trustee positions.
4. Larry Sharpe, Jr. is associated with Blythewood Oil Co., and as recently as March of this year had met with cooperative employees to discuss fuel purchasing procedures.
5. Over the past 25 months Blythewood Oil Co. has received payments from the cooperative of more than \$10,000 per month for purchases.
6. Over the past five years Blythewood Oil Co. has received payment in excess of \$1 Million dollars for sales to the cooperative.

The context of Act No. 56 was to eliminate self-dealing between cooperatives and the trustees of the cooperatives. The bylaws provide that upon the presentation of evidence a nominee may be disqualified if ineligible to serve as a trustee.

Following the discussion Mr. Ogburn moved to disqualify Mr. Sharpe as a consequence of his business relationship with the cooperative through Blythewood Oil Co. A copy of the motion is attached. The motion was seconded by Ms. Swearingen. Following a brief discussion of the need to have candidates who meet the qualifications for office the question was called.

Motion carried unanimously.

Mr. Ogburn moved adjournment, seconded by Mr. Good. Motion carried.

MINUTES - (UNOFFICIAL – UNAPPROVED)
SPECIAL CALLED MEETING
BOARD OF TRUSTEES FAIRFIELD ELECTRIC COOPERATIVE, INC
APRIL 11, 2022

Motion

To affirm the disqualification of Larry Sharpe, Jr., I move that, based on the facts established and the applicable law, Larry Sharpe, Jr., is found to be ineligible to become a member of the Board of Directors of Fairfield Electric Coop. and Larry Sharpe, Jr. is hereby disqualified as a candidate for that office and his name is not to appear on the ballot for trustee election.

Signed: _____
Robert K. Miles, Secretary
APPROVED

ATTEST: _____
Mitchell D. Rabon, President

STATE OF SOUTH CAROLINA

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COUNTY OF FAIRFIELD

VERIFICATION

I, Larry Sharpe, II, state that the foregoing complaint was prepared under my direction and supervision; and that the contents are true and correct to the best of my knowledge, information, and belief.


Larry Sharpe, II

Sworn and subscribed before me this 26th day of April, 2022.


Notary Public

My commission expires 9/26/2022