

RESTATED AND AMENDED ARTICLES OF ASSOCIATION KEM ELECTRIC COOPERATIVE, INC.

Pursuant to the provisions of Chapter 10-15 of the North Dakota Century Code, KEM Electric Cooperative, Inc. hereby adopts the following Amended Articles of Association, to supersede the original Articles of Incorporation and all amendments thereto.

ARTICLE I

The name of the Cooperative is: KEM Electric Cooperative, Inc.

The Cooperative is organized under Chapters 10-13 and 10-15 of the North Dakota Century Code.

ARTICLE II

The purposes for which the Cooperative is organized are to engage in rural electrification, and

1. To generate, manufacture, purchase, acquire and accumulate electric energy and to transmit, distribute, furnish, sell and dispose of such electric energy to its members;
2. To engage in any activity within the purposes for which cooperatives may be organized under Chapter 10-13 and Chapter 10-15 of the North Dakota Century Code, as determined by the board of directors to be necessary to provide adequate services to its members and to the community, including the formation of one or more subsidiary business organizations to provide such services as may be permitted by law for the benefit of the Cooperative, its members or non-members, to the extent that such activities are not in violation of any federal or state law applicable to rural electric cooperatives or to contractual agreements heretofore or hereafter made with the United States of America acting through the Rural Utilities Service.

The enumeration of the foregoing powers shall not be held to limit or restrict in any manner the general powers of this Cooperative, and this Cooperative is authorized to exercise and enjoy all of the powers, rights and privileges granted to or conferred upon associations of the character of this Cooperative by the laws of the State of North Dakota now or hereafter in force.

ARTICLE III

This Cooperative is organized without capital stock.

ARTICLE IV

The location of the principal office of the corporation is 107 South Broadway Street, Linton, North Dakota.

ARTICLE V

In the event of dissolution or liquidation of this Cooperative, after (a) all debts and liabilities of the Cooperative shall have been paid, and (b) all capital furnished through patronage shall have been retired as provided in the Bylaws, the remaining property and assets of the Cooperative shall be distributed among the members and former members in the proportion which the aggregate patronage of each bears to the total patronage of all members during the ten years next preceding the date of the filing of the certificate of dissolution.

ARTICLE VI

Eligibility for membership shall be as set forth in the Bylaws of this Cooperative. Each member shall be entitled and restricted to only one vote in the affairs of the Cooperative. The Bylaws of the Cooperative, and rules and regulations adopted by the board of directors, may fix such other terms and conditions upon which persons, firms, associations, corporations, or bodies politic shall be admitted to and retain membership in the Cooperative not inconsistent with these articles of association or the act under which the Cooperative is organized.

ARTICLE VII

The government of this Cooperative and the management of its affairs shall be vested in a board of directors who shall be elected by and from the members at the annual meetings of the members and for such terms as the Bylaws may prescribe.

ARTICLE VIII

Section 1. The Bylaws of the Cooperative may be altered, amended or repealed by the members at any regular or special meeting, provided that the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal.

Section 2. The Bylaws of the Cooperative may define and fix other duties and responsibilities of the members and prescribe other terms and conditions upon which members shall be admitted to and retain membership in the Cooperative, provide for methods of voting quorum requirements, and any other matters relating to the internal organization and management of the Cooperative, provided that such provisions shall not be inconsistent with these articles of association or the act under which the Cooperative is organized.

Section 3. The board of directors shall have power to make and adopt such rules and regulations, not inconsistent with these articles of association or the Bylaws of the Cooperative, as it may deem advisable for the management, administration and regulation of the business and affairs of the Cooperative.

Section 4. The private property of the members of the Cooperative shall not be subject to the payment of, and no member shall be individually responsible for, corporate debts to any extent whatever.

ARTICLE IX

The Cooperative may amend, alter, change or repeal any provision contained in these articles of association by the affirmative vote of a majority of the members voting thereon at any regular or special meeting, provided the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal.

RESTATED AND AMENDED BYLAWS OF KEM ELECTRIC COOPERATIVE, INC.

MEMBERSHIP

101 Requirements of Membership

Any person, firm, association, corporation, or body politic may become a member of KEM Electric Cooperative, Inc. (hereinafter called the “Cooperative”) upon receipt of electric service from the Cooperative, provided that he or it has first:

- (a) Made a written application for membership therein;
- (b) Agreed to purchase from the Cooperative electric energy as hereinafter specified;
- (c) Agreed to comply with and be bound by the articles of association and Bylaws of the Cooperative and any rules and regulations adopted by the board.

102 Evidence of Membership

Membership in the Cooperative shall be evidenced by purchase of and payment for electric service from the Cooperative.

