

**Crow Wing Cooperative  
Power & Light Company**

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**Articles of Incorporation  
And Bylaws**

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*Revised January 30, 2006*

**ARTICLES OF INCORPORATION  
OF  
CROW WING COOPERATIVE POWER AND LIGHT COMPANY**

**ARTICLE I**

SECTION 1. The name of this Cooperative shall be CROW WING COOPERATIVE POWER AND LIGHT COMPANY.

SECTION 2. This Cooperative is intended to be a Cooperative within the meaning of and subject to the Minnesota Cooperative law, *Minnesota Statutes* Chapter 308A, including an electric cooperative within the meaning of Chapter 308A. The conduct of the business of this Cooperative shall be upon the cooperative plan and the purposes for which it is formed are to sell, provide, deliver, furnish or distribute electric energy and other services to its members and patrons and to engage in any other lawful business; and to do and perform every act and thing necessary or convenient to the accomplishment of any or all of these purposes as permitted by law.

SECTION 3. The registered office and principal place of business of this Cooperative shall be: Highway 371 North, Brainerd, County of Crow Wing, and State of Minnesota. There shall be no registered agent for the cooperative.

**ARTICLE II**

The period of duration of this Cooperative shall be perpetual.

**ARTICLE III**

SECTION 1. This Cooperative is organized on a non-stock, membership basis. The Cooperative will maintain appropriate membership records.

SECTION 2. Each member shall have only one vote in the affairs of this Cooperative, and membership shall not be transferable except with the approval and consent of the Board of Directors.

SECTION 3. No interest or dividends shall be paid upon capital furnished to the Cooperative by its members or patrons.

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

SECTION 4. 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 members or patrons. In the furnishing of electric energy the Cooperative's operations shall be so conducted that all patrons, members and non-members alike, 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, members and nonmembers alike, for all amounts received and receivable from the furnishing of electric energy in excess of operating costs and expenses properly chargeable against the furnishing of electric energy. All such amounts in excess of operating costs and expenses, as well as all capital gains realized in activities related to the cooperative purpose, at the moment of receipt by the Cooperative are received with the understanding that they are furnished by the patrons, members and non-members alike, as capital. The Cooperative is obligated to pay by credits to a capital account for each patron all such amounts in excess of operating costs and expenses.

**ARTICLE IV**

SECTION 1. The government of this Cooperative and the management of its affairs and business shall be vested in a Board of Directors consisting of nine (9) members who shall be elected by ballot by the members

for such terms as the Bylaws prescribe at the annual meeting of the members, which shall be held no earlier than April 15 and no later than August 15 in each year, with the exact date and place to be selected by the Board of Directors.

SECTION 2. The Board of Directors shall have power to make and adopt such rules and regulations, not inconsistent with these Articles of Incorporation or the Bylaws of this Cooperative or the laws of the State of Minnesota, as it may deem advisable for the management, administration and regulation of the business and affairs of this Cooperative.

#### **ARTICLE V**

The fiscal year of this Cooperative shall begin on the first day of January in each year and end on the thirty-first day of December of each year.

#### **ARTICLE VI**

A director of this Cooperative shall not be personally liable to this Cooperative or its members for monetary damages for breach of fiduciary duty as a director, except for

- (A) Liability based on a breach of duty of loyalty to the Cooperative or the members;
- (B) Liability for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- (C) Liability for any transaction from which the director derived an improper personal benefit; or
- (D) Liability for any act or omission occurring prior to the date this Article becomes effective.

Any repeal or modification of this Article by the members of this Cooperative shall be prospective only and shall not adversely affect any limitation on the personal liability of a director of this Cooperative existing at the time of such repeal or modification.

#### **ARTICLE VII**

This Cooperative reserves the right to amend, alter, change or repeal any provision contained in these Articles of Incorporation in the manner now or hereafter prescribed by law.

**BYLAWS  
OF  
CROW WING COOPERATIVE POWER AND LIGHT COMPANY**

**ARTICLE I**

**MEMBERS**

**SECTION 1. DEFINITION OF MEMBER.** Any person or legal entity may be a member.

**SECTION 2. QUALIFICATIONS TO BE A MEMBER.**

Any natural person or legal entity having the capacity to enter into a legally binding contract may become a member of this Cooperative by purchasing electric energy furnished by this Cooperative. Each member shall comply with the Articles of Incorporation, these Bylaws, and such rules and regulations as may be adopted by the Board of Directors. In addition, each person or entity seeking to become a member shall within a reasonable time of using, receiving or purchasing electrical energy from the Cooperative, complete a written membership application in a form provided by the Cooperative containing such provisions as approved by the Board of Directors of this Cooperative.

