

By-Laws of Union County Electric Cooperative, Inc.

IT SHALL BE THE AIM OF THE UNION COUNTY ELECTRIC COOPERATIVE, INC. TO MAKE ELECTRIC ENERGY AVAILABLE TO ITS MEMBERS AT THE LOWEST COST CONSISTENT WITH SOUND ECONOMY AND GOOD MANAGEMENT.

Article I. - MEMBERSHIP

Section 01 Requirements for Membership. Any person, firm, association, corporation, or body politic or sub-division thereof may become a member of the Union County Electric Cooperative, Inc. by:

- a. Making a written application of membership therein;
- b. Agreeing to purchase from the Cooperative electric energy as hereinafter specified;
- c. Agreeing to comply with and be bound by the articles of incorporation and by-laws of the Cooperative and any rules and regulations adopted by the board of directors; and
- d. Paying the membership hereinafter specified; provided, however, that no person, firm, association, corporation or body politic or sub-division thereof shall become a member unless and until such applicant has been accepted for membership in the Cooperative, and no membership in the Cooperative shall be transferable except as provided in these by-laws.

Section 02 Membership Certificate. Membership in the Cooperative may be evidenced by a membership certificate which shall be in such form and shall contain such provision as shall be determined by the board of directors. Such certificate shall be signed by the President and by the Secretary of the Cooperative and the corporate seal shall be affixed thereto. No membership certificate shall be issued for less than the membership fee fixed in these by-laws, nor until such membership fee has been fully paid for. In case a certificate is lost, destroyed or mutilated a new certificate may be issued therefore upon such uniform terms and indemnity to the Cooperative as the board of directors shall prescribe.

Section 03 Joint Membership. A husband and wife may apply for a joint membership and, subject to their compliance with the requirement 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 a husband and wife holding a joint membership and any provisions relating to the rights and liabilities of the membership shall apply equally with respect 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 of the holders of a joint membership shall be as follows:

- a. The presence at a meeting of either or both shall be regarded as the presence of one member and of constituting a joint waiver of notice of the meeting;
- b. The vote of either separately or both jointly shall constitute one joint vote;
- c. A waiver of notice signed by either or both shall constitute a joint waiver;
- d. Notice to either shall constitute notice to both;
- e. Expulsion of either shall terminate the joint membership;
- f. Withdrawal of either shall terminate the joint membership;
- g. Either but not both may be elected or appointed as an officer or director, provided that both meet the qualifications for such office.

Section 04 Effect of Death, Legal Separation or Divorce Upon a Joint Membership. Upon the death of either spouse of a joint membership, such membership shall continue to be held solely by the survivor, in the same manner and to the same effect as though such membership had never been joint; provided, that the estate of the deceased shall not be released from any debts due the Cooperative. Upon the legal separation or divorce of the holders of a joint membership, such membership shall continue to be held solely by the one who continues directly to occupy the premises covered by such membership, in the

same manner and to the same effect as though such membership had never been joint; provided, that the other spouse shall not be released from any debts due the Cooperative.

Section 05 Assignment of Capital Credits. If two or more names appear on the membership record, the capital credits shall be assigned in the first name mentioned unless otherwise arranged and stated between or among them.

- a. In the event of the death of one of the joint owners, patronage shall be assigned and vested in the name of the surviving joint tenant. If any husband and wife, as members, are divorced or legally separated, the capital credits shall be assigned and vested in the name of the member who continues to directly occupy or use the premises covered by the membership unless informed by the Court having jurisdiction over the matter to the contrary.

Section 06 Membership Fee. The membership fee shall be five dollars.

Section 07 Purchase of Electric Energy. Each member shall, as soon as electric energy shall be available, purchase from the Cooperative all electric energy used on the premises specified in his application for membership, and shall pay therefore monthly at rates which shall 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. It is expressly understood that amounts paid for electric energy in excess of the cost of service are furnished by the members as capital and each member shall be credited with the capital so furnished as provided in these by-laws. 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. Each member shall also pay all amounts owed to the Cooperative as and when the same shall become due and payable.

- a. Production or use of electric energy on such premises, regardless of the source thereof, by means of the facilities which shall be interconnected with Cooperative facilities, shall be subject to appropriate regulations as shall be fixed by the board of directors.

