

LA PLATA ELECTRIC ASSOCIATION, INC.

DURANGO, COLORADO

Board of Directors Policy

Subject: Disclosure of Cooperative Information			Policy No: 108
Original Issue: 1/17/01	Last Revised: 1/16/19	Last Reviewed: 1/16/19	Page 1 of 6

I. OBJECTIVE

To provide guidance regarding the disclosure of information of La Plata Electric Association, Inc. (Cooperative) in response to requests by members of the Cooperative, the general public, and news media; establish the procedure for requesting disclosure of Cooperative information; and ensure that the Cooperative meets or exceeds the statutory and regulatory requirements for the disclosure of Cooperative information without compromising the best interests of the Cooperative, its employees or individual members.

II. POLICY AND PROCEDURES

A. Information available to the general public for inspection and copying

1. Subject to compliance with the request procedures set forth below, the following information shall be available on the Cooperative's website for the general public and news media or upon verbal or written request:
 - a. The Articles of Incorporation and the Bylaws of the Cooperative.
 - b. The notices, agendas and approved minutes, including resolutions, of all meetings of the Board of Directors and annual and special meetings of the members held within the three years immediately preceding the request.
 - c. A list of names and addresses of current directors, their districts, and officers of the Board of Directors.
 - d. Waivers of notices of meetings of the Board of Directors.
 - e. A list of committees of the Board of Directors and the names of directors serving on such committees.
 - f. Published tariffs, rules, and regulations of the Cooperative.
 - g. Mission statements and written statements of principles approved by the Board of Directors.

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- h. Policies of the Board of Directors, including but not limited to the policy governing the election of directors, how to become a director, and the deadline for mailing in ballots at the annual meeting, as required by C.R.S. Section 40-9.5-101, et. seq.
 - i. Additional information or types of information that may be designated from time to time by the Board of Directors or the CEO for general distribution to the public.
 - 2. Upon written or verbal request, the Cooperative will provide the three most recently filed IRS annual tax returns.
 - 3. Any other information required to be provided by federal or state law or regulation will be provided upon written request using the attached Exhibit 1 which includes the date, requesting party's name, account number, if applicable, and a description of the information desired.
 - 4. If the Cooperative determines that the information requested is voluminous, the requesting party shall prepare a written request using the attached Exhibit 1. Said information shall then be provided as soon as practicable, but in no event more than five business days following the date the completed request is received by the Cooperative.
- B. Information available to current members of the Cooperative, without statement of purpose
 - 1. In addition to the information listed in the section A above, members of the Cooperative may inspect all documents of the Cooperative, except for those categories of documents listed in Sections C and D below, without providing a statement of purpose. Such information shall include, but not be limited to:
 - a. Annual audited financial reports of the Cooperative for the three years preceding the date of the request.
 - b. Monthly published financial reports showing assets, liabilities and the result of operations for all periods during the current and preceding fiscal year.

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- c. Budgets and Forecasts approved by the Board of Directors.
 - d. All written communications issued to the members as a group or to any class of members as a group within the three years preceding the request.
 - e. The most recent corporate report delivered to the Secretary of State.
 - f. Resolutions adopted by the Board relating to characteristics, qualifications, rights, limitations, and obligations of the members.
 - g. Procedure for filing complaints with the Cooperative.
 - h. General information about hiring practices of the Cooperative.
 - i. Presentation materials, such as slides, used during open session at a Board meeting.
- 2. Any member of the Cooperative that wishes to inspect documents of the Cooperative shall complete a request using the attached Exhibit 1 which includes the date, member's name, account number, and a description of the information desired:
 - 3. Responses to requests made under the above section shall be provided as soon as practicable, but in no event more than five business days following the date the completed request is received by the Cooperative.
- C. Information available to current members of the Cooperative with a good faith statement of purpose
- 1. The following information shall be subject to disclosure upon providing a good faith statement of a proper purpose for its use in a request using the attached Exhibit 1, which includes the date, member's name, account number, and a description of the information desired:

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- a. A list of members of the Cooperative and their addresses are available to (i) bona fide candidates running for director at the next annual meeting pursuant to C.R.S. Section 40-9.5-110(1)(b); and (ii) a member for inspection, pursuant to C.R.S. Section 7-127-201, from two business days after the notice of the members' meeting until the date of the members' meeting.
 - b. The candidate or member requesting the list of members will sign a nondisclosure agreement and affidavit, consistent with Exhibit 2 attached hereto, attesting that:
 - (1) The requesting party is a bona fide candidate at the next annual meeting, or a current member of the Cooperative that is entitled to vote at the meeting for which the list was prepared.
 - (2) The purpose of receiving the list shall be for the distribution of candidate or position statements to other members in anticipation of an annual or scheduled special meeting and will not be used for any other purposes of advertising, marketing, or solicitation.
 - (3) The information will be destroyed or returned to the Cooperative promptly after the annual or special meeting.
 - (4) The member will not allow the information to be used in a computerized auto dialer system.
 2. Responses to requests made under the above section shall be provided as soon as practicable, but in no event more than five business days following the date the completed request is received by the Cooperative.
- D. Information not available to members, due to privacy or other protection
1. The following information shall be considered confidential or protected from disclosure to the members of the Cooperative, unless such request for disclosure is approved by the Board of Directors after consideration at a regular meeting:

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- a. All personnel files, including but not limited to specific information regarding any employee's compensation, benefits or work performance;
 - b. All documents or information related to executive sessions of the Board of Directors or any Board committee;
 - c. All member account information that discloses confidential information about the member or the member's account;
 - d. All documentation related to litigation matters, contract negotiations, real estate matters, or other documents otherwise protected by applicable law;
 - e. All documentation or information that is subject to a Non-Disclosure Agreement or similar agreement;
 - f. All documentation or information that constitutes a trade secret, process, program, or trademark;
 - g. All documentation or information whose disclosure is prohibited by law;
 - h. All other documentation or information that is designated as confidential by the Board of Directors or the CEO.
2. To request review by the Board of Directors, the requesting member must be a member of the Cooperative for at least three months and complete the written request form attached as Exhibit 1 and include a good faith statement of the purpose for requesting the information and how the information will be used. The Board of Directors may require an affidavit and nondisclosure agreement, consistent with the attached Exhibit 2, be signed prior to releasing any of the requested information.
 3. Information released by the Board of Directors shall be provided as soon as practicable but in no event later than five business days following the date of the approval by the Board of Directors, as may be required by law.

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4. Nothing herein contained is intended to supersede the disclosure of information required by law or compelled by court order. Notwithstanding anything herein contained to the contrary, any member shall be provided specific account and business information related to his account, and shall be free to discuss with appropriate members of the Cooperative staff any questions or concerns about the member's account or the services provided to such member by the Cooperative.

III. REIMBURSEMENT

The Cooperative reserves the right to assess charges for providing information such as reimbursement for staff time, copying expense, and postage, if any, unless otherwise required by law. The Cooperative also reserves the right to request a deposit for such charges, unless prohibited by law.

IV. RESPONSIBILITY

The Chief Executive Officer (CEO) is responsible for the administration of this policy and for developing and maintaining the written request form (Exhibit 1) and the nondisclosure agreement and affidavit (Exhibit 2).

The CEO shall provide a quarterly report to the Board summarizing all requests received.

1/16/19

Date



Secretary

Exhibit 1

Request to Inspect or Copy Corporate Records of La Plata Electric Association, Inc.

Inspection and copying of La Plata Electric Association, Inc. (Cooperative) corporate records is governed by the Cooperative's Board of Director Policy 108. The Cooperative reserves the right to require payment of reimbursement for staff time, copying, and postage expenses before information is released to the requesting party.

I. General Information about Requesting Party

Name: _____

Address: _____

Member **Nonmember**

Account Number:

Date of Request:

Inspection Only **Inspection and Copying**

(signature)

II. Description of Information Requested

III. Statement of Purpose / Use of Information (If required by Policy)

IV. To Be Completed by the Cooperative

- 1. Is the information requested available to the General Public, as described in Policy 108?
 ___ Yes ___ No

- 2. Is the information requested available to the current members of the Cooperative without a statement of purpose pursuant to Policy 108?
 ___ Yes ___ No

- 3. Is the requesting party a current member of the Cooperative, and has been a member for at least three months prior to the date of the request?
 ___ Yes ___ No

Date of Current Membership:

- 4. If required, has the requesting party provided a valid good faith statement of proper purpose for receiving the information?
 ___ Yes ___ No

- 5. Is the requesting party seeking a list of members of the Cooperative?
 ___ Yes ___ No

If “Yes,” the requesting party must sign a nondisclosure agreement and affidavit prior to obtaining a copy of the membership list.

Attach a copy of the fully executed nondisclosure agreement and affidavit

- 6. Is the requesting party seeking information that requires Board approval pursuant to Policy 108?
 ___ Yes ___ No

If “Yes,” the requesting party must sign a nondisclosure agreement and affidavit prior to obtaining a copy of the membership list.

Attach a copy of the fully executed nondisclosure agreement and affidavit

- 7. Is the requesting party seeking consideration of the request at the next regularly scheduled Board meeting? If yes, insert the next meeting date:

Request Approved by: _____ Date: _____

Request Rejected by: _____ Date: _____

Reason for Rejection:

If rejected, does the requesting party wish for the request to be presented to the Board of Directors?

____ Yes ____ No

Approved / Denied by Board of Directors _____

When presented to the Board of Directors: _____

What information was approved by the Board of Directors to be released?

What information was denied by the Board of Directors to be released, and what was the Board's reason for the denial?

