

**SIXTH AMENDED AND RESTATED BYLAWS
OF
NORTH AMERICAN ENERGY MARKETS ASSOCIATION
A Minnesota nonprofit corporation
(the “Corporation”)**

**ARTICLE 1
POWERS**

Section 1.01 Powers. The Corporation shall have the powers set forth in Minnesota Statutes, Section 317A.161, as the same may be amended from time to time, subject to any limitations provided in applicable federal or state law or in the Corporation’s articles of incorporation or bylaws. All references in these bylaws to any specific federal or state law shall include any amendments thereof and any successor thereto. Said powers shall include the following:

- (a) **Duration.** The Corporation shall have perpetual duration.
- (b) **Legal capacity.** The Corporation may sue and be sued, and participate in any legal, administrative, or arbitration proceeding, in its corporate name.
- (c) **Property ownership.** The Corporation may buy, lease, acquire, own, hold, improve, use, and deal in and with, real or personal property, or an interest in property, wherever located.
- (d) **Property disposition.** The Corporation may sell, convey, mortgage, create a security interest in, lease, exchange, transfer, or dispose of all or a part of its real or personal property, or an interest in property, wherever located.
- (e) **Trading in securities; obligations.** The Corporation may buy, subscribe for, acquire, own, hold, vote, use, employ, sell, exchange, mortgage, lend, create a security interest in, dispose of, use, and deal in and with, securities or other interests in, or obligations of, a person or direct or indirect obligations of a domestic or foreign government or instrumentality.
- (f) **Contracts; mortgages.** The Corporation may make contracts and incur liabilities, borrow money, issue its securities, and secure its obligations by mortgage of or creation of a security interest in its property, franchises, and income.
- (g) **Investment.** The Corporation may invest and reinvest its funds.
- (h) **Holding property as security.** The Corporation may take and hold real and personal property, whether or not of a kind sold or otherwise dealt

in by the Corporation, and security for the payment of money loaned, advanced, or invested.

(i) **Location.** The Corporation may conduct its business, carry on its operations, have offices, and exercise powers granted by Minnesota Statutes anywhere in the universe.

(j) **Pensions: benefits.** The Corporation may pay pensions, retirement allowances, and compensation for past services and establish employee or incentive benefit plans, trusts, and provisions for the benefit of its officers, directors, employees, and agents and their families, dependents, and beneficiaries. It may indemnify and buy insurance for a fiduciary of an employee benefit and incentive plan, trust, or provision.

(k) **Participations.** The Corporation may (i) participate in the promotion, organization, management, and operations of an organization or in a transaction, undertaking, or arrangement that the participating Corporation would have power to conduct by itself, whether or not the participation involves sharing or delegation of control; and (ii) participate with others in a corporation, partnership, limited partnership, joint venture, trust, or other association of any kind that the participating Corporation would have power to conduct by itself, whether or not the participation involves sharing or delegation of control.

(l) **Corporate seal.** The Corporation may, but need not, have, alter at pleasure, and use a corporate seal. The use or nonuse of a corporate seal shall not affect the validity, recordability, or enforceability of a document or act. If the Corporation has a corporate seal, the use of the seal by the Corporation on any document is not necessary.

(m) **Bylaws.** The Corporation may adopt, amend, and repeal bylaws relating to the management of the business or the regulation of the affairs of the Corporation.

(n) **Committees.** The Corporation may establish committees of the board of directors, elect or appoint persons to the committees, define their duties, and fix their compensation.

(o) **Officers; employees; agents.** The Corporation may elect or appoint officers, employees, and agents of the Corporation, define their duties, and fix their compensation.

(p) **Insurance.** The Corporation may provide for its benefit life insurance and other insurance with respect to services of its officers, directors, employees, and agents.

(q) **Loans; guaranties; sureties.** The Corporation may lend money to, guarantee an obligation of, become surety for, or otherwise financially assist any person, as provided in Minnesota Statutes, Section 317A.501. The word

“person” as used in these bylaws includes natural person, corporation, cooperative, limited liability company, partnership, association, or other private or public entity.

(r) **Advances.** The Corporation may make advances to its directors, officers, and employees and those of its subsidiaries, as provided in Minnesota Statutes, Section 317A.505.

(s) **Indemnification.** The Corporation shall indemnify those persons identified in Minnesota Statutes, Section 317A.521, against certain expenses and liabilities as provided therein, and may indemnify other persons.

