



## **Bylaws**

and

## **Statement of Nondiscrimination**

Niobrara Electric Association, Inc.

Lusk, Wyoming

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# BYLAWS

of

## Niobrara Electric Association, Inc.

### ARTICLE I

#### MEMBERSHIP

**SECTION 1. Requirements for Membership.** Any person, firm, association, corporation, federal agency, state or body politic, or subdivision thereof will become a member of Niobrara Electric Association, Inc., (hereinafter called the "Cooperative") upon receipt of electric service from the Cooperative, provided that he or it has first:

- (a) Made a written application for membership therein;
- (b) Agreed to purchase from the Cooperative electric energy as hereinafter specified;
- (c) Agreed to comply with and be bound by the Articles of Incorporation and Bylaws of the Cooperative and any rules and regulations adopted by the Board of Directors,  
and
- (d) Paid the membership fee hereinafter specified.

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

**SECTION 2. Membership Certificates.** Membership in the Cooperative shall be evidenced by a membership certificate which shall be in such form and shall contain such provisions as shall be determined by the Board of Directors. Such certificate shall be signed by the President and by the Secretary of the Cooperative and the corporate seal shall be affixed thereto. No membership certificate shall be issued for less than the membership fee fixed in these Bylaws, nor until such membership has been fully paid for. In case a certificate is lost, destroyed, or mutilated, a new certificate may be issued therefor upon such uniform terms and indemnity to the Cooperative as the Board of Directors may prescribe.

**SECTION 3. Joint Membership.** A husband and wife only may apply for 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 jointly and severally with respect to the holders of a joint membership. Without limiting the generality of the foregoing, the effect of the hereinafter specified actions 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 member and shall constitute a joint waiver of notice of the meeting;
- (b) The vote of either separately or both jointly shall constitute one joint vote;
- (c) A waiver of notice signed by either or both shall constitute notice to both;
- (d) Notice to either shall constitute notice to both;
- (e) Expulsion of either shall terminate the joint membership;
- (f) Withdrawal of either shall terminate the joint membership;
- (g) Either but not both may be elected or appointed as an officer or board member, provided that both meet the qualifications for such office.

#### **SECTION 4. 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. The outstanding membership certificate may be surrendered, and may be reissued by the Cooperative in such manner as shall indicate to the membership status.
- (b) Upon the death of either spouse who is a party to the joint membership, such membership shall pass solely to the survivor. No patronage capital allocated to the joint membership shall be payable because of death to the estate of the deceased joint membership. The outstanding membership certificate shall be surrendered, and shall be reissued in such manner as shall indicate the changed membership status; provided, however, that the estate of the deceased shall not be released from any debts due the Cooperative.

**SECTION 5. Membership Fee.** The membership fee shall be \$5.00, the payment of which shall make the member eligible for one (1) service connection. An additional fee of \$5.00 shall be paid for each additional service connection requested by the member. The membership fee, together with any service security deposit, service connection deposit fee, facilities extension deposit, contribution in aid of construction, or any combination thereof if required by the Cooperative, shall entitle the member to one service connection.

**SECTION 6. Purchase of Electric Power and Energy; Power Production by Member; Application of Payments to All Accounts.** The Cooperative shall use reasonable diligence to furnish its members with adequate and dependable electric service, although it cannot and therefore does not guarantee a continuous and uninterrupted supply thereof; and each member, for so long as such premises are owned or directly occupied or used by him, shall purchase from the Cooperative all central

station electric power and energy purchased for use on all premises to which electric service has been furnished by the Cooperative pursuant to his membership, unless and except to the extent that the Board of Directors may in writing waive such requirement, and shall pay therefor at the times, and in accordance with the rules, regulations, and rate schedules (including any monthly minimum amount that may be charged without regard to the amount of electric power and energy actually used) established by the Board of Directors and, if in effect, in accordance with the provisions of any supplemental contract that may have been entered into. Production or use of electric energy on such premises, regardless of the source thereof, by means of facilities which shall be interconnected with Cooperative facilities, shall be subject to appropriate regulations and shall be fixed from time to time by the Cooperative. Each member shall also pay all other amounts owed by him to the Cooperative as and when they become due and payable. When the member has more than one service connection from the Cooperative, any payment by him for service from the Cooperative shall be deemed to be allocated and credited on a pro rata basis to his outstanding accounts for all such service connection, notwithstanding that the Cooperative's actual accounting procedures do not reflect such allocation and proration.

**SECTION 7. Excess Payments to be Credited as Member Furnished Capital.** All amounts paid for electric service in excess of the cost thereof shall be furnished by members as capital, and each member shall be credited with the capital so furnished as provided in these Bylaws.

