

---

---

**MEMBERS 1ST POWER COOPERATIVE**

**BYLAWS**

**November 14, 2016**

---

---

**CONTENTS**

Article I. REQUIREMENTS OF MEMBERSHIP ..... 1

**SECTION 1. Requirements for Membership**..... 1

**SECTION 2. Membership Limitations** ..... 1

**SECTION 3. Representation by Corporations and Partnerships** ..... 1

**SECTION 4. Purchase of Electric Energy**..... 1

**SECTION 5. Termination of Membership**..... 2

**SECTION 6. Definition and Classifications** ..... 2

Article II. RIGHTS AND LIABILITIES OF MEMBERS ..... 2

**SECTION 1. Property Interest of Members** ..... 2

**SECTION 2. Non-liability for Debts of the Corporation** ..... 3

Article III. MEETINGS OF MEMBERS..... 3

**SECTION 1. Annual Meeting**..... 3

**SECTION 2. Special Meeting** ..... 3

**SECTION 3. Notice of Member’s Meeting**..... 3

**SECTION 4. Quorum**..... 4

**SECTION 5. Voting; Double Supermajority** ..... 4

**SECTION 6. Member Delegates**..... 4

**SECTION 7. Proxies; Electronic or Telephonic Meetings**..... 4

Article IV. DIRECTORS ..... 4

**SECTION 1. General Powers** ..... 4

**SECTION 2. Election and Tenure of Office**..... 5

**SECTION 3. Qualifications**..... 5

**SECTION 4. Removal of Directors by Members**..... 5

**SECTION 5. Vacancies** ..... 5

<b>SECTION 6. Compensation</b> .....	5
Article V. MEETING OF DIRECTORS .....	5
<b>SECTION 1. Regular Meetings</b> .....	5
<b>SECTION 2. Special Meetings</b> .....	6
<b>SECTION 3. Quorum and Voting</b> .....	6
Article VI. OFFICERS.....	6
<b>SECTION 1. Number</b> .....	6
<b>SECTION 2. Election and Term of Office</b> .....	6
<b>SECTION 3. Removal of Officers by Directors</b> .....	7
<b>SECTION 4. President</b> .....	7
<b>SECTION 5. Vice President</b> .....	7
<b>SECTION 6. Secretary-Treasurer</b> .....	7
<b>SECTION 7. Chief Executive Officer</b> .....	8
<b>SECTION 8. Bonds of Officers</b> .....	8
<b>SECTION 9. Compensation</b> .....	8
<b>SECTION 10. Reports</b> .....	8
Article VII. DISPOSITION OF REVENUES AND RECEIPTS .....	8
<b>SECTION 1. Interest or Dividends on Capital Prohibited</b> .....	8
<b>SECTION 2. Patronage Capital in Connection with Furnishing Electric         Energy</b> .....	8
Article VIII. DISPOSITION AND PLEDGING OF PROPERTY.....	10
<b>SECTION 1. Disposition and Pledging of Property</b> .....	10
<b>SECTION 2. Board Authorization</b> .....	11
Article IX. SEAL .....	11
Article X. FINANCIAL TRANSACTIONS.....	11
<b>SECTION 1. Contracts</b> .....	11

<b>SECTION 2. Checks, Drafts, etc.</b> .....	11
<b>SECTION 3. Deposits</b> .....	12
Article XI. MISCELLANEOUS .....	12
<b>SECTION 1. Waiver of Notice</b> .....	12
<b>SECTION 2. Policy Rules and Regulations</b> .....	12
<b>SECTION 3. Accounting System and Reports</b> .....	12
<b>SECTION 4. Dispute Resolution</b> .....	12
Article XII. AMENDMENTS.....	13

# **BYLAWS OF MEMBERS 1ST POWER COOPERATIVE**

## **ARTICLE I. REQUIREMENTS OF MEMBERSHIP**

### **SECTION 1. Requirements for Membership**

Members 1<sup>st</sup> Power Cooperative (hereinafter called the “Corporation”) shall initially have three (3) members: Fergus Electric Cooperative, Inc., Powder River Electric Corporation and Tongue River Electric Cooperative, Inc.