Section 08 Termination of membership.

- a. Any member may withdraw from membership upon compliance with such uniform terms and conditions as the board of directors may prescribe. The board of directors of the Cooperative may, by the affirmative vote of not less than two-thirds of all the directors, expel any member who fails to comply with any of the provisions of the articles of incorporation, by-laws or rules or regulations adopted by the board of directors, but only if such member shall have been given written notice by the Secretary of the Cooperative that such failure makes such member liable to expulsion and such failure shall have continued for at least ten days after such notice was given. Any expelled member may be reinstated by a vote of the board of directors or by vote of the members at any annual or special meeting. The membership of a member who for a period of six (6) months after service is available, has not purchased electric energy from the Cooperative, or of a member who has ceased to purchase energy from the Cooperative, shall be cancelled by resolution of the board of directors.
- b. Upon the withdrawal, death, cessation of existence or expulsion of a member, the membership of such member shall thereupon terminate, and the membership certificate of such member shall be surrendered forthwith to the Cooperative. Termination of membership in any manner shall not release member from any debt due to the Cooperative.
- c. In case of withdrawal or termination of membership, the Cooperative shall repay to the member the amount of the membership fee paid in cash, provided, however, that the Cooperative shall deduct from the amount of the membership fee the amount of any debts or obligations owing from the member to the Cooperative.

Article II. - RIGHTS AND LIABILITIES OF MEMBERS

Section 01 Property Interest of Members. Upon dissolution, after (a) all debts and liabilities of the Cooperative shall have been paid, and (b) all capital furnished in these by-laws, the remaining property and assets of the Cooperative shall be distributed among the members and former members in the proportion which the aggregate patronage of each bears to the total patronage of all members during the seven years next preceding the date of the filing of the certificate of dissolution, or, if the Cooperative shall not have been in existence for such period, during the period of existence.

Section 02 Non-liability for Debts of the Cooperative. The private property of the members shall be exempt from execution or other liability for the debt of the Cooperative and no member shall be liable or responsible for any debts or liabilities of the Cooperative.

Article III. - MEETING OF MEMBERS

Section 01 Annual Meeting. The annual meeting of the members shall be held between the dates of February 15 and April 15 of each year, the date to be set by the board of directors. The annual meeting shall be held in the County of Union, State of South Dakota, as shall be designated in the notice of the meeting, for the purpose of electing directors, passing upon reports for the previous fiscal year and transacting such other business as may come before the meeting. It shall be the responsibility of the board of directors to make adequate plans and preparations for the annual meeting. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the Cooperative.

Section 02 Special Meetings. Special meetings of the members may be called by resolution of the board of directors, or upon written request signed by any three directors, by the President, or by ten per centum or more of all the members, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be as hereinafter provided. Special meetings of the members may be held at the City of Elk Point, County of Union, State of South Dakota, which shall be specified in the notice of the special meeting.

Section 03 Notice of Member's Meeting. Written or printed notice stating the place, date and hour of the meeting at which business requiring special notice is to be transacted, the purpose or purposes for which the meeting is called, shall be delivered not less than ten days nor more than twenty-five days before the date of the meeting, either personally or by mail, by or at the direction of the Secretary, or upon a default in duty by the Secretary, by the persons calling the meeting, to each member. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at their address as it appears on the records of the Cooperative, with postage thereon prepaid. The failure of any member to receive notice of annual or special meeting of the members shall not invalidate any action which may be taken by the members at such meeting, provided such notice was mailed to such member as provided above.

Section 04 Quorum. As long as the total number of members does not exceed one thousand, five per centum of the total number of members present shall constitute a quorum. In case the total number of members shall exceed one thousand, fifty members present, shall constitute a quorum. If less than a quorum is present, those present in person may adjourn the meeting without further notice. The minutes of each meeting shall contain a list of members present in person.