**SECTION 3. OBLIGATIONS.** Each member shall:

- (A) pay all obligations owing to this Cooperative as and when the same become due;
- (B) comply with such rules and regulations as may be adopted by the Board of Directors of this Cooperative;
- (C) execute and deliver to this Cooperative grants of easement or right-of-way on or over lands owned by the member to be used for furnishing electric service to the member or other members or for the construction, operation and maintenance of the Cooperative's electric facilities. These grants shall be in accordance with such reasonable terms and conditions as the Cooperative shall require;
- (D) unless the board determines otherwise, an applicant automatically becomes a member of the Cooperative upon completing the membership procedure to the Cooperative's satisfaction and receiving cooperative electric service.

**SECTION 4. JOINT MEMBERSHIP.** Any two or more persons or entities engaged in a common enterprise shall be joint members and their application for a membership shall be accepted in accordance with the foregoing provisions of this section. The act or presence of any joint member shall constitute the act or presence of one member.

**SECTION 5. NON-LIABILITY FOR DEBTS OF THE COOPERATIVE.** The private property of the members shall be exempt from execution for the debts of the Cooperative and no member shall be individually responsible for any debts or liabilities of the Cooperative.

**SECTION 6. WITHDRAWAL OF MEMBERSHIP.** Any member may withdraw from membership upon payment in full of all liabilities of such member to the Cooperative and upon compliance with such terms and conditions as the Board of Directors may prescribe.

**SECTION 7. TRANSFER OF MEMBERSHIP AND TERMINATION OF MEMBERS.**

- (A) Membership in the Cooperative shall be transferable only with the approval and consent of the Board of Directors except as provided in these Bylaws. Upon the cessation of existence, expulsion or withdrawal of a member, the membership of such member shall thereupon terminate. Upon the death of a member leaving a surviving spouse, the membership shall be automatically transferred to the

surviving spouse, pursuant to the rules and regulations of the Cooperative. If the decedent leaves no spouse, said membership shall terminate.

- (B) Upon a death, dissolution of marriage, legal separation, or other legal disassociation between joint members:
  - (i) if a joint member continues to purchase electric energy furnished by this Cooperative at the same location, then the joint membership converts to a membership in the name of the joint member continuing to purchase electric energy furnished by this Cooperative at the same location;
  - (ii) if neither joint member continues to purchase electric energy from the Cooperative at the same location, then the joint membership terminates.
- (C) Termination of membership in any manner shall not release the member or the member's estate from the debts or liabilities of such member to the Cooperative.
- (D) When a membership is held jointly by husband and wife, upon the death of either, such membership shall be deemed to be held solely by the survivor with the same effect as though such membership had been originally issued solely to him or her, as the case may be; provided, however, that the estate of the deceased shall not be released from any membership debts or liabilities to the Cooperative.

**SECTION 8. REMOVAL OF DIRECTORS OR OFFICERS.** The members shall have the power to remove any director(s) or officer(s) for specific cause related to the duties of the position of director or officer. Any member may bring specific charges against a director(s) or officer(s) by mailing them to the Secretary in a petition signed by at least 500 members or five percent (5%) of the members, whichever is less, requesting the removal of the director(s) or officer(s) in question, and notice of the petition and specific charges shall be mailed to the director(s) or officer(s) in question and the Chief Executive Officer. The removal shall be voted upon at the next annual or special meeting of the members and any vacancy created by such removal may be filled by the members at such meeting. To be heard at the annual meeting, the petition and specific charges must be received by the Secretary and notice of the petition and specific charges must be received by the director(s) or officer(s) in question and the Chief Executive Officer at least sixty (60) days prior to the annual meeting. If the petitioners wish to have a speedier hearing, they may petition for a special meeting pursuant to Article II, Section 3 of these Bylaws.

