

**BYLAWS
AND
ARTICLES OF INCORPORATION**

as amended January 6, 2014

**NODAK ELECTRIC COOPERATIVE, INC.
GRAND FORKS, NORTH DAKOTA**

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**BYLAWS
OF
NODAK ELECTRIC COOPERATIVE, INC.**

**ARTICLE I
MEMBERS**

Section 1. Requirements for Membership. Any person or entity that has the legal capacity to enter into a binding contract and is eligible to receive and purchase electrical energy from Nodak Electric Cooperative, Inc., under the provisions of the Rural Electrification Act may become a member of the Cooperative by:

- (a) Making a written application for membership therein;
- (b) Agreeing to purchase from the Cooperative electrical energy as hereinafter specified;
- (c) Agreeing to comply with and be bound by the articles of incorporation and bylaws of the Cooperative and any and all regulations and rate schedules adopted by the board of directors; and
- (d) Paying a membership application fee as hereinafter specified; provided, however, that the payment of the application fee in accordance with the provisions of these bylaws by a landlord on behalf of the applicant for membership who is a tenant occupying premises owned by such landlord and served by the Cooperative shall constitute compliance by such applicant with subdivision (d) of this section. No member may hold more than one membership in the Cooperative, and no membership shall be transferable, except as provided in these bylaws.

Section 2. Joint Membership. Any two (2) or more potential qualified members who are residents of the same household may jointly become a member and their application may be accepted in accordance with the provisions found in this article. The term "member" includes all those holding a joint membership. Any provisions relating to the rights and liabilities of membership shall apply equally with respect to all holders of a joint membership. The effect of the hereinafter specified actions by or in respect of all holders of joint membership shall be as follows:

- (a) The presence at a meeting of any or all shall be regarded as the presence of one member and shall constitute a joint waiver of notice of the meeting;
- (b) The vote, in person, or by mail or electronic mail where authorized, of any of those holding joint membership, separately or all, jointly shall constitute one joint vote;
- (c) A waiver of notice or any other instrument signed by any of those holding the joint membership shall constitute a joint waiver;

- (d) Notice to any of those holding the joint membership shall constitute notice to all holding the joint membership;
- (e) Expulsion of any of those holding a joint membership shall terminate the joint membership;
- (f) Withdrawal of any of those holding a joint membership shall terminate the joint membership;
- (g) No more than one of those holding a joint membership may be elected or appointed as an officer or director, provided that all those holding a joint membership meet the qualifications for such office;
- (h) Joint membership shall continue until such time as the Cooperative shall receive sufficient notice, in writing, of any change in status, signed by all of the joint members;
- (i) Upon the death of any of those holding a joint membership, such membership shall be held solely by the survivor(s). The outstanding membership certificate or uncertified security shall be surrendered and shall be reissued as an uncertified security in such manner as to indicate the changed membership status; provided, however, that the estate of the deceased shall not be released from any debts due the Cooperative and the survivor(s) shall also be liable for such debts; and
- (j) Joint membership shall not be terminated by divorce or separation.

Section 3. Processing Fee.

- (a) There shall be no membership fee as such; but each applicant for membership shall pay into the general fund of the Cooperative a processing fee as established by the board of directors to defray, in part, the cost of processing such application.
- (b) Upon acceptance into membership, the member shall become eligible for one service connection.
- (c) Any member desiring more than one service connection shall pay into the general fund of the Cooperative the processing fee as established by the board of directors for each additional service connection.

Section 4. Purchase of Electric Power and Energy; Power Production by Member; Application of Payments to All Accounts. The Cooperative shall use reasonably diligent efforts to furnish its members with adequate and dependable electric services, although it cannot and therefore does not guarantee a continuous and uninterrupted supply thereof; and each member, for so long as such premises are owned or directly occupied or used by the member, shall:

- (a) purchase from the Cooperative all central station electric power and energy purchased for use on all premises to which electric service has been furnished by the Cooperative pursuant to the member's membership, unless and except to the extent that the board of directors may in writing waive such requirement;
- (b) pay therefor at the times, and in accordance with the rules, regulations, and rate schedules (including any monthly minimum amount that may be charged without regard to the amount of electric power and energy actually used) established by the board of directors; and
- (c) pay all other amounts owed by the member to the Cooperative as and when they become due and payable.

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

When the member has more than one service connection from the Cooperative, any payment by the member for service from the Cooperative shall be deemed to be allocated and credited on a pro rata basis to the member's outstanding accounts for all such service connections, notwithstanding that the Cooperative's actual accounting procedures do not reflect such allocation and proration.

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. Termination of Membership. Termination of membership in the Cooperative shall be under the following terms and conditions:

- (a) Any member may withdraw from membership upon compliance with such uniform terms and conditions as the board of directors may prescribe. The board may, by affirmative vote of not less than 2/3 of all the directors, expel any member who fails to comply with any of the provisions of the articles of incorporation, or of the bylaws, or of any of the rules, regulations or rates adopted by the board of directors; but only if such member shall have been given written notice by the secretary that such failure makes him liable to expulsion and such failure shall have continued for at least 10 days after notice was given. Any expelled member may be reinstated by a vote of the board of directors or by vote of the members at an annual or special meeting.
- (b) Upon the withdrawal, death, cessation of existence or expulsion of a member or cancellation of membership for any reason, the membership of such member shall thereupon terminate. Termination of membership for any reason shall not release a member or his estate from any debts due the Cooperative.