Section 05 Voting. Each member shall be entitled to only one vote upon each matter submitted to a vote at a meeting of the members. All questions shall be decided by a vote of a majority of the members voting thereon in person, except as otherwise provided by law, the articles of incorporation or these by-laws. Voting by proxy shall not be permitted. Any member who is absent from any annual or special meeting of the members may vote by mail at such meeting upon any motion or resolution pertaining to debt limitation or the borrowing of funds from the United States of America or any agency or instrumentality thereof, of any other lender, or the sales mortgage, lease, or other disposition or encumbrances of property to the United States of America or any agency or instrumentality thereof, or any other lender. The Secretary shall enclose with the notice of such meeting an exact copy of such motion or resolution to be acted upon and such absent member shall express his vote thereon by placing a cross (X) in the space provided therefore opposite each such motion or resolution. Such absent member shall enclose each such copy so marked in a sealed envelope bearing their name and addressed to the Secretary. When such written vote so enclosed is received for any absent member, it shall be counted as a vote of such member at such meeting. If a husband and wife hold a joint membership and are absent from any annual or special meeting of the members, a written vote received from either of them shall constitute one joint vote. The failure of any absent member to receive a copy of any such motion or resolution shall not invalidate any action which may be taken by the members at any such meeting.

Section 06 Order of Business. The order of business at the annual meeting of the members and, so far as possible, at all other meetings of the members shall be essentially as follows:

- a. Report on the number of members present in person in order to determine the existence of a quorum.

- b. Reading of the notice of meeting and proof of the due publication or mailing thereof, or the waiver or waivers of notice of the meeting, as the case may be.
- c. Reading of unapproved minutes of previous meetings of the members and the taking of necessary action thereon.
- d. Presentation and consideration of reports of officers, directors, and committees.
- e. Nomination and election of directors.
- f. Unfinished business.
- g. New business.
- h. Adjournment.

Section 07 Credentials and Election Committee. The board of directors shall, at least three (3) days before any meeting of the members, appoint a Credentials and Election Committee. The Committee shall consist of an uneven number of Cooperative members not less than five (5) nor more than fifteen (15) who are not members of the Committee on Nominations, or existing Cooperative employees, agents, officers, directors or known candidates for director, and who are not close relatives or members of the same household thereof. In appointing the Committee, the board shall have regard for the equitable representation of the several areas served by the Cooperative. The Committee shall elect its own chairman and secretary prior to the member meeting. It shall be the responsibility of the committee to establish or approve the manner of conducting member registration and any ballot or other voting, to pass upon all questions that may arise with respect to the registration of members in person, to count all ballots or other votes cast in any election or in any other matter, to rule upon the effect of any ballots or other vote irregularly or indecisively marked or cast, to rule upon all other questions that may arise relating to member voting and the election of directors (including but not limited to the validity of petitions of nomination or the qualifications of candidates and the regularity of the nomination and election of directors), and to pass upon any protest or objection filed with respect to any election or to conduct affecting the results of any election. In the exercise of its responsibility, the Committee shall have available to it the advice of counsel provided by the Cooperative. In the event a protest or objection is filed concerning any election, such protest or objection must be filed during, or within three (3) business days following the adjournment of the meeting in which the voting is conducted. The Committee shall thereupon be reconvened, upon notice from its chairman, not less than seven (7) days after such protest or objection is filed. The Committee shall hear such evidence as is presented by the protestor(s) or objector(s), who may be heard in person, by counsel, or both, and any opposing evidence; and the Committee, by a vote of a majority of those present and voting, shall, within a reasonable amount of time but not later than thirty (30) days after such hearing, render its decision, the result of which may be to affirm the election, to change the outcome thereof, or to set it aside. The Committee may not affirmatively act on any matter unless a majority of the Committee is present. The Committee's decisions (as reflected by a majority of those actually present and voting) on all matters covered by this Section shall be final.

Article IV. - DIRECTORS

Section 01 General Powers. The business and affairs of the Cooperative shall be managed by a board of five (5) directors which shall exercise all of the powers of the Cooperative except such as are by law, the articles of conversion of these by-laws conferred upon or reserved to the members.

Section 02 Voting Districts. The board of directors shall determine the five (5) voting districts, each such district to be represented by one (1) director.

Section 03 Election and Tenure of Office. Each director or directors whose term or terms expire on the date of the said annual meeting shall be elected for a three-year term. All directors shall be elected by secret ballot as their terms expire at each annual meeting of the members of the Cooperative and shall serve for the period of time for which they are elected. If an election of the members shall not be held on the day designated herein for a meeting or adjournment thereof, a special meeting of the members shall be held for the purpose of electing a director or directors within a reasonable time thereafter. The director or directors may be elected by a plurality vote of the members. In case of a tie vote for director, the tie shall be determined by lot at such meeting.

