



CODE OF REGULATIONS

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Revised to April 22, 2017

North Western Electric Cooperative, Inc.
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**NORTH WESTERN ELECTRIC COOPERATIVE, INC.
CODE OF REGULATIONS**

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**NORTH WESTERN ELECTRIC COOPERATIVE, INC.
CODE OF REGULATIONS**

**ARTICLE I
MEMBERSHIP**

SECTION 1. Requirements for Membership.

Any person, whether a natural person or a firm, association, corporation, partnership, limited liability company, body politic or subdivision thereof, will become a member of North Western Electric Cooperative, Inc. (hereinafter called the "Cooperative") upon receipt of electric service from the Cooperative, provided that such person has first:

- a) made a written application for membership therein;
- b) agreed to purchase from the Cooperative electric power and energy as hereinafter specified;
- c) agreed to comply with and be bound by the Articles of Incorporation, Code of Regulations and rules and regulations of the Cooperative and any policies adopted by the Board of Trustees of the Cooperative (hereinafter sometimes called the "Board").

No member may hold more than one membership in the Cooperative, and no memberships in the Cooperative shall be transferable, except as provided in this Code of Regulations.

SECTION 2. Membership Certificates.

Membership in the Cooperative may be evidenced by a membership certificate which shall be in such form and shall contain such provisions as shall be determined by the Board. Such certificate shall be signed either manually or by facsimile signature by the Chairman and by the Secretary of the Cooperative and the corporate seal or a facsimile thereof shall be affixed to such certificate. Failure to issue a membership certificate or the loss or destruction thereof shall not affect the membership status of any person listed as a member in the Cooperative's membership records. In case a certificate is lost, destroyed or mutilated, a new certificate may be issued therefor upon such uniform terms and conditions as the Board may prescribe.

SECTION 3. Joint Membership.

Applications for joint membership will not be accepted.

SECTION 4. Purchase of Electric Energy.

Each member shall, as soon as electric energy shall be available, purchase from the Cooperative all electric energy purchased for use on the premises specified in such member's application for membership, and shall pay thereafter at rates which shall from time to time be fixed by the Board. Production or use of electric energy on such premises, regardless of the source thereof, by means of facilities which shall be interconnected with Cooperative facilities, shall be subject to such policies, rules and regulations as shall be fixed from time to time by the Cooperative. It is expressly understood that amounts paid for electric power and energy in excess of the cost of service are furnished by the patrons of the Cooperative, whether members or non-members, as capital and each patron shall be credited with the capital so furnished as provided in this Code of Regulations. Each patron shall pay all amounts owed by that patron to the Cooperative as and when the same shall become due and payable.

SECTION 5. Termination of Membership.

Any member may withdraw from membership upon compliance with such uniform terms and conditions as the Board may prescribe. The Board may, by the affirmative vote of not less than two-thirds of all the members of the Board, expel any member who fails to comply with any of the provisions of the Articles of Incorporation, this Code of Regulations, or policies adopted by the Board, 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 days after such notice was given. Any expelled member may be reinstated by vote of the Board or by vote of the members at any annual or special meeting.

Upon the withdrawal, death, cessation of existence, cessation of the Cooperative's electric service to, or expulsion of a member, the membership of such member shall thereupon terminate, and the membership certificate of such member shall be surrendered forthwith to the Cooperative. The Board may adopt uniform rules governing the membership status of persons whose electric service is temporarily discontinued by the Cooperative. Termination of membership in any manner shall not release a member or member's estate from any debts or obligations due the Cooperative.

SECTION 6. Service to All Persons within the Cooperative's Service Area.

The Cooperative shall extend retail electric service to all persons, whether members or non-members, within the Cooperative's service area who

- a) desire such service; and
- b) meet all requirements established by the Cooperative as a condition of such service. Conditions of service may be set forth in the rate schedules, policies and rules and regulations of the Cooperative. No discrimination or preference shall be made between member and non-member patrons of the Cooperative with respect to rates or terms or conditions of service.

As used in this Code of Regulations, the term "service area" shall mean the entire geographic area wherein the Cooperative supplies electric power and energy or maintains electric facilities as well as all areas adjacent thereto which are not served by any other supplier of electric energy, and all areas which are closer to the electric distribution facilities of the Cooperative than to the electric distribution facilities of any other electric supplier, provided that service may be rendered thereto by the Cooperative in compliance with all applicable laws and regulations.