Section 7. Refunds. All application fees and service connection fees heretofore or hereafter received by the Cooperative shall forthwith be converted into the general funds of the Cooperative.

Section 8. Newsletter.

- (a) That a periodical be published by the Cooperative to be known as “The Nodak Neighbor” for the purpose of informing the members as to the operations and activities of the Cooperative and the full utilization of electricity.
- (b) That in addition to the dissemination of news and information when practical the said “The Nodak Neighbor” shall be utilized by the Cooperative for the giving of notices of regular and special meetings of the members and the publication of bylaw amendments and other official actions of the board of directors and members.
- (c) That all members of the Cooperative shall be subscribers and the mailing of a copy of said “The Nodak Neighbor” to each member (or to one member in situations of joint membership) shall be in compliance with all provisions of the bylaws of the Cooperative relating to times of notice for regular and special meetings of the members and board of directors of the Cooperative.

Section 9. Membership List. The Cooperative shall maintain a written or electronic record of current members in a form permitting the Cooperative to alphabetically list the names and addresses of all members. Except as otherwise provided by these bylaws or the board, a member may not inspect, copy, or receive a copy of all or part of the Membership List or a similar list of members.

The requesting member shall comply with any reasonable terms, conditions, or requirements imposed by the Cooperative to protect against use of all or part of the Membership List for improper purposes or prohibited uses.

Instead of making the Membership List available for inspection or copying, or providing a copy of the Membership List, the Cooperative may choose to, within five days of receiving a notice or request from a member, provide the member an alternative method for reasonably and timely accomplishing the purpose identified by the member without providing access to or a copy of the Membership List.

**ARTICLE II
MEETINGS OF MEMBERS**

Section 1. Annual Meeting.

- (a) The annual meeting of the members shall be held at such time and place in the county of Grand Forks or such other location within the service territory as the board of directors shall annually determine, and shall be designated in the notice of the

meeting for the purpose of electing directors, passing upon reports covering the previous fiscal year and transacting such other business as may come before the meeting.

- (b) If the election of directors shall not be held on the day designated herein for any annual meeting, or 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.
- (c) Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the Cooperative.

Section 2. Special Meetings. A special meeting of the members may be called by:

- (a) the majority of the board of directors; or
- (b) by petition signed by not less than twenty percent (20%) of the members entitled to vote, and it shall thereupon be the duty of the secretary to cause notice of such meeting to be given as hereinafter provided in Section 3.

Such a meeting shall be held at such place in one of the counties in North Dakota within which the Cooperative serves, on such date no sooner than ten nor more than thirty days after the call for such meeting is made or a petition therefor is filed, and beginning at such hour as shall be designated by him or those calling or petitioning for the same.

Section 3. Notice of Members Meetings. Written or printed notice stating the place, day and hour of the meeting and information pertaining to voting by mail, and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) days nor more than thirty (30) days before the date of the meeting, either personally or by mail, by or at the direction of the chairman or the secretary, or 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 his address as it appears on the records of the Cooperative, with postage thereon prepaid. In case of a joint membership notice given to any of the joint members shall be deemed notice to both joint members. The failure of any member to receive notice of an annual or special meeting of the members, shall not invalidate any action which may be taken by the members at any such meeting.

Section 4. Quorum. A quorum of all member meetings of Nodak Electric Cooperative, Inc. shall never be more than fifty (50) members or a majority of all members, whichever is smaller. In determining a quorum at a meeting, on a question submitted to a vote by mail or electronic means, members present in person and represented by vote by mail or electronic means shall be counted. In case of a joint membership, the presence at a meeting of any or all of the joint members, shall be regarded as the presence of one member. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice.

Section 5. Voting. Each member shall be entitled to one (1) vote and no more upon each matter submitted to the vote at a meeting of the members. Members at annual meetings will be given credentials therefor to vote for one (1) membership and no other. Except as otherwise provided by law, the articles of incorporation or these bylaws, at all meetings of the members at which a quorum is present, all questions shall be decided by a vote of a majority of the members voting thereon in person or by mail or electronic means, where the bylaws or the board have authorized voting by mail or electronic means, and all elections shall be decided by a vote of a plurality of the members voting thereon in person or by mail, as further described at Article III, Section 4, and no individual shall be allowed to cast more than one (1) membership vote. If persons hold a joint membership, they shall jointly be entitled to one (1) vote and no more upon each matter submitted to a vote at a meeting of the members. Voting by members other than members who are natural persons shall be allowed upon the presentation to the Cooperative, prior to or upon registration at each member meeting of satisfactory evidence entitling the person presenting the same to vote.

Section 6. Voting by Mail and Electronic Means.

