

SECTION 5. Retirement Capital Credits

If the Board determines that the financial condition of the Cooperative will not be impaired thereby, the capital credited to patrons' accounts may be retired in full or in part. The Board of Trustees shall determine the method, basis, priority, and order of retirement, if any, for all amounts furnished as capital. In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative has 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.

SECTION 6. Contract between Patron and Cooperative

The patrons of the Cooperative, by receiving energy service from 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 provision. The provisions of this Article of the Bylaws shall be called to the attention of each patron of the Cooperative and made readily available and conspicuously evident using all standard means of notification.

SECTION 7. Memberships in Other Organizations

The Cooperative shall not become a Member or purchase stock in any other organization without an affirmative vote of the Members at a duly held meeting, the notice of which shall specify that action is to be taken upon such proposed Membership or stock purchase, provided, however, that the Cooperative may upon the authorization of the Board, purchase stock in or become a Member of any corporation or organization organized on a non-profit basis for the purpose of engaging in furthering the cause of rural electrification, or with the approval of the Administrator of RUS, of any other corporation for the purpose of acquiring electric facilities.

ARTICLE VIII DISPOSITION OF PROPERTY

SECTION 1. Membership-Approved Dispositions

In accordance with Montana law (MCA 35-18-317), the Cooperative may not sell, lease, exchange, or otherwise dispose of all or any substantial portion of its property or assets unless the following occurs:

- A. The Board appoints three (3) independent appraisers. Each appraiser evaluates the Cooperative's assets and renders an appraisal valuing the cooperative's specified assets.
- B. The Board approves the transaction.
- C. Members are notified at least ninety (90) days in advance of a meeting to vote on disposition of assets or property and the terms of the proposed transaction.
- D. At least thirty (30) days before the Member Meeting, the Cooperative shall invite all the other electric cooperatives in the State of Montana to submit proposals to acquire the Cooperative's specified assets.
- E. Members are mailed, at least thirty (30) days before the Member Meeting, any alternative proposal made by Cooperative Members, if it has been submitted to the Board with dated signatures, printed names, addresses and phone numbers of fifty (50) or more Members.
- F. At least two-thirds (2/3) of the total membership approves the transaction in person at the Meeting and by mail ballot.

SECTION 2. Mortgage or Encumbrance

In accordance with these Bylaws and applicable law, the Board of the Cooperative, without authorization by the Members may authorize the execution and delivery of a mortgage or mortgages or a deed or deeds of trust upon, or the pledging or encumbering of, any or all of the property, assets, rights, privileges, licenses, franchises and permits of the Cooperative, whether acquired or to be acquired, and wherever situated. This action applies as well to the revenues and income therefrom, all upon such terms and conditions as the Board shall determine, to secure any indebtedness of the Cooperative to the United States of America or any instrumentality or agency thereof or to any other financing sources within the United States.

SECTION 3. Merger or Consolidation with a Cooperative

The Cooperative may merge or consolidate with any one or more cooperatives by complying with the provisions of Montana law (MCA 35-18-401 or 35-18-402) which includes the following:

- A. The proposal for merger or consolidation and the proposed articles of merger or articles of consolidation shall be approved by the Board of Trustees of the Cooperative.
- B. The proposal for merger or consolidation and the proposed articles of merger or articles of consolidation shall be submitted to a vote of the Members of the Cooperative at an Annual or Special Meeting of the Members. The notice for such meeting shall set forth the full particulars of the proposed merger or consolidation including proposed articles of merger or articles of consolidation.
- C. The proposal for merger or consolidation and the proposed articles of merger or articles of consolidation shall be approved by two-thirds (2/3) of the Members voting at such meeting or by mail.

ARTICLE IX SEAL

The corporate seal of the Cooperative shall have inscribed thereon the name of the Cooperative and the words “Corporate Seal of The State of Montana.”

ARTICLE X FINANCIAL TRANSACTIONS

SECTION 1. Fiduciary Responsibility

The following persons are Fiduciaries of Beartooth Electric Cooperative: 1) Board Trustees, 2) committee members, and 3) employees who, in addition to fiduciary responsibility defined in these Bylaws, have responsibilities under Montana laws, Cooperative policies, job descriptions, and/or employment contracts.

Every Fiduciary is subject to the provisions of these Bylaws and shall discharge his/her duties solely in good faith and solely in the best interests of the Cooperative and its Members for the exclusive purpose of providing electric energy service. Fiduciaries may not profit from their position with the Cooperative, excluding wages, benefits, and remunerations paid by the Cooperative pursuant to Board approval.

In addition to complying with applicable Board policies, Montana law, and employment contracts, every Fiduciary shall exercise all skill, care, prudence, and due diligence at his/her disposal when acting on behalf of the Cooperative. All actions of a Fiduciary shall be that of a prudent person, familiar with such matters and acting in a similar capacity under the circumstances then prevailing under these Bylaws.

Failure to comply with the duties and responsibilities of a Fiduciary shall be grounds for removal from his/her position.