

General Rules and Regulations

3.0 REGULATIONS GOVERNING CHANGE OF TARIFFS, MEMBER ATTENDANCE AT BOARD MEETINGS, DISPUTE RESOLUTION, AND RELATED MATTERS

3.1 SCOPE

These Regulations are established in the best interests of this Association and its members and in accordance with 40-9.5-101, C.R.S. 1973, as amended (S.B. 224, 1983 General Assembly), which statute provides as follows:

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“Prior to November 1, 1983, the Board of Directors of each cooperative electric association will adopt regulations which specify a procedure for consumers to register complaints about and be given an opportunity to be heard by the Board on the rates charged by such association, the manner in which the electric service is provided, and proposed changes in the rates or regulations. Such regulations may be amended whenever deemed appropriate by the Board.”

These Regulations will be liberally construed to secure the just, speedy and inexpensive determination of matters presented under the foregoing statute and these Regulations.

So long as not contrary to law, deviation from these Regulations may be permitted for good cause shown or if compliance therewith is found to be impossible, impracticable or unreasonable.

3.2 FORMS

The attached forms are not considered to be part of these Regulations, but they should be followed whenever possible.

3.3 DEADLINE AND RESPONSE TIMELINES

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In computing a period of days, the first day is excluded and the last day is included. If the last day of a period is a Saturday, Sunday or State of Colorado legal holiday, the period will be extended to include the next day which is not a Saturday, Sunday or State of Colorado legal holiday.


Chief Executive Officer

Issue Date: May 15, 2018

Effective Date: May 15, 2018

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3.4 CHANGE OF TARIFF

When this Association proposes to make a change in any rate charged for electric service or in any rule or regulation in connection therewith, this Association shall provide public notice, proceeding substantially as follows:

At least thirty (30) days before the effective date of the change of rate, tariff, rule or regulation, a written notice, substantially in the form set forth as **Form 3.4** attached to these Regulations, will be: (a) sent by United States mail, with postage prepaid, or personally delivered, to each of the Association's members and consumers affected by the change; or (b) published in local newspaper(s) having general circulation in the area(s) of the members and consumers affected by the change.

The notice will provide that any member or consumer who desires to comment on the proposed change shall file written comments with the Association at 1655 5th Street, P. O. Box 1600, Limon, Colorado, 80828, on or before the date set forth in the notice, which date will be no less than twenty (20) days after mailing or publication of the notice.

If any written comments are submitted, and after the deadline for comments set forth in the notice but before the effective date of the change, the Board of Directors will review any comments received. Following review of the comments and on its own motion, the Board of Directors will: (a) reaffirm the change; or (b) delay the effective date of the change until after a hearing to be held in accordance with these Rules, which hearing will be held no sooner than twenty (20) days after such motion. Any member or consumer that has filed written comments to the change, or that has requested notice of any hearing concerning the change, will be notified in writing of the Board's action and will be allowed to participate in any hearing that is scheduled in accordance with the procedures set forth in these Rules.



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3.5 IMMEDIATE SHUT OFFS

When the Association disconnects service to a member without prior notice, per established procedures, such member may immediately appeal such action to the Board. If the board is in session, they will hear the member appeal prior to adjournment.

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The Board President shall designate one or more Directors to hear and determine the appeal filed for immediate shut offs at a time when the Board is not in session, and said Director(s) will immediately determine any such appeal, subject to the right of the member to seek further review of said determination, which review will be conducted and determined by the Board at its next meeting.

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3.6 MEMBER ATTENDANCE AT BOARD MEETINGS

Agenda – Notice of the time and place of each Board Meeting and a copy of the agenda designating the matters to be discussed or actions to be taken will be posted in each of the Association’s service offices and on the Association website at least ten (10) days before the meeting.

