

BYLAWS OF Bon Homme Yankton Electric Association, Inc.

ARTICLE ONE Membership

SECTION 1. Membership Eligibility. Any Person is eligible to become a Member of Bon Homme Yankton Electric Association, Inc. (the “Cooperative”) upon meeting the criteria for membership set out in **SECTION 2** below. For purposes of these Bylaws, a “Person” includes: (1) individuals, (2) joint members, or (3) entities. No membership is transferrable except as provided in these Bylaws.

- (a) Individual Memberships shall be held by one individual person that is not a business entity. The Estate of an Individual Member shall be classified as an Individual Member until the Estate is resolved;
- (b) Joint Memberships shall be held by two individuals who may or may not be married; and
- (c) Entity Members include (i) general, limited, or limited liability partnerships; (ii) corporations or cooperatives; (iii) limited liability companies; (iv) trusts; (v) unincorporated associations; (vi) religious entities; or (vii) federal, state, local, or tribal governments that are distinct legal entities and not merely departments or subsidiaries of a governmental entity. Entity Members are entitled to Membership as long as the entity is authorized to do business in the Cooperative’s service area.

As used in these Bylaws, the term Member includes Individual Members, Joint Members, and Entity Members.

SECTION 2. Membership Application. Any Person seeking to become a Member must complete an application for electric service on a form provided by the Cooperative. By signing the application, the Person agrees to be bound by all rules and policies governing the provision, use, receipt, and purchase of electric service from the Cooperative, as well as the Cooperative’s Articles of Incorporation and these Bylaws. If the applicant owes the Cooperative a debt from a prior service, the applicant must repay the debt before the Cooperative will accept the application. The applicant may also be required to pay for fees, aid to construction, or other costs associated with the installation and provision of the services at the location requested by the applicant pursuant to the Cooperative’s policies. Unless the Cooperative’s Board of Directors (“Board”) determines otherwise, upon completing this application to the Cooperative’s satisfaction, the applicant shall automatically become a Member of the Cooperative effective the date the applicant begins using, receiving, or purchasing electrical services from the Cooperative.

SECTION 3. Joint Membership. Two individuals who reside in the same location or who share an electric service in the same location may apply for a Joint Membership. Both

individuals must sign the membership application. Each Joint Member shall have the same rights, privileges, and obligations of all Members. With respect to a Joint Membership: .

- (a) Notice of any meeting provided to either Joint Member, or a waiver of notice signed by either Joint Member, constitutes notice or waiver of notice for both Joint Members;
- (b) The presence at a meeting of either Joint Member constitutes the presence of one Member at the meeting;
- (c) The Joint Membership is entitled to one vote on any Cooperative matter. Only one Joint Member may vote, and that vote binds the Joint Membership;
- (d) Except upon the death of a Joint Member or divorce, legal separation or other legal termination of the relationship between the Joint Members, the suspension or termination of either Joint Member constitutes suspension or termination of both Joint Members and the Joint Membership;
- (e) A Joint Member otherwise qualified may serve as a Director on the Cooperative's Board. If both Joint Members are otherwise qualified, then either Joint Member, but not both simultaneously, is eligible to serve as a Director;
- (f) Upon the death of a Joint Member, or the divorce, legal separation, or other termination of the relationship between the Joint Members:
 - i. If termination is as of the result of the death of a Joint Member, the surviving Joint Member may continue as a Member under a new individual membership, provided, however, that the estate of the deceased Joint Member shall not be released from any debts owed to the Cooperative. Additionally, if the Joint Members were spouses, the Cooperative may refund allocated capital credits to the deceased spouse's estate in accordance with the provisions of Article Seven of these Bylaws; and
 - ii. If termination is the result of the divorce, legal separation, or other legal termination of the relationship between the Joint Members, the membership shall continue to be held as an Individual Membership solely by the Joint Member who continues to directly occupy or use the premises covered by the original Joint Membership. In that event, however, the withdrawing Joint Member shall continue to be liable to the Cooperative for any debts owed to the Cooperative.
- (g) An individual membership may be converted to a joint membership upon the written request of the Individual Member and the completion of a new application for Joint Membership. In that event, the Cooperative will terminate the individual membership and issue a new Joint Membership upon completion of the application procedures set out in **Section 2** of this Article One;

SECTION 4. Membership fees. No membership fee is necessary to become a Member. Any membership fee collected prior to the enactment of this section shall be considered a connection fee.

SECTION 5. Purchase of Electric Energy. Except as otherwise provided in these Bylaws, a Member shall use electric energy provided by the Cooperative for all of the Member's electric service requirements and the Member shall purchase all electric energy from the Cooperative. The Member shall pay for the electric service pursuant to the rates established by the Board, which may be changed in the Board's discretion. Each Member must comply with any policy, rate, rule, procedure or other determination of the Board regarding the provision of Cooperative services to the Member. The Board may limit the amount of electric energy which the Cooperative is required to furnish to any one Member. Amounts paid by Members in excess of the cost of service are furnished as capital to the Cooperative. Each member shall be credited with the capital the Member furnishes as provided in these Bylaws. Each Member shall also pay the Cooperative a minimum fee per month as a facility charge in an amount fixed by the Board in its discretion. The Board may also implement rules requiring a Member to pay interest and late fees on any amounts owed to the Cooperative that are not paid in a timely manner.

