

Articles of Incorporation and Bylaws

Articles Amended

3-26-1998

Bylaws Amended

4-15-2021



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RESTATED ARTICLES OF INCORPORATION OF WRIGHT- HENNEPIN COOPERATIVE ELECTRIC ASSOCIATION

The Articles of Incorporation of Wright-Hennepin Cooperative Electric Association are amended and restated as follows:

ARTICLE I

Section 1. The name of this Association shall be Wright-Hennepin Cooperative Electric Association.

Section 2. The business of this Association shall be conducted upon the cooperative plan.

Section 3. The purposes of the Association are to sell, provide, deliver, furnish or distribute electric energy and other services to its members and patrons and to engage in any other lawful business.

Section 4. The Association shall be authorized to exercise and enjoy all of the powers, rights and privileges granted to or conferred upon associations of the character of this Association by the laws of the State of Minnesota now or hereafter in force.

Section 5. The registered office and principal place of business of the Association is at 6800 Electric Drive, Rockford, Minnesota 55373.

ARTICLE II

The period of duration of this Association shall be perpetual.

ARTICLE III

Section 1. This Association is organized on a non-stock, membership basis.

Section 2. Members shall have only one vote in the affairs of this Association and the membership in this Association shall not be transferable except with the approval and consent of the Board of Directors of this Association.

Section 3. The net income of the Cooperative, except for amounts set aside as capital reserves or additional reserves shall be distributed on the basis of patronage as provided in the Bylaws. The records of this Association may show the interest of patrons and members in the reserves.

Section 4. No interest or dividends shall be paid upon capital furnished to this Association by its members or patrons.

ARTICLE IV

Section 1. The government of this Association and the management of its affairs and business shall be vested in a board of directors consisting of nine members who shall be elected by ballot by the members for such terms as the bylaws may prescribe at the annual meeting of the members. The annual meeting shall be held prior to the month of September of each year on a date and place to be fixed by resolution of the board of directors prior to the mailing or publishing of the notice of said meeting.

Section 2. The bylaws of this Association may define and fix the duties and responsibilities of the members, officers and directors and may also contain any other provision for the regulation of the business and affairs of this Association not inconsistent with these Articles of Incorporation or the laws of the State of Minnesota.

Section 3. The Board of Directors shall have power to make and adopt such rules and regulations, not inconsistent with these Articles of Incorporation or the bylaws of this Association or the laws of the State of Minnesota, as it may deem advisable for the management, administration and regulation of the business and affairs of this Association.

ARTICLE V

To the fullest extent permitted by laws governing cooperative associations, as the same exists or may hereafter be amended, a director of this Association shall not be personally liable to the Association or its members for monetary damages for breach of fiduciary duty as a director.

ARTICLE VI

The Association reserves the right to amend, alter, change or repeal any provision contained in these Articles of Incorporation in the manner prescribed by law.

BYLAWS

ARTICLE I MEMBERS

Section 1. Qualifications and Obligations. Any person or entity shall become a member in the Cooperative by taking delivery of electric energy from facilities owned by this Cooperative. Each member, upon the request and at no cost to the Cooperative, shall execute and deliver any easements

on property owned or controlled by the member for the construction, operation, and maintenance of electric facilities which are reasonably necessary to serve the member. The member shall comply with the Articles of Incorporation, these Bylaws, and such rules and regulations as may be adopted by the Board of Directors. The Cooperative shall maintain appropriate membership records.

Section 2. Membership. No person may have more than one membership in the Cooperative. Persons may hold a joint membership in the Cooperative. Upon the death of either joint member, the joint membership shall be converted to an individual membership, and all capital credit rights shall transfer to the surviving joint member or members automatically. However, the estate of the deceased joint member shall not be released from any debts or liabilities to the Cooperative.

The Cooperative may suspend a membership if a member temporarily ceases using Cooperative service as determined by the Board, upon request of a member, when a landlord member transfers bill payment responsibility to the landlord's tenant of landlord's electric service, or for other good cause. Upon suspension, a member may not receive notice, nominate, vote, remove, demand, request, petition, consent, or otherwise act as provided in these bylaws.

Section 3. Removal of Directors and Officers. The members shall have the power to remove any director or officer for cause. Any member may bring charges, which shall be specifically stated, against an officer or director by filing them in writing with the Secretary, together with a petition signed by 10% of the members, requesting removal of the officer or director in question. Such charges must be filed at least 30 days before either an annual or special meeting at which the removal request will be acted upon by the members. The Secretary shall immediately inform the officer or director against whom such charges have been brought in writing of such charges. Such officer or director shall have the right to counsel, present evidence, and to be heard in person at such meeting, and the member or members bringing such charges shall have the same right. If more than one director or officer has been charged, voting shall be upon each director or officer separately. The removal shall be voted upon at such meeting and any vacancy created by such removal may be filled by the members at such meeting.

