

**ARTICLES OF  
INCORPORATION  
AND  
BY-LAWS**

**2000**

**McLeod Cooperative  
Power Association**

**Glencoe, Minnesota 55336**

## **ARTICLES OF INCORPORATION**

### **ARTICLE I.**

**Section 1.** The name of this Cooperative shall be McLeod Cooperative Power Association.

**Section 2.** The conduct of the business of this Cooperative shall be upon the cooperative plan and the purposes for which it is formed are to sell, provide, deliver, furnish or distribute electric energy and other services to its members and patrons and to engage in any other lawful business.

**Section 3.** The registered office and principal place of business of this Cooperative is 1231 Ford Avenue, Glencoe, Minnesota 55336.

### **ARTICLE II.**

**The period of duration of this Cooperative shall be perpetual.**

### **ARTICLE III.**

**Section 1.** This Cooperative is organized on a non-stock, membership basis. The Cooperative will maintain appropriate membership records.

**Section 2.** Members shall have only one vote in the affairs of this Cooperative and the membership in this Cooperative shall not be transferable except with the approval and consent of the Board of Directors of this Cooperative.

**Section 3.** No interest or dividends shall be paid upon capital furnished to the Cooperative by its members or patrons. The net income of the Cooperative, except for amounts set aside as capital reserves or additional reserves, shall be distributed on the basis of patronage. The records of this Cooperative may show the interest of patrons and members in the reserves.

### **ARTICLE IV.**

To the fullest extent permitted by laws governing Cooperative Associations, as the same exist or may hereafter be amended, a Director of this Cooperative shall not be personally liable to the Cooperative or its members for monetary damages for breach of fiduciary duty as a Director.

## **ARTICLE V.**

These Articles of Incorporation may be altered, amended or repealed by the affirmative vote of not less than 2/3rds of the members, present in person or represented by mail vote, at any annual or special meeting; provided, however, that the Articles of Incorporation of this Cooperative shall not be altered, amended or repealed at any meeting of the members unless notice of such proposed alteration, amendment or repeal shall have been contained in the notice of each meeting.

**BY-LAWS**  
**ARTICLE I**  
**Members**

**Section 1. Qualifications.** Any person or entity shall become a member of this Cooperative by purchasing or taking delivery of electric energy from facilities owned by this Cooperative. The members shall comply with the Articles of Incorporation, these By-Laws, and such rules, regulations and policies as may be adopted by the Board of Directors, from time to time.

**ARTICLE II.**  
**Meeting of Members**

**Section 1. Annual Meeting.** The annual meeting of the members shall be held at such time, date and place each year as shall be selected from time to time by resolution of the Board of Directors, for the purpose of electing directors, passing upon reports covering the previous fiscal year, and transacting such other business as may come before the meeting.

**Section 2. Notice of Annual Meeting.** Notice of the annual meeting shall be given by the Secretary by publication in a legal newspaper published in McLeod County, Minnesota, at least two (2) weeks previous to the date of such meeting or by mailing written notice thereof to each and every member personally at member's last known post-office address not less than fifteen (15) days previous to the date of such meeting.

**Section 3. Special Meetings.** Special meetings of the members may be called by a majority vote of the Directors or upon a written petition signed by at least twenty (20%) percent of the members, and it shall thereupon be the duty of the President of this Cooperative to cause notice of such meeting to be given by the Secretary.

**Section 4. Notice of Special Meetings.** Notice of the time, place, and purpose of a special meeting shall be given either by publication at least two (2) weeks previous to the date of such meeting or by mailing written notice thereof to each and every member personally at the member's last known post-office address not less than fifteen (15) days previous to the date of such meeting. Such notice shall be issued within ten (10) days from and after the date of the presentation of the petition mentioned in the preceding Section 3, and such special meeting shall be held within thirty (30) days from and after the date of the presentation of such petition.