- (a) Any member may vote by mail for directors and the absentee ballot(s) or the procedures for requesting absentee ballots shall be mailed with the notice of the annual meeting. Voting by mail or electronic means on other matters shall only be allowed and authorized by, and at the discretion of, the board of directors.
- (b) Voting by electronic means for directors or any other matters shall only be allowed and authorized by and at the discretion of the board of directors.
- (c) Each mail or electronic ballot must:
 - (1) provide an opportunity to vote for or against each proposed action;
 - (2) contain, or be accompanied by,
 - (a) a copy or summary of such proposed action, including any motion, resolution, amendment or other written statement, and identify any candidate upon which a member is asked to vote;
 - (b) the date of any member meeting at which the members are scheduled to vote on the matter;
 - (c) the number of responses needed to meet the member quorum;
 - (d) the percentage of approvals necessary to approve the action;
 - (e) instructions to the member on how to complete and return the completed ballot; and

- (f) the time by which the Cooperative must receive the completed ballot for it to be counted.

The failure of any member to receive a ballot shall not invalidate any action which may be taken by the members at a meeting.

Section 7. Proxies. No member shall be entitled to vote by proxy at any meeting of the members.

Section 8. Election Committee.

- (a) The board of directors, at least ten (10) days prior to each member meeting, shall appoint an Election Committee from among the membership, who are neither directors, known candidates for directors, nor close relatives of, or members of the same household of directors or known candidates for directors. No employee of the Cooperative may be a member of the Election Committee.
- (b) The Election Committee shall, by a majority vote thereof, resolve any question that arises at the meeting concerning the election of directors or balloting on an issue, which is not specifically provided for by law, the articles of incorporation or these bylaws. In the exercise of its responsibility, the Committee shall have available to it the advice of counsel provided by the Cooperative.
- (c) In the event a protest or objection is filed concerning any election, such protest or objection must be filed during, or within three (3) business days following the adjournment of the meeting in which the voting is conducted. The Committee shall thereupon be reconvened, upon notice from its chairman, not less than seven (7) days after such protest or objection is filed. The Committee shall hear such evidence as is presented by the protestor(s) or objector(s), who may be heard in person, by counsel, or both, and any opposing evidence; and the Committee, by a vote of a majority of those present and voting, shall, within a reasonable time but not later than 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.
- (d) The Committee may not affirmatively act on any matter unless a majority of the Committee is present.
- (e) The Committee's decisions on all such questions shall be final.

Section 9. Order of Business. The board of directors shall determine the agenda and order of business for member meetings; provided, however that the order of business at any meeting may be amended by motion and majority vote of the members at such meeting.

ARTICLE III DIRECTORS

Section 1. General Powers. The business and affairs of the Cooperative shall be managed by a board of nine (9) directors. The cooperative service territory shall be divided into three (3), substantially similar districts based on member populations. Each represented by three (3) directors. The number of directors to be elected at each annual meeting shall be three (3), with one director elected each year from each district, and the term of office of each director shall be three (3) years; provided further that no more than two (2) directors in each district shall be allowed to serve from any one county. The board of directors shall exercise all of the powers of the Cooperative except such as are by law or by the articles of incorporation of the Cooperative or by these bylaws conferred upon or reserved to the members.

Section 2. Qualifications and Tenure. Persons eligible to become or remain a director of the Cooperative shall:

- (a) be a member in good standing of the Cooperative, receiving electric service at the member's primary residence in the district from which the director is elected;

For purposes of these bylaws, "primary residence" shall mean the residence that is the chief or main residence of the member and where the member actually lives for the most substantial portion of the year;

- (b) have voting rights within the district from which the director is to be elected;
- (c) not be employed by, materially affiliated with, or have a material financial interest in, any individual or entity which either is:
 - 1) directly or substantially competing with the Cooperative; or
 - 2) selling goods and services in substantial quantity to the Cooperative; or
 - 3) possessing a substantial conflict of interest with the Cooperative.
- (d) not be an employee or not have been an employee of the Cooperative within the previous three (3) years;
- (e) not be a close relative of an employee, "close relative" meaning any individual who is, either by blood, law, or marriage, including half, step, foster, and adoptive relations, a spouse, child, grandchild, parent, grandparent, or sibling; or principally resides in the same residence;
- (f) be only one (1), but not more than one (1), member of a joint membership; provided, however, that none shall be eligible to become or remain a director or to hold a position of trust in the Cooperative unless all shall meet the qualifications listed within this section;

- (g) if a representative or agent of a member that is not a natural person, i.e. a corporation, partnership, limited liability company, or similar, then the representative or agent designated as a nominee for director shall be an individual who is otherwise qualified as a director, residing within the boundaries of the district from which (s)he is nominated;
- (h) never have been convicted of a felony; and
- (i) agree to regularly attend all board meetings, and in no case have more than three (3) unexcused absences within a twelve (12) month period of time.

Nothing in this section contained shall, or shall be construed to, affect in any manner whatsoever the validity of any action taken at any meeting of the board of directors.

Section 3. Nominations.