**SECTION 8. Wiring of Premises; Responsibility Therefor; Responsibility for Meter Tampering or Bypassing and for Damage to Cooperative Properties; Extent of Cooperative Responsibility; Indemnification.** Each member shall cause all premises receiving electric service pursuant to his membership to become and to remain wired in accordance with the specifications of the Wyoming Fire Insurance Underwriters Association, the National Electric Code, any applicable state code or local government ordinances, and of the Cooperative. If the foregoing specifications are variant, the more exacting standards shall prevail. Each member shall be responsible for - and shall indemnify the Cooperative and its employees, agents, and independent contractors against death, injury, loss or damage resulting from any defect in or improper use or maintenance of - such premises and all wiring and apparatuses connected thereto or used thereon. Each member shall make available to the Cooperative a suitable site, as determined by the Cooperative, whereon to place the Cooperative's physical facilities for the furnishing and metering of electric service and shall permit the Cooperative's authorized employees, agents, and independent contractors to have access thereto safely and without interference from hostile dogs or any other hostile source for meter reading, bill collecting, and for inspection, maintenance, replacement, relocation, repair or disconnection of such facilities at all reasonable times. As part of the consideration for such service, each member shall be the

Cooperative's bailee of such facilities and shall accordingly desist from interfering with, impairing the operation of or causing damage to such facilities, and shall use his best efforts to prevent others from so doing. Each member shall also provide such protective devices to his premises, apparatuses or meter base as the Cooperative shall from time to time require in order to protect the Cooperative's physical facilities and their operation and to prevent any interference with or damage to such facilities. In the event such facilities are interfered with, impaired in the operation or damaged by the member, or by any other person when the member's reasonable care and surveillance should have prevented such, the member shall indemnify the Cooperative and its employees, agent, and independent contractors against death, injury, loss or damage resulting therefrom, including but not limited to the Cooperative's cost of repairing, replacing or relocating any such facilities and its loss, if any of revenues resulting from the failure or defective functioning of its metering equipment. The Cooperative shall, however, in accordance with its applicable service rules and regulations, indemnify the member for any overcharges for service that may result from a malfunctioning of its metering equipment or any error occurring in the Cooperative's billing procedures. In no event shall the responsibility of the Cooperative for furnishing electric service extend beyond the point of delivery.

#### **SECTION 9. 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 may, by the affirmative vote of not less than two-thirds of all the members of the Board of Directors, expel any member who fails to comply with any of the provisions of the Articles of Incorporation, Bylaws, or rules and regulations adopted by the Board of Directors, but only if such member shall have been given written notice by the Cooperative that such failure makes him liable to expulsion and such failure shall have continued for at least ten days after such notice was given. Any expelled member may be reinstated by vote of the Board of Directors or by vote of the members at any annual or special meeting. The membership of a member who for a period of six (6) months after service is available to him, has not purchased electric energy from the Cooperative, or of a member who has ceased to purchase energy from the Cooperative, may be cancelled by the Board of Directors.
- (b) Upon the withdrawal, death, cessation of existence or expulsion of a member, the membership of such member shall thereupon terminate, and the membership certificate of such member shall be surrendered forthwith to the Cooperative. Termination of membership in any manner shall not release a member or his estate from any debts due the Cooperative.

(c) In case of withdrawal or termination of membership in any manner, the Cooperative shall repay to the member the amount of the membership fee paid by him; provided, however, that the Cooperative shall deduct from the amount of the membership fee the amount of any debts or obligations owed by the member to the Cooperative.

## **ARTICLE II**

### **LIABILITIES OF MEMBERS**

**SECTION 1. Non-Liability for Debts of the Cooperative.** The private property of the members shall be exempt from execution or other liability for the debts of the Cooperative, and no member shall be liable or responsible for any debts or liabilities of the Cooperative.

## **ARTICLE III**

### **MEETINGS OF MEMBERS**

**SECTION 1. Annual Meetings.** The annual meeting of the members shall be held during the month of May each year beginning with the year 1988 at such place within a county 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 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 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) board members, by the President, or by ten per centum (10%) or more of all the members, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. Special meetings of the members may be held at any place within a county served by the Cooperative as designated by the Board of Directors and shall be specified in the notice of the special meeting.

**SECTION 3. Notice of Member Meetings.** Written or printed notice of the place, day, and hour of the meeting and, in the case of a special meeting or of an annual meeting at which business requiring special notice is to be transacted, the purpose or purposes of the meeting shall be delivered to each member not less than ten (10) days nor more than fifty (50) days prior to the date of the meeting, either personally or by mail, by or at the direction of the President or the Secretary (and, in the case of a special meeting, at the direction of him or those calling the meeting). Any such notice delivered by mail may be included with member service billings or as an integral part of or with the Cooperative's monthly newsletter and/or its

monthly insert, if any, in the statewide consumer publication. No matter, the carrying of which, as provided by law or by the Cooperative's Articles of Incorporation or Bylaws requires the affirmative votes of at least a majority of the then-total members of the Cooperative, shall be acted upon at any meeting of the members unless notice of such matter shall have been contained in the notice of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the Cooperative, with postage thereon prepaid and postmarked at least ten (10) days prior to the meeting date. In making such computation, the date of the meeting shall not be counted. The incidental and non-intended failure of any member to receive a notice deposited in the mail addressed to the member at his address as shown on the Cooperative's books shall not invalidate any action which may be taken by the members at any such meeting, and the attendance in person or by proxy of a member at any meeting of the members shall constitute a waiver of notice of such meeting unless such attendance shall be for the express purpose of objecting to the transaction of any business, or one or more items of business, on the ground that the meeting shall not have been lawfully called or convened. Any member attending any meeting for the purpose of making such objection shall notify the Secretary prior to or at the beginning of the meeting of his objection.