SECTION 6. Member Production of Energy. A Member's production or use of electric energy, regardless of the source, by means of facilities which are interconnected with Cooperative facilities shall be subject to Cooperative policies, rules, and regulations and subject to state and federal law. Distributed or renewable generation sources, including small power production facilities, shall comply with state and federal law and the Cooperative's policies.

SECTION 7. Member Reduction in Services. Subject to controlling state or federal law, and as determined by the Cooperative's Board, if a Member substantially reduces or terminates the Member's use, receipt, or purchase of Cooperative services then:

- (a) The Cooperative may charge the Member, and the Member shall pay to the Cooperative, the reasonable costs and expenses incurred by the Cooperative in reliance upon the Member's pre-reduction or pre-termination use, receipt or purchase of services; and
- (b) The Cooperative shall be entitled to recover from the Member the Cooperative's fixed costs related or attributable to the services provided by the Cooperative to the Member prior to reduction or termination.

This **SECTION 7** shall be construed consistent with the Public Utility Regulatory Policies Act of 1978 ("PURPA") as revised and amended, and all existing rules and regulations passed pursuant to the statute. The Board may adopt specific policies and procedures for distributed or renewable generation connected to the Cooperative's electrical system.

SECTION 8. Termination of Membership.

- (a) Any Member may terminate membership by complying with the policies of the Cooperative. Termination of a membership does not release the Member from any debt or other liability to the Cooperative;
- (b) The Cooperative may terminate a Member if the Member: (i) fails to pay any amounts owed to the Cooperative; (ii) fails to comply with the Articles of Incorporation, the Bylaws, or any policy, rule, or regulation of the Cooperative; (iii) ceases using, receiving, or purchasing service from the Cooperative; (iv) dies, legally dissolves, or legally ceases to exist; (v) voluntarily requests suspension; (vi) tampers or interferes with any Cooperative electrical service or equipment; or (vii) for other good cause as determined by the Board.
 - i. The Cooperative shall give the Member 15 calendar days written notice of the potential termination and the reason for the termination. The notice shall be mailed via first-class or certified mail to the Member's address as shown on the Cooperative's membership list. The notice shall notify the Member that the Member may submit a written response to the proposed termination to the General Manager at least 5 calendar days prior to the effective date of the termination. The Member may also request an opportunity to address the Board at its next regularly scheduled meeting concerning the proposed termination. If the Member does not respond, or after hearing from the Member, the Board may approve the termination if it finds – by a preponderance of the evidence -- that the reason for termination is satisfied;
 - (ii) Upon termination, the Cooperative's duties, obligations, and liabilities imposed under these Bylaws shall end, and the Cooperative may cease providing services to the Member. However, the suspended Member shall retain the Member's rights to retire and refund of capital credits and any rights upon the Cooperative's dissolution. The suspended Member shall forfeit any other rights, including any voting rights provided by these Bylaws;
 - (iii) The termination of a Member's membership does not release the former member from any debts, liabilities or obligations owed to the Cooperative; and
 - (iv) The Board may reinstate a Member if (i) the Member rectifies the reason for suspension within 30 days of the imposition of the suspension; or (ii) by vote of two-thirds of the Directors. Alternatively, a Member may be reinstated by majority vote of the other Cooperative Members at a special or annual meeting.
- (d) Upon termination of a Joint Membership, the Cooperative shall allocate capital credits of the Joint Members on a pro-rata basis between the joint members; and

- (e) Upon termination of an Entity Membership, upon the Cooperative receiving written notice and adequate proof of assignment and identification of the Entity's assignee, the Cooperative shall re-allocate and re-credit to the Entity's assignee all capital credits allocated and credited to the Entity Member. Retirement of the re-allocated capital credits to an Entity's assignee shall be made, in whole or in part, in accordance with the provisions of these Bylaws and pursuant to the periodic retirement of capital credits as approved by the Board.

SECTION 9. Member Requirements. Each Member shall:

- (a) Provide the Cooperative temporary or permanent easements allowing safe and reliable access to and use of Member property as needed to allow the Cooperative to furnish services to its Members or for the construction, operation, maintenance, or relocation of the Cooperative's electric facilities;
- (b) Participate in any required program and comply with related rates, policies, service rules and regulations that may be established by the Cooperative to enhance load management, to more efficiently utilize or conserve energy, or to conduct load research;
- (c) Refrain from tampering, interfering with, damaging, or otherwise impairing any Cooperative equipment or electrical services;
- (d) Install, implement, and maintain any protective device or procedure reasonably required by the Cooperative; and
- (e) Comply with any procedure required by the Cooperative regarding the provision of services to its Members.

ARTICLE TWO
Rights and Liabilities of Members

SECTION 1. Dissolution of the Cooperative. Upon dissolution of the Cooperative, 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 these Bylaws, the remaining property and assets of the Cooperative shall be distributed among the Members and former Members in the proportion which the aggregate patronage of each bears to the total patronage of all Members during the seven years next preceding the date of the filing of the certificate of dissolution.

SECTION 2. No Personal Liability. No Member is personally liable for any debts of liabilities of the Cooperative.