Section 4. Dispute Resolution. Any and all disputes, claims, or controversies arising from or related in any way to the Cooperative's provision of electricity or other services, or in its furnishing of any goods, or in the conduct of its operations, other than disputes or claims relating to the payment for electrical energy and/or other services provided by the Cooperative, that are not resolved by agreement of the parties, shall, at the request of either party, be resolved

by binding arbitration. In the event the arbitration involves claims of \$100,000 or more, there shall be three (3) arbitrators, one picked by each party and a third selected by the two (2) arbitrators selected by the parties. In the event the dispute involves less than \$100,000, there shall be one (1) arbitrator. If the parties cannot agree on an arbitrator, the determination shall be made by the Minnesota District Court in either Hennepin or Wright County, Minnesota. The arbitration shall take place in either Hennepin or Wright County, Minnesota, or as close to this location as possible, under and pursuant to the rules contained in Chapter 572B of Minnesota Statutes, known as the Uniform Arbitration Act. The determination of any dispute in arbitration shall be governed by the laws of the State of Minnesota, including the Frye-Mack Standard and not the Daubert Standard with respect to testimony of experts. The cost of the arbitrators and the filing fees shall be shared equally by the parties.

All disputes between the parties must be arbitrated individually, and not through a Class Action.

Each member of the Cooperative, by virtue of their membership, agrees to arbitrate any and all claims or controversies according to these bylaws and the regulations and policies prescribed by the Board of Directors and further agrees to abide by and comply with any arbitration award. This agreement to arbitrate disputes shall survive any withdrawal from or termination of a member's membership in the Cooperative.

Section 5. Provision of Cooperative Service. A member shall comply with any reasonable procedure required by the Cooperative regarding the provision of Cooperative service, including, but not limited to, the following:

- (a) Based upon different costs of providing Cooperative service to different groups of members, the Cooperative may charge each group a different rate or price for providing the Cooperative service.
- (b) The Cooperative may construct, operate, relocate, reconstruct, and maintain an above or below ground electric distribution line or system on or under the member's property, and above or below the ground upon all streets, roads, or highways abutting the member's property. The Cooperative may read, inspect, replace, or maintain metering and load management control equipment.
- (c) The Cooperative may inspect and make such repairs, changes, alterations, improvements, removals from, substitutions, and additions to its facilities as the Cooperative may from time to time deem advisable.
- (d) All the Cooperative's lines and facilities shall remain the property of the Cooperative.
- (e) The member shall keep the Cooperative's right of way clear of all buildings, structures, or other obstructions.
- (f) The Cooperative shall have the right to access across the member's property to its facilities from the most

readily and accessible public road or driveway for the purpose of maintaining or working on any part of the electric distribution system.

- (g) The Cooperative may cut, trim, and control trees, shrubbery, and other vegetation on the member's property by machinery, by chemicals, or otherwise to the extent necessary to keep the right of way clear for the Cooperative's line or system, and the Cooperative may cut down from time to time all dead, weak, leaning, or dangerous trees that are reasonably determined to be tall enough to strike the wires in falling.
- (h) Member shall comply with the National Electrical Code, all Minnesota laws regulating the installation of electrical wiring and equipment, and such rules and regulations as may be adopted by the State Board of Electricity, and upon request, member shall provide to the Cooperative proper evidence of compliance with permit requirements prior to connection of electric services.
- (i) The member releases the Cooperative from any and all liability of every kind and nature which may occur from member's defective installation or wiring on the member's property or from the member's failure to inspect that wiring or facilities, and member agrees to hold the Cooperative, its employees, and agents harmless from any and all such liability.
- (j) The Cooperative may license, permit, or otherwise agree to the joint use or occupancy of its lines or system, or if any of its system is placed underground, of the trench and related underground facilities, by any other person, association, or legal entity. The Cooperative may permit the attachment of wires of others to the structures of those electric facilities.
- (k) Member agrees that member will not do any act which will interfere with or harm the Cooperative's electrical system.
- (l) The Cooperative may use Cooperative equipment to measure, collect, maintain, transmit, communicate, and store the aggregate or incremental amount, quantity, or quality of electric energy used by a member and other data or information regarding the member's use of electric energy.
- (m) Member consents to the Cooperative using an automatic telephone dialing system, or an artificial or pre-recorded voice, to contact the member regarding the member's Cooperative service or the member's use of a Cooperative service.
- (n) Member shall pay interest and late fees as reasonably determined by the Board of Directors and all costs, including reasonable attorney collection fees, required to collect or obtain payment of amounts owed but not timely paid to the Cooperative.