(t) **Assumed names.** The Corporation may conduct all or part of its business under one or more assumed names as provided by Minnesota Statutes, Sections 333.001 to 333.06.

(u) **May take and hold trust property.** The Corporation may take, receive, and hold real and personal property, including the principal and interest of money or other fund, that is given, conveyed, bequeathed, devised to, or vested in the Corporation in trust where the Corporation or a related organization has a vested or contingent interest in the trust.

(v) **May invest trust property.** Except when the trust instrument prescribes otherwise, the Corporation may invest trust property or its proceeds in accordance with Minnesota Statutes, Section 501B.151.

(w) **Membership.** The Corporation may be a member of another foreign or domestic nonprofit corporation.

(x) **Dissolution.** The Corporation may dissolve and wind-up.

(y) **Merger and consolidation.** The Corporation may merge and consolidate with other domestic or foreign nonprofit corporations organized for related purposes.

(z) **Other powers.** The Corporation has and may exercise other powers necessary or convenient to effect any lawful purpose for which the Corporation is incorporated.

ARTICLE 2 **OFFICES**

Section 2.01 Offices. The principal office, and any other offices, of the Corporation shall be determined by the board of directors.

ARTICLE 3 **MEMBERS**

Section 3.01 Classes of Members. The Corporation shall have two classes of members, Market Members and Associated Members (collectively, the “members”).

Section 3.02 Qualifications of Members. In order to be a Market Member of the Corporation, the entity must be an entity (including but not limited to, a public or private utility, energy marketer, power generator, energy transporter, or end-use customer) that engages in wholesale energy product transactions, whether physical or financial, which may include, but are not limited to, electricity, capacity, ancillary services, transmission service, renewable energy, and natural gas transactions. In order to be an Associated Member of the Corporation, the entity must be a vendor or other similar entity that provides products and/or services to the energy industry and also does not qualify to be a Market Member. Entities with either of the above attributes are “Qualified Entities.”

Section 3.03 Admission of Members. The board of directors has the authority to admit Qualified Entities as Market Members or Associated Members, as applicable under Section 3.02, of the Corporation. The initial Market Members of the Corporation shall consist of those members of MAPP Power and Energy Market who accept the transfer to the Corporation of their membership in MAPP Power and Energy Market by payment or acceptance of their MAPP invoice for the second quarter of 2003. Any other Qualified Entity interested in becoming a Market Member or Associated Member of the Corporation shall submit an application, on a form approved by the board of directors, to the executive director of the Corporation. Qualified Entities whose applications are approved by the board of directors shall become Market Members or Associated Members of the Corporation on payment of such fees, dues, or consideration, or no consideration, as shall be determined from time to time by the board of directors.

Section 3.04 Voting Rights. Each Market Member in good standing shall be entitled to one vote on each matter submitted to a vote of the members. Associated Members shall not be entitled to vote on any matters submitted to the members for a vote, including election of directors.

Section 3.05 Membership Certificates. The Corporation may issue certificates showing membership in the Corporation in such form as approved by the board of directors.

Section 3.06 Transfer of Membership. A member of the Corporation may not transfer its membership or a right arising from it; provided, however, a member may transfer its membership to an entity that succeeds to the business of such member, substantially in its entirety, whether by a purchase of substantially all of the assets of a member, or by merger, consolidation or otherwise, upon the approval of the board of directors.

Section 3.07 Dues Assessments and Fees. The board of directors may from time to time fix the amount of dues, assessments, or fees, if any, due and payable by the members, upon admission as a member and/or thereafter on an annual or more frequent basis. The board of directors may differentiate between Market Members and Associated Members in fixing such amounts. The board of directors may determine the methods of collection of such dues, assessments and fees, and may, upon approval of the board of directors and after reasonable notice to the member, cancel a membership for nonpayment of dues, assessment, or fees. Such membership, once cancelled, may be reinstated, upon approval of the board of directors, if such delinquent dues, assessments, or fees, together with all fines, penalties, interest and costs relating thereto, are paid in full.

Section 3.08 Liability of Members. A member of the Corporation is not, as such, personally liable for the acts, debts, or obligations of the Corporation. Notwithstanding the foregoing, each member shall be liable to the Corporation for dues, assessments, and fees determined by the board of directors from time to time. In addition, each Market Member shall be liable to the Corporation for its proportionate share, based on the total number of Market Members as of the date the budget is approved by the board of directors, of the budgeted expenses of the Corporation for the current fiscal year, if such amount is greater than the dues, assessments and fees charged by the Corporation to its members.