ARTICLE THREE

Meetings of the Members

SECTION 1. Annual Meeting. An annual meeting of the Members shall be held at a location in either Bon Homme County or Yankton County as determined by the Board. At the annual meeting, the Members shall elect directors, review and approve reports for the previous fiscal year, and transact any other business that is properly brought before the meeting. The Board shall 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: (a) a resolution of the Board; (b) the President upon written request of three or more Directors; or (c) a petition signed by at least ten percent (10%) of the Members. If a special meeting is called, the Cooperative shall provide notice of the meeting as set forth below. Special meetings may be held in either Bon Homme County or Yankton County as determined by the Board. The place of the meeting shall be specified in the notice.

SECTION 3. Notice of Members' Meetings. The Cooperative shall provide written notice of any annual or special meeting to all Members via first-class mail, postage prepaid, to the Member's address on file with the Cooperative. The notice shall include the place, date, and time of the meeting and, in the case of a special meeting, the purpose for which the meeting is being held. Notice may also be included with a Member's billing or other publication mailed to all Members. Notice of an annual or special meeting shall be given to the Members not less than 10 days prior to the meeting, nor more than 25 days prior to the date of the meeting. Notice is effective on the date on which the Cooperative mails it to the Members. The failure of any Member to receive notice of the meeting does not invalidate any action taken by the Members at the meeting.

SECTION 4. Quorum. A quorum is present if at least 50 Members are present at the meeting. If less than a quorum is present, a majority of those present in person shall adjourn the meeting without further notice. The minutes of each meeting shall contain a list of the Members present.

SECTION 5. Voting. Each Member is entitled to one (1) vote. All questions shall be decided by a vote of a majority of the Members except as otherwise provided by statute, the Articles of Incorporation, or these Bylaws. Voting by proxy is not permitted. The individual presiding over the Member vote may require the Members to vote by voice. If however, the individual presiding over the meeting determines in good faith that a written vote is required to determine the vote results, then a written ballot shall be provided.

- (a) An Entity Member shall designate an individual to vote on behalf of the entity (the "Entity Voter Designation"). The Entity Voter Designation shall be on a form provided by the Cooperative. The Entity Voter Designation must be returned to the Cooperative at least 24 hours in advance of the meeting. The Cooperative may reject the Entity Voter Designation if it does not comply with the Cooperative's format or the Cooperative has reasonable basis to doubt the validity of the signature or the signatory's authority to sign on behalf of the Entity Member. The

Cooperative reserves the right to limit the number of votes that may be cast by any one person on behalf of Entity Members. Neither the Cooperative, its directors, officers, employees, agents, or other Members shall be liable to any Member for accepting or rejecting an Entity Voter Designation;

- (b) The spouse of an Individual Member may vote on behalf of the Individual Member as permitted by SDCL 47-21-57 unless the Individual Member has notified the Cooperative to the contrary;
- (c) No Member may vote by proxy on any issue; and
- (d) Any protests or objections to a vote must be filed with the Cooperative's Election Committee within 3 business days of the adjournment of the meeting at which the vote was conducted.

SECTION 6. Election Committee. At least three days prior to any meeting at which an election is to be held, the Board shall appoint an Election Committee consisting of three Members who are neither Directors, employees, or immediate family members of a Director or Cooperative employee. The Board, at its discretion, may appoint a standing Election Committee to serve for a certain term rather than appointing Members on a meeting-by-meeting basis. The Committee shall select a chairperson. The Committee shall be responsible for counting the ballots, ruling upon the effect of any ballot that is irregularly or indecisively marked, and ruling upon any other questions or protest that arises related to voting. All decisions of the Committee will be made by majority vote, and the Cooperative will provide an attorney to answer any questions the Committee has in the conduct of its duties. If a protest or objection is filed concerning any election:

- (a) The Committee shall convene within seven business days of the filing of the protest or objection; and
- (b) The Committee will conduct a hearing and hear evidence from the protesting or objecting party as well as any opposing evidence. No later than 30 days after the conclusion of the hearing, the Committee will issue its decision, which decision shall be made by majority vote. The Committee's decision concerning any protest or objection shall be final.

SECTION 7. Order of Business. The Board of Directors shall determine the agenda and order of business for all Member Meetings.

ARTICLE FOUR

Directors

SECTION 1. General Powers. The business and affairs of the Cooperative shall be managed by a Board of Directors ("Board") of not less than five (5) and not more than nine (9) Directors. The Directors shall exercise all powers of the Cooperative except those actions that are reserved to the Members by statute, the Articles of Incorporation, or these Bylaws.

SECTION 2. Director Districts. The Board may divide the Cooperative Service Area (i.e., that territory in which the Cooperative provides services to Members) into no less than five (5) and no more than nine (9) districts (the “Director Districts”). The Director Districts should equitably represent the Members. In setting the Director Districts, the Board may consider geographic factors, population, number of services, and other equitable factors. At least once every five (5) years, the Board shall review and may reconfigure the Director Districts to ensure that the Director Districts equitably represent the Members. The Cooperative shall maintain a detailed description of Director Districts. Each Director District shall be represented by at least one Director. If the Board revises the borders of any Director District, it shall notify the Members in writing via first-class mail and in the Cooperative’s newsletter of the changes no less than 120 days prior to the next annual meeting of the Members. No revisions to any Director District may (a) increase a Director’s term; or (b) decrease a Director’s term unless the impacted Director consents to the decrease in writing.

