

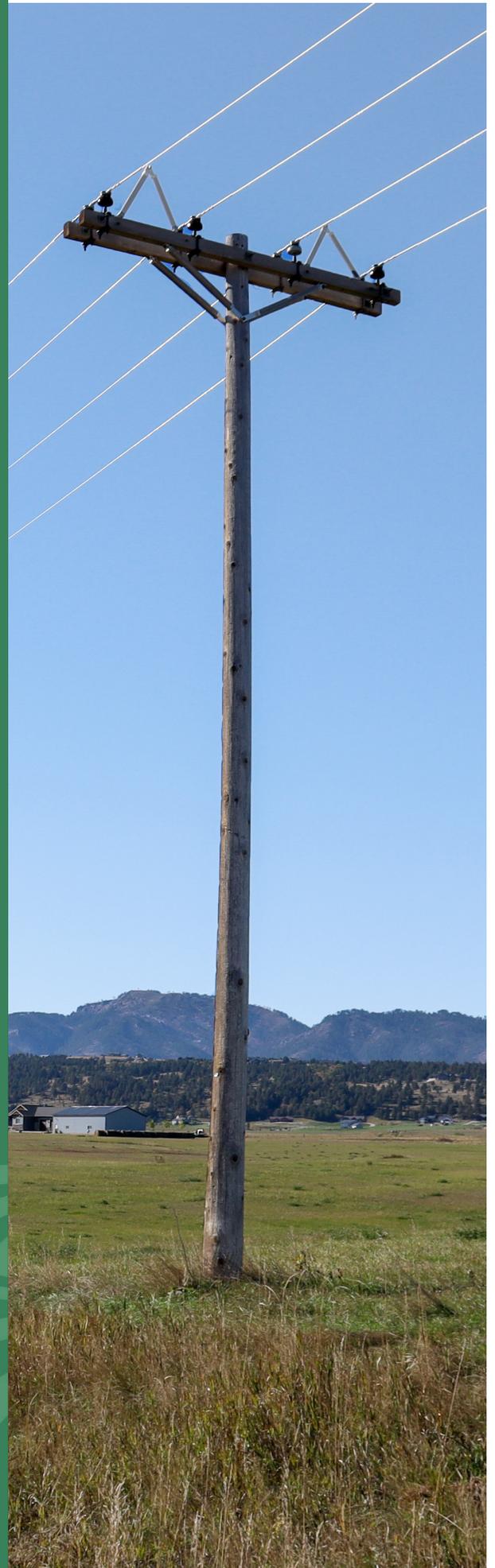


Butte Electric
Cooperative, Inc.

® A Touchstone Energy® Cooperative 

“YOUR Partners in Power Since 1940”

Articles of Incorporation & Bylaws



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Restated Articles of Incorporation

Resolved, that Articles FIRST through EIGHTH being all of the existing Articles of Conversion of Butte Electric Association, Inc. and now named Butte Electric Cooperative, Inc. hereby are repealed in their entirety; and that the following restated Articles of Incorporation, executed pursuant to SDCL 47-21 - RURAL ELECTRIC COOPERATIVES, which shall supersede existing Articles and Amendments are hereby adopted:

ARTICLE I - NAME

The name of this Cooperative is Butte Electric Cooperative, Inc.

ARTICLE II - TERM

The term for which this Cooperative shall exist is perpetual.

ARTICLE III - PURPOSE

The purpose for which the Cooperative is formed is to engage in any activity within the purposes for which cooperatives may be organized.

ARTICLE IV - MEMBERSHIP

The Cooperative shall be a non-profit organization and shall not have capital stock. The requirements for membership in the association shall be provided in these restated Articles of Incorporation and in the By-Laws. Membership in the Cooperative may be obtained and held only by those who shall patronize the Cooperative. No member shall have more than one (1) vote in any meeting of the cooperative. No Member shall be responsible for the debts or liabilities of the cooperative.

ARTICLE V - DIRECTORS

The number of directors of the Cooperative shall be as stated in the By-Laws.

