

Special Meeting

December 14, 2016

The Board of Directors of Grand Valley Rural Power Lines, Inc., convened a special meeting on Wednesday, December 14, 2016 at 845 22 Road, Grand Junction, Colorado. The meeting was called to order at 11:05 a.m.

ROLL CALL:

Don McClaskey	absent
S. James O'Connor	present
Robert Saunders	present
Sylvia Spangler	present
John Gormley	present
Dennis Haberkorn	present
Rod Martinez	present
Bill Rooks	present
Carolyn Sandeen-Hall	present

Others present: Tom Walch, General Manager; Cathy Gledhill, Assistant Secretary; Gregg Kampf, Attorney

Walch presented proposed amendments to the Grand Valley Rural Power Lines, Inc. Bylaws as recommended by the Cooperative's Governance and Policy committee and reviewed by the board of directors, as follows, with additions highlighted and underscored and deletions highlighted and struck through:

**ARTICLE V - DIRECTORS**

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**Section 2. Election of Directors.** The persons named as directors in the Articles of Incorporation shall compose the Board of Directors until the first annual meeting or until their successors shall have been elected and shall have qualified. Each member of the Cooperative shall be entitled to vote in the election of directors on the Board of Directors either at a meeting held for such purpose or by mail, but not both. Mail voting shall be in writing on ballots provided by the Cooperative. The mail ballot shall be voted by the member, placed in a special envelope provided for the purpose so as to conceal the marking on the ballot, deposited in a return envelope which must be signed by the voting member, and mailed back to the Cooperative. A mail ballot received in a signed return envelope but without a secrecy sleeve or inner envelope is nonetheless valid and shall be counted. Envelopes containing mail ballots shall remain sealed and uncounted until the meeting held for the purpose of electing the Board of Directors. Directors shall be elected by a plurality vote of the members. Notwithstanding the foregoing, if the number of people nominated for directors is less than or equal to the number of vacancies, the Board of Directors may determine to eliminate the mail vote for that election and have the directors elected by the members present at the meeting of the members. If there is a contested election, the ballots shall be counted at the offices of the Cooperative during the next business day following the meeting unless the Board of Directors determines to count the ballots at the meeting. All candidates may be present when the ballots are counted.

**Section 5. Removal of Directors by Members.** Any director may be removed for cause at any time by the members pursuant to the procedure specified in this section. ~~Ten percent (10%)~~ **Two hundred (200)** or more of the members may bring charges requesting the removal of a director by filing a petition with the Association's Secretary or Assistant Secretary in writing, specifying in detail the charges constituting the cause for removal. Such petition must be signed by at least ~~ten percent (10%)~~ **two hundred (200)** of the members. No petition for removal shall specify charges against more than one director. If the removal of more than one director is requested, a separate petition for each director sought to be removed must be filed.

The term "for cause" as used in this section is defined as malfeasance, misfeasance or nonfeasance adversely affecting the Association's interest. "Malfeasance" is the doing of an act which is wholly wrongful and/or unlawful. "Misfeasance" is the improper doing of an act which a person may lawfully do. "Nonfeasance" means the omission of an act which a person ought to do. "For cause" does not mean conduct or decisions made in good faith with a reasonable basis for believing that the action authorized was in the lawful and legitimate furtherance of the Association's business.

The Association's Secretary or Assistant Secretary shall, upon receipt of a written petition signed by at least ~~ten percent (10%)~~ **two hundred (200)** of the Association's members, transmit such petition to the entire Board of Directors for consideration at the board's next meeting at which a quorum is present. The directors present, providing they constitute a majority of the Board of Directors, who have no charges brought against them, by majority vote shall determine if there be cause. If the majority find that cause, as defined in this section, has been stated in such petition, the request for removal shall be presented at the next regular or special meeting of the members. Such a meeting shall be held within ninety (90) days of a finding of cause. In the event there is not a majority of the Board of Directors present against whom no charges have been brought, then such petition shall be referred by the Association's President to an attorney at law, duly licensed to practice in the State of Colorado for at least five (5) years, for a determination as to whether or not cause, as defined in this section, has been stated in such petition. If charges have been brought against the Association's President, then such referral shall be made by the Association's General Manager. Any attorney who has previously represented this Association shall not be eligible to be appointed as provided herein. In the event such attorney finds that cause, as defined in this section, has been stated in such petition, the requested removal shall be presented in the manner hereinbefore stated. Written notice shall be given to all of the Association's members within thirty (30) days from the time such petition is presented, that cause, as defined in this section, has been stated or has not been stated against a director in such petition. In the event both the President and Vice President have had charges brought against them, then at any meeting of the members at which such charges are to be presented, the Board of Directors shall, by resolution, designate a parliamentarian to conduct that portion of the meeting at which charges are to be heard. The director against whom such charges have been brought shall be informed in writing of the charges at least thirty (30) days prior to the meeting of the members, and shall have an opportunity at the meeting of members to be heard in person

and/or by counsel and to present evidence. The persons bringing the charges against such director shall have the same opportunity.

