



Articles of Incorporation and Bylaws

Adopted June 8, 2011

BURKE-DIVIDE ELECTRIC COOPERATIVE, INC.
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**ARTICLES OF INCORPORATION OF
BURKE-DIVIDE ELECTRIC COOPERATIVE, INC.**

We, the members of Burke-Divide Electric Cooperative, Inc., being dedicated to improving the quality of life and the economy of the area served by the Cooperative, do hereby adopt the following "Restated Articles of Incorporation," as follows:

ARTICLE I

The name of the corporation is Burke-Divide Electric Cooperative, Inc.

ARTICLE II

Section 1. The purpose of this corporation shall be to engage in rural electrification by the methods enumerated in North Dakota Century Code, Section 10-13-01, as amended, to-wit:

1. The furnishing of electric energy to persons in rural areas who are not receiving central station service;
2. The purpose of this corporation shall also be to engage in any lawful activity or business that may be authorized by state law or federal law. To that end, this cooperative shall have all the powers authorized for a corporation under state law including, but not limited to, those enumerated in the North Dakota Constitution, Chapter 10-13 of the North Dakota Century Code, and Chapter 10-15 of the North Dakota Century Code.
3. The furnishing of electrical energy, wiring facilities, electrical or plumbing equipment or services to any other cooperative or corporation organized under this chapter or to the members thereof; or
4. The operation and maintenance of electrical cold storage and electrical processing plants;
5. The establishment and operation by itself or with any one or more electric cooperatives of an electric generation or transmission cooperative for the purpose of providing electric energy to other cooperatives, public utilities, municipalities or any department or agency of the state or federal government.
6. To seek to stabilize electric rates and supply by fostering and promoting economic development, retention and expansion throughout the trade area of the cooperative. To such purpose, the membership, Board of Directors and management shall work to promote economic development through in kind assistance, monetary donation, loans, and/or investment as shall be directed by

the Board of Directors in compliance with the Bylaws and policies of this cooperative.

7. To engage in any other activities or business that may be authorized under state or federal law and that may benefit the membership of the cooperative.

Section 2. This corporation shall have the powers enumerated in North Dakota Century Code, Section 10-13-03, as amended.

ARTICLE III

The number of directors and the manner of their selection shall be governed by this Cooperative's Bylaws.

ARTICLE IV

The address of the principal office of the Cooperative shall be Burke-Divide building located near Columbus in Burke County, North Dakota.

ARTICLE V

The duration of the Cooperative is perpetual.

ARTICLE VI

Membership in this Cooperative will be governed by this Cooperative's Bylaws.

ARTICLE VII

The members of this Cooperative may amend this Cooperative's Bylaws in the manner set forth in the Bylaws. The Board of Directors shall have such authority as set forth in the Bylaws. The Articles of Incorporation and the Bylaws of this Cooperative, as amended from time to time, shall constitute a contract between the Cooperative and each patron of the Cooperative, and both the Cooperative and the patrons are bound by such contract, as fully as though each patron and the Cooperative had individually signed a separate instrument containing such terms and provisions.

ARTICLE VIII

The property of the members of this Cooperative shall not be subject to the payment of, and no member shall be responsible for, the Cooperative's debts to any extent whatever.

ARTICLE IX

This Cooperative may amend, alter, change or repeal any provision contained in these Articles of Incorporation 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.

BYLAWS
ARTICLE I
MEMBERSHIP

Section 1.1. Requirements for Membership. Any person, and any partnership, incorporated or unincorporated association, corporation, federal agency, state or political subdivision or agency thereof or body politic or subdivision thereof shall become a member of Burke-Divide Electric Co-operative, Inc. (hereinafter called "Cooperative") upon purchasing electric service from this Cooperative, unless the Board of Directors shall determine, prior to commencement of service, that such person or entity is not willing or is not able to comply with the terms and conditions of membership or that such membership should be rejected for other good cause. In purchasing electric service from this Cooperative, each member shall thereby agree to comply with and be bound by the Articles of Incorporation and the Bylaws of the Cooperative and any reasonable rules and regulations adopted by the Board of Directors. No member may hold more than one membership in this Cooperative, and no membership shall be transferable, except as provided in these Bylaws.

Section 1.2. Evidence of Membership. Membership in this Cooperative shall be evidenced by purchase of and payment for electric service from the Cooperative.

Section 1.3. Service Deposits and Deductions. The Board of Directors may require a service connection deposit, connection fee, or service security deposit, facilities extension deposit, or contribution in aid of construction, or combination thereof, for each connection, extension, or other available service, pursuant to reasonable rules, regulations and policies adopted by the Board. With respect to any particular classification of service for which the Board of Directors shall require it, an application for service shall be accompanied by a supplemental contract, executed by the applicant on such form as is provided therefore by the Cooperative. Before any amounts are refunded by the Cooperative to a member, or former member, the amount of any debts owing from the member or former member to the Cooperative, plus accrued interest thereon at the North Dakota legal rate on judgments in effect when such debt became due, shall be deducted there from.