The Secretary shall give notice that the specific charges will be heard at the annual or special meeting of the members. The notice shall be by publication in a legal newspaper or newspapers published or circulated in the counties where the Cooperative operates no more than fifteen (15) days after the receipt of the petition and specific charges by the Secretary and the receipt of the notice of the petition and specific charges by the director(s) or officer(s) in question and the Chief Executive Officer. In the case of a special meeting, said special meeting shall be set no later than sixty (60) days after the receipt, by the Secretary, of the petition and specific charges and receipt, by the director(s) or officer(s) in question and Chief Executive Officer, of the notice of the petition and specific charges. Director(s) or officer(s) in question shall have an opportunity at the meeting to be heard in person or by counsel and to present evidence; and the person or persons bringing the specific charges against the director(s) or officer(s) shall have the same opportunity.

**SECTION 9. PURCHASE OF ELECTRIC ENERGY.** All electric energy used by a member in excess of said member's own production shall be purchased from the Cooperative as soon as said energy becomes available. Said member shall pay therefore monthly at rates which shall be from time to time 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. It is expressly understood that amounts paid for electric energy in excess of the cost of service are furnished by members as capital and each member shall be credited with the capital so furnished as provided in these Bylaws. Each member shall pay to the Cooperative such minimum amount 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 him to the Cooperative as and when the same shall become due and payable.

Each member who installs a system for the generation and production of electric energy shall advise the Cooperative of said installation and shall cooperate with the Cooperative in the enforcement of its rules and regulations which shall from time to time be adopted for the purposes of enforcing the Federal Energy Regulatory Commission's regulations under the Public Utilities Regulatory Policies Act of 1978.

## **ARTICLE II**

### **MEMBERS MEETINGS**

**SECTION 1. ANNUAL MEETING.** The annual meeting of the members shall be held at such times and places as may be determined by the Board of Directors of this Cooperative: provided, however, that the meeting shall be held no earlier than April 15 and no later than August 15 in each year for the purpose of electing directors based upon reports covering the previous fiscal year and transacting such other business as may come before the meeting. If the election of directors shall not be held on the day designated herein for any annual meeting, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the members as soon thereafter as conveniently may be. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the Cooperative.

**SECTION 2. NOTICE OF ANNUAL MEETING.** Notice of the annual meeting shall be given by the Secretary by publication in a legal newspaper or newspapers published or circulated in the counties where the Cooperative operates at least two (2) weeks previous to the date of such meeting, by publication in a magazine, periodical, or other publication of the Cooperative that is regularly published by or on behalf of the Cooperative and circulated generally among members, or by mailing notice thereof to each and every member personally not less than thirty (30) days previous to the date of such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears on the records of the Cooperative with postage thereon prepaid.

**SECTION 3. SPECIAL MEETINGS.** Special meeting of the members may be called by a majority of the directors or upon a written petition signed by at least five hundred (500) members or five per cent (5%) of the members, whichever is less. Special meetings of the members may be held at any place within the County of Crow Wing in the State of Minnesota specified in the notice of the special meeting.

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

**SECTION 5. QUORUM.** A quorum necessary to the transaction of business at any meeting of the members shall be at least ten percent (10%) of the total number of members in this Cooperative when the number of members in this Cooperative does not exceed five hundred (500), but when the Cooperative has a larger number of members, fifty (50) members present shall constitute a quorum; provided, however, that in

determining a quorum on a question submitted to a vote by mail, members present in person or represented by mail votes shall be counted.

SECTION 6. ESTABLISHMENT OF A QUORUM. The attendance of a sufficient number of members to constitute a quorum at any meeting of the members shall be established by a registration of the members present at such meeting, which registration shall be verified by the President and Secretary and shall be reported in the minutes of such meeting.

SECTION 7. VOTING. Each member shall be entitled to one (1) vote and no more upon each matter submitted to a vote. Joint owners of a membership shall jointly be entitled to one (1) vote and no more upon each matter submitted to a vote of the members. If the joint owners of a membership have not voted by mail and if one or more of the joint owners is not present at a meeting of the members, the joint owner(s) present may vote on behalf of the absent joint owner(s). The spouse of a member may vote on behalf of the member unless the member has indicated otherwise by notifying the Cooperative.

SECTION 8. VOTING BY MAIL. Any member who is absent from any meeting of the members may vote by mail upon any motion, resolution, amendment or election to be acted upon at any such meeting by ballot, which shall be in the form prescribed by the Board of Directors and shall contain:

- (A) the exact text of the proposed motion, resolution, amendment or election to be acted upon at such meeting; and
- (B) the date of the meeting; and
- (C) spaces opposite the text of such motion, resolution, amendment or election in which member may indicate his affirmative or negative vote thereon.