103 Joint Membership

Any two or more persons, including a husband and wife, may apply for a joint membership and, subject to their compliance with the requirements set forth in Bylaw 101, may be accepted for such membership. The term “member” as used in these Bylaws shall be deemed to include a husband and wife, or two or more persons, holding a joint membership and any provisions relating to the rights and liabilities of membership shall apply equally with respect to the holders of a joint membership unless otherwise clearly stated. Without limiting the generality of the foregoing, the effect of the hereinafter specified actions by or in respect to the holders of a joint membership shall be as follows:

- (a) The presence at a meeting of one or all shall be regarded as the presence of one member and shall constitute a joint waiver of notice of the meeting;
- (b) The vote of one separately or all jointly shall constitute one joint vote;
- (c) A waiver of notice signed by one or all shall constitute a joint waiver;
- (d) Notice to one shall constitute notice to all;
- (e) Expulsion or withdrawal of one of the joint members shall terminate the joint membership if only one joint member remains; if two or more joint members remain, the joint membership shall continue;
- (f) Only one joint member may be elected or appointed as an officer or director, provided that all joint members meet the qualifications of such office;

- (g) No joint members shall be permitted to have any additional service connections except through their joint membership without first applying for and being accepted in the capacity of an individual member at a separate location; and
- (h) The board shall develop policies regarding capital credit apportionment in the event of legal separation, divorce, death, withdrawal, or expulsion of persons holding joint membership.

104 Conversion of Membership

A membership may be converted to joint membership upon written request of the holder thereof and the agreement by such holder and the other prospective joint members to comply with the articles of association, Bylaws and rules and regulations adopted by the board of directors.

105 Purchase of Electric Energy

Each member shall, as soon as electric energy shall be available, purchase from the Cooperative all electric energy purchased for use on the premises specified in his application for membership and shall pay therefor at rates which shall from time to time be fixed by the board of directors. It is expressly understood that amounts paid for electric energy in excess of the cost of service are furnished by members as capital and each member shall be credited with the capital so furnished as provided in these Bylaws. Each member shall pay to the Cooperative such minimum amount regardless of the amount of electric energy consumed, as shall be fixed by the board of directors from time to time. Each member shall also pay all amounts owed by him to the Cooperative as and when the same shall become due and payable.

106 Termination of Membership

- (a) Membership in the Cooperative shall automatically terminate when the member ceases to purchase service from the Cooperative.
- (b) The death of a member shall automatically terminate his membership, except that upon the death of one of the persons holding a joint membership, the membership shall continue or terminate as provided in Section 103 above. The cessation of the legal existence of any other type of member shall automatically terminate such membership; provided, that upon dissolution for any reason of a partnership, such membership shall continue to be held solely by such remaining partner or partners as were parties to the original membership and continue directly to occupy or use the premises served by this Cooperative.
- (c) Any member may withdraw from membership upon compliance with such uniform conditions as the directors may prescribe.
- (d) The board of directors of the Cooperative may, by the affirmative vote of not less than two-thirds of all directors, expel any member who shall have failed to comply with any of the provisions of the articles of association, Bylaws or rules or regulations adopted by the board of directors, but only if such member shall have been given written notice at his last-known post office address by the Cooperative that such failure makes him liable to expulsion and such failure shall have continued for at least ten days after such notice was given.

- (e) Upon the withdrawal, death, cessation or existence of expulsion of a member, the membership of such member shall thereupon terminate. Termination of membership in any manner shall not release a member from any debts due the Cooperative.
- (f) Any expelled member may be reinstated by vote of the board of directors or by vote of the members at any annual or special meeting.

107 Area Coverage

The board of directors shall make diligent effort to see that electric service is extended to the permanent residence of all persons within the Cooperative service area and other persons who meet all reasonable requirements established by the Cooperative as a condition of such service.

108 Member in Good Standing

A Member in Good Standing of the Cooperative includes any person, firm, association, corporation or body politic:

- (a) Who has fulfilled the requirements for membership in the Cooperative, as set forth in the laws of the State of North Dakota governing cooperatives and the Articles, Bylaws, rules, regulations and policies of the Cooperative; and
- (b) Who is currently in compliance with the laws of the State of North Dakota governing cooperatives and the Articles, Bylaws, rules, regulations and policies of the Cooperative; and
- (c) Who neither has voluntarily withdrawn from membership nor has been expelled from membership after appropriate proceedings consistent with provisions of the Bylaws of the Cooperative; and
- (d) Who is not delinquent in payment of electric bills or other amounts due the Cooperative under the terms of the Cooperative's tariff or of any written agreement with the Cooperative; and
- (e) Who is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions with any federal department or agency and is otherwise able to execute the certification required for federal transactions.

RIGHTS AND LIABILITIES OF MEMBERS

201 Property Interest of Members

Upon dissolution after (a) all debts and liabilities of the Cooperative shall have been paid, and (b) all capital furnished through patronage shall have been retired as provided in these Bylaws, the remaining property and assets of the Cooperative shall be distributed among the members and former members in the proportion which the aggregate patronage of each bears to the total patronage of all members during the ten years next preceding the date of the filing of the certificate of dissolution.

202 Non-Liability for Debts of the Cooperative

The private property of the members shall be exempt from execution or other liability for the debts of the Cooperative and no member shall be individually liable or responsible for any debts or liabilities of the Cooperative.

MEETING OF MEMBERS

301 Annual Meeting

The annual meeting of members shall be held at such time and location as the board of directors shall fix for the purpose of electing directors, passing upon reports for the previous fiscal year and transacting such other business as may come before the meeting. Failure to hold the annual meeting at the designated time and place shall not cause a forfeiture or dissolution of the Cooperative.