**Section 5. Failure to Receive Notice.** The failure of any member to receive any such notice of an annual or special meeting of the members shall not invalidate any action which may be taken by the members at any annual or special meeting.

**Section 6. Quorum.** Not less than fifty (50) members present in person shall constitute a quorum for the transaction of business at all meetings of the members.

**Section 7. Establishment of a Quorum.** The attendance of a sufficient number of members to constitute a quorum at any meeting of the members shall be established and verified by the President and Secretary of this Cooperative. Such registration shall be reported in the minutes of such meeting. No action at any meeting of the members shall be valid and legal unless a quorum is present at the meeting and at the time such action may be taken.

**Section 8. Voting.** Each member shall be entitled to only one vote in the affairs of this Cooperative, which voting shall be in person or by mail as hereinafter provided. No member shall be entitled to vote by proxy, except that the spouse of the member may vote on behalf of the member unless the member has indicated otherwise. At all meetings of the members, all elections shall be had and all questions decided by a vote of a majority of the members present in person or by mail vote, except as otherwise provided by law or the Articles of Incorporation or By-Laws of this Cooperative. With respect to the election of Directors, the nominee in each district receiving the greatest number of votes shall be elected. In the case of a tie vote, the tie shall be decided by a flip of the coin.

**Section 9. Voting by Mail on Motions, Resolutions, and Amendments.** Any member who will be absent from a member's meeting shall be entitled to vote by mail upon any motion, resolution or amendment to be acted upon at the meeting. The Secretary shall mail to each member with the notice of the meeting, a ballot which shall be in the form prescribed by the Board of Directors and shall contain the exact text of the proposed motion, resolution or amendment to be acted upon at the meeting, and spaced opposite the text of such motion, resolution, or amendment in which the member may indicate an affirmative or negative vote. The member shall express a choice by marking an "X" in the appropriate space upon the ballot and mail or deliver the ballot to the Cooperative in a plain, sealed envelope inside another bearing the member's name. A properly executed ballot shall be accepted by the Board of Directors and counted at the meeting as the vote of the absent member at the meeting.

**Section 10. Voting List.** The Secretary of this Cooperative shall make, at least fifteen (15) days before each meeting of the members, a complete list, arranged in alphabetical order, of the members entitled to vote at such meeting and their addresses. Such list shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any member during the whole time of the meeting.

**Section 11. Order of Business.** The order of business at the annual meeting of the members, and so far as possible at all other meetings of the members, shall be as follows:

1. Establish a Quorum.
2. Reading of the notice of the meeting together with proof of publication or mailing thereof.
3. Presentation and reading of unapproved minutes of previous meetings of the members and the taking of necessary action thereon.
4. Presentation and consideration of, and acting upon, reports of officers, Directors and committees.
5. Election of Directors.
6. Unfinished business.
7. New business.
8. Adjournment.

### **ARTICLE III. Directors**

**Section 1. General Powers.** The business and affairs of this Cooperative shall be managed by the Board of Directors.

**Section 2. Number of Directors and Qualifications.** The territory served by the Cooperative shall be divided into nine (9) Director Districts, unless altered as hereinafter set forth in this Section. Each Director District shall be represented by one Director who shall be a resident of such district at the time of election and during the term for which such Director was elected. The number of Director Districts shall at all times be not less than five (5) nor more than nine (9). A resolution varying either the number of Directors or changing the boundary of Director Districts shall be approved by not less than a 2/3rds majority of the Board of Directors. A Directorship may be discontinued and the number of Directors reduced only at the end of the term for which the individual affected Director was elected.