Nothing contained in this Code of Regulations, in the Cooperative's rules and regulations, policies or otherwise, shall be construed to prevent the Cooperative from selling electric power and energy or otherwise rendering electric service to non-members or to prohibit the Cooperative from entering into and performing franchises or other contracts with political subdivisions, bodies politic, or governmental agencies or instrumentalities, which franchises or contracts provide for the selling of electric power and energy or otherwise rendering electric service to any such subdivision, bodies, agencies, instrumentalities or the citizens thereof.

ARTICLE II RIGHTS AND LIABILITIES

SECTION 1. Property Interest of Members.

Upon dissolution, after:

- a) all debts and liabilities of the Cooperative have been paid; and
- b) all capital furnished through patronage has been retired as provided in this Code of Regulations,

the remaining property and assets of the Cooperative shall be distributed among the members and former members in the proportion which the aggregate patronage of each bears to the total patronage of all members during the ten years 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. Continuity of Service.

The Cooperative shall use reasonable diligence in furnishing a regular and uninterrupted supply of electric power and energy, but does not guarantee uninterrupted service. The Cooperative shall not be liable for damages, personal injury, wrongful death, property damage or other loss in case such supply is interrupted, curtailed, reduced, fluctuates, becomes irregular, or fails, unless such damages are due to the gross negligence or willful and wanton misconduct of the Cooperative. In no event shall the Cooperative be liable for consequential damages of any nature whatsoever in case such supply of power and energy should be interrupted, curtailed, reduced, fluctuate, become irregular, fail or should the commencement of service to the customer be delayed.

ARTICLE III MEETING OF MEMBERS

SECTION 1. Annual Meeting.

The annual meeting of the members shall be held during the month of April in each year at such place within the service area of the Cooperative as selected by the Board and which shall be designated in the notice of the meeting for the purpose of electing Board members, 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 to make adequate 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. In the event that such annual meeting is not held, for any reason, a special meeting in lieu thereof shall be called and held as soon thereafter as convenient, and any business transactions or elections held at such meeting shall be as valid as if transacted or held at the annual meeting.

SECTION 2. Special Meetings.

Special meetings of the members may be called by resolution of the Board, or upon a written request signed by any three Board members, by the Chairman or by ten per centum or more of all the members, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. A special meeting of the members may be held only at the place within the service area of the Cooperative, day and hour designated by the Board.

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 or purposes for which the meeting is called, shall be delivered not less than ten (10) days before the date of the meeting, either personally or by mail (including publication within a magazine mailed to the members), by or at the direction of the Secretary, or upon a default in duty by the Secretary, by the Chairman or Vice Chairman of the Cooperative, to each member. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member's address as it appears on the records of the Cooperative, with postage prepaid. If personally delivered, the notice shall be hand delivered to the member. Notice of adjournment of a members' meeting need not be given if the time and place to which it is adjourned are fixed and announced at such meeting.

SECTION 4. Quorum.

The members entitled to vote present in person at any meeting of the members shall constitute a quorum.

SECTION 5. Voting.

Each member shall be entitled to one vote and no more upon each matter submitted to a vote at a meeting of the members. All questions shall be decided by a vote of a majority of the members voting thereon in person except as otherwise provided by law, the Articles of Incorporation or this Code of Regulations.

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 include the following matters with the order to be determined by the Board or the chairman of such meeting:

- a) reading of the notice of the meeting and proof of the due personal delivery or mailing thereof, or the waiver or waivers of notice of the meeting, as the case may be;
- b) reading of unapproved minutes of previous meetings of the members and the taking of necessary action thereon;
- c) presentation and consideration of reports of officers, Board members and committees;
- d) election of Board members;
- e) unfinished business;
- f) new business;
- g) adjournment.

ARTICLE IV BOARD OF TRUSTEES

SECTION 1. General Powers.

The entire business and affairs of the Cooperative shall be managed by a board of seven trustees (the "Board") which shall exercise all of the powers of the Cooperative except such as are by law, the Articles of Incorporation or this Code of Regulations conferred upon or reserved to the members.

SECTION 2. Election and Tenure of Office.