ARTICLE VI - PRINCIPAL PLACE OF BUSINESS

The Cooperative shall have its principal place of business in the City of Newell, County of Butte, State of South Dakota.

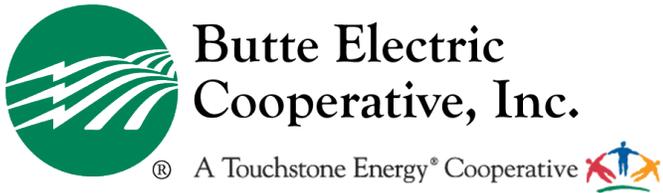
ARTICLE VII - DISTRIBUTION OF ASSETS IN THE EVENT OF LIQUIDATION

Upon dissolution, the assets of the Cooperative shall be applied as follows:

1. To pay all debts and liabilities of the Cooperative;
2. To retire all capital furnished through patronage as provided in the By-Laws; and
3. The remaining property and assets of the Cooperative shall be distributed among the members and former members as provided in the By-Laws

ARTICLE VIII - AMENDMENTS

These Restated Articles of Incorporation may be amended in the manner provided by statute.



Bylaws

ARTICLE I - MEMBERSHIP

SECTION 1. Requirements of Membership. Any person, firm, association, corporation, or body politic or subdivision thereof will become a member of Butte Electric Cooperative, Inc. (hereinafter called the “Cooperative,”), provided that he or it has first:

- (a) Made written application for membership therein;
- (b) Agreed to purchase from the Cooperative electric energy as hereinafter specified;
- (c) Agreed to comply with and be bound by the articles of incorporation and bylaws of the Cooperative and any rules and regulations adopted by the Board of Directors; No member may hold more than one membership in the Cooperative, and no membership in the Cooperative shall be transferable except as provided in these bylaws.

SECTION 2. Joint Membership. Any two natural persons may apply for a joint membership and, subject to their compliance with the requirements set forth in Section 1 of this Article, may be accepted for such membership. The term “member” as used in these bylaws shall be deemed to include two individuals holding a joint membership and any provisions relating to the rights and liabilities of 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 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 3. Conversion of Membership.

(a) A membership may be converted to a joint membership upon the written request of the holder thereof and the agreement by such holder and the additional person to comply with the articles of incorporation, bylaws, and rules and regulations adopted by the Board of Directors.

(b) Upon the death of either spouse who is a party to the joint membership, such membership shall be held solely by the survivor. The estate of the deceased shall not be released from any debts due to the Cooperative.

SECTION 4. Membership Fee. No membership fee shall be assessed by applicants for service. Actual receipt of electrical energy service from the Cooperative shall be mandatory prior to issuance of membership validation. Discontinuance of such service shall terminate membership in the Cooperative.

SECTION 5. 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 this application for membership, except where the consumer has a supplemental energy source owned by said member. The member may use such supplemental energy according to policy established by the Board of Directors from time to time and shall pay therefore at rates which shall from time to time be fixed by the Board of Directors. It is expressly understood that amounts paid for electric energy in excess of the cost of service are furnished by members as capital and each member shall be credited with the capital so furnished as provided in these by-laws. Each member shall pay to the Cooperative such minimum amount 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.

SECTION 6. 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 Di-

rectors 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, bylaws, or rules or regulations adopted by the Board of Directors, but only if such member shall have been given written notice by the Cooperative that such failure makes him liable to expulsion and such failure shall have continued for at least ten days after such notice was given. Any expelled member may be reinstated by vote of the Board 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 to him, has not purchased electric energy from the Cooperative, may be canceled 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 a member or his estate from any debts due to the Cooperative.

ARTICLE II - RIGHTS AND LIABILITIES OF THE MEMBERSHIP

SECTION 1. Property Interest of Members. Upon dissolution, after (a) all debts and liabilities of the Cooperative shall have been paid, and (b) all capital furnished through patronage shall have been retired as provided in these bylaws, 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 ten years next preceding the date of the filing of the certificate of dissolution.

