

# By Laws of Benton Cooperative Telephone Company

(Revision approved April 19, 2021)

## ARTICLE I MEMBERSHIP

### 1.1 Eligibility.

Any person, firm, association, corporation or body politic or subdivision thereof will become a member of Benton Cooperative Telephone Company (hereinafter called the "Cooperative") upon receipt of telecommunications and/or information services at a location within the landline telephone service exchange boundaries of the Cooperative as established by the Minnesota Public Utilities Commission for the Bock, Foreston, Gilman, Ramey and Rice exchanges (hereinafter referred to simply as "services") from the Cooperative. Membership is automatic and instantaneous upon receipt of service; however, each member shall:

- 1.1.1 Make a written application for membership for the Cooperative records;
- 1.1.2 Agree to purchase services from the Cooperative in accordance with established tariffs, as well as pay other charges for services that the member uses and the Cooperative is obligated by law or contract to collect;
- 1.1.3 Agree 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
- 1.1.4 Pay any application fee as hereinafter may be specified.

The status of all memberships shall be as reflected upon the books of the Cooperative and no membership certificates will be issued.

### 1.2 Definition and Classifications.

- 1.2.1 Membership in the Cooperative is effected by:
  - 1.2.1.1 Procuring the Cooperative's central office dial tone, or
  - 1.2.1.2 Providing a continuing periodic telecommunications and/or information services revenue stream for the Cooperative. The Board of Directors will determine under rules of general application the types and amounts of revenue streams or the types and amounts of patronage that give rise to the privileges and obligations of membership.
- 1.2.2 The Cooperative may have one or more classes of members to accommodate the various types of services. If the Cooperative has more than one class of membership, the definitions, the types, the qualifications and rights of each class shall be determined by the Board of Directors and set forth in these Bylaws.
- 1.2.3 Exchange and interexchange carriers who participate with the Cooperative in the provision of telecommunications services and/ or information services to members are not members and not entitled to patronage by virtue of division of revenue contracts or other contracts.
- 1.2.4 Regardless of ownership, whether time-share, condos, homes or townhomes, Airbnb, VRBO and similar occupancy models, the person (including natural persons, corporations, LLC's etc.), responsible for paying an account for services from the Cooperative will be deemed to hold the membership. No one person may hold more than one membership in the Cooperative. No membership in the Cooperative shall be transferrable, except on the books of the Cooperative and as provided for in these Bylaws. Any issue arising as to how this provision is to be applied shall be in the sole discretion of the Board of Directors.
- 1.2.5 Membership Number. Membership in the Cooperative will be evidenced by a Membership Number assigned to each member. A record of the numbers of all members shall be maintained by the Cooperative in a Register of Members at its principal office. Any member may request his or her current number designation at all reasonable times by directing an inquiry to the Cooperative offices. The Register of Members shall be deemed to be a corporate record.

- 1.2.6 Joint Membership. A married couple or two others who are not married may apply for a joint membership and, subject to their compliance with the requirements set forth in Section 1 of this Article, may be accepted for such membership. The term "member" as used in these Bylaws shall be deemed to include a married couple or two others who have a joint account and are not married (Joint Members) holding a joint membership and any provisions relating to the rights and liabilities of membership shall apply equally with respect to the holders of a joint membership. Without limiting the generality of the foregoing, the effect of the hereinafter specified actions or in respect of the holders of a joint membership shall be as follows:
- 1.2.6.1 The presence at a meeting of either or both Joint Members shall be regarded as the presence of one member and shall constitute a joint waiver of notice of the meeting;
  - 1.2.6.2 The vote of Joint Member separately or jointly shall constitute one joint vote;
  - 1.2.6.3 A waiver of notice signed by either or both Joint Members shall constitute a joint waiver;
  - 1.2.6.4 Notice to either Joint Member shall constitute notice to both;
  - 1.2.6.5 Expulsion of either shall terminate the joint membership;
  - 1.2.6.6 Withdrawal of either Joint Member, including divorce, shall terminate the joint membership;
  - 1.2.6.7 Either Joint Member, but not both, may be elected or appointed as an officer or Board of Directors if individually qualified;
  - 1.2.6.8 Upon the death of either Joint Member who is a party to the joint membership, such membership shall be converted to an individual membership. However, the estate of the deceased shall not be released from any debts due the Cooperative.

### **1.3 Purchase of Services.**

Each person who applies for service shall, as soon as service is available, take service from the Cooperative. The member shall pay therefore monthly at rates established by the Board of Directors, or, for the services rendered by other carriers, at the rates which the Cooperative is obligated to bill and collect by contractual arrangements with other carriers. It is expressly understood that amounts received by the Cooperative for all services in excess of cost are furnished by members from the moment of receipt as capital, and each member shall be credited with the capital so furnished as provided in these Bylaws. However, the Cooperative is not obligated to furnish such credits for services which are not billed and collected by the Cooperative, even when such services are partially rendered over the facilities of the Cooperative. Each member shall pay the above amounts owed by him or her to the Cooperative as and when the same shall become due and payable.