- (o) Each member shall indemnify the Cooperative for, and hold the Cooperative harmless from, liabilities, damages, costs, or expenses, including reasonable attorney fees and legal expenses, incurred by the Cooperative, or by a Cooperative director, officer, employee, agent, or representative, and caused by the negligence or willful misconduct of the member or a non-member occupying the same location as the member, or by the unsafe or defective condition of a location occupied by the member.

ARTICLE II MEETINGS OF MEMBERS

Section 1. Annual Meeting. The annual meeting of the members shall be held prior to the month of September of each year on a date and place fixed by resolution of the board of directors prior to the issuance of the notice of said meeting, for the purpose of electing directors, passing upon reports covering the previous fiscal year and transacting such other business as may come before the meeting. If the election of directors shall not be held on the day designated herein for any annual meeting or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the members as soon thereafter as conveniently may be. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the Cooperative.

Section 2. Notice of Annual Meeting. Notice of the annual meeting shall be given by the Secretary by publication in a magazine, periodical, or other publication of the Cooperative that is regularly published and circulated generally among members or by publication in a weekly legal newspaper or newspapers published or circulated in the counties where the Cooperative operates at least two (2) weeks previous to the date of such meeting, or by mailing notice thereof to each and every member personally not less than fifteen (15) days previous to the date of such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears on the records of the Cooperative, with postage thereon prepaid. In case of a joint membership, notice given to either joint members shall be deemed notice to both joint members. Alternatively, if permitted and as required by law, notice may be given to the members electronically.

Section 3. Special Meetings. Special meetings of the members may be called by a majority of the directors or upon a written petition signed by at least twenty percent (20%) of all members. Special meetings of the members may be held at any place within the area served by the Cooperative specified in the notice of the special meeting.

Section 4. Notice of Special Meeting. It shall be the duty of the Chair to cause the Secretary to give notice of the time, place and purpose of a special meeting, either by publication in a magazine, periodical, or other publication of the Cooperative that is regularly published and circulated generally among members or by publication in a legal newspaper or newspapers published or circulated in the counties where the Cooperative operates at least two (2) weeks previous to the date of such meeting or by mailing notice thereof to each and every member personally not less than fifteen (15) days previous to the date of such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the Cooperative with postage thereon prepaid. Such notice shall be issued within ten (10) days from and after the date of the presentation of the written petition mentioned in Section 3 of this Article II, and such special meeting shall be held within thirty (30) days from and after the date of the presentation of such petition. The failure of any member to receive notice of an annual or special meeting of the members shall not invalidate any action which may be taken by the members at any such annual or special meeting. In case of a joint membership, notice given to either joint member shall be deemed notice to both joint members. Alternatively, if permitted and as required by law, notice may be given to the members electronically.

Section 5. Quorum. The number of members to constitute a quorum shall be fifty (50) members present or represented by mail ballot or electronic vote. In case of a joint membership, the presence at a meeting of either or both joint members, shall be regarded as the presence of one member. If less than a quorum is present at any meeting a majority of those present may adjourn the meeting, provided a new notice is submitted, by mail, publication, and/or electronically as permitted by law, to each member specifying the time and place of such adjourned meeting.

Section 6. Establishment of a Quorum. The attendance of a sufficient number of members to constitute a quorum at any meeting shall be established by registration, mail ballot or electronic ballot, which shall be verified by the Chair and Secretary and shall be reported in minutes of such meeting. In case of a joint membership, registration of either joint member or both, shall be regarded as the registration of one member.

Section 7. Member Voting. Each member shall be entitled to one (1) vote and no more upon each matter submitted to a vote at a meeting of the members. At all meetings of the members at which a quorum is present all questions shall be decided by a vote of a majority of the members voting thereon at such meeting, except as otherwise provided by law, the articles of incorporation of the Cooperative or these bylaws. Joint members shall be entitled to one (1) vote and no more upon each matter submitted to a vote at a meeting of the members.