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

ARTICLE III - MEETING OF THE MEMBERS

SECTION 1. Annual Meeting. The annual meeting of the members shall be held during the months of September, October, or November of each year at such place within a county served by the Cooperative, as selected by the Board of Directors and which shall be des-

ignated 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 result in a forfeiture or dissolution of the Cooperative.

SECTION 2. Special Meeting. Special meetings of the members may be called by resolution of the Board of Directors, or upon a written request signed by any three Directors, by the President, or by ten 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 given as hereinafter provided. Special meetings of the members may be held at any place within one of the counties served by the Cooperative as designated by the Board of Directors and shall be specified in the notice of the special meeting.

SECTION 3. Notice of Members' Meeting. Written or printed notice stating the place, day, and hour of the meeting and, in case of special meeting or an annual meeting at which business requiring special notice is to be transacted, the purpose or purposes for which the meeting is called, shall be delivered not less than ten days nor more than sixty 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 his address as it appears on the records of the Cooperative, with postage thereon prepaid. 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. As long as the total number of members does not exceed five hundred, ten per centum of the total number of members present in person shall constitute a quorum. In case the total number of members shall exceed five hundred, fifty members or five per centum of the members present in person, whichever shall be the smaller, shall constitute a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice. The minutes of

each meeting shall contain a list of the members present in person.

SECTION 5. 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 Conversion, or these Bylaws.

SECTION 6. 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, except as otherwise determined by the members at such meetings:

1. Report on the number of members present in person in order to determine the existence of a quorum.
2. Reading of the notice of the 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.
3. Reading of unapproved minutes of previous meetings of the members and the taking of necessary action thereon.
4. Election of Directors.
5. Presentation and consideration of reports of officers, directors, and committees.
6. Unfinished Business.
7. New Business.
8. Adjournment.

SECTION 7. Credentials and Election Committee.

The Board of Directors shall, at least sixty (60) days before any meeting of the members, appoint a Credentials and Election Committee. The Committee shall consist of an uneven number of members not less than five (5) nor more than nine (9) who are not existing Cooperative employees, agents, officers, directors, or known candidates for directors, and who are not close relatives (as hereinafter defined) or members of the same household of existing Cooperative employees, agents, officers, directors or known candidates for director. 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 event, a 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, The Committee may not affirmatively act on any matter unless a majority of the Committee is present. The Committee's decision (as reflected by a majority of those actually present and voting) on all matters covered by this Section shall be final.

"Close Relatives" referenced in these bylaws shall include spouses, children, siblings, step-siblings, grand-children, in-laws, step-children, parents, grandparents, aunts, uncles, nieces, and nephews.

ARTICLE IV - DIRECTORS

SECTION 1. General Powers. The business and affairs of the Cooperative shall be managed by the Board of nine Directors which shall exercise all of the powers of the Cooperative except such as are by law, the articles of conversion, or these bylaws conferred upon or reserved to the members.

SECTION 2. Election and Tenure of Office. There shall be nine directors; the directors shall be elected, three from each district, with one being elected each year. Said districts are as follows:

District 1. T5N, R1E, sections 1-18; T5N, R2E,

sections 1-18; T6N, R1E, sections 1-36; T6N, R2E, sections 1-36; T7N, R1E, sections 1-36; T7N, R2E, sections 1-36; T8N, R1E, sections 1-36; T8N, R2E, sections 4-9, 13-36; T9N, R1E, sections 1-36

District 2. T5N, R3E, sections 1-18; T6N, R3E, sections 1-36; T6N, R4E, sections 4-9, 16-21 and 28-33; T7N, R3E, sections 1-36; T7N, R4E, sections 1-36; T8N, R2E, sections 1-3, 10-12; T8N, R3E, sections 1-36; T8N, R4E, sections 1-36; T9N, R2E, sections 1-36; T9N, R3E, sections 1-36; T9N, R4E, sections 1-36; T10N, R1E, sections 1-36; T10N, R2E, sections 1-36; T10N, R3E, sections 1-36; T10N, R4E, sections 1-36; T11N, R1E, sections 1-36; T11N, R2E, sections 1-36; T11N, R3E, sections 1-36; T11N, R4E, sections 1-36; T12N, R1E, sections 1-36, T12N, R2E, sections 1-36; T12N, R3E, sections 1-36; T12N, R4E, sections 1-36; T13N, R1E, sections 1-36; T13N, R2E, sections 1-36; T13N, R3E, sections 1-36; T13N, R4E, sections 1-36; T14N, R1E, sections 1-36; T14N, R2E, sections 1-36; T14N, R3E, sections 1-36; T14N, R4E, sections 1-36.

District 3. T3N, R5E, sections 1-18; T4N, R4E, sections 1-36; T4N, R5E, sections 1-36; T5N, R4E, sections 1-36; T5N, R5E, sections 1-36; T6N, R4E, sections 1-3, 10-15, 22-27, 34-36; T6N, R5E, sections 1-36; T6N, R6E, sections 4-9, 16-21, 28-32; T7N, R5E, sections 1-36; T7N, R6E, sections 1-36; T7N, R7E, sections 1-24, 30, 31; T8N, R5E, sections 1-36; T8N, R6E, sections 1-36; T8N, R7E, sections 1-36; T8N, R8E, sections 1-36; T8N, R9E, sections 1-36; T9N, R5E, sections 1-36; T9N, R6E, sections 1-36; T9N, R7E, sections 1-36; T9N, R8E, sections 1-36; T10N, R5E, sections 1-36; T10N, R6E, sections 1-36; T10N, R7E, sections 1-36.

GENERAL RULE: Any member whose residence may have been excluded by reason of the aforementioned boundaries will be included in the district whose boundary is closest to the member's residence.

Directors shall be elected by and from the members at the annual meeting of the members, to hold office for terms of three years each, and until their respective successors are elected and qualified. Each vacancy occurring on the Board of Directors, other than by the expiration of a term, shall be filled by a majority vote of the remaining Directors.

If an election of Directors shall not be held on the day designated herein for the annual meeting, or at any adjournment thereof, a special meeting of the members shall be held for the purpose of electing Directors within a reasonable time thereafter Directors may be elected by a plurality vote of the members.

SECTION 3. Qualifications. No person shall be eligible to become or remain a Director or to hold any position of trust in the Cooperative who:

(a) in the case of a Director, is not a member and who is not a bonafide resident of the premises served by the reason of his membership, located in the district in which he resided at the time he was elected as a Director; or a duly qualified and authorized representative of any member which is not a natural person if he is not a bonafide resident in the area served and does not actually receive service from the Cooperative at his primary residential abode;

(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;

(c) has, at any time during the 60 months prior to the date of election, been an employee of the Cooperative; or

(d) has, in the 24 months prior to the date of election or at any time while serving as a director, been convicted on any state or federal crime constituting a felony.

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.

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 4. Nominations. A Petition signed by 15 or more members shall be filed at the principal office of the Cooperative not less than sixty (60) days before the Annual Meeting to place in nomination a candidate to fill a vacancy on the board of directors. The Secretary shall prepare and post at the principal office of the Cooperative at least twenty-five (25) days before the Annual Meeting a list of nominations for director for each district for each three-year term and each unexpired term. The Secretary shall mail with the notice of the 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, the term for which to be elected, the district from which to be elected, and the name and address of the candidates for the various terms. No member may nominate more than one candidate.

SECTION 5. Removal of Directors by Members.

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 ten percent (10%) of the total membership of the Cooperative, which petition calls for a special member meeting, the stated purposes 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. 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), and a verbatim statement of 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. Notice of such charge(s) verbatim, of the director(s) against whom the charge(s) have been made, of the member(s) filing the charges(s) and the purposes of the meeting shall be contained in the notice of the meeting, or separately noticed to the 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). 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 must be heard first. 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 nomination, except that nominations shall be made from the floor; PROVIDED, that the question of the removal of a 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 statement, documents or otherwise. A newly elected director shall be from or with respect to the same Director District as was the director whose office he succeeds and shall serve the unexpired portion of the removed director's term.