### **1.4 Termination of Membership.**

- 1.4.1 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 (2/3) 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 Cooperative, but only if such member shall have been given notice by the Cooperative that such failure makes him or her 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
- 1.4.2 Upon the withdrawal, death, cessation of service or expulsion of a member, the membership of such member shall thereupon terminate and will be so recorded on the books of the Cooperative. Termination of membership in any manner shall not release a member or his or her estate from any debts due the Cooperative nor do unpaid bills release members from their obligations under these Bylaws or rules and regulations approved by the Board of Directors.

## **ARTICLE II RIGHTS AND LIABILITIES OF THE COOPERATIVE AND THE MEMBERS**

### **2.1 Service Obligations.**

- 2.1.1 The Cooperative will use reasonable diligence to furnish adequate and dependable services, but cannot and does not guarantee uninterrupted services, nor will it always be able to provide every service desired by each Individual member.
- 2.1.2 The members pledge to purchase services from the Cooperative to the extent that its services are able to meet the members' needs and are competitively priced.

## **2.2 Cooperation of the Members in the Extension of Services.**

The cooperation of members of the Cooperative is imperative to the successful, efficient, and economical operation of the Cooperative. Members who are receiving or who are requesting service shall be deemed to have consented to the reasonable use of their real property to construct, operate, maintain, replace or enlarge telephone and/or communications lines, overhead or underground, including all conduit, cables, wires, surface testing terminals, markers and other appurtenances under, through, across, and upon any real property or interest therein owned or leased or controlled by said member for the furnishing of telephone or communication service to said member, or any other member, at no cost to the Cooperative. When requested by the Cooperative, the member does agree to execute any easement or right-of-way contract on a form to be furnished by the Cooperative.

## **2.3 Nonliability 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.

## **2.4 Property Interest of Members.**

Upon dissolution, after:

- 2.4.1 All debts and liabilities of the Cooperative shall have been paid;
- 2.4.2 All capital furnished through patronage (fees charged to the members for telecommunications and/or information services provided by the Cooperative) shall be retired as provided in these Bylaws; and
- 2.4.3 The remaining property and assets of the Cooperative shall be distributed as provided in these Articles of Incorporation, Bylaws and Minnesota Statute among those persons who were members on the date of the member meeting at which the dissolution of the Cooperative was approved by the members, the proportion which the aggregate patronage of each such member bears to the total patronage of all such members and such former members on the date of dissolution unless otherwise provided by law.

# **ARTICLE III MEETINGS OF MEMBERS**

## **3.1 Annual Meeting.**

The annual meeting of the members shall be held at a date and place within the State as selected by the Board of Directors and shall be designated in the Notice of Meeting for the purpose of electing the Board of Directors, passing upon reports for the previous fiscal year and transacting such other business as may come before the meeting. It shall be the responsibility of the Board of Directors to make adequate plans and preparations for the annual meeting. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the Cooperative, nor affect the validity of any corporate action.

## **3.2 Special Meetings.**

Special meetings of the members may be called by resolution of the Board of Directors, or upon a written request signed by a majority of the Board of Directors, by the President, or by not less than twenty percent (20%) of all of the members, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. Special meetings of the members may be held at any place within one of the counties served by the Cooperative as designated by the Board of Directors and shall be specified in the Notice of the special meeting.

## **3.3 Notice of Members' Meetings.**

- 3.3.1 Notice of Annual Meeting. The Secretary of the Cooperative shall give notice of the annual meeting by publication in a legal newspaper published in the county of the principal place of business of the Cooperative, at least fifteen (15) days prior to the date of the meeting, or by mailing notice thereof to each and every member personally, or in the case of an association, to the Secretary thereof, at the member's last known post office address, not less than fifteen (15) days previous to the date of the meeting.
- 3.3.2 Notice of Special Meeting.  
It shall be the duty of the President to cause notice of the time, place and purpose of the special meeting in the manner provided in Section 3.3.1 above. The notice shall be issued within ten, (10) days from and after the date of the presentation of such petition, and such special meeting shall be held within thirty (30) days from and after the date of the presentation of the petition.

## **3.4 Postponement of a Meeting of the Members.**

In the event of inclement weather or the occurrence of a catastrophic event, the meeting of the members may be postponed by the President. Notice of the adjourned meeting shall be given by the President in any media of general circulation or broadcast serving the area.

### **3.5 Quorum**

As long as the total number of members of the Cooperative does not exceed five hundred (500), ten percent (10%) of the total number of members shall constitute a quorum. In the case the total number of members exceeds five hundred, fifty (50) members shall constitute a quorum. In determining a quorum at a meeting, on a question submitted to a vote by mail on a ballot approved by the Board of Directors, both members present at the meeting and those represented by a mail vote on that question shall be counted to constitute a quorum for purposes of deciding that matter. In determining a quorum at a meeting for matters which have not been submitted to a vote by mail, only those members present at the meeting shall be counted to constitute a quorum. Those members present at a meeting will be established by a registration of those members.

If less than a quorum is present at any meeting, a majority of those present may adjourn the meeting from time to time without further notice.