No person shall be eligible to become or remain a Director of the Cooperative who:

- A. is not a member in good standing of the Cooperative receiving service at the member's primary residence or principal place of business in the district from which the Director is elected;
- B. within five (5) years preceding a Director candidate's nomination was or during service on the Board of Directors is finally adjudged to be guilty of a felony;
- C. within five (5) years preceding a Director candidate's nomination was an employee of the Cooperative;

- D. is or becomes, or at any time during the five (5) years preceding a Director candidate's nomination shall have been, employed by a labor union which represents, or has represented, or has endeavored to represent any employees of the Cooperative;
- E. is a child, grandchild, great-grandchild, parent, grandparent, great-grandparent, brother, sister, aunt, uncle, nephew or niece, whether by blood, or in law, of an employee of the Cooperative;
- F. is a person that is child, grandchild, great-grandchild, parent, grandparent, great-grandparent, brother, sister, aunt, uncle, nephew or niece, by blood, or in law, of an incumbent Director that is not up for re-election at that time;
- G. is in any way employed by or substantially financially interested in an enterprise competing with the Cooperative or any Cooperative-affiliated business;
- H. is or becomes the full-time employee or agent of, or who is or becomes the full-time employer or principal of, another Director; or
- I. is absent without cause from three (3) or more regular meetings of the Board of Directors during any twelve (12) month period.

A member that is an authorized farm corporation, family farm corporation, regular corporation, partnership, limited liability partnership or other business entity may select an individual member residing on or actively operating such business entity to be eligible for election to the Board. A member that is not a natural person may select one of its officers to be eligible for election to the Board, provided that not more than two (2) such officers may serve on the Board at the same time.

- (a) **Exceptions.** In regard to the restrictive provisions of this Section that are based upon close relative relationships, no incumbent Director shall lose eligibility to remain a Director or to be re-elected a Director if, during the Director's incumbency, a Director becomes a first kindred relative of another incumbent Director or of a Cooperative employee because of a marriage or an adoption to which the Director was not a party.
- (b) **Disqualification.** After the Board of Directors determines that a Director or a nominee for Director lacks eligibility under the provisions of this Section or as may be provided elsewhere in these By-Laws, it shall be the duty of the Board to promptly make a disqualification. After the Board of Directors determines that any person being considered for, or already holding, a Directorship lacks eligibility under this Section, it shall be the

duty of the Board to withhold such position from such person or to cause a Director to be removed therefrom, as the case may be.

- (c) **Actions of the Board of Directors.** Nothing contained in this Section shall, or shall be construed to, affect in any manner whatsoever the validity of any action taken at any meeting of the Board unless such action is taken with respect to a matter in which one or more of the Directors has a personal interest in conflict with that of the Cooperative.

**Section 3. Tenure.** The term of office for a Director shall be three (3) years. At each annual meeting, an election shall be held from the districts where the terms of Directors have expired.

**Section 4. Vacancies.** If the office of any Director or Directors becomes vacant, the remaining Directors shall elect a successor or successors. A Director elected to fill such vacancy under this section, shall hold office for the unexpired portion of the term.

**Section 5. Compensation.** Directors shall receive reasonable compensation for service to the Cooperative as determined by resolution of the Board of Directors.

**Section 6. Rules and Regulations.** The Board of Directors shall have power to make and adopt such rules and regulations, not inconsistent with the Articles of Incorporation of this Cooperative or these By-Laws or the laws of the State of Minnesota, as it may deem advisable for the management, administration, and regulations of the business and affairs of this Cooperative.

**Section 7. Accounting System and Reports.** The Board of Directors shall cause to be established and maintained a complete accounting system which shall conform to generally accepted accounting principles. The Board of Directors shall arrange for a full and complete audit of the books, accounts, and financial condition of this Cooperative each fiscal year. A financial report shall be made to the members at the annual meeting.

**Section 8. Nominations.** The Directors of the Cooperative shall be nominated and elected in the following manner:

- A. **Nominating and Credentials Committee.** The Board of Directors shall, not less than thirty (30) days nor more than ninety (90) days before the date of the annual meeting, appoint a nominating and credentials committee in each district from which a Director is to be elected for either a regular or unexpired term. The committee for each electing district shall consist of three (3) members of the Cooperative who reside in the district for which they are to make nominations and said member shall not be close relatives (as defined in Article III Section 2



hereof) or members of the same household of existing Directors or known candidates for Directors to be elected at such meeting. No officer or member of the Board of Directors shall be appointed to any district nominating committee.