Similarly, the Board of Directors, by resolution passed by a majority of the Board of Directors, may bring one or more charges for cause against any one or more directors and may request the removal of such director(s) by executing such resolution reflecting the charge(s) and calling for a special member meeting, the stated purposes 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 said resolution shall specify the place, time, and date thereof not less than forty (40) days after entering of such resolution, 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 resolution. The Resolution shall provide a statement of each charge(s) being made. A copy of the Resolution and the purposes of the meeting shall be contained in the notice of the meeting, and mailed to the members not less than ten (10) days prior to the member meeting at which the matter will be acted upon. Such director(s) being charged shall be informed in writing of the charges after they have been validly entered 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 Board of Directors shall have the same opportunity, and must be heard first. 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 nomination, except that nominations shall be made from the floor; PROVIDED, that the question of the removal of a 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 statement, documents or otherwise. A newly elected director shall be from or with respect to the same Director District as was the director whose office he succeeds and shall serve the unexpired portion of the removed director's term.

SECTION 6. Vacancies. Subject to the provisions of these bylaws with respect to the filling of vacancies caused by the removal of Directors by the members, 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.

SECTION 7. Compensation. Board Members shall not receive any salary for their services as Directors, except that the Board of Directors may by resolution authorize a fixed sum for each day or portion thereof spent on Cooperative business, such as attendance at each meeting of the Board of Directors; and other meetings, conferences, and training programs or performing committee assignments when authorized by the Board of Directors. If authorized by the Board of Directors, board members may also be reimbursed for expenses actually and necessarily incurred in carrying out such Cooperative business or granted a reasonable per diem allowance by the Board of Directors in lieu of detailed accounting for some of these expenses. No Board Member shall receive compensation for serving the Cooperative in any other capacity nor shall any close relative of a Board Member receive compensation for serving the Cooperative unless the payment and amount of compensation shall be specifically authorized by a vote of the members or the service by the Board Member or his close relative shall have been certified by the Board of Directors as an emergency measure.

Article V - MEETINGS OF THE DIRECTORS

SECTION 1. 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 such time and place within one of the counties served by the Cooperative, as designated by the Board of Directors. Such regular monthly meetings may be held without notice other than such resolution fixing the time and place thereof.

SECTION 2. Special Meetings. Special meetings of the Board of Directors may be called by the President or 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 of the Directors calling the meeting shall fix the time and place for the holding of the meeting.

SECTION 3. Notice of Directors' Meetings. Written notice of the time, place, and purpose of any special meeting of the Board of Directors shall be delivered to each Director either personally, by mail, or electronically, by or at the direction of the Secretary, or upon a default in duty by the Secretary, by the 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, at least three days before the date set for the meeting.

SECTION 4. 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 from time to time; 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, except as otherwise provided in these bylaws.

ARTICLE VI - OFFICERS

SECTION 1. Number. The officers of the Cooperative shall be a President, Vice President, Secretary, Assistant Secretary, Treasurer, and such other officers as may be determined by the Board of Directors from time to time. The offices of Secretary and 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 meeting of the Board of Directors held immediately after the annual meeting of the members. If the election of officers shall not be held at such meeting, such elections 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 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 3. Removal of Officers and Agents by the Board. Any officer or agent elected or appointed by the Board may be removed by the Board whenever in its judgment the best interests of the Cooperative will be served thereby.

SECTION 4. President. The President shall:

- (a) be the principal executive officer of the Cooperative and, unless otherwise determined by the members of the Board of Directors, shall preside at all meetings of the members and the Board of Directors.
- (b) 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, perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

SECTION 5. 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 from time to time may be assigned to him by the Board of Directors.

