

ARTICLE I
MEMBERSHIP

Section 1. Requirements of Membership. Any person, firm, association, corporation or body politic or subdivision thereof may become a member of FEM Electric Association, Inc. (hereinafter referred to as Cooperative) by:

- (a) Making a written application for membership therein;
 - (b) Agreeing to purchase from the Cooperative electric energy as hereinafter specified;
 - (c) Agreeing to comply with and be bound by the articles of incorporation and bylaws of the Cooperative and any rules and regulations adopted by the Board of Directors;
 - (d) Paying the membership connection fee hereinafter specified; and
 - (e) Execution of a contract with the member on a form provided therefor by the Board of Directors;
- provided, however, that no person, firm, association, corporation or body politic or subdivision thereof shall become a member unless and until he/she or it has been accepted for membership. An application for membership shall be approved by the Manager and reviewed by the Board of Directors at the next meeting thereafter. No member may hold more than one (1) membership in the Cooperative, and no membership in the Cooperative shall be transferable, except as provided in these bylaws. For clarification, it is deemed that any firm, association, corporation, partnership, limited liability company, political subdivision or individual (if an individual is married, his/her membership shall be a joint membership only) may hold one (1) membership only. The number of accounts held under said membership may vary.

Any person, firm, association, corporation or body politic or subdivision thereof, whose application, for sixty (60) days or longer, has been submitted to but not approved by the Board of Directors may, by filing written request therefor, with the Cooperative at least thirty (30) days prior to the next meeting of the members, have their application submitted to and approved or disapproved by the vote of the members at such meeting, at which the applicant shall be entitled to be present and be heard.

Section 2. Joint Membership. A husband and wife will 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 a husband and wife 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 a meeting of either or both shall be regarded as the presence of one (1) member;

- (b) The vote of either separately or both, jointly, shall constitute one (1) joint vote;
- (c) A mail ballot executed by either or both shall be regarded as a vote of one (1) member;
- (d) A waiver of notice signed by either or both shall constitute as a joint waiver;
- (e) Notice to either shall constitute notice to both;
- (f) Expulsion of either shall terminate the joint membership;
- (g) Withdrawal of either shall terminate the joint membership;
- (h) 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 his or her spouse 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; however, that the estate of the deceased shall not be released from any debts due the Cooperative.
- (c) In the event of divorce, the parties shall provide legal documentation (final divorce decree/order) or file written documentation, on forms provided by the Cooperative, indicating who shall remain as a member of the Cooperative and how capital credits shall be allocated to the parties. Failure to provide suitable documentation shall result in the membership remaining the same as it was prior to the divorce.

Section 4. Connection Fees. The connection fee shall be in an amount set by the Board of Directors each year during the Board's January meeting, plus such uniform terms and conditions, such as, but not limited to, a security deposit, service connection deposit or fee, facilities extension deposit, contribution in aid of construction or any combination thereof, as the Board of Directors may prescribe upon payment and performance of which a member shall be eligible for one (1) service connection. Addition service connections by a member may be applied for in the same manner.

Section 5. Purchase of Electric Energy. The Cooperative shall make all reasonable efforts to furnish its members with adequate and dependable electric service within the normal voltage and frequency limits although it cannot and therefore does not guarantee a continuous and uninterrupted supply thereof. If the normal voltage regulation furnished is unsatisfactory for special apparatus requiring close regulation, or if the customer's electrical appliances are

subject to damage due to high or low voltage, the single phasing of three-phase service, phase reversals, or other fluctuations in the quality of service, then the member shall install regulative apparatus and protective devices at the member's own expense. Each member shall, as soon as electric energy shall be available, purchase from the Cooperative all electric energy used on the premises specified in his/her/its application for membership, and shall pay therefor, at rates which shall from time to time be fixed by the Board of Directors. It is expressly understood that amounts paid for applicable electric services, in excess of the operating costs are furnished by members as capital and each member shall be credited with the capital so furnished as provided in these bylaws. Each member shall pay to the Cooperative at least the 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 the member to the Cooperative, when the same shall become due and payable.