SECTION 3. Nomination and Election of Directors. Directors for each Director District shall be nominated and elected as follows:

- (a) Any 15 or more Members within a Director District may nominate any qualified individual to serve as a director for that Director District by signing a nominating petition on the form provided by the Cooperative. A Director must be a natural person and have the capacity to enter into legally binding contracts. An individual is qualified if he or she meets the following criteria: (i) is a Member in good standing with the Cooperative; (ii) is a permanent resident and has the Member’s primary residence in the Director District from which the Director is elected or chosen; (iii) uses, receives, or purchases electric service from the Cooperative at the proposed director’s primary residence; and (iv) has not been an employee of the Cooperative for at least 3 years prior to the date of the election or appointment as the case may be.
 - i. For purposes of these Bylaws, a “primary residence” is the dwelling in which an individual primarily lives, i.e., where that individual primarily sleeps and eats. Generally, a primary residence is determined by a person’s mailing address, address for voting registration, and time spent at the residence. If there is a dispute as to the primary residence, it shall be resolved by majority vote of the Directors whose residency is not being challenged.
- (b) Upon receipt of a petition, if the Cooperative determines it meets the requirements of these Bylaws, the Cooperative shall place the individual’s name on the ballot and shall post the nomination in the Cooperative’s principal office and in the Cooperative’s newsletter. A nominating petition must be received at the Cooperative’s offices in Tabor, South Dakota at least 60 calendar days prior to the annual meeting;

- (c) The Cooperative shall include a statement of the number of directors to be elected and the names of the candidates arranged by Director Districts with the notice of the annual meeting;
- (d) Election of Directors shall be by secret written ballot. The original ballot shall list the names of the candidates nominated by petition. The names shall be arranged by districts. However, if only one candidate runs for the Director position in the District, the Members at the annual meeting may elect the Director by voice vote upon a motion to accept the candidate for the position being sought;
- (e) Each Member of the Cooperative present at the meeting shall be entitled to one vote for one candidate from each district. The candidate from each Director District receiving the highest number of votes shall be declared elected as director. In the event of a tie, the candidates shall draw lots and the winner shall be declared elected;
- (f) Directors are elected for a term of three years; and
- (g) Notwithstanding anything to the contrary in these Bylaws, the failure to strictly comply with any of the provisions of this Section 3 other than the residency requirement shall not affect, after the fact, the validity of any election of directors.

SECTION 4. Disqualifications. A person is not eligible to become or remain a Director if that person:

- (a) Is not a Member or does not receive service from the Cooperative at their primary residence within the District which the person is to represent; or
- (b) Is in any way employed by or financially interested in a competing enterprise or a business selling electric energy or supplies to the Cooperative, or a business primarily engaged in selling electrical or plumbing appliances, fixtures or supplies to the Members of the Cooperative; or
- (c) Has a substantial conflict of interest with the Cooperative. Whether a substantial conflict of interest exists shall be determined by majority vote of the disinterested Directors; or
- (d) Is employed by the Cooperative or has an immediate family member (defined below) employed by the Cooperative; or
- (e) Does not have the capacity to enter into legally binding contracts; or
- (f) Is convicted of or pleads guilty or nolo contendere to any felony or to a misdemeanor involving fraud or dishonesty while serving as a director or within five years prior to standing for election as a director; or

- (g) Attends less than two-thirds of regular monthly Board Meetings during the prior twelve month period unless excused for good cause by majority vote of the Board excluding the vote of the absent director; or
- (h) Is or becomes physically or mentally unable with or without reasonable accommodations to perform the essential duties of a Director, including attendance at regional and national meetings, and the condition that creates such inability is reasonably expected to last six (6) months or more.

SECTION 5. Challenges to Qualifications. Any Director, the General Manager, or the attorney for the Cooperative, may -- by written and signed instrument (the "charges") delivered to the President (or to the Vice-President if the President is the subject of the charges) -- question the qualifications of any person to serve or to continue to serve as a director. The writing shall state with particularity the factual basis for the charges.

- (a) Upon receipt of the charges, the President (or Vice-President if the President is unable to act or is the subject of the charges), shall forward a copy of the charges to the person whose qualifications have been questioned for a response. The President may also request that the person whose qualifications have been questioned produce documents in response to the charges;
- (b) The person whose qualifications have been challenged shall have 10 business days after receipt of the charges to provide a written response to the President or the President's designated agent. Upon receipt of the response to the charges, the President shall deliver a copy of the charges and the response to all Directors;
- (c) The charges shall be addressed by the Board at its next regularly scheduled monthly meeting or at a special meeting if so requested by three or more Directors. At the meeting, the Board shall consider the written charges, the response, and, if the Board so chooses, oral evidence from any witnesses, including the individual charged. The decision to accept or reject the charges must have the vote of at least two-thirds of the Directors, excluding the vote of any Director charged;
- (d) If a Director is removed from office, the Director's replacement shall be appointed by the Board in accordance with these Bylaws. If the person charged has only been nominated as a director, the Board shall direct the Cooperative to remove the individual's name from the ballot; and
- (e) Nothing contained in this section affects the validity of any action taken at any prior regular or special Board meeting.

SECTION 6. Removal of Director by Members. The Members may remove any Director pursuant to this Section 6.

