

## Board of Directors Policy

Subject: <b>Regulations Governing Complaints</b>			Policy No: <b>363</b>
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### I. OBJECTIVE

By this Regulation, La Plata Electric Association, Inc. (Cooperative), sets forth a procedure for members and consumers to register complaints and be given an opportunity to be heard by the Board of Directors, or its designee, regarding the rates charged by the Cooperative, the manner in which the electric service is provided, and proposed changes in the rates or regulations, in compliance with § 40-9.5-109, C.R.S., as the same may be amended, superseded, or replaced.

### II. SCOPE AND PURPOSE

This Regulation is promulgated in the best interests of the Cooperative and its members and consumers. This Regulation shall be liberally construed to secure the just, speedy, and inexpensive determination of matters presented under the foregoing statute and this Regulation.

### III. DEFINITIONS

As used in this Regulation, the following words shall have the meanings indicated unless the context otherwise requires:

- A. “Appeal Letter” shall mean the letter submitted by the Complainant challenging either the CEO’s Response or the Executive Committee Decision.
- B. “Board” shall mean the Board of Directors of La Plata Electric Association, Inc.
- C. “Board Decision” means the decision made by the Board on a Complainant’s Appeal.
- D. “Chief Executive Officer” or “CEO” means the Chief Executive Officer of the Cooperative, or his/her designee.
- E. “CEO’s Response” means the response of the Chief Executive Officer to a Complaint.
- F. “Cooperative” shall mean La Plata Electric Association, Inc.
- G. “Consumer” shall mean any Person who is not a Member but who directly receives and is billed for electric service from the Cooperative.

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- H. “Complaint” shall mean the written complaint filed by a Member or Consumer pursuant to this Regulation.
- I. “Complainant” means the Consumer/Member who files a Complaint with the Cooperative.
- J. “Executive Committee” shall mean the Executive Committee of the Board, consisting of the Board President, Vice President, Secretary, and Treasurer.
- K. “Executive Committee Decision” shall mean the decision rendered by the Executive Committee following the conclusion of the Executive Committee Review process.
- L. “Member” shall mean any Person who has executed an application for membership with the Cooperative, whose application has been accepted, and who directly receives electric service from the Cooperative.
- M. “Party” shall mean any Person named in the Complaint, including the Complainant and the Cooperative.
- N. “Person” shall mean any natural person, firm, partnership, corporation, company, Cooperative, joint venture, or any other legal entity.

#### IV. REGULATION

##### A. COMPLAINT

1. Any Consumer or Member may file a Complaint with the Cooperative. The Complaint must be in a legible writing, addressed to the CEO or the Board, and be signed by the Complainant.
2. The Complaint shall state that it is being filed pursuant to this Regulation. The Complaint must set forth the facts and other information forming the basis for the Complaint and set forth the relief the Complainant seeks.
3. The Complaint should be submitted to the CEO at the Cooperative’s headquarters located at 45 Stewart Street, P.O. Box 2750, Durango, Colorado 81302.
4. The Complaint may be withdrawn by the Complainant at any time during the Complaint Process.

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5. The Complainant may appear through counsel or *pro se*, or if the Complainant is a business entity of any type, may be represented by its owner or any officer, manager, or duly-authorized employee. If the Complainant is represented by an attorney, the Complaint shall be signed by the attorney and set forth his/her registration number, address, and telephone number. The signature of the attorney certifies that he/she has read the Complaint; that to the best of his/her knowledge, information and belief there are good grounds to support it; and that it is not interposed for purposes of delay. An attorney of record may withdraw from a proceeding only upon motion and notice to all Parties, including the Party represented by such attorney.

### B. REVIEW BY THE CHIEF EXECUTIVE OFFICER

1. The CEO shall notify the Complainant of the receipt of the Complaint within seven days of receipt.
2. The CEO may request additional information from the Complainant.
3. The CEO will provide the Complainant with a written response to the Complaint within 30 days of receipt of the Complaint, or within 30 days of receipt of the additional information requested. Provided, however, if the Complaint is challenging the Cooperative's immediate shut off of the Complainant's service, the CEO shall provide such response within ten business days of receipt of the Complaint, or of receipt of the additional information requested.
4. If the Complainant is not satisfied with the CEO's Response, then the Complainant may appeal the CEO's Response to the Executive Committee of the Board. The Complaint will only be reviewed if the Complainant has completed the CEO Review process.