SECTION 6. Secretary. The Secretary shall be responsible for:

- (a) Keeping the minutes of the meetings of the members and of the Board of Directors in one or more books provided for that purpose;
- (b) seeing that all notices are duly given in accordance with these bylaws or as required by law;
- (c) the safekeeping of the corporate books and records and the seal of the Cooperative and affixing the seal of the Cooperative to all documents, the execution of which on behalf of the Cooperative under its seal is duly authorized in accordance with the provisions of these

bylaws;

- (d) keeping a register of the names and post office addresses of all members;
- (e) signing, with the President, certificates of membership, the issuance of which shall have been authorized by the Board of Directors;
- (f) keeping on file at all times a complete copy of the articles of incorporation and bylaws of the cooperative containing all amendments thereto (which copy shall be open to the inspection of any member) and at the expense of the cooperative, furnishing a copy of the bylaws and of all amendments thereto to any member upon request; and
- (g) in general, performing all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Board of Directors.

SECTION 7. Assistant Secretary. In the absence of the Secretary, or in the event of the Secretary's inability or refusal to act, the Assistant Secretary shall perform the duties of the Secretary, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Secretary.

SECTION 8. Treasurer. The Treasurer shall be responsible for:

- (a) custody of all funds and securities of the Cooperative;
- (b) the receipt of and the issuance of receipts for all monies due and payable to the Cooperative and for the deposit of all such monies in the name of the Cooperative in such banks as shall be selected in accordance with the provisions of these bylaws; and
- (c) the general performance of all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the Board of Directors.

SECTION 9. Manager. The Board of Directors may appoint a Manager or Chief Executive Officer (CEO) who may be, but who shall not be required to be, a member of the Cooperative. The Manager or CEO shall perform such duties and shall exercise such authority as the Board of Directors may from time to time vest in him.

SECTION 10. 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 or property shall be bonded in such sum and with such

surety as the Board of Directors shall determine. The Board of Directors at its discretion may also require any other officer, agent, or employee of the Cooperative to be bonded in such amount and with such surety as it shall determine.

SECTION 11. 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 bylaws with respect to compensation for Directors and close relatives of Directors.

SECTION 12. Reports. The officers of the Cooperative shall submit reports at each annual meeting of the members covering the business of the Cooperative for the previous fiscal year, or when available, a more recently audited period of operation. Such reports shall set forth the condition of the Cooperative at the close of such fiscal year or period of operations.

SECTION 13. Indemnification of Officers, Directors, Employees, and Agents.

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 proceedings, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Cooperative or against the Cooperative) by reason of the fact that said person was a director, officer, employee or agent of the Cooperative, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by them in connection with such action, suit or proceeding if such person 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 his/her conduct was unlawful. The termination of any action, suit, or proceeding by 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, that he/she 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 reasonable cause to believe that his/her 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 reason of the fact that such person was a director, officer, employee or agent of the Cooperative, against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests 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 his/her duty to the Cooperative unless and only to the extent that the Court in which such action or suit be brought shall determine upon application that, despite the adjudication or liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

C. Notwithstanding the foregoing paragraphs, a director, officer, employee, or agent of the Cooperative shall not be indemnified in any matter in actions by the Cooperative directly against a director, officer, employee, or agent of the Cooperative; and in actions by a director, officer, employee or agent of the Cooperative directly against the Cooperative, unless so ordered by a Court or determined to be an exceptional circumstance and approved in the manner provided for in (E) below.

D. To the extent that a director, officer, employee, or agent of a cooperative has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in subsections (a) and (b), or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

E. Any indemnification under the foregoing provisions 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 such person has met the applicable standard of conduct as set forth in subsections (a) and (b). Such determinations 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, 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.

F. 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 such person is entitled to be indemnified by the Cooperative as authorized in this section.

G. The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnity may be entitled under any by-laws, agreement, vote of members or disinterested directors or otherwise, as to action in his/her official capacity, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, and personal representative of such person.

SECTION 14. Insurance. 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 such person and incurred by such person in any such capacity or arising out of their status as such whether or not the Cooperative would have the power to indemnify such person against such liability under the provisions of this section.

ARTICLE VII - NON-PROFIT OPERATION

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 members. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its members.