Section 1.4. Purchase and Payment for Electric Service. The Cooperative shall use reasonably diligent efforts to furnish its members with adequate and dependable electric service, although it cannot, and therefore does not, guarantee a continuous and uninterrupted supply thereof. Each

member shall purchase from the Cooperative all electric power and energy purchased for use on all premises to which electric service has been furnished by the Cooperative, including all adjacent area owned or used by the member, in whole or in part, for so long as such premises are occupied or used by the member. Each member shall pay for all electric service purchased from the Cooperative at the times, and in accordance with the rules, regulations, and rate schedules (including any minimum amount that may be charged without regard to the electric power and energy actually used) established by the Board of Directors, and, if in effect, in accordance with the provisions of any supplemental contract that may have been entered into. Production or use of electric energy on such premises regardless of the source thereof, by means of facilities which shall be interconnected with the Cooperative's facilities, shall be subject to appropriate regulations and policies as shall be fixed from time to time by the Cooperative. It is expressly understood that amounts paid for electric service 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 by these Bylaws. Each member shall also pay all amounts owed him to the Cooperative as and when they become due and payable, together with accrued interest on all amounts overdue at the North Dakota legal rate on judgments in effect when such amount first became overdue. When the member has more than one service connection from the Cooperative, any payment by the member for service from the Cooperative shall be deemed to be allocated and credited on a pro rata basis to his outstanding accounts for all such service connections, notwithstanding that the Cooperative's actual accounting procedures may not reflect such allocation and proration.

Section 1.5. Responsibility for Wiring Premises. Each member shall cause all premises receiving electric service pursuant to his membership to become and to remain wired in accordance with the specifications of the National Electric Code, any applicable state code or local government ordinances, and of the Cooperative. Each member shall be responsible for and shall indemnify the Cooperative and its employees, agents and independent contractors against death, injury, loss or damage resulting from any defect in or improper use or maintenance of such premises and all wiring and apparatuses connected thereto or used thereon. Each member shall make available to the Cooperative a suitable site, as determined by the Cooperative, whereon to place the Cooperative's physical facilities for the furnishing and metering of electric service and shall permit the cooperative's authorized employees, agents and independent contractors to

have access thereto safely and without interference from hostile dogs or any other hostile source, for meter reading, bill collecting and for inspection, maintenance, replacement, relocation, repair or disconnection of such facilities at all reasonable times. As part of the consideration for such service, each member shall be the Cooperative's bailee of such facilities and shall not interfere with, impair the operation of or cause damage to such facilities, and shall use his best efforts to prevent others from so doing. Each member shall also provide such protection devices to his premises, apparatuses or meter base as the Cooperative shall from time to time require in order to protect the Cooperative's physical facilities and their operation and to prevent any interference with damage to such facilities. In the event such facilities are interfered with, impaired in their operation or damaged by the member, or by any other person when the member's reasonable care and surveillance should have prevented such, the member shall indemnify the Cooperative and its employees, agents and independent contractors against death, injury, loss or damage resulting there from, including but not limited to the Cooperative's cost of repairing, replacing or relocating any such facilities and its loss, if any, of revenues resulting from the failure or defective functioning of its metering equipment. In no event shall the responsibility of the Cooperative for furnishing electric service extend beyond the point of delivery.

Section 1.6. Easements to Cooperative and Load Management Programs. Each member shall, upon being requested so to do by the Cooperative, execute and deliver to the Cooperative grants of easement or right-of-way over, on and under such lands owned or leased by or mortgaged to the member, and in accordance with such reasonable terms and conditions, as the Cooperative shall require for the furnishing of electric service to him or for the construction, operation, maintenance or relocation of the Cooperative's electric facilities. Each member shall participate in any required program that may be established by the Cooperative to enhance load management, more efficiently to utilize or conserve electric energy or to conduct load research.

Section 1.7. Suspension of Membership. Upon a member's failure, after the expiration of the time limit prescribed either in a specific notice to the member or in the applicable rules and regulations of the Cooperative, to pay any amount due the Cooperative or to comply with any other membership obligation, a membership shall automatically be suspended. During such suspension, such member shall not be entitled to receive electric service from the Cooperative, nor entitled to cast a vote at any

meeting of the members. Upon payment of all amounts due the Cooperative, and upon full compliance with membership obligations, such membership shall automatically be reinstated, and thereafter the member shall be entitled to receive electric service from the Cooperative and to vote at meetings of the members.

Section 1.8. Termination of Membership.

- a. Membership in this Cooperative shall automatically terminate when the member ceases to purchase electric service from the Cooperative.
- b. The death of an individual human member shall automatically terminate his membership. 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 generally applicable terms and conditions as the Board of Directors may prescribe.
- d. The Board may, by the affirmative vote of not less than two-thirds of all the members of the Board of Directors, after due hearing if a hearing is requested by the member, expel any member who fails to comply with any of the provisions of the Articles of Incorporation, Bylaws, or rules or regulations adopted by the Board of Directors, (and regardless of whether or not such member continues to purchase electrical service from the Cooperative), but only in such member shall have been given written notice by the Cooperative that such failure makes him liable to expulsions and such failure shall have continued for at least 10 days after such notice was given. An expelled member may again become a member only by reinstatement by a vote of the Board or by vote of the members at any annual or special meeting, and upon compliance with such additional terms and conditions for renewed membership as the Board of Directors determines to be reasonably necessary to assure compliance with all membership obligations.
- e. Upon the termination in any manner of a membership, the member shall be entitled to a refund of any refundable service

connection deposits still held by the Cooperative, less any amounts due the Cooperative, plus accrued interest due the Cooperative as provided in these Bylaws, but neither he nor his estate shall be released from any debts then remaining due the Cooperative. Termination of membership does not entitle the patron to retirement of any accumulated capital credits.