### **3.6 Voting.**

Each member shall be entitled to only one vote upon each matter submitted to a vote at or in conjunction with a meeting of the members. All issues with respect to voting shall be governed according to the latest edition of Rules of Order used by the Cooperative unless otherwise specified by law or the Articles of Incorporation or these Bylaws. Voting by members other than members who are natural persons shall be allowed upon presentation to the Cooperative, prior to each member meeting, satisfactory evidence entitling the person presenting the same to vote. All questions, except those involving multiple choice issues or determinations, shall be decided by a vote of a majority of members voting except as otherwise provided by law, the Articles of Incorporation, or these Bylaws. Multiple choice issues or determinations shall be decided by a plurality vote.

Any matter to be determined by vote of the members in conjunction with an annual or special meeting of the members, except a special meeting of members to remove a Director, shall be exclusively by mail, on a ballot herein prescribed, upon any motion, resolution or amendment to be acted upon at such meeting. The ballot 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 enacted upon at such meeting and the date of the meeting; and shall also contain spaces opposite the text of such motion, resolution or amendment in which such member may indicate his or her affirmative or negative vote thereon. Such member shall express his or her choice by making an "X" in the appropriate space upon such ballot. Such ballot shall be signed by the member, if an individual, or if a corporation, by the President or Secretary thereof, or in the case of Joint Members, by either or both Joint Members, and when received by the Secretary of the Cooperative, shall be accepted and counted as the vote of the member. In the case of Joint Members, the vote shall count as one member. The failure of any member to receive a copy of any such motion or resolution or ballot shall not invalidate any action which may be taken by the Cooperative pursuant to such motion or resolution.

### **3.7 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 conducted under policies established by the Board of Directors and under an agenda essentially as follows, except as otherwise determined by the members at such meeting:

- 3.7.1 Report on the number of members present in person in order to determine the existence of a quorum.
- 3.7.2 Reading of the Notice of the Meeting and proof of the timely publication or mailing thereof, or the waiver or waivers of Notice of Meeting, as the case may be.
- 3.7.3 Reading of unapproved minutes of previous meetings of the members and the taking of necessary action thereon.
- 3.7.4 Audit report of outside auditors or a summary thereof.
- 3.7.5 Election of Board of Directors.
- 3.7.6 Presentation and consideration of reports of officers, management or committees.
- 3.7.7 Unfinished business.
- 3.7.8 New business.
- 3.7.9 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 an 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**

### **4.1 General Powers.**

The business and affairs of this Cooperative shall be managed by a Board of Directors which shall exercise all of the powers of the Cooperative except such as are by law, the Articles of Incorporation or these Bylaws conferred upon or reserved to the members. There shall be five Directors (number of directors approved April 2014).

### **4.2 Election Process and Term of Office.**

Directors shall be elected by and from the members to serve a five-year term, or, until their successors shall have been elected and shall have qualified, and that the terms of the directors shall be staggered to ensure continuity. Directors shall be elected by a secret ballot at each annual meeting when there is competition for the Board of Directors seat(s) to be filled. If the nomination for a Board of Directors seat names only one person and is uncontested, the election may be made by the casting of a single vote. There shall be one Director for each of the telephone exchanges in the Benton Cooperative Telephone Company system. The election of members of the Board of Directors, was set as follows:

Director from the Bock exchange in 2015;  
Director from the Ramey exchange in 2016;  
Director from the Rice exchange in 2017;  
Director from the Gilman exchange in 2018;  
Director from the Foreston exchange in 2019; and

Thereafter all Directors shall be elected in the sequence described above.

### **4.3 Qualifications to be Nominated, to Become, or Remain a Director.**

Any member shall be eligible to be nominated, elected, and remain a Director of the Cooperative provided that he or she:

- 4.3.1 Resides in the geographic area from which he or she is elected and has resided there for more than two hundred and forty (240) days during the last twelve (12) month period.
- 4.3.2 Is not an employee of the Cooperative, nor has been an employee of the Cooperative within five years prior to taking office as a Director, nor is in any way employed by, or financially interested in a competing enterprise, or a business selling communication services or supplies to the Cooperative, or a business primarily engaged in the selling of communication service or telephone supplies to the members of the Cooperative.
- 4.3.3 Is NOT closely related to an incumbent Director or an employee of the Cooperative. As used here, "closely related" means a person who is related to the principal person by consanguinity or affinity, to the second degree or less-that is, a person who is either a spouse, child, grandparent, parent, brother, sister, aunt, uncle, nephew, or niece, by blood or in law, of the principal. However, no incumbent Director shall lose eligibility to remain a Director or to be reelected as a Director if he or she becomes a close relative of another incumbent Director or of a Cooperative employee because of a marriage to which he or she was not a party; neither shall an employee lose eligibility to continue in the employment of the Cooperative if he or she becomes a close relative of a Director because of a marriage to which he or she was not a party. In the event of a marriage between a Director and an employee, either party may resign, but if the employee does not resign, the Director is deemed to have resigned. To remain a Director, the incumbent must attend two-thirds (2/3) or more of the regular meetings during each twelve (12) month period, beginning with the month of his or her election. Upon establishment of the fact that a Director or nominee is in violation of any of the provisions of this section, that office or nomination shall be deemed vacant. Nothing in this section shall affect, in any manner whatsoever, the validity of any action taken at any meetings of the Board of Directors.