Section 6. Cooperation by Member. Each member of the Cooperative, shall, upon being requested so to do by the Cooperative, execute and deliver to the Cooperative grants of easement or right-of way over, on, and under such lands owned or leased by or mortgaged to the member, and in accordance with such reasonable terms and conditions, as the Cooperative shall require for the furnishing of electric service to them or other members or for the construction, operation, maintenance or relocation of the Cooperative's electric facilities. Each member shall participate in any required program and comply with related rates and service rules and regulations that may be established by the Cooperative to enhance load management, more efficiently to utilize or conserve electric energy or to conduct load research.

Section 7. Termination of Membership.

- (a) Any member may withdraw from membership upon compliance with such uniform terms and conditions as the Board of Directors may prescribe. The Board of Directors of the Cooperative may, by the affirmative vote of not less than two-thirds (2/3) 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 such member liable to expulsion and such failure shall have continued for at least ten (10) 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 the member, has not purchased electric energy from the Cooperative, or of a member who has ceased to purchase 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. Termination of membership in any manner shall not release a member or his/her estate from any debts due the Cooperative.

- (c) In case of withdrawal or termination of membership in any manner, the Cooperative shall repay to the member any amounts owed to the member, provided, however, that the Cooperative shall deduct from the amount owed to the member any debts or obligations owing from the member to the Cooperative.

ARTICLE II RIGHTS AND LIABILITIES OF MEMBERS

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 (10) 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.

Section 3. Publications. The Board of Directors on behalf of the Cooperative is hereby authorized to subscribe from the revenues, the amount necessary to pay the subscription fee for the official publication or publications as selected by the Board of Directors.

ARTICLE III MEETINGS OF MEMBERS

Section 1. Annual Meeting. The Annual Meeting of the Members shall be held during the month of June of each year on a date to be selected by the Board of Directors, at such place, within the counties served by the Cooperative, as selected by the Board of Directors and which shall be designated in the notice of the meeting, for the purpose of electing directors, passing upon reports for the previous fiscal year and transacting such other business as may come before the meeting. It shall be the responsibility of the Board of Directors to make adequate plans and preparations for the Annual Meeting. Failure to hold the Annual Meeting at the designated time shall not work a forfeiture or dissolution of the Cooperative.

Section 2. Special Meetings. Special meetings of the members may be called by resolution of the Board of Directors, or upon a written request signed by any three (3) directors, by the President, or by petition signed by not less than ten percent (10 %) 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”.

Section 3. Notice of Members’ Meetings. Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting or an annual meeting at which business requiring special

notice is to be transacted, the purpose for which the meeting is called, shall be delivered not less than ten (10) days nor more than twenty-five (25) 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, in the United States mail, addressed to the member at the member's address as it appears on the records of the Cooperative, with postage prepaid thereon. 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. Fifty (50) members present in person shall constitute a quorum at any meeting of the members. 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.

- (a) Each member shall be entitled to only one (1) 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, or by mail ballot, if such method is approved by resolution of the Board of Directors, except as otherwise provided by law, the articles of conversion or these bylaws. Voting by proxy shall not be permitted.
- (b) When so voting by mail ballot, the member shall be provided, at the time of notice of the meeting at which the question shall be voted upon, with a written or printed ballot fully stating the question and with provisions for the member to indicate thereon his affirmative or negative vote. Such ballot shall be voted by delivering the same in a sealed envelope addressed to the Secretary and bearing the member's name, in person, by the member, or by mailing to the Secretary of the Cooperative or at place of meeting, simultaneously with or prior to balloting on the question by membership in attendance at said meeting, at which said meeting and time of balloting, the Secretary, after removing the ballot from the sealed envelope shall deposit said ballots in the ballot box or facility provided therefor.

Voting by mail ballot as hereinbefore provided shall be supplemental to the right of voting in person, and shall be authorized only by resolution of the Board of Directors at a regular or special meeting of said Board of Directors, for which any question or decision to be voted upon by the members may be performed by mail ballot, except the election of Directors.

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 the unapproved minutes of previous meeting 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. Adjournment.