Section 1.9. Electrical Publications. To assure that the members of the Cooperative are advised of the economical, effective and conservative use of electrical energy, the Board of Directors is empowered to authorize and subscribe for the members a periodical newsletter for the Cooperative, the cost of which shall be deducted from any funds accruing to the members, so as to reduce such funds in the same manner as any other expense of the Cooperative. The Board of Directors is also empowered to subscribe, on behalf of the members, to the statewide publication, "North Dakota Living," or its successor publication. The cost of such subscription shall be deducted from any funds accruing in favor of the members, so as to reduce such funds in the manner as would any other expense of the Cooperative.

ARTICLE II RIGHTS AND LIABILITIES OF MEMBERS

Section 2.1. Property Interest of Members. Upon dissolution, after (a) all debts and liabilities of the Cooperative shall have been paid, (b) all capital furnished through patronage shall have been retired as provided in these Bylaws, and (c) all membership fees (if any) shall have been repaid, the remaining property and assets of this Cooperative shall be distributed among all patrons and former patrons on an equitable basis insofar as practicable in proportion to their patronage as determined from the books and records of the Cooperative, unless otherwise provided by law.

Section 2.2. Nonliability for Debts. The private property of the members of this cooperative is exempt from execution or other liability for the debts of the Cooperative. No member shall be liable or responsible for any debts or liabilities of the Cooperative.

ARTICLE III MEETINGS OF MEMBERS

Section 3.1. Annual Meeting. The annual meeting of the members shall be held on any business day of the year and at such place in the Cooperative's service area as shall be determined by the Board of Directors, which shall be designated in the notice of the meeting, for the purpose of electing directors, hearing reports and transacting any business that may

properly come before the meeting. Failure to hold the annual meeting shall not work a forfeiture or dissolution of the Cooperative.

Section 3.2. Special Meetings. Special meetings of the members may be called by resolution of the Board of Directors, or upon written request signed by any three directors, by the President, or by ten per centum or more of all the 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 within the boundaries of the Cooperative, specified in the notice of special meeting.

Section 3.3. Notice of Members' Meetings. Written notice, stating the place, day, and hour, and in case of a special member meeting the purposes for which the meeting is called, shall be given not less than 10 days nor more than 30 days before the meeting, to each member by mail, by or at the direction of the secretary, or upon failure of the secretary to act, at the direction of the persons calling the meeting. Any such notice delivered by mail may be included with member service billings or as an integral part of or with the Cooperative's periodic newsletter, if any, or in its monthly insert in "North Dakota Living". If mailed, notice shall be deemed to be given 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. If notice has been duly mailed to the member, 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. The attendance in person of a member at any meeting of the members shall constitute a waiver of notice of such meeting unless the attendance shall be for the express purpose of objecting to the transaction of one or more items of business on the ground that the meeting was not lawfully called or convened. Any member attending any meeting for the purpose of making such an objection shall notify the Secretary in writing prior to or at the beginning of the meeting of his objection and the exact nature of the objection.

Section 3.4. Quorum. A quorum at a member meeting shall be fifty members, present in person or any quorum number provided by state law, if the amount provided by state law is lesser. Members represented by signed votes may be counted in computing a quorum only on those questions as to which the signed vote is taken. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting to another time and date not less than forty days later and to

any place in the Cooperative's service area; provided that the Secretary shall cause written notice of the time, date and place of such adjourned meeting to be given to all members in accordance with Section 3.3.

Section 3.5.Voting.

- a. Each member shall be entitled to one vote and no more upon each matter submitted to a vote at a meeting of the members.
- b. All questions shall be decided by a vote of a majority of the members voting thereon in person, except as otherwise provided by law, the Articles of Incorporation, or these Bylaws.
- c. For voting purposes only, each individual membership shall be deemed joint with the member's spouse, unless each spouse holds his own individual membership or unless the named member specifies otherwise by written notice to the Cooperative. The presence at a meeting of either or both spouses of a joint membership shall be regarded as the presence of one member for all purposes. The vote of either or both of a joint membership shall constitute only one vote, but should both be present and in disagreement as to voting, each shall have only one-half vote.
- d. Signed votes may be used only when specifically authorized by resolution of the Board of Directors. When so authorized, signed votes shall be valid and entitled to the same force and effect as a vote in person if the member has been previously notified in writing of the exact motion or resolution upon which the vote is taken.
- e. At all meetings of members, voting by proxy shall not be allowed, because, to the greatest extent practicable, the presence of each member is desired at all meetings of the membership and proxy voting has the tendency to discourage actual attendance at membership meetings.
- f. A member who is other than a natural person must designate a natural person to represent it by giving the Cooperative a written notice at or before the member meeting, which shows that the named representative has been authorized by the managing board of such member to represent it at the meeting of this Cooperative. An individual may represent no more than one such member, but may also vote as an individual if he is a member individually.

