

**RIO GRANDE ELECTRIC COOPERATIVE, INC.  
BOARD POLICIES**

**SECTION: BP-1.2 BUSINESS AND FINANCIAL MANAGEMENT**

**Capital Credit Claims**

**BP-1.2.7**

Retirement of Capital Credits to heirs, survivors, assigns and successive business interest

**I. OBJECTIVE**

To establish a procedure for the assignment of Capital Credits to Heirs and Assigns when the member entitled to the Capital Credits to be retired is deceased.

**II. POLICY**

Upon receipt of a check or other notice from Rio Grande Electric Cooperative, Inc. (“RGEC”) concerning payment of capital credits and the person to whom the check or notice is directed is no longer living, or if the check or notice is directed to a business or other entity that no longer exists, and you believe that you are entitled to receive the capital credits for said person, business or entity, you must submit a claim and any documents and/or other information supporting such claim to RGEC at the following address: Rio Grande Electric Cooperative, Inc., Attention: Consumer Accounting, P.O. Box 1509, Brackettville, TX 78832.

RGEC appreciates your cooperation and patience in this process. RGEC has a duty to its members to insure that capital credits are paid to the proper recipient. The information required to substantiate a claim that capital credits should be paid to someone other than the person, business or entity reflected as the owner on RGEC’s books and records requires clear and conclusive proof of ownership and entitlement to such payment. The claim process detailed below is intended to insure payment of capital credits to the proper owner and to protect RGEC and its members from improper payment of capital credits.

As explained in further detail in this policy, if ownership and entitlement to payment of said capital credits are not established by clear and conclusive proof, which shall be decided in good faith by RGEC, in its sole discretion, RGEC will follow the procedures permitted by Texas law and the State’s Comptroller’s office related to unclaimed property as explained in further detail in this policy.

*RGEC reserves the right to alter the terms and provisions of this policy and procedure at any time.*

**I. Claim Submission**

**A. Capital Credit Form.** You must fill out the [RGEC Capital Credit Claim Form \(BUS-50\)](#) for payment of capital credits.

**B. Substantiating Documents and Other Information.** You must provide the following documents and other information to substantiate your claim and submit said documents and information with your Capital Credit Claim Form:

**1. Claims following Death of Owner**

**a. Heir**

If the individual claiming the capital credits is claiming to be an heir, the following should be required prior to any release of funds:

**Provide a certified copy of the reported owner's death certificate (certified copy required if claim is \$5,000 and more), proof of social security number (if not listed on the death certificate), and the following:**

- **If the deceased owner left a will that was probated**, provide a certified copy of either:
  - the will **and** the Order Admitting to Probate, or
  - the will **and** the Order Admitting Will to Probate as Muniment of Title

If the estate has been closed, please provide a certified copy of the court documents verifying final closing and distribution for the estate in addition to the copy of the probated will.

If submitting certified copies of the Order Admitting Will to Probate as Muniment of Title you **MUST** also provide a certified copy of the will.

- **If the deceased owner did not leave a will or the will was not probated**, the required heirship documentation is based on the total value of your claim.
  - A total claim value that is **\$5,000 or less** requires a notarized Affidavit of Heirship completed in its entirety by a third disinterested party (someone other than an heir). You may download, print and mail a completed [Affidavit of Heirship \(53-111-b\) \(PDF, 59k\)](#) with your claim.

- A total claim value that is **\$5,001 through \$10,000** requires a notarized Affidavit of Heirship, completed in its entirety by a third disinterested party (someone other than an heir). The completed Affidavit of Heirship must be filed in the county in which the reported owner lived and died. You may download, print and mail a completed, filed [Affidavit of Heirship \(53-111-a\) \(PDF, 63k\)](#) with your claim.
- A total claim value that is **more than \$10,000** requires a Court's Determination of Heirship or a Small Estates Affidavit of Heirship; both documents require a judge's signature. You will receive further instructions during the claim process if this document is required.