SECTION 2. Patronage Capital in Connection with Furnishing Electric Energy. In the furnishing of electric energy, the Cooperative's operations shall be so con-

ducted that all, members, 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 members, for all amounts received and receivable from the furnishing of electric energy in excess of operating costs and expenses properly chargeable against the furnishings 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 members as capital. The Cooperative is obligated to pay by credits to a capital account for each member 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, furnished by each member is clearly reflected and credited in an appropriate record to the capital account of each member, and the cooperative shall within a reasonable time after the close of the fiscal year notify each member of the amount of capital so credited to his accounts. All such amounts credited to the capital account of any member shall have the same status as though they had been paid to the member in cash in pursuance of the legal obligation to do so and the member had then furnished the Cooperative corresponding amounts for capital.

SECTION 3. Patronage Capital in Connection with Non-operating Income and Other Income. Provided further, the Board of Directors, may, by policy, identify the types and nature of non-operating and other income to be used as a basis for allocation of, capital credits to members.

The individual capital credits shall be maintained in a manner so that the capital furnished relative to the furnishing of electric energy can be distinguished from the allocation of capital derived from non-operating and other income.

All non-operating and other income received by the Cooperative in excess of costs and expenses shall, insofar as permitted by law, be:

- (a) Used to offset any losses incurred during the current or any prior fiscal year, and
- (b) to the extent not needed for that purpose, may at the Board's discretion, be allocated to its members on a patronage basis or not allocated to members and, in-

stead be placed in a permanent capital account (non-allocated capital account)

(c) Capital allocated to members for non-operating income and other income shall be retired at the discretion and direction of the board as to timing, method, and the type of retirement which may include retirement on a cycle basis different than retirement of capital furnished relative to electric energy.

SECTION 4. General Patronage Capital Provisions.

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 the 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 members' accounts may be retired in full or in part. The Board of Directors shall determine the method, basis, priority, and order of retirement, if any, for all amounts furnished as capital. Provided, however, that the Board of Directors shall have the power to add rules providing for the separate retirement of that (portion ("power supply portion") of capital credited to the accounts of members which corresponds to capital credited to the account of the Cooperative by an organization furnishing electric service to the Cooperative. Such rules shall:

- (a) establish a method for determining the power supply portion of capital credited to each member for each applicable fiscal year,
- (b) provide for separate identification on the Cooperative's books of the power supply of capital credited to the Cooperative's members,
- (c) provide for appropriate notifications to members with respect to the power supply portion of capital credited to their accounts and
- (d) preclude a general retirement of the power supply portion of capital credited to members for any fiscal year prior to the general retirement of other capital credited to members for the same year or of any capital credited to members for any prior fiscal year.

Capital credited to the account of each member 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 member'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, at its discretion, shall have the power to retire capital credits upon the death of any member, who was a natural person, if the legal representatives of the estates of such deceased patron shall request in writing that the capital credited to such member be retired prior to the time such capital would otherwise be retired, if the Board, acting under policies of general application with respect to early retirement of capital credits, and such legal representatives shall agree. Provided, however, that the financial condition of the Cooperative will not be impaired thereby.

SECTION 5. Articles of Incorporation and Bylaws Constitute Contract with Patrons.

The members of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the articles of conversion and bylaws shall constitute and be a contract between the Cooperative and each member, and both the Cooperative and the members are bound by such contract, as fully as though each member 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 member of the Cooperative by posting in a conspicuous place in the Cooperative's office and by posting on the Cooperative's website.

SECTION 6. Assignment of Gift by Failure to Claim.

Notwithstanding, any other provision of the Bylaws, if any member or former member fails to claim any cash retirement of capital credits, such failure shall be and constitutes an irrevocable assignment and gift by such member of such capital credits or other payment to the Cooperative after full compliance by the Cooperative with SDCL 47-16-54 through SDCL 47-16-59.

ARTICLE VIII - DISPOSITION OF PROPERTY

The Cooperative may not sell, lease or otherwise dispose of all or any substantial portion of its property unless such sale, lease or other disposition is authorized at a meeting of the members thereof by the affirmative vote of not less than two-thirds of all of the members of the Cooperative, and unless the notice of such proposed sale, lease or other disposition shall have been contained in the notice of the meeting, provided however, that notwithstanding anything herein contained, the Board

of Directors of the Cooperative, without authorization by the members thereof, shall have full power and authority to authorize the execution of delivery of a mortgage or mortgages or a deed or deeds of trust upon or the pledging or encumbering of, any or all property, assets, rights, privileges, licenses, franchises and permits of the Cooperative, whether acquired or to be acquired, and wherever situated, as well as the revenues and income therefrom, all upon such terms and conditions as the Board shall determine, to secure any indebtedness of the Cooperative to the United States of America or any agency or instrumentality thereof or any other lender, provided further that the Board of Directors may upon authorization of a majority of those members of the Cooperative present 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 the United States of America or any agency or instrumentality thereof or any other lender.

ARTICLE IX - SEAL

The corporate seal of the Cooperative shall have been inscribed thereon the name of the Cooperative and the words "Corporate Seal, South Dakota".

ARTICLE X - FINANCIAL TRANSACTIONS

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

SECTION 2. Checks, Drafts, Etc. All checks, drafts, 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 and/or countersigned 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, except petty cash, shall be deposited from time to time to the credit of the Cooperative in such bank as the Board of Directors may select.

SECTION 4. Change in Rates. Written notice shall be given to the United States Rural Utilities Service not less than ninety days prior to the date upon which any proposed change in the rates charged by the Cooperative for electric energy becomes effective.

SECTION 5. 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.

ARTICLES XI - MISCELLANEOUS

SECTION 1. 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 any corporation or organization organized on a non-profit basis for the purpose of engaging in or furthering the cause of rural electrification, or with the approval of the Administrator of the Rural Utilities Service, or any other corporation for the purpose of acquiring electric facilities.

SECTION 2. Waiver of Notice. Any member or Director may waive in writing any notice of a meeting required to be given by these bylaws. The attendance of a member or Director at any meeting shall constitute a waiver of notice of such meeting by such member or Director, except in case a member or Director shall attend a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting has not been lawfully called or convened.

SECTION 3. Policies, Rules, and Regulations. The Board of Directors shall have the power to make and adopt such policies, rules, and regulations, not inconsistent with law, the articles of conversion, the restated articles of incorporation, or these bylaws as it may deem advisable for the management of the business and affairs of the Cooperative.

SECTION 4. 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 or audit period, cause to be made by a certified public accountant a full and complete audit of the accounts, books, and financial condition of the Cooperative as of the end of such fiscal year or audit period. A report of such audit shall be submitted to the members at the next following annual meeting.

SECTION 5. Official Publications. For the purpose of advising the members concerning the general activities and business of the Cooperative, and disseminating such other information as management may deem advisable, there shall be established an official publication of the Cooperative to be known as “Cooperative Connections” or such name as may be determined by the Board of Directors from time to time. The Official Publication shall be distributed to each consumer periodically at such intervals as may be determined by the Board of Directors from time to time. The Subscription renewal date shall be the first day of January of each year and a full year’s subscription rate shall be charged for any consumer who receives one or more issues during the year.

SECTION 6. Area Coverage. The Board of Directors shall make diligent effort to see that electric service is extended to all unserved persons within the Cooperative service area who (a) desire such services and (b) meet all reasonable requirements established by the Cooperative as a condition of such service.

SECTION 7. Gender/Pronouns. For purposes of these Bylaws, words referring to the masculine gender include the feminine and neutral as well as entities.

ARTICLES XII - AMENDMENTS

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

Notwithstanding any other provisions of these bylaws, an affirmative vote of at least fifty-one per centum of the membership shall be required to alter, amend, or repeal Article VIII - Disposition of Property or Article XII - Amendments.

Statement of Non-discrimination

This institution is an equal opportunity provider and employer. If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call 866-632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington D.C. 20250-9410, by fax 202-690-7442 or email at program.itake@usda.gov

Newell Headquarter Office

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Newell, SD 57760
(605)456-2494

Member Services Office

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