At least twenty-five (25) days prior to the annual meeting, each District Nominating Committee shall meet at the offices of the Cooperative and shall nominate two (2) candidates for the vacancy on the Board of Directors occurring in that district and the committee shall immediately certify such nominations to the Secretary of the Cooperative. A majority of the Committee in attendance shall constitute a quorum for purposes of certifying such nominations. The Secretary shall thereupon prepare and post at the principal office of the Cooperative the list of the Nominating Committee nominations.

Prior to the Cooperative's annual meeting, the District Nominating Committees shall meet and form one committee and shall elect a Chairperson and a Secretary from the committee as a whole. It shall be the responsibility of the committee to approve the manner of conducting member registration and to determine eligibility for voting, to pass upon all questions that may arise with respect to the registration of members in person or by mail, to count all ballots cast in any election or in any other ballot vote taken, to rule upon the effect of any ballots irregularly or indecisively marked, and to pass upon any protest or objection filed with respect to any election or the results of any election. In the event a protest or objection is filed concerning any election, such protest or objection must be filed within three (3) business days following the adjournment of the meeting in which the election is conducted. The committee shall thereupon be reconvened, upon notice from its chairperson, 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 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, which may be either to affirm or change the results of the election or to set aside such election. The committee's decision (as reflected by a majority of those actually present and voting) on all such matters shall be final.

- B. Nominations By Petition. Any group of twenty (20) or more Cooperative members, not members of the District Nominating Committee, and residing in a District for which nominations are being made, may make an additional nomination of one candidate for Director for their District. Such additional nomination shall be made in writing, signed by each member of the Nominating Group, and shall be submitted to the Cooperative Secretary not less than twenty-five (25) days prior to the Annual Meeting. The Cooperative Secretary shall thereupon post at the Cooperative offices the names of such additional nominations made by the Nominating Groups.
- C. There shall be no nominations for candidates for Director from the floor at any meeting of the members.

**Section 9. Voting By Mail for Directors.** The members shall be entitled to vote by mail for Directors as provided in this section. The Secretary shall mail to each member with notice of annual meeting, a ballot for Directors in a form prescribed by the Board of Directors. A member who will be absent from the Annual Meeting may vote by mail for Directors by marking the ballot for the candidate of the member's choice. The member shall return the ballot by mail, or in person, to the Cooperative in a sealed plain envelope inside another envelope bearing the member's name. If the ballot of the member is received by the Cooperative on or before the date of the Annual Meeting, the ballot shall be accepted and counted as the vote of the absent member. In the event of a tie in the number of votes for a Director in any district, the winner shall be decided by a flip of a coin.

#### **ARTICLE IV. Meetings of Directors**

**Section 1. Regular Meetings.** A regular meeting of the Board of Directors may be held without notice other than this By-Law, 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 and at such time and place as the Board may provide by resolution. Such regular monthly meetings may be held without notice other than such resolution fixing the time and place thereof.

**Section 2. Special Meetings.** Special meetings of the Board of Directors may be called by the Chairperson or any three (3) Directors. The person or persons authorized to call special meetings of the Board of Directors may fix the time and place thereof (which shall be within the area served by the Cooperative) for the holding of any special meeting of the Board of Directors called by them.

**Section 3. Notice.** Notice of the time, place and purpose of any special meeting shall be given at least two (2) days previous thereto, by written notice, delivered personally or mailed to each Director at the Director's last known address. If mailed, such notice shall be deemed to be delivered when deposited into the United States mail in a sealed wrapper so addressed, with postage thereon prepaid. The attendance of a Director at any meeting shall constitute a waiver of such meeting, except in a case a Director shall attend a meeting for the express purpose of objecting to the transaction of any business because the meeting shall not have been lawfully called or convened.