ARTICLE IV BOARD MEMBERS

Section 1. General Powers. The business and affairs of the Cooperative shall be managed by a board of five (5) Directors which shall exercise all of the powers of the Cooperative except such as are by law, the articles of conversion, or these bylaws conferred upon or reserved to the members.

Section 2. Election and Tenure of Office. The directors shall be elected by secret ballot, one from each of the five (5) Districts, by and from the members at the annual meeting of the members, to hold office for a term of three (3) years each, and until their respective successors are elected and qualified. The Districts from which the Directors shall be elected shall be District 5 in 2012; Districts 1 and 4 in 2013; and Districts 2 and 3 in the year 2014. The district elections will thereafter stagger every three (3) years successively. 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 purposes of electing directors within a reasonable time thereafter. Directors may be selected by plurality vote of the members.

The five (5) Districts shall be designated as the area within the following townships where power is supplied by the Cooperative:

- (a) District 1 shall consist of the following Townships located in McPherson County: Spring Creek, Detmold, Petersburg, Bergdorf, Glucksthal, Rosenthal, Odessa, Bauer, Stickel, Kassel, Jackson, Hillsvew, and Cleveland, and the following Townships located in Edmunds County: Modena, Hosmer, and Sangamon;
- (b) District 2 shall consist of the following Townships located in McPherson County: Harrison, Wacker, Weber, Wachter, Long Lake, Highland, Hoffman, Koto, Carl, Moscow, Arena, Spring, Leola, Willow, Baine, Dewey, Howard, Washington, and Lincoln;
- (c) District 3 shall consist of the following Townships located in Edmunds County: North Bryant, Bowdle, Cottonwood, Glen, Bryant, Odessa, Cloyd Valley, Glover, Montpelier, Hudson, Madison, Hillside and Vermont; and the following Townships located in Faulk County: Sherman, Clark, and Enterprise;
- (d) District 4 shall consist of the following Townships located in Edmunds County: Adrian, Rosette, Belle, Pembroke, Huntley, Ipswich, Fountain, Cortlandt, Cleveland, Harmony, Union, Richland, Liberty, Powell, Kent, and Clear Lake; and

- (e) District 5 shall consist of the following Townships located in Faulk County: Freedom, Emerson, Fairview, Union, Elroy, O'Neil, Saratoga, Pulaski, Myron, Devoe, Wesley, Seneca, Latham, Bryant, Tamworth, Lafoon, Centerville, Ellisville, Thirteen, Irving, Orient, Arcade, and Hillsdale.

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 bona fide permanent resident of the district in which he/she resides; primary residence shall be where an individual receives, uses and pays for electricity from the cooperative and also lists said residence as his/her primary address wherein the individual resides, is registered to vote, and uses said address for his/her driver's license; or
- (b) is in any way employed by or financially interested in a competing enterprise or a business selling electric energy or supplies to the Cooperative or a business primarily engaged in selling electrical appliances, fixtures or supplies to the members of the Cooperative; or
- (c) is a close relative of an incumbent director or of an employee of the Cooperative; or
- (d) does not have the legal capacity to enter into a binding contract; or
- (e) within the past five (5) years, has been an employee of the Cooperative or an immediate family member of said former employee.

If a corporation is a member, then a duly appointed representative of said corporation can be a director if said representative is a bona fide permanent resident of the district for which he/she is elected as qualified in Section 3(a).

Upon establishment of the fact that a director is holding the office in violation of any of the foregoing provisions, the Board of Directors shall remove such director from the office.

All directors are required to complete the NRECA Credentialed Cooperative Director Certificate (CCD) within 36 months and the NRECA Board Leadership Certificate (BLC) within 72 months.

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. Nomination and Election of Directors.

- (a) It shall be the duty of the Board of Directors to appoint, not less than sixty (60) days nor more than one hundred eighty (180) days before the date of a meeting of the members at which directors are to be elected, a committee on nominations consisting of not less than three (3) nor more than seven (7) members who shall be selected from different regions served by the Cooperative, so as to insure equitable representation (two (2) members shall be chosen from each district up for election with

one (1) member being chosen at large). No member of the Board of Directors may serve on such committee. The committee shall prepare and post at the principal office of the Cooperative at least thirty (30) days before the annual meeting a list of nominations for directors, which may include a greater number of candidates than are to be elected.