**SECTION 4. Quorum.** Business may not be transacted at any meeting of the members unless there are present in person or by proxy at least ten percent (10%) of the Cooperative's members; except that, if less than a quorum is present at any meeting, a majority of those present in person or by proxy may without further notice adjourn the meeting to another time and date not less than forty (40) days later and to any place in one of the counties within which the Cooperative serves: PROVIDED, that the Secretary shall notify any absent members of the time, date, and place of such adjourned meeting by delivering notice thereof as provided in Section 3. At all meetings of the members, whether a quorum be present or not, the Secretary shall annex to the meeting minutes, or incorporate therein by reference, a list of those members who were registered as present in person or by proxy.

**SECTION 5. Voting.** Each member who is not in a status of suspension shall be entitled to only one vote upon each matter submitted to a vote at any meeting of the members. Voting by members other than members who are natural persons shall be allowed upon the presentation to the Cooperative, prior to or upon registration at each member meeting, of satisfactory evidence entitling the person presenting the same to vote. At all meetings of the members, all questions shall be decided by the affirmative vote of a majority of the members represented and entitled to vote at the meeting, except as otherwise provided by law or by the Cooperative's Articles of Incorporation or these Bylaws. Members may not cumulate their votes or vote by mail.

**SECTION 6. Proxies.** At any meeting of the members, except a meeting whereat one of the purposes shall be to vote on the removal of a director or directors pursuant to Section 6 of Article IV, or any adjournment thereof, any member may vote by proxy, but only if such proxy:

(a) is registered with the Secretary or his duly designated registrar before or at the time of the meeting or any adjournment thereof,

(b) is executed by the member in writing and designates the holder thereof (and, if the member so desires, an alternative holder thereof, and/or conferring upon the holder(s) full power of substitution), which holder(s) (or substitute, if any) shall be another member who is a natural person, and

(c) specifies the particular meeting and/or any adjournment thereof at which it is to be voted and is dated not more than eleven months (11) months prior to the date of such meeting or any adjournment thereof: PROVIDED, that any mailed proxies not otherwise dated shall be deemed dated as postmarked if postmark is satisfactorily evidenced;

AND PROVIDED FURTHER, that any proxy valid at any meeting shall be valid at any adjournment thereof unless the proxy itself specifies otherwise or is subsequently revoked by another proxy or by the presence in person of the member at such adjournment. A proxy may be unlimited as to the matters on which it may be voted or it may be restricted; a proxy containing no restriction shall be deemed to be unlimited. In the event a member executes two or more proxies for the same meeting or for any adjournment thereof, the most recently dated proxy shall revoke all others; if such proxies carry the same date and are held by different persons, none of them will be valid or recognized. The presence in person of a member at a meeting or any adjournment thereof shall revoke any proxy theretofore executed by him for such meeting or for such adjournment thereof, as the case may be, and he shall be entitled to vote in the same manner and with the same effect as if he had not executed a proxy. No member may vote as proxy for more than five members at any meeting of the members. Notwithstanding the foregoing provisions of this section, whenever a member is absent from a meeting of the members but whose spouse attends such meeting, such spouse shall be deemed to hold, and may exercise and vote, the proxy of such member to the same extent that such member could vote if present in person, unless such member has given a written proxy to some other person eligible to vote such proxy.

**SECTION 7. Credentials and Election Committee.** The Board of Directors may, but shall not be required to unless requested to do so by a petition signed by at least ten percent (10%) of the total membership of the Cooperative, at least ten (10) days before any meeting of the members, appoint a Credentials and Election Committee. The Committee shall consist of an uneven number of Cooperative members not less than five (5) nor more than nine (9) who are not members of the Nominating Committee or existing Cooperative employees,

agents, officers, directors or known candidates for director, and who are not close relatives or members of the same household thereof. In appointing the Committee, the Board shall have regard for the equitable representation of the several areas served by the Cooperative. The Committee shall elect its own chairman and secretary prior to the member meeting. It shall be the responsibility of the Committee to establish or approve the manner of conducting member registration and any ballot or other voting, to pass upon all questions that may arise with respect to the registration of members in person or by proxy, to count all ballots or other votes cast in any election or in any other matter, to rule upon the effect of any ballots or other vote irregularly or indecisively marked or cast, to rule upon all other questions that may arise relating to member voting and the election of directors (including but not limited to the validity of petitions of nomination or the qualifications of candidates and the regularity of the nomination and election of directors), and to pass upon any protest or objection filed with respect to any election or to conduct affecting the results of any election. In the exercise of its responsibility, the Committee shall have available to it the advice of counsel provided by the Cooperative. In the event a protest or objection is filed concerning any election, such protest or objection must be filed during, or within three (3) business days following the adjournment of, the meeting in which the voting is conducted. The Committee shall thereupon be reconvened, upon notice from its chairman, not less than seven (7) days after such protest or objection is filed. The Committee shall hear such evidence as is presented by the protestor(s) or objector(s), who may be heard in person, by counsel, or both, and any opposing evidence; and the Committee, by a vote of a majority of those present and voting, shall, within a reasonable time but not later than thirty (30) days after such hearing, render its decision, the result of which may be to affirm the election, to change the outcome thereof, or to set it aside. The Committee may not affirmatively act on any matter unless a majority of the Committee is present. The Committee's decision (as reflected by a majority of those actually present and voting) on all matters covered by this Section shall be final.