No member shall be entitled to vote by proxy; except that whenever a vote of the members is required or provided for on any matter, including a petition to regulate the Cooperative under the Minnesota Public Utilities Commission or deregulate the Cooperative, as the case may be, the spouse of a member may vote on behalf of the member unless the member has indicated otherwise to the Cooperative.

A member shall be entitled to submit a vote at a meeting of the members on any director election, motion, resolution, amendment, or any other matter which is submitted to members for a vote at such meeting by any one (but not more than one) of the following means: (a) in person, (b) by mail, or (c) by electronic means; in all instances in accordance with procedures authorized by the Board of Directors.

Section 8. Voting by Mail. For any annual or special meeting at which the members will vote upon any motion, resolution or amendment, the Secretary shall mail to each member with the notice of the meeting a ballot marked “Meeting Ballot”, in a form prescribed by the Board of Directors containing the exact text of each proposed motion, resolution or amendment to be acted upon at such meeting. For meetings at which any Director election(s) will be held, the Secretary shall mail to each member with the notice of the annual meeting a ballot marked “Ballot for Directors”, in a form prescribed by the Board of Directors, containing the name, residence, and District of each candidate running for a Director position, the manner by which the candidate was nominated, and listing the candidates alphabetically on the Ballot for Directors. Each Meeting Ballot and Ballot for Directors shall contain a means by which a member may indicate his/her/its affirmative or negative vote on a motion, resolution, or amendment or his/her/its vote for a Director election candidate, and shall specify the date and time by which a ballot must be received by the Cooperative to be counted. A member opting to vote by mail shall express his/her/its choice by marking in the appropriate area upon such ballot(s) and mail or deliver the ballot(s) to the Cooperative, or to a place designated by the Cooperative, in a plain, sealed envelope inside another envelope bearing the member’s name. If a properly completed and submitted ballot of a member is received by the Cooperative by the time on the date of the annual meeting specified by the Board of Directors, the ballot shall be accepted and counted as the vote of the member at such meeting. Any ballot not properly completed or submitted, or not timely received, shall be invalid. The failure of any member to receive a copy of any motion, resolution, amendment, candidate slate, or a ballot shall not invalidate any action which may be taken by the members at any meeting.

Section 9. Voting By Electronic Means. For any annual or special meeting at which the members will vote upon any director election, motion, resolution, or amendment, or any other matter which is submitted to members for a vote at such

meeting, at the discretion and option of the Board of Directors, and as permitted by law, a Meeting Ballot and/or a Ballot for Directors, as the case may be, each in a form prescribed by the Board of Directors, will be made available by electronic means in accordance with procedures authorized by the Board of Directors, including a means by which a member may indicate his/her/its affirmative or negative vote on a motion, resolution or amendment or his/her/its vote for a Director election candidate. The procedures shall specify the date and time by which an electronic ballot must be received by the Cooperative, or its designee, to be counted. If a properly completed and submitted ballot of a member is received by the Cooperative, or its designee, through electronic means by the time on the date of the annual meeting specified by the Board of Directors, the ballot shall be accepted and counted as the vote of the member at such meeting. Any ballot not properly completed or submitted, or not timely received, shall be invalid. The failure of any member to receive a copy of any motion, resolution, amendment, candidate slate, or a ballot by electronic means shall not invalidate any action which may be taken by the members at any meeting.

Section 10. Order of Business. The order of business at the annual meeting of the members shall be determined by the Board of Directors.

Section 11. Postponement of Meetings of the Members. In the event of inclement weather or the occurrence of a catastrophic event, natural disaster, pandemic, epidemic, or other good cause, any annual, special, or district meeting of the members may be postponed and rescheduled by the Chair, or in the Chair's absence, by any other available officer of the Board. Notice of the postponement and rescheduling shall be given by the Cooperative in any media of general circulation or broadcast serving the area served by the Cooperative.

ARTICLE III DIRECTORS

Section 1. General Powers. The business and affairs of the Cooperative shall be managed by a board of nine (9) directors, which shall exercise all of the powers of the Cooperative except such as are by law or by the articles of the incorporation of the Cooperative or by these bylaws conferred upon or reserved to the members.

