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## **ARTICLE I MEMBERSHIP**

### **Section 1.1 Eligibility**

Any person, firm, association, corporation or body public or subdivision thereof will become a member of Dunn Energy Cooperative (hereinafter called the "Cooperative") upon receipt of electrical service or other services (hereinafter referred to simply as "services") from the Cooperative. Membership is effective upon receipt of services; however, each member shall:

- (1) Make a written application for membership for the Cooperative's records;
- (2) Agree to purchase services from the Cooperative in accordance with established rates and regulations, as well as pay other charges for services that the member uses; and
- (3) Agree to comply with, and be bound by, the Articles of Incorporation and Bylaws of the Cooperative and any rules and regulations adopted by the Board. All memberships shall be as reflected upon the books of the Cooperative and no membership certificates will be issued. The Board may establish a membership fee on uniform terms and conditions. Any membership fee may be discontinued at any time on uniform terms and conditions.

### **Section 1.2 Membership Conditions**

(a) The Board will determine under rules of general application the types and amounts of revenue or the types and amounts of patronage that give rise to the privileges and obligations of membership.

(b) The Cooperative may have one or more classes of members to reflect the various types of services. If the Cooperative has more than one class of membership, the definitions, the types, the qualifications and rights of each class shall be determined by the Board and set forth in these bylaws.

(c) No member may hold more than one membership in the Cooperative. No membership in the Cooperative shall be transferable, except on the books of the Cooperative and as provided for in these bylaws.

(d) All memberships in the Cooperative are available only to individual persons (natural or corporate) who meet the requirements of Section 1.1. Individual memberships will be freely transferable on the books of the Cooperative between any persons in the same household or corporation upon request in writing.

### **Section 1.3 Joint Membership**

Persons living in the same household may apply for a joint membership and subject to their compliance with the requirements set forth in Section 1.1 of this Article, shall upon receipt of service be deemed joint members. The term "member" as used in these bylaws shall be deemed to include a husband and wife or other person holding a joint membership and any provisions relating to the rights and liabilities of membership shall apply to both joint members. Without limiting the generality of the foregoing, the effect of the hereinafter specified actions by or in respect of the holders of a joint membership shall be as follows:

- (a) The presence at a meeting of either or both shall be regarded as the presence of one member and shall constitute a joint waiver of notice of the meeting.
- (b) The vote of either separately or both jointly shall constitute a joint vote;
- (c) A waiver of notice signed by either or both shall constitute a joint waiver;
- (d) Notice to either shall constitute notice to both;
- (e) Expulsion of either shall terminate the joint membership;
- (f) Withdrawal of either shall terminate the joint membership;

(g) Either but not both may be elected or appointed as an officer or board member, provided that both meet the qualification for such office;

(h) The records of the Cooperative shall properly show all joint memberships in the names of the joint members. By writing, signed by both joint members and filed with the Cooperative, any joint membership may be terminated or vested solely in one of the joint members.

(i) Upon the death of either person who is party to a joint membership, such membership shall be held solely by the survivor and the records of the Cooperative shall be changed to show membership solely in the survivor; provided, however, that the estate of the deceased shall not be released from any debts due the Cooperative.

#### **Section 1.4 Membership Types**

There will be two (2) types of memberships, Class A, Electric Service Member, and Class B, Non-Electric Service Member.

(a) Class A memberships will be assigned to all members who reside and receive electric service within the Cooperative's service area. Class A members will have full voting privileges.

(b) Class B memberships will be assigned to all members who apply for any type of service other than electric service and who are not eligible for Class A memberships. Class B members will have no voting privileges.

#### **Section 1.5 Purchase of Services**

Each member shall, as soon as electric energy is available, purchase from the Cooperative all electric energy purchased for use on the property specified in the application for membership, and shall pay for such electric service at rates determined by the Board. Production or use of electric energy on the member's property, regardless of the source, by means of facilities that are interconnected with Cooperative facilities, shall be subject to appropriate regulations determined by the Board.

#### **Section 1.6 Termination of Membership**

(a) Any member may withdraw from membership upon compliance with such uniform terms and conditions as the Board may prescribe. The Board may, by the affirmative vote of not less than two-thirds (2/3) of all the members of the Board, expel any member who fails to comply with any of the provisions of the Articles of Incorporation, bylaws, or rules and regulations adopted by the Board, but only if such member shall have been given notice by the Cooperative that such failure makes such member liable to expulsion and such failure shall have continued for at least ten days after such notice was given. Any expelled member may be reinstated by vote of the Board or by vote of the members at any annual or special meeting.

(b) Upon the withdrawal, death, cessation of service or expulsion of a member, the membership of such member shall thereupon terminate and will be so recorded on the books of the Cooperative. Termination of membership in any manner shall not release a member, or the member's estate, from any debts due the Cooperative nor do unpaid bills release a member from obligations under these bylaws or rules and regulations approved by the Board.