302 Special Meeting

Special meetings of the members may be called by resolution of the board of directors, or upon a written request signed by any three directors, by the chairman, or by ten per centum or more of all members, and it shall thereupon be the duty of the secretary to cause notice of such meeting to be given as hereinafter provided. Special meetings of the members may be held at any place specified in the notice of the special meeting.

303 Notice of Members' Meetings

Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten days nor more than thirty days before the date of the meeting, either personally or by mail, by or at the direction of the secretary, or upon a default in duty by the secretary, by the persons calling the meeting, to each member. 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. 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 meeting.

304 Quorum

As long as the total number of members does not exceed five hundred, ten per centum of the total members present in person shall constitute a quorum. In case the total number of members shall exceed five hundred, fifty members shall constitute a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice, provided, that the secretary shall notify any absent members of the time and place of such adjourned meeting.

305 Voting

Each member shall be entitled to only one vote upon each matter submitted to a vote at a meeting of the members. All questions shall be decided by a vote of a majority of the members voting thereon except as otherwise provided by law, the articles of association or these Bylaws. A joint membership shall be entitled to one vote and

no more upon each matter submitted to a vote at a meeting of the members. Firms, associations, corporations, or body politics shall have the right to cast one vote on any issues the same as other members provided that a duly appointed and acting representative executes a proper certification or other qualifying instrument that the board of directors may, from time to time, prescribe. In no event shall any individual member cast more than two (2) votes.

306 Proxies and Voting by Mail

Voting by proxy shall not be permitted.

Members absent from a meeting may be permitted to vote by mail provided that a majority of the board of directors orders the same and provided that the member is given notice in writing directed to said member as his address appears on the records of the Cooperative. The rules governing voting by mail shall be prescribed by the board of directors; provided the notice given to members shall contain the exact motion or resolution to be voted upon.

DIRECTORS

400 Temporary Bylaw on Directors

Notwithstanding any provision of the revised Bylaws reducing the number of directors from nine to seven, each incumbent serving on the board of directors on the date of such reduction shall continue to serve until expiration of their current three-year term. This Bylaw shall expire after the annual meeting of the Cooperative in the year 2002.

401 Number and General Powers

The business and affairs of the Cooperative shall be managed by a board of seven directors. One director shall be nominated and elected from each of the Cooperative's five nominating districts. Two directors shall be nominated and elected from the Cooperative's membership-at-large. The board shall exercise all of the powers of the Cooperative except such as are by law or by the Cooperative's articles of association or Bylaws conferred upon or reserved to the members.

402 Director Qualifications

No person shall be eligible to become or remain a director of the Cooperative who is not a natural person and is not a member in good standing of the Cooperative and receiving service therefrom at one's primary residence. No person shall be eligible to become or remain a director of the Cooperative who is not at least eighteen years of age or is in any way employed by or financially interested in a competing enterprise, or a business selling electric energy or supplies to the Cooperative, or a business primarily engaged in selling electrical appliances, fixtures or supplies to, among others, the members of the Cooperative.

Upon establishment of the fact that a nominee for director lacks eligibility under this section or as may be provided elsewhere in these Bylaws, it shall be the duty of the chairman presiding at the meeting at which such nominee would otherwise be voted upon to disqualify such nominee. Such unqualified nominee shall be notified of the ineligibility as soon as possible.

Upon establishment of the fact that any person being considered for, or already hold-

ing, a directorship lacks eligibility under this section, it shall be the duty of the board of directors to withhold such position from such person, or to cause such person to be removed therefrom, as the case may be. Nothing in this section shall, or shall be construed to, affect in any manner whatsoever the validity of any action taken at any meeting of the board of directors, unless such action is taken with respect to a matter which is affected by the provisions in which one or more of the directors have an interest adverse to that of the Cooperative.

403 Nominations - Districts/At-Large/From the Floor

(a) Districts. For those elections in which the Cooperative members will elect a director from a nominating district, ten (10) or more of the members residing in the respective nominating district may make nominations from the members of the Cooperative residing in such district by member petition in writing over their signatures.

The Cooperative shall be divided into five nominating districts, and the nominations are to be made from districts as follows:

District No. 1—

T 136N R 79W	T 136N R 78W	T 136N R 77W
T 136N R 76W	T 136N R 75W	T 136N R 74W
T 135N R 79W	T 135N R 78W	T 135N R 77W
T 135N R 76W	T 135N R 75W	T 135N R 74W
T 134N R 79W	T 134N R 78W	T 134N R 77W
T 134N R 76W	T 134N R 75W	T 134N R 74W
T 133N R 79W	T 133N R 78W	T 133N R 77W
T 133N R 76W	T 133N R 75W	T 133N R 74W
T 132N R 79W	T 132N R 78W	T 132N R 77W