A cooperative utility may become a member in the Corporation by:

- (a) Signing a membership and electric service agreement and a wholesale power agreement in a form provided by the board of directors from time to time;
- (b) Agreeing to purchase from the Corporation electric energy as hereinafter specified in Article I, Section 4;
- (c) Agreeing to comply with and be bound by (i) the certificate of incorporation, (ii) the bylaws, (iii) reasonable policies, rules and regulations, rate schedules and rate classifications as may be adopted or amended by the board of directors (including policies for payment of late charges on past due payments) but which are not solely related to the member’s day-to day business operations (including the member’s operation and maintenance practices relating to its electric distribution services), and (iv) the terms and conditions of the application for membership if required by the board of directors for any member other than the initial members, the membership and electric service agreement and the wholesale power agreement; and
- (d) Obtaining an affirmative vote of not less than two-thirds (2/3) of the board of directors approving acceptance of the new member.

### **SECTION 2. Membership Limitations**

No member may hold more than one (1) membership in the Corporation and no membership in the Corporation shall be transferable, except as provided in these bylaws.

### **SECTION 3. Representation by Corporations and Partnerships**

A member which is an entity shall designate one (1) or more voting representative(s) to represent the member at all meetings, as specified from time to time by the board of directors. No designated voting representative shall act and vote as representative for more than one (1) member.

### **SECTION 4. Purchase of Electric Energy**

Each member shall, as soon as electric energy shall be available, purchase from the Corporation all electric energy used and related services as specified in its electric service agreement, and

shall pay therefore at rates which shall be fixed by the board of directors. It is expressly understood all transactions relating to electric energy and related services between the Corporation and its members shall be done on a cooperative basis as provided by these bylaws, unless otherwise agreed by the Corporation and a member.

#### **SECTION 5. Termination of Membership**

Any member may withdraw from membership upon compliance with all terms and conditions as the member may agree with the board of directors or, absent such an agreement, upon compliance with terms and conditions as the board of directors in its sole discretion may prescribe; provided, however, that no member shall be permitted to withdraw until it has met all contractual obligations to the Corporation.

The board of directors may, by the affirmative vote of not less than two-thirds (2/3) of all directors, expel any member who fails to comply with the certificate of incorporation, bylaws, and all rules, regulations, rate schedules and rate classifications adopted by the board of directors, but only if the member shall have been given written notice by the Corporation that its failure makes it liable to be expelled and such failure shall have continued for at least thirty (30) days after notice was given. Notice shall be deemed to have been given when deposited in the United States mail prepaid to the address provided by the member in the signed application for membership and electric service agreement. Any expelled member may be reinstated by vote of not less than two-thirds (2/3) of the board of directors or by vote of the members at any annual or special meeting. The membership of a member that has ceased to purchase energy from the Corporation may be cancelled. A membership shall terminate upon the withdrawal, cessation of existence or expulsion of the member. Termination of membership in any manner shall not release a member or its successors from any debts or other obligations due to the Corporation.

If any member (i) voluntarily withdraws from membership in the Corporation, (ii) is expelled from the Corporation, or (iii) is dissolved or has its corporate existence expire other than by reason of merger or consolidation with another Basin Electric Power Cooperative member, the capital credited to the account of such member shall be forfeited and the amount thereof shall be credited to the capital account of each remaining member in the proportion which the capital balance in the account of each such member of the Corporation on such date bears to the total capital balance in the accounts of all such members on such date.

#### **SECTION 6. Definition and Classifications**

The Corporation may have one or more classes of members. If the board establishes more than one class of membership, it shall, by resolution, determine the definitions, types, qualifications and rights of each class and make the information readily available to the membership.

### **ARTICLE II. RIGHTS AND LIABILITIES OF MEMBERS**

#### **SECTION 1. Property Interest of Members**

Upon dissolution after:

(a) All debts and liabilities of the Corporation 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 Corporation 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 such historical period as the board determines is equitable.

## **SECTION 2. Non-liability for Debts of the Corporation**

All property of the members shall be exempt from execution or other liability for the debts of the Corporation, and no member (by virtue of its membership alone) shall be liable or responsible for any debts or liabilities of the Corporation or of any other member.