Section 3.6. Director Districts. The territory served by the Cooperative shall be divided into three (3) districts to assure, as much as possible, fair and equitable representation for the members on the Board of Directors. District #1 shall be represented by two (2) directors (directorships #1 and #2); District #2 shall be represented by three (3) directors (directorships #3, #4, and #5); and District #3 by two (2) directors (directorships #6 and #7). The districts shall include the following areas:

DISTRICT #1

Comprised of the following townships in Divide County: Lincoln Valley, Long Creek, Blooming Valley, Alexandria, Writing Rock, Fertile Valley, Sioux Trail, Smoky Butte, Fillmore, Blooming Prairie, Ambrose, Twin Butte, Troy, Hawkeye, Upland, Burg, Frazier, Plumer, Garnet, Frederick, Palmer, and Hayland.

DISTRICT #2

Comprised of the following townships in Burke County: Richland, Soo, Dale, Carter, Ward, Clayton, Foothills, Thorson, Cleary, Lucy, Diamond, Roseland, Kandiyohi, Vanville, Garness, Colville, Battleview, Portal, Short Creek, Forthun, Keller, Fay, Vale, Leaf Mountain, and Harmonious. The townships of Border, Mentor, Stoneview, and Coalfield in Divide County.

DISTRICT #3

Comprised of the following townships in Renville County: Stafford, Rockford, Fairbanks, Grover, McKinney, Roosevelt, Grassland, and Ivanhoe. The townships of Denmark, Elmdale, Kenmare, Sauk Prairie, Greenbush, Baden, and Spencer in Ward County and the townships of North Star, Lake View, Minnesota, and Bowbells in Burke County. Also the First Commissioner District in Burke County.

Each director shall serve for a three year term, with terms being staggered.

Current directorship rotations shall continue until this Bylaw is amended.

Section 3.7. Election Committee. The Board of Directors, at the member meeting shall appoint an Election Committee of not less than three and not more than seven members, from among the membership, who are neither directors, known candidates for directors, nor close relatives of, or members of the same household of directors or known candidates for directors. The Election Committee shall, by a majority vote thereof, resolve any question that arises at the meeting concerning the election of directors or balloting on an issue, which is not specifically provided for by law, these

articles of association or the bylaws. In the exercise of its responsibility, the Committee shall have available to it the advice of counsel provided by the Cooperative. In the event a protest or objection is filed concerning any election, such protest or objection must be filed during, or within three (3) business days following the adjournment of, the meeting in which the voting is conducted. The Committee shall thereupon be reconvened, upon notice from its chairman, not less than seven (7) days after such protest or objection is filed. The Committee shall hear such evidence as is presented by the protestor(s) or objector(s), who may be heard in person, by counsel, or both, and any opposing evidence; and the Committee, by a vote of a majority of those present and voting, shall, within a reasonable time but not later than fifteen (15) days after such hearing, render its decision, the result of which may be to affirm the election, to change the outcome thereof, or to set it aside. The Committee may not affirmatively act on any matter unless a majority of the Committee is present. The Committee's decisions on all such questions shall be final.

Section 3.8. Order of Business. The presiding officer may adopt any order of business which provides an opportunity for full consideration of all matters to come before the meeting, subject to any proper action by the members assembled to change the order of business. The presiding officer may also set a time limit for debate and rebuttal. The time limit shall apply to each member on each matter being discussed on the floor. Unless such a different order of business is adopted by the president, or the members assembled, the order of business at the annual meeting of the members, and so far as possible at all other meetings of the members, shall be as follows:

1. Report as to members present in order to determine the existence of a quorum;
2. Reading of the notice of the meeting and proof of the mailing thereof;
3. Reading of any unapproved minutes of previous meetings of the members and the taking of necessary action thereon;
4. Presentation and consideration of, and action upon, reports of officers, directors and committees;
5. Election of Directors;
6. Unfinished business;
7. New business; and
8. Adjournment.

Section 3.9. Rules of Order. At all meetings of the members, of the board of directors and of any committees thereof, meeting procedure shall be governed by the latest edition of Robert's Rules of Order, except to the extent such procedure is otherwise determined by law, by the Articles of Incorporation, or by the bylaws.

ARTICLE IV DIRECTORS

Section 4.1. General Powers. The business and affairs of the Cooperative shall be managed by a board of seven (7) directors which shall exercise all of the powers of the Cooperative, except such as are by law, by the Articles of Incorporation of the Cooperative, or by these Bylaws specifically conferred upon or reserved to the members.

Section 4.2. Qualifications. Every director or candidate for a directorship shall: (1) be a member of the Cooperative and receive electric service from the cooperative at a meter located within the district for the directorship being filled, and (2) be a bona fide resident of the area within the outside geographical boundaries of the district for the directorship being filled, even if the residence is not served by the cooperative. This qualification shall apply whether such directorship is being filled by election or appointment. No representative of a member who is other than a natural person shall be qualified to be a director unless that person is also a member of the Cooperative individually and meets the criteria outlined above.

No member shall be eligible to become or remain a director who is not at least eighteen (18) years of age or who is any way employed by or financially interested in a competing enterprise.