### C. REVIEW BY THE EXECUTIVE COMMITTEE

1. After the Complainant has completed the CEO Review, the Complainant may appeal the CEO's Response to the Executive Committee of the Board.

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2. The Complainant must submit an Appeal Letter, setting forth the reasons for the appeal and attaching a copy of the CEO's Response and the Complaint within 30 days of the date of the CEO's Response. The Appeal Letter must be in a legible writing, addressed to the Executive Committee, and signed by the Complainant.
3. The Executive Committee shall notify the Complainant of the receipt of the Appeal Letter within seven days of receipt, and shall provide the Complainant with the name and contact information of the Executive Committee's representative, typically the Cooperative's attorney.
4. The Executive Committee shall, within fourteen days of receiving the Appeal Letter, schedule a meeting to address the Appeal Letter. Notice of such meeting shall be mailed to the Complainant at least ten days prior to the meeting date, and posted on the Cooperative's website in the same manner as regular meetings of the Board.
5. The President of the Board shall preside over the meeting and shall take argument from the Complainant, the CEO, or the Cooperative's representative, and any other interested parties who provide written notice to the Cooperative of their intent to speak at least ten days prior to the date of the meeting.
6. The Executive Committee shall render a written decision on the Appeal Letter no later than thirty days following the conclusion of the meeting.
7. If the Complainant is not satisfied with the decision rendered by the Executive Committee, then the Complainant may appeal to the full Board. The Complaint will only be reviewed if the Complainant has completed the Executive Committee Review process.

### D. REVIEW BY THE BOARD OF DIRECTORS

1. After the Complainant has completed the appeal process with the Executive Committee, the Complainant may appeal the decision of the Executive Committee to the full Board.

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2. The Complainant must submit an Appeal Letter, setting forth the reasons for the appeal and attaching a copy of the CEO's Response, the Executive Committee's Decision, the Complaint, and any additional supporting documents the Complainant wishes the Board to consider within 30 days of the date of the Executive Committee's Decision. The Appeal Letter must be in a legible writing, addressed to the Board, and signed by the Complainant.
3. The Board shall notify the Complainant of the receipt of the Appeal Letter within seven days of receipt, and shall provide the Complainant with the name and contact information of the Board's representative, typically the Cooperative's attorney.
4. Formal Response. The Cooperative shall submit a Formal Response within twenty-one days of receipt of the Appeal Letter, unless the Board enlarges or shortens the time for filing a response. The Cooperative shall mail a copy of the Formal Response to the Complainant and provide a copy of the same to the Board.
5. Setting of Hearing. The Board shall set a hearing date at the earliest practicable time after the Formal Response has been received by the Complainant. The Hearing may be scheduled to coincide with any other scheduled meeting of the Board.
6. Notice of Hearing. The Board, or its representative, shall give written notice of the Hearing by providing mailing a copy of the notice setting the matter for hearing at least ten days prior to the first day of the Hearing to: (i) the Complainant; (ii) the Board; and (iii) any Consumer or Member who has asked to receive notice of the Hearing, and by posting notice of the Hearing on the Cooperative's website in the same manner as regular meetings of the Board. Notwithstanding the forgoing, the Board may elect to receive the Notice of Hearing via electronic means as opposed to regular mail. The Notice of Hearing shall state the time, place and date of the Hearing.
7. Pre-Hearing Conference. At any time before the commencement of the Hearing, the President of the Board may order that a pre-hearing conference be held to expedite the Hearing or settle issues, or both. The President shall preside over any pre-hearing conference and render a decision on any matters brought before the President at that time.