### **4.4 Nominations.**

- 4.4.1 Any ten (10) or more members who reside in any one exchange may nominate an eligible member from that exchange as a candidate for a Director position for that exchange. Such nominations shall be in writing, signed by said members, and shall be delivered to the Secretary at least fifty-six (56) days before the originally scheduled Annual Meeting of the Cooperative. The Secretary shall cause to be posted such nominations in the main office of the Cooperative at least thirty (30) days before the originally scheduled Annual Meeting.

- 4.4.2 The Board of Directors may appoint, not less than forty-five (45) days or more than ninety (90) days before the originally scheduled date of a meeting, at which Directors are to be elected, a nominating committee consisting of not less than five (5), nor more than eleven (11) members who shall be selected from different geographic areas so as to ensure equitable representation. At least one member of the committee shall be selected from each exchange in the Cooperative. No Director, close relative of a Director, or employee of the Cooperative may serve on such committee.
- 4.4.2.1 If the members in any exchange shall fail to nominate a nominee (or nominees) as provided in 4.4.1 above, then the nominating committee shall nominate one (1) or more members who reside in said exchange for director. This shall in no way limit the power of the committee to nominate a member, or members, to serve as a candidate for the position of director in any exchange even if there are nominees presented as provided in 4.4.1.
- 4.4.2.2 The committee, keeping in mind the principle of equitable representation, shall prepare and present to the Secretary of the Cooperative a list of nominations for the Board of Directors which shall include as many nominees for each Director position as the committee deems desirable. The Secretary shall cause to be posted at the principal office of the Cooperative at least thirty (30) days before the Annual Meeting a list of the committee nominations.
- 4.4.3 The Secretary shall be responsible for mailing with the Notice of the Meeting, or separately, but at least fifteen (15) days before the date of the member meeting, a statement of the number of Board of Directors to be elected and the names and addresses of the candidates nominated by the members as provided in 4.4.1 or the committee on nominations as provided in 4.4.2.
- 4.4.4 No member may be elected as a Director unless nominated in the manner provided by 4.4.1, 4.4.2, or 4.4.2.1. No write-in ballots shall be accepted.

#### **4.5 Election of Directors.**

Contested election of Directors shall be exclusively mail in ballot approved by the Directors. Such ballots shall arrange the names of the candidates alphabetically by last name and shall also indicate what particular exchange it is for. Further, the ballot shall also designate the candidates nominated by the committee and those nominated by members. Each member (Joint Members have one vote) of the Cooperative shall be entitled to vote for one (1) candidate for each seat for which a Director is to be elected. The candidate for each seat for a Director to be elected who receives a plurality of votes cast for that office at such meeting shall be declared elected as a Director. Failure of an election for a given year shall allow the incumbent Directors whose directorships would have been voted on to holdover only until the next member meeting at which a quorum is present. In an uncontested election of directors, a voice vote of one at the meeting may be permitted to fill the seat.

#### **4.6 Removal of Director by Members.**

Any member may bring charges, relating to the duties and responsibilities of his or her position, against a Director and, by filing with the Secretary such charges in writing together with a petition signed by at least ten percent of the members, or two hundred, whichever is the lesser, may request the removal of such Director by reason thereof. Such Director shall be informed in writing of the charges at least ten days prior to the meeting of the members at which the charges are to be considered and shall have an opportunity at the meeting to be heard in person or by counsel to present evidence in respect to the charges; and the person or persons bringing the charges against him or her shall have the same opportunity. The question of the removal of such Director shall be considered and voted upon at the meeting of the members. No Director shall be removed from office unless by a vote of two-thirds (2/3) of the members present.

#### **4.7 Resignation of Director.**

A Director may resign at any time by written notice delivered to the Board of Directors, the President or Secretary of the Cooperative. A resignation is effective when the notice is delivered unless the notice specifies a future date. The pending vacancy may be filled before the effective date, but the successor shall not take office until the effective date.

#### **4.8 Vacancies.**

Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors until the next regular or special meeting of the members, at which meeting the members, regardless of whether or not the vacancy had been filled by the Board of Directors, must elect a Director for the unexpired term in the same manner and under such conditions as provided in sections 4.3, 4.4 and 4.5 above. If a Director duly elected by the membership moves his or her residence to another exchange of the Cooperative, he or she may continue to serve as Director for his or her former area until the next regular election for that exchange.

#### **4.9 Compensation.**

Directors shall, as determined by resolution of the Board of Directors, receive a fixed sum for each day or portion thereof spent on Cooperative business, such as attendance at meetings, conferences, and training programs, or performing committee assignments when authorized by the Board of Directors. If authorized by the Board of Directors, Directors may also be reimbursed for expenses actually and necessarily 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. Directors who elect to participate may be extended various forms of insurance as well as participation in benefits provided to employees, except for benefits based on salary. No Director shall receive compensation for serving the Cooperative in any other capacity, nor shall any close relative of a Director, receive compensation for serving the Cooperative unless the payment and amount of compensation shall be specifically authorized by a vote of the members or the service by the Director or his or her close relative shall have been certified by the Board of Directors as an emergency measure. For purpose of this section, "close relative" includes grandparent, parent, spouse, wife, child, grandchild, brother, sister, aunt, uncle, nephew, and niece by blood, by marriage, or by adoption, and spouse of any of the foregoing.