Such member shall express a choice by marking an "X" in the appropriate space and shall mail or deliver the ballot to the Cooperative in a plain, sealed envelope inside another envelope bearing the member's name. A properly executed ballot shall be accepted by the Board and counted as the vote of the absent member at the meeting.

SECTION 9. VOTING LIST. The Secretary of this Cooperative shall make, at least fifteen (15) days before each meeting of the members, a complete list, arranged in alphabetical order, of the members entitled to vote at such a meeting and their addresses. Such list shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any member during the whole time of the meeting.

SECTION 10. ROBERT'S RULES OF ORDER. All meetings of the Cooperative shall be governed and conducted in accordance with Robert's Rules of Order.

SECTION 11. OATH OF OFFICE. Prior to any person assuming the office of director, such person must subscribe to the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution and the laws of the United States of America, the Constitution and the laws of the State of Minnesota, and the Bylaws of Crow Wing Cooperative Power and Light Company, that I will faithfully discharge according to the best of my ability the duties of my office during such time as I am a director of Crow Wing Cooperative Power and Light Company, and that I will never knowingly do or cause to be done any act or deed which would not be in the best interest of the Cooperative and its membership."

### **ARTICLE III**

#### **DIRECTORS**

SECTION 1. GENERAL POWERS. The business and affairs of this Cooperative shall be directed by the Board of Directors.

SECTION 2. NUMBERS AND DISTRICTS. The number of directors of this Cooperative shall be nine (9). The entire membership will vote for all directors as their three year terms expire. Each director shall be elected by the members at the annual meeting of the members for such term as is hereinafter provided:

The Cooperative by action of the Board of Directors shall divide the Cooperative's service territory into three districts. Each district shall be further divided into two sub districts (sub districts "a" and "b"). There shall be one director representing each sub district and one "at large" director for each district. The directors shall be designated as representing the following: district 1a, district 1b, district 1 at large, district 2a, district 2b, district 2 at large, district 3a, district 3b, and district 3 at large. Representation on the board shall be apportioned throughout the different districts and sub districts in proportion to the membership residing in or belonging to the districts or sub districts. The number of members in any one district or sub district may not vary by more than ten percent from the average number of members for the districts or sub districts.

At least once every ten years, the Board of Directors shall conduct a survey to determine whether the number of members in a district or sub district has changed. If the number of members in a district or sub district has changed by 15% or more, the district or sub district shall be changed so that representation on the board of directors continues to be apportioned so that the number of members in any one district or sub district does not vary by more than ten percent from the average number of members for the districts or sub districts.

There shall be elected by ballot at each annual meeting, three (3) directors for terms of three (3) years, or until their successor shall have been elected and shall have qualified, with one director representing one of the sub districts of each district or one at large director from each district wherein the term of its director has expired at the time of such annual meeting.

SECTION 3. QUALIFICATIONS. No person shall be eligible to become or remain a director of the Cooperative who:

(A) is not a bonafide member of the Cooperative receiving electric service from the Cooperative in the district or sub district that the director represents or would represent if elected;

(B) within five years preceding a Director candidate's nomination was or during service on the Board of Directors is finally adjudged to be guilty of a felony;

(C) within five years preceding a Director candidate's nomination was a full time employee of the Cooperative or any affiliated business or subsidiary of the Cooperative ;

(D) within five years preceding a Director candidate's nomination was a part owner or full time employee of any affiliated business or subsidiary of the Cooperative;

(E) individually or as an employee, representative, or part owner of a legal entity that sells more than \$10,000 of goods or services to the Cooperative or any affiliated business or subsidiary of the Cooperative

(F) is or becomes, or at any time during the five years preceding a Director candidate's nomination shall have been, employed by a labor union which represents, or has represented, or has endeavored to represent any employees of the Cooperative;

(G) is a Close Relative of an employee of the Cooperative;

(H) is a Close Relative of an incumbent who is not up for reelection at that time;

(I) is in any way employed by or substantially financially interested in an enterprise substantially competing with the Cooperative or any cooperative-affiliated business;

(J) is or becomes the full time employee or agent or, who is or becomes the full time employer or principal of, another director;

(K) is absent without cause from three or more regular meetings of the Board of Directors during any twelve month period; or

(L) in the case of a joint membership, only one person of that joint membership can be a board member.

A "Close Relative" is an individual who:

(A) Is either by blood, law, or marriage, including half, step, foster, and adoptive relations, a spouse, child, grandchild, parent, grandparent, or sibling; or

(B) Resides in the same residence.