District No. 2—

T 132N R 76W	T 132N R 75W	T 132N R 74W
T 131N R 79W	T 131N R 78W	T 131N R 77W
T 131N R 76W	T 131N R 75W	T 131N R 74W
T 130N R 79W	T 130N R 78W	T 130N R 77W
T 130N R 76W	T 130N R 75W	T 130N R 74W
T 129N R 79W	T 129N R 78W	T 129N R 77W
T 129N R 76W	T 129N R 75W	T 129N R 74W

District No. 3—

T 129N R 73W	T 129N R 72W	T 129N R 71W
T 129N R 70W	T 129N R 69W	T 130N R 73W
T 130N R 72W	T 130N R 71W	T 130N R 70W
T 130N R 69W		
T 131N R 73W	T 131N R 72W	T 131N R 71W
T 131N R 70W	T 131N R 69W	T 132N R 73W
T 132N R 72W	T 132N R 71W	T 132N R 70W
T 132N R 69W		

District No. 4—

T 133N R 73W	T 133N R 72W	T 133N R 71W
T 133N R 70W	T 134N R 73W	T 134N R 72W
T 134N R 71W	T 135N R 73W	T 135N R 72W
T 135N R 71W	T 136N R 73W	T 136N R 72W
T 136N R 71W		
T 133N R 69W	T 134N R 70W	T 134N R 69W
T 135N R 70W	T 135N R 69W	T 136N R 70W
T 136N R 69W		

District No. 5—

T 138N R 71W	T 137N R 71W	T 137N R 70W
T 139N R 70W	T 138N R 70W	T 139N R 71W
T 137N R 74W	T 137N R 73W	T 137N R 72W
T 138N R 74W	T 138N R 73W	T 138N R 72W
T 139N R 74W	T 139N R 73W	T 139N R 72W
T 140N R 74W	T 140N R 73W	T 140N R 72W
T 140N R 71W	T 140N R 70W	

The board of directors may from time to time review the composition of the nominating districts and, if it should be found that inequalities in representation have developed which can reasonably be corrected by a redefinition of districts, the board of directors may reconstitute the districts by resolution so that each shall contain as nearly as reasonably possible the same number of members. Such new district lines shall be noticed as soon as possible, but not later than 90 days prior to January 1 of the year in which an election is to be held.

- (b) At-Large. For those elections in which the Cooperative members will elect a director from the Cooperative membership at-large, ten (10) or more of the members of the Cooperative may make nominations from the Cooperative's membership at-large by member petition in writing over their signatures.

404 Member Petition-Form

- (a) Each petition shall contain the following:
1. The name of the member nominee.
 2. The director position for which the member nominee shall run.
 3. The printed names, addresses, and telephone numbers, date of signature, and original signatures of each member signing the petition.
 4. At least 10 signatures of the members of the respective district, or members at-large, as the case may be.
- (b) In the case of joint members, the signature of one or more than one joint member shall constitute one joint signature.
- (c) Firms, associations, corporations or body politics shall have the right to place one signature on a petition, the same as other members, by the signature of a duly appointed representative.
- (d) Petitions may not be circulated or signed more than 90 days before the date when petitions must be filed pursuant to this Bylaw. Any signature to a nominating petition obtained more than 90 days before that date may not be counted.
- (e) All petitions must be filed at the principal offices of the Cooperative not less than 45 days prior to the date of the meeting of the members, as fixed by the board of directors.
- (f) After verifying that a petition complies with this Bylaw, the secretary of the board of directors shall post a list of nominations for directors at the principal office of the Cooperative at least 30 days before the meeting of the members.

405 Election and Tenure of Office

The secretary shall mail with the notice of the meeting of the members a statement of the number of directors to be elected, and showing separately the nominations for district director and at-large director.

Each board member shall hold a three-year term. Directors shall be elected by all Cooperative members voting at the meeting. At the annual meeting of the Cooperative held in 2000, one director residing in each of districts numbered 1 and 2 was elected by secret ballot by and from the members, as directors of the first class, to serve for a period of three years. At the annual meeting of the Cooperative held in 2001, one director residing in district number 3 and one director from the Cooperative's membership at-large shall be elected by secret ballot by and from the members, as directors of the second class. At the annual meeting of the Cooperative held in 2002, one director residing in each of districts numbered 4 and 5 and one director from the Cooperative's membership at-large shall be elected by secret ballot by and from the members, as directors of the third class. At each annual meeting thereafter, the directors shall be elected by secret ballot by and from the members to succeed those directors whose terms of office shall have expired. One director elected by district shall reside in each nominating district of the respective directors whose terms are expiring. Two directors shall be from the membership of the Cooperative-at-large.

406 Director Conflict of Interest

Each director shall recognize his or her capacity as a person occupying a place of trust and should not create a position in which self interest conflicts with any duty the director owes to the Cooperative and its membership. No director shall be permitted to make a profit from any self-dealing transaction, whether individually or acting as an agent, without affirmatively fully disclosing the same and engaging in arms length fair dealing with the Cooperative.

Any director who actually or potentially is involved with a self-dealing matter, shall make full disclosure of the interest, shall not vote on the matter, and shall leave the board room during the discussion of the matter unless requested to stay in the board room during discussion. Such director shall not vote upon such matter and shall not be counted as a part of the quorum for the vote on the matter. The minutes of the meeting shall reflect that a disclosure was made and that the director having a conflict of interest did not participate in the discussion and abstained from voting.