- (b) Additional nominations for Director may be made by petition signed by no less than fifteen (15) members of the Cooperative and delivered to the Board of Directors at least twenty-five (25) days prior to the annual meeting. The members signing said petition must reside in the District for which they are nominating a member to serve as Director and said member nominated by said petition must reside in said District. The Secretary of the Cooperative shall post such nominations at the same place where the list of nominations made by the committee on nominations is posted.
- (c) The Secretary of the Cooperative shall be responsible for mailing of the notice of meeting at least ten (10) days before the date of the meeting, a statement of the number of directors to be elected and the names and addresses of the candidates, nominated by the committee on nominations and by petition, specifying separately the nominations made by the committee on nominations. At the annual meeting, the Secretary of the Cooperative shall place in nomination the names of the official candidates of each district, which said candidates have been nominated by the nominating committee or by petition. Election of directors shall be made by printed ballot. The ballots shall list the candidates selected by the nominating committee and by petition, the names to be arranged by districts. Each member of the Cooperative present at the meeting shall be entitled to vote for one (1) candidate from each district, from which a director is to be elected. The candidate for each such district receiving the highest number of votes at this meeting shall be declared elected as director. In the event of a tie vote after the second ballot, the winner shall be determined by the toss of a coin.

Section 5. Removal of Directors by Members. Any member may bring charges against a director by filing with the Secretary such charges in writing together with a petition signed by at least ten per- cent (10 %) of the members, requesting the removal of such director by reason thereof. Such director shall be informed in writing of the charges at least ten (10) days prior to the meeting of the members at which the charges are to be considered and shall have an opportunity at the meeting to be heard in person or by counsel and to present evidence in respect to the charges; and the person or persons bringing the charges against the Director shall have the same opportunity. The question of the removal of such director shall be considered and voted upon at the meeting of the members and any vacancy created by such removal may be filled by a vote of the members at such meeting without compliance with the foregoing provisions with respect to nominations, provided, however, that the director so chosen must reside in the same district as the director in respect to whom the vacancy occurs.

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. The member elected as director to fill the vacancy must reside in the same district as the director to whose office the Director succeeds.

Section 7. Compensation. Directors shall, as determined by resolution of the Board of Directors, receive, on a per diem basis, a fixed fee, which may include insurance benefits, for attending meetings of the Board of Directors. Directors shall also receive advancement or reimbursement of any travel and out-of-pocket expenses actually, necessarily and reasonably incurred in attending such meetings and performing such business. No director shall receive compensation for serving the Cooperative in any other capacity, nor

shall any close relative of a director receive compensation for serving the Cooperative, unless the payment for an amount of compensation shall be specifically authorized by a vote of the members or the service by such director or close relative shall have been certified by the Board of Directors as an emergency measure.

Section 8. Director Liability. To the fullest extent permitted by South Dakota law governing this Cooperative as the same exists or may hereinafter be amended, a director of this Cooperative shall not be personally liable to the Cooperative or its members for monetary damages for breach of fiduciary duty as a director, except for liability as follows:

- a) For any breach of the director's duty of loyalty to the Cooperative or its members;
- b) For acts or omissions not in good faith or which involve intentional misconduct or a known violation of the law;
- c) For any violation of SDCL 47-17-7, which makes directors liable to the Cooperative for improper distribution of Cooperative assets; or
- d) For any transaction from which the director derived any improper personal benefit.

ARTICLE V MEETINGS OF 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 date, time and place as the Board of Directors may direct. Such regular monthly meetings may be held without notice other than such resolution fixing the date, 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 or the Directors calling the meeting shall fix the date, time and place for the holding of the meeting.

Section 3. Notice of Director's Meetings. Notice may be provided by telephone and/or email of the date, time, place and purpose of any special meeting of the Board of Directors, which shall be communicated to each Director not less than three (3) days previous thereto, 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.