Section 2. Qualifications and Tenure. Members shall be eligible to be nominated or elected or to remain a Director provided that:

- (a) They are a natural person and are purchasing and taking delivery of electric energy at their legal residence from the Cooperative or from an organization furnishing electric power to the Cooperative,
- (b) They have the capacity to enter legally binding contracts;

- (c) They have not been convicted of a felony.
- (d) They are not employed by, materially affiliated with or have a material financial interest in any individual or entity which is:
 - 1. Directly and substantially competing with the Cooperative, or any subsidiaries; or
 - 2. Selling goods and services in substantial quantity to the Cooperative or its subsidiaries; or
 - 3. Possessing a substantial conflict of interest with the Cooperative or its subsidiaries.
- (e) They are not in any way employed by the Cooperative or any of its subsidiaries nor have they been employed by the Cooperative or its subsidiaries within three (3) years of the director's nomination.
- (f) They are not a close relative of any existing Director or existing employee of the Cooperative or its subsidiaries. For the purpose of this section only "close relative" shall mean a person who is either a spouse, child, grandchild, step-child, parent, grandparent, step-parent, brother or sister, by blood or in-law, of the principal.

The Cooperative shall be divided into nine Director Districts with one Director position elected from each District, resulting in a Board of Directors comprised of nine persons. The Cooperative shall stagger Director terms by dividing the total number of authorized Directors (nine) into groups of approximately equal number. Members must annually elect an approximately equal number of Directors. Except as otherwise provided in these Bylaws, a Director's term is three (3) years or until a successor Director is elected or appointed and takes office. A Director's term begins: (1) after the individual consents to being elected or appointed as a Director; and (2) immediately after adjournment of the Member meeting at which elected, or if appointed, at the end of the Board Meeting at which the Director is appointed. A Director's term ends after: (1) a successor Director consents to being elected or appointed as a Director; and (2) immediately after adjournment of the Member meeting at which a successor is elected, or if appointed, at the end of the Board Meeting at which the successor Director is appointed.

A member shall vote for Directors only in the district in which he/she resides. If a member's legal residence is not served by the Cooperative, then the member shall vote in the district where membership is held. The nominee in each district receiving the highest number of votes cast shall be elected, and in the case of a tie vote, the winner shall be determined by a flip of a coin.

Representation on the Board of Directors shall be apportioned equally among the Director Districts in proportion to the number of members residing in each Director District, commencing in the year 2020. The number of members in any one Director District may not vary by more than ten percent (10%) from the average number of members for the Director Districts. At least once every ten (10) years, first beginning in the year 2020, the Board of Directors shall conduct a survey

to determine whether the number of members in a Director District has changed. If the number of members in a Director District has changed by fifteen percent (15%) or more from the then most recent apportionment, the Director Districts shall be changed so that representation of the Board of Directors continues to be apportioned equally throughout the Director Districts in proportion to the membership.

Section 3. Nominations. Any member who desires to be a candidate for the Board of Directors shall nominate himself/herself from the district in which he/she maintains legal residence. The member's nomination shall be submitted in written form to the Secretary at least fifty (50) days before the date of the meeting at which directors are to be elected. The Secretary shall prepare and post at the principal office of the Cooperative at least forty-five (45) days before the meeting a list of nominations for directors, but any fifteen (15) or more members may make other nominations in writing over their signatures not less than thirty-five (35) days prior to the meeting and the Secretary shall post the same at the same place where the list of nominations is posted. A ballot marked Ballot for Directors containing the names of all the nominees so posted, alphabetically arranged and stating the residence of each, shall be mailed with the notice of the meeting. The Secretary shall also mail with the notice of the meeting a statement of the number of directors to be elected and showing separately the self-nominations made by the members and the nominations made by petition. The members may at any meeting at which a director or directors shall be removed, as herein-before provided, elect a successor or successors thereto without compliance with the foregoing provisions with respect to nominations. Notwithstanding anything in this section contained, failure to comply with any provisions of this section shall not affect in any manner whatsoever the validity of any election of directors.

Section 4. Vacancies. Subject to the provision of these bylaws, with respect to the removal of directors, vacancies occurring in the Board of Directors shall be filled by a majority vote of the remaining directors; and directors thus elected shall serve until the next annual meeting of the members or until their successors shall have been elected and shall have qualified. In the event that a director becomes totally incapacitated, which shall be determined to a reasonable medical certainty, the remaining directors may declare that a vacancy exists and appoint a director who shall serve until the next annual meeting or until a successor has been elected and qualified. If a director is absent without cause from three scheduled board meetings within any one-year period, the remaining directors may declare that a vacancy exists and appoint a director who shall serve until the next annual meeting or until a successor has been elected and qualified.

Section 5. Compensation. Directors as such shall not receive any salary for their services, but by resolution of the Board of Directors may receive reasonable compensation for service to the Cooperative.