**SECTION 8. Order of Business.** The order of business at the annual meeting of the members and, insofar as practicable or desirable, at all other meetings of the members shall be essentially as follows:

- (1) Report on the number of members present in person and by proxy in order to determine the existence of a quorum;
- (2) Reading of the notice of the meeting and proof of the due giving thereof, or of the waiver or waivers of notice of the meeting, as the case may be;
- (3) Reading of unapproved minutes of previous meetings of the members and the taking of necessary action thereon;

- (4) Presentation and consideration of reports of officers, directors and committees;
- (5) Election of directors;
- (6) Unfinished business;
- (7) New business; and
- (8) Adjournment.

Notwithstanding the foregoing, the Board of Directors or the members themselves may from time to time establish a different order of business for the purpose of assuring the earlier consideration of and action upon any item of business the transaction of which is necessary or desirable in advance of any other item of business: PROVIDED, that no business other than adjournment of the meeting to another time and place may be transacted until and unless the existence of a quorum is first established.

## **ARTICLE IV**

### **BOARD OF DIRECTORS**

**SECTION 1. General Powers.** The business and affairs of the Cooperative shall be managed by a board of nine (9) directors which shall exercise all the powers of the Cooperative except such as are by law or by the Articles of Incorporation of the Cooperative or by these Bylaws conferred upon or reserved to the members.

**SECTION 2. Policies, Rates, Rules and Regulation.** The Board of Directors shall have the power to make and adopt such policies, rates, rules, and regulations not inconsistent with law, the Articles of Incorporation of the Cooperative or these Bylaws, as it may deem advisable for the management, administration and regulation of the business and affairs of the Cooperative.

#### **SECTION 3. Election and Tenure of Office.**

- (a) The area served by the Cooperative shall be divided into three (3) districts, each of which shall contain as nearly as possible the same number of members. Each district shall be represented by three (3) Directors. The three districts shall be as follows:

District 1 shall include all of the optimum area west of range line dividing Ranges 64 and 65 West of the 6<sup>th</sup> P. M., in the State of Wyoming.

District 2 shall include all of the optimum area east of range line dividing Ranges 64 and 65 West of the 6<sup>th</sup> P. M., in the State of Wyoming.

District 3 shall include all of the optimum area in the States of Nebraska and South Dakota.

The Board of Directors shall periodically review the composition of the three districts and, if it should be found that inequities in representation have developed which can be corrected by a redelineation of the districts, the Board of Directors shall reconstitute the districts so that each shall contain as nearly as possible the same number of members.

- (b) Directors shall be elected to serve a term of three (3) years and the tenure of the Directors shall be staggered such that one (1) Director shall be elected from each district at each annual meeting to serve for three (3) years or until their successors shall have been elected and shall have qualified, subject to the provisions of these Bylaws with respect to the removal of directors.
- (c) Election of Directors shall be by printed ballot. The ballots shall list the names of the candidates nominated by the nominating committee and by petition; such names shall be arranged by districts. Each member shall be entitled to cast the number of votes (but not cumulatively) which corresponds to the total number of directors to be elected, but no member may vote for more nominees than the number of directors that are elected from or with respect to any particular district. Ballots marked in violation of the foregoing restriction shall be invalid and shall not be counted. The nominee for each directorship receiving the greatest number of votes shall be elected. In the event there is not more than one nominee for a directorship, the sole nominee may be elected by acclamation.

**SECTION 4. Qualifications.** No person shall be eligible to become or remain a Director or to hold any position of trust in the Cooperative who:

- (a) is not a member of the Cooperative; or
- (b) does not reside within the area served by the Cooperative and receive service from the Cooperative in the district he or she is to represent;

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 office.

Nothing contained in this section shall affect in any manner whatsoever the validity of any action taken at any meeting of the Board of Directors.

**SECTION 5. Nominations.** It shall be the duty of the Board of Directors to appoint, not less than sixty (60) days nor more than one hundred and twenty (120) days before the date of a meeting of the members at which Directors are to be elected, a committee on nominations consisting of nine (9) members. Three (3) members shall be selected from each district so as to insure equitable representation. A minimum of five (5) committee members must be present at any meeting of

the committee to constitute a quorum. No Director may serve on such committee.

The committee, keeping in mind the principle of equitable representation, shall prepare and post at the principal office of the Cooperative at least forty five (45) days before the meeting a list of nominations for Directors which shall include at least one (1) candidate for each board position to be filled by the election.

The Secretary shall be responsible for mailing with the notice of the meeting or separately, but at least ten (10) days before the date of the meeting, a statement of the number of Directors to be elected and the names, addresses, and districts of the candidates nominated by the committee on nominations. Any fifteen (15) or more members acting together may make other nominations by petition and the Secretary shall post such nominations at the same place where the list of nominations made by the committee is posted. Nominations made by petition, if any, received at least thirty (30) days before the meeting shall be printed on the ballot.

Notwithstanding anything in this section contained, failure to comply with any of the provisions of this Section shall not affect in any manner whatsoever the validity of any election of Directors.

**SECTION 6. Removal of Directors by Members.** Any member may bring one or more charges for cause against any one or more directors and may request the removal of such director(s) by reason thereof by filing with the Secretary such charge(s) in writing together with a petition signed by not less than ten percent (10%) of the then total members of the Cooperative, which petition calls for a special member meeting, the stated purpose of which shall be to hear and act upon such charge(s) and, if one or more directors are recalled, to elect their successor(s), and which specifies the place, time, and date thereof not more than forty-five (45) days after the filing of such petition or requests that the matter be acted upon at the subsequent annual member meeting if such meeting will be held no sooner than forty-five (45) days after the filing of such petition. Each page of the petition shall, in the forepart thereof, state the name(s) and address(es) of the member(s) filing such charge(s), a verbatim statement of such charge(s) and the name(s) of the director(s) against whom such charge(s) is (are) being made. The petition shall be signed by each member in the same name as he is billed by the Cooperative and shall state the signatory's address as the same appears on such billings. Notice of such charge(s) verbatim, of the director(s) against whom the charge(s) have been made, of the member(s) filing the charge(s) and the purpose of the meeting shall be contained in the notice of the meeting, or separately noticed to the members not less than ten (10) days prior to the member meeting at which the matter will be acted upon: PROVIDED, that the notice shall set forth (in alphabetical order) only twenty (20) of the names of the members filing one or more charges if twenty (20) or more members file the same charge(s) against the same director(s). Such director(s) shall be

informed in writing of the charge(s) after they have been validly filed and at least twenty (20) days prior to the meeting of the members at which the charge(s) are to be considered, and shall have an opportunity at the meeting to be heard in person, by witnesses, by counsel, or any combination of such, and to present evidence in respect of the charge(s); and the person(s) bringing the charge(s) shall have the same opportunity, but must be heard first. The question of the removal of such director(s) shall, separately for each if more than one has been charged, be considered and voted upon at such meeting, and any vacancy created by such removal shall be filled by vote of the members at such meeting without compliance with the foregoing provisions with respect to nominations, except that nominations shall be made from the floor: PROVIDED, that the question of the removal of a director shall not be voted upon at all unless some evidence in support of the charge(s) against him shall have been presented during the meeting through oral statements, documents, or otherwise. A newly elected director shall be from or with respect to the same Directorate District as was the director whose office he succeeds and shall serve the unexpired portion of the removed director's term.

**SECTION 7. Vacancies.** Subject to the provisions of these Bylaws with respect to the filling of vacancies caused by the removal of Directors by the members, a vacancy occurring in the Board of Directors shall be filled by the affirmative vote of a majority of the remaining Directors for the unexpired portion of the term.

**SECTION 8. Compensation.** Directors shall not receive any salary for their services as such, except that members of the Cooperative may, by resolution, authorize payment of: (1) all or a portion of the insurance premiums providing directors with family health insurance and accident life and: (2) a fixed sum for each day or portion thereof spent on association business such as attendance at meetings, conferences and training programs or performing committee assignments authorized by the Board of Directors. If authorized by the Board of Directors, Directors may also be reimbursed for expenses actually incurred in carrying out such Cooperative business or granted a reasonable per diem allowance by the Board of Directors in lieu of detailed accounting for some of these expenses. No Director shall receive compensation for serving the Cooperative, unless the payment and the amount of compensation shall be specifically authorized by a vote of the members, or the service by the Director or member of his family shall have been certified by the Board of Directors as an emergency measure.

## **ARTICLE V**

### **MEETINGS OF DIRECTORS**

**SECTION 1. Regular Meetings.** A regular meeting of the Board of Directors 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 of Directors shall also be held monthly at such time and place within one of the Counties served by the Cooperative as designated by the Board of Directors. Such regular monthly meeting may be held without notice other than resolution fixing the time and place thereof.

**SECTION 2. Special Meetings.** Special meetings of the Board of Directors may be called by the President or any three (3) 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 Directors calling the meeting shall fix the time and place for the holding of the meeting.

**SECTION 3. Notice of Meetings.** Written notice of the time, place, and purpose of any special meeting of the Board of Directors shall be delivered to each Director either personally or by mail, by or at the direction of the Secretary, or upon a default in duty by the Secretary, by the President or the Directors calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Director at his address as it appears on the record of the Cooperative, with postage thereon prepaid, at least five (5) days before the date set for the meeting.

**SECTION 4. Quorum.** A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, provided that if less than a majority of the Directors is present at said meeting, a majority of the Board of Directors present may adjourn the meeting from time to time; provided further; that the Secretary shall notify any absent Director of the time and place of such adjourned meeting. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, except as otherwise provided in these Bylaws.