**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 shall be present at said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

**Section 5. Manner of Acting.** The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

## **ARTICLE V. Officers**

**Section 1. Number.** The officers of this Cooperative shall be President, Vice President, Treasurer and Secretary. The offices of Secretary and Treasurer may, upon resolution of the Board of Directors, be combined and, when so combined, the person filling such office shall be termed "Secretary-Treasurer." If the offices of Secretary-Treasurer are combined, the Board of Directors may elect an "Assistant Secretary-Treasurer". The Board of Directors may elect such additional officers as it deems appropriate.

**Section 2. Election.** The officers of the Cooperative shall be elected, by ballot, annually by the Board of Directors at the first meeting of the Board of Directors held after each 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 for the term of one (1) year and until a successor shall have been duly elected and qualified.

**Section 3. Vacancies.** A vacancy in any office may be filled by the Board of Directors for the unexpired portion of the term.

**Section 4. President.** The President

- A. shall preside at all meetings of the members and the Board of Directors;
- B. may sign, with the Secretary, or any other proper officer of this Cooperative, authorized by the Board of Directors, any deeds, mortgages, 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 By-Laws to some other officer or agent of this Cooperative, or shall be required by law to be otherwise signed or executed; and
- C. in general shall perform all duties incident to the office of the President and such other duties as may be prescribed by the Board of Directors from time to time.

**Section 5. Vice-President.** In the absence of the President, or in the event of the President's inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all of the

restrictions upon the President and shall perform such other duties as from time to time may be assigned to the President by the Board of Directors.

**Section 6. Secretary.** The Secretary shall:

- A. keep the minutes of the members and the Board of Directors meetings in one or more books provided for that purpose;
- B. see that all notices are duly given in accordance with these By-Laws or as required by law;
- C. be custodian of the corporate records;
- D. keep a register of the post office address of each member which shall be furnished to the Secretary by such member; and,
- E. in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the Board of Directors.

Upon the request of the Secretary, the Board of Directors shall authorize the Secretary to delegate any or all of the duties to responsible employees of the Cooperative.

**Section 7. Treasurer.** The Treasurer shall:

- A. have charge and custody of and be responsible for all funds and securities of the Cooperative;
- B. receive and give receipts for monies due and payable to the Cooperative from any source whatsoever, and deposit all such monies in the name of the Cooperative in such banks or other depositories as the Cooperative selects; and,
- C. in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to the Treasurer by the Board of Directors.

Upon the request of the Treasurer, the Board of Directors shall authorize the Treasurer to delegate any or all of the duties to responsible employees of the Cooperative.

**Section 8. Manager.** The Board of Directors may appoint a manager who shall perform such duties as the Board of Directors may from time to time require. The Board of Directors may also delegate to the manager specified responsibilities of the office of Secretary and the office of the Treasurer which may be performed by the Manager.

**Section 9. Bonds of Officers.** The Board of Directors shall require the Treasurer or any other officer or employee of this Cooperative charged with responsibility for the custody of any of its funds or property to give surety or sureties containing such terms and conditions as it shall determine.

**Section 10. Salaries.** The salaries, duties, and terms of employment of the officers of the Cooperative and other employees shall be fixed and determined by the Board of Directors.

**Section 11. Reports.** The officers of this Cooperative shall submit at each annual meeting of the members reports covering the business of the Cooperative for the previous fiscal year and showing the condition of the Cooperative at the close of such fiscal year.

## **ARTICLE VI. Earnings - Distribution**

**Section 1. Members and Patrons.** The Cooperative shall at all times be operated on a cooperative non-profit basis for the mutual benefit of its members. For purposes of this Article VI, a member means a person or entity that purchases or takes delivery of electric energy from facilities owned by the Cooperative and receives an allocation of patronage capital. A patron means a person or entity that is not a member, but purchases a product or services from the Cooperative other than the purchase or delivery of electrical energy, and does not receive an allocation of patronage capital.