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 at said meeting, may adjourn the meeting from time to time; and provided further, that the Secretary shall notify any absent Directors of the date, time and place of such adjourned meeting. The act of the majority of the Directors present at any meeting at which a quorum is present shall be the act of the Board except as otherwise provided in these bylaws.

ARTICLE VI OFFICERS

Section 1. Number. The officers of the Cooperative shall be Manager/CEO (Chief Executive Officer), President, Vice President, Secretary, Treasurer, and such other officers as may be determined by the Board of Directors from time to time. The offices of Secretary and Treasurer may be held by the same person.

Section 2. Election and Term of Office. The officers shall be elected annually and without prior nomination by or from the Board of Directors at the meeting of the Board of Directors held after the annual meeting of the members, with the Cooperative's legal counsel conducting said election and recording minutes of the same. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until the first meeting of the Board of Directors following the next succeeding annual meeting of the members or until the new successor shall have been elected and shall have qualified. A vacancy in any office may be filled by the Board of Directors for the unexpired portion of term.

Section 3. Removal of Officers and Agents by Directors. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Cooperative will be served thereby. In addition, any member of the Cooperative may bring charges against an officer, by filing with the Secretary such charges in writing together with a petition signed by ten percent (10%) of the members, requesting the removal of such officer. The officer against whom such charges have been brought shall be informed in writing of the charges at least ten (10) days prior to the Board meeting at which the charges are to be considered and the officer against whom such charges have been brought, shall have an opportunity at the meeting to be heard in person or by counsel and to present evidence in respect to the charges; and the person or persons bringing the charges against the officer shall have the same opportunity. In the event the Board does not remove such officer, the question of the officer's removal shall be considered and voted upon at the next meeting of the members.

Section 4. President. The President shall:

- a) Be the principal executive officer of the Cooperative and unless otherwise determined by the members or the Board of Directors, shall preside at all meetings of the members and the Board of Directors;
- b) Sign, with the Secretary, any deeds, mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the Board of Directors to be executed, except in the cases in which the signing and execution thereof shall be expressly delegated by the Board of Directors or by these by-laws to some other officer or agent of the Cooperative, or shall be required by law to be otherwise signed or executed; and
- c) In general, perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 5. Vice President. In the absence of the President, or in the event of the President's 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 the Director by the Board of Directors.

Section 6. Secretary. The Secretary shall be responsible for the following:

- a) Keep the minutes of the meetings of the members and of the Board of Directors in one or more books provided for that purpose;
- b) Be custodian of the corporate records and of the seal of the Cooperative and affix the seal of the Cooperative to all documents, prior to the issue thereof, the execution of which on behalf of the Cooperative under its seal is duly authorized in accordance with the provisions of these by-laws;
- c) see that all notices are duly given in accordance with these by-laws or as required by law;
- d) Keep a register of the names and post office addresses of all members;
- e) Keep on file at all times a complete copy of the articles of incorporation and by-laws of the Cooperative containing all amendments thereto (which copy shall always be open to the inspection of any members) and at the expense of the Cooperative, forward a copy of the by-laws and of all amendments thereto to each member; upon such members request, and
- f) In general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Director by the Board of Directors.

Section 7. Treasurer. The Treasurer shall be responsible for:

- (a) Having charge and custody of and be responsible for all funds and securities of the Cooperative;
- (b) Being responsible for the receipt of and the issuance of receipts for all moneys due and payable to the Cooperative and for the deposit of all such moneys in the name of the Cooperative in such bank or banks as shall be selected in accordance with the provisions of these by-laws; and
- (c) In general, perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to the Director by the Board of Directors.

Section 8. Assistant Secretary/Treasurer. In the absence of either the Secretary or the Treasurer, or in the event of the Secretary's or Treasurer's inability or refusal to act, the Assistant Secretary/Treasurer shall perform the duties of such Secretary or Treasurer, and when so acting shall have all the powers of and be subject to all the restrictions upon the Secretary or Treasurer. The Assistant Secretary/Treasurer shall also perform such other duties as from time to time may be assigned to the Director by the Board of Directors.