#### **4.10 Rules, Regulations, Rate Schedules and Contracts.**

The Board of Directors shall have power to make, adopt, amend, abolish and promulgate such rules, regulations, rate schedules, contracts, security deposits or any other types of deposits, payments or charges including contributions in aid of construction, not inconsistent with law or the Certificate of Incorporation or Bylaws, as it may deem advisable for the management, administration and regulation of the business and affairs of the Cooperative, or cause such to be submitted for any appropriate governmental regulatory approval. Further, the Board of Directors may constitute itself into committees for the purpose of studying and making recommendations to the full Board of Directors in the course of its decisional process.

#### **4.11 Accounting Systems and Reports.**

The Board of Directors shall cause to be established and maintained a complete accounting system of the Cooperative's financial operations and condition, and shall, after the close of each fiscal year, cause to be made a full, complete and independent audit of the Cooperative's accounts, books and records reflecting financial operations during, and financial condition as of the end of, such year. A full and accurate summary of such audit reports shall be submitted to the members at, or prior to, the succeeding annual meeting of the members. The Board of Directors may authorize special audits, complete or partial, at any time and for any specified period of time.

## **ARTICLE V MEETINGS OF THE BOARD OF DIRECTORS**

#### **5.1 Regular Meetings.**

A regular meeting of the Board of Directors shall be held as soon after the annual meeting as reasonably possible, at a time and place as designated by the Board of Directors. Additional regular meetings of the Board of Directors shall be held at a time and place designated by the Board of Directors, but at a minimum of ten times per year. Regular meetings so designated may be held without further notice. Unless specifically prohibited by law, meetings, regular or special, may be conducted through the use of conference telephone or other communications equipment by means of which all persons participating in the meeting can communicate with each other in real time. Such participation will constitute attendance and presence in person at the meeting of the persons so participating.

#### **5.2 Special Meetings.**

Special meetings of the Board of Directors may be called by the President or by 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 Board of Directors calling the meeting shall fix the time and place for the holding of the meeting.

#### **5.3 Notice of Board of Directors Meetings.**

Written notice of any meeting of the Board of Directors stating the purpose, time, and whether the meeting will be held at a place or by audio or video teleconferencing (if the meeting will be held via audio or video teleconferencing, directions on connecting to such conference shall be included) shall be delivered to each Director personally or by mail or email, at the direction of the Secretary, or upon the default in duty by the Secretary, by the President or one of 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 or her address, as it appears on the records of the Cooperative, with first-class postage thereon prepaid, at least three (3) business days before the date set for the meeting. If such notice is sent by email, it shall be considered delivered so long as a receipt of delivery from the recipient is received at least seventy-two (72) hours before the scheduled meeting.

#### **5.4 Quorum**

A majority of the Board of Directors shall constitute a quorum, provided that if less than such majority of the Board of Directors is present at said meeting, a majority of Directors present may adjourn the meeting from time-to-time; and 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 Directors present and voting 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 or by the parliamentary procedure or special rules adopted by the Cooperative. Directors may not vote by proxy at regular or special Board of Directors meetings.

#### **5.5 Unanimous Consent in Writing.**

Unless otherwise prohibited by law, the Board of Directors actions may be taken without a meeting and without a vote if unanimous consent of the Directors is obtained in writing setting forth the action taken in detail and the detail is signed by all Directors entitled to vote.

## **ARTICLE VI OFFICERS**

#### **6.1 Numbers and Titles.**

The officers of the Corporation shall be President, Vice President, Secretary, and 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. The officers shall be elected from the Board of Directors.

#### **6.2 Election and Term of Office.**

The officers shall be elected by ballot, if there is a contest, and if not, by voice vote or any other method designated by the person presiding. They shall be elected 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 as provided in paragraph 5.1 above. 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 a successor shall have been elected and shall have qualified. Except as otherwise provided in these Bylaws, a vacancy in any office shall be filled by the Board of Directors for the unexpired portion of the term.

#### **6.3 Removal of Officers and Agents.**

Any officer as defined in 6.1 above or an agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Cooperative will be served thereby. In addition, any member of the Cooperative may bring charges against such officer by filing with the Secretary such charges, in writing, together with a petition signed by ten percent (10%) of the members or 200, whichever is fewer, requesting the removal of such officer. The officer against whom such charges have been brought shall be informed in writing of the charges at least ten (10) days prior to the Board of Directors meeting at which the charges are to be considered. The officer shall have an opportunity, at the meeting, to be heard in person or by counsel and to present evidence in respect of the charges against him or her; and the person or persons bringing the charges shall have the same opportunity. In the event the Board of Directors does not remove such officer, the members may seek to remove that officer for cause related to the duties of that position at the next meeting of members called for that purpose.

#### **6.4 President.**

The President shall:

- 6.4.1 Be the principal officer of the corporation and unless otherwise determined by the Board of Directors, shall preside at all meetings of the Board of Directors.
- 6.4.2 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
- 6.4.3 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.

