

**SECOND AMENDED AND RESTATED BYLAWS
OF
VERMONT CONSUMERS' ENERGY COOPERATIVE**

These Second Amended and Restated Bylaws amend, restate and supersede the existing bylaws of the Cooperative in their entirety.

ARTICLE I: ORGANIZATION

Section 1.1 - **Name.** The name of the organization is Vermont Consumers' Energy Cooperative, d.b.a. Energy Co-op of Vermont, Inc. (the "Cooperative").

Section 1.2 - **Purposes.** The purposes for which the Cooperative is formed are:

- (i) To facilitate the distribution of energy resources, including, but not limited to, fuel oil, kerosene, wood pellets, solar energy and heat pump systems, so as to increase the buying power and reduce the financial burdens of energy consumption on the patrons of the Cooperative, with specific recognition of low-income persons;
- (ii) To increase the ability of the patrons of the Cooperative to participate more effectively in, and benefit from, the changing energy marketplace;
- (iii) To provide energy efficiency and conservation services, including but not limited to installation or use of renewable resources, so as to reduce the financial burdens of energy consumption on the patrons of the Cooperative; and
- (iv) To conduct such other lawful activities as are permitted to be conducted by a cooperative association under the laws of the State of Vermont. The Cooperative shall be operated exclusively on a cooperative and nonprofit basis for the primary and mutual benefit of owners of its common shares as patrons of its goods and services.

Section 1.3 - **Nondiscrimination.** The Cooperative shall not discriminate on the basis of race, nationality, religion, age, gender, sexual orientation, political affiliation, disability or other arbitrary basis.

Section 1.4 - **Principal Office.** The principal office of the Cooperative shall be located at 73 Prim Road, Ste 1, Colchester, Vermont 05446, until changed by the Board of Directors (the "Board").

ARTICLE II: OWNERSHIP

Section 2.1 - **Eligibility and Admission.** Ownership in the Cooperative shall be open to any person who (a) will purchase, or subscribe for, a common share of the Cooperative; (b) satisfies the Cooperative's annual contribution to capital, per common share held, which shall be determined by the Board, (c) is within the service area of the Cooperative, (d) is seeking ownership in order to purchase products from and to use the services of the Cooperative, and (e) is willing to accept the responsibilities of ownership.

Applicants will be admitted as owners upon submitting required information and making a required payment towards the purchase of a common share as determined by the Board. In case of doubtful eligibility, ownership shall be subject to approval by the Board. By obtaining ownership in the Cooperative, owners agree to be bound by the Articles of Incorporation and these bylaws, including any amendments

subsequently adopted.

Section 2.2 - **Rights.** Each owner shall be entitled to make purchases from the Cooperative on terms generally available to owners as determined by the Board. Each owner shall be entitled to receive a copy of the Articles of Incorporation, as amended and/or restated, and these bylaws either on the website of the Cooperative or upon request. Each owner shall be entitled to participate in the governance of the Cooperative as set forth in these bylaws.

Section 2.3 - **Responsibilities.** Each owner shall make an annual contribution of capital on account of each common share held, in an amount determined by the Board of Directors, and shall purchase goods and/or services from the Cooperative at least once during each calendar year. An owner who becomes delinquent in meeting the annual capital contribution requirement, or who fails to purchase goods or services from the Cooperative, may be terminated. The voting and other participation rights of such an owner shall then be terminated. An owner who has been terminated may return as an active owner by payment of the annual capital contribution, and actively purchasing goods and services from the Cooperative, as reasonably determined by the Board.

Section 2.4 - **Non-transferability.** Common shares and any related ownership rights and interests may not be transferred except to the Cooperative.

Section 2.5 - **Access to Information.** Owners shall be provided reasonably adequate and timely information as to the organizational and financial affairs of the Cooperative. Subject to the procedures and limitations set forth in Title 11B V.S.A. Chapter 16, owners shall be provided access to records and reports of the Cooperative at the Cooperative's principal office, at reasonable times and for a proper purpose.

Section 2.6 - **Settlement of Disputes.** In any dispute between the Cooperative and any of its owners or former owners, which cannot be resolved through informal negotiation, an impartial mediator shall be engaged to facilitate negotiations and assist the parties in developing a mutually acceptable settlement. No party with a grievance against the other shall have recourse to litigation until the matter is submitted to mediation and attempted to be resolved in good faith.