Section 04 Qualifications. No person shall be eligible or remain a director or to hold any position of trust in the Cooperative who:

- a. is not a member and a bona fide resident in the area served by the Cooperative; or
- b. is in any way employed by or financially interested in a competing enterprise or a business selling electric energy or supplies to the Cooperative, or a business primarily engaged in selling electrical or plumbing appliances, fixtures, or supplies to the members of the Cooperative.
- c. Upon establishment of the fact that a director is holding office in violation of any of the foregoing provisions, the board of directors shall remove such director from office.
- d. Nothing contained in this section shall affect in any manner whatsoever the validity of any action taken at any meeting of the board of directors.

Section 05 Nominations. NOMINATION OF DIRECTORS SHALL BE BY PETITION. The Secretary shall be responsible for notifying members about the nomination of candidates for director and the availability of nominating petitions. Any ten (10) or more members of the same district affixing their signatures to a petition provided by the Cooperative can nominate a qualified person as candidate for director from their district. Petitions must be submitted to the Secretary not less than forty (40) days prior to the annual meeting of members. The Secretary shall mail with the notice of meeting or separately but at least seven (7) days before the date of the meeting, a statement of the number of directors to be elected and the names and addresses of the candidates and shall post such nominations at the Cooperative headquarters.

Section 06 Removal of Directors by Members. Any member may bring charges against a director, and by filing with the Secretary such charges in writing together with a petition signed by at least ten (10) per centum of the members, may request the removal of such director by reason thereof. Such directors shall be informed in writing of the charges at least ten (10) days prior to meeting of the members 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 director shall be considered and voted upon at the 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 with respect to nominations, provided however, that the successor must reside in the same district as the removed director.

Section 07 Vacancies. Subject to the provisions of these by-laws with respect to the filling of vacancies, a vacancy occurring in 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. The member elected as director to fill the vacancy must reside in the same district as the director to whose office the individual succeeds.

Section 08 Compensation. Directors shall not receive any salary for their services as directors, except that by resolution of the board of directors a fixed sum and expenses of attendance, if any, may be allowed for attendance at each meeting of the board of directors and for attendance at any other meeting on behalf of the Cooperative which is authorized by the board of directors. No director shall receive compensation for serving the Cooperative in any other capacity, nor shall any close relative of a director receive compensation for serving the Cooperative, unless the payment and amount of compensation shall be specifically authorized by a vote of the members or the service by such director, or close relative, shall have been certified by the board of directors as an emergency matter.

Article V. - MEETING OF DIRECTORS

Section 01 Regular meetings. A regular meeting of the board of directors shall be held without notice, immediately after, and at the same place as, the annual meeting of the members. A regular meeting of the board of directors shall also be held monthly at the office of the Cooperative in the City of Elk Point, Union County, South Dakota. Such regular monthly meeting may be held without notice other than such resolution fixing the time and place thereof.

Section 02 Special Meetings. Special meetings of the board of directors may be called by the President or by any three directors, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. The President or the directors calling the meeting shall fix the time and place, which shall be in the office of the Cooperative in the City of Elk Point, Union County, South Dakota, for the holding of the meeting.

- a. Notice of Directors' Meeting. Written notice of the time, place and purpose of any special meeting of the board of directors shall be delivered to each director not less than five (5) days previous thereto either personally or by mail, by or at the direction of the Secretary, or upon a default in the duty by the Secretary, by the President, or the directors calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the director at his address as it appears on the records of the Cooperative, with postage thereon prepaid.
- b. Quorum. A majority of the board of directors 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 and provided further, that the Secretary shall notify any absent directors of the time and place of such adjourned meeting. 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.

Article VI. - OFFICERS

Section 01 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. The offices of Secretary and of Treasurer may be held by the same person.

Section 02 Election and Term of Office. The officers may be elected by ballot, annually by and from the board of directors at the meeting of the board of directors held immediately after the annual meeting of the members.

- a. 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 their successor has been elected and shall have qualified. A vacancy in any office shall be filled by the board of directors for the unexpired portion of the term.