## **ARTICLE III. MEETINGS OF MEMBERS**

### **SECTION 1. Annual Meeting**

The annual meeting of the members shall be held at a location as may be designated in the notice of the meeting, and on the date established by the board of directors and designated in the notice of the meeting. The purpose of the meeting shall be the election of directors, passing upon reports for the previous year and transacting other business as may properly come before the meeting. It shall be the responsibility of the board of directors to make adequate plans and preparations for the annual meeting. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the Corporation. Each member shall specify its representative prior to the meeting in accordance with policies and procedures specified by the board of directors.

### **SECTION 2. Special Meeting**

Special meetings of the members may be called by any director, by the president, or by two-thirds (2/3) or more of all the members, and it shall thereupon be the duty of the secretary-treasurer to cause notice of the meeting to be given as hereinafter provided. Special meetings of the members may be held at a location as specified in the notice of special meeting.

### **SECTION 3. Notice of Member's Meeting**

Written or printed notice stating the place, day and hour of the meeting, and, in case of special meetings, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) days nor more than sixty (60) days before the date of the meeting, either personally or by mail and, if personally or by mail, also by email or other electronic notification, by or at the direction of the secretary-treasurer or upon a default in duty of the secretary-treasurer by the persons calling the meeting, to each member. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at its address as it appears on the records of the Corporation with postage thereon prepaid; if emailed, the notice shall be addressed to an email address specified by the member or other electronic notification method as specified by the board of directors. 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 member's meeting.

#### **SECTION 4. Quorum**

A quorum shall require the presence (either in person or by authorized remote electronic means) of two-thirds (2/3) of the members. Member votes on mergers, consolidations, sale or disposition of assets and dissolutions shall be governed by these bylaws and Wyoming law.

#### **SECTION 5. Voting; Double Supermajority**

For items to be settled by a majority vote, each member shall be entitled to one (1) vote upon each matter submitted to a vote at a meeting of the members. For decisions which require greater than a majority vote (including a merger or consolidation, dissolution, and amendments to the articles of incorporation), such decisions shall be decided by a “double supermajority” vote of the members, meaning that an issue must be approved by at least two-thirds (2/3) of the number of members and members who were responsible for at least two-thirds (2/3) of all electric power and energy purchases from the Corporation during the prior fiscal year. The election of directors shall be by appointment by the members as specified in Article IV, Section 2. There shall be no cumulative voting. 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 except as otherwise provided by law, the certificate of incorporation or these bylaws.

#### **SECTION 6. Member Delegates**

The board of directors may adopt reasonable policies and procedures for appointment of delegates by members at member meetings or other methods for members to be represented and vote at member meetings.

#### **SECTION 7. Proxies; Electronic or Telephonic Meetings**

Unless authorized by the board of directors for specific matters to be voted on by the members (including voting in a member meeting held by remote electronic means) no mail or proxy or electronic voting shall be permitted. Unless otherwise determined by the board of directors by a two-thirds (2/3) majority, any annual or special member meeting shall be held in whole or in part by telephonic or other electronic or remote communication methodology that permits the members to hear and speak with each other simultaneously.

### **ARTICLE IV. DIRECTORS**

#### **SECTION 1. General Powers**

The business and affairs of the Corporation shall be managed by a board of directors which shall exercise all the powers of the Corporation except as are by law, the articles of incorporation or these bylaws, conferred upon or reserved to the members. The board shall initially have five (5) directors. Powder River Energy Corporation shall have the right to appoint three (3) directors and Fergus Electric Cooperative, Inc. and Tongue River Electric Cooperative shall each appoint one (1) director. At such time as the Corporation accepts a new member, the size of the board shall be increased by one (1) director for each new member, with each new member being entitled to appoint its director.

## **SECTION 2. Election and Tenure of Office**

All directors shall be elected / appointed by the members as specified in Article IV, Section 1.

## **SECTION 3. Qualifications**

Directors must meet the following qualifications:

- (a) Must be a director or a trustee of a member; and
- (b) May not be in any way employed by or have a substantial financial interest in a competing enterprise or a business selling electric energy or supplies to the Corporation.

Upon establishment of the fact that a director is holding office in violation of any of the foregoing provisions, or if a director violates his or her duty of loyalty, the board of directors may remove the director from office by a vote of a majority of the directors voting (excluding the director subject to a removal vote).