Section 2.7 - **Termination.** Ownership may be terminated voluntarily by an owner at any time upon notice to the Cooperative. Moving out of the service area of the Cooperative shall be considered a voluntary termination. Ownership may be terminated involuntarily for cause, as determined by the Board, provided such person is accorded not less than fifteen days to respond to the charges either in person or in writing.

Upon termination of ownership, all rights and interests in the Cooperative shall cease except for rights to redemption of capital funds actually contributed by such owner on account of their common share and any prior retained patronage distributions allocated to such owner, pursuant to Articles VII and VIII of these bylaws. Termination of ownership shall not relieve the owner from obligations or commitments incurred prior to the time of termination.

ARTICLE III: MEETINGS OF OWNERS

Section 3.1 - **Annual Meeting.** An annual meeting of owners shall be held to review the activities and finances of the Cooperative, to elect directors, and to conduct such other business as may properly come before the meeting.

Section 3.2 - **Special Meetings.** Special meetings of owners may be called by the Board, or by the Secretary upon receipt of one or more petitions signed by at least fifty owners or five percent of all owners, whichever is lesser. Whether by action of the Board or by petition of owners, announcement of a special meeting shall

state the nature of proper business to be brought before the meeting.

Section 3.3 – Date, Time and Place of Meetings. The date, time and place of all meetings of owners shall be determined by the Board or, in the event that the Board fails to so act, by the Secretary. Meetings shall, as far as may be practicable, be held at a time and place convenient to owners.

Section 3.4 - Notice. Written notice of the date, time, and place and the matters to be voted upon at any meeting of owners shall be mailed to each owner not less than twenty days, nor more than sixty days, before the date of the meeting. Any business conducted at a meeting of owners other than that specified in the notice of the meeting shall be of an advisory nature only.

Section 3.5 - Record dates. Unless otherwise determined by the Board, only persons who are owners at the close of business on the business day immediately preceding the date of distribution of notices shall be entitled to notice of any meeting of owners and to vote at such meeting.

Section 3.6 - Quorum. The presence in person or by ballot at the opening of the meeting of fifty owners or five percent of all owners, whichever is lesser, shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of owners.

Section 3.7 - Voting. At all meetings of owners, each owner shall have one and only one vote on each issue submitted to a vote of owners. Voting by proxy shall not be permitted. Unless otherwise required by law or by these bylaws, issues shall be decided by having received a majority of votes cast or, in the case of more than two candidates for a single position or more than two options on a single issue, by having received the greatest number of votes cast. Meetings of owners shall be conducted in a manner that is generally consistent with parliamentary procedure.

Section 3.8 - Absentee Ballots. Voting by absentee ballots shall be permitted in connection with all meetings of owners. The Board may authorize such ballots to be submitted by mail, or by electronic means, in conjunction with any meeting of owners. Such ballots, together with a brief statement of the qualifications of each candidate for director positions, or the text, link to the Co-op's web site, or a full description of any other issue for decision, shall be included in the notice of the meeting. Such notice shall also indicate the time by which a ballot must be received by the Cooperative in order to be counted. The results of the balloting shall be reported to owners at the meeting and by notice to all owners.

Section 3.9 - Issues Submitted by Owners. Notice of a meeting of owners shall include any proper issues submitted by petition of fifty owners or five percent of all owners, whichever is lesser. Petitions must be received at the Cooperative not less than forty-five days before the date of the meeting at which they are to be presented to a vote of owners.

ARTICLE IV: BOARD OF DIRECTORS

Section 4.1 - Powers and Duties. Except for matters reserved to owners by law or by these bylaws, the business and affairs of the Cooperative shall be managed under the direction of the Board. The powers and duties of the Board shall include, but not be limited to, setting policy, engaging management and monitoring and evaluating its performance, overseeing the operations of the Cooperative, establishing budgets and fiscal controls, maintaining communication with owners, and ensuring that the purposes of the Cooperative are properly carried out.

Section 4.2 - Number and Qualifications. The Board shall consist of a minimum of five and a maximum of nine individuals. Members of the Board ("Directors") shall not be employees of the Cooperative or have any material conflict of interest with the Cooperative. The Board may impose other qualifications on prospective

Directors.

Section 4.3 - **Nominations, Election and Terms.** Directors may be nominated by the Board, or by petitions signed by at least twenty owners and submitted to the Cooperative at least forty-five days before the date of the annual meeting. There shall be no endorsements of nominees on ballots or other voting materials. Directors shall be elected by owners at the annual meeting. Periodically as may be necessary, directors may be elected for specific one-, two-, or three-year terms in order to assure that no more than three terms expire in each year. At other times, directors shall be elected for terms of three years. Directors shall hold office until their successors are elected or until their offices are terminated sooner in accordance with these bylaws.

Section 4.4 - **Compensation and Reimbursement.** Directors may be compensated for their services as directors only as approved at a meeting of owners. Directors shall be reimbursed for actual and reasonable expenses incurred in connection with business of the Cooperative.

Section 4.5 - **Standards of Conduct.** Directors shall be responsible at all times for discharging their duties in good faith, exercising reasonable business judgment.

Section 4.6 - **Conflicts of interest.** Directors shall be under an affirmative duty to disclose their perceived, actual or potential conflicts of interest in any matter under consideration by the Board. Directors having such an interest may not participate in the decision or discussion of the matter unless otherwise permitted by the non-conflicted Directors.

Section 4.7 - **Committees.** The Board may authorize the creation of one or more standing or special committees to advise the Board or to exercise such authority as the Board shall designate. As of the date hereof, the standing committees of the Board shall include:

- (i) Audit and Finance;
- (ii) Business Development;
- (iii) Executive;
- (iv) Membership; and
- (v) Nominating.

Each committee shall have a written charter approved by the Board that outlines its duties, responsibilities and criteria for selecting committee members.

The Executive Committee shall be composed of the following officers: Chair, Secretary, and Treasurer. Members of all other committees and their chairs shall be proposed by the Chair and appointed by the Board. Committee members may be removed or replaced by the Board at its sole discretion.

Section 4.8 - **Termination.** The term of office of a Director may be terminated prior to its expiration:

- (i) voluntarily by the written resignation of a Director;
- (ii) by an affirmative vote of the owners removing a Director; or
- (iii) by the affirmative vote of a majority of the other Directors electing to remove a Director.

Section 4.9 - **Vacancies.** Any vacancy among Directors occurring between annual meetings may be filled by the Board until the next annual meeting of owners.

ARTICLE V: MEETINGS OF THE BOARD

Section 5.1 - **Convening.** The Board may determine the times and places of regular Board meetings. Special Board meetings may be called by the Chair and shall be called by the Secretary upon request of any three directors. Meetings of the Board shall be held no less frequently than once in each calendar quarter.

Section 5.2 - **Notice.** Regular meetings shall require no notice other than the resolution of the Board setting such regular meeting. Special meetings shall require written notice (including via electronic mail) to all Directors. Written notice shall be delivered at least five days before the date of the meeting if mailed via first class mail, or at least 48 hours before the date and time of the meeting if send via electronic mail. Notice may be waived by each of the Directors.

Section 5.3 - **Quorum and Voting.** The presence in person of a majority of Directors shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of the Board. Unless otherwise required by law or by these bylaws, decisions at meetings of the Board shall be made by majority vote of those present. Meetings of the Board shall be conducted in a manner that is consistent with parliamentary procedure.

Section 5.4 - **Telephone Conferences.** A meeting of the Board may be conducted by means of a telephone conference or other communications equipment whereby all persons participating can hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

Section 5.5 - **Action Without a Meeting.** Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if the action is assented to by all Directors. Such assent must be evidenced in writing or by electronic mail and filed with the minutes of meetings.

Section 5.6 - **Open Meetings.** Meetings of the Board and all committees shall be open to owners, except that sessions of a meeting may be closed as to matters of a confidential or sensitive nature. Such closed sessions shall be for purposes of discussion only, and no decisions shall be made in closed session. Individual owners may be excluded if the Board has a reasonable basis (such as an owner having a conflict of interest in the matter under consideration) to exclude such owner.

ARTICLE VI: OFFICERS

Section 6.1 - **Designation and Qualifications.** The principal officers of the Cooperative ("Officers") shall consist of Chair, Vice-Chair, Secretary, and Treasurer. To the extent permitted under applicable law, an Officer may hold one or more officer positions. The Board may designate other officers or assistant officers. All Officers shall be Directors.

Section 6.2 - **Election, Terms and Removal.** Officers shall be elected by the Board at its first meeting following the annual meeting of owners. Officers shall serve for terms of one year or until election of their successors. Officers may be removed and replaced by the Board at any time.

Section 6.3 - **Duties.** In addition to signing or attesting to formal documents on behalf of the Cooperative, as authorized by the Board, Officers shall have the following duties and such additional duties as are determined by the Board:

- (i) The Chair shall preside over all meetings of owners and the Board, coordinate the activities of the Board, present the annual report to owners described in section 9.2 below, and perform such other acts and duties usually performed by a presiding officer;
- (ii) The Vice-Chair shall carry out the duties of the Chair in the event of the Chair's absence, and for such other duties as the Board may prescribe;

- (iii) The Secretary shall record and keep adequate minutes of all meetings of owners and of the Board, overseeing the issuance of notices required under these bylaws, and authenticating records of the Cooperative; and
- (iv) The Treasurer shall oversee the maintenance of financial records and controls and the filing of required reports and returns, and shall present financial reports on a periodic basis as determined by the Board.

ARTICLE VII: CAPITAL STOCK

Section 7.1 - **Issuance and Terms.** Common shares of the Cooperative (the "Shares") shall only be issued to, and may only be held by persons who are eligible for and admitted to ownership in the Cooperative. Shares need not be evidenced by certificates. Holders of Shares shall not be entitled to any dividend or other monetary return on any capital contributed on account of such Shares. Shares shall not be transferable or assignable to any person other than the Cooperative, and may not be pledged or hypothecated.

The voting rights of Shares shall consist exclusively of the voting rights accorded owners in these bylaws. Owners may be assessed for additional capital needs of the Cooperative, including, without limitation an annual per Share capital contribution, upon approval by the Board of Directors. Unless otherwise determined by the Board, Shares shall only be redeemed upon liquidation of the Cooperative. Upon redemption of a Share, the maximum amount payable for such redemptions shall be limited to the actual amount of capital which has been contributed on account of such Share by an owner prior to such redemption.

ARTICLE VIII: PATRONAGE DIVIDENDS

Section 8.1 - **Distribution Obligation.** The adjusted net savings shall be allocated and distributed among owners in proportion to their patronage during the prior fiscal year. The manner and timeliness of distributions shall be determined by the Board so that to the fullest extent practicable such distributions will constitute patronage dividends within the meaning of federal income tax law.

In determining amounts distributable to owners, the net savings of the Cooperative derived from the excess or deficit of revenues over costs and expenses shall first be determined in accordance with generally accepted accounting principles.

Net savings for the purpose of determining patronage dividends shall be reduced by the amounts not attributable to business done with owners, by other amounts which are not allowable under federal tax laws and by such reasonable reserves for necessary business purposes as may be determined by the Board. In determining and allocating such adjusted net savings, the Cooperative shall use a single allocation unit, unless otherwise determined by the Board. Adjusted net savings shall be allocated to each owner in the proportion which his or her patronage bears to the total of all owner patronage during the fiscal year. Patronage shall be understood to mean goods and services purchased from the Cooperative and shall be measured in terms of its dollar amount.

Section 8.2 - **Distribution and Notice.** Patronage dividends shall be evidenced by written notices of allocation delivered to recipient owners within eight months and fifteen days following the close of the fiscal year. Written notices shall state the dollar amount of the allocation which constitutes a "patronage dividend" within the meaning of federal tax laws. Such written notices for each fiscal year may, as determined by the Board, be made either "qualified" or "nonqualified," within the meaning of federal tax laws. All qualified notices, except those subject to Section 8.6 hereof, shall be accompanied by checks in an

amount determined by the Board which must be at least twenty percent of the total allocation.

Section 8.3 - Consent of owners. By obtaining or retaining ownership in the Cooperative, each owner shall thereby consent to take into account, in the manner and to the extent required by Section 1385 of the Internal Revenue Code, the stated dollar amount of any qualified written notice of allocation in the taxable year in which such notice is received.

Section 8.4 - Retained Amounts. Patronage dividends not currently distributed by check shall be credited or charged to revolving accounts in the names of recipient owners. Retained patronage dividends shall accrue no dividend or interest, and shall not be transferable or assignable except with the express consent of the Cooperative. The Cooperative shall have a first lien on retained patronage dividends for amounts otherwise due and payable to the Cooperative by the owner. The Cooperative may, as determined by the Board, at any time after such amounts remain due and payable for thirty days, offset such amounts against retained patronage dividends.

Section 8.5 - Redemption. Retained patronage dividends that are no longer needed for capital purposes of the Cooperative may be redeemed in such amounts and at such times as may be determined by the Board. At that time they shall be redeemed in the order of the oldest outstanding amounts and only on a ratable basis among such amounts for each fiscal year. Retained patronage dividends shall be redeemed at their carrying value on the books of the Cooperative or their net book value, whichever is lesser.

Section 8.6 - Allocation of Net Loss. In the event the Cooperative shall incur a net loss in any fiscal year, such loss may be charged against retained savings or other unallocated equity accounts. If the net loss exceeds such amounts, or in any event if the Board so determines, the amount of such loss may either be carried forward to offset adjusted net savings of subsequent fiscal years or allocated to owners in the same manner as for adjusted net savings except that such allocation shall not exceed the total of invested capital. Any such allocated net loss shall be charged first against retained patronage dividends of prior fiscal years and then against patronage rebate allocations of subsequent fiscal years. Allocated net losses which are not so offset may be charged against the carrying value of shares only upon termination of ownership. Allocated net losses shall not otherwise be assessed to or collected from owners.

ARTICLE IX: FISCAL MATTERS

Section 9.1 - Fiscal Year. The fiscal year of the Cooperative shall begin on the first day of July in each year and end on the last day of June of the succeeding year.

Section 9.2 - Accountability. Financial statements of the Cooperative for each fiscal year shall be audited or reviewed by an independent public accountant selected by the Board. The Cooperative shall prepare and submit at its annual meeting a report containing the name of the Cooperative, its principal place of business, a general statement of its business operations during the fiscal year, the amount of capital stock paid for and the number of shareholders, the total expenses of operation, and the amount of its assets and liabilities.

ARTICLE X: INDEMNIFICATION

Section 10.1 - Rights. Subject to the conditions and limitations in this article, the Cooperative shall indemnify its current and former Directors and Officers against all liabilities and expenses, including reasonable attorneys' fees, to which they may become subject by reason of their positions with the Cooperative or their service in its behalf. Such indemnification shall include direct payment of liabilities and expenses, and shall apply whenever such person was or is a party, or is threatened to be made a party, to any threatened, pending or completed action or proceeding, whether civil, criminal, administrative, or investigative. Payment of expenses in advance of a final disposition of the action or proceeding may be made only upon

receipt by the Cooperative of a contractual undertaking by or on behalf of such person to repay such amounts unless he or she shall be determined to be entitled to indemnification under this Article.

Section 10.2 - Limitations. No indemnification shall be provided unless the person to be indemnified is successful on the merits in defense of the action or proceeding or unless, irrespective of the outcome of any related legal proceeding, such person is specifically determined to have acted in good faith and in the reasonable belief that his or her actions were in the best interests of the Cooperative and, in regard to criminal proceedings, to have had no reasonable cause to believe that his or her actions were unlawful. If such determinations are not made in a legal proceeding related to the claim, they may be made by a quorum of Directors who were not parties to the action or proceeding or by independent legal counsel selected by such quorum. If not made or able to be made by either, such determinations shall be made by independent legal counsel selected by owners. In any action or proceeding by or in the right of the Cooperative or in which such person is charged with receiving an improper personal benefit, indemnification shall be provided only as to reasonable expenses and only if the person is not adjudged liable to the Cooperative on such bases.

Section 10.3 - Payments and Insurance. Indemnification payments and advances of expenses shall be made only in such increments and at such times as will not jeopardize the ability of the Cooperative to pay its other obligations as they become due. All such payments made shall be reported in writing to owners with or before the notice of the next meeting of owners. The Cooperative may purchase and maintain insurance on behalf of its Directors and Officers against any liabilities and expenses related to their position with, or service on behalf of, the Cooperative irrespective of whether the Cooperative could have indemnified them under this Article against such liabilities and expenses.

ARTICLE XI: INTERPRETATION AND AMENDMENT OF BYLAWS

Section 11.1 - Interpretation. Consistent with governing law and the Cooperative's Articles of Incorporation, (as the same may be amended from time to time,) the Board may make and enforce reasonable interpretations of these bylaws.

Section 11.2 - Severability. In the event that any provision of these bylaws is determined to be invalid or unenforceable under any statute or rule of law, then such provision shall be deemed inoperative to such extent and shall be deemed modified to conform with such statute or rule of law without affecting the validity or enforceability of any other provision of these bylaws.

Section 11.3 - Amendment. These bylaws may be amended or repealed only at a meeting of owners, provided that the proposed amendments are stated or fully described in the notice of the meeting at which the amendments are to be adopted.