407 Removal of Directors by Members

Any member may bring one or more charges for cause against any one or more directors and may request the removal of such director(s) by reason thereof by filing with the secretary such charge(s) in writing together with a petition signed by not less than ten percent (10%) of the total membership of the Cooperative, which petition calls for a special member meeting, the stated purpose of which shall be to hear and act on such charges and, if one or more directors are recalled, to elect their successor(s), and specifies the place, time and date thereof not less than forty (40) days after filing of such petition, or which requests that the matter be acted upon at the subsequent annual meeting.

Each page of the petition shall contain in the beginning: the names and addresses of the members filing the charges, a verbatim statement of such charges, and the names of the directors against whom such charges are being made. The petition shall be signed by each member in the same name as he or she is billed by the Cooperative and shall state the signatory's address as the same appears on such billings.

Notice of such charges verbatim, the name of the directors against whom such charges are made, the name of the member filing such charge, and the purpose of the meeting shall be contained in the notice of the meeting not less than ten (10) days prior to the meeting date at which the charges will be heard. Such directors shall be informed in writing of the charges after they have been validly filed and at least twenty (20) days prior to the meeting of the members, and shall have an opportunity at the meeting to be heard in person, by witnesses, by counsel or any combination of such, and to present evidence in respect of the charges; and the persons bringing the charges shall have the same opportunity but shall be heard first. The question of the removal of such directors shall separately for each, be considered and voted upon at the next regular or special meeting, and decided by a majority vote of those present and voting. Any vacancy created by such removal shall be filled by vote of the members at such meeting and shall fill the unexpired term. The question of removal shall not be voted upon unless some evidence in support of the charges against the director shall have been presented during the meeting through oral argument, document, or otherwise.

408 Vacancies

Unless otherwise provided in these Bylaws, a vacancy occurring in the board of directors because of death, resignation, disqualification or otherwise, shall be filled by election of a member from the appropriate nominating district or at-large, as the case may be, and the elected director shall serve the unexpired term of the vacant director position. Such election shall be held at a meeting of the members at such time as may be called by the board of directors in its discretion, and in a manner consistent with these Bylaws.

409 Director Compensation

Directors as such shall not receive any salary for their services, but by a resolution of the board of directors, may receive on a per diem basis, a fixed fee: (1) for attending meetings and committee meetings of the board of directors and, (2) when such has had prior approval of the board of directors, for the performance of other Cooperative business, including conferences and educational meetings. Directors shall also receive reimbursement of any travel and out-of-pocket expenses actually, necessarily and reasonably incurred in attending such meetings and performing such business. No director shall be compensated for expenses incurred in traveling from any point outside of the service area to attend any meeting of the board of directors. No director shall receive compensation for serving the Cooperative in any other capacity. Nor shall any close relative of a director receive compensation for serving the Cooperative, unless payment of and the amount of such compensation shall be specifically authorized by a vote of the board of directors. As used in the Bylaws, "close relative" means a person, who, by blood or in law, including step and adoptive kin, is either a spouse, child, grandchild, parent, grandparent, brother, sister, aunt, uncle, nephew, or niece of the principal.

410 Rules, Regulations, Rate Schedules and Contracts

The board of directors shall have power to make, adopt, amend, abolish and promulgate such rules, regulations, rate schedules, contracts, security deposits and any other type of deposits, payments or charges, including contributions in aid of construction, not inconsistent with law or the Cooperative's articles of association or Bylaws, as it may deem advisable for the management, administration and regulation of the business and affairs of the Cooperative.

411 Accounting System and Reports

The board of directors shall cause to be established and maintained a complete accounting system of the Cooperative's financial operations and condition, and shall, after the close of each fiscal year, cause to be made a full, complete and independent audit of the Cooperative's accounts, books and records reflecting financial operations during, and financial condition as of the end of, such year. A full and accurate summary of such audit reports shall be submitted to the members at or prior to the succeeding annual meeting of the members. The board may authorize special audits, complete or partial, at any time and for any specified period of time.

MEETINGS OF THE DIRECTORS

501 Regular Meetings

A regular meeting of the board of directors shall 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 of directors shall also be held monthly at such time and place as the board of directors may direct. Such regular monthly meetings may be held without notice other than such resolution fixing the time and place thereof.

502 Special Meetings

Special meetings of the board of directors may be called by board resolution, or by any three (3) directors, and it shall thereupon be the duty of the secretary to cause notice of such meeting to be given. The board, the chairman, or the directors calling the meeting shall fix the date, time and place for the meeting. Special meetings may also be held via telecommunication without regard to the actual location of the directors at the time of such a telephone conference meeting if sufficient notice is given and a quorum is present. All those present at the meeting via telecommunication must be able to simultaneously hear each other.

503 Notice

Written notice of the date, time, place (or telephone call) and purpose or purposes of any special meeting of the board shall be given at least five (5) days previous thereto, by written notice, delivered personally or mailed to each director at their billing address. The attendance of a director at any meeting of the board shall constitute a waiver of notice of such meeting unless such attendance shall be for the express purpose of objecting to the transaction of any business, or of one or more items of business, on the grounds that the meeting shall not have been lawfully called or convened.