#### **b. Administrator**

If the individual claiming the capital credits is claiming to be an administrator, the following should be required prior to any release of funds:

Provide a copy of the reported owner's death certificate (certified copy required if claim is \$5,000 and more), proof of social security number (if not listed on death certificate) **and** current Letters of Administration. Letters of Administration are executed by the court appointing you as Administrator of the estate. Letters can be dated no earlier than 90 days before the date the claim is filed if the dollar value of the capital credits claimed is more than \$25,000. If the claim is \$25,000 or less, the letters can be up to 18 months old.

#### **c. Executor**

If the individual claiming the capital credits is claiming to be an executor, the following should be required prior to any release of funds:

Provide a copy of the reported owner's death certificate (certified copy required if claim is \$5,000 and more), proof of social security number (if not listed on death certificate) **and** current Letters Testamentary. Letters can be dated no earlier than 90 days before the date the claim is filed if the dollar value of the capital credits claimed is more than \$25,000. If the claim is \$25,000 or less, the letters can be up to 18 months old.

### **Where Do You Get Copies of the Following Documents?**

- Death Certificate/Birth Certificate: [Texas Bureau of Vital Statistics](#) - (512) 458-7111.
- Probated Will: [County Clerks](#)
- Letters of Administration: [County Clerks](#)
- Letters Testamentary: [County Clerks](#)
- Letters of Guardianship: [County Clerks](#)

**2. Claims for Businesses and Entities that No Longer Exist**

**a. Proof of Ownership of Capital Credits**

If the business or entity no longer exists but was purchased or sold, provide an official copy of the Buy/Sell Agreement.

If the business experienced a name change, merger, or has an assumed name (d.b.a. or "doing business as"), provide a certified a copy of the Change of Name Amendment or Assumed Name Certificate.

If the business is no longer in existence, provide a certified copy of the Articles of Dissolution (including Attachment A) or Corporate Liquidation form filed with the Internal Revenue Service.

**b. Proof of the Right to Transact Business for the Business or Entity**

In addition to proof of ownership of the capital credits, a person submitting a claim on behalf of the business or entity must provide proof that he or she has the authority to act on behalf of the entity. If the person is an officer or other company official claiming on behalf of a corporation, partnership, sole proprietorship, professional association, non-profit organization, or private organization, they must show proof of authority to act on behalf of the business. Photocopies of the following should be provided:

- corporate resolution
- minutes from a meeting
- franchise tax report
- income tax return
- recent annual statement

- assumed name certificate
- partnership agreement
- sales tax permit
- notarized affidavit signed by a financial officer

RGEC will evaluate the information provided by you to ascertain whether it will be sufficient to allow payment of the business' or entity's capital credits to you. Because it is very difficult to establish and prove ownership of business or entity assets when a business ceases to exist, claims for ownership of capital credits will be difficult to establish by clear and conclusive proof.

### **3. For Other Claims**

This policy is not meant to define the bases for any and all claims to capital credits. Rather, it is meant to address several common situations in which capital credits could be claimed by another person or entity. If you believe that there is another basis to justify payment of capital credits to you other than one of the bases set forth herein, please include the explanation on your capital credits claim form and provide any supporting documents or other information to RGEC in accordance with this procedure.

## **II. Processing of Claims**

### **A. RGEC Staff Consideration**

Upon receipt of this information, RGEC staff will advise you in writing if the information is sufficient to allow the capital credits to be paid to you. The information required to substantiate a claim that capital credits should be paid to someone other than the person, business or entity reflected as the owner on RGEC's books and records requires clear and conclusive proof of ownership and entitlement to such payment which shall be decided in good faith by RGEC, in its sole discretion.

If your claim is denied by RGEC staff, you have the right to request reconsideration by the General Manager/Chief Executive Officer and if the claim is denied by the General Manager/Chief Executive Officer, you may seek reconsideration by RGEC's Board of Directors.

