

PREAMBLE

The aim of Capital Electric Cooperative, Inc. (hereinafter called the "Cooperative") is to make electric energy available to all of its members at the lowest cost consistent with sound economic management.

BY-LAWS

ARTICLE I

MEMBERSHIP

Section 1. Requirements for Membership. Any person, firm, association, corporation, or body politic or subdivision thereof will become a member of Capital Electric Cooperative, Inc., (hereinafter called the "Cooperative") upon receipt of electric service from the Cooperative, provided that applicant has first:

- (a) Made a written application for membership therein;
- (b) Agreed to purchase from the Cooperative electric energy as hereinafter specified;
- (c) Agreed to comply with and be bound by the Articles of Incorporation, By-laws of the Cooperative and any policies, 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 By-laws.

Section 2. Evidence of Membership. Membership in this Cooperative shall be evidenced by purchase of and payment for electric service from the Cooperative, and by becoming listed on the books of the Cooperative as a member.

Section 3. Joint Membership. Married persons occupying the same service location may apply for a joint membership and, subject to their compliance with the requirements set forth in Section 1 of this Article, may be accepted for such membership. The term "member" as used in these By-laws shall be deemed to include married persons holding a joint membership, and any provisions relating to the rights and liabilities of membership shall apply equally to the holders of a joint membership. Without limiting the generality of the foregoing, the effect of the hereinafter specified actions by or in respect to the holders of a joint membership is as follows:

- (a) The presence at the meeting of either or both shall be regarded as the presence of one member and shall have the effect of constituting a joint waiver of notice of the meeting;
- (b) The vote of either separately or both jointly shall constitute one 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 spouse, but not both, may be elected or appointed as an officer or director, provided that the member meets the qualifications for such office.

Section 4. Conversion of Membership.

- (a) A membership may be converted to a joint membership upon the written request of the holder thereof and the agreement by such holder and his or her spouse to comply with the Articles of Incorporation, By-laws, policies, rules and regulations adopted by the Board of Directors, as hereinafter provided.
- (b) Upon the death of either spouse who is a party to the joint membership, such membership shall be held solely by the survivor, provided, however, that the estate of the deceased joint member shall not be released from any debts due to the Cooperative.
- (c) Upon the divorce of the parties of a joint membership, and notice of such divorce to the cooperative, such membership shall be held solely by the one who continues to purchase electric service from the Cooperative at the same place of service, provided, however, that the former joint member spouse shall not be released from any debts due to the Cooperative prior to the notification to the Cooperative of the divorce. Capital credits allocated prior to the divorce shall be divided as set forth in the Judgment of Divorce. If the divorce judgment is silent, the allocated capital credits shall be divided equally between the joint members.

Section 5. Service Deposits and Deductions. The Board of Directors may require a charge for each service connection, extension or other available service, pursuant to reasonable rules, regulations and policies adopted by the Board. Before any funds are paid by the Cooperative to a member or former member, the amount of any debts owing from the member or former member to the Cooperative shall be deducted there from.

Section 6. Purchase of Electric Energy. Each member shall, as soon as electric energy shall be available, purchase from the Cooperative electric energy used on the premises and shall pay therefore at monthly rates which shall from time to time be fixed by the Board of Directors, provided, however, that the Board of Directors may limit the amount of electric energy which the Cooperative shall be required to furnish to any one member. Each member shall pay to the Cooperative such minimum amount per month, regardless of the amount of electric energy consumed, as shall be fixed by the Board of Directors from time to time. Each member shall also pay all amounts owed by the member to the Cooperative when the same shall become due and payable.

Section 7. Termination of Membership.

- (a) Membership in this Cooperative shall automatically terminate when the member ceases to purchase and maintain electric service from the Cooperative.
- (b) The death of an individual human member shall automatically terminate the membership, except that upon the death of either spouse of a joint membership, the membership and allocated capital credits shall be held solely by the survivor.