- (a) It shall be the duty of the board of directors to appoint, not less than sixty (60) days before the date of a meeting of the members, at which directors are to be elected a Committee on Nominations consisting of not less than five (5) nor more than eleven (11) members who shall be selected so as to give equitable representation on the Committee to the geographical areas served or to be served by the Cooperative. The names of the Committee on Nominations and the date and place such Committee will hold its meeting shall be made available to the members of the Cooperative.
- (b) No officer or member of the board of directors shall be appointed a member of such committee.
- (c) The Committee shall prepare and post at the principal office of the Cooperative at least forty-five (45) days before the meeting a list of nominations for directors, but any fifteen (15) or more members may make other nominations in writing over their signatures not less than forty-five (45) days prior to the meeting and the secretary shall post the same at the same place where the list of nominations made by the Committee is posted.
- (d) The secretary shall mail with the notice of the meeting a statement of the number of directors to be elected and showing separately the nominations of qualified director candidates made by the Committee on Nominations and the nominations made by petition, if any.

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 nominations.

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 4. Election. At each annual meeting of the members, directors shall be elected by board authorized ballot by the members, voting in person, or by mail or electronic means where authorized. Directors shall be elected by a plurality of the votes cast, subject however to the restrictions in Section 2 of this article. Drawing by lot shall resolve, where necessary, any tie votes.

Section 5. Vacancies. Subject to the provisions of these bylaws with respect to the removal of directors, vacancies occurring in the board of directors may be filled by a majority vote of the remaining directors, and directors thus elected shall serve until the next annual meeting of the members or until their successors shall have been elected and shall have qualified.

Section 6. Removal of Directors by Members.

- (a) Any member may bring one or more charges for cause against any one or more directors and may request the removal of such director(s) by reason thereof by filing with the secretary such charge(s) in writing together with a petition signed by not less than twenty percent (20%) of the total membership of the Cooperative, which petition calls for special member meeting the stated purpose of which shall be to hear and act on such charges and, if one or more directors are recalled, to elect their successor(s), and specifies the place, time and date thereof not less than forty (40) days after filing of such petition, or which requests that the matter be acted upon at the subsequent annual member meeting if such meeting will be held no sooner than forty (40) days after the filing of such petition.
- (b) Each page of the petition shall, in the forepart thereof, state the name(s) and address(es) of the member(s) filing such charge(s), a verbatim statement of such charge(s) and the name(s) of the director(s) against whom such charge(s) is (are) being made. The petition shall be signed by each member in the same name as he is billed by the Cooperative and shall state the signatory's address as the same appears on such billings.
- (c) Notice of such charge(s) verbatim, of the director(s) against whom the charge(s) has been made, of the member(s) filing the charge(s) and the purpose of the meeting shall be contained in the notice of the meeting, or separately noticed to members not less than ten (10) days prior to the member meeting at which the matter will be acted upon; provided, that the notice shall set forth only twenty (20) of the names (in alphabetical order) of the members filing one or more charges if twenty (20) or more members file the same charge(s) against the same director(s).
- (d) Such director(s) shall be informed in writing of the charges after they have been validly filed and at least twenty (20) days prior to the meeting of the members at which the charge(s) are to be considered, and shall have an opportunity at the meeting to be heard in person, by witnesses, by counsel or any combination of such, and to

present evidence in respect of the charge(s); and the person(s) bringing the charge(s) shall have the same opportunity, but shall be heard first.

- (e) The question of the removal of such director(s) shall, separately for each if more than one has been charged, be considered and voted upon at such meeting, and any vacancy created by such removal shall be filled by vote of the members, at such meeting without compliance with the foregoing provisions with respect to nominations, except that nominations shall be made from the floor; provided, that the question of the removal of the director shall not be voted upon at all unless some evidence in support of the charge(s) against him shall have been presented during the meeting through oral statements, documents or otherwise. A newly elected director shall be from or with respect to the same district as was the director whose office he succeeds and shall serve the unexpired portion of the removed director's term.

Section 7. Compensation. Directors shall receive such compensation, including per diem and expense allowance for attendance at directors' meetings and for other services rendered for the Cooperative as the directors from time to time shall allow and order paid.

Section 8. Rules and Regulations. The board of directors shall have 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 System and Reports.

- (a) 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 the Administrator of the Rural Utilities Service of the United States Department of Agriculture.
- (b) The board of directors shall cause to be made a detailed financial report to be submitted for their review at each regularly scheduled monthly meeting.
- (c) 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) A regular meeting of the board of directors shall be held without notice, other than this bylaw, immediately after the annual meeting of the members.

- (b) A regular meeting of the board of directors shall also be held monthly at such time and place as shall be fixed by the board of directors.
- (c) Such regular monthly meetings shall be held at the Cooperative's headquarters building in Grand Forks unless otherwise designated by resolution by the board of directors.

Section 2. Special Meetings.

- (a) Special meetings of the board of directors may be called by the chairman or any four (4) directors.
- (b) The person or persons authorized to call special meetings of the board of directors may fix the time and place for the holding of any special meeting of the board of directors called by them.

Section 3. Notice.