- (a) Any Member may request the removal of one or more Directors for committing any grossly negligent, fraudulent, or criminal act or omissions that significantly and

adversely affects the Cooperative. However, no Director can be removed for lawfully opposing the sale of Cooperative assets or the dissolution of the Cooperative. For each Director for whom removal is requested, the Member(s) shall deliver to the President or Secretary a dated written petition (the "Director Removal Petition"). The Director Removal Petition must (i) identify the Director to be removed; (ii) set forth the basis for removal, specifically identifying the conduct underlying the removal request; (iii) contain the printed names, addresses, and original signatures with date of at least ten percent (10%) of the Cooperative's Members; and (iv) request that the question of removal be acted upon at a special meeting of the Members;

- (b) The Petition shall be signed by each Member in the same name as the Member is billed by the Cooperative and shall state the signor's address as it appears on Cooperative billings. Each page of the petition, in the upper left corner, shall set forth the document subject, name(s) of the director(s) targeted for removal and the page number: E.g. "Director Removal Petition, Directors John Doe and Jane Doe, page 2;"
- (c) Within 30 days following receipt of the petition, the President or the Secretary shall (i) provide a copy of the Director Removal Petition to all Directors; and (ii) meet with all Directors to review the Director Removal Petition;
- (d) If the Board determines that the Director Removal Petition complies with these Bylaws, then the Cooperative shall provide notice of a Special Member Meeting to be held no later than 25 days following the Board's determination. The notice of the meeting shall state (i) the date, time, and place of the meeting and that a quorum of Members must be present to carry out the purpose of the meeting; (ii) that the purpose of the meeting is to consider the Director Removal Petition; (iii) that the impacted Director(s) as well as the petitioners shall be entitled to present evidence and present their arguments to the Members at the meeting, with the persons bringing the charges being heard first and the Director(s) being heard last; (iv) that a vote of the Members will be taken at the conclusion of the evidence regarding the removal of the Director(s); and (v) that if the Director is removed, the Members may elect a replacement to fill the removed Director's term with nominations from the floor allowed;
- (e) A Member quorum must be present at the Special Member Meeting or no action may be taken regarding removal and/or replacement of a Director. If a member quorum is present at the Special Member Meeting, then for each Director named in the Director Removal Petition:
 - (i) If a majority of Members present vote to remove the director, then the director is removed effective at the time and date of the Member vote.
 - (ii) Upon removal of a Director, the Members present at the Special Member Meeting and entitled to vote may then nominate and elect a successor

Director, provided, however, that any successor director must meet the qualifications set out in these Bylaws, including residing in the same Director District of the removed Director. Any successor Director shall serve the unexpired portion of the removed Director's term.

- (f) Neither receipt of a Director Removal Petition nor the removal of a Director affects any action by the Board.

SECTION 7. Vacancies. With respect to the filling of vacancies other than (a) by the removal of Directors by the Members; (b) electing directors by regular elections; or (c) by the creation of a new Director District, any vacancy occurring in the Board shall be filled by the affirmative vote of a majority of the remaining Directors for the unexpired portion of the term. A Member elected by the Board as director to fill a vacancy must reside in the same district as the Director whose office was vacated.

SECTION 8. Compensation. Directors shall not serve the Cooperative in any other capacity other than as an officer appointed by the Directors. Directors shall not receive any salary for their services, except a fixed sum for each day or portion of a day spent on Cooperative business, such as attendance at meetings, conferences, training programs, or performing other assignments authorized by the Board. The Directors may also provide for additional compensation for the President for additional work required for meeting preparation and other activities. Directors may also be reimbursed for reasonable travel expenses, including mileage and lodging. The compensation of Directors and reimbursement rates shall be determined by majority vote of the Directors.

SECTION 9. Director's Immediate Family. Except in extreme emergencies, and subject to prior authorization by majority vote of Directors who are not related to the family member, no immediate member of a Director's family may receive compensation or serve the Cooperative in any capacity. As used in these Bylaws, immediate member of a Director's family means a person who is either a spouse, parent, step-parent, child, step-child, grandchild, step-grandchild, grandparent, step-grandparent, great grandchild, step-great grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew or niece.

SECTION 10. Director Resignation. Any Director may resign by giving written notice to the President of the Board or, in the case of the President, by giving written notice to all other Directors. The resignation may specify a future effective date, otherwise it shall be effective when given. The Directors, by majority vote, shall fill the vacant position as of the effective date of the resignation, subject to the terms and provisions of these Bylaws.

ARTICLE FIVE

Meetings of Directors

SECTION 1. Regular Meetings. A regular meeting of the Board shall be held monthly at the Cooperative's offices in Tabor, South Dakota or as otherwise designed by the Board. The Board shall designate the time and place for the next monthly meeting at the conclusion of the previous monthly meeting. No further notice of the regular monthly meeting is required.

SECTION 2. Special Meetings. Special meetings of the Board (“Board Special Meeting”) may be called by the President or by any three Directors by providing written or oral notice of the Board Special Meeting to each Director at least two (2) business days prior to the meeting. The notice shall include the time and place of the Board Special Meeting, as well as the purpose of the Board Special Meeting. A Director’s attendance at a Board Special Meeting constitutes waiver of notice of the meeting unless the Director’s reason for attendance is to object to the meeting on the ground that it has not been properly called.