**ARTICLE II  
RIGHTS AND LIABILITIES OF THE COOPERATIVE AND THE MEMBERS**

**Section 2.1 Nonliability 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 liable or responsible for any debts or liabilities of the Cooperative.

**Section 2.2 Property Interest of Members**

Upon dissolution, after:

- (1) All debts and liabilities of the Cooperative shall have been paid;
- (2) All capital furnished through patronage shall be retired as provided by these bylaws;

and

(3) 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 member and former member bears to the total patronage of all such members and such former members on the date of dissolution unless otherwise provided by law.

**Section 2.3 Cooperation of the Members in the Extension of Services**

As a condition of membership, each member shall execute and deliver to the Cooperative easements or rights of way on or over lands owned by the member, in accordance with such reasonable terms and conditions as the Cooperative shall require for the furnishing of electrical service to the member or other members, or for the construction, operation, maintenance or relocation of the Cooperative's electric facilities.

**ARTICLE III  
MEETINGS OF MEMBERS**

**Section 3.1 Annual Meeting**

The annual meeting of the members shall be held at a date and a place within Dunn County which shall be designated in the Notice of the Meeting for the purpose of electing Board members, 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 shall not work a forfeiture or dissolution of the Cooperative nor affect the validity of any corporate action.

**Section 3.2 Special Meetings**

Special meetings of the members may be called by resolution of the Board, or upon a written request signed by any three (3) Board members, by the president or by twenty percent (20%) 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 Dunn County as designated by the Board and as specified in the Notice of the Special Meeting.

**Section 3.3 Notice of Members' Meetings**

Written or printed notice stating the place, day and hour of the meeting and, in the case of a special meeting or an annual meeting at which business requiring special notice is to be transacted, the purpose or purposes for which the meeting is called, shall be delivered not less

than seven (7) days nor more than thirty (30) 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 U.S. Mail, addressed to the member at the address appearing on the records of the Cooperative, with postage thereon prepaid. The incidental or unintended 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. Notice need be given only to members entitled to vote.

### **Section 3.4 Quorum**

Business may not be transacted at any meeting of the members unless, there are present in person at least ten percent (10%) of the first one hundred (100) members plus an additional five percent (5%) of additional voting members, EXCEPT that in no case shall more than fifty (50) voting members nor less than five (5) members or a majority of all members, whichever is smaller be required for a quorum. Members represented by signed ballots may be counted in computing a quorum only on those motions for which the signed ballots were submitted. 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; provided that, the secretary shall notify any absent members of the time, date and place of such adjourned meeting by delivering notice thereof as provided in Section 3.3 of this Article. At all meetings of the members, whether a quorum be present or not, the secretary shall affix to the meeting minutes, or incorporate therein by reference, a list of those members who were registered as present in person.

### **Section 3.5 Voting**

Each member shall be entitled to only one vote upon each matter submitted to a vote at a meeting of the members. At all meetings of the members at which a quorum is present all questions shall be decided by a vote of a majority of the members voting thereon at such meeting except as otherwise provided by law, the Articles of Incorporation, or these bylaws. Two or more persons holding a joint membership shall jointly be entitled to one (1) vote and no more upon each matter submitted to a vote at a meeting of the members.

### **Section 3.6 Credentials and Election Committee**

The Board of Directors shall, at least ten (10) days before any meeting of the members, appoint a Credentials and Election Committee consisting of an uneven number of members, not less than five (5) nor more than fifteen (15), who are not existing directors or candidates for directors, and who are not close relatives or members of the same household of existing directors or known candidates for directors to be elected at such meeting. As used in the bylaws, "close relative" means: son, daughter, mother, father, sister, brother, spouse, stepfather, stepmother, half-sister and half-brother, by blood, by marriage or by adoption, and the spouses of any of the foregoing.

In appointing the Committee, the Board shall have regard for equitable representation of the several areas served by the Cooperative. It shall be the responsibility of the Committee to pass upon all questions that may arise with respect to the registration of members, to supervise counting all ballots cast in any election or in any other ballot vote taken, to rule upon the effect of any ballots irregularly marked, and to decide any other questions concerning balloting or elections. The Committee's decisions on all such matters shall be final.

### **Section 3.7 Order of Business**

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 conducted under policies and with an agenda established by the Board.

### **Section 3.8 Postponement of a Meeting of the Members**

In the event of inclement weather or of the occurrence of a catastrophic event, any meeting of the members may be postponed by the president. Notice of the adjourned meeting shall be given by the president in any media of general circulation or broadcast serving the area.