Additional Comments:

Number of pages _____ Fee for Providing Information

Exhibit 2

NONDISCLOSURE AGREEMENT

THIS NONDISCLOSURE AGREEMENT (“Agreement”) is entered into as of _____ by and among **LA PLATA ELECTRIC ASSOCIATION, INC.** (“Cooperative”) and _____ (“Recipient”) in compliance with the Cooperative’s Policy 108.

WHEREAS, the Cooperative is a Colorado cooperative association that distributes electric energy to its members;

WHEREAS, the Recipient has requested certain information from the Cooperative pursuant to its Policy 108 - Disclosure of Cooperative Information (“Policy 108”);

WHEREAS, Policy 108 requires the Recipient execute a nondisclosure agreement as a condition of receiving the requested information because said information contains confidential or proprietary information (“Documents”); and

WHEREAS, The Cooperative shall not provide these Documents to Recipient without ensuring that Recipient will keep the Documents confidential and not disclose the Documents to any other person.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and obligations hereinafter described, the Parties agree as follows:

1. Except as otherwise provided in this Agreement, all information disclosed by the Cooperative to Recipient is Confidential Information and (1) shall remain the exclusive property of the Cooperative; (2) shall be used by Recipient solely for the purpose set forth in the Request to Inspect or Copy Corporate Records of La Plata Electric Association, Inc. completed by the Recipient as part of the above described request (“Request for Information”); and (3) shall be protected by Recipient in the same manner as the Recipient protects other confidential information.

2. Recipient’s Covenants. Recipient covenants and agrees as follows:

(a) Confidential Information. Recipient agrees to use the Confidential Information only for the purposes set forth in the Request for Information. In the event Recipient shares the Confidential Information with an Agent, the Recipient shall take such action as may be necessary to ensure that the Recipient’s Agent does not utilize the Confidential Information for purposes other than as set forth in the Request for Information. The Recipient shall otherwise maintain all Confidential Information in strict confidence and shall not, directly or indirectly, disclose, disseminate, use, or otherwise publish the Confidential Information, except as may be required by law. For purposes of this Agreement, the term “Confidential Information” means the Documents, all terms and provisions of the Documents, and any and all information relating to the Documents that the Cooperative discloses to the Recipient. Confidential Information that has

become public from a source other than the Recipient shall not be subject to the restrictions in this paragraph. For purposes of this Agreement, the term “Agent” means an individual, organization, or group that has been employed by, contracted with, or has volunteered to assist Recipient and whom the Recipient desires to share the Confidential Information with in order to carry out the purposes set forth in the Request for Information.

(b) Return of Confidential Information. After Recipient is finished using the Confidential Information, Recipient agrees to return the applicable Documents to the Cooperative or certify that the Recipient, and Recipient’s Agents, have permanently destroyed the Confidential Information, without making or retaining copies thereof, including any Documents maintained in electronic format.

(c) Survival of Covenants. Unless otherwise collectively agreed to in writing by the parties, all covenants and provisions contained in this Section 2 shall survive and shall be binding upon the Recipient in perpetuity, unless a court order instructs it otherwise.

3. Waiver of Breach. The waiver of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by Recipient.

4. Entire Agreement/No Commitment. This instrument contains the entire agreement concerning the subject matter hereof. It may not be changed orally but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension, or discharge is sought.

5. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

6. Term and Termination. This Agreement shall continue until the Recipient no longer possesses any of the Confidential Information. The Cooperative may request certification from the Recipient that the Recipient has destroyed all copies, including electronic copies, of the Confidential Information prior to terminating this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first written above.

**LA PLATA ELECTRIC
ASSOCIATION, INC.**

RECIPIENT

By: _____

[Name]

[Name]

[Title]

[Title]

AFFIDAVIT

STATE OF COLORADO)
)ss.
COUNTY OF _____)

I, _____, being first sworn upon my oath, depose and state as follows:

1. ___ I am a current member of La Plata Electric Association, Inc. (“Cooperative”) entitled to vote at the next annual meeting;

or

___ I am a bona fide candidate running for director at the next annual meeting.

2. ___ I have requested a copy of the Cooperative’s membership list pursuant to the Cooperative’s Policy 108 by filling out a Request to Inspect or Copy Corporate Records of La Plata Electric Association, Inc. (“Request for Information”), a copy of which is attached to this Affidavit.

3. The reason that I am requesting a copy of the membership list is to distribute candidate or position statements to other members in anticipation of the meeting which shall occur on _____;

or

___ I have requested information that must be approved by the Board of directors pursuant to the Cooperative’s Policy 108 by filling out a Request for Information, a copy of which is attached to this Affidavit.

4. I certify that I shall not use any information received from the Cooperative in fulfillment of the Request for Information for the purposes of advertising, marketing, or solicitation.

5. I certify that I will destroy or return all copies of the information received, including all electronic copies after I am finished using the information for the purposes set forth in the Request for Information.

6. I certify that I will not allow any information received pursuant to the Request for Information in a computerized auto dialer system.

Further affiant sayeth not.

_____ [Name]

Subscribed and sworn to before me this ___ day of _____, _____, by _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public