**Section 2. Patronage Capital in Connection with Delivering Electric Energy.** In the delivery of electric energy from facilities owned by the Cooperative, the Cooperative's operation shall be so conducted that all members 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 of its members, 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 members as capital. The Cooperative is obligated to pay by credits to a capital account for each member 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 the capital, if any, so furnished by each member is clearly reflected and credited in an appropriate record of the capital account of each member. All such amounts credited to the capital account of any member shall have the same status as though they had been paid to the member in cash in

pursuance to a legal obligation to do so and the member had then furnished the Cooperative corresponding amounts for capital.

In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credits shall be retired without priority on a pro-rata basis. If, at any time prior to dissolution or liquidation, the Board of Directors shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital then credited to member's accounts may be retired in full or in part. The Board of Directors shall determine the method, basis, priority, and order of retirement, if any, for all amounts heretofore or hereafter furnished as capital. In no event, however, shall any capital be retired contrary to the provisions of any unsatisfied mortgage executed by the Cooperative.

The members and patrons of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the Articles of Incorporation and By-Laws shall constitute and be a contract between the Cooperative and each member and patron, and both the Cooperative and the members and patrons are bound by such contract, as fully as though each member and patron had individually signed a separate instrument containing such terms and provisions. The provisions of the Articles of Incorporation and By-laws shall be called to the attention of each member and patron of the Cooperative by posting in a conspicuous place in the Cooperative's office.

The Cooperative may deduct a reasonable service charge against the capital credits of a member who has not claimed them beginning one (1) year after the capital credits are declared payable. The amount of such service charge shall be based on the current cost of handling the capital credit account of the member.

**Section 3. Patronage Refunds in Connection with Furnishing Other Services.** In the event that the Cooperative should engage in the business of furnishing goods or services other than delivery of electric energy, all amounts received and receivable therefrom which are in excess of costs and expenses properly chargeable against the furnishing of such goods or services may be allocated annually to the members of this Cooperative. The Board of Directors shall determine the method, basis, priority and order of retirement, if any, for all such amounts heretofore or hereafter furnished as capital.

## **ARTICLE VII. Disposition of Property**

The Cooperative may, at any meeting of its Board of Directors sell, mortgage, lease or exchange its facilities, property rights, privileges and franchises upon such terms and conditions as the Board of Directors may deem expedient and for the best interests of the Cooperative; provided, however, that if such sale or transfer contemplates a sale of more

than 25% of the facilities, property rights, privileges and franchises of the Cooperative with no offsetting exchange of facilities, authorization therefore must first be obtained by the affirmative vote of eighty (80%) percent of the members given at a meeting duly called for that purpose, or when authorized by the written consent of eighty (80%) percent of the members provided that such affirmative vote or written consent of the members shall also represent the affirmative vote or written consent of at least eighty (80%) percent of the individual members of the Cooperative; and provided further, however, that notwithstanding anything herein contained, the Board of Directors without authorization by the members shall have full power and authority to borrow money from the United States of America or any agency or instrumentality thereof or from any other lending institution and in connection with such borrowing to authorize the making and issuance of bonds, notes or other evidence of indebtedness and to secure the payment thereof, to authorize the execution and delivery of a mortgage or mortgages, or a deed or deeds of trust upon, or the pledging or encumbering of any or all of the property, assets, rights, privileges, licenses, franchises, and permits of the Cooperative, whether acquired or to be acquired, and wherever situated all upon such terms and conditions as the Board of Directors shall determine.

#### **ARTICLE VIII. Amendments**

These By-Laws may be altered, amended or repealed by the affirmative vote of at least 2/3rds of the members present or represented by mailed vote at any annual or special meeting, provided however, that the notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal.