

## POLICY

SUBJECT: Conflict of Interest

POLICY: It shall be the policy of the Board to maintain and enforce a policy relating to Conflict of Interest relating to the operation of the Cooperative.

PROCEDURE:

1. Definitions: As used in this Policy, and unless the context requires otherwise:
  - A. “Board” means the Delaware County Electric Cooperative, Inc. Board of Directors.
  - B. “Business Opportunity” means an opportunity to engage in a business activity, other than an opportunity offered to all similarly situated Cooperative members, of which:
    - (1) An Official becomes aware in connection with performing Official functions; under circumstances reasonably indicating that the opportunity was expected to be offered to Cooperative or a Subsidiary; or through using Cooperative or Subsidiary information or property if the Official should reasonably expect the opportunity to interest Cooperative or the Subsidiary; or
    - (2) An Official knows is closely related to a business in which Cooperative or a Subsidiary is engaged or expects to engage.
  - C. “Conflicting Interest Transaction” or “Transaction” means a transaction or proposed transaction by Cooperative or a Subsidiary, other than the payment of Official compensation or provision of Official benefits, and other than a transaction offered to all similarly situated Cooperative members:
    - (1) To which an Official is a party; or
    - (2) For which, at the time the Board considers the transaction, or at the time Cooperative or the Subsidiary becomes legally obligated regarding the transaction, an Official has a Material Financial Interest in the transaction known to the Official; or an Official knows that a Related Person is a party to, or has a Material Financial Interest in, the Transaction.

- D. “Control” or “Controlled” means:
- (1) Having the direct or indirect power, through ownership of shares or interests, by contract, or otherwise, to elect or remove a majority of an entity’s governing body;
  - (2) Being subject to a majority of the risk of loss from an entity’s activities; or
  - (3) Being entitled to receive a majority of an entity’s residual returns.
- E. “Cooperative” means Delaware County Electric Cooperative, Inc.
- F. “Director” means a member of the Board.
- G. “Disinterested Director” means a Director who, at the time the Board acts regarding income, employment, competition, a Conflicting Interest Transaction, or a Business Opportunity:
- (1) Is not associated with the income, employment, or compensation; is not engaged in the Transaction; and is not taking advantage of the Business Opportunity; and
  - (2) Does not have a relationship with an Official associated with the income, employment, or compensation; engaged in the Transaction; or taking advantage of the Business Opportunity, which relationship would reasonably be expected to impair the objectivity of the Director’s judgment regarding the income, employment, competition, Transaction, or Business Opportunity.
- H. “Key Employee” means a Cooperative employee, other than a Director or Officer, who:
- (1) Has responsibilities, powers, or influence over Cooperative similar to a Director or Officer; manages a segment or activity of Cooperative representing ten percent or more of Cooperative’s activities, assets, income, or expenses; or has or shares authority to control or determine ten percent or more of Cooperative’s capital expenditures, operating budget, or employee compensation; and
  - (2) Is one of the twenty employees with the highest compensation reported to the Internal Revenue Service on Form W-2.
- I. “General Manager” means the individual with ultimate responsibility for implementing the Board’s decisions or supervising Cooperative’s management, administration, or operation, regardless of job title.

- J. “Material Financial Interest” means a financial interest in a transaction reasonably expected to impair the objectivity of an Official’s judgment regarding the transaction.
- K. “Officer” means an individual:
- (1) Appointed by the Board, or by another Officer authorized by the Board or by Cooperative’s articles of incorporation or bylaws; and
  - (2) Serving as a chief executive, operating, financial, legal, or accounting officer; being in charge of a principal business unit; or performing a major policymaking function.
- An Officer includes the General Manager and the individual with ultimate responsibility for managing Cooperative’s finances.
- L. “Official” means a Director, Officer, or Key Employee.
- M. “President” means a Director who is President of Cooperative or is Chair of the Board.
- N. “Policy” means this Delaware County Electric Cooperative, Inc. Conflict of Interest Policy.
- O. “Related Entity” means an entity, other than Cooperative, a Subsidiary, or an entity of which Cooperative is a member:
- (1) Controlled by an Official or an Official’s Related Individual;
  - (2) In which an Official owns more than ten percent of the entity’s shares or interests;
  - (3) For which an Official is a general partner or member of the governing body;
  - (4) For which an Official is a trustee, guardian, personal representative, or similar fiduciary;
  - (5) Employing an Official; or
  - (6) Controlled by an entity employing an Official.
- P. “Related Individual” means an individual:
- (1) Who is the spouse of an Official;
  - (2) Who is, or is the spouse of, a child, stepchild, grandchild, parent, step parent, grandparent, sibling, step sibling, half sibling, aunt, uncle, niece, or nephew of an Official or the Official’s spouse;
  - (3) Residing with an Official;

- (4) For whom an Official is a trustee, guardian, personal representative, or similar fiduciary; or
- (5) Employing an Official.

Q. “Related Person” means a Related Entity or a Related Individual.

R. “Subsidiary” means an entity Controlled by Cooperative.

2. Employment and Income. A Director may not be employed by Cooperative or a Subsidiary. Unless an Official discloses income or employment to the Board and a majority of Disinterested Directors authorizes or ratifies the income or employment, the Official:
  - A. Other than Director compensation from Cooperative, may not directly or indirectly receive more than ten percent of the Official’s annual gross income from Cooperative, a Subsidiary, or a Cooperative or Subsidiary employee;
  - B. May not directly or indirectly receive more than twenty-five percent of the Official’s annual gross income from another Official; and
  - C. May not have a Related Individual employed by Cooperative or a Subsidiary.
3. Conflicting Interest Transaction. An Official may not engage in a Conflicting Interest Transaction unless the Official discloses the existence and nature of the Official’s conflicting interest and all facts known to the Official regarding the Transaction that a Disinterested Director would reasonably believe to be material to the Transaction; Disinterested Directors deliberate and vote regarding the Transaction outside the presence of, and without participation by, the Official; and a majority of Disinterested Directors, but not less than two, authorizes the Transaction.
4. Business Opportunity. An Official may not directly or indirectly take advantage of a Business Opportunity unless, before the Official becomes legally obligated regarding the Business Opportunity.
  - A. The Official informs the Cooperative or Subsidiary of the Business Opportunity; and
  - B. the Official discloses the existence and nature of the Business Opportunity and all facts known to the Official regarding the Business Opportunity that a Disinterested Director would reasonably believe to be material to the Business Opportunity; Disinterested Directors deliberate and vote regarding the Business Opportunity outside the presence of, and without participation by, the Official; and a majority of Disinterested Directors, but not less than two, disclaims Cooperative interest in the Business Opportunity.

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5. Insider Pecuniary Benefit. An Official may not use Cooperative or Subsidiary property to secure pecuniary benefit unless:
- A. Value is given for the use and assuming the use is a Conflicting Interest Transaction, the Official could engage in the Transaction under this Policy;
  - B. The use is payment of compensation or provision of benefits;
  - C. The use is of information only and the use is not connected with trading securities, is not a use of proprietary information, and does not harm Cooperative or Subsidiary;
  - D. Assuming the use is a Conflicting Interest Transaction, a majority of Disinterested Directors authorizes the Transaction under this Policy; or
  - E. The benefit is received as a Cooperative member; made available to all other similarly situated Cooperative members; and lawful.

6. Compliance and Enforcement. The Board interprets and enforces this Policy. Cooperative's legal counsel must annually review this Policy with all Officials. The minutes of all Board meetings shall record all disclosures, votes, authorizations, and other actions taken under this Policy. Each Official must annually complete and sign the Conflict of Interest Certification and Disclosure Form attached to this Policy and deliver the completed and signed Form to President or Manager. If an Official discovers any information or fact that could impact another Official's compliance with this Policy, then the Official must disclose the information or fact to President or Manager immediately.

If Manager or President receives a Form disclosing any information or fact that could impact an Official's compliance with this Policy, then, respectively, Manager must deliver the Form to President and President must distribute a copy of the Form to the Board. If Manager or President receives or discovers any other information or fact that could impact any Official's compliance with this Policy, then, respectively, Manager must disclose this information or fact to President and President must disclose this information or fact to the Board.

Upon receiving or discovering any information or fact that could impact a Director's compliance with this Policy, the Board must:

- A. Provide the Director an opportunity to comment orally and in writing regarding the information or fact, and an opportunity to be represented by legal counsel; and
- B. Determine whether the Director complies with this Policy.

If the Board determines that a Director does not comply with this Policy, then:

- A. The Board must provide the Director an opportunity to comply with this Policy within thirty days; and



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- B. If the Director does not comply with this Policy within thirty days, then, as allowed by law, the Cooperative's Articles of Incorporation and the Cooperative's Bylaws, the Board must sanction, disqualify, and/or remove the Director.

Upon receiving or discovering any information or fact that could impact any other Official's compliance with this Policy, the Board must act as appropriate or authorize the Manager to act as appropriate. If the Official is a Board Member he or she must withdraw from participating as a Board Member in any meetings of the Board of Directors for discussion of and/or voting upon any decisions made or actions taken by the Board regarding disposition of any matter under this Policy.

RESPONSIBILITY: Cooperative Board of Directors

DELAWARE COUNTY ELECTRIC COOPERATIVE, INC.

Approved by Board of Directors December 23, 2008

Revised by Board of Directors January 22, 2013

Approved by Board of Directors July 28, 2015



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Conflict of Interest Certification and Disclosure Form

As defined in the Delaware County Electric Cooperative, Inc. Conflict of Interest Policy (Policy), the undersigned Official:

1. Affirms that Official has received or has access to, has read, and understands the most current version of the Policy;
2. Agrees to comply with the Policy;
3. Based upon Official's good faith belief, to the best of Official's knowledge, and except as disclosed below, certifies that Official currently complies with the Policy;
4. Discloses the following information or facts regarding any actual or potential income, employment, compensation, Conflicting Interest Transaction, Business Opportunity, or pecuniary benefit, or other information or fact, that could impact Official's compliance with the Policy:

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\_\_\_\_\_;

5. Upon discovering any information or fact regarding any actual or potential income, employment, compensation, Conflicting Interest Transaction, Business Opportunity, or pecuniary benefit, or other information or fact, that could impact Official's compliance, or another Official's compliance, with the Policy, agrees to disclose this information or fact to Cooperative's President or Manager; and
6. Upon not complying with the Policy, agrees to any sanction, disqualification, removal, or other action taken under the Policy.

\_\_\_\_\_  
Printed Name of Official

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Signature of Official

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Position of Official

\_\_\_\_\_  
Date