A member that is an authorized farm corporation or family farm corporation may select an individual member residing on or actively operating the farm to be eligible for election to the Board. A member that is not a natural person (such as a corporation, partnership, sole proprietorship, limited liability company, limited liability partnership) may select one of its officers to be eligible for election to the Board, provided that not more than two such officers may serve on the Board at the same time.

With regard to the provisions in paragraphs (G) and (H) above, no incumbent Director shall lose eligibility to remain a Director or to be reelected a Director if, during a Director's incumbency, a Director becomes a first kindred relative of another Director or of a Cooperative employee because of a marriage or adoption to which the Director was not a party.

After the Board of Directors determines that a Director or a nominee for Director lacks eligibility under the provisions of this section or as may be provided elsewhere in these Bylaws, it shall be the duty of the Board to promptly make a disqualification. After the Board of Directors determines that any Director candidate or any Director already holding a Directorship lacks eligibility under this section, it shall be the duty of the Board to withhold such position from such person or to cause a Director to be removed therefrom, as the case may be.

Nothing contained in this section shall, or shall be construed to be, affect in any manner the validity of any action taken at any meeting of the Board unless such action is taken with respect to a matter in which one or more of the Directors has a personal interest in conflict with that of the Cooperative.

**SECTION 4. TENURE.** Under Article III, Section 2, at each annual meeting there shall be elected by ballot three (3) directors for terms of three (3) years, or until their successor shall have been elected and shall have qualified, one (1) director representing one (1) of the sub districts of each district or one (1) at large director from each district wherein the term of its director has expired at the time of such annual meeting. The director candidate receiving the largest number of votes shall be elected, and if a tie should occur during the election of the directors, a flip of a coin shall determine the winner.

#### **SECTION 5. DIRECTOR DISTRICTS AND NOMINATIONS.**

(A) A director or director candidate shall be eligible to serve that district or subdistrict where that person resides. If that person does not reside within the Cooperative's service territory, then that member shall be eligible to represent that district or sub district where the member has real property receiving electric service from the Cooperative (and if that person is receiving service at more than one location, then that person shall belong to the district and subdistrict at which the person first used a cooperative service).

(B) **OPEN FILING.** It shall be the duty of the Cooperative to solicit and promote, not less than sixty (60) days nor more than one hundred thirty-five (135) days before the date of a meeting of the members at which directors are to be elected, open filing for director candidates for each annual election. The Cooperative shall use every reasonable effort to assure that there are at least two (2) candidates to stand for election from each district and at large for which a director is to be elected. The Cooperative shall prepare and post at the principal office of the Cooperative at least thirty (30) days before the meeting a list of the director candidates; such list shall also be mailed to each member through the medium of the Cooperative Newsletter. A ballot marked

“Ballot for Directors” containing the names of all the director candidates so posted, alphabetically arranged by district and at large and stating the residence of each, shall be mailed with the notice of the meeting. The Secretary shall also mail with the notice of the meeting a statement of the number of directors to be elected. The members may, at any meeting at which a director or directors shall be removed, as hereinbefore provided, elect a successor or successors thereto without compliance with the foregoing provisions with respect to open filing of director candidates.

Notwithstanding anything in this Section contained, 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.

**SECTION 6. VACANCIES.** Subject to the provisions of these Bylaws with respect to the removal of director(s), vacancies occurring in the Board of Directors shall be filled by a majority vote of the remaining directors and directors thus elected shall serve until the next regular or special members’ meeting or until the successor shall have been elected and qualified. At the next regular or special members’ meeting, the members must elect a director to fill the unexpired term of the vacant director’s position.

**SECTION 7. COMPENSATION.** Directors shall receive reasonable reimbursement, compensation, or benefits for service to the Cooperative as determined by resolution of the Board of Directors.

**SECTION 8. RULES AND REGULATIONS.** The Board of Directors shall have the power to make and adopt such rules and regulations, not inconsistent with law, the Articles of Incorporation of the Cooperative or these Bylaws, as it may deem advisable for the management, administration and regulation of the business and affairs of the Cooperative.

**SECTION 9. ACCOUNTING AND REPORTS.** The Board of Directors shall cause to be established and maintained a complete accounting system, which among other things, 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 any lender. All accounts of the Cooperative shall be examined by a committee of the Board of Directors which shall render reports to the Board of Directors at least four times a year at regular meetings of the Board of Directors. The Board of Directors shall also after the close of each fiscal year cause to be made a full and complete audit of the accounts, books and financial condition of the Cooperative as of the end of such fiscal year. Such audit reports shall be submitted to the members at the following annual meeting.