504 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 quorum of the directors are present at said meeting, a majority of the directors present may adjourn the meeting from time to time, but shall cause the absent directors to be duly and timely notified of the date, time and place of such adjourned meeting. If a director, by law or these Bylaws, is disqualified from voting on a particular matter, such director shall not, with respect to consideration of such matter, be counted in determining the number of directors in office and present. The act of the majority

of directors present at a meeting at which a quorum is present shall be the act of the board of directors. A tie vote is a defeat of a resolution.

OFFICERS

601 Number

The officers of the Cooperative shall be a chairman, vice-chairman, secretary and treasurer, and such other officers as may from time to time be determined by the board of directors. The offices of secretary and treasurer may be held by the same person.

602 Election and Term of Office

The officers of the Cooperative shall be elected by secret ballot, annually and without prior nomination, by and from the board of directors at the first meeting of the board held after the annual meeting of the members. Each such officer shall hold office until the meeting of the board first held after the next succeeding annual meeting of the members or until their successor shall have been duly elected and shall have qualified, subject to the provisions of the Bylaws with respect to the removal of directors by the membership and to removal of officers by the board of directors.

603 Removal

Any officer, agent or employee elected or appointed by the board of directors may be removed by the board whenever in its judgment the best interests of the Cooperative will be served thereby.

604 Vacancies

A vacancy in any office elected or appointed by the board of directors shall be filled by the board for the unexpired portion of the term.

605 Chairman

The chairman shall:

- (a) be the principal officer of the Cooperative and shall preside at all meetings of the board of directors, and, unless the board otherwise directs, at all meetings of the members; and
- (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 the case 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, perform all duties incident to the office of chairman and such other duties as may be prescribed by the board of directors.

606 Vice-Chairman

In the absence of the chairman, or in the event of one's inability or refusal to act, the vice-chairman shall perform the duties of the chairman, and, when so acting,

shall have all the powers of and be subject to all the restrictions upon the chairman; and shall perform such other duties as from time to time may be assigned to him or her by the board of directors.

607 Secretary

The secretary shall:

- (a) keep, or cause to be kept, the minutes of meetings of the members and of the board of directors in one or more books provided for that purpose;
- (b) see that all notices are duly given in accordance with these Bylaws or as required by law;
- (c) be custodian of the corporate records and of the seal of the Cooperative and see that the seal of the Cooperative is affixed to all documents the execution of which, on behalf of the Cooperative under its seal, is duly authorized in accordance with the provisions of these Bylaws or as required by law;
- (d) keep, or cause to be kept, a register of the name and post office address of each member, which address shall be furnished to the Cooperative by such member;
- (e) have general charge of the books of the Cooperative in which a record of the members is kept;
- (f) keep on file at all times a complete copy of the Cooperative's articles of association and Bylaws, together with all amendments thereto, which copies shall always be open to the inspection of any member, and, at the expense of the Cooperative, furnish a copy of such documents and of all amendments thereto upon the request of any member; and
- (g) in general, perform all duties incident to the office of the secretary and such other duties as from time to time may be assigned to him or her by the board of directors.

608 Treasurer

The treasurer shall:

- (a) have charge and custody of and be responsible for all funds and securities of the Cooperative;
- (b) receive and give receipts for moneys due and payable to the Cooperative from any source whatsoever, and deposit or invest all such moneys in the name of the Cooperative in such bank or banks or in such financial institutions or securities as shall be selected in accordance with the provisions of these Bylaws; and
- (c) in general perform all the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him or her by the board of directors.

609 Delegation of Board Officers' Responsibilities

Notwithstanding the duties, responsibilities and authorities of officers of the board of directors, the board of directors by resolution may, except as otherwise limited by

law, delegate, wholly or in part, the responsibilities and authority for, and the regular or routine administration of, one or more of each such officer's duties to one or more agents, other officers, or employees of the Cooperative who are not directors. To the extent that the board does delegate, and to the extent permitted by law, the officers as such shall be released from such duties, responsibilities and authorities.

610 General Manager/Chief Executive Officer

The board of directors may appoint a General Manager/Chief Executive Officer. Such officer shall perform such duties as the board of directors may from time to time vest in him or her. The General Manager/Chief Executive Officer shall be the principal executive officer of the Cooperative and shall have general and active management of the business affairs of the Cooperative subject to the supervision, orders, and direction of the board of directors.

611 Bonds of Officers

The board of directors shall require the treasurer, or another officer of the Cooperative charged with responsibility for the custody of any of its funds or property, to give bond in such sum and with such surety as the board of directors may determine. The board of directors in its discretion may also require any other officer, agent or employee of the Cooperative, to give bond in such amount and with such surety as it shall determine. The cost of all bonds will be borne by the Cooperative.