The Board shall divide the service area of the Cooperative into seven districts so that equitable representation may be given to the geographic areas served by the Cooperative. The Board shall have the power to change the boundaries of such districts whenever in their opinion the purpose of this Section requires such a change. Each district shall be represented by one Board member. Not less than two Board members shall be elected each year by secret ballot at the annual meeting of the members, or at any meeting held in lieu thereof as hereinbefore provided, by and from the members to serve for a term of three years or until their successors have been elected and shall have qualified, subject to the provisions of this Code of Regulations with respect to the removal of Board members. Board members may be elected by a plurality vote of the members. In case of a tie vote, there shall be a second secret ballot for the office and if the tie is not broken thereby, the election to such office shall be decided by a flip of a coin. No person shall hold the office of Board member for more than five consecutive three- year terms. A break in tenure of one year or more shall qualify the person for re-election to the Board.

SECTION 3. Qualifications.

No person shall be eligible to become or remain a member of the Board who:

- a) is not a member; or is a member whose permanent residence is not located in the particular district within the service area of the Cooperative which such member is nominated or elected to represent;
- b) is significantly involved by employment, contract, or financial interest in a competing enterprise or a business selling electric power and energy or supplies to the Cooperative or its members;
- c) has a spouse, father, mother, brother, sister, son or daughter, existing by reason of blood, marriage or adoption, in the employ of the Cooperative.

Nothing contained in this Section shall affect in any manner whatsoever the validity of any action taken by the Board.

SECTION 4. Nominations.

Trustees shall be nominated by a procedure commencing with the mailing of a letter by the Secretary or a designee to each member residing within the district or being eligible to vote within the district for which a trustee is to be elected not less than one hundred twenty (120) days prior to the annual meeting. Each letter shall contain all necessary instructions for obtaining and completing a Nominating Petition and the name of the trustee whose term is expiring. Any member residing within the district for which a trustee is elected and who is qualified shall be eligible to complete the Nominating Petition. If an incumbent chooses to remain a candidate and

is still eligible then he or she will automatically be placed on the ballot and will not need to submit a Nominating Petition.

A Nominating Petition shall include all of the following to be considered complete:

1. Name, address and account number of eligible qualified member who consents to be nominated.
2. District for which the trustee is to be elected.
3. Signature, name and address of no fewer than twenty (20) members residing in the district from which the trustee is to be elected.
4. Signature of member consenting to and submitting the Nominating Petition.
5. Copy of the Code of Regulations sections on the qualifications and election process for trustees.
6. Date of the annual meeting at which the election results will be announced.

All Nominating Petitions must be delivered to the principal office of the Cooperative in Bryan, Ohio no later than ninety (90) days prior to the annual meeting of the members. The election committee (with assistance from Cooperative personnel), which consists of the Secretary and two (2) other members of the board named by the board, shall meet to review and verify all Nominating Petitions and all member signatures. If necessary, the Cooperative attorney may be called upon for legal advice regarding a Nominating Petition qualification(s). The Secretary or designee shall prepare and post at the principal office of the Cooperative at least 75 days prior to the annual meeting a list of eligible candidates and their addresses, which shall be placed on the ballot to be voted on at the next annual meeting of the members.

Should there be (a) no incumbent eligible and only one Nominating Petition submitted or (b) only the eligible incumbent and no Nominating Petition submitted then that member shall be considered elected by affirmation and no election shall be deemed necessary for that particular district. Should there be no incumbent and no Nominating Petition submitted for a district, then this shall be considered a vacancy and will be treated as such.

At the meeting at which Board Members are to be elected, the Chairman or his or her designee shall call for additional nominations from the floor. No person shall be voted upon for membership on the Board who has not signified a willingness to serve if elected. Nothing contained in this Section shall affect in any manner whatsoever any action taken by the Board.

SECTION 5. Removal of Trustees.

A group of members consisting of at least ten percent (10%) of all members may seek the removal of a trustee by reason of malfeasance, misfeasance or nonfeasance in office by filing with the Secretary (or the Chairman, if the Secretary is the subject of the charges) a detailed written description of each charge and the factual basis therefor, signed by the members seeking removal, which shall:

- a) identify the trustee or trustees against whom the charges are brought;
- b) contain a detailed description of each charge, along with the factual basis therefor; and
- c) contain a designation of one member of the group as representative.

If more than one trustee is sought to be removed, individual charges against each such trustee and the factual basis for each such charge shall be specified. For purposes of this Article “misfeasance, misfeasance or nonfeasance” means an act or omission amounting to gross negligence, fraud or criminal conduct, which has a material adverse effect on the business and affairs of the Cooperative.