Section 3.09 Withdrawal. A member may withdraw from participation in the Corporation by providing written notice to the president of the Corporation of such withdrawal. Such notice shall specify a date, not earlier than thirty (30) days from the date of notice, on which the withdrawal shall become effective; provided however, that any such withdrawing member shall remain liable to the Corporation for any dues, assessments, fees, charges for goods and services or other obligations to the Corporation incurred while it was a member, including, with respect to Market Members, its proportionate share of the budgeted expenses of the Corporation for the current fiscal year, as determined in accordance with Section 3.08.

Section 3.10 Termination. A membership may be terminated or suspended by the affirmative vote of two-thirds of the entire board of directors taking into consideration all of the relevant facts and circumstances. Not less than fifteen (15) days prior written notice of the suspension or termination, and the reasons for it, shall be given to the member. The member shall be given an opportunity to be heard by the board of directors orally or in writing, not less than five (5) days before the effective date of the suspension or termination. The suspension or termination of a membership shall not relieve the member from obligations the member may have to the Corporation for dues, assessments, fees, or charges for goods or services, nor from obligations under contract(s) between the member and the Corporation.

Section 3.11 Return of Membership. Upon the cancellation or termination of a membership pursuant to Sections 3.07 or 3.10, or upon the withdrawal of a member pursuant to Section 3.09, (a) such membership in the Corporation shall be cancelled without the payment by the Corporation of any consideration to such member, (b) such

member shall have no further rights in the Corporation and (c) such member shall promptly surrender to the executive director of the Corporation its membership certificate, if any, issued pursuant to Section 3.05.

ARTICLE 4 **MEETING OF MEMBERS**

Section 4.01 Annual Regular Meeting of Members. A regular meeting of the members shall be held annually at a place, date, and time fixed by the board of directors. At a regular meeting of members: (a) there must be an election, by the Market Members, of successors for directors whose terms will expire before the next regular meeting of the members; (b) the president and executive director shall report on the activities and financial condition of the Corporation; and (c) the Market Members shall consider and act upon other matters as may be raised consistent with the notice of meeting requirements. The failure to hold a meeting in accordance with these bylaws shall not affect the validity of an action of the Corporation. If a regular meeting of the Market Members has not been held during any preceding fifteen (15) month period, at least fifty (50) Market Members or ten percent (10%) of the Market Members, whichever is less, may demand a regular meeting of members by written notice of demand given to the executive director, president, or treasurer of the Corporation, and such meeting will then be held in accordance with the requirements of Minnesota Statutes, Section 317A.431, or any successor thereto.

Section 4.02 Special Meetings of Members.

(a) **Who may call.** A special meeting of the members shall be held upon the call of the board of directors or persons authorized to do so by the bylaws or, if at least ten percent (10%) of the Market Members sign, date, and deliver to the president or the executive director one or more written demands for a meeting describing the purpose for which it is to be held, upon the request of such Market Members. Such signed and dated written demands for a meeting may be conveyed to the president or the executive director via electronic means.

(b) **Notice.** Within thirty (30) days after receipt of a demand for a special meeting from the Market Members, the board of directors shall cause a special meeting to be called and held on notice no later than ninety (90) days after receipt of the demand at the expense of the Corporation. If the board fails to cause a special meeting to be called and held as required by this Section 4.02(b), a Market Member making the demand may call the meeting by giving notice under Section 4.03 at the expense of the Corporation.

(c) **Time; place.** Special meetings of the members may be held in or out of the State of Minnesota, at the place stated in or fixed in accordance with the bylaws, or by the president or the board of directors. If a special meeting is demanded by the Market Members, the meeting must be held in the county where the Corporation's registered office is located.

(d) **Notice requirements; business limited.** The notice of a special meeting must contain a statement of the purposes of the meeting. The notice may also contain other information required by the bylaws or considered necessary or desirable by the board of directors or by another person calling the meeting. The business transacted at a special meeting is limited to the purposes stated within the notice of the meeting. Business transacted at a special meeting that is not included in those stated purposes is voidable by or on behalf of the Corporation, unless all of the Market Members have waived notice of the meeting under Section 4.03.