SECTION 3. Quorum. A majority of the Directors shall constitute a quorum at any regular or special Board meeting. If a quorum is not present, a majority of the Directors present shall adjourn the meeting. In that event, prior to adjournment, those Directors present shall set a new meeting time, date and place and provide notification to absent directors of the rescheduled date and time. 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.

SECTION 4. Conduct of Board Meetings. In person attendance by all Directors at regular and special board meetings is preferred, however, the Directors may be deemed present if they participate through any means of communication by which all Directors participating in the meeting may simultaneously hear each other and participate in the discussion. The Board may adopt its own policies governing attendance and participating in meetings other than by personal attendance.

ARTICLE SIX

Officers

SECTION 1. Number. The officers of the Cooperative shall be a President, Vice President, Secretary, Treasurer. Only Directors may serve as Cooperative officers. The offices of Secretary and Treasurer may be held by the same person.

SECTION 2. Election and Term of Office. The Directors shall elect Cooperative officers annually at the next regular meeting following the annual meeting of the Members or at the conclusion of the annual meeting in the Directors’ discretion. If more than one candidate is nominated for an office, the election shall be by ballot. The election shall be by majority vote of the Directors. Each officer shall hold office until the first meeting of the Board following the next annual meeting of the Members or until their successor shall have been elected and shall have qualified. 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 Directors. Any officer or agent elected or appointed by the Board of Directors may be removed by majority vote of the Board whenever the Directors determine that it is in the Cooperative’s best interests to remove the officer.

SECTION 4. President. The President:

- (a) Shall serve as the principal executive officer of the Cooperative. The President, if available, shall preside at all meetings of the Members and Directors;
- (b) May sign any deeds, mortgages, notes, bonds, contracts or other instruments authorized by the Board of Directors to be executed, except in cases in which the signing is expressly delegated by the Board of Directors or by these Bylaws to another officer or agent of the Cooperative or shall be required by law to be otherwise signed or executed; and
- (c) Shall in general perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors.

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

SECTION 6. Secretary. The Secretary shall:

- (a) Keep or cause to be kept the minutes of all regular and special meetings of the Members and Directors in one or more books provided for that purpose;
- (b) Provide notices in accordance with these Bylaws as required by law;
- (c) Keep or cause to be kept the Cooperative's records and seal. The Secretary may affix the Cooperative's seal to all documents requiring the seal;
- (d) Keep or cause to be kept a register of the names and post office addresses of all Members;
- (e) Keep or cause to be kept on file at all times a complete copy of the Cooperative's Articles of Incorporation and Bylaws, including any amendments to those documents. A copy of these documents shall always be available to the Members at the Cooperative's office; and
- (f) In general perform all duties incident to the office of Secretary and such other duties as may be assigned by the Board of Directors.

SECTION 7. Treasurer. Unless otherwise determined by the Board or the Members, the Treasurer shall be authorized to sign checks and other financial documents on behalf of the Cooperative and shall perform all duties prescribed by the Board or the Members.

SECTION 8. Delegation of Secretary's and Treasurer's Responsibilities. Notwithstanding the duties and responsibilities of the Secretary and Treasurer described in Sections 6 and 7 of this Article Six, the Board of Directors may, except as otherwise limited by

statute, delegate, wholly or in part, the responsibility and authority for the regular or routine administration of the Cooperative's business to one or more other agents or employees of the Cooperative who are not Directors. To the extent that the Board does so delegate with respect to any such officer, that officer shall be relieved from such duties, responsibilities and authorities.

SECTION 9. General Manager. The Board of Directors may appoint a General Manager who may be, but who shall not be required to be, a Member of the Cooperative. The General Manager shall perform such duties and shall exercise such authority as the Board of Directors may authorize.

SECTION 10. Officer Resignation. Any Officer may resign by giving written notice to the President of the Board or, in the case of the President, by giving written notice to all other Directors. The resignation may specify a future effective date, otherwise it shall be effective when given. The Directors, by majority vote, shall fill the vacant position as of the effective date of the resignation.

SECTION 11. Compensation. Other than as the Board may establish by policy for the President as a result of the President's additional work required for each meeting, Officers of the Cooperative shall not receive any compensation in their capacity as officers. The Directors shall fix the compensation to be paid to the Cooperative's General Manager, agents, and employees subject to the provisions of these Bylaws.

SECTION 12. Indemnification. The Cooperative shall indemnify present and former directors and officers, including the General Manager, as well as Cooperative agents and employees in accordance with and to the fullest extent allowable under South Dakota Codified Laws Chapter 47-21. The Cooperative may also purchase insurance to cover this indemnification.

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. The reports may be in writing and shall set forth the condition of the Cooperative at the close of the fiscal year.

ARTICLE SEVEN

Non-Profit Operation

SECTION 1. Interest or Dividends on Capital Prohibited. The Cooperative shall operate on a non-profit basis for the mutual benefit of its Members. No interest or dividends shall be paid to Members for capital furnished to the Cooperative.