At a regular or special meeting of the trustees occurring not less than forty-five days after the filing of such charge, the representative of the members bringing the charges against the trustee shall have an opportunity to be heard in person or by counsel and to present evidence in support of the charges; and the trustee shall have the opportunity to be heard in person or by counsel and to present evidence in response to the charges. No trustee shall be removed from office unless the specific charges against such trustee are supported by clear and convincing evidence. The question of the removal of such trustee or trustees shall be considered and voted upon at a meeting of the trustees. A trustee shall be removed only upon a majority vote of the remaining trustees.

The remaining trustees, in their discretion, may designate an independent hearing officer who shall be an attorney at law licensed by the State of Ohio to take evidence and make a recommendation to the remaining trustee. Proceedings before the hearing officer shall occur at least ten (10) days before the trustees’ meeting at which the question of removal shall be considered.

Any vacancy created by such removal may be filled, by the affirmative vote of a majority of the remaining trustees, for the unexpired portion of the term and until a successor shall have been elected and qualified. The removal of no more than two trustees may be considered or voted upon at any meeting of trustees.

SECTION 6. Resignations.

A Board member may resign by tendering written notice to do so to the Secretary. Absence from three consecutive regularly scheduled Board meetings shall constitute a resignation, unless at the meeting following the third absence, a majority of the other members of the Board vote to excuse such absences.

SECTION 7. Vacancies.

Subject to the provisions of this Code of Regulations with respect to the filling of vacancies caused by the removal of Board members, a vacancy occurring in the Board shall be filled by the affirmative vote of a majority of the remaining Board members for the unexpired portion of the term and until a successor shall have been elected and shall have qualified.

SECTION 8. Compensation.

Members of the Board shall not receive any salary for their services as such; however, the Board may by resolution provide a reasonable compensation to be paid to each Board member for services rendered on behalf of the Cooperative as a Board member, such as attendance at meetings, conferences and training programs or performing committee assignments. The Board may also authorize reimbursement of Board members for expenses actually and necessarily incurred in carrying out such Cooperative business or grant a reasonable per diem allowance in lieu of detailed accounting for such expenses. A Board member may also receive compensation for services rendered as an officer of the Cooperative, but no Board member shall receive compensation for

serving the Cooperative in any other capacity, except in emergency. No close relative of a Board member shall receive compensation for serving the Cooperative, except in emergency, unless such compensation shall be specifically authorized by a majority vote of the other members of the Board. As used in this section, "close relative" means the relationships of spouse, father, mother, brother, sister, son and daughter existing by reason of blood, marriage or adoption.

ARTICLE V
MEETINGS OF BOARD OF TRUSTEES

SECTION 1. Regular Meetings.

A regular meeting of the Board may be held without notice immediately after, and at the same place as, the annual meeting of the members. A regular meeting of the Board shall also be held monthly at such time and place, either within or without the State of Ohio, as designated by the Board. Such regular monthly meeting may be held without notice other than such resolution fixing the time and place thereof.

SECTION 2. Special Meetings.

Special meetings of the Board may be called by the Chairman or by any three Board members, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. The Chairman or Board members calling the meeting shall fix the time and place, either within or without the State of Ohio, for the holding of the meeting.

SECTION 3. Notice of Special Board Meetings.

Written notice of the time, place and purpose of any special meeting of the Board shall be delivered to each Board member, personally, by electronic media or by mail, by or at the direction of the Secretary of the Board, or upon a default in duty by the Secretary, by the Chairman or the Board member calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Board member at that member's address as it appears on the records of the Cooperative, with postage thereon pre-paid, at least two days before the date set for the meeting. If delivered by electronic media, such notice shall be deemed to be delivered when forwarded to the address most recently provided by the Board member.

SECTION 4. Quorum.

A majority of the Board shall constitute a quorum, provided, that if less than such majority of the Board is present at said meeting, a majority of the Board present may adjourn the meeting from time to time; and provided further that the Secretary shall notify any absent Board members of the time and place of such adjourned meeting. The act of a majority of the Board members present at a meeting at which a quorum is present shall be the act of the Board, except as otherwise provided in this Code of Regulations.

SECTION 5. Action of Trustees Without a Meeting.

Any action which may be authorized or taken at a meeting of the Board may be authorized or taken without a meeting in a writing or writings signed by all of the members of the Board.

ARTICLE VI OFFICERS

SECTION 1. Number.