Open Meetings – All Board Meetings are declared to be open meetings and open to the members, consumers, and news media. Unless input is requested from the Board, those individuals in attendance may not participate in the Board’s discussions or deliberations. By a two-thirds affirmative vote of the Board Members present, the Board may go into executive session for consideration of documents or testimony given in confidence but will not make final policy decisions or adopt or approve any resolution, rule, regulation, or formal action, any contract, or any action calling for the payment of money at any session which is closed to the members, consumers, and news media. Before the Board of Directors convenes in executive session, the Board will announce the general topic of the executive session.

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Member Participation – A “Member Input” period, with a set time, will be placed on the agenda at the beginning of each regular monthly meeting of the Board of Directors, whereby members and consumers of the Association will be given an opportunity to address the Board on any matter concerning the policies and business of the Association. The Board may place reasonable, viewpoint-neutral restrictions on the amount and duration of member comment. If a member or consumer has requested, and the Board Chair authorizes, the individual(s) may address the Board at the designated time on the agenda. Otherwise, any comments and questions of members and guests will be offered during the time period designated on the meeting agenda as “Member Input” as described above.

Board Action - The Board of Directors will take all suggestions, concerns and/or comments of members and consumers under advisement until all relevant information regarding the matter has been obtained. The Board may direct the suggestion, concern and/or comment to the appropriate Board Committee or the Chief Executive Officer (CEO) for further discussion and investigation. An item brought up during the “Member Input” period that is not on the posted agenda for the meeting, and is determined to require additional discussion or action by the Board, will be placed on the agenda for the next regular Board Meeting after proper notice. Upon reaching a decision regarding the matter before the Board, the Board will communicate its decision to the member or consumer who expressed the suggestion, concern and/or comment.

Member Request for an Item to be Placed on An Agenda - In order to accommodate a member's reasonable request to place an item on a Board agenda to present an issue or to request specific action by the Board, and to provide Association staff sufficient time to accumulate information pertaining to the issue or request and to allow time to consider whether to include it on a posted agenda, the following procedure will apply:

1. A member's request to address the Board on an item that a member wishes to be added to the agenda for formal action at a regularly scheduled Board meeting must be received by the CEO at least twenty (20) days prior to the meeting. The written request will set forth the action sought and the other information called for by the "Request for an Item to be Placed on the Agenda" **Form 3.6** attached hereto, or by another written medium containing the requested information.


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3.8 FORMAL COMPLAINTS

When a member objects to an action taken by the Association that directly affects their service or account, and where the member alleges either (a) that the Association, by some act or failure to act by the Association, is contrary to any rule of law, tariff, or rule or regulation of the Association; (b) that a variance from Association tariffs, rules or regulations of general applications should be given to that member; or (c) that the Association has taken an arbitrary or discriminatory action where there is no tariff, rule or regulation of the Association applicable to their situation, then the Formal Complaint procedures set forth herein shall be followed.

3.9 PROCEDURE FOR FORMAL COMPLAINTS AND HEARINGS ON OBJECTIONS TO CHANGES OF TARIFFS

Filing the Formal Complaint -The Formal Complaint must be addressed to Mountain View Electric Association, Inc., c/o Board of Directors, P. O. Box 1600, Limon, Colorado, 80828, and signed by the Complainant. The Formal Complaint must be in writing generally conforming to **Form 3.9** attached to these Regulations, must state a clear and concise statement of the facts supporting the Complaint, and set forth the relief the Complainant seeks. The Formal Complaint will include the CEO's response to the dispute resolution as supplemental documentation, if applicable. The Complainant must provide copies of the Formal Complaint to any other party.

Presiding Officer - The words "Presiding Officer" will mean the President of this Association or such other person(s) as may be designated by the Board to preside over a hearing under these Regulations. The Presiding Officer need not be a Director, member of the Association.

The Presiding Officer may permit any pleadings to be amended or corrected or any omission therein to be supplied. Defects which do not affect substantive rights of a party will be disregarded. The Presiding Officer may order any redundant, immaterial, impertinent or scandalous matter stricken from any pleading, document or other paper filed with the Association.