- (a) Notice of the 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, mailed or by electronic means, to each director at his last known address.
- (b) If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid.
- (c) 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.
- (d) Any director who is not present at a board meeting when a resolution setting a time and place for the next regular board meeting, pursuant to Section 1 above, shall be entitled to a notice of the next regular board meeting in the same manner as set forth for special board meetings contained herein.

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 is present at said meeting, a majority of the directors present may adjourn the meeting from time to time without further notice; and provided further, that the secretary shall cause any absent directors to be notified of the time and place of any adjourned meeting in the same manner as provided for special board meetings as provided by Section 3 above.

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. Emergencies. Any or all directors may participate in any meeting of the board of directors by any means of communication through which the directors may simultaneously hear and speak to each other during such meeting. For purposes of establishing a quorum and taking any action, such directors participating pursuant to this section shall be deemed present in person at the meeting. This section is intended to be utilized only in unusual or emergency situations and not to replace normal attendance at board of director meetings.

ARTICLE V OFFICERS

Section 1. Number. The officers of the Cooperative shall be a chairman, vice-chairman, 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 shall be filled by the board of directors for the unexpired portion of the term.

Section 5. Chairman. The chairman 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) may 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 chairman and such other duties as may be prescribed by the board of directors from time to time.

Section 6. Vice-Chairman. In the absence of the chairman, or in the event of his inability or refusal to act, the vice-chairman shall perform the duties of the chairman, and when so acting,

shall have all the powers of and be subject to all the restrictions upon the chairman 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 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 all documents, the execution of which on behalf of the Cooperative under its seal is duly authorized in accordance with the provisions of these bylaws;
- (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 by the board of directors.

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 monies due and payable to the Cooperative from any source whatsoever, and deposit all such monies in the name of the Cooperative in such bank or banks as shall be selected in accordance with the provisions of these bylaws; 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 by the board of directors.

Section 9. President and Chief Executive Officer (CEO). The board of directors shall appoint a president and chief executive officer (CEO) who may be, but who shall not be required to be, a member of the Cooperative. The president and CEO shall perform such duties as the board of

directors may from time to time require of him and shall have such authority as the board of directors may from time to time vest in him.

Section 10. Liability Insurance. The board of directors shall require the purchase by the Cooperative of officers' and directors' liability insurance to cover the acts and/or omissions of such persons while working in their capacity on behalf of the Cooperative.

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.

Section 12. Delegation of Duties. If the board of directors delegates any responsibilities and duties of the officers to employees or agents of the Cooperative, to the extent that the board delegates those duties and responsibilities, the officer whose duties and responsibilities are delegated shall be released from such duties and responsibilities.

ARTICLE VI CONTRACTS, CHECKS AND DEPOSITS

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 bank or banks as the board of directors may select.

ARTICLE VII REVENUES AND RECEIPTS

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 will through their patronage furnish capital for the Cooperative. In order to induce patronage and to assure that the Cooperative will operate on a non-profit basis, the Cooperative is obligated to account on a patronage basis to all its patrons for all amounts received and receivable from the furnishing of electric 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 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 board of directors, at its discretion, may elect not to allocate margins for any year if the total margins are less than 1% of the total operating revenue. Such unallocated margins shall be carried forward and allocated on the basis of the next allocation. The books and records of the Cooperative shall be set up and kept in such a manner that at the end of each fiscal year, the amount of capital, if any, so furnished by each patron is clearly reflected and credited in an appropriate record to the capital account of each patron, and the Cooperative shall within a reasonable time after the close of the fiscal year notify each patron of the amount of capital so credited to 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 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 instruction 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 provisions of these bylaws, the board of directors (hereinafter in this section referred to as the "Board"), at its discretion, shall have the power to retire the capital credited to certain patrons under the following terms and conditions:

- (a) The Board shall have the power at any time upon the death of any individual patron, if the legal representatives of his estate shall request that the capital credited to any such deceased 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 deceased patron immediately upon such terms and conditions as the Board acting under policies of general application, and the legal representatives of such deceased patron's estate shall agree upon.