- (c) The cessation of the legal existence of any other type of membership shall automatically terminate such membership, provided, that upon dissolution of a partnership, LLC or company, such membership and allocated capital credits shall be held by the remaining partner or partners, members or shareholders, as identified to the Cooperative by appropriate entity action.
- (d) A member may withdraw from membership upon compliance with such terms and conditions as the Board of Directors may prescribe.
- (e) The Board may, by the affirmative vote of not less than two-thirds of all the members of the Board of Directors, expel any member who fails to comply with any of the provisions of the Articles of Incorporation, By-laws, rules, policies or regulations adopted by the Board of Directors (regardless of whether or not such member continues to purchase electric service from the Cooperative), but only if such member has been given written notice by the Cooperative that such failure makes the member liable to expulsion and such failure shall have continued for at least ten days after such notice was given. An expelled member may again become a member only by reinstatement by a majority vote of the Board or by majority vote of the members at any annual or special meeting.
- (f) Upon the termination in any manner of a membership, the member shall be entitled to a refund of any refundable deposits still held by the Cooperative, less any amounts due to the Cooperative; but neither the member nor the member's estate shall be released from any debts then remaining due the Cooperative.

ARTICLE II

RIGHTS AND LIABILITIES OF MEMBERS

Section 1. Property Interest of Members. Upon dissolution, after (a) all debts and liabilities of the Cooperative have been paid, and (b) all capital furnished through patronage is retired as provided in these By-laws, the remaining property and assets of this Cooperative shall be distributed among members and former members within the twenty years preceding such dissolution in the proportion which the aggregate patronage of each bears to the total patronage of all members within the twenty years preceding such dissolution, unless otherwise provided by law.

Section 2. Nonliability for Debts of the Cooperative. The private property of the members shall be exempt from the execution or other liability for the debts of the Cooperative and no member shall be individually liable for or responsible for any debts or liabilities of the Cooperative.

ARTICLE III

MEETINGS OF MEMBERS

Section 1. Annual Meeting. The annual meeting of the members shall be held each calendar year at such time and place in the County of Burleigh or the southern ten townships of Sheridan County, State of North Dakota, as shall be designated in the notice of meeting for the purpose of electing directors, passing upon reports for the previous year and transacting such other

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

Section 2. Special Meetings. Special meetings of the members may be called by resolution of the Board of Directors, or upon a written request signed by any three directors, by the President, or by ten percent 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 County of Burleigh or the southern ten townships of Sheridan County, State of North Dakota, as specified in the notice of the special meeting.

Section 3. Notice of Members' Meeting. Written, printed, or electronic notice stating the place, date and hour of the meeting, and in case of a special meeting or an annual meeting at which business other than that listed in Section 3 of this Article is to be transacted, the purpose or purposes for which the meeting is called, shall be delivered not less than ten days nor more than thirty days before the date of the meeting, either personally, by mail or electronically, by or at the direction of the Secretary, or upon a default in duty by the Secretary, by the persons calling the meeting, to each member. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at the address as it appears on the records of the Cooperative, with postage thereon prepaid. Electronic notice shall be deemed to be delivered when sent to the member at the electronic address as it appears on the records of the Cooperative. In case of a joint membership, notice given to either spouse shall be deemed notice to both. 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.

Section 4. Quorum. Seventy-five members shall constitute a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice, provided, however, that the Secretary shall notify any absent members of the date, time and place of such adjourned meeting if such adjournment shall be to another calendar day.

Section 5. Voting.

- (a) Each member shall be entitled to one vote and no more upon each matter submitted to a vote.
- (b) All questions will be decided by vote of a majority of the members voting thereon, except as otherwise provided by law, the Articles of Incorporation, or these By-laws.
- (c) Where married persons hold a joint membership, they shall be jointly entitled to one vote and no more upon each matter submitted to a vote. The vote of either separately, or both jointly, shall constitute one joint vote.
- (d) Signed ballots may be used when specifically authorized by resolution of the Board of Directors. When so authorized, signed ballots 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, except as provided in paragraph (f) below.

- (f) A member who is other than a natural person may be represented by any of its principal officers. If a member who is other than a natural person is not represented by any of its principal officers, such member may designate a natural person to represent it by giving the Cooperative a written notice at or before the member meeting, which identifies the named representative authorized by the managing board of such member to represent it at the meeting of the Cooperative. An individual may represent only one non-natural member at a meeting of the members, and may also vote as an individual if the individual is also a member.

Section 6. 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. 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. Determine the existence of a quorum;
2. Read the notice of the meeting and proof of service of notice thereof, or the waiver or waivers of notice of the meeting, as the case may be;
3. Read unapproved minutes of previous meetings of the members and the taking of necessary action thereon;
4. Presentation and consideration of, and acting upon, reports of officers, directors, and committees;
5. Election of directors;
6. Unfinished business;
7. New Business; and
8. Adjournments.

Section 7. Voting Districts. The territory served or to be served by the Cooperative shall be divided into three (3) districts: one to be called "District 1," one to be called "District 2," and one to be called "District 3," to be defined as follows:

DISTRICT 1		
Township 139-75	Driscoll	Burleigh County
Township 139-76	Sterling	Burleigh County
Township 139-77	McKenzie	Burleigh County
Township 138-75	Thelma	Burleigh County
Township 138-76	Taft	Burleigh County
Township 138-77	Logan	Burleigh County
Township 138-78	Boyd	Burleigh County
Township 138-79	Apple Creek	Burleigh County
Township 138-80	Lincoln	Burleigh County

Township 137-75	Wild Rose	Burleigh County
Township 137-76	Long Lake	Burleigh County
Township 137-77	Morton	Burleigh County
Township 137-78	Telfer	Burleigh County
Township 137-79	Missouri	Burleigh County
Township 137-80	Fort Rice	Burleigh County
Township 136-76	Dana	Emmons County
Township 136-77	Buchanan Valley	Emmons County
Township 136-78		Emmons County
Township 136-79		Emmons County

DISTRICT 2

Township 146-74	Goodrich	Sheridan County
Township 146-75	Denhoff	Sheridan County
Township 145-74	Mauch	Sheridan County
Township 145-75	Sperry	Sheridan County
Township 144-75	Hazel Grove	Burleigh County
Township 144-76	Florence Lake	Burleigh County
Township 143-75	Phoenix	Burleigh County
Township 143-76	Richmond	Burleigh County
Township 142-75	Harriet	Burleigh County
Township 142-76	Wing	Burleigh County
Township 142-77	Rock Hill	Burleigh County
Township 141-75	Lein	Burleigh County
Township 141-76	Lyman	Burleigh County
Township 141-77	Trygg	Burleigh County
Township 140-75	Clear Lake	Burleigh County
Township 140-76	Christiana	Burleigh County
Township 140-77	Sibley Butte	Burleigh County
Township 140-78	Frances	Burleigh County
Township 140-79	Naughton	Burleigh County
Township 139-78	Menoken	Burleigh County
Township 139-79	Gibbs	Burleigh County
Township 139-80 (East ½)	Hay Creek	Burleigh County

DISTRICT 3

Township 146-76	Lamont	Sheridan County
Township 146-77	McClusky	Sheridan County
Township 146-78	Pickard	Sheridan County
Township 145-76	Whittake	Sheridan County
Township 145-77	John's Lake	Sheridan County
Township 145-78	Edgemont	Sheridan County
Township 144-77	Schrunk	Burleigh County
Township 144-78	Steiber	Burleigh County
Township 144-79	Wilson	Burleigh County
Township 143-77	Canfield	Burleigh County
Township 143-78	Estherville	Burleigh County
Township 143-79	Grass Lake	Burleigh County
Township 142-78	Ghylin	Burleigh County
Township 142-79	Ecklund	Burleigh County

Township 142-80	Painted Woods	Burleigh County
Township 142-81	Painted Woods	Burleigh County
Township 141-78	Cromwell	Burleigh County
Township 141-79	Crofte	Burleigh County
Township 141-80	Glenview	Burleigh County
Township 141-81	Riverview	Burleigh County
Township 140-80	Burnt Creek	Burleigh County
Township 140-81	Riverview	Burleigh County
Township 139-80 (West ½)	Hay Creek	Burleigh County
Township 139-81	Hay Creek	Burleigh County

ARTICLE IV

DIRECTORS

Section 1. General Powers. The business and affairs of the Cooperative shall be managed by a board of nine directors which shall exercise all of the powers of the Cooperative except such as are by law, by the Articles of Incorporation or by these By-laws conferred upon or reserved to the members.

Section 2. Qualifications and Tenure. To be eligible to become or remain a director or to hold any position of trust in the Cooperative, the director or director candidate:

- (a) must be a member of the cooperative, receiving power from the Cooperative at the member's place of residence, which residence must be located in the director district in which the director represents or is seeking to represent; and
- (b) shall not be employed by, or financially interested in a competing enterprise or a business selling electric energy or supplies; or be employed by, or financially interested in, a business primarily engaged in selling electrical fixtures or supplies to the Cooperative or members of the Cooperative; and
- (c) may not be currently employed, or employed by the Cooperative in the preceding 3 years.

Upon establishment of the fact that a director is holding office in violation of any of the foregoing provisions, it shall immediately become incumbent upon the director to resign or the Board of Directors to remove such director from office.

Nothing contained in this section shall affect in any matter 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 3. Nominations and Elections.

- (a) Committee of Nominations: It shall be the duty of the Board of Directors to appoint, not less than sixty days nor more than one-hundred-twenty days before the date of the meeting of the members at which directors are to be elected, a committee on nominations consisting of not more than eleven members who shall be selected from

each of the districts so as to insure equitable representation. No member of the Board of Directors may serve on such a committee. The committee shall prepare and post at the principal office of the Cooperative at least thirty-five days before the meeting a list of nominations for directors. It is recommended that at least two candidates be nominated from each district.

- (b) Nominations by Petition: Any fifteen or more members acting together may make other nominations by petition not less than forty days prior to the meeting and the Secretary shall post such nominations at the same place where the list of nominations made by the committee is posted. The Secretary shall serve with the notice of the meeting a statement of the number of directors to be elected and the names and addresses of the candidates. The names shall be arranged by districts and shall specify separately the nominations made by the committee on nominations and also the nominations made by petition, if any. The members may, at any meeting at which a director or directors are removed, elect a successor or successors thereto without compliance with the foregoing provisions with respect to nominations, except that the new director must reside in the same district as the director where the vacancy occurs. Notwithstanding anything contained in this section, failure to comply with any of the provisions of this section shall not affect in any manner whatsoever the validity of any election of directors.
- (c) Election of Directors: Election of directors shall be by ballot. The ballots shall list the candidates nominated by the committee on nominations and by petitions, if any, arranged by districts. Each member of the Cooperative shall be entitled to vote for one candidate from "District 1," one candidate from "District 2," and one candidate from "District 3." The candidate receiving the highest number of votes cast for the candidates in "District 1," "District 2," and "District 3" shall be deemed to be elected from that district. A director shall be elected for a three-year term and shall serve until the successor has been elected and qualified.
- (d) Election Board: The presiding officer at each annual meeting of the members shall appoint an election board to consist of three members from "District 1," three members from "District 2," and three members from "District 3" present at such meeting. In the event of a tie vote in an election of directors, the election shall be determined by the flip of a coin.

Section 4. Removal of Directors by Members. Any member may bring charges against a director by filing such charges in writing with the Secretary, together with a petition signed by at least ten percent of the members and request the removal of such director by reason thereof. The director against whom such charges have been brought shall be informed in writing of the charges at least twenty days prior to the meeting at which the charges are to be considered and have an opportunity at the meeting to be heard in person or by counsel and 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 director shall be voted upon at the next regular or special meeting of the members and 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; provided that the director must reside in the same district as the director where the vacancy occurs.

Section 5. Vacancies. Subject to the provisions of these By-laws with respect to the filling of vacancies caused by the removal of directors by the members, a vacancy occurring on the Board of Directors shall be filled by the affirmative vote of a majority of the remaining directors for the unexpired portion of the term of the vacating director. The member elected as director to fill the vacancy must reside in the same district as the director to whose office is vacant and must meet all qualifications required of a director.

Section 6. Compensation. Directors shall not receive any salary for their services as directors, but by resolution of the Board of Directors, a reasonable fixed stipend and expenses of attendance, if any, may be allowed for attendance at each area, regional, national, educational, and other meetings on behalf of the Cooperative where attendance is specifically authorized by action of the Board of Directors. No close relatives of a director shall 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 close relative shall have been certified by action of the other members of the Board of Directors as an emergency measure. An additional stipend may be paid to the officers of the Cooperative by resolution of the Board of Directors for additional time spent on duties outside regular board responsibilities.

ARTICLE V

MEETING OF DIRECTORS

Section 1. Meetings. A meeting of the Board of Directors shall be held without notice other than this By-law, immediately after, and at the same place as the annual meeting of the members, or prior to the next regular meeting, for the purpose of re-organizing the Board of Directors. 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.

Section 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 for the meeting and shall cause notice of such meeting to be given.

Section 3. Notice of Directors Meetings. Reasonable notice of the time and place of any special meeting of the Board of Directors shall be given to each director. The attendance of a director at any meeting shall constitute a waiver of notice at such meeting, except when a director attends the meeting and objects thereto 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 4. 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 notice to any absent director of the time and place of any adjourned meeting. 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. 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 6. 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 By-laws, as it may deem advisable for the management, administration, and regulation of the business and affairs of the Cooperative. 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 1. Number. The officers of the Cooperative shall be 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 2. Election and Term of Office. The officers shall be elected annually by and from the Board of Directors at the reorganizational meeting of the Board of Directors. Each officer shall hold office until his successor shall have been elected and shall have qualified, or until the officer is removed from office as approved by these By-laws. A vacancy in any office shall be filled by the Board of Directors for the unexpired portion of the term.

Section 3. Removal of Officers and Agents by Directors. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interest of the Cooperative will be served. In addition, any member of the Cooperative may bring charges against an officer by filing such charges in writing with the Secretary, together with a petition signed by ten percent of the members, and request the removal of the particular officer by reason thereof.

The officer against whom such charges have been brought shall be informed, in writing, of the charges of least twenty 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 the same opportunity. The question of the removal of such officer shall be voted upon at the next regular or special meeting of the Board of Directors.

Section 4. Vacancies. A vacancy in any office may be filled by the Board of Directors for the expired portion of the term of such officer.

Section 5. President. The President shall:

- (a) be the principal executive officer of the Cooperative and, unless otherwise determined by the members of the Board of Directors, shall preside at all meetings of the members and the Board of Directors.

- (b) sign any deeds, mortgages, deeds of trusts, notes, bonds, contracts, or other instruments executed on behalf of the Cooperative, except in cases in which the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-laws to some other officer or agent of the Cooperative, or shall be required by law to be otherwise signed or executed; and
- (c) in general perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6. 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 from time to time as may be assigned by the Board of Directors.

Section 7. Secretary-Treasurer. (Assistant Secretary-Treasurer). The Secretary-Treasurer (or in the Secretary-Treasurer's absence or refusal to act, the Assistant Secretary-Treasurer) shall:

- (a) cause the minutes of the meetings of the members, the Board of Directors, and any special executive committee to be kept in one or more books provided by the Cooperative for that purpose;
- (b) cause all notices to be duly given in accordance with these By-laws or as required by law;
- (c) affix 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 By-laws;
- (d) supervise the custody of the records and funds of the Cooperative;
- (e) cause to be kept a register of the names and post office addresses of all of the members of the Cooperative;
- (f) in general perform all duties incident to the office of Secretary-Treasurer and such other duties as from time to time may be assigned by the Board of Directors.

Section 8. Manager. The Board of Directors shall appoint a Manager who may be, but who shall not be required to be, a member of the Cooperative; the Manager shall perform such duties and shall exercise such authority as the Board of Directors may from time to time vest in the Manager.

Section 9. Bonds of Officers. Any officer or agent of the Cooperative charged with the responsibility for the custody of any of its funds or property shall give bond, or shall be covered by insurance 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 or insurance in such amount and with such surety as it shall determine.

Section 10. Reports. One or more of 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

COOPERATIVE NON-PROFIT OPERATION

Section 1. Cooperative Operation. The Cooperative shall at all times be operated on a cooperative non-profit basis for the mutual benefit of its member patrons. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its member patrons or its nonmember patrons.

Section 2. Patronage Capital in Connection With Furnishing Electric Service. In the furnishing of electric service, the Cooperative operations shall be so conducted that all member 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 its member patrons for all amounts received and receivable from the furnishing of electric service in excess of operating costs and expenses and educational fund expenses properly chargeable against the furnishing of electric service, which operating costs and expenses may, at the discretion of the Board of Directors, include any or all of the operating deficits of prior years.

All 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 member patrons as capital. The Cooperative is obligated to pay by credits to a capital account for each member patron all 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, furnished by each member patron is clearly reflected and credited in an appropriate record to the capital account of each member patron. The Cooperative shall within a reasonable time after the close of the fiscal year (December 31st) notify each member patron of the amount of capital so credited to his account. All amounts credited to the capital account of any member patron shall have the same status as though they had been paid to the member patrons in cash in pursuance of a legal obligation to do so and the member patron had then furnished the Cooperative corresponding amounts for capital. The Board of Directors shall have the power, at its discretion, to determine the fiscal year to which should be allocated amounts received and receivable from the furnishing of electrical service and to which should be allocated operating costs and expenses. 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, may be allocated to its member patrons on a patronage basis and any amount so allocated shall be included as a part of the capital credited to the accounts of member patrons, as herein provided, or may be credited to a general unallocated reserve which may be utilized for any other purpose determined in accordance with generally accepted accounting principles.

For the purpose of teaching and promoting cooperative organization and principles, five percent (5%) of the net margin in excess of operating costs and expenses properly chargeable against

furnishing of electric service may be set aside each year in a special fund. The disbursement of any said funds shall be by order of the Board of Directors in accordance with the said purpose.

In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credits shall be retired without priority on a pro rata basis before any payments are made on accounts 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 member patrons' accounts may be retired in full or in part. The Board of Directors shall determine the method, basis, priority and order of retirement, if any, for all amounts here before and hereafter furnished as capital.

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

Notwithstanding any other provision of these By-laws, the Board of Directors, at its discretion:

- (a) Shall have the power at any time upon the death of any member patron, who is a natural person, if the legal representatives of his estate shall request in writing, to retire capital credited to such member patron prior to the time such capital would otherwise be retired under the provisions of these By-laws, immediately upon such terms and conditions as the Board of Directors, acting under policies of general application, and the legal representative of such member patron's estate shall agree upon. The Board of Directors in its sole discretion may retire capital credits, or a portion thereof, of any joint tenant to the surviving spouse of any deceased member patron. Provided, however, that the financial condition of the Cooperative shall not be impaired upon retirement of such capital credits as herein provided.
- (b) As reasonable and fair, the Cooperative may retire and pay capital credits to classes of similarly situated member patrons under different manners, methods, and timing, in the discretion of the Board of Directors provided the financial condition of the Cooperative shall not be impaired upon retirement of such capital credits.
- (c) In the event a Member becomes inactive and the member's final unpaid retirement amount is less than the Cooperative's administrative costs required to provide payment to the Member, the Member's balance may be applied to permanent cooperative equity. The Board of Directors shall have discretionary power to establish the administrative cost threshold.

In the event of a declared retirement in full or part, if a member patron cannot be located, such capital of the member patron shall be vested in the member patron, however, the Cooperative shall continue the usage of such patronage as capital, provided that at such time as the location of the member patron is determined, then distribution of such declared retirement shall be made to such member patron.

ARTICLE VIII

DISPOSITION OF PROPERTY

The Cooperative may not sell, lease or otherwise dispose of all or any substantial portion of its property unless such sale, lease or other disposition is authorized at a meeting of the members thereof by the affirmative vote of not less than two-thirds of all members of the Cooperative, and unless the notice of such proposed sale, lease or other disposition shall have been contained in the notice of the meeting; provided, however, that notwithstanding anything herein contained, the Board of the Cooperative, without authorization by the members thereof, shall have full power and authority to authorize the execution and delivery of a mortgage or mortgages or a deed or deeds of trust upon, or the pledging or encumbering of, any or all of the property, assets, rights, privileges, licenses, franchises, and permits of the Cooperative, whether acquired or to be acquired, and wherever situated, as well as the revenues and income there from, all upon such terms and conditions as the Board shall determine, to secure any indebtedness of the Cooperative, provided further that the Board may upon the authorization of a majority of those members of the Cooperative present at a meeting of the members thereof, sell, lease, or otherwise dispose of all or a substantial portion of its property to another Cooperative or foreign corporation doing business in this State pursuant to the Act under which this Cooperative is incorporated. "Substantial portion of property" is as defined by RUS, CFC, CoBank or other lenders.

ARTICLE IX

MISCELLANEOUS

Section 1. Contracts. Except as otherwise provided in these By-laws, the Board of Directors may authorize any office or officer, agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Cooperative, and such authority may be general or confined to specific instances.

Section 2. Checks, Drafts, Etc. Except as otherwise provided by law or in these By-laws, all checks, drafts or other orders for the payment of money, and all notes, bonds or other evidence of indebtedness issued in the name of the Cooperative shall be signed by such officer, officers, agent or agents of the Cooperative and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 3. Deposits. All funds of the Cooperative shall be deposited in such bank or banks, or savings and loan association or associations, as the Board of Directors may direct.

Section 4. 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, State of North Dakota."

Section 5. Fiscal Year. The fiscal year of the Cooperative shall begin on the first day of January, and shall end on the thirty-first day of December, of the same year.

Section 6. Waiver of Notice. Any member or director may waive in writing, any notice of meeting required to be given by these By-laws. 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 because the meeting shall not have been lawfully called or convened.

Section 7. Accounting System and Reports. The Board shall cause to be established and maintained a complete accounting system which, among other things, and subject to applicable laws and rules and regulations of any regulatory body, shall conform to such accounting system as may from time to time be designated by the Administrator of the Rural Utilities Service of the United States of America. The Board shall also, after the close of each fiscal year, cause to be made by a certified public accounting firm a full and complete audit of the accounts, books, and financial condition of the Cooperative as of the end of such fiscal year period. A report of such audit shall be submitted to the members at the next following annual meeting.

Section 8. Indemnification. This cooperative shall indemnify each director, officer, manager, employee, or agent of this cooperative, and any person serving at the request of this cooperative as a director, officer, manager, 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 or her to the fullest extent to which such officers, directors and employees of a cooperative association may be indemnified under the law of this State, or any amendments thereto or substitutions therefor.

Section 9. Dispute Resolution. Any and all disputes, claims, or controversies between the cooperative and its members arising from or related in any way to the Cooperative's provision of electric or other services, or its furnishing of any goods or its conduct of its operations, other than disputes or claims related to the payment for electric energy provided by the Cooperative, that are not resolved by agreement of the parties, shall, at the request of any such party, be submitted to mediation and/or arbitration according to regulations prescribed by the Board of Directors. The Cooperative and every member thereof, by becoming such, agrees to mediate/arbitrate all such disputed claims according to this By-law, and further agrees to abide by and perform any awards made thereunder.

ARTICLE X

AMENDMENTS

These By-laws 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, and notice of such alteration, amendment or repeal shall have been given as provided in Article III, or alternatively, a copy of the proposed alteration, amendment or repeal is available on the cooperative's website or by mail if requested by the member.