The officers of the Cooperative shall be a Chairman, Vice Chairman, Secretary, Treasurer, President and such other officers as may be determined by the Board from time to time. The offices of Secretary and Treasurer may be held by the same person.

SECTION 2. Election and Term of Office.

Each officer, except the President, shall be elected annually by and from the Board at the first meeting of the Board held after the annual meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as convenient. Each officer shall hold office until the first meeting of the Board following the next succeeding annual meeting of the members or until that member's successor shall have been elected and shall have qualified, subject to the provisions of this Code of Regulations with respect to the removal of officers. The President shall be chosen and employed and the President's compensation shall be set by the Board. A vacancy in any office shall be filled by the Board for the unexpired portion of the term.

SECTION 3. Removal of Officers and Agents by the Board.

Any officer elected or appointed by the Board may be removed by the Board whenever in its judgment the best interests of the Cooperative will be served thereby. Notwithstanding any other provisions of this Code of Regulations, the Board may, in its discretion, authorize a written employment agreement between the Cooperative and the President containing terms and conditions of employment, including those relating to the removal of the President which are consistent with this Code of Regulations.

SECTION 4. Resignations.

Any officer may resign at any time by giving written notice to the Board or to the Chairman or to the Secretary of the Cooperative. Any such resignation shall take effect at the time specified therein and unless otherwise specified therein the acceptance of such resignation shall not be necessary to make it effective.

SECTION 5. Vacancies.

A vacancy in any office, except that of President, may be filled by the Board for the unexpired portion of the term. In the event of a vacancy in the office of President, the Board shall choose and employ a President upon terms and conditions which the Board considers to be in the best interests of the Cooperative.

SECTION 6. Chairman.

The Chairman shall:

- a) be the principal officer of the Cooperative and, unless otherwise determined by the members of the Board, shall preside at all meetings of the members and the Board;
- b) on behalf of the Cooperative, subject to the direction and instruction of the Board, may sign any deeds, mortgages, deeds of trust, notes, bonds, financing statements, security agreements, contracts or other instruments, except in cases in which the signing and

execution thereof shall be expressly delegated by the Board or by this Code of Regulations 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 Chairman and such other duties as may be prescribed by the Board from time to time.

SECTION 7. Vice Chairman.

In the absence of the Chairman; or in the event of the Chairman's inability or refusal to act, the Vice Chairman shall perform the duties of the Chairman; and when so acting shall have all the powers of and be subject to all the restrictions upon the Chairman. The Vice Chairman shall also perform such other duties as from time to time may be assigned by the Board or by the Chairman.

SECTION 8. Secretary.

The Secretary shall be responsible for:

- a) keeping the minutes of the meetings of the members and of the Board in books provided for that purpose;
- b) seeing that all notices are duly given in accordance with this Code of Regulations or as required by law;
- c) the safekeeping of the corporate books and records and the seal of the Cooperative and affixing the seal of the Cooperative or a facsimile thereof to all documents, the execution of which on behalf of the Cooperative under its seal is duly authorized in accordance with the provisions of this Code of Regulations;
- d) keeping a register of the names and post office addresses of all members;
- e) signing, with the Chairman, certificates of membership;
- f) keeping on file at all times a complete copy of the Articles of Incorporation and Code of Regulations of the Cooperative containing all amendments thereto (which copy shall always be open to the inspection of any member) and at the expense of the Cooperative, furnishing a copy of the Code of Regulations and of all amendments thereto to any member upon request; and
- g) in general performing all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Board.

SECTION 9. Treasurer.

The Treasurer shall be responsible for:

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

If a Treasurer is not appointed by the Board, the President shall assume the duties of the Treasurer.

SECTION 10. President.

The President shall:

- a) be the chief administrative officer responsible for the general direction, coordination and control of all operations in accordance with the policies adopted by the Board, subject to the direction and instruction of the Board;
- b) have supervision over and be responsible for the operations of the Cooperative and, in performing this duty, carry out and administer the policies adopted by the Board;
- c) prepare for the Board of Trustees such reports and budgets as are necessary to inform the Board concerning the operation of the Cooperative; and
- d) in general perform all duties incident to the office of President as chief administrative officer and perform such other duties as may from time to time be assigned by the Board.

SECTION 11. 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 shall determine. The Board 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.

SECTION 12. Compensation.

The powers, duties and compensation of officers, agents and employees shall be fixed by the Board subject to the provisions of this Code of Regulations; provided, that the Board may delegate the fixing of the compensation of employees, except that of the President, to the President, within a range determined by the Board.

SECTION 13. Reports.

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

ARTICLE VII NON-PROFIT OPERATION

SECTION 1. Interest or Dividends on Capital Prohibited.

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

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

In the furnishing of electric energy, the Cooperative's operations shall be so conducted that all patrons, members and non-members alike, will through their patronage furnish capital for the Cooperative. In order to induce patronage and to assure that the Cooperative will operate on a non-profit basis, the Cooperative is obligated to account on a patronage basis to all its patrons, members and non-members alike, for all amounts received and receivable from the furnishing of electric energy in excess of operating costs and expenses properly chargeable against the furnishing of electric energy. All such amounts in excess of operating costs and expenses at the moment of receipt by the Cooperative are received with the understanding that they are furnished by the patrons, members and non-members alike, as capital. The Cooperative is obligated to pay by credits to a capital account for each patron all such amounts in excess of operating costs and expenses. The books and records of the Cooperative shall be set up and kept in such a manner that at the end of each fiscal year the amount of capital, if any, so furnished by each patron is clearly reflected and credited in an appropriate record to the capital account of each patron, and the Cooperative shall within a reasonable time after the close of the fiscal year notify each patron of the amount of capital so credited to the member's account. All such amounts credited to the capital account of any patron shall have the same status as though they had been paid to the patron in cash in pursuance of a legal obligation to do so and the patron had then furnished the Cooperative corresponding amounts for capital.

All other amounts received by the Cooperative from its operations in excess of costs and expenses shall, insofar as permitted by law, be:

- a) used to offset any losses incurred during the current or any prior fiscal year; and
- b) to the extent not needed for that purpose, allocated to its patrons on a patronage basis and any amount so allocated shall be included as part of the capital credited to the accounts of patrons, as herein provided.

In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding patronage capital shall be retired without priority on a pro rata basis before any payments are made on account of property rights of members. If, at any time prior to dissolution or liquidation, the Board shall determine that the financial condition of the Cooperative will not be impaired thereby, the patronage capital credited to patrons' accounts may be retired in full or in part. Any such retirement shall be made in the following order of priority:

- a) twenty percent (20%) of the patronage capital accumulated in the previous year; and
- b) the balance of any such retirement being made in order of priority according to the year in which the patronage capital was furnished and credited, the patronage capital first received by the Cooperative being retired; provided, however, that the Board of Trustees shall have

the power to adopt rules providing for the separate retirement of that portion ("power supply portion") of patronage capital credited to the accounts of patrons which corresponds to patronage 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 notification to patrons with respect to the power supply portion of capital credited to their accounts; and
- d) preclude a general retirement of the power supply portion of capital credited to patrons for any fiscal year prior to the general retirement of other capital credited to patrons for the same year or of any capital credited to patrons for any prior fiscal year.

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

Notwithstanding any other provision of this Code of Regulations or other provisions of the membership certificate, if any patrons or former patrons fails to claim any cash retirement of capital credits or other payment from the Cooperative within four years after payment of the same has been made available to them by notice or check mailed to them at the last address furnished to the Cooperative, such failure shall be and constitutes an irrevocable assignment and gift by such patron of such capital credit or other payment to the Cooperative. Failure to claim any such payment within the meaning of this section shall include the failure by such patron or former patron to cash any check mailed by the Cooperative at the last address furnished to the Cooperative. The assignment and gift provided for under this section shall become effective only upon the expiration of four (4) years from the date when such payment was made available to such patron or former patron without claim therefore and only after the further expiration of sixty (60) days following the giving of a notice by mail and publication that unless such payment is claimed within said sixty (60) day period, such gift to the Cooperative shall become effective. The notice by mail herein provided for shall be one mailed by the Cooperative to such patron or former patron at the last known address and the notice by publication shall be two (2) consecutive insertions in a newspaper circulated in the service area of the Cooperative, which may be the Cooperative newsletter. The sixty (60) day period following the giving of such notice shall be deemed to terminate sixty (60) days after the mailing of such notice or sixty (60) days following the last date of publication thereof, whichever is later.

Notwithstanding any other provision of this Code of Regulations, the Board, at its discretion, shall have the power at any time 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 this Code of

Regulations, to retire capital credited to any such patron immediately upon such terms and conditions as the Board, 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.