Section 4.03 Notice Requirements.

(a) **To whom given.** Notice of meetings of members must be given to every member as of the record date determined under Section 4.04; provided that failure to provide proper notice to an Associated Member will automatically be deemed waived and will not affect the validity of any meeting or actions taken at a meeting. If the meeting is an adjourned meeting and the date, time, and place of the meeting were announced at the time of adjournment, notice is not required unless a new record date for the adjourned meeting is or must be fixed.

(b) **When given; contents.** In all cases where a specific minimum notice period has not been fixed by law, the notice must be given at least five (5) days before the date of the meeting and not more than sixty (60) days before the date of the meeting. The notice must contain the date, time, and place of the meeting, and other information required by the bylaws. If proxies are permitted at the meeting, the notice must so inform Market Members and state the procedure for appointing proxies. Notices may be given by a form of electronic communication if the requirements of Minnesota Statutes, Section 317A.450, Subd. 5 have been met.

(c) **Waiver of notice; objections.** A Market Member may waive notice of a meeting of the members. A waiver of notice by a Market Member entitled to notice is effective whether given before, at, or after the meeting, and whether given in writing, orally, or by attendance. Attendance by a Market Member at a meeting is a waiver of notice of that meeting, unless the Market Member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, or objects before a vote on an item of business because the item may not lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

Section 4.04 Record Date; Determining Members Entitled to Notice and Vote. The board of directors may fix a date not more than forty (40) days before the date of a meeting of members as the date for the determination of (a) the members entitled to notice of the meeting and (b) the Market Members entitled to vote at the meeting. When a date is so fixed, only members on that date are entitled to notice of the meeting and only Market Members on that date are permitted to vote at that meeting of the members. A determination of members entitled to notice of a meeting of the

members and the Market Members entitled to vote at a meeting of the members is effective for an adjournment of the meeting unless the board of directors fixes a new date for determining the right to notice and to vote, which it must do if the meeting is adjourned to a date more than sixty (60) days after the record date for determining the members entitled to notice of and to vote at the original meeting.

Section 4.05 Right to Vote; Act of the Members. Each Market Member is entitled to one vote on each matter voted on by the Market Members. If a quorum is present, the affirmative vote of a majority of the Market Members present and entitled to vote, which must also be a majority of the required quorum, is the act of the members. A bylaw amendment to increase or decrease the vote required for a member action must be approved by the Market Members in the manner specified in Section 15.01. Associated Members shall not be entitled to vote on any matters submitted to the members for a vote, including election of directors.

Section 4.06 Quorum. A quorum for a meeting of members is a majority of the Market Members entitled to vote at the meeting. A quorum of the Market Members is necessary for the transaction of business at a meeting of members. If a quorum of the Market Members is not present, a meeting may be adjourned from time to time for that reason by the Market Members then present.

Section 4.07 Unanimous Action Without a Meeting. An action required or permitted to be taken at a meeting of the members may be taken without a meeting by written action signed, or consented to by authenticated electronic communication, by all of the Market Members entitled to vote on that action. The written action is effective when it has been signed, or consented to by authenticated electronic communication, by all of those Market Members, unless a different effective time is provided in the written action.

Section 4.08 Action by Written Ballot.

(a) **Action by Ballot.** An action that may be taken at a regular or special meeting of members may be taken without a meeting if the Corporation mails or delivers a written ballot to every Market Member entitled to vote on the matter.

(b) **Contents.** A written ballot must:

- (i) set forth each proposed action; and
- (ii) provide an opportunity to vote for or against each proposed action.

(c) **Vote Required.** Approval by written ballot is valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a

meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(d) Solicitations. Solicitations for votes by written ballot must:

- (i) indicate the number of responses needed to meet the quorum requirements;
- (ii) state the percentage of approvals necessary to approve each matter other than election of directors; and
- (iii) specify the time by which a ballot must be received by the Corporation in order to be counted.

(e) Revocation. A written ballot may not be revoked.

Section 4.09 Meetings by Means of Remote Communication. If determined by the board of directors, an annual or special meeting of members may be held solely by one or more means of remote communication, if notice of the meeting is given to every Market Member, and if the number of Market Members participating in the meeting is sufficient to constitute a quorum at a meeting. If determined by the board of directors, a member not physically present in person or by proxy at an annual or special meeting of members may, by means of remote communication, participate in a meeting of members held at a designated place. Participation by a member by remote communication constitutes presence at the meeting in person or by proxy if all the other requirements of Minnesota Statutes, Section 317A.453 are met.