Section 9. Manager/CEO (Chief Executive Officer). The Board of Directors may appoint a Manager/CEO (Chief Executive Officer) who may be, but who shall not be required to be, a member of the Cooperative. The manager shall perform such duties and shall exercise such

authority as the Board of Directors may from time to time vest in the Manager/CEO (Chief Executive Officer).

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 in 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, with the cost of the same being borne by the Cooperative.

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 by-laws with respect to compensation for directors and close relatives of directors.

Section 12. Reports. The Officers of the Cooperative shall submit at each annual meeting of the members reports covering the business of the Cooperative for the previous fiscal year. Such reports shall set forth the condition of the Cooperative at the close of such fiscal year.

Section 13. Indemnification of Officers, Directors, Employees and Agents: Insurance.

- (a) Each Director, officer, employee, or person acting as agent for or on behalf of the Cooperative now or hereafter serving as such, shall be indemnified by the Cooperative against any and all claims and liabilities to which he/she has or shall become subject by reason of serving or having served as such director, officer, employee or agent for said Cooperative, or by reason of any action alleged to have been taken, omitted, or neglected by him/her as such Director, officer employee or agent and the Cooperative shall reimburse each such person for all legal expenses reasonably incurred by him/her in connection with any such claim or liability, provided, however, that no such person shall be indemnified against or be reimbursed for any expense incurred in connection with any claim or liability arising out of his/her own willful misconduct or gross negligence.
- (b) The amount paid to any such person by way of indemnification shall not exceed his/her actual reasonable and necessary expenses incurred in connection with the matter involved, such additional amount as may be fixed by a committee of not less than five (5) persons nor more than seven (7) persons selected by the Board of Directors, who shall be members of the Cooperative, but not officers or directors, employees or persons performing services for the Cooperative, and any determination so made shall be prima facie evidence of the reasonableness of the amount fixed or binding on the indemnified officer, Director, employee or agent. The right of indemnification hereinabove provided shall not be exclusive of any rights to which any Director, officer, employee or agent may otherwise be entitled by law.
- (c) 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 him/her or incurred by him/her in any such capacity, or arising out of his/her status as such whether or not the Cooperative would have the power to indemnify him/her 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 patrons. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its patrons.

Section 2. Patronage Capital in Connection with Furnishing Electric Energy. In the furnishing of electrical energy, the Cooperative's operation shall be so conducted that all electric members alike will, through their patronage, furnish capital for the Cooperative. In order to induce patronage and to ensure that the Cooperative will operate on 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 the following:

- (a) operating costs and expenses properly chargeable against the furnishing of electrical energy;
- (b) amounts required to offset any losses incurred during the current fiscal year; and
- (c) amounts, which required, in the judgment of the Board of Directors, as reserves, for the payment of the essential cost of electrical power and energy purchased by the Cooperative for resale to its patrons; said reserve amounts shall be set aside pursuant to a margin stabilization plan, revenue or expense deferral plan or other plan, or plans, that provide for the retention of revenues and receipts in excess of those needed to meet current losses and expenses.

All such amounts in excess of operating costs, expenses, losses, and reserves, as set forth in (a), (b) and (c) above, at the moment of receipt by the Cooperative are received with the understanding that they are furnished by the patrons as capital. The Cooperative is obligated to pay credits to a capital account for each patron all such amounts in excess of operating costs, expenses, losses, and reserves, as set forth in (a), (b) and (c) above.

The books and records of the Cooperative shall be set up and kept in such a manner that at the end of each fiscal year the amount of capital, if any, so furnished by each patron is clearly reflected and credited in an appropriate record to the capital account of each patron, and the Cooperative shall within a reasonable time after the close of the fiscal year notify each patron of the amount of capital credited to the member's account, provided, that individual notices of such amounts furnished by each patron shall not be required if the Cooperative notifies all patrons of the aggregate amount of such excess and provides a clear explanation of how each patron may compute and determine for the member the specific amount of capital so credited to the member. All such amounts credited to the capital account of any patron shall have the same status as though they had been paid to the patron in cash pursuant of a legal obligation to do so and the patron had then furnished the Cooperative corresponding amounts for capital.