### **Section 3.9 Voting by Mail**

Any member who is absent from any annual or special meeting of the members may vote by mail upon any matter coming before such meeting. The secretary shall enclose with the notice of such meeting an exact copy of each motion to be acted on at the meeting; and such member shall vote by writing "yes" or "no" on each ballot in the space provided and shall enclose the ballot in a sealed envelope bearing the member's signature addressed to the secretary. Such absentee ballots shall be mailed or delivered to the Cooperative office so as to be received at the office on or before the day before the membership meeting. When such ballot is timely received by mail from an absent member it shall be counted as a vote of such absent member. If a signed ballot has been submitted on a motion, neither the motion nor any resolution to which it pertains may be amended.

Any member who is absent from a meeting at which directors are to be elected may vote for such directors by mail ballot provided the ballot is received by the Cooperative office on or before the day before the membership meeting. The failure of any absent member to receive a copy of any resolution or motion or ballot for election of director shall not invalidate any action which may be taken by the members at any meeting.

## **ARTICLE IV**

### **BOARD OF DIRECTORS**

#### **Section 4.1 General Powers**

The business and affairs of the Cooperative shall be managed by a Board of Directors consisting of nine (9) members which shall exercise all of the powers of the Cooperative except such as are by law, the Articles of Incorporation, or these bylaws conferred upon or reserved to the members.

#### **Section 4.2 Election Process and Tenure of Office**

Directors shall be elected by secret ballot. They shall be elected by and from the members to serve a three (3) year term, or until their successors shall have been elected and shall have qualified. The terms of the directors shall be staggered to insure continuity. If an election of directors shall not be held on the day designated for the annual meeting or at any adjournment thereof, a special meeting of the members shall be held for the purpose of electing directors at a reasonable time thereafter. Directors shall be nominated and elected as provided hereinafter.

#### **Section 4.3 Qualifications to be Nominated, to Become or Remain a Director**

Any Director or Director candidate must comply with this bylaw section.

- A. General Director Qualifications. To become or remain a Director, a person must comply

with or meet the following general qualifications (“General Director Qualifications”):

1. Be a Class A member;
2. Be an individual;
3. Have the capacity to enter legally binding contracts;
4. While a Director, and during the five (5) years immediately prior to becoming a Director, not be, nor have been, convicted of a felony or of any other criminal offense involving a breach of trust;
5. Unless excused for good cause by the Board, attend at least two-thirds (2/3) of all board meetings during any calendar year.
6. For at least 240 days during the prior one (1) year period, use the Cooperative’s electric service at, and occupy as a residence, a location within the Cooperative’s service area.

B. Conflict of Interest Director Qualifications. To become or remain a Director, a person must annually sign a conflict of interest certification, or complete a conflict of interest disclosure form, approved by the Board, and, while a Director and during the one (1) year immediately prior to becoming a Director, comply with or meet the following conflict of interest qualifications (“Conflict of Interest Director Qualifications”) by not being, nor having been:

1. A close relative (as defined in Section 3.6) of any existing Director, other than an existing Director who will cease being a Director within one (1) year.
2. An existing employee, or a close relative (as defined in Section 3.6) of an existing employee of the Cooperative or any entity that the Cooperative controls or in which the Cooperative owns a majority interest (“Cooperative Subsidiary”).
3. Employed by, materially affiliated with, or sharing a material financial interest with, any other Director.
4. Engaged in any business, or employed by, materially affiliated with, or having a material financial interest in any individual or entity, which sells electric energy as a principal business or competes with the Cooperative or a Cooperative Subsidiary.
5. Engaged in any business, or employed by, materially affiliated with, or having a material financial interest in any individual or entity, which sells goods or services to the Cooperative or a Cooperative Subsidiary.
6. Within the five (5) years preceding election or appointment was a paid regular employee of the Cooperative, a Cooperative Subsidiary, another energy cooperative or other electric energy company.
7. While a Director, or within the five (5) years preceding election or appointment, was a party to litigation against the Cooperative, a Cooperative Subsidiary or any directors, officers or employees of the Cooperative or a Cooperative Subsidiary.

C. Joint Members. When a membership is held jointly, one of the joint members, but not more than one, may be appointed or elected a Director, provided, however, that such person shall not be eligible to become or remain a Director unless all joint members shall meet the qualifications set forth in this section.

D. Director Disqualification. Only persons complying with or meeting the General Director Qualifications and Conflict of Interest Director Qualifications (collectively, "Director Qualifications") may become or remain a Director.

After being elected or appointed, if any Director fails to comply with or meet any Director Qualifications, then, unless otherwise determined by the Board for good cause, the Board may disqualify the Director and the person is no longer a Director:

1. If the Board notifies the Director in writing of the basis for, and provides the Director an opportunity to comment regarding, the Board's proposed disqualification; and
2. Within thirty (30) days after the Board notifies the Director of the proposed disqualification, the Director neither complies with nor meets the Director Qualification.