## **ARTICLE VI**

### **OFFICERS**

**SECTION 1. Number.** The officers of the Cooperative shall be a President, Vice-President, Secretary, Treasurer and such other officers as may be determined by the Board of Directors from time to time. The offices of Secretary and Treasurer may be held by the same person.

**SECTION 2. Election and Term of Office.** The officers shall be elected by ballot, annually by and from the Board of Directors at the first meeting of the Board of Directors held immediately after the annual meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until the first meeting of the Board of Directors following the next succeeding annual meeting of the members or until his successor shall have been elected and shall have qualified. A vacancy in any office shall

be filled by the Board of Directors for the unexpired portion of the term.

**SECTION 3. Removal of Officers and Agents by the Board.** Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Cooperative will be served thereby.

**SECTION 4. President.** The President shall:

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

**SECTION 5. Vice-President.** In the absence of the President, or in the event of his inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President shall also perform such other duties as from time to time may be assigned to him by the Board of Directors.

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

- (a) keeping the minutes of the meetings of the members and of the Board of Directors in books provided for that purpose;
- (b) seeing that all notices are duly given in accordance with these Bylaws or as required by law;
- (c) the safekeeping of the corporate books and records and the seal of the Cooperative and affixing the seal of the Cooperative to all certificates of membership prior to the issue thereof, and to all documents, the execution of which on behalf of the Cooperative under its seal is duly authorized in accordance with the provisions of these Bylaws;
- (d) keeping a register of the names and post office addresses of all members;

- (e) signing, with the President certificates of membership;
- (f) keeping on file at all times a complete copy of the Articles of Incorporation and Bylaws of the Cooperative containing all amendments thereto, which copy shall always be open to the inspection of any member and, at the expense of the Cooperative, furnishing a copy of the Bylaws and all amendments thereto to any member upon request; and
- (g) in general performing all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the Board of Directors.

**SECTION 7. 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 these Bylaws; and
- (c) the general performance of all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the Board of Directors.

**SECTION 8. Manager.** The Board of Directors may appoint a manager 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 him.

**SECTION 9. 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.

**SECTION 10. Compensation.** The powers, duties, and compensation of officers, agent, and employees shall be fixed by the Board of Directors subject to the provisions of these Bylaws with respect to compensation for a Director and member of immediate family of a Director.

**SECTION 11. Reports.** The officers of the Cooperative shall submit at each annual meeting of the members reports covering the business of the Cooperative for the previous fiscal year. 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 will through their patronage furnish capital for the Cooperative. In order to induce patronage and to assure that the Cooperative will operate on a non-profit basis, the Cooperative is obligated to account on a patronage basis to all its patrons for all amounts received and receivable from the furnishing of electric energy in excess of operating costs and expenses properly chargeable against the furnishing of electric energy. All such amounts in excess of operating costs and expenses at the moment of receipt by the Cooperative are received with the understanding that they are furnished by the patrons as capital. The Cooperative is obligated to pay by credits to a capital account for each patron all such amounts in excess of operating costs and expenses. The books and records of the Cooperative shall be set up and kept in such a manner that at the end of each fiscal year the amount of capital, if any, so furnished by each patron is clearly reflected and credited in an appropriate record to the capital account of each patron, and the Cooperative shall within a reasonable time after the close of the fiscal year notify each patron of the amount of capital so credited to his account. All such amounts credited to the capital account of any patron shall have the same status as though they had been paid to the patron in cash in pursuant 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 a part of the capital credited to the accounts of patrons, as herein provided.

In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credits shall be retired without priority on a pro rata basis before any payments are made on account of property rights of members. If, at any time prior to dissolution or liquidation, the Board of Directors shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital credited

to patrons' accounts may be retired in full or in part. Any such retirements of capital shall be made in order of priority according to the year in which the capital was furnished and credited, the capital first received by the cooperative being first retired; provided, however, that beginning with the year 1987, cash made available for retirement in any year may be used to retire capital furnished by all patrons during the most recent fiscal year subject to the requirement that at least fifty per centum (50%) of such cash shall be applied to the retirement of the oldest outstanding capital credits as hereinabove provided.

PROVIDED, however, that the Board of Directors shall have the power to adopt rules providing for the separate retirement of that portion ("power supply or other service or 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 power supply or any other service or supply to the Cooperative. Such rules shall:

- (a) establish a method for determining the portion of such capital credited to each patron for each applicable fiscal year,
- (b) provide for separate identification on the Cooperative's books of such portions of capital credited to the Cooperative's patrons,
- (c) provide for appropriate notifications to patrons with respect to such portions of capital credited to their accounts and
- (d) preclude a general retirement of such portions 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, only to successors in interest or successors in occupancy in all or a part of such patron's premises served by the Cooperative, unless the Board of Directors, acting under policies of general application, shall determine otherwise.