612 Indemnification

The Cooperative shall indemnify and hold harmless its present and former directors and officers, including the General Manager/Chief Executive Officer—and may but shall not be obligated to so indemnify and hold harmless one or more of its present and former agents and other employees—against actual expenses including attorney's fees, because of their position with the Cooperative or because of any act or omission in connection with their relationship to the Cooperative in such position, to the maximum extent allowable by law, including and subject to the indemnification allowed under N.D.C.C. § 10-15-03(10). However, such indemnification shall not be construed to waive any immunity granted under state law, including but not limited to the immunity granted under N.D.C.C. § 10-15-31.

613 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 such fiscal year.

CONTRACTS/CHECKS/DEPOSITS

701 Contracts

Except as otherwise provided by law or these Bylaws, the board of directors may authorize any Cooperative officer, agent or employee to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Cooperative, and such authority may be general or confined to specific instances.

702 Checks, Drafts, Etc.

All checks, drafts or other orders for the payment of money, and all notes, bonds

or other evidences of indebtedness, issued in the name of the Cooperative, shall be signed or countersigned by such officer, agent or employee of the Cooperative and in such manner as shall from time to time be determined by resolution of the board of directors.

703 Deposits, Investments

All funds of the Cooperative shall be deposited or invested from time to time to the credit of the Cooperative in such bank or banks or in such financial securities or institutions as the board of directors may select.

NOT-FOR-PROFIT OPERATION

801 Membership Furnished Capital–Interest or Dividends on Capital Prohibited

The Cooperative is a not-for-profit, member-owned business, operated on a Co-operative non-profit basis for the mutual benefit of its patrons. All amounts paid for electric service in excess of the cost thereof shall be furnished by members as capital and each member shall be credited with the capital so furnished as provided in Section 802 of these Bylaws. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its patrons.

802 Patronage Capital in Connection With Furnishing Electric Energy

In the furnishing of electric energy, the Cooperative's operations shall be so conducted that all patrons will, through their patronage, furnish capital for the Cooperative. In order to induce patronage and to assure that the Cooperative will operate on a non-profit basis, the Cooperative is obligated to account on a patronage basis to all its patrons for all amounts received and receivable from the furnishing of electric energy in excess of operating costs and expenses properly chargeable against the furnishing of electric energy. All such amounts in excess of operating costs and expenses at the moment of receipt by the Cooperative are received with the understanding that they are furnished by the patrons as capital.

The Cooperative is obligated to pay by credits to a capital account for each patron all such amounts in excess of operating costs and expenses. 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 the patron is clearly reflected and credited in an appropriate record to the capital account of each patron, and the Cooperative shall within a reasonable time after the close of the fiscal year notify each patron of the amount of capital so credited to one's account. All such amounts credited to capital account of any patron shall have the same status as though they had been paid to the patron in cash in pursuance of a legal obligation to do so and the patron had then furnished the Cooperative corresponding amounts for capital.

All other amounts received by the Cooperative from nonoperating margins such as interest income, dividend income and margins from marketing operations in excess of costs and expenses may, insofar as permitted by law, be (a) used to offset any losses incurred during the current, any prior or future fiscal year, and (b) to the extent not needed for that purpose, at the authorization of the board of directors, allocated to its patrons on a patronage basis, and any amount so allocated shall be included as a part of the capital credited to the accounts of patrons, as herein provided.

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 before any payments are made on account of property rights of members. 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 patrons' accounts may be retired in full or in part. Notwithstanding any other provision of these Bylaws, the board shall determine the timing, method of allocation, basis, amount, priority, and order of any amounts furnished as patronage capital.

Capital credited to the account of each patron shall be assignable only on the books of the Cooperative pursuant to written instructions from the assignor and only to successors in interest or successors in occupancy in all or a part of such patron's premises served by the Cooperative, unless the board of directors, acting under policies of general application, shall determine otherwise.

Notwithstanding any other provisions of these Bylaws, the board of directors shall at its discretion have the power at any time upon the death of any patron who was a natural person, if their legal representative or estate shall request in writing that the capital so credited or assigned, as the case may be, be retired prior to the time such capital would otherwise be retired under the provisions of the Bylaws, to retire such capital immediately upon such terms and conditions as the board of directors, acting under policies of general application to the situations of like kind which account for the applicable discount for the value such funds would otherwise be used and enjoyed by the Cooperative under normal rotation, and such legal representatives, shall agree upon: PROVIDED, however, that the financial condition of the Cooperative will not be impaired thereby. The cessation of the existence of a patron which was a non-natural person shall not entitle it to immediate payment of capital credits; rather, such credits shall continue in normal rotation, assigned to such persons or entities who shall be its successor of interest.

The Cooperative, before retiring any capital credited to any patron's account, shall deduct therefrom any amount owing by such patron to the Cooperative, together with interest thereon at the legal rate. At all times while the Cooperative continues to have possession of patronage equities of its membership, the Cooperative shall have a possessory security interest and a right of set-off in the present value of such equity against any debts owed by a member to the Cooperative before making any distribution thereof to the member, assignee or heirs. Insolvency or bankruptcy, whether individual, partnership, or corporate, shall not be grounds for early or accelerated retirement.

803 Contractual Nature of Articles and Bylaws

The patrons of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the articles of association and Bylaws shall constitute and be a contract between the Cooperative and each patron, and both the Cooperative and the patrons are bound by such contract, as fully as though each patron had individually signed a separate instrument containing such terms and provisions.