Section 6. Rules and Regulations. The Board of Directors shall have power to make and adopt such rules and regulations, not inconsistent with the law, articles of incorporation of the Cooperative or these bylaws, as it may deem advisable for the management, administration and regulation of the business and affairs of the Cooperative.

Section 7. Accounting System and Reports. The Board of Directors shall cause to be established and maintained a complete accounting system and shall, after the close of each fiscal year, cause to be made a full and complete audit of the accounts, books, and financial condition of the Association as of the end of such fiscal year. Such audit report shall be performed by a certified public accountant, and a summary of the report shall be made available to the members for inspection.

Section 8. Director Conduct. A Director shall discharge his or her duties, including duties as a board committee member:

- (a) In good faith;
- (b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances;
- (c) In a manner the Director reasonably believes to be in the Cooperative's best interests; and
- (d) Consistent with established board policies regarding Director ethics and code of conduct.

The Board of Directors shall have the power to censure, in such form and to such degree as it deems appropriate, any Director who does not conform to the provisions of this section in the discharge of his or her duties. Such censure may, in the discretion of the Board of Directors, include a recommendation to the membership that the Director be removed from office.

ARTICLE IV MEETINGS OF DIRECTORS

Section 1. Regular Meetings. A regular meeting of the Board of Directors may be held without notice other than this bylaw, immediately after and at the same place as the annual meeting of the members. A regular meeting of the board directors shall also be held monthly at such time and place as the Board of Directors may provide by resolution. Such regular monthly meetings may be held without notice other than such resolution fixing the time and place thereof.

Section 2. Special Meetings. Special meetings of the Board of Directors may be called by the Chair or any three (3) directors. The person or persons authorized to call special meetings of the Board of Directors may fix the time and place for the holding of any special meetings of the Board of Directors called by them.

Section 3. Notice. Notice of the time, place and purpose of any special meeting of the Board of Directors shall be given at least two (2) days previous thereto, by written notice, delivered personally or mailed, to each director at their last known address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage prepaid thereon. Such notice may also be given by facsimile or electronic mail. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except in case a director shall attend a meeting for the express purpose of objecting to the transaction of any business because the meeting shall not have been lawfully called or convened.

Section 4. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, provided, that if less than a majority of the directors are present at said meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

Section 5. Manner of Acting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 6. Meeting Attendance. Members of the Board of Directors may participate in a board meeting, special meeting or any lawfully constituted committee, by means of conference telephone or if authorized by the Board, by such other means of remote communication by which all persons participating in the meeting can simultaneously hear each other and participate in the meeting. Participation in a meeting pursuant to this section shall constitute presence in person at such meeting.

ARTICLE V OFFICERS

Section 1. Number. The officers of the Cooperative shall be a President/Chief Executive Officer, Chair, Vice-Chair, Secretary and Treasurer. The offices of Secretary and Treasurer may be held by the same person.

Section 2. Election and Term of Office. Except for the President/Chief Executive Officer, the officers shall be elected by ballot, annually by and from the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office

until the first meeting of the Board of Directors following the next succeeding annual meeting of the members or until his successor shall have been duly elected and shall have qualified subject to the provisions of these bylaws with respect to the removal of officers.

Section 3. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Cooperative will be served thereby.

Section 4. Vacancies. Except as otherwise provided in these bylaws. A vacancy in any office may be filled by the Board of Directors for the unexpired portion of the term.

Section 5. Chair. The Chair shall:

- (a) preside at all meetings of the members and of the Board of Directors;
- (b) sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the Board of Directors to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the Board of Directors or by these bylaws to some other officer or agent of the Cooperative or shall be required by law to be otherwise signed or executed; and
- (c) in general, shall perform all duties incident to the office of chair and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6. Vice-Chair. In the absence of the Chair, or in the event of his/her inability or refusal to act, the Vice-Chair shall perform the duties of the Chair, and when so acting, shall have all the powers of and be subjected to all the restrictions upon the Chair and shall perform other duties as from time to time may be assigned to him/her by the Board of Directors.

Section 7. Secretary. The Secretary shall be responsible for:

- (a) keeping the minutes of the meetings of the members and of the board in books provided for that purpose;
- (b) seeing that all notices are duly given in accordance with these bylaws or as required by law;
- (c) the safekeeping of the corporate books and records;
- (d) keeping a register of the names and post office addresses of all members;
- (e) signing, with the Chair, necessary documents on behalf of the Cooperative;
- (f) keeping on file at all times a complete copy of the articles of incorporation and bylaws of the Cooperative containing all amendments, thereto, (which copy shall be open to the inspection of any member) and at the expense of the Cooperative, furnishing a copy of the bylaws and all amendments, thereto, to any member upon request; and

(g) in general, performing all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the board.