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. Removal of Directors by Members**

A member may remove and replace a director appointed by that member at any time, subject to reasonable policies established by the board of directors regarding notice to the Corporation.

## **SECTION 5. Vacancies**

A vacancy occurring in the board of directors shall be filled by election/appointment by the member that appointed the director pursuant to any reasonable policies established by the board of directors regarding notice to the Corporation.

## **SECTION 6. Compensation**

Directors shall not receive any salary for their services as directors, except that by resolution of the board of directors, a fixed sum may be allowed for each day, or portion thereof, spent on Corporation business. If authorized by the board of directors, board members may also be reimbursed for expenses actually and necessarily incurred in carrying out Corporation business.

# **ARTICLE V. MEETING OF DIRECTORS**

## **SECTION 1. Regular Meetings**

The regular meetings of the board of directors shall be held at least quarterly, at such intervals and times as the board of directors may determine, at times and places as the board of directors may provide by resolution. The Corporation shall notify directors of the date and time of regular meetings in a reasonable manner as determined by the board of directors. Meetings of directors shall be held so as to permit directors to participate by teleconference or other remote means of

communication, unless attendance in person is required for any meeting by a two-thirds (2/3) majority of the total number of directors.

## **SECTION 2. Special Meetings**

Special meetings of the board of directors may be called by the president or by any two (2) directors and it shall thereupon be the duty of the secretary-treasurer to cause notice of the meeting to be given as hereinafter provided. The president or the directors calling the meeting shall fix the method, time and place of the meeting. Written notice of the time and place of any special meeting of the board of directors shall be delivered to each director either personally, by mail or by email at least five (5) business days before the date set for the meeting

## **SECTION 3. Quorum and Voting**

A quorum for a board of directors meeting shall require the presence (either in person or by authorized remote electronic means) of both (i) two-thirds (2/3) of the total number of directors and (ii) directors appointed by members who were responsible for at least two thirds (2/3) of all electric power and energy purchases from the Corporation during the prior fiscal year, provided, that if less than a majority of the directors is present at any meeting, a majority of the directors present may adjourn the meeting. The secretary-treasurer shall cause notice to be given to any absent directors of the time and place of an adjourned meeting, as agreed upon by a majority of the board of directors present as provided in Section 1 of this Article. 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, and except that the approval of not less than two-thirds (2/3) of all the directors is required for passage of any action to approve a contract between the Corporation and a member (except a contract which is intended to be made with all of the members in substantially the same form, such as the membership and electric service agreement and a wholesale power agreement with members), or to take any action to amend, assign, request consent to assignment or make any other modification of rights and obligations contained within any such contract.

# **ARTICLE VI. OFFICERS**

## **SECTION 1. Number**

The officers of the Corporation shall be a president, vice president and a secretary-treasurer and other officers as may be determined by the board of directors.

## **SECTION 2. Election and Term of Office**

The officers shall be elected by ballot or by affirmation, annually by and from the board of directors at a meeting of the board of directors, which may be held immediately after the annual meeting of the members or at such other time as the board of directors determines. If the election of officers is not held immediately after the annual member meeting, the election shall be held as soon thereafter as may be convenient. Officer(s) shall hold office until his/her successor(s) shall have been elected and shall have qualified. A vacancy in any office shall be appointed by the board of directors for the unexpired portion of the term.

### **SECTION 3. Removal of Officers by Directors**

Any officer elected or appointed by the board of directors may be removed by the board of directors whenever in its judgment the best interest of the Corporation will be served thereby. In addition, any member of the Corporation may bring charges against an officer by filing with the secretary-treasurer charges in writing together with a petition signed by two-thirds (2/3) of the members requesting the removal of the officer. The officer against whom charges have been brought shall have an opportunity at a meeting to be heard in person or by counsel and to present evidence. The person or persons bringing the charges shall have the same opportunity.

### **SECTION 4. President**

The president shall:

- (a) Be the principal executive officer of the board of directors and, unless otherwise determined by the board of directors, shall preside at all meetings of the members and board of directors;
- (b) Sign with the secretary-treasurer, any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the board of directors to be executed, except in case 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 Corporation or shall be required by law to be otherwise signed or executed; and in general perform all duties incident to the office of president and other duties as may be determined by the board of directors.