- (b) The Board shall have the power at any time upon the dissolution of a partnership by reason of the death of one or more of the partners or upon the dissolution of a partnership by legal proceedings, if the legal representatives of the deceased partner or the former members of the dissolved partnership shall request that the capital credited to such partnership be retired prior to the time such capital would otherwise be retired under the provisions of these bylaws, to retire capital credited to such dissolved partnership immediately upon such terms and conditions as the Board, acting upon policies of general application and the legal representatives of the deceased partner and former members of the dissolved partnership shall agree upon.
- (c) The Board shall have the power at any time after receiving notice of the adjudication in bankruptcy of a person, partnership or corporation to retire the capital credited to such bankrupt person, partnership or corporation by deducting therefrom any amount owed to the Cooperative, and tendering the balance, if any, to the referee in bankruptcy having jurisdiction in such bankruptcy proceedings for disposition as said referee shall determine.
- (d) The Board shall have the power at any time after receiving notice that a corporation has been dissolved by a Certificate of Dissolution issued by the secretary of state or by the decree of a court having jurisdiction of the dissolution proceedings to tender the amount of the capital credited to the dissolved corporation to the persons named as president and secretary, respectively, of the dissolved corporation for distribution to the stockholders of such dissolved corporation or for such other disposition thereof under such terms and conditions as the Board acting upon policies of general application and the legal representatives of such dissolved corporation shall agree upon.
- (e) The Board shall have the power at any time after receiving notice that a membership in the Cooperative has been terminated by the person having ceased receiving service and who has reached the age of sixty-five (65) years, if the said former member shall request that the capital credited to him be retired prior to the time such capital would otherwise be retired under the provisions of these bylaws, to retire the capital of such former member upon such terms and conditions as the Board acting under policies of general application, and the former member shall agree upon.
- (f) The Board shall have the power at any time a member's account becomes overdue for a period of ninety (90) days to credit such account and debit the delinquent member's capital credit account in such amount as has been credited upon such member's accounts payable.
- (g) The Board shall have the power in any year succeeding a year where it is determined that margins were significantly higher than the amounts required for meeting the prescribed standards of operation for the Cooperative, to retire a portion of the capital credits earned in the previous year on a last-in first-out (lifo) accounting basis, but in

no event shall the portion of capital credits retired in such a manner exceed fifty percent (50%) of all capital credits retired during that succeeding year.

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. Patronage Refunds in Connection with Furnishing Other Services. In the event that the Cooperative should engage in the business of furnishing goods or services other than electric energy, all amounts received and receivable therefrom which are in excess of costs and expenses properly chargeable against the furnishing of such goods or services shall, insofar as permitted by law, be considered non-operating margins, and treated as shown in Section 5.

Section 4. In the event any distribution of proceeds, capital credits, redemption of or payment based upon any security of Nodak Electric Cooperative, Inc. which remains unclaimed six (6) years after the date, authorized for retirement or payment in cash or other property, may be forfeited by the board of directors. Any amount forfeited shall revert to Nodak Electric Cooperative, Inc. and be converted into the general fund thereof, if, at least six (6) months prior to the declared date of forfeiture, notice that such payment is available has been mailed to the last known address of the person shown by the records to be entitled thereto, or if the address is unknown by publication of such forfeiture at least once a month for four (4) months, both in a publication circulated among members of Nodak Electric Cooperative, Inc., if any, and in a newspaper of general circulation in the area served by Nodak Electric Cooperative, Inc. More than one notice of forfeiture can be contained in the same publication.

Section 5. Non-Operating Margins. At the discretion of the board of directors, funds and amounts, other than operating margins, received by the Cooperative that exceed the Cooperative's costs and expenses may be (a) allocated as capital credits to patrons in the same manner as the Cooperative allocates capital credits to patrons; and/or (b) used by the Cooperative as permanent, non-allocated capital.

ARTICLE VIII WAIVER OF NOTICE

Any member or director may waive, in writing, any notice of meetings required to be given by these bylaws. In case of a joint membership a waiver of notice signed by any of those holding a joint membership shall be deemed a waiver of notice of such meeting by both joint members.

ARTICLE IX
DISPOSITION AND PLEDGING OF PROPERTY
DISTRIBUTION OF SURPLUS ASSETS ON DISSOLUTION

Section 1. Disposition and Pledging of Property.

- (a) Not inconsistently with the provisions of N.D. Cent. Code Sections 10-13-08.1 and 10-15-32 and of Subsection (b) hereof, the members of the Cooperative may, at a duly held meeting of the members, authorize the sale, lease, lease-sale, exchange, transfer or other disposition within a single calendar year of physical plant of the Cooperative in excess of five percent (5%) of the Cooperative's value, based upon the most recent audit of the Cooperative, by the affirmative votes of at least two-thirds of the total members of the Cooperative. However, the board of directors, without authorization by the members, shall have full power and authority (1) to borrow monies from any source and in such amounts as the board of directors may from time to time determine, (2) to mortgage or otherwise pledge or encumber any or all of the Cooperative's property or assets as security therefor, and (3) to sell, lease, lease-sell, exchange, transfer or otherwise dispose of merchandise, property no longer necessary or useful for the operation of the Cooperative, or within a single calendar year, a portion of the Cooperative's physical plant worth less than five percent (5%) of the Cooperative's value, based on the most recent audit of the Cooperative.
- (b) Supplementary to the first sentence of the foregoing subsection (a) and any other applicable provisions of law or these bylaws, no sale, lease, lease-sale, exchange, transfer or other disposition within a single calendar year of physical plant of the Cooperative in excess of five percent (5%) of the Cooperative's value, based upon the most recent audit of the Cooperative, shall be authorized except in conformity with the following:
- (1) If the board of directors looks with favor upon any proposal for such sale, lease, lease-sale, exchange, transfer or other disposition, it shall first cause three (3) independent, non-affiliated appraisers, expert in such matters, to render their individual opinions as to the value of the Cooperative with respect to such a sale, lease, lease-sale, exchange, transfer or other disposition and as to any other terms and conditions which should be considered. The three (3) such appraisers shall be designated by a district court resident judge for the judicial district in North Dakota in which the Cooperative's headquarters are located. If such judge refuses to make such designations, they shall be made by the board of directors.
- (2) If the board of directors, after receiving such appraisals (and other terms and conditions which are submitted, if any), determines that the proposal should be submitted for consideration by the members, it shall first give every other rural electric cooperative corporately sited and operating in North Dakota (which has not made such an offer for such sale, lease, lease-sale, exchange, transfer or other disposition) an opportunity to submit competing proposals. Such opportunity shall be in the form of a written notice to such rural electric cooperatives, which notice shall