In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credits shall be retired without priority, on a prorated basis before any payments are made on account of property rights of members. If, at any time prior to dissolution or liquidation, the Board of Directors shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital then credited to patrons' accounts may be retired in full or in part. Notwithstanding any other provision of these by-laws, the Board of Directors shall determine the method of allocation, basis, priority and order of retirement, if any, for amounts furnished as patronage capital.

The Board of Directors shall have the power to adopt any individual patron rules providing for the separate retirement of that portion ('power supply portion') of capital credited to the accounts of patrons which corresponds to capital credited to the account of the Cooperative by an organization furnishing electric service to the Cooperative. Such rules shall

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

Notwithstanding any other provisions of these by-laws, the Board of Directors, at its discretion, shall have the power at all times upon the death of any patron, if the legal representatives of the member's estate shall request in writing that the capital credited to any such patron be retired prior to the time such capital would otherwise be retired under the provisions of these by-laws, to retire capital credited to any such patron immediately upon such terms and conditions as the Board of Directors, acting under policies of general application, and the legal representatives of such patron's estate shall agree upon; provided, however, that the financial condition of the Cooperative will not be impaired thereby. Capital credits retired by the Board of Directors and unclaimed by a cooperative member or former cooperative member shall be forfeited to the Cooperative in accordance with South Dakota Codified Laws, specifically SDCL 47-16-54 through 47-16-59, as the same may be amended.

The Patrons of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the articles of conversion and by-laws shall constitute and be a contract between the Cooperative and each patron, and both the Cooperative and the patrons are bound by such contract, as fully as though each patron had individually signed

a separate instrument containing such terms and provisions. The provisions of this article of the by-laws shall be called to the attention of each patron of the Cooperative by posting in a conspicuous place in the Cooperative's office.

Section 3. Patronage Refunds in Connection with Furnishing Other services. In the event that the Cooperative engages in the business of furnishing goods or services other than electrical energy, all amounts received and receivable therefrom which are in excess of the costs and expenses properly chargeable against the furnishing of such goods or services shall, insofar as permitted by law, be prorated annually on a patronage basis and returned to the electric members, at such time and in such order of priority as the Board of Directors shall determine, except, certain amounts may be retained pursuant to a revenue retention plan, or other plan, or plans, as authorized by ARTICLE VII, SECTION 2, of these by-laws. The Cooperative, before retiring any capital credited to any patron's account, shall deduct therefrom any amount owing by such patron to the Cooperative, together with interest thereon at a reasonable rate set by the policy implemented by the Board of Directors in effect when such amount became overdue, compounded annually.

ARTICLE VIII

MORTGAGING, ENCUMBERING AND DISPOSITION OF PROPERTY

Section 1. Mortgaging and Encumbering Assets. The Board of Directors of the Cooperative, without authorization by the members thereof, shall have the full power and authority to authorize the execution and delivery of security agreements, a mortgage or mortgages, or deed or deeds of trust, or instruments affecting the pledging or encumbering of any or all of the property, assets, rights, privileges, licenses, franchises, and permits of the Cooperative whether acquired or to be acquired, and wherever situated, as well as the revenues therefrom, all upon such terms and conditions as the Board of Directors shall determine, to secure any indebtedness of the Cooperative to the United States of America or any agency or instrumentality thereof or any other lender.

Section 2. Disposition of Property. The Cooperative may not, except as provided by Section 1 hereof, sell, lease, or otherwise dispose of all or a substantial portion of its property, unless such sale, lease or other disposition is authorized by the affirmative vote of a majority of all members of the Cooperative at a meeting of the members called for that purpose, at which meeting all members voting must be present and vote on the question in person or by mail ballot, if such method is approved by resolution of the Board of Directors; and that if authorized by the majority vote of all members of the Cooperative at a meeting as hereinbefore provided, the Board of Directors may 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 of this Cooperative 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 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 of and on behalf of the Cooperative, and such authority may be general or confined to specific instances.

Section 2. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, and all notes, bonds or other evidences of indebtedness issued in the name of the Cooperative shall be signed 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 except petty cash of the Cooperative shall be deposited from time to time to the credit of the Cooperative in such bank or banks as the board may select.