### **SECTION 5. Vice President**

In the absence of the president, or in the event of his/her 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 restrictions upon the president. The vice president shall also perform other duties as may be assigned to him/her by the board of directors.

### **SECTION 6. Secretary-Treasurer**

The secretary-treasurer shall be responsible for:

- (a) Causing the minutes of the meeting of the members and of the board of directors to be kept in books provided for that purpose;
- (b) Seeing that all notices are duly given in accordance with these bylaws or as required by law;
- (c) Causing the safekeeping of the corporate book and records of the Corporation;
- (d) Causing a register of the names and post office addresses of all members to be kept;
- (e) Causing to be kept on file at all times a complete copy of the articles of incorporation and bylaws of the Corporation containing all amendments thereof, which copy shall always be

open to the inspection of any member, and at the expense of the Corporation, to any member upon request;

- (f) In general, performing all duties incident to the office of the secretary-treasurer and other duties as may be assigned to him/her by the board of directors.

#### **SECTION 7. Chief Executive Officer**

The board of directors may appoint a chief executive officer. The chief executive officer shall perform those duties and shall exercise authority as the board of directors may vest in him/her. The chief executive officer may be an employee of a member providing services to the Corporation pursuant to a service contract.

#### **SECTION 8. Bonds of Officers**

The secretary-treasurer and any other officer or agent of the Corporation charged with responsibility for the custody of any of its funds or property shall be bonded or insured as the board of directors shall determine. The board of directors may also require any other officer, agent or employee of the Corporation to be bonded or insured, as it shall determine.

#### **SECTION 9. Compensation**

The powers, duties, expenses and compensation of directors, officers, agents and employees shall be fixed by the board of directors or determined pursuant to contracts approved by or pursuant to policies established by the board of directors.

#### **SECTION 10. Reports**

The Corporation shall submit at each annual meeting reports covering the business of the Corporation for the previous year.

### **ARTICLE VII. DISPOSITION OF REVENUES AND RECEIPTS**

#### **SECTION 1. Interest or Dividends on Capital Prohibited**

The Corporation shall at all times be operated on a non-profit basis for the mutual benefit of its members. No interest or dividends shall be paid or payable by the Corporation on any capital furnished by its members.

#### **SECTION 2. Patronage Capital in Connection with Furnishing Electric Energy**

The Corporation's operations shall be conducted so all members through their patronage furnish capital for the Corporation. In order to induce patronage and to ensure that the Corporation will operate on a non-profit basis, the Corporation is obligated to account on a patronage basis to all its members for all amounts received and receivable from the furnishing of electric energy and other services in excess of operating costs and expenses properly chargeable against the furnishing of electric energy or such other services pursuant to one or more allocation units or divisions as may be established by the board of directors. All amounts in excess of operating

costs and expenses at the moment of receipt by the Corporation are received with the understanding that they are furnished by the members as capital. The board of directors may also establish policies by which legal entities or persons that are not members but who are aligned with the Corporation's purpose may contract with the Corporation to deal on a patronage basis without voting rights. The Corporation is obligated to pay by credits to a capital account for each member and non-member patron all amounts in excess of operating costs and expenses. The books and records of the Corporation shall be set up and kept in a manner that at the end of each fiscal year the amount of capital, if any, so furnished by each member is clearly reflected and credited in an appropriate record to the capital account of each member and non-member patron, and the Corporation shall, within a reasonable time after the close of the fiscal year, notify each member and non-member patron of the amount of capital so credited to its account. All amounts credited to the capital account of any member or non-member patron shall have the same status as though they had been paid to the member or non-member patron in cash in pursuance of a legal obligation to do so and the member had then furnished the Corporation corresponding amounts for capital.

All other amounts received by the Corporation from its operation in excess of costs and expenses shall, in so far 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, (i) allocated to its members and non-member patrons on a patronage basis and any amount so allocated shall be included as part of the capital credited to the account of its members and non-member patrons, as herein provided, and/or (ii) placed in an unallocated reserve.

Margins arising from non-recurring transactions (such as income from the lease of premises, legal judgments or settlements, or the sale of capital assets) which are directly related to or actually facilitate the Corporation's business, as determined by the board of directors, will be treated as patronage-sourced margins and distributed to members and non-member patrons in proportion, insofar as is practicable, to their patronage during the period or periods to which such margins are attributable, as determined by the board of directors.

Amounts carried in unallocated reserves shall be allocated on the books of the Corporation on a patronage basis or in lieu thereof the books and records of the Corporation shall afford a means of doing so at any time so that in the event of distribution each member and eligible patron may receive a pro rata share of such distribution. Amounts carried in unallocated reserves and not allocated to the members and patrons may be so allocated by the board of directors at any time.

An operating loss will be apportioned among the members and non-member patrons during the year of loss so that the loss will, to the extent practicable, be borne by those members and non-member patrons with respect to the loss year on an equitable basis, including charging the loss against allocated reserves, unallocated surplus, or the patronage equity. Direct cash assessments shall not be levied against members or non-member patrons to recover any loss. The board of directors may also direct that all or part of any loss be carried forward or back so long as any carryforward or carryback will not place an inequitable burden upon past or future members. If, in any fiscal year, the Corporation incurs a loss other than an operating loss, the board of directors may determine the basis on which patronage capital furnished by the members and

eligible non-member patrons may be reduced or in what manner such loss is to be otherwise equitably apportioned among the members and other eligible patrons.

In the event of dissolution or liquidation of the Corporation, and after all outstanding indebtedness of the Corporation shall have been paid, any and all outstanding capital credits shall be retired without regard to any priority rights of the members and any additional proceeds available shall be paid to the members according to patronage over such historical period of years as two-thirds (2/3) of the total number of directors determine to be an equitable period. If, at any time prior to dissolution or liquidation, the board of directors shall determine that the financial condition of the Corporation will not be impaired thereby, the capital credited to members' accounts may be retired in full or in part. The board of directors shall determine, on any equitable method or basis, the priority and order of retirement, if any, for all amounts furnished as capital and credited to the members' accounts.

Notwithstanding any other provision of the bylaws, if any member or former member fails to claim any cash retirement of capital credits or other payment from the Corporation within one (1) year after payment of the same has been made available by notice or check mailed at the last address furnished to the Corporation, such failure shall be and constitutes an irrevocable assignment and gift by the member of the capital credit or other payment to the Corporation. Failure to claim any payment within the meaning of the section shall include the failure by the member or former member to cash any check mailed by the Corporation to the last address furnished to the Corporation.

Capital credited to the account of each member shall be assignable only on the books of the Corporation pursuant to written instructions from the assigning member and only to successors to all of the assigning member's contracts with the Corporation, including any electric service agreement and wholesale power agreement, in accordance with the terms of the contracts.

The members and any non-member patrons of the Corporation, by dealing with the Corporation, acknowledge that the terms and provisions of the articles of incorporation and bylaws shall constitute and be a contract between the Corporation and each member and non-member patron, and both the Corporation and the members and any non-member patrons are bound by this contract as fully as though each member had individually signed a separate instrument containing these terms and provisions.

## **ARTICLE VIII. DISPOSITION AND PLEDGING OF PROPERTY**

### **SECTION 1. Disposition and Pledging of Property**

- (a) The Corporation shall not sell, lease or otherwise dispose of all or any substantial portion of its cooperative utility property, when the action is not in the ordinary course of business, except as provided in this section.
- (b) Before a member meeting is held to vote on approval of disposition of all or a substantial portion of the Corporation's cooperative utility property, the board of directors shall:
  - (i) Have the proposed disposition analyzed with respect to the effect on rates for utility services and the equity position of members. The analyses shall be performed by at least

two (2) independent analysts with experience in utility rate setting and valuation of utility property;

(ii) Notify all members, at least ninety (90) days in advance, of a meeting to vote on disposition of the Corporation's property, enclosing a summary of the proposals for disposition of the property with the notice, and make available to any member the full proposal for inspection and copying at the principal office of the Corporation; and

(iii) Cause to be mailed to all members a summary of any alternate purchase proposals that have been submitted within thirty (30) days of the meeting date, and make available to any member the full proposal for inspection and copying at the principal office of the Corporation.

(c) A double supermajority affirmative vote of all the members of the Corporation is required for any sale or disposition under this article.