Notwithstanding any other provision of these Bylaws, the Board of Directors at its discretion, shall have the power at any time upon the death of any patron, who was a natural person, if the legal representatives of his 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 Bylaws, 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. The Patrons of the Cooperative, by dealing with the Cooperative, acknowledge

that the terms and provisions of the Articles of Incorporation and Bylaws shall constitute and be a contract between the Cooperative and each patron, and both the Cooperative and the patrons are bound by such contract, as fully as though each patron had individually signed a separate instrument containing such terms and provisions. The provisions of this Article of the Bylaws shall be called to the attention of each patron of the Cooperative by posting in a conspicuous place in the Cooperative's office.

## **ARTICLE VIII**

### **DISPOSITION AND PLEDGING OF PROPERTY; DISTRIBUTION OF SURPLUS ASSETS ON DISSOLUTION**

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

- (a) Not inconsistently with applicable Wyoming law and subsection (b) hereof, the Cooperative may, at a duly held meeting of the members, authorize the sale, lease, lease-sale, exchange, transfer or other disposition of all or substantially all of the Cooperative's properties and assets only upon the affirmative votes of two-thirds (2/3) of the then-total members of the Cooperative; however, the Board of Directors, without authorization by the members, shall have full power and authority (1) to borrow monies from any source and in such amounts as the Board may from time to time determine, (2) to mortgage or otherwise pledge or encumber any or all of the Cooperative's properties or assets as security therefore, and (3) to sell, lease, lease-sell, exchange, transfer, or otherwise dispose of merchandise, property no longer necessary or useful for the operation of the Cooperative, or less than substantially all of the Cooperative's properties and assets.
- (b) Supplementary to the first sentence of the foregoing subsection (a) and any other applicable provisions of law or these Bylaws, no sale, lease, lease-sale, exchange, transfer, or other disposition of all or substantially all of the Cooperative's properties and assets shall be authorized except in conformity with the following:
  - (1) If the Board of Directors look with favor upon any proposal for such sale, lease, lease-sale, exchange, transfer or other disposition, it shall first cause three (3) independent, nonaffiliated appraisers, expert in such matters, to render their individual opinions as to the value of the Cooperative with respect to such a sale, lease, lease-sale, exchange, transfer, or other disposition and as to any other terms and conditions which should be considered. The three (3) such appraisers shall be designated by a District Court Resident Judge for the Judicial District in Wyoming in which the Cooperative's headquarters are located.

If such judge refuses to make such designations, they shall be made by the Board of Directors.

- (2) If the Board of Directors, after receiving such appraisals (and other terms and conditions which are submitted, if any), determines that the proposal should be submitted for consideration by the members, it shall first give every other electric membership corporation corporately sited and operating in Wyoming (which has not made such an offer for such sale, lease, lease-sale, exchange, transfer, or other disposition) an opportunity to submit competing proposals. Such opportunity shall be in the form of a written notice to such electric membership corporation, which notice shall be attached to a copy of the proposal which the Cooperative has already received and copies of the respective reports of the three (3) appraisers. Such electric membership corporation shall be given not less than thirty (30) days during which to submit competing proposals, and the actual minimum period within which proposals are to be submitted shall be stated in the written notice given to them.
- (3) If the Board then determines that favorable consideration should be given to the initial or any subsequent proposal which has been submitted to it, it shall so notify the members not less than sixty (60) days before noticing a special meeting of the members thereon or, if such be the case, the next annual member meeting, expressing in detail each of any such proposals, and shall call a special meeting of the members for consideration thereof and action thereon, which meeting shall be held not less than twenty-five (25) days after the giving of notice thereof to the members: PROVIDED, that consideration and action by the members may be given at the next annual member meeting if the Board so determines and if such annual meeting is held not less than twenty-five (25) days after the giving of notice of such meeting.
- (4) Any fifty (50) or more members, by so petitioning the Board not less than thirty (30) days prior to the date of such special or annual meeting, may cause the Cooperative, with the cost to be borne by the Cooperative, to mail to all members any opposing or alternative positions which they may have to the proposals that may have been submitted or any recommendations that the Board has made.

The provisions of this subsection (b) shall not apply to a sale, lease, lease-sale, exchange, transfer, or other disposition to one or more other electric membership corporations if the substantive or actual legal effect thereof is to merge or consolidate with such other one or more electric membership corporations. PROVIDED, further, the provisions of this Subsection (b) shall be subject to the terms and conditions of

any existing compact or agreement pertaining to the sale, lease, lease-sale, exchange, transfer, or other disposition of all or substantially all of the cooperative's properties and assets.

**SECTION 2. Distribution of Surplus Assets on Dissolution.** Upon the Cooperative's dissolution, any assets remaining after all liabilities or obligations of the Cooperative have been satisfied and discharged shall, to the extent practicable as determined by the Board of Directors, not inconsistently with the provisions of these Bylaws, be distributed without priority but on a patronage basis among the members of the Cooperative: PROVIDED, HOWEVER, that if in the judgment of the Board the amount of such surplus is too small to justify the expense of making such distribution, the Board may, in lieu thereof, donate, or provide for the donation of, such surplus to one or more nonprofit charitable or educational organizations that are exempt from Federal income taxation.

## **ARTICLE IX**

### **SEAL**

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

## **ARTICLE X**

### **FINANCIAL TRANSACTIONS**

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

**SECTION 2. Checks, Drafts Etc.** All checks, drafts, or other orders for payment of money, and all notes, bonds, or other evidences in 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. Repealed May 20, 1994.**

**SECTION 4. Change in 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 (1) day of January of each

year and shall end on the thirty-first (31) 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, the notice of which shall specify that action is to be taken upon such proposed membership or stock purchase, provided, however, that the Cooperative may upon the authorization of the Board of Directors, purchase stock in or become a member of any corporation or organization organized on a nonprofit basis for the purpose of engaging in or furthering the cause of rural electrification, or with the approval of the Administrator of the Rural Electrification Administration, 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. Accounting System and Reports.** The Board of Directors shall cause to be established and maintained a complete accounting system which among other things, and subject to applicable laws and rules and regulations of any regulatory body, shall conform to such accounting system as may from time to time be designated by the Administrator of the Rural Electrification Administration of the United States of America. The Board of Directors shall annually cause to be made by a certified public accountant a full and complete audit of the accounts, books, and financial condition of the Cooperative. A report of such audit shall be submitted to the members at the next following annual meeting after completion.

**SECTION 4. Area Coverage.** The Board of Directors shall make diligent effort to see that electric service is extended to all unserved persons within the Cooperative service area who:

- (a) Desire such service and
- (b) meet all reasonable requirements established by the Cooperative as a condition of such service,
- (c) if such sums will not affect the quantity and quality of service to existing consumers.

**SECTION 5. Additional Acts and Activities.** The Board of Directors are authorized to do such other and further acts, and undertake such other and further activities and transactions for the mutual benefits of its members as may be done and undertaken under the Act which the Corporation is governed.

## **ARTICLE XII**

### **INDEMNIFICATION OF DIRECTORS AND OFFICERS**

The Corporation shall indemnify any Director or officer of the Corporation or any person who may have served at its request as a director or officer of another corporation in which it holds membership or an interest, against expenses actually and reasonably incurred by him or her in connection with the defense of any action, suit, or proceeding, civil or criminal, in which he or she is made a party by reason of being or having been such director or officer for any act or omission or neglect or breach of duty, or any actual error or misstatement or misleading statement, except acts of active and deliberate dishonesty committed by a director, officer, or person with actual dishonest purpose and intent. Said Corporation shall also indemnify said director or officer or person for all amounts which the director or officer or person may be legally obligated to pay for any claim or claims made against he or she, including but not limited to damages, judgments, settlements, and costs, cost if investigation and defense of legal actions, claims, or proceedings and appeals therefrom, and cost of bonds; provided, however, no obligation shall exist to indemnify any officer or person for any fines or penalties imposed by law for any criminal act.

## ARTICLE XIII

### AMENDMENTS

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

First adopted November 17, 1941, and amended by

- (1) New Article II, Section 8; Revision of Article I, Section 8; Article II, Section 4; and Article III, Sections 2, 3, and 4, May 15, 1950;
- (2) Revision of Article II, Section 6, May 17, 1952;
- (3) Revision of Article II, Section 1; and Article III, Section 2, May 28, 1955;
- (4) Revision of Article I, Sections 3 and 7; and Article VIII, May 24, 1958;
- (5) Revision of Article II, Sections 5 and 6; and Article VIII, Sections 2 and 3, May 21, 1966;
- (6) Revision of Article III, Section 5, May 20, 1967;
- (7) Revision of Article XII, August 31, 1970;
- (8) Revision of Article X, May 22, 1971;
- (9) Revision of Article III, Section 2, May 19, 1973;
- (10) Revision of Article II, Section 1, May 17, 1975;
- (11) Revision of Article III, Section 3; and Article VIII, Section 2, May 22, 1976;
- (12) General Revision, May 15, 1987;
- (13) Revision of Article IV, Section 8, May 21, 1993;
- (14) Repeal of Article X, Section 3, May 20, 1994;
- (15) Add Section 5 of Article XI, May 6, 1995.
- (16) Revision of Article IV, Sections 3 and 4, May 18, 2001.
- (17) Revision of Article IV, Sections 3 and 5, May 21, 2009

## **STATEMENT OF NONDISCRIMINATION**

Niobrara Electric Association, Inc., is the recipient of Federal financial assistance from the Rural Electrification Administration, an agency of the U.S. Department of Agriculture, and is subject to the provisions of Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, as amended, and the rules and regulations of the U.S. Department of Agriculture which provide that no person in the United States on the basis of race, color, national origin, age, or handicap shall be excluded from participation in, admission or access to, denied the benefits of, or otherwise be subjected to discrimination under any of this organization's programs or activities.

The General Manager is responsible for coordinating this organization's nondiscrimination compliance efforts. Any individual or specific class of individuals, who feels that this organization has subjected them to discrimination may obtain further information about the statutes and regulations listed above from and/or file a written complaint with this organization; or the Secretary, U.S. Department of Agriculture, Washington, D.C. 20250; or the Administration, Rural Electrification Administration, Washington, D.C. 20250. Complaints must be filed within 180 days after the alleged discrimination. Confidentiality will be maintained to the extent possible.