Within thirty (30) days after the meeting of members, mail ballots will be distributed to all members of record. A plurality vote of the members voting thereon by mail, as provided in Section 2 of this article, is required to effect such removal; except that the vote for removal by at least ~~ten percent (10%)~~ **two hundred (200)** of the members is required to effect such removal. Any vacancy in the Board of Directors created by such removal shall be filled in the manner specified in Sections 2 and 4 of this article at the next annual meeting of members for the remaining term of said director. However, in the event a majority of the Board of Directors has been removed from the Board of Directors, an election for directors will be held within ninety (90) days, pursuant to Sections 2 and 4 of this article. Until new directors can be elected, one-third of the Board of Directors shall constitute a quorum. If more than two-thirds of the Board of Directors has been removed, the ~~General Manager~~ **Chief Executive Officer** shall assume control of the business and affairs of the Cooperative, to the extent permitted by law, until the election can be held.

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**Section 7. Compensation.** ~~Directors shall not receive any salary for their services as directors, except that by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, may be allowed for attendance at each meeting or for attendance at any place on Cooperative business as authorized by appropriate corporate officers or the Board of Directors. No director shall receive compensation for serving the Cooperative in any other capacity, nor shall any close relative of a director receive compensation for serving the Cooperative. A director is not an employee of the Cooperative. As determined or approved by the Board of Directors, however, the Cooperative may reasonably and fairly compensate directors for their service, including compensation for attending a: (1) Board Meeting; (2) function, meeting or event involving or relating to the Cooperative; or (3) function, meeting, or event involving, relating to, or reasonably enhancing the Director's ability to serve in the role of Director. The Cooperative may also pay or reimburse Directors for reasonable expenses incurred in attending any function, meeting or event described herein. The Board of Directors must determine or approve the manner, method, and amount of any Director compensation or expense payment.~~

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## ARTICLE VII – OFFICERS

**Section 1. Number.** The officers of the Cooperative shall be the President, Vice-President, ~~Executive Vice President and General Manager~~ **Chief Executive Officer**, Secretary, Assistant Secretary, Treasurer, and such other officers as may be determined by the Board of Directors from time to time. The offices of the Secretary and Treasurer may be held by the same person. The ~~Executive Vice President and General Manager~~ **Chief Executive Officer** and the Assistant Secretary shall be full-time employees of the Cooperative and shall be appointed by and hold office at the pleasure of the Board of Directors.

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**Section 9. ~~Executive Vice-President and General Manager~~ Chief Executive Officer.** The Board of Directors may appoint ~~an Executive Vice President and General Manager a Chief Executive Officer~~ who may be, but who shall not be required to be, a member of the Cooperative. The ~~Executive Vice President and General Manager~~ Chief Executive Officer shall perform such duties and shall exercise such authority as the Board of Directors may from time to time vest in him.

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**Section 11. Compensation.** The powers, duties and compensation of officers, agents and employees shall be fixed by the Board of Directors, ~~subject to the provisions of these By-Laws with respect to compensation for directors and close relatives of directors.~~

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## ARTICLE VIII – NON-PROFIT OPERATION

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**Section 2. Capital Credits in Connection with Furnishing Electric Energy.** In the furnishing of electric energy, the Cooperative's operations shall be so conducted that all consumers, members and non-members alike, will through their electric use furnish capital for the Cooperative. In order to induce use and to assure that the Cooperative will operate on a non-profit basis, the Cooperative is obligated to account on a revenue basis to all of its consumers, members and non-members alike, for all amounts received and receivable from the furnishing of electric energy in excess of operating costs and expenses properly chargeable against the furnishing of electric energy. All such amounts in excess of operating costs and expenses at the moment of receipt by the Cooperative are received with the understanding that they are furnished by the consumers, members and non-members alike, as capital. The Cooperative is obligated to pay by credits to a capital account for each consumer 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 manner that at the end of each fiscal year the amount of capital, if any, attributable to operating margins, so furnished by each consumer is clearly reflected and credited in an appropriate record to the capital account of each consumer. All other amounts received by the Cooperative from its operations, including gains or losses from the disposition of capital assets, interest earned, and capital credits from associated organizations, shall, insofar as permitted by law, be (a) used to offset any gains or losses, whether from operating margins or non-operating margins, incurred during the current or any fiscal year, at the discretion of the Board of Directors and (b) to the extent not needed for that purpose, allocated to its consumers on a revenue basis and any amount so allocated shall be included as a part of the capital credited to the account of consumers, as herein provided. The Cooperative shall within a reasonable time after the close of the fiscal year notify each consumer of the amount of capital so credited to his account for operating and non-operating margins. All such amounts credited to the capital account of any consumer shall have the same status as though they had been paid to the consumer in cash in pursuance of a legal obligation to do so, and the consumer had then

furnished the Cooperative corresponding amounts for capital. In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credits shall be retired without priority on a pro rata basis, first to operating margins and then to non-operating margins, before any payments are made on account of property rights of members.