#### **6.5 Vice President.**

In the absence of the President, or in the event of his or her disability 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 or her by the Board of Directors.

#### **6.6 Secretary.**

The Secretary shall be responsible and provide for:

- 6.6.1 Keeping the minutes of the meetings of the members and of the Board of Directors in books prepared for that purpose;
- 6.6.2 Seeing that all notices are duly given in accordance with these Bylaws or as required by law;
- 6.6.3 The safekeeping of the corporate books and records and the Seal of the Cooperative and affixing the Seal of the Cooperative 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;
- 6.6.4 Keeping a register of the names and post office addresses of all members;
- 6.6.5 Keeping on file at all times a complete copy of the Articles of Incorporation and Bylaws of the Cooperative containing all amendments thereto and at the expense of the Cooperative, furnishing a copy of these Bylaws and of all amendments thereto to each member; and
- 6.6.6 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 or her by the Board of Directors.

#### **6.7 Treasurer.**

The Treasurer shall be responsible and provide for:

- 6.7.1 Custody of all funds and securities of the Cooperative;
- 6.7.2 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 financial institutions as shall be selected in accordance with the provisions of these Bylaws; provided, however, that the Treasurer shall have authority, with the approval of the Board of Directors, to delegate to the Chief Executive/General Manager the authority to appoint employees of the Cooperative to actually carry out the responsibilities set forth in this Section; and
- 6.7.3 The general performance of all the duties incident to the Office of the Treasurer and such other duties as from time-to-time may be assigned by him or her by the Board of Directors; provided, however, with respect to the duties and responsibilities of the Treasurer, the Cooperative shall indemnify and hold the Treasurer harmless against any and all losses, claims and/or damages which may be asserted against the Treasurer, in his or her official capacity, unless such claim is a result of an act personally committed or omitted by the Treasurer, resulting in loss to the Cooperative.

#### **6.8 Chief Executive/General Manager.**

The Board of Directors shall appoint a Chief Executive/General Manager who may be, but who shall not be required to be, a member of the Cooperative. The Chief Executive/General Manager shall perform such duties as the Board of Directors may from time to time require and shall have such authority as the Board of Directors may from time-to-time vest in him or her.

#### **6.9 Bonds.**

The Board of Directors may require the Treasurer and any other officer, agent, or employee of the Cooperative when charged with responsibility for the custody of any of its funds or property to give bond 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 or the Cooperative to give bond in such amount and with such surety as it shall determine. The costs of all such bonds shall be borne by the Cooperative.

#### **6.10 Compensation.**

The powers, duties and compensation of the officers, agents and employees shall be fixed or approved by the Board of Directors, subject to the provisions of these Bylaws with respect to close relatives of the Directors.

#### **6.11 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 INDEMNIFICATION OF OFFICERS, BOARD OF DIRECTORS, EMPLOYEES AND AGENTS**

### **7.1 Scope of Indemnification.**

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

### **7.2 Indemnification for Good Faith Action.**

The Cooperative shall indemnify any person who was or is a party, or is threatened to be made a party to, any threatened, pending, or completed action or suit by, or in the right of, the Cooperative to procure a judgment in its favor by reason of the fact that such person is, or was, a director, officer, employee, or agent of the Cooperative, or is, or was, serving at the request of the Cooperative as a director, officer, employee, or agent of another cooperative, association, corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorney's fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit, if such person acted in good faith, and in a manner such person reasonably believed to be in, or not opposed to, the best interest of the Cooperative. No indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for gross negligence, gross misconduct, or breach of loyalty in the performance of the duty of such person to the Cooperative, for acts of omissions that are not in good faith or involve a knowing violation of the law, or for a transaction from which a director derived an improper personal benefit, unless, and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity of such expenses as the court shall deem proper and not otherwise prohibited by law.

### **7.3 Cost of Defense Indemnified.**

To the extent that a director, officer, employee or agent of the Cooperative has been successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to in Sections 7.1 and 7.2, in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by such person in connection therewith.

### **7.4 Amount of Indemnification.**

Any indemnification under Sections 7.1 and 7.2 (unless ordered by the court) shall be made by the Cooperative only as authorized in the specific case, upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because such person has met the applicable standard of conduct set forth in Section 7.1 and 7.2. Such determination shall be made:

- 7.4.1 By the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit, or proceedings; or
- 7.4.2 If such a quorum is not obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion; or
- 7.4.3 By the members.

### **7.5 Expenses Advanced.**

Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Cooperative in advance of the final disposition of such action, suit, or proceeding, as authorized by the Board of Directors in the specific case, upon receipt of a firm commitment by or on behalf of the director, officer, employee, or agent to repay such amount, unless it shall ultimately be determined that he or she is entitled to be indemnified by the Cooperative as authorized in this Article.

**7.6 Rights of Persons Indemnified.**

The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under and Bylaws, agreements, vote of members or disinterested directors, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, or agent, and shall inure to the benefit of the heirs, executors and administrators of such a person.