If at least a majority of Directors authorized by these Bylaws comply with and meet the Director Qualifications and approve a Board action, then the failure of any Director to comply with or meet the Director Qualifications does not affect the Board action.

#### **Section 4.4 Nominations**

It shall be the duty of the Board to appoint, not less than forty (40) days nor more than ninety (90) days before the date of a meeting of the members at which Board members are to be elected, a committee on nominations consisting of (9) members who shall be selected from different geographic areas so as to ensure equitable representation. At least one (1) member of the committee shall be selected from each geographic area where a director is to be elected. No member of the Board, close relative (as defined by Section 3.6) of a Board member or employee may serve on such committee. Prior to the first meeting of the nominating committee, notice shall be given to members in each area from which a director is to be elected that the nominating committee has been selected and such notice shall describe the nominating process. The committee, keeping in mind the principle of equitable representation, shall prepare and post at the principal office of the Cooperative at least forty (40) days before the meeting, a list of nominations for Board members which shall include at least two (2) as nominees for each Board position for which a director is to be elected. The secretary shall be responsible for mailing, at least thirty-five (35) days before the date of the meeting, a statement of the number of Board members to be elected and the names and addresses of the candidates nominated by the committee on nominations. Any twenty-five (25) or more members acting together may make other nominations by petition and the secretary shall post such nominations at the same place where the list of nominations made by the committee is posted. Nominations made by petition, if any, received at least twenty-five (25) days before the meeting shall be included on the official ballot.

#### **Section 4.5 Election of Directors**

Elections of directors shall be by a form of printed ballot. Each Class A member of the Cooperative shall be entitled to vote for one (1) candidate from each geographic area from which a director is to be elected or on any issue before the meeting. The candidate from each geographic area from which a director is to be elected receiving the plurality of votes cast for that office at such meeting shall be declared elected as director. Failure of an election for a given year shall

allow the incumbent directors whose directorships would have been voted on to hold over only until the next member meeting at which a quorum is present.

#### **Section 4.6 Removal of Board Member by Members and Resignations**

Any member may bring charges, relating to the duties and responsibilities as director, against a Board member and, by filing with the secretary such charges in writing together with a petition signed by at least ten percent (10%) of the members, or two hundred (200), whichever is the lesser, may request the removal of such Board member by reason thereof. Such Board member shall be informed in writing of the charges at least ten (10) days prior to the meeting of the members at which charges are to be considered and shall have an opportunity at the meeting to be heard in person or by counsel to present evidence in respect to the charges; and the person or persons bringing the charges against him shall have the same opportunity. The question of the removal of such Board member shall be considered and voted upon at the meeting of the members. No director shall be removed from office unless by a vote of two-thirds (2/3) of the members present. Any vacancy created by such removal may be filled by vote of the members at such meeting without compliance with the foregoing provisions with respect to nominations.

A director may resign at any time by written notice delivered to the Board of Directors, the president or secretary of the Cooperative. A resignation is effective when the notice is delivered unless the notice specifies a future date. The pending vacancy may be filled before the effective date but the successor shall not take office until the effective date.

#### **Section 4.7 Vacancies**

Subject to the provisions of these bylaws with respect to the filling of vacancies caused by the removal of Board members by the members, a vacancy occurring in the Board shall be filled by the affirmative vote of a majority of the remaining Board members for the unexpired portion of the term, provided, however, that in the event the vacancy is not filled by the Board within sixty (60) days after the vacancy occurs, the members shall have the right to fill such vacancy at a meeting of the members without compliance with the foregoing provisions in respect to nominations. However, any successor, whether chosen by the Board or the members, must reside in the same district as the vacant directorship and have the same qualifications for office as set forth in Section 4.3.

#### **Section 4.8 Compensation**

Board members shall, as determined by resolution of the Board, receive a fixed sum for each day or portion thereof spent on Cooperative business, such as attendance at meetings, conferences and training programs or performing committee assignments when authorized by the Board. If authorized by the Board, Board members may also be reimbursed for expenses actually and necessarily incurred in carrying out such Cooperative business or granted a reasonable per diem allowance by the Board in lieu of detailed accounting for some of these expenses. Board members, who elect to participate, may be extended various forms of liability and accident insurance as well as participation in benefits provided to employees except for benefits based on salary. No Board member shall receive compensation for serving the Cooperative in any other capacity, nor shall any close relative (as defined in Section 3.6) of a Board member 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 the Board member or the close relative shall have been certified by the Board as an emergency measure.

#### **Section 4.9 Limitation on Terms**

No director shall serve more than four (4) consecutive three (3) year terms.

### **ARTICLE V**

#### **MEETINGS OF THE BOARD**

##### **Section 5.1 Regular Meetings**

A regular meeting of the Board shall be held, without notice, immediately after, and at the same place as, the Annual Meeting of the members. Regular meetings of the Board shall be held at such times and places as designated by the Board. Regular meetings may be held without notice other than such resolution fixing the time and place thereof. Unless specifically prohibited by law, meetings, regular or special, may be conducted through the use of conference telephone or other telecommunications equipment by means of which all persons participating in the meetings can communicate with each other. Such participation will constitute attendance and presence in person at the meeting of the persons so participating.

##### **Section 5.2 Special Meetings**

Special meetings of the Board may be called by the president or any three (3) Board members, and it shall thereupon be the duty of the secretary to cause notice of such meeting to be given as hereinafter provided. The president or Board members calling the meeting shall fix the time and place for holding the meeting.

##### **Section 5.3 Notice of Board Meetings**

Written notice of the time, place (or telecommunications means) and purpose of any special meeting of the Board shall be delivered to each Board member either personally or by mail, or at the direction of the secretary, or upon default in duty by the secretary, by the president or one of the Board members calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. Mail, addressed to the Board member at the Board member's address as it appears on the records of the Cooperative, with first-class postage thereon prepaid, at least five (5) days before the date set for the meeting.

##### **Section 5.4 Quorum**

A majority of the Board shall constitute a quorum, provided, that, if less than a majority of the Board is present at a meeting, a majority of the Board present may adjourn the meeting from time to time, and provided further, that the secretary shall notify any absent Board members of the time and place of such adjourned meeting. The act of a majority of the Board members present and voting at a meeting of which a quorum is present shall be the act of the Board, except as otherwise provided in these bylaws or by the parliamentary procedure or special rules adopted by the Cooperative.

##### **Section 5.5 Unanimous Consent in Writing**

Unless otherwise prohibited by law, Board actions may be taken without a meeting and without a vote if unanimous consent of the Board is obtained in writing setting forth the action taken in detail and the document is signed by all Board members entitled to vote on such action.

## **ARTICLE VI OFFICERS**

### **Section 6.1 Number and Titles**

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

### **Section 6.2 Election and Term of Office**

The officers shall be elected by ballot, if there is a contest, and if not, by voice or any other method designated by the person presiding. They shall be elected annually by and from the Board, at the meeting of the Board held immediately after the Annual Meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until the first meeting of the Board following the next succeeding Annual Meeting of the members, or until a successor shall have been elected and shall have qualified. Except as otherwise provided in these bylaws, a vacancy in any office shall be filled by the Board for the unexpired portion of the term.

### **Section 6.3 Removal of Officers and Agents by the Board**

Any officer or agent elected or appointed by the Board may be removed by the Board for cause related to the duties and responsibilities of the position whenever in the Board's judgment the best interests of the Cooperative will be served thereby. The person against whom such charges have been brought shall be informed in writing of the charges at least ten (10) days prior to the Board 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 bringing the charges shall have the same opportunity.

### **Section 6.4 President**

The president shall:

(1) Be the principal executive officer of the Cooperative and unless otherwise determined by the members of the Board, shall preside at all meetings of the members and the Board;

(2) Sign any deeds, mortgages, deeds of trust, notes, bonds, contracts, or other documents authorized by the Board to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the Board, 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

(3) In general perform all duties incident to the Office of the President and such other duties as may be prescribed by the Board from time to time. Section 6.5 Vice President

In the absence of the president, or in the event of the president's 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 by the Board.

### **Section 6.6 Secretary**

The secretary shall be responsible for:

(1) Keeping the minutes of the meetings of the members and of the Board in books prepared for that purpose;

(2) Seeing that all notices are duly given in accordance with these bylaws or as required by law;

(3) The safekeeping of the corporate books and records and the Seal of the Cooperative and affixing the Seal of the Cooperative 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;

(4) Keeping a register of the names and post office addresses of all members;

(5) Keeping on file at all times a complete copy of the Articles of Incorporation and bylaws of the Cooperative containing all amendments thereto and at the expense of the Cooperative, furnishing a copy of these bylaws and of all amendments thereto to each member; and

(6) In general performing all duties incident to the Office of Secretary and such other duties as from time to time may be assigned by the Board.

### **Section 6.7 Treasurer**

The treasurer shall be responsible for:

(1) Custody of all funds and securities of the Cooperative;

(2) The receipt of and the issuance of receipts for all monies due and payable to the Cooperative and for the deposit of all such monies in the name of the Cooperative in such bank or banks as shall be selected in accordance with the provisions of these bylaws; provided, however, that the treasurer shall have authority, with the approval of the Board, to delegate to the general manager the authority to appoint employees of the Cooperative to actually carry out the responsibilities set forth in this Section; and

(3) The general performance of all the duties incident to the Office of the Treasurer and such other duties as from time to time may be assigned by the Board; provided, however, with respect to the duties of the treasurer, the Cooperative shall indemnify and hold the treasurer harmless against any and all losses, claims and/or damages which may be asserted against the treasurer, in the official capacity of treasurer, unless such claim is a result of an act personally committed or omitted by the treasurer resulting in loss to the Cooperative.

### **Section 6.8 General Manager**

The Board may appoint a general manager, who may be, but who shall not be required to be, a member of the Cooperative. The general manager shall perform such duties as the Board may from time to time require and shall have such authority as the Board may from time to time determine.

### **Section 6.9 Bonds**

The Board may require the treasurer and any other officer, agent or employee 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 shall determine. The Board 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 costs of all such bonds shall be borne by the Cooperative.

### **Section 6.10 Compensation**

The powers, duties and compensation of officers, agents and employees shall be fixed or approved by the Board, subject to the provisions of these bylaws with respect to compensation for close relatives of directors.

### **Section 6.11 Reports**

The officers of the Cooperative shall submit at each Annual Meeting of the members reports covering the business of the Cooperative for the previous fiscal year. Such reports shall set forth the condition of the Cooperative at the close of such fiscal year.

## **ARTICLE VII**

### **INDEMNIFICATION OF OFFICERS, BOARD MEMBERS, EMPLOYEES AND AGENTS**

#### **Section 7.1 Scope of Indemnification**

The Cooperative shall indemnify any person who was or is a party, or is threatened to be made a part to any threatened, pending, or completed action, suit or proceeding (other than an action by, or in the right of the Cooperative) by reason of the fact that such person is or was a board member, officer, employee or agent of the Cooperative or who is or was serving at the request of the Cooperative as a board member, officer, employee or agent of another cooperative, association, corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees) adjustments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding; provided such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the Cooperative, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon pleas of nolo contendere or its equivalent, shall not, of itself, create a presumption that indemnification of the director or officer is not required.

#### **Section 7.2 Indemnification for Good Faith Action**

The Cooperative shall indemnify any person who was or is a party, or is threatened to be made a part to, any threatened, pending or completed action or suit by, or in the right of, the Cooperative to procure a judgment in its favor by reason of the fact that such person is, or was, a Board member, officer, employee or agent of the Cooperative, or is, or was, serving at the request of the Cooperative as a Board member, officer, employee or agent of another cooperative, association, corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit, if such person acted in good faith, and in a manner such person reasonably believed to be in or not opposed to the best interests of the Cooperative. No indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of the duty of such person to the Cooperative, unless, and only to the extent that the Court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity of such expenses as the court shall deem proper.

#### **Section 7.3 Cost of Defense Indemnified**

To the extent that a Board member, officer, employee or agent of the Cooperative has been successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to in Sections 7.1 and 7.2, in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by such person in connection therewith.

#### **Section 7.4 Amount of Indemnification**

Any indemnification under Sections 7.1 and 7.2 (unless ordered by a court) shall be made by the Cooperative only as authorized in the specific case, upon a determination that indemnification of the Board member, officer, employee or agent is proper in the circumstances because such person has met the applicable standard of conduct set forth in Sections 7.1 and 7.2. Such determination shall be made:

- (1) By the Board by a majority vote of a quorum consisting of board members who were not parties to such action, suit or proceedings; or
- (2) If such a quorum is not obtainable, or even if obtainable, if a quorum of disinterested Board members so directs, by independent legal counsel in a written opinion; or
- (3) By the members.

#### **Section 7.5 Expenses Advanced**

Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Cooperative in advance of the final disposition of such action, suit or proceeding, as authorized by the Board in the specific case, upon receipt of a firm commitment by or on behalf of the Board member, officer, employee or agent to repay such amount, unless it shall ultimately be determined that he is entitled to be indemnified by the Cooperative as authorized in this Article.

#### **Section 7.6 Rights of Persons Indemnified**

The indemnification provided in this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of members or disinterested Board members, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Board member, officer, employee or agent, and shall inure to the benefit of the heirs, executors and administrators of such a person.

#### **Section 7.7 Insurance Coverage**

The Cooperative may purchase and maintain insurance on behalf of any person who is or was a Board member, officer, employee or agent of the Cooperative, or who is or was serving at the request of the Cooperative as a Board member, officer, employee or agent of another cooperative, association, corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of status of such person as such, whether or not the Cooperative would have the power to indemnify such person against such liability under the provisions of this Article.

### **ARTICLE VIII**

#### **REVENUES AND RECEIPTS**

##### **Section 8.1 Interest or Dividends on Capital Prohibited**

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 8.2 Patronage Capital**

(a) **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 within a particular business classification for all amounts received and receivable from the furnishing of electric energy to patrons within such classification in excess of operating costs and expenses properly chargeable against the furnishing of electric energy to patrons within such classification. Subject to the provisions hereof relating to adjustments between and among classes of business, 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 patrons as capital. Subject to the provisions hereof relating to adjustments between and among classes of business, the Cooperative is obligated to pay as 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 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 such patron's class of business and to such patron's 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 of capital.

All other amounts received by the Cooperative from its operations in excess of costs and expenses shall, insofar as permitted by law, be apportioned among the various classes of business on a total patronage basis and shall 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 within such business classifications on a patronage basis any amount so allocated shall be included as part of the capital credited to the accounts of patrons, as herein provided.

**(b) Patronage Refunds in Connection with Furnishing Other Service.** In the event that the Cooperative should engage to a substantial extent in the business of furnishing goods or services other than electric energy, all amounts received and receivable therefrom which are in excess of costs and expenses properly chargeable against the furnishing of such goods and services shall, insofar as permitted by law, be prorated annually on a patronage basis and returned or allocated to those patrons, members or non-members alike, from whom such amounts were obtained. Any such business and amount received or receivable therefrom may be classified and paid in the same manner or classification and payment of capital credits arising from furnishing electrical energy.

**(c) Classification of Business.** With respect to the furnishing of electric energy, and the allocation of capital credits in connection therewith, the board may classify the business done by the Cooperative with all of its patrons into classes of business and patronage. Such classifications shall be based on factors relating to the cost of rendering service and the rates lawfully chargeable in connection therewith in accordance with reasonable accounting, engineering and utility standards and practice. The board may apply to such classes of business formulas designed to equitably determine for each class so established any amounts paid by patrons within such class in excess of the costs of service for such class. In developing such formulas and in determining the respective amounts of capital so furnished by all patrons within such classes the board shall give regard to the level of capital contributed by each such class of business during the current or any prior fiscal year so as to equitably adjust the aggregate capital accounts between and among classes of business. If the receipts from every class of business in any year exceed the costs and expenses allocable and chargeable thereto, then the excess of receipts over expenses for each class of business shall be allocable to each such class as capital credits to

patrons within each such class on a dollar patronage basis. If, however, the costs and expenses chargeable or allocable against any one or more classes of business exceed the receipts from all patrons within such class or classes of business, then such deficit shall be charged against the patronage margins otherwise assignable to any remaining class or classes of business, on a dollar volume patronage business, so that in no year shall there be credited to patrons as patronage capital an amount greater than the excess of receipts from all patrons over the costs and expenses of doing business with all patrons. All patronage margins contributed by patrons within a given class of business shall be assigned to such patrons on a dollar volume basis of patronage, but no patronage capital shall be deemed to have been contributed by, or shall be allocated to, any patron within any class of business, if the receipts from all patrons within such class do not exceed the costs and expenses chargeable or allocable to such class. In the event patronage from any patron falls into two or more classes of business, capital credits assigned to such patron shall be the net amount of the capital credits determined after debiting and crediting such patron's account with all patronage debits and credits from all such classes of business.

**(d) Retirement of Patronage Capital on Dissolution or Liquidation or Prior Thereto on Revolving Basis.** In the event of dissolution or liquidation of the Cooperative, all outstanding capital credits shall be retired without priority on a prorata 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 shall not be impaired thereby, the capital then credited to patrons accounts may be retired in full or in part. The Board of Directors shall determine under rules of general application the method, basis, priority and order of retirement, if any, for all amounts theretofore or thereafter furnished as capital.

**(e) Assignment of Patronage Capital.** Except as otherwise specifically provided in these bylaws, 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.

**(f) Prior Retirement to Estates of Deceased Patrons.** 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 was a natural person, if the legal representatives of the patron's estate shall request in writing that the capital credits of any such patron be retired prior to the time such capital would otherwise be retired under the provisions of these bylaws, to retire capital credits 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 upon; provided, however, that the financial condition of the Cooperative will not be impaired thereby. The Board is authorized, but not required, to provide for prior retirements to surviving joint member patrons and to heirs of deceased patrons on the same basis as retirements hereunder may be made to estates of deceased patrons.

**(g) Security Interest in Patronage Capital.** The Cooperative shall have a continuing security interest and right of setoff in the patronage capital allocated and credited to any patron for any indebtedness due and owing from such patron to the Cooperative. The patron shall execute such documents as the Cooperative may request to create and perfect this security interest. The rights of the Cooperative under the security interest and right of setoff hereby granted may be exercised without notice in the event of the default in payment by the patron of the patron's obligations, or in the event of the bankruptcy of the patron, any such indebtedness of the patron

shall be subtracted from the capital allocated and credited to the patron in any retirement thereof made hereunder to said patron or to such patron's estate, heirs or surviving joint member.

### **Section 8.3 Forfeiture of Unclaimed Funds.**

(a) The Cooperative shall effect the forfeiture of all unclaimed funds, including all forms of distributions or capital credits, membership fees, deposits, and dividends, and shall do the following in connection therewith:

(1) No earlier than three years and no later than five years after the funds are first made available to the owners, the Board of Directors shall declare the funds forfeited to the Cooperative unless claimed by a specified date.

(2) After the declaration of forfeiture, the Cooperative shall give notice in a newspaper published in the municipality containing the service area of the Cooperative that states that the funds shall be forfeited if not claimed by the specified date, which date shall be a business day at least sixty days after the publication of the notice.

(3) The Cooperative shall dedicate any funds remaining unclaimed after the date specified in paragraph (2) to educational purposes, limited to providing scholarships or loans to students, or to charitable purposes as the Board of Directors determines, within one year after the date the funds are declared forfeited under paragraph (1). Educational purposes shall not include political purposes as defined in Section 11.01(16), Wisconsin Statutes.

(b) At any time subsequent to a forfeiture under this bylaw, the owner of forfeited funds may submit a claim to the Board of Directors and if the Board determines that the person owned the funds at the time of the forfeiture, it shall refund the funds to the person. These refunds shall be deducted when the next unclaimed funds are dedicated.

(c) The Board of Directors may establish a reasonable reserve for payment of claims, which reserve shall be credited to patrons in accordance with the ratio which their patronage bears to total patronage. This reserve shall be reimbursed for claims charged thereto, out of funds subsequently declared forfeited.

(d) All funds except petty cash 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 may select. Nothing herein shall be deemed to prohibit the board from extending loans to members for energy conservation or any other proper purposes in the interest of the Cooperative.

## **ARTICLE IX DISPOSITION OF PROPERTY**

The Cooperative may not sell, lease or otherwise dispose of more than ten percent (10%) of the value of all of its property unless such sale, lease or other disposition is authorized at a meeting of the members by the vote of not less than two-thirds (2/3) of all the members of the Cooperative, and unless notice of such proposed sale, lease or other disposition shall have been contained in the notice of the meeting; provided, however, that the Board, without authorization of the members, shall have full power and authority to authorize the execution and delivery of a mortgage or mortgages or the pledging or encumbering of any portion or all of the property, assets, rights, privileges, licenses, franchises and permits of the Cooperative, whether acquired or to be acquired, and wherever situated, as well as the income and revenues therefrom, all on such terms as the Board shall determine in order to secure the indebtedness of the Cooperative; provided further, that the Board may, upon authorization of a majority of those members of the

Cooperative present at a meeting of the members, sell, lease, merge with or otherwise dispose of all or a substantial portion of the property of the Cooperative to another rural electrical Cooperative doing business in this state.

## **ARTICLE X FINANCIAL TRANSACTIONS**

### **Section 10.1 Contracts**

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

### **Section 10.2 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 by such officer or officers, agent or agents, employee or employees of the Cooperative and in such manner, as shall from time to time be determined by resolution of the Board.

### **Section 10.3 Deposits**

All the funds of the Cooperative shall be deposited from time to time to the credit of the Cooperative in such institutions as the Board may select.

### **Section 10.4 Rules, Regulations, Rate Schedules and Contracts**

The Board of Directors shall have power to make, adopt, amend, abolish and promulgate such rules, regulations, rate classifications, rate schedules, contracts, security deposits and any other types of deposits, payments or charges, including contributions in aid of construction, not inconsistent with law or the Articles of Incorporation or bylaws, as it may deem advisable for the management, administration and regulation of the business and affairs of the Cooperative or cause such to be submitted for any appropriate governmental regulatory approval. Further, the Board of Directors may constitute itself into committees for the purpose of studying and making recommendations to the full Board in the course of its decisional processes.

### **Section 10.5 Accounting Systems 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 summary of the Cooperative's financial operations and conditions 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.

## **ARTICLE XI MISCELLANEOUS**

### **Section 11.1 Membership in Other Organizations**

The Cooperative may become a member, purchase stock or invest in other profit or non-profit organizations, corporations, associations, partnerships or joint ventures.

**Section 11.2 Waiver of Notice**

Any member or director may waive in writing any notice of a meeting required to be given by these bylaws. The attendance of a member or director at any meeting shall constitute a waiver of notice of such meeting by such member or director, except in case a member or director shall attend a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting has not been lawfully called or convened.

**Section 11.3 Rules and Regulations**

The Board shall have power to make and adopt such rules and regulations, not inconsistent with law, the Articles of Incorporation or these bylaws, as it may deem advisable for the management of the business and the affairs of the Cooperative.

**Section 11.4 Corporate Seal**

The corporate seal of the Cooperative shall be in the form of a circle and shall include the name of the Cooperative and the words "Corporate Seal-Wisconsin".

**Section 11.5 REC News Subscriptions**

The Board is authorized, in the name and on behalf of each member of the Cooperative, to subscribe to the REC News (or any successor publication thereto) and to pay the cost of such subscriptions as an expense of the Cooperative.

**ARTICLE XII  
AMENDMENTS**

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