Section 03 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 thereby. In addition, any member of the Cooperative may bring charges against an officer, and by filing with the Secretary such charges in writing together with a petition signed by ten (10) per centum of the members, may request the removal of such officer. The officer against whom such charges have been brought shall be informed in writing of the charges at least ten (10) days prior to the board meeting at which the charges are to be considered and shall have an opportunity at the meeting to be heard in person or by counsel and to present evidence in respect of the charges; and the person or persons bringing the charges against him shall have the same opportunity. In the event the board does not remove such officer, the question of his removal shall be considered and voted upon at the next meeting of the members.

Section 04 President. The President shall:

- a. be the principal executive officer of the Cooperative and unless otherwise determined by the board of directors, shall preside at all meetings of the board of directors and the members;
- b. sign, with the Secretary, certificates of membership, the issue of which shall have been authorized by the board of directors of the members, and may sign any deeds, mortgages, deeds of trust, notes, bonds, contracts 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 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.

Section 05 Vice President. In the absence of the President, or in the event of his inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice President shall also perform such other duties as may be assigned by the board of directors.

Section 06 Secretary. The Secretary shall:

- a. keep the minutes of the meeting 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 by-laws or as required by law;
- c. be custodian of the corporate records and of the seal of the Cooperative and affix the seal of the Cooperative to all certificates of membership prior to the issue thereof and 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. keep a register of the names and post office addresses of all members;
- e. sign, with the President, certificates of membership, the issue of which shall have been authorized by the board of directors or the members;
- f. have general charge of the books of the Cooperative;
- g. keep on file at all times a complete copy of the articles of incorporation and by-laws 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 by-laws and of all amendments thereto to each member;
- h. in general perform all duties incident to the office of Secretary, and such other duties as may be assigned by the board of directors.

Section 07 Treasurer. The treasurer shall:

- a. have charge and custody of and be responsible for all funds and securities of the Cooperative;
- b. be responsible for the receipt of and the issuance of receipt for all moneys due and payable to the Cooperative and for the deposit of 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 by-laws; and
- c. in general perform all duties incident to the duties of the office of the Treasurer and such other duties as may be assigned by the board of directors.

Section 08 Manager. The board of directors may 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 may be assigned by the board of directors.

Section 09 Bonds of Officers. The treasurer and any other officer or agent of the Cooperative charged with responsibility for the custody of any of its funds of property shall give bond in such sum and with such surety as the board of directors shall determine. The board of directors in its discretion may also require any other officer, agent or employee of the Cooperative to give bond in such amount and with such surety as it shall determine.

Section 10 Compensation. The powers, duties and compensation of officers, agents and employees shall be fixed by the board of directors, subject to the provisions of these by-laws with respect to compensation for directors and close relatives of directors.

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. Such reports shall set forth the condition of the Cooperative at the close of such fiscal year.

Article VII. - NON-PROFIT OPERATION

Section 01 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 02 Patronage Capital in Connection with Furnishing Electric Energy. In the furnishing of electric energy the Cooperative's operations shall be so conducted that all patrons will, through their patronage, furnish capital for the Cooperative. In order to induce patronage and to assure that the Cooperative will operate on a non-profit basis the Cooperative is obligated to account on patronage basis, to all its patrons for all amounts received and receivable from the furnishing of electric energy in excess of the sum of (a) operation costs and expenses properly chargeable against the furnishing of electric energy, and (b) amounts required to offset any losses incurred during the current or any prior fiscal year. All such amounts in excess of operating costs and expenses at the moment by receipt of the Cooperative are received with the understanding that they are furnished by the patrons as capital. The Cooperative is obligated to pay by credits to a capital account for each patron all such amounts in excess of operating costs and expenses. The books and records of the Cooperative shall be set up and kept in such a manner

that at the end of each fiscal year the amount of capital, if any, so furnished by each patron is clearly reflected and credited in an appropriate record to the capital cash account of each patron, and the Cooperative shall within a reasonable time after the close of the fiscal year notify each patron of the amount of capital so credited to his account. All such amounts credited to the capital account of any patron shall have the same status as though they had been paid to the patron in cash in pursuance of a legal obligation to do so and the patron had then furnished the Cooperative corresponding amounts for capital.