**7.7 Insurance Coverage.**

The Cooperative may purchase and maintain insurance on behalf of any person who is or was a director , officer, employee, or agent of the Cooperative, or who is or was serving at the request of the Cooperative as a director, officer, employee, or agent of another cooperative, association, corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of the status of such person as such, whether or not the Cooperative would have the power to indemnify such person against such liability under the provisions of this Article.

## **ARTICLE VIII NON-PROFIT OPERATION**

**8.1 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 members. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its members.

**8.2 Patronage Capital In Connection with Furnishing Telecommunications and Information Services.**

In the furnishing of telecommunications and information services, the Cooperative's operations shall be so conducted that all members will, through their patronage, furnish capital for the Cooperative. The term "member" as used in these bylaws refers only to an end consumer of services provided by the Cooperative and expressly excludes any person, persons, or other entity reselling the local service provided by the Cooperative. In order to induce patronage and to assure that the Cooperative will be operated on a non-profit basis, the Cooperative is obligated to account on a patronage basis to all its members for all amounts received and receivable from the furnishing of telecommunications and information services in excess of operating costs and expenses properly chargeable against the furnishing of such services. All such amounts in excess of operating costs and expenses for telecommunications and information services 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 derived from telecommunications and information services. 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 member for telecommunications and information services is clearly reflected and credited in an appropriate record to the capital account of each member, and the Cooperative shall, within a reasonable time after the close of the fiscal year, notify each member of the amount of capital so credited to the member's account; provided that individual notice of such amounts furnished by each member shall not be required if the Cooperative notifies all members of the aggregate amount of such excess from telecommunications and information services and provides a clear explanation of how each member may compute and determine the specific amounts of capital so credited to the member's account. All such amounts credited to the capital account of any member shall have the same status as though it had been paid to the member in cash in pursuance of legal obligation to do so and the member had then furnished the Cooperative corresponding amounts for capital.

All nonoperating margins except those derived from furnishing goods and services other than telecommunications and information services, shall, insofar as permitted by law, be used to offset any losses incurred during the current or any prior fiscal year and, to the extent not needed for the purpose, either:

- 8.2.1 Allocated to its members on a patronage basis and any amount so allocated shall be included as part of the capital to be allocated to the accounts of the various classes of members in an equitable manner as approved by the Board of Directors, or
- 8.2.2 Used to establish and maintain a nonoperating margin reserve not assignable to members prior to dissolution of the Cooperative. So long as the Cooperative does not have a tax exempt status, all non-patronage margins, prior to dissolution of the Cooperative, shall be retained to establish reserves in a manner which is consistent with the provisions of S308A.701 of the Minnesota Statutes, which provides that a capital reserve may be established, and in addition, the Board of Directors may (1) set aside an amount not to exceed five percent of the annual net income of the Cooperative for promoting and encouraging cooperative organization; and, (2) establish and accumulate reserves for new buildings, machinery and equipment, depreciation, losses and other purposes.

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 then credited to members' accounts may be retired in full or in part. All allocations and retirements of capital shall be at the discretion and direction of the Board of Directors as to kind, timing, method, and type of assignment and distribution (Amended April 1995).

Capital credited to the account of each member shall be assignable only on the books of the Cooperative, pursuant to written instruction from the assignor and only to successors in interest or successors in occupancy, in all or in a part of such members' premises served by the Cooperative, unless the Board of Directors, acting under policies of general application, shall authorize other types of assignments. Members at any time may assign their capital credits back to the Cooperative and the Cooperative is authorized to negotiate Capital credit settlement arrangements with bankrupt members.

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 natural member, if the legal representative of his or her estate shall request in writing, that the capital credited to any such member be retired prior to the time such capital would be retired in a general retirement under provision of these Bylaws, to retire capital credited to any such member immediately upon such terms and conditions as the Board of Directors, acting under policies of general applications, and the legal representative of such member's estate shall agree upon; provided, however, that the financial condition of the Cooperative will not be impaired thereby.

When the capital credits of any member no longer receiving service from the Cooperative comes to a total amount of less than a fixed sum determined by the Board of Directors, the same shall be retired in full with such retirements made only when and at the same time that a general retirement to other members is made. During a general capital credit retirement, no checks shall be issued for less than a fixed amount determined by the Board of Directors, and the amount of such unretired capital credits will be retired in the first following year, when the total amount of capital credits qualifying for retirement exceeds that amount set by the Board of Directors, including the amount carried over. All tax refunds made by the United States Government or any of the states in connection with the final or true cost of service as determined by the capital credits allocation process may be held and used by the Cooperative as furnished patronage capital and shall be treated in the same manner as furnished capital set out in this Section of these Bylaws.

The members of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the Articles of Incorporation and Bylaws, as amended from time to time, shall constitute and be a contract both between the Cooperative and each member, and further, between all the members themselves individually. Both the Cooperative and the members are bound by such contract, as fully as though each member had individually signed a separate instrument containing such terms and provisions with the Cooperative and each of its members. The provisions of this Article of the Bylaws shall be called to the attention of each member of the Cooperative by posting in a conspicuous place in the Cooperative's office or by publication distributed by the Cooperative to its members.