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 in which one or more of the directors have an undisclosed interest adverse to that of the Cooperative.

Section 4.3. Nomination and Election of Directors.

a. Nominations: Every candidate for the Office of Director shall, not less than thirty (30) days nor more than ninety (90) days before the regular annual meeting or at any meeting at which directors are to be elected, present to the secretary of said cooperative a nominating petition giving the candidate's name, post office, address and the district in which he presides. Each candidate must be a member residing in the district and must possess

the qualifications for a director specified in section 4.2 of the Bylaws of this Cooperative. Such petition shall contain the names and signatures of not less than fifteen (15) members residing in the district from which he is a candidate. Each name on the petition shall be a bona fide member of the said cooperative receiving service in said district. Each signer of a nomination petition shall sign but one petition and he shall add his address and the date of signing.

The nominating petition shall be substantially in the following form:

AFFIDAVIT

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF _____)

I, _____, being first duly sworn, depose and say that I reside in District No. ____ of the Burke-Divide Electric Cooperative, Inc.; that I am a member of the Cooperative, residing in District # ____ and possess the qualifications for director specified in Section 4.2 of the bylaws of said Cooperative; that I am a candidate for nomination to the office of director to be chosen at the regular annual meeting (or special meeting) to be held on the ____ day of _____, 20____, and I do hereby request that my name be printed on the official ballot to be used at such election as a candidate from the above-named District # ____ for the office of Director.

Signed: _____

Subscribed and sworn to before me this ____ day of _____, 20__.
Notary Public _____ County, North Dakota
My commission expires: _____

**NOMINATION PETITION TO THE SECRETARY
OF THE BURKE-DIVIDE ELECTRIC COOPERATIVE, INC.,
Columbus, North Dakota:**

We, the undersigned, do hereby certify that we are members of the Burke-Divide Electric Cooperative, Inc. residing in District # ____ of said Cooperative, and do hereby petition and request that the name of _____ be printed as a candidate for nomination for the office of Director of the Burke-Divide Electric Cooperative, Inc., to be voted

on at the regular annual meeting (or a special meeting) of the members of said Cooperative, to be held on the _____ day of _____, 20_____.

No.	Name of Member	Residence	Date Signed (Month, Day, Year)
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A list of all nominations shall be available at the principal office of the Cooperative for inspection by any member, between the time of filing of the nomination and the annual meeting election. The secretary shall cause to be mailed, with the notice of the meeting, a statement of the number of directors to be elected and the names and addresses of the candidates. All nominations made shall be placed upon the ballot for the annual meeting, unless a nominee gives notice to the Cooperative that he withdraws his name as a candidate.

Nothing contained herein shall prevent additional nominations to be made from the floor at the annual meeting or a special meeting of the members of the Cooperative. Notwithstanding anything in this Bylaw, failure to comply with any of the provisions of this Bylaw shall not affect in any manner whatsoever the validity of any official action thereafter taken by the Board of Directors.

b. Election: At the annual meeting, the nominees, whether nominated by petition, or from the floor, shall be voted on by all members of the Cooperative who are personally present at such annual meeting. The presiding officer shall announce the names of all candidates nominated.

Additional nominations for each directorship may be made from the floor. Ballots for directorships shall be by printed or mimeographed ballot, except that when there is only a single nominee for a directorship, and if there is no objection, secret written balloting may be dispensed with and voting may be conducted in any other proper manner. The ballots shall list the candidates nominated, with the names arranged in one group for each directorship. A candidate nominated from the floor of the meeting may be voted for by writing in the name of such candidate beneath the name of the candidates listed on the ballot for that directorship. The directors shall be elected by the members at large attending the meeting and each member personally present shall have one vote, subject to Section 5.3(c), for each directorship being filed. The candidate receiving a plurality of the votes cast for each directorship shall be elected. A coin flip shall resolve, where necessary, any tie votes.

Section 4.4. Removal of Directors. Any member may bring charges against a director by filing them in writing with the secretary, together with

a petition signed by at least ten percent of all of the members entitled to cast votes at a special meeting, requesting the removal of the director by reason thereof. The director against whom such charges have been brought shall be notified in writing of the charges at least 30 days prior to the meeting at which the charges are to be considered and shall have an opportunity at the meeting to be heard in person, or by counsel, and to present evidence in respect of the charges; and the person or persons bringing the charges against him shall have an equal opportunity to present evidence, in person or by counsel. The question of the removal of each director so charged shall be separately considered and voted upon at the next regular or special meeting of the members. A director shall be removed only upon a 2/3 majority vote of members present at the meeting. The members may, at any meeting at which a director or directors shall be removed, elect a successor or successors thereto without compliance with the provisions of these Bylaws with respect to nomination of directors, provided however that said director so elected must be qualified and a resident of the district for which a directorship is being filled.

Section 4.5. Vacancies. Except as to a vacancy filled by the members after removal of a director by the members, any vacancy occurring in the board of directors shall be filled by the affirmative vote of a majority of the remaining directors for the period up to the next annual meeting. At the next annual meeting the unexpired term shall be filled by election of the members pursuant to the provisions in Section 4.3 of these by-laws.

Section 4.6. Compensation. Directors shall not receive any salary for their services as directors, but by resolution of the Board of Directors, a reasonable director fee and expenses of attendance, if any, may be allowed for attendance at each meeting of the Board of Directors and for attendance at state, area, regional, national and other meetings on behalf of the Cooperative where attendance is specifically authorized by prior action of the Board of Directors. No director shall receive compensation for serving the Cooperative in any other capacity, nor shall any close relative of director receive compensation for serving the Cooperative, unless the payment and amount of compensation shall be specifically authorized by a vote of the members, or the service by such director or close relative shall have been certified by action of the other members of the Board of Directors as an emergency measure.

Section 4.7. Close Relative Defined. As used in these Bylaws, "close relative" means a person who, by blood or in law, including step and adoptive relationship, is either a spouse, child, grandchild, parent,

grandparent, brother, sister, aunt, uncle, nephew or niece of another person.

ARTICLE V

MEETINGS OF DIRECTORS

Section 5.1. Regular Meeting. 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, or at such other time and place fixed by the Board of Directors at the annual meeting of members. A regular meeting of the Board of Directors shall also be held monthly at such time and place in the State of North Dakota 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 5.2. Special Meetings. Special meetings of the Board of Directors may be called by the president, by any three directors, or by any person authorized to do so by prior action of the Board of Directors. The person or persons calling the meeting shall fix the time and place within the State of North Dakota for the holding of the meeting and shall cause notice of such meeting to be given as hereinafter provided.

Section 5.3. Notices. Notice of the time, place and purpose of any special meeting of the Board of Directors shall be given either personally or by mail to each director. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the director at his address as it appears on the records of the Cooperative, with postage there on prepaid, at least five days before the day set for the meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except when a director attends the meeting and objects thereat to the transaction of business because the meeting was not lawfully convened. A signed waiver is equivalent to personal notice to the person so signing.

Section 5.4. Presence. Any one or more members of the Board of Directors or any committee thereof may participate in a meeting of the Board of Directors or any such committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

Section 5.5. Quorum. A majority of the directors in office shall constitute a quorum, provided, that if less than such majority of the

directors is present at said meeting, a majority of the directors present may adjourn the meeting from time to time; and provided further, that the secretary shall cause any absent directors to be notified of the time and place of any adjourned meeting in the same manner as provided for Special Board meetings as provided by Section 5.3. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 5.6. Manner of Acting. Any action which may be taken at a meeting of the directors may be taken without a meeting if a writing setting forth and approving the action taken shall be signed by all of the directors entitled to vote upon such action. In such cases, such consent shall have the same force and effect as if a meeting had been held.

Section 5.7. Rules and Regulations. The Board of Directors shall have power to make and adopt such rules, regulations and policies, not inconsistent with law, the 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, including, but not limited to, the reasonable right of the Cooperative to regulate its affairs with its members. Among such powers the Board of Directors shall have the power to establish reasonable classifications of business done with patrons, according to the type or nature thereof, for the purpose of regulating rates and charges for electric service and allocating capital credits to patrons.

ARTICLE VI OFFICERS

Section 6.1. Number. The officers of the Cooperative shall be a president, vice-president, secretary-treasurer, and assistant secretary-treasurer, and such other officers as may be determined by the Board of Directors from time to time. Each principal officer must be a director of the Cooperative.

Section 6.2. Election and Term of Office. The officers shall be elected 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 at the next meeting of the Board of Directors thereafter. 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 been duly qualified, subject to the provisions of these Bylaws with respect to the removal of directors and officers.

Section 6.3. Removal. Any officer or employee elected or appointed by the Board of Directors may be removed by action of a majority of the Board of Directors at any time and whenever in the judgment of the Board of Directors the best interests of the Cooperative will be served thereby.

Section 6.4. Vacancies. A vacancy in any office may be filled by the Board of Directors for the unexpired portion of the term.

Section 6.5. President. The president:

- a. Shall be the principal executive officer of the Cooperative and, unless otherwise determined by the members or by the Board of Directors, shall preside at all meetings of the members and of the Board of Directors;
- b. May sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments executed on behalf of the Co-operative, 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 Co-operative, 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 president and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6.6. Vice-President. In the absence of the president, or in the event of his inability or refusal to act, the vice-president shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. The vice-president shall also perform such other duties as from time to time may be assigned to him by the Board of Directors.

Section 6.7. Secretary-Treasurer. The secretary-treasurer shall:

- a. Cause minutes of the meetings of the members, of the Board of Directors, and of any executive committee to be kept;
- b. See that all notices are duly given in accordance with these bylaws, or as required by law;
- c. Supervise custody of the records and funds of the Cooperative;
- d. Cause a register of the names and post office addresses of all members to be kept;

In general, perform all duties incident to the office of secretary and of treasurer and such other duties as from time to time may be assigned by the Board of Directors.

Section 6.8. Delegation of Responsibilities. Notwithstanding the duties, responsibilities and authorities of the officers provided for in these bylaws, the Board of Directors by resolution may, except as otherwise limited by law, delegate, wholly or in part, the responsibility and authority for, and the regular and routine administration of, one or more of such officer's duties to one or more agents or other officers of the Cooperative who are not directors. To the extent that the Board does so delegate with respect to either such officer, that officer as such shall be released from such duties, responsibilities and authorities.

Section 6.9. General Manager. The Board of Directors shall appoint a general manager who shall manage the affairs of the Cooperative, under the supervision of, and in accordance with the policies of, the Board of Directors.

Section 6.10. Bonds of Officers. The secretary-treasurer or any other officer of the Cooperative charged with responsibility for the custody of any of its funds or property, shall be bonded in such sum and with such surety officer of the Cooperative charged with responsibility for the custody of any of its funds or property, shall 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 give bond in such amount and with such surety as it shall determine. The cost of all such bonds shall be borne by the Cooperative.

Section 6.11. Indemnification and Insurance. This Cooperative shall indemnify and shall have the power to purchase and maintain insurance to indemnify any person who is or was a director, officer, manager, employee, or agent of this Cooperative, and any person serving at the request of this Cooperative as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses, including attorneys fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him to the fullest extent to which such officers, directors and employees of a cooperative may be indemnified under the laws of this State or any amendments thereto or substitutions therefore.

Section 6.12. Reports. One or more of the officers of the Cooperative shall submit at each annual meeting of the members a report generally showing the business of the Cooperative for the previous fiscal

year and generally showing the condition of the Cooperative at the close of such fiscal year.

ARTICLE VII

COOPERATIVE NON-PROFIT OPERATION

Section 7.1. Cooperative Operation. The Cooperative shall at all times be operated on a Cooperative non-profit basis for the mutual benefit of its patrons. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its patrons.

Section 7.2. Patronage Capital in Connection with Furnishing Electric Service. In the furnishing of electric service 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 service in excess of the sum of (a) operating costs and expenses, properly chargeable against the furnishing of electric service, and (b) amounts required to offset any losses incurred during the current or any prior fiscal year.

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 each 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 their account. All such amounts credited to the 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 its operations in excess of costs and expenses shall, insofar as permitted by law, be (a) used to offset any losses incurred during the current or any prior fiscal year; and (b) to the extent not needed for that purpose, allocated to its patrons on a patronage basis and any amounts 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 out-standing 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. Any such retirements of capital furnished prior to June 2, 1977, shall be made in order of priority according to the year in which the capital was furnished and credited, the capital first received by the Cooperative being first retired. After June 2, 1977, the Board of Directors shall determine the method, basis, priority and order of retirement, if any, for all amounts thereafter furnished as capital. Without limiting the generality of the Board of Directors' power to determine the method, basis, priority and order of retirement of capital, the Board of Directors shall have the power to adopt rules providing for the separate retirement of that portion ("power supply portion") of capital credited to the accounts of patrons which corresponds to capital credited to the account of the Cooperative by an organization furnishing electric service to the Cooperative. Such rules may: a.) establish a method for determining the power supply portion of capital credited to each patron for each applicable fiscal year; (b) provide for separate identification on the Cooperative's books of the power supply portion of capital credited to the Cooperative's patrons; (c) provide for appropriate notifications to patrons with respect to the power supply portion of capital credited to their accounts; and (d) provide for the power supply portion of capital credited to patrons for any fiscal year to not be retired, when other capital credited for the same fiscal year is retired.

Capital credited to the account of each patron shall be assignable only on the books of the Cooperative pursuant to written instruction from the assignor and upon such conditions the Board of Directors, acting under the policies of general application, shall determine.

Notwithstanding any other provision of these Bylaws, the Board of Directors, at its discretion, shall have the power at any time upon the death of any patron who is a natural person, if the legal representatives of his estate shall request in writing that the capital credited to any such patron be retired prior to the time such capital would otherwise be retired under the provisions of these Bylaws, to retire capital credited to any such patron immediately upon such terms and conditions as the Board of Directors,

acting under policies of general application, and the legal representatives of such patron's estate shall agree, provided, however, that the financial condition of the Cooperative will not be impaired thereby. Except upon the death of a natural person, there shall be no other retirements out of the order of priority provided for in these Bylaws. Insolvency or bankruptcy, whether individual or corporate, shall not be grounds for early or accelerated retirement.

Section 7.3. Patronage Refunds -Other Services. In the event the Cooperative should engage in the business of furnishing goods or other services other than electric energy or furnishing electric energy to industrial or commercial consumers, all amounts received or receivable therefrom, which are in excess of cost and expenses, properly chargeable against the furnishing of such services, goods or electric energy, shall, so far as permitted by law, be prorated annually on a patronage basis and returned to those patrons from whom such amounts were obtained.

ARTICLE VIII DISPOSITION OF PROPERTY

Section 8.1. Disposition of Assets. The Cooperative shall not sell, transfer, or convey, within the period of any single calendar year, physical plant in excess of five percent in value of total assets of the Cooperative, based upon the most recent audit of the books of the Cooperative, unless consent therefore shall have been obtained by vote of not less than two-thirds of the entire membership of the Cooperative cast at any regular or special meeting called for that purpose, after notice in writing to all the members of the Cooperative not less than 20 nor more than 30 days prior to the date of such meeting.

Nothing in this section shall prohibit the sale, transfer, conveyance, or exchange of assets to another electric cooperative corporation, an agency of the State of North Dakota or agency of the government of the United States, in accordance with the following procedure: At any meeting, the members may authorize the sale, transfer, conveyance, or exchange of all or substantially all of the Cooperative's physical plant to another electric cooperative corporation, an agency of the State of North Dakota or any agency of the government of the United States if notice that such disposition will be considered at such meeting has been given to all persons entitled to vote thereon, and such disposition has been approved by a majority of those voting at the meeting, provided that the number of members voting thereon must be sufficient to constitute a quorum as provided in these Bylaws.

Nothing in this section shall prohibit the sale, transfer, conveyance, or exchange of assets of the Cooperative by action of the Board of Directors, as follows:

- a. Physical plant of the Cooperative amounting to five percent (5%) or less in value of total assets of the Cooperative (based upon the most recent audit of the books of the Cooperative) may be sold, transferred or conveyed in a single calendar year to any transferee by action of the Board of Directors.
- b. Less than substantially all of the Cooperative's physical plant may be sold, transferred or conveyed to another electric co-operative corporation, an agency of the State of North Dakota or agency of the government of the United States by action of the Board of Directors.
- c. Without restricting the powers of the Cooperative under state law, physical plant may be exchanged for physical plant of equal monetary value with any person or organization, public or private; in the event an exchange is not for equal value, the limitations in subparagraphs (a) and (b) of this Section shall apply.

Section 8.2. Indebtedness and Security. The Board of Directors, without any further authorization by the members of the Cooperative, shall have full power and authority to incur liabilities, to borrow money, to increase the indebtedness of the Cooperative, and to secure payment of the Cooperative's debts by mortgaging any or all of the Cooperative's rights, privileges, authority and franchises, revenues and other property, whether acquired or to be acquired, and wherever situated, all upon such terms and conditions as the Board of Directors may determine and without limitation. All prior limitations of indebtedness are hereby repealed and superseded.

ARTICLE IX UNCLAIMED FUNDS

Section 9.1. Identification. At least annually, the Cooperative's agents shall identify accounts, proceeds, patronage credits or membership credits which have been authorized for retirement, redemptions, distribution, or payment, as the case may be, and shall segregate such accounts from other liabilities, capital credits or membership credits on the books of the Cooperative by an appropriate nomenclature. The books of the Cooperative shall identify the name(s) of the patron associated with the credits.

Section 9.2. Forfeiture. At any time after six years from the date of authorization for retirement or payment in cash or other property the applicable item may be forfeited by the Board of the Cooperative. The forfeiture shall be accomplished, as follows:

- a. At least six months prior to the date of forfeiture notice that such payment is available shall be mailed to the last known address of the person shown by the Cooperative's records to be entitled thereto; if the address or ownership is unknown, notice shall be published.
- b. Publication of notice shall be accomplished by publication of the notice of redemption at least once a month for four months in each of the following:
 1. A publication circulated among members of the Cooperative in the area, which may be the Cooperative's monthly newsletter, the member services billings, or in the monthly insert in "North Dakota Living", and
 2. A newspaper of general circulation in the area.

Section 9.3. Accounting. Upon forfeiture, as heretofore provided, the Cooperative shall cease to recognize the forfeited account as unclaimed and shall thereafter treat the item forfeited as contributed capital of the Cooperative. Nothing contained in this Article shall limit the Cooperative's ability to offset, at any time, from any of the described funds any amounts owed by the patron to the Cooperative.

ARTICLE X MISCELLANEOUS

Section 10.1. Seal. 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."

Section 10.2. Contracts. Except as otherwise provided in these Bylaws, the Board of Directors may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name and on behalf of the Cooperative, and such authority may be general or confined to specific instances.

Section 10.3. Execution of Checks, Drafts, or other Evidence of Indebtedness. 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 by such officers, agents or employees of the Cooperative, and in such manner, as shall from time to time be designated by resolution of the Board of Directors.

Section 10.4. Deposits. All funds of the Cooperative, except petty cash, shall be deposited from time to time to the credit of the Cooperative in such bank, banks, savings and loan associations or other investment institutions as the Board of Directors may select.

Section 10.5. Fiscal Year. 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.

Section 10.6. Area Coverage. This Cooperative shall endeavor to make adequate and dependable electric service available to all persons in the rural service areas of this Cooperative, in accordance with law, these Bylaws, and the policies, rules and regulations of this Cooperative, which may establish reasonable requirements as a condition of such service.

Rural area shall have the meaning ascribed to it by the laws of North Dakota defining service areas for electric cooperative corporations.

Section 10.7. Contract. The 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 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. The Cooperative may require that an application for electric service be executed, prior to or upon receiving electric service, providing the names, address, location of service(s), load requirements, and such other data deemed necessary by the Cooperative. A copy of the Bylaws and of all amendments thereto shall be furnished to each new member within 90 days after becoming a member and shall be furnished to any member upon request.

ARTICLE XI AMENDMENTS

Section 11.1. These Bylaws may be altered, amended or repealed by a majority of the members voting thereon at a membership meeting, provided that the number of members voting thereon must be sufficient to constitute a quorum as provided in these Bylaws, and provided that the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal or an accurate summary explanation thereof.