### **B. Reconsideration by the General Manager/Chief Executive Officer**

You must request reconsideration of your claim by the General Manager/Chief Executive Officer in writing within 30 days of the date of the notice to you that your claim has been denied by RGEC's staff. You must provide any new or additional information supporting your claim. The General Manager/Chief Executive Officer will reconsider whether the information submitted by you establishes by clear and conclusive proof that the capital credits should be paid to someone other than the person, business or entity reflected as the owner on RGEC's books and records. The General Manager/Chief Executive Officer shall respond in writing to your request for reconsideration within 90 days of receipt of your written request for reconsideration.

**C. Reconsideration by the Board of Directors**

You must request reconsideration of your claim by the Board of Directors in writing within 30 days of the date of the notice to you that your claim has been denied by the General Manager/Chief Executive Officer. You must provide any new or additional information supporting your claim. The Board of Directors will reconsider whether the information submitted by you establishes by clear and conclusive proof that the capital credits should be paid to someone other than the person, business or entity reflected as the owner on RGEC's books and records. The Board of Directors shall respond to your request for reconsideration in writing within 90 days of receipt of your written request for reconsideration.

**D. Disposition of Denied Capital Credit Claim Amounts**

If this claim process does not result in a resolution of the ownership of the capital credits, such amounts will be reported and/or remitted to the State Comptroller's Office in accordance with section III below as permitted by Texas law on unclaimed property.

**III. Unclaimed or Unresolved Capital Credits.**

If a member/former member fails to cash or claim a capital credit retirement check, RGEC shall send a notice to the member's or former member's most recent address listed on RGEC's records notifying the member or former member of this failure if the amount of the capital credits exceed \$250.00. If the amount of capital credits is less than \$250.00 or if the claims process provided for herein does not result in the resolution of ownership of the capital credits and entitlement to payment, no further notice will be provided to the member or former member.

In either event, if the check for capital credits remains unclaimed after three years, said capital credits may be delivered in accordance with

Section 74.3013 of the Texas Property Code to a scholarship fund, to an economic development fund and to an energy efficiency assistance fund if so established by RGEC and to the limits described in such Section 74.3013 of the Property Code. Otherwise, such amounts will be reported and remitted to the State Comptroller's Office in accordance with current Texas law on unclaimed property.

**IV. Assignments and Donations of Capital Credits**

RGEC's Bylaws allow a member pursuant to written instructions to assign capital credited to the account of such member to successors in interest or successors in occupancy in all or a part of such member's premises. If a member elects to make such an assignment, the member must execute an [Assignment to Successor in Interest or Occupancy \(BUS-51\)](#) documenting the member's instructions.

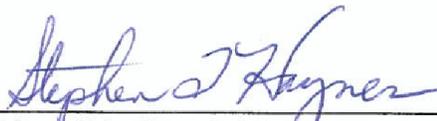
The Bylaws also permit the Board of Directors to adopt other policies of general application for members to assign their capital credits.

Pursuant to this Board policy, a member may donate or assign capital credits on the books of the Cooperative to a scholarship fund, an economic development fund or an energy efficiency assistance fund designated by RGEC for such donations. If a member elects to make such an assignment or donation, the member must execute a [Donation \(BUS-52\)](#) or [Assignment \(BUS-53\)](#), documenting the member's instructions.

**V. Out of State Owners**

When an owner is reflected on RGEC's books and records as having his or her domicile outside the State of Texas, RGEC will consider whether to utilize the Texas unclaimed property laws or whether another state's laws should be considered. In addition, the above referenced procedures may require application of different law and/or different forms.

If you believe that another state's law should apply to capital credits or the capital credit claim process, please advise RGEC of the circumstances that you believe justify application of different law than Texas law.



**President, Rio Grande Electric Cooperative, Inc.**

January 18, 2012

**Date**