(d) These limits on the Corporation's ability and authority to sell, lease, or otherwise dispose of all or a substantial portion of its cooperative utility property when the action is not in the normal course of business, shall not prevent the Corporation from fulfilling its contractual obligations with power suppliers and other third parties or pledging assets as provided in Section 2 of this Article.

## **SECTION 2. Board Authorization**

The board of directors of the Corporation, without authorization by the members, shall have full power and authority to authorize the execution and delivery of mortgages, deeds of trust or other instruments which may pledge or encumber any or all of the Corporation's property, assets, rights, privileges, licenses, franchises and permits, whether acquired or to be acquired as well as the revenues and income of the Corporation upon terms and conditions as the board of directors may determine.

## **ARTICLE IX. SEAL**

The Corporation shall have no corporate seal.

## **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 Corporation, 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 Corporation shall be signed by an officer or

officers, agent or agents, employee or employees of the Corporation and in a manner as shall be determined by resolution of the board of directors.

### **SECTION 3. Deposits**

All funds, except petty cash, shall be deposited to the credit of the Corporation in banks, instruments, financial institutions and other organizations as the board of directors may select.

## **ARTICLE XI. MISCELLANEOUS**

### **SECTION 1. 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 a meeting shall constitute a waiver of notice of the meeting by the member or director except in the case where 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 2. Policy Rules and Regulations**

The board of directors shall have power to make and adopt policies, rules and regulations, consistent with law, the certificate of incorporation, or these bylaws, as it may deem advisable for the management of the business and affairs of the Corporation but which are not solely related to the member's day-to day business operations (including the member's operation and maintenance practices relating to its electric distribution services).

### **SECTION 3. Accounting System and Reports**

The board of directors shall cause to be established and maintained a complete accounting system subject to applicable laws. Annually, the board of directors shall cause to be made by a certified public accountant a full and complete audit of the accounts, books and financial condition of the Corporation. A report of the audit shall be submitted to the members at the next annual meeting.

### **SECTION 4. Dispute Resolution**

The Corporation shall attempt to resolve any claim or dispute which may arise between the Corporation and a member, former member, or non-member patrons, relating to the rights and obligations of the Corporation and the member, former member, or non-member patron arising out of or relating to the Articles of Incorporation or these bylaws, except for collection claims arising under the membership and electric service agreement and/or wholesale power agreement between the Corporation and members or former members. In resolving such disputes, the Corporation shall give consideration to: (1) applicable laws; (2) rules and regulations imposed by state and federal agencies; (3) the Articles of Incorporation; (4) these bylaws, and the Corporation's policies, practices, plans, and procedures; (5) industry standards; and (6) the individual facts and circumstances regarding the claim or dispute.

All other claims and disputes shall, at the request of the Corporation or the member, former member, or non-member patron, first be submitted to mediation conducted by an impartial mediator agreed to by the parties. In the event the claim or dispute is not resolved through mediation, then such shall, at the request of either the Corporation or the member, former member, or non-member patron, be submitted to binding arbitration to be conducted in accordance with the policies adopted by the Board of Directors of the Corporation. In absence of such policies, or in the event such policies are incomplete, the American Arbitration Association's Commercial Arbitration Rules, as amended from time to time, shall apply to the extent not inconsistent with the policies adopted by the Corporation.

Notwithstanding the foregoing, (i) the Corporation reserves the right to pursue collection claims arising under the membership and electric service agreement and/or wholesale power agreement between the Corporation and a member or former member through other means, including but not limited to use of a collection agency, small claims court, and other applicable courts, and (ii) in any such collection claim the member or former member shall be required to reimburse the Corporation for legal fees and other costs of collection. Further, any claim where the amount in controversy is less than \$25,000 (or any lower or higher threshold established by the board of directors from time to time) may be resolved without utilizing the alternate dispute resolution set forth in this Section.

## **ARTICLE XII. AMENDMENTS**

These bylaws may be amended or repealed:

- (a) By a double supermajority vote of the members voting either in person or by proxy, at an official meeting of the membership, when initiated by petition signed by two-thirds (2/3) of the members; or
- (b) By the board of directors, with a vote of at least two-thirds (2/3) of all directors, at a regular or special meeting of the board. Notice of the proposed bylaw amendment or repeal and the date of the board meeting at which an amendment or repeal will be considered shall be delivered to the members at least thirty (30) days prior to the meeting.