804 Gift/Forfeiture

In becoming a patron of this Cooperative, each patron acknowledges the necessity of keeping the administrative office of the Cooperative advised of his or her current residence and mailing address so that Cooperative business, including orderly,

efficient retirement of capital credits may be accomplished without undue inconvenience and expense to the other patrons. Accordingly in becoming a patron, each patron consents on his or her own behalf and on behalf of his or her heirs at law that failure to keep the Cooperative advised of residence and mailing address shall constitute an expression of said patron's desire to gift and/or forfeit all capital credits due for retirement and said capital credits may be transferred to the general account of the Cooperative.

The following events shall be evidence of such a gift/forfeiture by the patron:

- (a) Return to the Cooperative of a properly postaged mailing addressed to the last address provided by the patron to the Cooperative administrative office, and
- (b) Failure on the part of the patron or his or her heirs to request delivery of such capital credit retirement for a period of one year following the Cooperative's attempt to deliver capital credit at an annual meeting or by mailing, whichever is later.

WAIVER OF NOTICE

901 Any member or director may waive, in writing, any notice of meeting required to be given by these Bylaws.

DISPOSITION OF PROPERTY

1001 The Cooperative may not sell, mortgage, lease or otherwise encumber or dispose of any of its property other than:

- (a) property which in the judgment of the board of directors neither is nor will be necessary or useful in operating and maintaining the Cooperative's systems and facilities; provided, however, that the Cooperative shall not sell, transfer, or convey, within the period of any single calendar year, physical plant in excess of five percent (5%) in value of the Cooperative, based upon the most recent audit of the books of the Cooperative, unless consent therefor shall have been obtained by vote of not less than two-thirds (2/3) of the entire membership of the Cooperative cast at a regular or special meeting called for that purpose, after notice in writing to all the members of the Cooperative, not less than twenty (20) nor more than thirty (30) days prior to the date of such meeting. Nothing herein though shall prohibit the mortgage, sale, transfer, conveyance or exchange of the Cooperative's assets to another electric cooperative, an agency of the State of North Dakota, or an agency of the United States (or any supplemental lender thereto). Nor shall this section prohibit exchange for physical plant of equal monetary value to any person, organization, whether public or private;
- (b) service of all kinds, including electric energy;
- (c) personal property acquired for resale; and

PROVIDED, however, 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 and their supplemental lenders, or from a financing institution, organized on a cooperative plan for the purpose of financing its member's programs, projects

and undertakings, in which the Cooperative holds membership, and in connection with such borrowing to authorize the making and issuance of bonds, notes or other evidence of indebtedness and to secure the payments thereof, to authorize the execution and delivery of mortgage or mortgages, or deed or deeds of trust upon, or the pledging or encumbering of any or all of the property, assets, rights, privileges, licenses, franchises and permits of the Cooperative, whether acquired or to be acquired, and wherever situated, all upon such terms and as the board of directors shall determine.

FISCAL YEAR

1101 The fiscal year of the Cooperative shall begin on the first day of January of each year and end on the 31st day of December of the same year.

MEMBERSHIP IN OTHER ORGANIZATIONS

1201 The Cooperative may, by action of its board of directors, become a member of and invest funds in or create other business entities doing business that will either further the purposes of the Cooperative or contribute to the economic development of the region.

SEAL

1301 The corporate seal of the Cooperative shall be in the form of a circle and shall have inscribed thereon the name of the Cooperative and the words Corporate Seal, North Dakota.

AMENDMENTS

1401 The Power to Make, Alter or Amend

The power to make, alter, or amend the Bylaws of the Cooperative shall be reserved to its members and such Bylaws may be amended by an affirmative vote of a majority of the members voting on such question at any regular meeting or at any special meeting, provided that the notice of such meeting shall have contained a copy of the proposed alteration, amendment, or repeal.

Except however, when the president of the United States of America or the governor of the State of North Dakota has issued a declaration of emergency which includes all or any portion of the territory of the Cooperative, the board of directors shall be permitted to make, amend or repeal Bylaws to reduce the vulnerability of the members of the Cooperative to damage, injury, loss of life or loss of property resulting from such emergency and to provide a for the rapid and orderly restoration and rehabilitation of members affected by such emergency.

Any bylaw adopted or amended by the board shall be reported at the next regular member meeting. Any such bylaw shall be at any time subject to amendment or repeal by the members.

1402 Bylaw Organization and Numbering

The membership of the Cooperative authorizes the board of directors to re-organize and re-number the Bylaws of the Cooperative upon the passage of any new or amended Bylaws as may be passed upon by the membership from time to time, to reflect continuity of subject matter treatment.

PARLIAMENTARY PROCEDURE

1501 Parliamentary procedure at all meetings of the members, of the board of directors, of any committee provided for in these Bylaws and of any other committee of the members or board of directors which may from time to time be duly established shall be governed by the most recent edition of Robert's Rules of Order, except to the extent such procedure is otherwise determined by law or by the Cooperative's articles of association or Bylaws.

— Notes —