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Setting of Hearing - A Formal Complaint will be set for hearing at the earliest practicable time, typically at the next regularly scheduled Board Meeting conforming to the Notice of Hearing requirements. It may be dismissed by the Complainant at any time, and it will be dismissed where it has been set for hearing and the Complainant fails to appear at the time, place and date set for hearing without just cause.

Notice of Hearing - The Association will give written notice of a hearing on the Formal Complaint by mailing a copy of the notice setting the matter for hearing, at least fifteen (15) days before the first day of the hearing, to (i) each party to the proceeding as of the date of mailing, and (ii) any person who has asked to receive notice of the hearing. The Notice of Hearing will state the time, place and date of the hearing. In addition to the above described notice, the Association will give public notice of the hearing by posting a notice containing the time, place and date of the hearing in a prominent public place in the offices of the Association not less than fifteen (15) days prior to the hearing.

Representation of Parties/Withdrawal of Attorneys - An individual who is a party to a proceeding and who wishes to appear on their own behalf may represent only their own individual interest in the proceeding. A business entity of any type may be represented by its owner, officer, manager or duly authorized employee.

A party may be represented by an attorney at law, currently in good standing before the Supreme Court of the State of Colorado.

A pleading of a party represented by an attorney will be signed by said attorney, and will set forth the attorney's registration number, address and telephone number. The signature of an attorney is a certification that they have read the pleading; that to the best of their knowledge, information and belief there are good grounds to support it; and that it is not interposed for purposes of delay. Complaints will be verified unless signed by an attorney; other pleadings need not be verified.

An attorney of record may withdraw from a proceeding only upon motion, and notice to all parties of record and to the party represented by such attorney.

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The Association attorney is usually present at the hearings; their purpose is to advise the Board of Directors on procedural issues and to prepare the Hearing Report and Record of Decision. While the Association attorney may ask clarifying questions, they will not advocate the position of the Complainant. The Association attorney will advocate the position of the Association in the hearing process.

Consolidation / Pre-Hearing Conferences - Two or more proceedings may be consolidated where it appears that the issues are substantially similar and that the rights of the parties will not be prejudiced by such consolidation.

At any time before the commencement of a proceeding, the Presiding Officer, with or without motion, and after consideration of the probability of beneficial results to be derived therefrom, may order that a pre-hearing conference be held to expedite the hearing or settle issues, or both.

Conduct of Hearings / Limitations on Participation / Absence From Hearings / Continuances - Hearings will be conducted by the Board of Directors, or by one or more individual Directors or any other person(s) designated by the Board. Hearings will be held at this Association's principal place of business at 1655 – 5th Street, Limon, Colorado, or at such place or places in the State of Colorado as may be designated in the Notice of Hearing. All hearings will be open to the public. Any person who is disruptive, abusive, or disorderly at a hearing may be excluded from the hearing. Any hearing will be recorded at the request of any party, including this Association; the cost of such recording will be borne by the party who requested that the hearing be recorded.

At the commencement of a hearing, the Presiding Officer will call the hearing to order, take appearances, and act upon any pending motions, petitions or preliminary matters. The parties may then make opening statements or reserve them to a later time in the proceeding. A witness, before being permitted to testify, will be required to swear or affirm that the testimony he is about to give is true. A witness who refuses to so swear or affirm will not be permitted to testify.

Where two or more parties have substantially similar interests and positions, the Presiding Officer may at any time during the hearing, in order to expedite the hearing, limit the number of parties who will be permitted to cross-examine witnesses or argue motions or objections.


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If after notice, any party to a proceeding does not appear at a hearing either in person or by counsel, or if after making an appearance at any hearing absents any party therefrom, the matter may be heard in the absence of such party. For good cause shown, the Presiding Officer may grant continuances.

When a hearing will be expedited and the interests of the party will not be substantially prejudiced thereby, a person conducting a hearing may receive all or part of the evidence in written form.

Admissibility of Evidence - Neither the Board, nor one or more individual Directors or any other person(s) designated by the Board to conduct a hearing, will be bound by the technical rules of evidence, and no informality in a proceeding or in the manner of taking testimony will invalidate any order, decision, rule or regulation made, approved or confirmed. 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 substantial 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 will be construed to mean the Association's Board of Directors, or one or more individual Directors or other person(s) designated by the Board to conduct a hearing, as the case may be.

Complaints / Burden of Going Forward / Burden of Proof - The burden of going forward and the burden of proof will be on the Complainant. After the Complainant has gone forward, any party who appears in support of the position of the Complainant will go forward. Then the Association or its representative, followed by any party who appears in support of the position of the Association will go forward. The Complainant will then have the right to present rebuttal evidence.

In proceedings other than complaint proceedings, the burden of going forward and the burden of proof will be as determined by the Presiding Officer.


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In consolidated proceedings, the Presiding Officer will determine the order in which the parties will present their evidence; in all other respects, the burden of going forward and the burden of proof will be as above set forth.

Stipulations - Any two or more parties, including this Association, may stipulate as to any fact at issue, or otherwise reach agreement as to matters at issue, of substance or procedure, by written stipulation or agreement offered into evidence as an exhibit. The Presiding Officer will 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.

Documentary Evidence - Except as otherwise provided herein, a party sponsoring an exhibit will furnish a copy thereof to each party present and to the Presiding Officer at the hearing. The Presiding Officer may limit the number of copies required to be furnished where reproduction is impossible, extremely difficult or unduly burdensome.

Interim Orders - The Presiding Officer, during the course of proceeding and prior to entering a decision or order, may issue one or more written interim orders. Any party aggrieved by an interim order may file a written motion to set aside or modify or stay such order.

Briefs or Statements of Position - At the conclusion of the presentation of evidence at any hearing, the Presiding Officer, upon their own motion or upon request by a party, may order written briefs or statements of position to be filed. Where the hearing was conducted by one or more individual Directors or by some other person(s) designated by the Board, copies of the brief or statement of position will be filed with said Director(s) or person(s) as well as with the Association. A copy of said brief or statement of position also will be served on each party.

Reopening of The Hearing - The Presiding Officer, upon their own motion or upon motion of a party for good cause shown, may order that the hearing be reopened for further proceedings any time after a matter is taken under advisement after a hearing and before a decision is entered on the merits.

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Chief Executive Officer

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FORM OF NOTICE TO CHANGE TARIFFS
AS DEFINED IN REGULATION 3.4.

NOTICE

Date of Notice: _____, 20____

NOTICE OF A CHANGE IN THE TARIFFS
OF
MOUNTAIN VIEW ELECTRIC ASSOCIATION, INC.
1655 5th Street
P O Box 1600
Limon, Colorado 80828-1600

You are hereby notified that the above-named Association proposes to make the following changes in its tariffs, to become effective _____:
(Date)

(Note: State fully the changes to be put into effect and the present rate, rate-impacted tariff, or rate-impacted rule and regulation provision(s) to be changed; or if too lengthy, call attention to the effect of the changes and state that the proposed and present rate, rate-impacted tariff, or rate-impacted rule and regulation provisions are available for examination and explanation at each business office of such association, stating the address of each such office. In the event changes in rates are involved, the notice also will state the dollar changes (or ranges thereof) or percentage increases (or ranges thereof) for each class or type of service.

Anyone who desires to comment on the proposed change will file a written response with the Association at 1655 5th Street, P O Box 1600, Limon, Colorado 80828, no later than twenty (20) days from the date of this notice. The Association may hold a hearing, to consider the comments and determine whether the proposed change will be authorized. Anyone who desires to receive notice of hearing, if any, will make written request therefore to the Association, at the above address, no later than twenty (20) days from the date of this notice.

MOUNTAIN VIEW ELECTRIC
ASSOCIATION, INC.

By: JIM C. HERRON
Chief Executive Officer

Mountain View Electric Association, Inc.
Request For An Item To Be Placed On The Agenda

Instructions:

Please complete and deliver to the Chief Executive Officer at least 20 days before the regularly scheduled meeting of the Board.

Name, address, telephone number, and member account number as it appears on your bill:

Name: _____ Account Number: _____

Address: _____

Telephone Number: _____ Email: _____

Tell us what item you would like placed on the agenda and what results you would like to see:

Your Signature: _____ Today's Date: _____

Printed Name: _____

Title (if affiliated with a business): _____

For Association Use Only

Action on Request

Date of Action: _____ Signature: _____

Title: _____

FORM OF FORMAL COMPLAINT

_____))
_____))
(Name of Each Complainant)))
Complainant(s))) CASE NO. _____)
vs.))
MOUNTAIN VIEW ELECTRIC))
ASSOCIATION, INC.,))
Respondent))

FORMAL COMPLAINT

The Complainant(s) state:

1. The name and address and telephone number of each person making this Complaint are as follows:

(Names)

(Address)

(Telephone)

2. The Complainant(s) will appear at the hearing on this Complaint.
3. The specific act or thing complained of, together with such facts as are necessary to give a full understanding of the situation complained of are as follows:

FORMAL COMPLAINT FORM (continued)

Wherefore, Complainant(s) request the Board of Directors of Mountain View Electric Association, Inc. to grant the Complaint(s) the following relief:

(State what you want the Board to do)

DATED: _____, 20____

(Signature of Each Complainant)

VERIFICATION

STATE OF COLORADO)
) SS.
COUNTY OF _____)

The undersigned, being first duly sworn upon oath, deposes and says that they have read the above and foregoing Complaint and any attachments thereto and believes the facts stated herein to be true.

(Signature of Each Complainant)

Acknowledged and sworn to before me this ___ day of _____,
20____, by _____.

WITNESS my hand and official seal.

My Commission Expires: _____

NOTARY PUBLIC

(NOTARIAL SEAL)

FORMAL COMPLAINT INSTRUCTIONS

1. A Formal Complaint may be filed with the Association by any member of this Association.
2. The Complaint should include a specific statement of expected relief.
3. The Complaint must be signed by an attorney licensed in the State of Colorado or must be verified before a Notary Public.
4. The Complaint will not be refused because of technicalities or because the Complaint is worded informally.
5. The Complaint will be adjudicated in a hearing scheduled by the Association Board of Directors, typically at the next regularly scheduled Board Meeting conforming with the Notice of Hearing requirements. You may also present exhibits and bring witnesses if you wish. The Association staff may testify and present exhibits in opposition to your complaint. You and all witnesses will be sworn and you will be given the opportunity to question anyone who testifies.
6. You will have the Burden of Proof at the hearing; therefore, it will be necessary for you to present a plausible explanation of events, and your explanation of events will need to be more convincing than whatever evidence is presented by the Association staff.
7. You may be represented by an attorney if you wish, but you need not have an attorney. The Association attorney is usually present at the hearings; their purpose is to advise the Board of Directors on procedural issues and to prepare the Hearing Report and Record of Decision. While the Association attorney may ask clarifying questions, the Association attorney will not advocate the position of the Complainant. The Association attorney will advocate the position of the Association in the hearing process, only if the Complainant is represented by counsel.
8. If you need assistance in completing the Complaint, call or contact:

Chief Executive Officer
Mountain View Electric Association, Inc.
PO Box 1600
1655 5th Street
Limon, Colorado 80828
Telephone: (719) 775-2861
Fax: (719) 775-9513
9. Mail or deliver your Formal Complaint to Mountain View Electric Association, Inc., at the above address. In order to be placed on the agenda for the Board Meeting, it is necessary the complaint be received by the Association, fifteen (15) days prior to the scheduled Board Meeting.
10. If you desire a complete copy of the Association's "Regulations Governing Change of Tariffs, Member Attendance at Board Meetings, Dispute Resolution, and Related Matters," contact our office and a free copy will be sent to you. The regulations are also on the Association website, www.mvea.coop. These regulations cover complaint hearing procedures as well as procedures for appeal of the formal decision on your complaint.