Section 4. Change of Rates. Written notice shall be given to the Administrator of the Rural Electrification Administration of the United States of America not less than ninety (90) days prior to the date upon which any proposed change in the rates charged by the Cooperative for electric energy becomes effective.

Section 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 of the same year.

ARTICLE 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 or by mail ballot, if such is approved by resolution of the Board of Directors, 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, purchase stock in or become a member of any corporation or organization organized on a for profit or non-profit basis for the purpose of engaging in or furthering the cause of rural electrification, telecommunications, or utility/service related industry, or with the approval of the Administrator of Rural Utilities Service (RUS), 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 ground that the meeting has not been lawfully called or convened.

Section 3. Policies, Rules and Regulations. The Board of Directors shall have power to make and adopt such policies, rules and regulations, not inconsistent with law, the articles of conversion or these 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 to designated by the Administrator of the Rural Utilities Service (RUS) of the United States of America. The Board of Directors shall also, after the close of each fiscal year 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 each fiscal year. A report of such audit shall be submitted to the members at the next following annual meeting.

Section 5. Area Coverage. The Board shall make diligent effort to see that electric service is extended to all unserved persons within the Cooperative service area who:

- (a) desire such service; and
- (b) meet all reasonable requirements established by the Cooperative as a condition of such service.

Section 6. Rules of Procedure. Unless otherwise provided in these bylaws, the rules of parliamentary procedure as provided in “Roberts Rules of Order” shall govern the conduct of all meetings of the Board of Directors and meeting of members of the Cooperative.

Section 7. Assignment and Gift by Failure to Claim.

- (a) Notwithstanding any other provisions of the bylaws, if any member or former member fails to claim any cash retirement of capital credits or their payment from the Cooperative within six (6) years after payment of the same has been made available to such member by check mailed to the member at the last address furnished by the member to the Cooperative, such failure shall be and constitutes an irrevocable assignment and gift by such member of such capital credit or other payments to the Cooperative.
- (b) Failure to claim any such payment within the meaning of this section shall include the failure of such member or former member to cash any check mailed to the member by the Cooperative at the last address furnished by the member to the Cooperative.
- (c) The assignment and gift provided for under this section shall become effective only upon the expiration of six (6) years from the date when such payment was made available to such member or former member without claim therefore and only after the further expiration of six (6) months, following the giving of a Notice by mail or publication that unless payment is claimed within six (6) months, such gift to the Cooperative shall become effective.

- (d) The Notice by mail herein provided, shall be one mailed by the Cooperative to such member or former member at the last known address. If Notice by publication is given, such publication shall be one insertion in a newspaper circulated in the service area of the Cooperative.
- (e) The six (6) month period following the giving of such Notice, either by mail or publication, shall be deemed to terminate six (6) months after the mailing or publication of such Notice.

ARTICLE XII AMENDMENTS

Section 1. Standard Amending Procedure. These bylaws may be altered, amended or repealed by the members at any regular or special meeting by the affirmative vote of a majority of those members voting thereon, provided, the notice of such meeting shall contain a copy of the proposed alteration, amendment, or repeal, or specify the nature of the proposed alteration, amendment or repeal. Any amendment which is germane to the proposed alteration or amendment specified in the notice and submitted at such meeting may be acted upon at said meeting with the same force and effect as though it had been contained in the notice of the meeting.

Section 2. Initiated amendments. Proposed alterations, amendments, or repeals to the bylaws may be initiated by the members by filing with the Cooperative at least sixty (60) days prior to the date of a special or regular membership meeting, a petition signed by at least ten percent (10 %) of the members of the Cooperative, setting forth the proposed alterations, amendments or repeals and requesting that the same be submitted to the membership for approval or rejection. Upon receipt of such a petition, the Cooperative shall give notice of said proposed alterations, amendments or repeals as provided herein and submit the same to the membership for rejection or approval at the next regular or special meeting thereof.

**STATEMENT OF NONDISCRIMINATION
FEM ELECTRIC ASSOCIATION, INC.**

RUS updated 3/9/2016 – Board Resolution approved 06/21/2016

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Person with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202)720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800)877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov

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