

BYLAWS OF THE KOSRAE UTILITIES AUTHORITY

WHEREAS, Kosrae S.L. 5-38 was enacted into law by the Fifth Kosrae State Legislature, Second Regular Session, 1991 and signed by the Hon. Thurston Siba on November 27,1991, and

WHEREAS, Kosrae S.L. 5-38 established the Kosrae Utilities Authority as a public authority, and

WHEREAS, the Kosrae Utilities Authority is vested with the statutory duties and responsibilities to provide the public electric power, operate and manage the State's electrical power, expand and improve upon services offered to the public, and

WHEREAS, the Kosrae Utilities Authority is governed by a Board of five Directors, and

WHEREAS, THE Kosrae Utilities Authority holds the capacity to exercise all powers reasonably necessary to discharge its duties and responsibilities, including the adoption of bylaws governing its duties,

IT IS HEREBY PASSED AND ADOPED by unanimous vote of the Board of Directors of the Kosrae Utilities Authority present at a regular meeting of the Board of Directors at Tofol, Kosrae on August 25, 1994 that the following constitute the official Bylaws of the Kosrae Utilities Authority:

ARTICLE 1. OFFICES

The Principal office of the Kosrae Utilities Authority ("KUA") shall be in Tofol, Kosrae, Federated States of Micronesia.

ARTICLE 2. BOARD OF DIRECTORS

2.1 Statutory powers. Composition and Term of Office. Pursuant to Section 7.1206, Title 7 of the Kosrae Code, the Board of Directors ("Board") shall govern and serve on the KUA Board.

2.2 Compensation and expenses. Directors are compensated at established rates when actually attending meetings. All other expenses incurred by the Directors while performing the functions of the Board shall be paid or reimbursed as provided in the budget of the KUA or as otherwise provided by the Board.

2.3 Resignations and filling vacancies. A Director may resign by delivering written notice to the Chairman of the Board. Upon receipt of such notice, the Chairman shall immediately advise the Governor in writing of the Director's action and such resignation shall only take effect upon the appointment by the Governor and qualification of the Director's successor pursuant to Section 7.1206 of Chapter 12 of the Kosrae Code.

ARTICLE 3. MEETING

3.1 Regular meetings. The Board meets in accordance with Section 7.1207, Title 7 of the Kosrae Code. One week's prior notice of the date, time and place of such meeting shall be given to the general public by means of the generally accepted public announcement practices within the state, including, but not limited to radio announcements and by the posting of notices in public places.

3.2 Special meetings. Special meetings may be called by or at the request of the Chairman. In the absence of the Chairman an only pursuant to the director the Chairman, the Vice Chairman may call a special meeting. Prior written notice of a special meeting is required. However, the attendance of a Director at a shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

3.3 Closed sessions. With the consent of a quorum, sessions concerning disciplinary actions against a KUA employee, of concerning pending, contemplated or threatened lawsuits involving the Board, of involving the negotiation of any pending contract of agreement shall be held in a closed session where the public is exclude. All other closed sessions shall require the unanimous approval of the members present at the meeting. All final decisions of the Board made during a closed meeting shall be placed in the Board's minutes.

3.4 Procedures for the conduct of business.

- (A) The General Manager shall prepare an agenda for each meeting, whether regular or special. The agenda shall be accompanied by written reports, proposed motions and copies of all correspondence that have been received and /or dispatched by the Board. The agenda shall be distributed to the members of the Board a timely fashion. Items not on the agenda shall not be considered at the Board meeting unless there is a motion to the contrary that is carried by a quorum of the board.
- (B) Official business, actions and decisions. Any official business or action, including but not limited to the adoption of resolutions, taken by the Board shall require a motion, a second and a quorum vote of three members of the Board, in accordance with Section 7.1208, Title 7 of the Kosrae Code for passage. The Secretary shall record the mover and seconder and the number of votes for and against any abstentions in the minutes. At the sole discretion of the Chairman, a vote may be by voice, roll call, show of hands or by secret ballot.
- (C) Minutes. Pursuant to Section 7.1208 of S.L 5-38, the Secretary keeps the minutes and records of the Board. The minutes shall be connectible numbered and the total number of pages shall be presented at the next Board meeting for confirmation by a carried motion. After the minutes have been confirmed by the Board, the Secretary shall sign the minutes as being a true and correct record of the minutes. The secretary shall then initial each page of the minutes as being a true and correct record of the minutes. Minutes are public information and shall be made available to the general public upon request. The minutes of closed sessions shall be public and shall only record the resolution carried by the Board.

3.5 Adjourned meeting. A quorum of the board may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, then notice of the time and place of the adjourned meeting shall be given the Directors who were not present at the time of the adjournment.

3.6 Action by the Board without a meeting. Any action required to be taken at a meeting of the Board may be taken without a meeting if a written consent, setting forth and action so taken, is signed by each of the Directors. Any such written consent shall have the same effect as a unanimous vote at a meeting. This action and the consents shall be inserted in the minutes as if it were the minutes of a Board meeting.

3.7 Meetings by telephone. Except as otherwise restricted by law or by these bylaws, the Board may participate in a meeting by means of a conference telephone call or other similar method of communication where all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

ARTICLE 4. OFFICERS

4.1 Applicability. This Article shall pertain only to the officers of the Board, who are elected and serve in accordance with Section 7.1208, Title 7 of the Kosrae Code.

4.2 Chairman. When present, the Chairman presides over all Board meetings. With the General Manager, he may sign deeds, mortgages, bonds, contracts or other instruments that the Board has authorized to be executed, except when the signing and execution thereof has been expressly delegated by the Board or by these bylaws to some other officer or agent of the KUA or is required by law to be signed by another in some other manner. The Chairman performs all duties incidentally to the office of Chairman and such other duties as may be prescribed by the Board.

4.3 Vice Chairman. In the absence of the Chairman or in the event of his death, inability or refusal to act, the vice Chairman has all the powers of and be subject to all the restrictions upon the Chairman. The Vice Chairman performs such other duties as may be assigned by the Chairman of the Board.

4.4 Secretary. The secretary signs all correspondence of the Board and maintains a register of all incoming and outgoing correspondence of the Board. The secretary is the custodian of the KUA corporate records and the seal of the KUA and sees that the seal is affixed to all documents of the KUA as authorized by the Board.

4.5 Election and term of office. The officers of the KUA are elected at a regular meeting of the Board and except in the case of death, resignation or removal, each officer shall hold office for a two year term and until his successor is elected and qualified. Initially, each term of office commenced in December 1992.

4.6 Removal. Any officer elected by the Board may be removed by the Board whenever in its judgment the best interests of the KUA would be served thereby. Removal shall require the affirmative vote of a quorum.

4.7 Resignation. Any officer may resign at any time by delivering written notice to the Chairman or to all members of the Board. Any such resignation shall take effect at the time specified therein or, if the time is not specific, upon receipt of such written notice. Acceptance of such resignation by the KUA shall not be necessary to make it effective.

ARTICLE 5. COMMITTEES

In his discretion, the Chairman may form, from time to time, special committees from the Board membership. Such committees may be vested with such powers as deemed necessary, subject to the limitation of powers and corporate obligations set out elsewhere in these bylaws. All committees so appointed shall keep regular minutes of the transactions of their meetings and shall cause them to be recorded in books kept for that purpose in the principal office of KUA.

ARTICLE 6. INDEMNIFICATION FO DIRECTORS AND EMPLOYEES

Any person, his heirs, executors of administrators shall be indemnified, reimbursed by the KUA for reasonable expenses actually incurred, including costs and attorney's fees, in connection with any action, suit of proceeding to which he or they shall be made a party by reason of their being or having been a Director or employee of the KUA or of any firm, corporation or organization which he served in any such capacity at the request of the KUA.

However, no such person shall be so indemnified of reimbursed relative to any matter in such action, suit of proceeding to which he shall finally be adjudged to have been guilty of or liable for gross negligence, willful misconduct of criminal acts in the performance of his duties to the KUA.

Further, no person shall be so indemnified or reimbursed relative to that action, suit or proceeding which has been made the subject of a compromise settlement except where the settlement has been approved by a court of competent jurisdiction or the Board acting by a vote of Directors not parties to the same or substantially the same action, suit or proceeding, constituting a quorum of the Board.

The foregoing right of indemnification or reimbursement shall not be exclusive of other rights to which such persons, his heirs, executors or administrators may be entitled as a matter of law.

ARTICLE 7. GIFTS, COMPENSATION AND ETHICAL CONDUCT

7.1 Gifts, compensation, etc.

- (A) No Director or employee of the KUA shall seek or accept, for himself or another, a gift, loan, service, favor, employment, engagement, emolument or economic opportunity if it would tend to influence a reasonable person in his position to depart from the faithful and impartial discharge of his duties as a Director or employee.
- (B) No Director or employee of the KUA may accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a Director or employee.
- (C) If a Director or employee acquires, through his connection with the KUA any confidential information which by law or practice is not at the time available to the public generally, he may not use the information to further the economic interests of himself or any other person of business entity.
- (D) The foregoing shall not apply in the case of the following
 - (1) An occasional no pecuniary gift of less than one hundred dollars in value.
 - (2) An award publicly presented in recognition of public service.

- (3) A commercially reasonable transaction made in the course of business
- (4) A political campaign contribution provided that such gift of loan is actually used in the political campaign.
- (5) Gifts not falling under (1) or (2) above may be accepted on behalf of the KUA and shall become the property of the KUA. Such gifts shall be immediately delivered to and administered by the General Manager.

ARTICLE 8. DISQUALIFICATION

8.1 Disqualification.

- (A) A Director or employee shall disqualify himself from participating in any official act of the KUA that directly affects a business in which he, or a member of his household, has a financial interest. Unless specifically prohibited by law, a Director or an employee is not precluded from making a bid on a corporate contract, if the contracting process is controlled by rules of open competitive bidding, sources of supply are limited, he has not taken part in developing the contract plans of specification and will not be personally involved in opening, considering or accepting offers.
- (B) No Director or employee shall acquire a financial interest at a time when he believes, or has reason to believe, that such financial interest will directly affect his current or future official acts.
- (C) Except on full disclosure and unanimous approval of the Board, no Director or employee shall acquire any interest in, or accept employment from, any private business that has dealt with the KUA in a matter that the Director or employee participated in on behalf of the KUA.

ARTICLE 9. CONTRACTS

9.1 Contracts.

- (A) The purchase of all supplies and materials and the construction of all work by independent contractors, when the expenditure exceeds \$25,000 shall be by contract let to the most responsible bidder based upon the lowest evaluated bid cost. Notice requesting bids shall be published at least 10 days before bids are received. The Board may reject any and all bids, and readvertise at its discretion, if after rejecting bids for materials and supplies, the Board determines that the materials and supplies may be purchased at a lower price in the open market. The Board may authorize such purchases without further observance of the provisions requiring contracts, bids or notices.
- (B) In the case of major public calamity, or whenever it is in the interest of public safety, or necessary to keep public electrical services operational, the Board may determine that the public interest and necessity demand the immediate expenditure of funds to keep the services operational or in a safe condition, the Board may authorize the expenditures of such sums as may be needed without the observation of the provisions requiring contracts, bids or notices.

9.2 Contract signatures. The General Manager may sign all contracts not exceeding \$25,000 without Board action. The General Manager and the Chairman must sign contracts over \$25,000 after Board authorization.

ARTICLE 10. AMENDMENTS TO BYLAWS

The adoption, amendment or repeal of these bylaws requires a quorum vote of the Board. The Secretary keeps or causes to be kept a book of bylaws. The book of bylaws shall contain the original bylaws and any amendments made thereto. Amendments to and repeal of bylaws require a resolution of the Board for each such amendment or repeal.