be attached to a copy of the proposal which the Cooperative has already received and copies of the respective reports of the three (3) appraisers. Such rural electric cooperatives shall be given not less than thirty (30) days during which to submit competing proposals, and the actual minimum period within which proposals are to be submitted shall be stated in the written notice given to them.

- (3) If the board of directors then determines that favorable consideration should be given to the initial or any subsequent proposal which has been submitted to it, it shall so notify the members not less than sixty (60) days before noticing a special meeting of the members thereon or, if such be the case, the next annual member meeting, expressing in detail each of any such proposals, and shall call a special meeting of the members for consideration thereof and action thereon, which meeting shall be held not less than twenty (20) nor more than thirty (30) days after the giving of notice thereof to the members; provided, that consideration and action by the members may be given at the next annual member meeting if the board of directors so determines and if such annual meeting is held not less than twenty (20) nor more than thirty (30) days after the giving of notice of such meeting.
- (4) Any fifty (50) or more members, by so petitioning the board of directors not less than thirty (30) days prior to the date of such special or annual meeting, may cause the Cooperative, with the cost to be borne by the Cooperative, to mail to all members any opposing or alternative positions which they may have to the proposals that have been submitted or any recommendations that the board has made.

The provisions of this subsection (b) shall not apply to a sale, lease, lease-sale, exchange, transfer or other disposition to one or more other rural electric cooperative if the substantive or actual legal effect thereof is to merge or consolidate with such other one or more rural electric cooperative.

Section 2. Distribution of Surplus Assets on Dissolution. Upon the Cooperative's dissolution, any assets remaining after all liabilities or obligations of the Cooperative have been satisfied and discharged shall, to the extent practicable as determined by the board of directors, not inconsistently with the provisions of these bylaws, be distributed without priority but on a patronage basis among all persons who have been members of the Cooperative for any period(s) during its existence: provided, however, that if in the judgment of the board of directors, the amount of such surplus is too small to justify the expense of making such distribution, the board of directors may, in lieu thereof, donate, or provide for the donation of, such surplus to one or more non-profit charitable or educational organizations that are exempt from federal income taxation.

ARTICLE X 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 XI
MEMBERSHIP IN OTHER ORGANIZATIONS**

The Cooperative shall not become a member of any other organization without an affirmative vote of the members at a meeting called as provided in these bylaws, and the notice of said meeting shall specify that action is to be taken upon such proposed membership as an item of business; provided, however, that the board of directors shall have full power and authority to become a member or invest funds in other business entities doing business within its trade area that will either further the purposes of the Cooperative or contribute to the economic development of the service territory of the Cooperative. The board of directors shall also have full power and authority on behalf of the Cooperative to become a member or invest funds in any corporation or cooperative organized on a non-profit basis for the purpose of engaging in rural electrification and related services.

**ARTICLE XII
CORPORATE SEAL**

The corporate seal of the Cooperative shall be in the form of a circle and shall have inscribed thereon the name of the Cooperative and the words, "Corporate Seal, North Dakota."

**ARTICLE XIII
AMENDMENTS**

These bylaws may be altered, amended or repealed by the affirmative vote of not less than two-thirds (2/3) of the board of directors at any regular or special meeting. Provided further, that the bylaws may be altered, amended, or repealed by an affirmative vote of a majority of the members at the annual meeting or at any other regular or special meeting of the members, provided that the members voting must be sufficient in number to constitute a quorum.

Any bylaw altered, amended, or repealed by the board of directors shall be reported at the next regular member meeting, at which time the membership may amend, alter or repeal such reported bylaw without notice as otherwise required by these bylaws.

It is further provided that no bylaw may be altered, amended or repealed by either the members or the board of directors unless the notice of the member or board meeting, as the case may be, at which such alteration, amendment or repeal shall be acted upon shall have contained a copy of the proposed alteration, amendment or repeal or an accurate summary explanation thereof.

**ARTICLE XIV
INDEMNITY**

The Cooperative to the full extent permitted by law shall indemnify any director, officer, employee or agent of the Cooperative against his expenses, including attorney's fees, and for judgments, fines and amounts paid in settlement, actually and reasonably incurred by him in connection with any proceeding which includes such director, officer, employee or agent of the Cooperative by reason of his being or having been such director, officer, employee or agent.

**ARTICLES OF INCORPORATION
OF
NODAK ELECTRIC COOPERATIVE, INC.**

ARTICLE I

The name of the Cooperative is NODAK ELECTRIC COOPERATIVE, INC.