Upon the request of the Secretary, the Board of Directors shall authorize the Secretary to delegate any or all of these duties to responsible employees of the Cooperative.

Section 8. Treasurer. The Treasurer shall be responsible for:

- (a) custody of all funds and securities of the Cooperative;
- (b) the receipt of and the issuance of receipts for all monies due and payable to the Cooperative and for the deposit of all such monies in the name of the Cooperative in such bank or banks or financial institutions as shall be selected in accordance with the provision of these bylaws; and
- (c) the general performance of all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the board.

Upon the request of the Treasurer, the Board of Directors shall authorize the Treasurer to delegate any or all of these duties to responsible employees of the Cooperative.

Section 9. President/Chief Executive Officer. The Board of Directors shall appoint a President/Chief Executive Officer, who may be but who shall not be required to be a member of the Cooperative. The President/Chief Executive Officer shall perform such duties as the Board of Directors may from time to time require of him and shall have such authority as the Board of Directors may from time to time vest in him.

Section 10. Bonds of Officers. The Board of Directors shall require the Treasurer or any other officer of the Cooperative charged with the responsibility for the custody of its funds or property, to be bonded in such sum and with such surety as the Board of Directors shall determine. The Board of Directors in its discretion may also require any other officer, agent or employee of the Cooperative to be bonded in such amount and with such surety as it shall determine.

Section 11. Reports. The officers of the Cooperative shall submit at each annual meeting of the members reports covering the business of the Cooperative for the previous fiscal year and showing the condition of the Cooperative at the close of the fiscal year.

ARTICLE VI DISTRIBUTION OF EARNINGS

Section 1. Members. The Cooperative shall at all times be operated on a cooperative nonprofit basis for the mutual benefit of its members. For purposes of this Article VI, a member means a person or entity that takes delivery of electric energy from facilities owned by the Cooperative and receives an allocation of patronage capital.

Section 2. Patronage Capital in Connection with Delivering Electric Energy. In the delivery of electric energy from facilities owned by the Cooperative, the Cooperative's operations shall be so conducted that all members will through their patronage furnish capital for the Cooperative. In order to induce patronage and to assure that the Cooperative will operate on a nonprofit basis, the Cooperative is obligated to account on a patronage basis to all its members for all amounts received and receivable from the furnishing of electric energy in excess of operating costs, expenses, capital reserves, and/or additional reserves properly chargeable against the furnishing of electric energy. All such amounts in excess of operating costs, expenses, capital reserves, and/or additional reserves at the moment of receipt by the Cooperative are received with the understanding that they are furnished by the members as capital. In accordance with Minnesota Statutes Chapter 308A (and/or all revisions or replacements thereof), the net income of the Cooperative, except for amounts set aside as capital reserves or additional reserves, shall be allocated on the basis of patronage as provided in the Bylaws. The records of this Cooperative may show the interest of patrons and members in the reserves.

The Cooperative is obligated to allocate by credits to a capital account for each member all such amounts in excess of operating costs, expenses, capital reserves, and/or additional reserves. The books and records of the Cooperative shall be set up and kept in such a manner that at the end of each fiscal year the amount of capital, if any, so furnished by each member is clearly reflected and credited in an appropriate record to the capital account of each member. All such amounts credited to the capital account of any member shall have the same status as though they had been paid to the member in cash in pursuance of a legal obligation to do so and the member had then furnished the Cooperative corresponding amounts for capital.

Funds and amounts, other than amounts received and receivable from the furnishing of electric service and in excess of operating costs and expenses chargeable against the furnishing of electric energy ("operating margins"), received by the Cooperative that exceed the Cooperative's costs and expenses ("non-operating margins") may be: (i) allocated as capital credits to members in the same manner as the Cooperative allocates operating margins as capital credits to members; or (ii) retained or used by the Cooperative as non-allocated capital and used to pay or offset any indebtedness, cost, expense, or to establish a reserve. Notwithstanding any contrary Bylaw, and to meet the Cooperative's reasonable needs, the Cooperative may accumulate and retain amounts exceeding those needed to meet current losses and expenses as the Board of Directors determines advisable ("Reasonable Reserves"). The Cooperative must keep records necessary to determine, at any time, each member's rights and interest in Reasonable Reserves.

In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credits shall be retired without priority on a pro rata basis. If, at any time prior to dissolution or liquidation, the Board of Directors shall determine that the financial condition of the Cooperative will not be impaired, thereby, the capital then credited to members' accounts may be retired in full or in part. The Board of Directors shall determine the method, basis, priority, and order of retirement, if any, for all amounts heretofore and hereafter furnished as capital. In no event, however, shall any capital be retired contrary to the provisions of any unsatisfied mortgage executed by the Cooperative.

Capital credited to the account of each member shall be assignable as the Board of Directors, acting under policies of general application, shall determine.

The members and patrons of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the articles of incorporation and bylaws shall constitute and be a contract between the Cooperative and each member and patron, and the Cooperative and the members and patrons are bound by such contract, as fully as though each member and patron had individually signed a separate instrument containing such terms and provisions. The provisions of this article of the bylaws shall be called to the attention of each member and patron of the Cooperative by posting in a conspicuous place in the Cooperative's office.

An amount not to exceed one dollar (\$1.00) of capital credits accruing to each member each year shall be used for a subscription to the official cooperative newsletter. The Board of Directors is authorized to pay said subscription annually for each member, charging the amount of the subscription against the capital credited to the account of each member.

The Cooperative shall deduct a reasonable service charge against the capital credits of a member who has not claimed them beginning one year after the capital credits are declared payable. The amount of such service charge shall be based on the current cost of handling the capital credit account of the member.

As security for the full and prompt payment and performance when due of any and all obligations or indebtedness that may be owed by a "patron" (member or former member) to the Cooperative, the Cooperative shall have a continuing security interest in and recoupment claim against the patronage capital allocated to a patron. Each patron authorizes the Cooperative to perfect that security interest by any filing required under the Uniform Commercial Code. Regardless of a statute of limitation or other time limitation, after retired capital credits are allocated to a patron or former patron, the Cooperative may recoup, offset, or set off an amount owed to the Cooperative by the patron, including any services fees, by reducing the amount of retired capital credits paid by the amount owed to the Cooperative.

Section 3. Other Patronage Allocations. In the event that the Cooperative should engage in the business of furnishing goods or services other than the delivery of electric energy, all amounts received and receivable therefrom which are in excess of costs and expenses properly chargeable against the furnishing of such goods or services may be allocated annually and returned to the members of this Cooperative, or may be used by the Cooperative as permanent, non-allocated capital. In addition, all amounts allocated to the Cooperative from other organizations that furnish services, supplies, or products to the Cooperative may be allocated annually and returned to the members of this Cooperative, or may be used by the Cooperative as permanent, non-allocated capital. The Board of Directors shall determine the method, basis, priority, and order of retirement, if any, for all such amounts heretofore or hereafter allocated to the members of this Cooperative.

ARTICLE VII DISPOSITION OF PROPERTY AND OTHER SIGNIFICANT EVENTS

The Cooperative may at any meeting of its Board of Directors sell, mortgage, lease or exchange its properties and assets upon such terms and conditions as the board of directors may deem expedient and for the best interests of the Cooperative; provided, however, that if a sale or transfer contemplates a merger, liquidation or dissolution of Cooperative or a sale of more than 25% of the properties or assets of the Cooperative with no offsetting exchange of facilities, authorization therefore must first be obtained by the affirmative vote of three-quarters (3/4) of the members given at a meeting duly called for the purpose, or when authorized by the written consent of three-quarters (3/4) of the members provided that such affirmative vote or written consent of the members shall also represent the affirmative vote or written consent of at least three-quarters (3/4) of the total number of members of the Cooperative with voting rights; and provided further, however, that notwithstanding anything herein contained, the board of directors without authorization by the members shall have full power and authority to borrow money from the United States of America or any agency or instrumentality thereof or from any other lending institution and in connection with such borrowing to authorize the making and issuance of bonds, notes or other evidence of indebtedness and to secure the payment thereof, to authorize the execution and delivery of a mortgage or mortgages, or a deed or deeds of trust upon, or the pledging or encumbrancing of any or all of the properties and assets of the Cooperative, whether acquired or to be acquired, and wherever situated, as well as the revenues and income therefrom, all upon such terms and conditions as the Board of Directors shall determine.

Further notwithstanding anything herein contained, any repeal, amendment, or alteration of this Article VII that would result in a change in the member approval requirements for acts

described herein must be approved by at least a majority of the total number of members of the Cooperative with voting rights.

ARTICLE VIII AMENDMENTS

These bylaws may be altered, amended or repealed by the members at any regular or special meeting, provided the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal.

STATEMENT OF NON-DISCRIMINATION

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov

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