If, at any time prior to dissolution or liquidation, the Board of Directors shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital then credited to consumers' accounts may be retired in full or in part. Any such retirements of capital may be made in such order of priority as the Board of Directors shall determine. Without limiting the Board's discretion, the Board may pay capital attributable to operating margins, non-operating margins, or partial payments of margins, and may make payments on a first-in first-out basis, a last-in first-out basis, a pro-rata basis, or a combination of the two these methods. Notwithstanding the previous sentence, however, no more than seventy-five percent (75%) of the capital credits paid out may be paid on a last-in first-out basis. In no event may any such capital be retired if such retirement would impair the financial condition of the Cooperative or violate any applicable laws, rules, regulations or the requirements of any security agreements or mortgages. The Cooperative shall apply any capital credit approved for payout by the Board of Directors against the delinquent or charged off account of any consumer.

Notwithstanding any other provision of these By-Laws, the Board of Directors, at its discretion, shall have the power at any time upon the death of any individual consumer, if the legal representatives of his estate shall request in writing that the capital credited to any such individual consumer be retired prior to the time such capital would otherwise be retired under the provisions of these By-Laws to retire capital credited to any such individual consumer immediately upon the terms and conditions as the Board of Directors, acting under policies of general application, and the legal representatives of such individual consumer's estate shall agree upon; provided, however, that the financial condition of the Cooperative will not be impaired thereby. Also notwithstanding any other provisions of these By-laws, the Board of Directors, at their discretion, shall have the right, but not the duty, to accelerate retirement of capital credit of any member or other person who has defaulted on any obligation or indebtedness due and owing to the Cooperative.

The consumers of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the Articles of Incorporation and By-Laws shall constitute and be a contract between the Cooperative and each consumer, and both the Cooperative and the consumers are bound by such contract, as fully as though each consumer had individually signed a separate instrument containing such terms and provisions. The provisions of this article of the By-Laws will be called to the attention of each consumer of the Cooperative by posting in a conspicuous place in the Cooperative's office. In all cases where a consumer fails to claim any deposits, membership fees, capital credits, book equities, or any other property or funds held for the consumer, by the Cooperative, after the same has been declared payable to the consumer, the Cooperative may recover and use such property or funds for educational or charitable purposes approved by the Board of Directors; provided, that the Cooperative has first given notice by mail deposited postage prepaid in the United States mail addressed to the consumer at the consumer's last known address as shown by the records of the Cooperative, and provided further, that such property or funds cannot be so used by the Cooperative until after a period of six (6) years from the date of mailing such notice. Notwithstanding the foregoing, the Cooperative need not mail checks and notices if a prior mailing to the consumer has been returned with no forwarding address and if the

Cooperative has not received any additional information giving a new address for the consumer. In such cases, notice shall consist of the published notice in the publication then being used by the Cooperative to communicate with its members indicating that a list of all consumers with unclaimed property held by the Cooperative is available at the Cooperative's office and on the Cooperative's website. If the consumer does not claim such property or funds within the six-year period next following the date of mailing of notice, or date when the notice was published in the publication then being used by the Cooperative to communicate with its members when no mailed notice is required, the consumer's claim thereto shall be extinguished and forever barred. Notwithstanding the foregoing, the Cooperative shall comply with all Colorado laws which override the provisions of this By-Law.

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## ARTICLE XII – MISCELLANEOUS

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**Section 3. Accounting System and Reports.** The Board of Directors shall cause to be established and maintained a complete accounting system which, among other things and subject to applicable laws and rules and regulations of any regulatory body, shall conform to such accounting system as may from time to time be designated by the Administrator of the Rural Electrification Administration Rural Utilities Service of the United States of America. The Board of Directors shall also, after the close of each fiscal year, cause to be made a full and complete audit of the accounts, books and financial condition of the Cooperative as of the end of such fiscal year.

**MOTION:** Motion by O'Connor second by Spangler to approve proposed changes in the by-laws as presented; 7 ayes; 1 absent; carried.

Meeting adjourned at 11:15 a.m.

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Cathy Gledhill, Asst Secretary

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John Gormley, President