All other amounts received by the Cooperative from its operation in excess of costs and expenses shall, insofar as permitted by law, be (a) used to offset any losses incurred during the current or any prior fiscal year and (b) to the extent not needed for that purpose, allocated to its patrons on a patronage basis and any amount so allocated shall be included as a part of the capital credited to the accounts of patrons, as herein provided.

In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credits shall be retired without priority on a pro rata basis before any payments are made on account of property rights of members. If, at any time prior to dissolution or liquidation, the board of directors shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital then credited to the patrons' accounts may be retired in full or in part. Any such retirements of capital shall be made in order of priority according to the year in which the capital was furnished and credited, the capital first received by the Cooperative being first retired.

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

Notwithstanding any other provision of these by-laws, the board of directors, at its discretion, shall have the power at any time upon the death of any patron, who was a natural person, if the legal representatives of their 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 by-laws, 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 by-laws shall constitute and be a contract between the Cooperative and each patron, and both the Cooperative and 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 by-laws shall be called to the attention of each patron of the Cooperative by posting in a conspicuous place in the Cooperative's office.

Article VIII. - DISPOSITION OF PROPERTY

Section 01 Encumbering Cooperative Property. The board of directors shall have full power to authorize the execution and delivery of a mortgage or mortgages, or a deed or deeds of trust of, or the pledging of 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 therefrom, all upon such terms and conditions as the board of directors shall determine, to secure any indebtedness of the Cooperative to United States of America or any agency or instrumentality thereof, or any other lender.

Section 02 Other Disposition of Property. Except as provided in Section 1 of this Article, the Cooperative may not sell, lease, or otherwise dispose of all or a substantial portion of its property, unless such sale, lease or other disposition is authorized by the affirmative vote of not less than a majority of all members of the Cooperative; members voting thereon must be present and vote in person, provided, however, that notwithstanding any other provision of this Article, or any other provisions of law, the board of directors may, upon the authorization of a majority of all members of the Cooperative at a meeting of the members thereof, called for that purpose, sell, lease, or otherwise dispose of all or a substantial portion of its property to another cooperative or to the holder or holders of any notes, bonds or other

evidences of indebtedness issued to United States of America, or any agency or instrumentality thereof, or any other lender.

Article IX. - SEAL

- a. 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 words "Corporate Seal, South Dakota."

Article X. - FINANCIAL TRANSACTIONS

- Section 01** Contracts. Except as otherwise provided in these by-laws, 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 02** Checks, Drafts, etc. All checks, drafts and 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 be determined by resolution of the board of directors.
- Section 03** Deposits. All funds of the Cooperative shall be deposited to the credit of the Cooperative in such banks or other insured depositories, or in such investment securities or funds as may be designated by the Administrator of Rural Utilities Service (RUS), as the board of directors may select.
- Section 04** Change in Rates. Written notice shall be given to the Administrator of the Rural Utilities Service of the United States of America not less than ninety (90) days prior to the date upon which any proposed change in the rates charged by the Cooperative for electric energy becomes effective.
- Section 05** Fiscal Year. The fiscal year of the Cooperative shall begin on the first day of January of each year and shall end on the thirty-first day of December in the same year.

Article XI. - MISCELLANEOUS

- Section 01** Membership in Other Organizations. The Cooperative shall not become a member of or purchase stock in any other organization without an affirmative vote of the members at a duly held meeting, the notice of which shall specify that action is to be taken upon such proposed membership or stock purchase, provided, however, that the Cooperative may upon the authorization of the board of directors, purchase stock in or become a member of (a) any corporation or organization organized on a non-profit basis for the purpose of engaging in or furthering the cause of rural electrification, or (b) any bank in the United States Farm Credit System, or (c) with the approval of the Administrator of RUS, any other corporation for the purpose of acquiring electric facilities.
- Section 02** Waiver of Notice. Any member or director may waive in writing any notice of a meeting required to be given by these by-laws, either before or after such meeting. The attendance of a member or director at any meeting shall constitute a waiver of notice of such meeting by such member or director, except in case a member or director shall attend a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.
- Section 03** Policies, Rules and Regulations. The board of directors shall have power to make and adopt such policies, rules and regulations, not inconsistent with law, the articles of conversion or these by-laws, as it may deem advisable for the management of the business and affairs of the Cooperative.
- Section 04** Accounting System and Reports. The board of directors 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 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 conditions of the Cooperative as of the end of such fiscal year. A report of such audit shall be submitted to the members at the next annual meeting.