## **ARTICLE IV**

### **MEETINGS OF DIRECTORS**

**SECTION 1. REGULAR MEETINGS.** A regular meeting of the Board of Directors shall be held monthly at such time and place in the service territory of the Crow Wing Cooperative Power and Light Company, as the Board of Directors may provide by resolution. Such regular monthly meetings may be held without notice other than such resolution fixing the time and place thereof.

**SECTION 2. SPECIAL MEETINGS.** Special meetings of the Board of Directors may be called by the President or any three (3) directors. The person or persons authorized to call special meetings of the Board of Directors may fix the time and place (which shall be in Crow Wing County, Minnesota), for the holding of any special meeting of the Board of Directors called by them.

**SECTION 3. NOTICE.** Notice of time, place and purpose of any special meeting of the Board of Directors shall be given at least five (5) days previous thereto, by written notice, delivered personally or mailed, to each director at his last known address. If mailed, such notice shall be deemed delivered when deposited in the United States mail so addressed, with postage thereon prepaid. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except in case a director shall attend a meeting for the express purpose of objecting to the transaction of any business because the meeting shall not have been lawfully called or convened.

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

SECTION 5. MANNER OF ACTING. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

SECTION 6. MEETINGS BY MEANS OF ELECTRONIC COMMUNICATION. Members of the Board of Directors, or any lawfully constituted committee, may participate in a meeting of such Board of Directors by means of conference telephone or similar means of communication by which all persons participating may simultaneously hear and communicate with each other during the meeting. Participation in a meeting pursuant to this section shall constitute presence in person at such meeting.

SECTION 7. ACTION WITHOUT MEETING. Any action that may be taken at a meeting of the Board of Directors, or of a lawfully constituted committee, may be taken without a meeting if set forth and approved by all of the directors, or by all committee members, as the case may be. The action shall be effective on the date specified, or if no date is specified, on the date on which the last signature is placed on the writing.

## ARTICLE V

### OFFICERS

SECTION 1. NUMBER. The officers of the Cooperative shall be a President, Vice President, Secretary, Treasurer, and such other officers as may be determined by the Board of Directors from time to time. The offices of Secretary and of Treasurer may be held by the same person.

SECTION 2. ELECTION AND TERM OF OFFICE. The officers shall be elected, by ballot, annually by and from the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until the first meeting of the Board of Directors following the next succeeding annual meeting of the members or until his successor shall have been duly elected and shall have qualified, subject to the provisions of these Bylaws with respect to the removal of officers.

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

SECTION 4. VACANCIES. Except as otherwise provided in these Bylaws, a vacancy in any office may be filled by the Board of Directors for the unexpired portion of the term.

SECTION 5. PRESIDENT. The President shall:

- (A) be the principal executive officer of the Cooperative and shall preside at all meetings of the members and of the Board of Directors;
- (B) sign any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the Board of Directors to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Cooperative, or shall be required by law to be otherwise signed or executed; and
- (C) in general shall perform all duties incident to the office of 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 his inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all the

power of and be subject to all restrictions upon the President and shall perform such other duties as from time to time may be assigned to him by the Board of Directors.

**SECTION 7. SECRETARY.** The Secretary shall:

- (A) keep the minutes of meetings of the members and the Board of Directors in one or more books provided for that purpose;
- (B) see that all notices are duly given in accordance with these Bylaws or as required by law;
- (C) be custodian of the corporate records and of the seal of the Cooperative and see that the seal of the Cooperative is affixed to documents, the execution of which on behalf of the Cooperative under its seal is duly authorized in accordance with the provisions of these Bylaws;
- (D) keep a register of the post office address of each member which shall be furnished to the Secretary by such member;
- (E) have general charge of the books of the Cooperative in which a record of the members is kept;
- (F) keep on file at all times a complete copy of the Bylaws of the Cooperative containing all amendments thereto, which copy shall always be open to the inspection of any member and at the expense of the Cooperative, forward a copy of the Bylaws and of all amendments thereto to each member; and
- (G) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Board of Directors.

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

**SECTION 8. TREASURER.** The Treasurer shall:

- (A) have charge and custody of and be responsible for all funds and securities of the Cooperative;
- (B) receive and give receipts for moneys due and payable to the Cooperative from any source whatsoever, and deposit all such moneys in the name of the Cooperative in such bank or banks as shall be selected in accordance with the provisions of these Bylaws; and
- (C) in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the Board of Directors.

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

**SECTION 9. CHIEF EXECUTIVE OFFICER AND ADDITIONAL OFFICERS.** The Board of Directors shall appoint a chief executive officer who may be, but who shall not be required to be, a member of the Cooperative. The chief executive officer shall perform such duties as the Board of Directors may from time to time require and shall have authority as the Board of Directors may from time to time vest in the chief executive officer. The Board of Directors may appoint such other officers (such as a chief operating officer) who need not be members of the Board nor the Cooperative but who shall be management employees of the Cooperative and who shall exercise such powers and perform such duties as determined from time to time by the Board.

**SECTION 10. BONDS OF OFFICERS.** The Board of Directors shall require the Treasurer or any other officer of the Cooperative charged with responsibility for the custody of any of its funds or property, to give bond in such sum and with such surety as the Board of Directors shall determine.

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

## **ARTICLE VI**

### **TRANSACTIONS**

**SECTION 1. CONTRACTS.** Except as otherwise provided in these Bylaws, the Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name and on behalf of the Cooperative, and such authority may be general or confined to specific instances.

**SECTION 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 of Directors.

**SECTION 3. DEPOSITS.** All funds of the Cooperative shall be deposited from time to time to the credit of the Cooperative in such insured financial institutions as the Board of Directors may select.

## **ARTICLE VII**

### **MEMBERSHIP CERTIFICATES**

There shall be no membership certificates issued by the Cooperative.

## **ARTICLE VIII**

### **DISTRIBUTION OF EARNINGS**

**SECTION 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 2. 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, members and non-members alike, 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, members and non-members alike, for all amounts received and receivable from the furnishing of electric energy in excess of operating costs and expenses properly chargeable against the furnishing of electric energy.

All such amounts in excess of operating costs and expenses at the moment of receipt by the Cooperative are received with the understanding that they are furnished by the patrons, members and nonmembers alike, as capital. The Cooperative is obligated to pay by credits to a capital account for each patron all such amounts in excess of operating costs and expenses as well as all capital gains realized in activities related to the cooperative purpose. The books and records of the Cooperative shall be set up and kept in such a manner that at the end of each fiscal year the amount of capital, if any, so furnished by each patron or allocated to each patron from patronage related gains is clearly reflected and credited in an appropriate record to the capital account of each patron.

The Cooperative shall within a reasonable time after the close of the fiscal year notify the patrons of the total amount of capital, if any, credited to the capital accounts of the patrons for the previous year. The patrons shall also be advised that the Cooperative will, upon request of a patron, notify each patron of the amount so credited to the patron's account. That notice shall be given by the cooperative by publication in a legal newspaper or newspapers published or circulated in the counties that the Cooperative operates, by publication in a magazine, periodical or other publication of the Cooperative that is regularly published by or on behalf of the Cooperative and circulated generally among the members, or by depositing notice in the United States mail, addressed to the patron at the patron's address as it appears in the records of the Cooperative with postage

thereon prepaid. All such amounts credited to the capital account of any patron shall have the same status as though they had been paid to the patron in cash in pursuance of a legal obligation to do so and the patron had then furnished the Cooperative corresponding amounts for capital.

In the event of dissolution or liquidation of the Cooperative after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credit shall be retired without priority on a pro rata basis.

If, at any time prior to dissolution or liquidation, the Board of Directors shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital then credited to patrons' accounts may be retired in full or in part. The Board of Directors shall determine the method, basis, priority and order of any such retirements.

Capital credited to the account of each patron shall be assignable only on the books of the Cooperative as the Board of Directors, acting under policies of general application, shall determine.

Provided further, however, that the Board of Directors shall have the power to adopt rules providing for the separate retirement of that portion ("power supply portion") of capital credited to the accounts of patrons which corresponds to capital credited to the account of the Cooperative by an organization furnishing electric service to the Cooperative. Such rules shall (a) establish a method for determining the power supply portion of capital credited to each patron for each applicable fiscal year, (b) provide for separate identification on the Cooperative's books of the power supply portion of capital credited to the Cooperative's patrons, provide for a general notification to patrons with respect to the power supply portion of capital credited to patrons for any fiscal year prior to the general retirement of other capital credited to patrons for the same year or of any capital credited to patrons for any prior fiscal year.

The Board of Directors, at its discretion, shall have the power at any time upon the death of any patron who is a natural person, if the legal representative of his estate shall request in writing that the capital credited to any such patron be retired prior to the time such capital would otherwise be retired under the provisions of these Bylaws, to retire capital credited to any such patron immediately upon such terms and conditions as the Board of Directors, acting under policies of general application, and the legal representatives of such patron's estate shall agree upon; provided, however, that the financial condition of the Cooperative will not be impaired thereby.

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

**SECTION 3. NONOPERATING MARGINS.** Funds and amounts other than amounts received and receivable from capital gains realized in activities related to the cooperative purpose and from the furnishing of electric energy and in excess of operating costs and expenses chargeable against the furnishing of electric energy (operating margins), received by the Cooperative that exceed the Cooperative's costs and expenses ("nonoperating margins") may be:

(A) allocated as capital credits to patrons in the same manner as the Cooperative allocates capital credits to patrons; or

(B) used by the Cooperative as permanent, nonallocated capital.

## **ARTICLE IX**

### **WAIVER OF NOTICE**

Any member, director, or officer may waive, in writing, any notice of meetings required to be given by law, the Articles of Incorporation or these Bylaws.

## **ARTICLE X**

### **DISPOSITION OF PROPERTY**

The Cooperative may at any meeting of its Board of Directors sell, mortgage, lease or exchange all of its property, rights, privileges and franchises upon such terms and conditions as the Board of Directors deem expedient, and for the best interests of the Cooperative, when and as authorized by the affirmative vote of the holders of three-fourths (3/4) of the memberships outstanding, and provided further, however, that notwithstanding anything herein contained, the Board of Directors, without authorization by the members, shall have full power and authority to 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, all upon such terms and conditions as the Board of Directors shall determine. Notwithstanding any other provision of the Articles of Incorporation or Bylaws, any repeal, amendment, or alteration of this Article that would result in a change in the member approval requirements for acts described herein, must be approved by a three-fourths (3/4) vote of all members of the Cooperative.

## **ARTICLE XI**

### **FISCAL YEAR**

The fiscal year of the Cooperative shall begin on the first day of January of each year and end on the thirty-first day of December of the same year.

## **ARTICLE XII**

### **RECORDS AND MEETINGS**

**SECTION 1. BUSINESS RECORDS.** Roll call votes are required on actions which directly establish service charge and rate schedules. Roll call voting is also required on any matter upon the request of one or more directors. Every duly elected director of a retail cooperative electric association shall have the right to inspect under section 302A.461, in person and at any reasonable time, the business records required by this subdivision and maintained by the wholesale cooperative electric association from which it purchases the majority of its electric requirements.

**SECTION 2. OPEN MEETINGS.** Meetings of the board of directors must be open to the members of the cooperative and the members' spouses. Members must be given notice of all regularly scheduled meetings except those of an emergency nature. Duly elected directors of retail cooperative associations must be given notice, through their retail cooperative association, of all meetings of the board of directors of the wholesale cooperative association, except those of an emergency nature, from which the retail cooperative purchases the majority of its electric requirements. A meeting or a portion of a meeting may be closed by the board of directors for one of the following reasons:

- (A) to discuss personnel matters, compensation issues, labor negotiations, billing and credit information, or an issue that may tend to prejudice the reputation of an individual;
- (B) to discuss threatened or pending litigation, issues subject to an attorney/client privilege, or other legal information, the knowledge of which may have an adverse effect on the Cooperative's legal position; or
- (C) to discuss or disclose information that, if discussed in an open meeting, would result in impairment of the Cooperative's competitive or financial position, interfere with a business opportunity, or reveal proprietary information.

For the purposes of clause (C), a business opportunity means an opportunity for substantial financial improvement of the Cooperative that, if generally known, would likely jeopardize the opportunity itself.

The Board may close a meeting or a portion of a meeting after announcing during an open meeting or by inclusion in a notice to the members the item of business to be discussed during the closed meeting or closed portion of the meeting.

### **ARTICLE XIII**

#### **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, Minnesota."

### **ARTICLE XIV**

#### **ELECTRONIC RECORDS AND SIGNATURES**

To the extent permitted or required by law and subject to reasonable policies of the Cooperative, any signature required or document required to be in writing by these Bylaws will be effective and enforceable if in electronic form.