Notwithstanding any other provisions of this Code of Regulations, at the discretion of the Board, the capital credited to the account of a discontinued or former member who has moved off the system, is no longer receiving electrical service from the Cooperative and which has a balance of more than five dollars (\$5.00), but less than twenty-five and 01/100 dollars (\$25.01); the account may be immediately retired in full. Such accounts having a balance of five dollars (\$5.00) or less shall be canceled and the funds shall be proportionately distributed among the capital accounts of the remaining members.

The patrons of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the Articles of Incorporation and Code of Regulations 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 Code of Regulations shall be called to the attention of each patron of the Cooperative by posting in a conspicuous place in the Cooperative's office.

ARTICLE VIII
DISPOSITION OF PROPERTY

The Cooperative shall not sell, mortgage, lease or otherwise dispose of or encumber all or any substantial portion of its property or merge or consolidate with any other corporation unless such sale, mortgage, lease or other disposition, encumbrance, merger or consolidation is authorized at a meeting of the members thereof by the affirmative vote of not less than sixty-six and 2/3 percent (66-2/3%) of all of the members of the Cooperative, and unless the notice of such proposed sale, mortgage, lease, other disposition, encumbrance, merger or consolidation shall have been contained in the notice of the meeting; provided, however that notwithstanding any other provision of this Article, the Board of the Cooperative, without authorization by the members thereof, shall have full power and authority to authorize the execution and delivery of mortgages, deeds of trust, security agreements and financing statements or otherwise pledge, encumber, subject, to a lien or security interest, 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 and income therefrom, all upon such terms and conditions as the Board shall determine; to secure any indebtedness of the Cooperative to the United States of America or any instrumentality or agency thereof or to any other bona fide lender, lending institution or investor; provided, further, however, that notwithstanding any other provision of this Article, the Board may upon the authorization of a majority of those members of the Cooperative present at a meeting of the members thereof, sell, lease or otherwise dispose of all or a substantial portion of its property to, or merge or consolidate with, another non-profit corporation which is an electric distribution cooperative that was previously at any time a borrower from the Rural Utilities Service or the Rural Electrification Administration or a generation and transmission cooperative whose members are electric distribution cooperatives.

ARTICLE IX
SEAL

The corporate seal of the Cooperative shall have inscribed thereon the name of the Cooperative and the word "Seal" but failure to affix such seal shall not affect the validity of any instrument duly executed on behalf of the Cooperative by its authorized officers.

ARTICLE X FINANCIAL TRANSACTIONS

SECTION 1. Contracts.

Except as otherwise provided in this Code of Regulations, the Board may authorize any officer or officers, agent or agents to enter into any instrument in the name and on behalf of the Cooperative, and such authority may be general or confined to specific instances.

SECTION 2. Checks, Drafts, etc.

All checks, drafts or other orders for the payment of money, and all notes, bonds or other evidences of indebtedness issued in the name of the Cooperative, shall be signed by such officer or officers, agent or agents, employee or employees of the Cooperative and in such manner as shall from time to time be determined by resolution of the Board.

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. 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. Waiver of Notice.

Any member or Board member may waive in writing any notice of a meeting required to be given by this Code of Regulations. The attendance of a member or Board member at any meeting shall constitute a waiver of notice of such meeting by such member or Board member, except in case a member or Board member 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 2. Policies, Rules and Regulations.

The Board shall have power to make and adopt such policies, rules and regulations, not inconsistent with law, the Articles of Incorporation or this Code of Regulations, as it may deem advisable for the management, administration and regulation of the businesses and affairs of the Cooperative.

SECTION 3. Accounting System and Reports.

The Board 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 substantially conform to such accounting system as may from time to time be designated by the Administrator of the Rural Electrification Administration of the United States of America. The Board 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 such fiscal year. A report of such audit shall be submitted to the members at the next following annual meeting.

ARTICLE XII AMENDMENTS

This Code of Regulations may be altered, amended or repealed by the members at any regular or special meeting, provided the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal. Any alteration, amendment or repeal of this Article or Article VIII shall require the affirmative vote of at least sixty-six and $\frac{2}{3}$ percent (66- $\frac{2}{3}$ %) of the members of the Cooperative, and no other provision of this Code of Regulations may be altered, amended or repealed by an affirmative vote which is less in number or different in character than the affirmative vote required for action under that provision.

ARTICLE XIII INDEMNIFICATION

SECTION 1. General.

The Cooperative shall indemnify any person who was or is a party or is threatened to be made a party, to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Cooperative, by reason of the fact that the person is or was a trustee, officer, employee or agent of the Cooperative, or is or was serving at the request of the Cooperative as a trustee, director, officer, employee or agent of another corporation, domestic or foreign, non-profit or for profit, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if the person acted in good faith and in a manner which was reasonably believed to be in or not opposed to the best interests of the Cooperative, and with respect to any criminal action or proceeding, had no reasonable cause to believe such person conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which was reasonably believed to be in or not opposed to the best interests of the Cooperative, and with respect to any criminal action or proceeding, such person had reasonable cause to believe that the conduct was unlawful.

SECTION 2. Actions or Suits in Name of Cooperative.

The Cooperative shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Cooperative to procure a judgment in its favor by reason of the fact that such person is or was a trustee, officer, employee or agent of the Cooperative, or is or was serving at the request of the Cooperative as a trustee, director, officer, employee or agent of another corporation, domestic or foreign, non-profit or for profit, partnership, joint venture, trust or other enterprise against expenses, including attorneys' fees, actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if that person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Cooperative, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of such person's duty to the Cooperative unless, and only to the extent that the Court of Common Pleas, or the court in which such action or suit was brought, shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the Court of Common Pleas or such other court shall deem proper.

SECTION 3. Indemnification for Expenses of Successful Defense.

To the extent that a trustee, director, officer, employee or agent has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 1 and 2 hereof or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by that person in connection therewith.

SECTION 4. Procedure for Indemnification.

Any indemnification under Sections 1 and 2 hereof, unless ordered by a court, shall be made by the Cooperative only as authorized in the specific case upon a determination that indemnification of the trustee, director, officer, employee or agent is proper in the circumstances because such person has met the applicable standard of conduct set forth in Sections 1 and 2 hereof. Such determination shall be made:

- a) by a majority vote of a quorum consisting of trustees of the indemnifying corporation who were not and are not parties to or threatened with any such action, suit or proceeding, or
- b) if such a quorum is not obtainable or if a majority vote of a quorum of disinterested trustees so directs, in a written opinion by independent legal counsel other than an attorney, or a firm having associated with it an attorney, who has been retained by or who has performed services for the Cooperative, or any person to be indemnified within the past five years, or
- c) by the members, or
- d) by the Court of Common Pleas or the court in which such action, suit or proceeding was brought.

Any determination made by the disinterested trustees under (a) above in this Section or by independent legal counsel under (b) above in this Section shall be promptly communicated to the person who threatened or brought the action or suit, by or in the right of the Cooperative under Section 2 hereof, and within ten days after receipt of such notification, such person shall have the right to petition the Court of Common Pleas or the court in which such action or suit was brought to review the reasonableness of such determination.

SECTION 5. Payments During Pendency of Action.

Expenses, including attorney's fees, incurred in defending any action, suit or proceeding referred to in Sections 1 and 2 hereof, may be paid by the Cooperative in advance of the final disposition of such action, suit or proceeding as authorized by the trustees in the specific case upon receipt of an undertaking by or on behalf of the trustee, director, officer, employee or agent to repay such amount, unless it shall ultimately be determined that such person is entitled to be indemnified by the Cooperative as authorized in this Article.

SECTION 6. Indemnification Not Exclusive.

Indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the Articles of Incorporation or this Code of Regulations or any agreement, vote of members or disinterested trustees, or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a trustee, director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

SECTION 7. Insurance Against Liability.

The Cooperative may purchase and maintain insurance on behalf of any person who is or was a trustee, officer, employee or agent of the Cooperative, or is or was serving at the request of the Cooperative as a trustee, director, officer, employee or agent of another corporation, domestic or foreign, non-profit or for profit, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising

out of the person's status as such, whether or not the Cooperative would have the power to indemnify such person against such liability under this Article.

SECTION 8. Use of the Term "Cooperative".

As used in this Article, references to "Cooperative" includes all constituent corporations in a consolidation or merger and the new or surviving corporation, so that any person who is or was a trustee, officer, employee or agent of such a constituent corporation, or is or was serving at the request of such constituent corporation as a trustee, director, officer, employee or agent of another corporation, domestic or foreign, non-profit or for profit, partnership, joint venture, trust or other enterprise, shall stand in the same position under this Article with respect to the new or surviving corporation as such person would if such person had served the new or surviving corporation in the same capacity.