Section 05 Close Relative Defined. As used in these by-laws, close relative means a person who is related to the principal person, by consanguinity of affinity, to the third degree or less – that is, a person who is either a spouse, child, grandchild, great grandchild, parent, grandparent, great grandparent, brother, sister, aunt, uncle, nephew or niece, by blood or in law, of the principal.

Section 06 Indemnification of Officers, Directors, Employees, and Agents; Insurance.

- a. The Cooperative shall indemnify any person who was or is a party or is threatened to be made a party to any threatened pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the cooperative) by the reason of the fact that they are or were a director, officer, employee or agent or another corporation partner-joint venture, trust or other enterprise, against expense (including attorneys' fees), judgements, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if they acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the Cooperative and, with respect to any criminal action or proceeding, had no reasonable cause to believe their conduct was unlawful. The termination of any action, suit or proceeding judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which they reasonably believed to be in or not opposed to the best interest of the Cooperative, and, with respect to any criminal action or proceeding, had reasonable cause to believe that their conduct was unlawful.
- b. The Cooperative shall indemnify any person who was or is a party or is threatened to be made a party to any threatened pending or completed action or suit by or in the right of the Cooperative to procure a judgment in its favor by reasons of the fact that they are or were a director, officer, employee or agent of the Cooperative or is or was serving at the request of the Cooperative as a director, officer, employee or agent of another corporation, cooperative, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by them in connection with the defense or settlement or such action or suit if they acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interest of the Cooperative and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of their duty to the Cooperative unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnify for such expenses which such court shall deem proper.
- c. To the extent that a director, officer, employee or agent of a Cooperative has been successful on the merits or otherwise in defense of an action, suit or proceeding referred to in subsections (a) and (b), or in defense of any claim, issue or matter therein, they shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by them in connection therewith.
- d. Any indemnification under the foregoing provision of this section (unless ordered by a court) shall be made by the Cooperative only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct as set forth in subsections (a) and (b). Such determination shall be made (i) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (ii) if such quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (iii) by the members of the Cooperative.
- e. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Cooperative in advance of the final disposition of such action, suit or proceeding as authorized by the board of directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Cooperative as authorized in this section.
- f. The indemnification provided by this section shall not be deemed exclusive of any other right to which those seeking indemnity may be entitled under any by-law, agreement, vote of members or disinterested directors or otherwise, both as to action in their official capacity and as to action in another capacity while holding such office, shall continue as to a person who has ceased to be a

director, officer, employee or agent and shall insure to the benefit of the heirs, executors and administrators of such person.

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

Section 07 Assignment and Gift by Failure to Claim.

- a. Notwithstanding any other provisions of the by-laws, if any patron or former patron fails to claim any cash retirement of capital credits or other payment from the Cooperative within three (3) years after payment of the same has been made available to them by check mailed to them at their last address furnished by them to the Cooperative, such failure shall be and constitutes an irrevocable assignment and gift by such member of such capital credit or other payments to the Cooperative.
- b. Failure to claim any such payment within the meaning of this section shall include the failure of such patron or former patron to cash any check mailed to them by the Cooperative at the last address furnished by them to the Cooperative.
- c. The assignment and gift provided for under this section shall become effective only upon the expiration of three (3) years from the date when such payment was made available to such patron or former patron without claim therefore and only after the further expiration of sixty (60) days following the giving of a Notice by mail or publication that unless such payment is claimed within sixty (60) days, such gift to the Cooperative shall become effective.
- d. The Notice by mail herein provided shall be one mailed by the Cooperative to such patron or former patron at the last known address. If Notice by publication is given, such publication shall be one insertion in a newspaper circulated in the service area of the Cooperative.
- e. The sixty (60) day period following the given of such Notice, either by mail or publication, shall be deemed to terminate sixty (60) days after the mailing or publication of such Notice.

Article XII. - AMENDMENTS

Section 01 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. Any amendment which is germane to the proposed alterations or amendment specified in the Notice and submitted at such meeting may be acted upon at said meeting with the same force and effect as though it has been contained in the Notice of the meeting.