ARTICLE II

The purpose or purposes for which the Cooperative is organized are to engage in rural electrification and

1. To generate, manufacture, purchase, acquire and accumulate electric energy and to transmit, distribute, furnish, sell and dispose of such electric energy to its members only;
2. To assist its members only to wire their premises and install therein and to acquire and supply electrical and plumbing appliances, fixtures, machinery, supplies, apparatus and equipment of any and all kinds and character, including, without limiting the generality of the foregoing, such as are applicable to water supply and sewage disposal.

In addition to the foregoing expressed purposes of Nodak Electric Cooperative, Inc., the Cooperative shall also seek to foster economic development and maintenance throughout the trade area of the Cooperative. To such purpose, the membership, the board of directors, the management and employees of the Cooperative shall work to promote such economic development through in-kind assistance and monetary contribution and investment as shall be directed by the board of directors in compliance with the bylaws and policies of this Cooperative.

ARTICLE III

The names and addresses of the incorporators who served as directors and managed the affairs of the Cooperative until the first annual meeting of the members were as follows:

<u>NAME</u>	<u>ADDRESS</u>
Lucille M. Thoe	Devils Lake, North Dakota
E. A. Walter	Devils Lake, North Dakota
John A. McAulay	Grafton, North Dakota
F. C. Chandler	Whitman, North Dakota
M. S. Swanson	Hoople, North Dakota
M. D. Butler	Grand Forks, North Dakota
P. J. Donnelly	Grafton, North Dakota
Ralph Diehl	Hillsboro, North Dakota
L. C. Odegard	Buxton, North Dakota

ARTICLE IV

The number of directors to be elected at each annual meeting shall be three, with one director elected from each district, and the term of office of each director shall be three years; provided, however, no more than two directors in each district shall be allowed to serve on the board at the same time from any one county.

ARTICLE V

The address of the principal office of the Cooperative shall be 4000 32nd Avenue South, P.O. Box 13000, Grand Forks, County of Grand Forks, North Dakota, 58208-3000.

ARTICLE VI

The duration of the Cooperative is perpetual.

ARTICLE VII

Section 1. Any person or entity that has the legal capacity to enter into a binding contract may become a member of the Cooperative by: (a) paying such membership application fee as shall be specified in the bylaws of the Cooperative; (b) agreeing to purchase from the Cooperative the amount of electric energy hereinafter specified; and (c) agreeing to comply with and be bound by the articles of incorporation and bylaws of the Cooperative and any amendments thereto and such rules and regulations as may from time to time be adopted by the board of directors.

Section 2. 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 therefor monthly at rates which shall from time to time be fixed by the board of directors; provided, however, that the board of directors may limit the amount of electric energy which the Cooperative shall be required to furnish to any one member. 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 the 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.

ARTICLE VIII

Section 1. A quorum of all member meetings of Nodak Electric Cooperative, Inc. shall never be more than fifty (50) members or a majority of all members, whichever is smaller. In determining a quorum at a meeting, on a question submitted to a vote by mail, members present in person and represented by mail vote shall be counted. In case of a joint membership, the presence at a meeting of either husband or wife, or both, shall be regarded as the presence of one

member. If less than a quorum is present at any meeting, a majority of those present may adjourn the meeting from time to time without further notice.

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 the Cooperative, as it may deem advisable for the management, administration and regulation of the business and affairs of the Cooperative.

Section 3. The property of the members of the Cooperative shall not be subject to the payment of, and no member shall be individually responsible for, corporate debts to any extent whatever.

ARTICLE IX

The Cooperative shall have, own and be vested with all of the property and assets, real and personal, of every kind and nature, of each of the consolidating cooperatives, including, without limitation, all applications for membership, all debts due on whatever account and all choices in action without further conveyance, assignment or transfer, and shall be responsible and liable for all the liabilities and obligations of each of the consolidating cooperatives.

ARTICLE X

The Cooperative is authorized to borrow money with the total indebtedness not to exceed One Hundred and Twenty Five Million Dollars (\$125,000,000).

ARTICLE XI

At any member meeting the Cooperative may adopt any amendment to its articles, which is lawful, if a statement of the nature of the amendment was contained in the notice of the meeting. An amendment is adopted when approved by members holding a majority of the member votes cast thereon.

ARTICLE XII

The Cooperative is organized without capital stock.

ARTICLE XIII

Upon the Cooperative's dissolution, any assets remaining after all liabilities or obligations of the Cooperative have been satisfied and discharged shall, to the extent practicable as determined by the board of directors, be distributed without priority but on a patronage basis among all persons who have been members of the Cooperative for any period(s) during its existence; provided, however, that if in the judgment of the board of directors, the amount of such surplus is too small to justify the expense of making such distribution, the board of directors may, in lieu thereof, donate, or provide for the donation of, such surplus to one or more non-profit charitable or educational organizations that are exempt from federal income taxation.

Statement of Nondiscrimination

Nodak Electric Cooperative, Inc. is the recipient of Federal financial assistance from the U.S. Department of Agriculture (USDA). The USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familiar status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

Nodak Electric Cooperative, Inc.
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Grand Forks, ND 58201