## **ARTICLE IX DISPOSITION AND PLEDGING OF PROPERTY; DISSOLUTION AND DISTRIBUTION OF SURPLUS ASSETS UPON DISSOLUTION.**

### **9.1 Disposition and Pledging of Property.**

The Cooperative may not sell, lease or otherwise dispose of or encumber all or any substantial portion in excess of ten percent of its total assets unless such sale, mortgage, lease or other disposition or encumbrance is:

- 9.1.1 Authorized at a meeting of the then total members by the affirmative vote cast in person of at least two-thirds of the total members of the Cooperative, and
- 9.1.2 Authorized by the holders of at least seventy-five percent (75%) of the outstanding indebtedness of the Cooperative, and
- 9.1.3 Proceeded by a notice of meeting at which such sale, mortgage, lease or other disposition or encumbrance is to be voted on.

Notwithstanding anything herein contained, the Board of Directors of the Cooperative, without authorization by the members thereof, shall have full power and authority 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, as well as the revenues and income therefrom, all upon such terms and conditions as the Board of Directors shall determine, to secure any indebtedness of the Cooperative to the United States of America, any instrumentality or agency thereof, the Rural Telephone Bank, or other lending institutions; provided further, that the Board of Directors may upon the authorization of a majority of those members of the Cooperative present at a meeting of the members thereof, sell, lease or otherwise dispose of all or a substantial portion of its property to another cooperative or foreign corporation doing business in this State pursuant to the Act under which this Cooperative is incorporated.

Supplementary to the foregoing paragraphs of this Section and any other applicable provision of law or these Bylaws, no sale, lease, lease-sale, exchange, transfer, or other disposition within a single calendar year, of physical plant of the Cooperative with net value in excess of ten percent of the Cooperative's total assets, based upon the most recent audit of the Cooperative, shall be authorized except in conformity with the following:

- 9.1.4 If the Board of Directors looks 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) independent appraisers shall be designated by a District Court resident Judge for the Judicial District 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.
- 9.1.5 If the Board of Directors, after receiving such appraisals (and other terms and conditions which are submitted, if any) determines that the proposals should be submitted for consideration by members, it shall first give, by notice in appropriate publications, other cooperatively organized entities an opportunity to submit competing proposals. Any interested cooperatively organized entity shall be sent copies of any proposals which the Cooperative has already received and copies of the respective reports of the three (3) appraisers. Such other interested cooperatively organized entities 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.
- 9.1.6 If the Board of Directors 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 ten (10) nor more than thirty (30) days after giving the Notice thereof to the members: provided that consideration and action by the members may be given at the next annual meeting if the Board of Directors so determines and if such annual meeting is held not less than ten nor more than thirty (30) days after the giving of notice of such meeting.
- 9.1.7 Any fifty (50) or more members, by so petitioning the Board of Directors 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 have been submitted or any recommendations that the Board of Directors has made.

The provisions of 9.1 above shall not apply to a sale, lease, lease-sale, exchange, transfer, or the disposition to one or more telephone or electric cooperatives if the substantive or actual legal effect thereof is to merge or consolidate with such other one or more telephone or electric cooperatives.

## **9.2 Dissolution.**

Dissolution of this Cooperative may be made at any regular or special meeting of the members, when approved by a two-thirds (2/3) vote of all of the members voting, when a quorum is present in person or by mail vote. Dissolution proceedings shall then be commenced as a voluntary dissolution pursuant to the provisions of Chapter 308A of the laws of the State of Minnesota.

## **9.3 Distribution of Surplus Assets on Dissolution.**

Any assets remaining after all debts and liabilities of the Cooperative have been paid shall be disposed of pursuant to the provisions of Section 2.4 above; provided, however, that if in the judgment of the Board of Directors the amount of such surplus is too small to justify the expense of making such distribution, the Board of Directors 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 X SEAL

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

## ARTICLE XI FINANCIAL TRANSACTIONS

### 11.1 **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.

### 11.2 **Checks, Drafts, Etc.**

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

### 11.3 **Deposits.**

All the funds of the Cooperative shall be deposited from time-to-time to the credit of the Cooperative in such institutions as the Board of Directors may select.

## ARTICLE XII MISCELLANEOUS

### 12.1 **Membership in other Organizations.**

The Cooperative may become a member or purchase stock in other profit or nonprofit organizations, associations, partnerships, or joint ventures when the Board of Directors finds that the general or long-term interest of its membership will be served by such investments or participation.

### 12.2 **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 grounds that the meeting has not been lawfully called or convened.

### 12.3 **Rules and Regulations.**

The Board of Directors shall have power to make and adopt such rules and regulations, not inconsistent with law, the Articles of Incorporation, or these Bylaws, as it may deem advisable for the management of the business and the affairs of the Cooperative.

## ARTICLE XIII AMENDMENTS

These Bylaws may be altered, amended or repealed by the members at any regular or special meeting, provided that notice of such meeting shall have contained a copy of the proposed alteration, amendment or repeal, or an accurate summary explanation thereof; provided further, that Sections 3.6 and 3.7 (relating to voting members), Article 9 (relating to disposition of property), and Article XII (relating to amendment) of the Bylaws may be altered, amended or repealed only by the affirmative vote of not less than two-thirds (2/3) of all of the members of the Cooperative voting exclusively by mail.