SECTION 2. Allocation of Patronage Capital. Patronage Capital ("Capital") consists of all funds received by the Cooperative that exceed (a) the Cooperative's costs and expenses of operation; (b) funds allocated to a Margin Stabilization Plan, or other revenue or expense deferral plan by resolution of the Board; and (c) reasonable reserves established by the Board for the payment of the incremental cost of electric power and energy. These amounts are received by the Cooperative from the Members with the understanding that the funds are being furnished by the

Members as Capital. The Cooperative shall annually allocate to each Member, and pay by credit to a Capital Account for each Member, the Capital in proportion to the value or quantity of Cooperative services used, received, or purchased by each Member during the applicable fiscal year (the “Capital Credits”). Capital Credits will be treated as if the Cooperative paid the Capital Credit amounts to each Member in cash pursuant to a legal obligation, and each Member furnished the Cooperative Capital in the corresponding Capital Credit amounts.

SECTION 3. Affiliated Capital Credits. The Cooperative may separately allocate and credit to Members capital allocated and credited to the Cooperative by any organization furnishing services, supplies or products to the Cooperative (“Affiliated Capital Credits”).

SECTION 4. Non-Operating Margins. Any other funds received by the Cooperative that exceed the Cooperative’s costs and expenses may be either (a) allocated as Capital Credits to Members in the same manner as set forth above; or (b) used by the Cooperative as permanent, non-allocated capital.

SECTION 5. Books and Records. The Cooperative shall keep its books and records in a manner that clearly reflects the amount of Capital allocated to each Member’s Capital Account annually. Within a reasonable time following the conclusion of the fiscal year, the Cooperative shall notify each Member of the amount of credit received by that Member for the previous fiscal year.

SECTION 6. Retiring and Refunding Capital Credits. After giving due consideration to the Cooperative’s financial condition, and at any time prior to dissolution or liquidation of the Cooperative:

- (a) The Board may authorize the Cooperative to wholly or partially retire and refund Capital Credits to Members or former Members; and
- (b) The Board may authorize the Cooperative to retire and refund any Affiliated Capital Credits actually paid by the third-party organization to the Cooperative.

SECTION 7. Debt Set-off. If the Cooperative elects to retire or refund Capital Credits or Affiliated Capital Credits (the “Refunded Credits”), the Cooperative has a priority security interest and a right of set off in the Refunded Credits to the extent any Member has an outstanding debt owed to the Cooperative. The Cooperative may enforce the security interest and set off the debt from the Refunded Credits. Debt secured by the Refunded Credits includes any unpaid bills, any reasonable compounded interest on that bill, and any late fee as determined by the Board. The Member shall be deemed to have consented to this security interest at the time the Cooperative first provides electric service to the Member.

SECTION 8. Death of Member. Upon the death of an Individual Member or in the event of the death of individual who holds a Joint Membership with the individual’s spouse (collectively, a “Deceased Member”), the Board may retire and refund the Deceased Member’s Capital Credits upon terms and under conditions established by the Board as long as the Cooperative’s financial condition is not impaired by the refund.

SECTION 9. Delivery to Members. The Members of the Cooperative, by purchasing services or otherwise dealing with the Cooperative, acknowledge that they are bound by the Cooperative's Articles of Incorporation and these Bylaws. The provisions of this Article Seven shall be delivered to Members via provision of a copy with the Membership Application or online at the Cooperative's website.

ARTICLE EIGHT

Encumbering or Disposing of Property

SECTION 1. Encumbering Cooperative Property. The Board may authorize the execution and delivery of a mortgage, deed of trust, or other lien encumbering the real estate or personal property owned by the Cooperative as well as the revenues and income derived from or generated by that property upon such terms and conditions as the Board determines advisable to secure any indebtedness owed by the Cooperative to the United States of America or any agency or instrumentalities thereof, to the National Rural Utilities Cooperative Finance Corporation, or to any other lender.

SECTION 2. Merger or Consolidation. As allowed by these Bylaws and the South Dakota Electric Cooperative Law (SDCL 47-21 et seq.), the Cooperative may (1) consolidate with another consumer-owned cooperative that provides electric power to form a new cooperative; or (2) merge with another consumer-owned cooperative that provides electric power as set forth below.

- (a) The Board must approve an agreement or plan to Consolidate or Merge that states:
 - (i) the terms and conditions of the consolidation or merger;
 - (ii) the name of each entity consolidating or merging with the Cooperative and the address of its principal officer;
 - (iii) the name of the new or surviving entity and its proposed principal place of business;
 - (iv) a statement that each Cooperative agrees to the consolidation;
 - (v) the names and address of the directors of the new cooperative;
 - (vi) the terms and conditions of the consolidation or merger and the manner by which the consolidation or merger will be carried into effect, including the manner in which members of each cooperative may become members of the new cooperative; and
 - (vii) any other terms and conditions the Board deems advisable for the conduct of the business of the new or surviving cooperative;
- (b) After the Board approves a plan to Consolidate or Merge, a special meeting of the Members shall be called at which time the Members will consider the proposed consolidation or merger. Notice shall be sent as set forth in these Bylaws and must include a copy of the Consolidation or Merger agreement; and
- (c) A vote of a majority of the Members present and voting at the special meeting is required to approve the plan to Consolidate or Merge.

SECTION 3. Dissolution of the Cooperative. If the Board determines it is appropriate to dissolve the Cooperative, a proposal to dissolve the Cooperative shall be presented to the

Members at any annual or special meeting. Notice of the meeting shall include the plan for the dissolution. Dissolution of the Cooperative may only be approved by affirmative vote of not less than a majority of all Members of the Cooperative. If the Members vote to dissolve the Cooperative, then upon that dissolution the Cooperative shall:

- (a) Collect all sums owed to the Cooperative and liquidate its property and assets;
- (b) Pay all Cooperative debts, obligations, and liabilities, other than those to Members arising from their patronage, and do all other things required to terminate its business; and
- (c) Distribute any remaining sums, first to Members for the prorate return of all amounts standing to the Member's credit by reason of their patronage, and second to Members for the prorate repayment of membership fees. Any sums remaining shall then be distributed to Members and former Members in proportion to their patronage.

ARTICLE NINE

Seal

The Corporate seal of the Cooperative shall be in the form of a circle and have inscribed thereon the name of the Cooperative and the words "Corporate Seal, South Dakota." Failure to append the seal to any document shall not, however, affect the legal validity of the document.

ARTICLE TEN

Financial Transactions

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

SECTION 2. Checks, Drafts, Etc. All checks, drafts and other orders for the payment of money, and all notes, bonds or other evidences of indebtedness issued in the name of the Cooperative shall be signed by an officer, agent, or employee of the Cooperative as designated by the Board.

SECTION 3. Deposits. All funds except petty cash of the Cooperative shall be deposited to the credit of the Cooperative in financial institutions chose by the Board.

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 ELEVEN

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. However, upon authorization by the Board and without the need for a vote by the Members, the Cooperative may purchase stock in or become a member of any corporation or organization organized on a non-profit basis for the purpose of engaging in or furthering the cause of rural electrification, or of any other organization when in the opinion of the Board of Directors such membership will promote the interest of the Cooperative.

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, either before or after the meeting. The attendance of a Member or Director at any meeting constitutes a waiver of notice of the meeting, except in the event a Member or Director attends the meeting for the express purpose of objecting to the transaction of business on the ground that the meeting has not been lawfully called or convened.

SECTION 3. Rules, Regulations, Rate Schedules and Contracts. The Board shall have power to make, adopt, amend, abolish and promulgate rules, regulations, rate schedules, contracts, security deposits and any other types of deposits, payments or charges, including contributions in aid of construction, not inconsistent with law or the Cooperative's Articles of Incorporation or these Bylaws. These powers may be exercised by the Board as it deems advisable for the management, administration and regulation of the business and affairs of the Cooperative.

SECTION 4. 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 conform to the accounting system as may from time to time be designated by the Administrator of the Rural Utilities Service of the United States of America. The Board shall also, after the close of each fiscal year, cause to be made a full and complete audit of the accounts, books and financial conditions of the Cooperative as of the end of the fiscal year. The audit reports shall be submitted to the members at the next following annual meeting.

SECTION 5. Rules of Procedure. Unless otherwise provided in these Bylaws, the rules of parliamentary procedure as provided in Roberts Rules of Order shall govern the conduct of all meetings of the Board of Directors and meeting of members of the Cooperative.

SECTION 6. Assignment and Gift by Failure to Claim. Any capital credit retirement or refund or any other distribution owed to any Member or former Member shall be deemed forfeited if it is not claimed within six years as allowed by SDCL Chapter 47-16-54 to 47-16-59, as those statutes may be amended. Failure to claim shall include the failure to cash any check mailed by

the Cooperative to the last address furnished to the Cooperative by the Member or former Member. Notice may also be given by the Cooperative by electronic transmission to the Member or former Member's last known electronic address. If the Cooperative does not have an address or knows the address to be incorrect, the Cooperative may give notice by publication as allowed by South Dakota law.

SECTION 7. Limiting Director Liability. To the fullest extent permitted by South Dakota Law governing this Cooperative as the same exists or may be amended, a Director or Officer of this Cooperative shall not be personally liable to the Cooperative or its members for monetary damages for breach of fiduciary duty as a Director or Officer, except for liability:

- (a) for any breach of the Director's or Officer's duty of loyalty to the Cooperative or its Members;
- (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- (c) for any violation of Section 47-17-7 of the South Dakota Codified Laws; or
- (d) for any transaction from which the Director or Officer derived an improper personal benefit.

ARTICLE TWELVE

Amendments

These Bylaws may be altered, amended or repealed by the affirmative vote of not less than a majority of the Members present and voting at any regular or special member meeting, except Article Eight, Section 3 shall not be altered, amended or repealed unless a majority of all Members of the Cooperative are present and vote in favor thereof. The Notice of any meeting regarding proposed changes to the Bylaws shall contain a copy of the proposed alteration, amendment or repeal or an accurate summary explanation of the proposed alteration, amendment, or repeal.

Dated this ____ day of August, 2020.

Bon Homme Yankton Electric Association, Inc.
By: Paul Voigt, President

Attest:

David Sternhagen, Secretary

(SEAL)

STATEMENT OF NONDISCRIMINATION¹

Bon Homme Yankton Electric Association, Inc. is the recipient of Federal financial assistance from the Rural Utilities Service, 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 benefits of, or otherwise be subjected to discrimination under any of this organization's programs or activities.

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

¹ The Statement of Discrimination is not part of the Bylaws, but is included per federal law requiring the statement to be on all communications with Members.