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8. Hearing. Hearings shall be conducted by the Board, with the President of the Board presiding over the Hearing. The Hearing shall be held at the Cooperative's principal place of business, or at such place or places in the service territory of the Cooperative as may be designated in the Notice of Hearing, or at such other place or places in the State of Colorado as may be considered appropriate. All Hearings shall be open to the public. Any person who is disruptive, abusive, or disorderly at a Hearing may be excluded from the Hearing by the President. A Hearing shall be recorded at the request of any Party; the cost of such recording shall be borne by the Party who requested that the Hearing be recorded. At the commencement of the Hearing, the President shall call the Hearing to order, take appearances, and act upon any pending preliminary matters. The Parties may then make opening statements or reserve them to a later time in the Hearing. Witnesses, before being permitted to testify, shall be required to swear or affirm that the testimony he/she is about to give is true. Where the Hearing will be expedited, and the interest of the Parties will not be substantially prejudiced thereby, the President may receive all or part of the evidence in written form.
  
9. Admissibility of Evidence. The Parties shall not be bound by the technical rules of evidence, and no informality in any proceeding or in the manner of taking testimony shall invalidate any order entered. However, to the extent practicable, the Colorado Rules of Evidence applicable in civil non-jury cases in the district courts of Colorado will be followed in order to promote uniformity in the admission of evidence. Notwithstanding the foregoing, when necessary to ascertain facts affecting the substantive rights of Parties to the proceeding, evidence not admissible under such rules may be received and considered if such evidence possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. Unless the context otherwise requires, whenever the words "court," "judge" or "jury" appear in any of the Colorado Rules of Evidence, such words shall be construed to mean the President.

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10. Burden of Proof. The burden of proving the claims in the Complaint by a preponderance of the evidence shall be on the Complainant. After the Complainant has presented her/his evidence, any Party who appears in support of the position of the Complaint shall present his/her case. Then the Cooperative or its representative, followed by any Party who appears in support of the position of the Cooperative, shall present its case. The Complainant shall then have the right to present rebuttal evidence. The Cooperative may present evidence to rebut Complainant's rebuttal evidence, but such evidence shall not be cumulative.
11. Stipulations. Parties may stipulate as to any fact in issue, or otherwise reach agreement as to matters in issue, of substance or procedure, by written stipulation or agreement offered into evidence as an exhibit. The President shall enter a decision approving or not approving any such stipulation or agreement or recommending modification thereof as a condition to approval. An oral stipulation or agreement may be made upon the record, subject to the terms and conditions of this Regulation.
12. Documentary Evidence. Except as otherwise provided herein, a Party offering an exhibit into evidence shall furnish a copy thereof to each Party present and to the Board at the Hearing. The President may limit the number of copies required to be furnished where reproduction is impossible, extremely difficult or unduly burdensome.
13. Briefs. At the conclusion of the presentation of evidence at the Hearing, the President, upon the request of the Board or upon request by a Party, may order written briefs or statements of position to be filed and served on each Party.
14. Reopening the Hearing. The Board, upon the request of three or more members, or upon motion of a Party for good cause shown, may order that the Hearing be reopened for further proceedings at any time after a matter is taken under advisement after the Hearing and before the Board's Decision is entered on the merits; or at any time after the Board's Decision is entered on the merits and neither administrative nor judicial review is pending with respect to the subject matter of said decision.

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15. Decision of the Board. The Board shall proceed with reasonable dispatch to decide the Complaint after the Hearing. The Board may schedule subsequent meetings to discuss and evaluate the evidence presented at the Hearing. The Board may render an oral decision, which shall be memorialized in the minutes of the proceedings through a duly approved motion of the Board, or issue a written decision that includes a statement of findings and conclusions upon all material issues of fact, law, or discretion presented by the evidence and the appropriate order, sanction, relief, or denial thereof. The Board's Decision will be issued as soon as practicable and in any event within 60 days after the Hearing is closed. The Board's Decision shall be served on each Party by personal service or by mailing by first-class mail to the last address furnished to the Cooperative by such Party and shall be effective as to such Party on the date mailed or such later date as is stated in the Board's Decision.

### V. EXHAUSTION OF REMEDIES

No Member or Consumer may make a complaint to any agency or court about any matter within the scope of this Regulation without first following the procedures and exhausting his remedies as set forth in this Regulation.

### VI. RESPONSIBILITY

- A. The President of the Board of Directors shall be responsible for administration applicable to its responsibility under this Policy.
- B. The CEO shall be responsible for administrating those portions applicable to his/her responsibility under this Policy.

7/19/2017

Date



Secretary