Section 4.10 Proxies.

(a) Authorization. A Market Member may cast or authorize the casting of a vote by (i) filing a nonelectronic written appointment of a proxy, signed by the Market Member, with an officer of the corporation at or before the meeting at which the appointment is to be effective, or (ii) telephonic transmission or authenticated electronic communication, whether or not accompanied by written instructions of the Market Member, of an appointment of a proxy with the Corporation or the Corporation's duly authorized agent at or before the meeting at which the appointment is to be effective.

(b) Effective period. An appointment of a proxy is effective when received by the executive director or other officer or agent authorized to tabulate proxy votes. An appointment is valid for eleven (11) months unless a different period is expressly provided in the appointment; provided, however, that a proxy is not valid for more than three (3) years from its date of execution.

(c) Revocation. An appointment of a proxy is revocable by the Market Member. Appointment of a proxy is revoked by the person appointing the proxy by attending the meeting and voting or by signing and delivering to the executive director or other officer or agent authorized to tabulate proxy votes either a

writing stating that the appointment of the proxy is revoked or a later appointment of proxy.

ARTICLE 5 **BOARD OF DIRECTORS**

Section 5.01 Management of Corporation. The business and affairs of the Corporation shall be managed by or under the direction of a board of directors.

Section 5.02 Number. The board of directors shall consist of twelve (12) directors. A maximum of two (2) directors out of the twelve (12) may be independent directors. Independent directors are persons who are neither an officer or employee of a Market Member, nor receive compensation as a consultant or agent to represent a Market Member on the board of directors. Independent directors must be familiar with the energy industry and the Corporation. The bylaws may be amended to increase or decrease the number of directors; provided that an amendment to decrease the number of directors shall require an action of the Market Members.

Section 5.03 Qualifications. Directors shall be natural persons. A director must, at the time of election, be an officer, agent, consultant, or employee of a Market Member; or must be an independent director nominated by a Market Member as set forth in Section 5.04. Upon request, a director shall provide documentation reasonably acceptable to the Corporation to demonstrate that the director fulfills the qualification requirements set forth in this Section 5.03.

Section 5.04 Election; Tenure. Directors shall be elected at the regular meeting of the members for a term of two (2) years, and each director shall serve until his or her successor has been duly elected and qualified, unless a prior vacancy shall occur by reason of death, resignation, disqualification or removal from office. Directors shall be elected by a plurality of the voting power present and entitled to vote at a regular meeting of the members at which a quorum is present. The terms of office of the twelve (12) directors shall be staggered, such that at each regular meeting, six (6) directors shall be elected for a term of two (2) years from the date of such regular meeting; provided that, at the first regular meeting of the members following the adoption of these bylaws, six (6) of the directors shall be elected for a term of one (1) year and six (6) directors shall be elected for a term of two (2) years. Further, the term of office of the independent directors (if any) will be staggered, such that at each regular meeting, one (1) independent director may be elected for a term of two (2) years from the date of such regular meeting. Market Members shall be entitled to nominate directors and independent directors; however, during each regular meeting, Market Members may only nominate one (1) director or one (1) independent director. Directors shall take office immediately following the adjournment of the annual meeting of the members. The expiration of a director's term with or without the election of a qualified successor does not make prior or later acts of the officers or the board of directors void or voidable.

Section 5.05 Resignation of Directors. A director may resign at any time by giving written notice to the Corporation. The resignation is effective without acceptance when the notice is given to the Corporation, unless a later effective time is specified in the notice. If a resignation is made effective at a later date, the board of directors may fill the pending vacancy before the effective date if the board of directors provides that the successor does not take office until the effective date. Notwithstanding anything to the contrary herein, the death of a director during his or her term of service shall automatically constitute a resignation by such director pursuant to this Section 5.05 on the date of his or her death.

Section 5.06 Removal. A director may be removed from office, with or without cause, at any special meeting of the members duly called for that purpose, by a vote of the Market Members. At such meeting, without further notice, the Market Members may fill any vacancies created by such removal. Any vacancy not so filled may be filled by the directors as provided in Section 5.07.

Section 5.07 Vacancies. A vacancy on the board of directors may be filled by the remaining members of the board of directors, though less than a quorum, by a majority vote of the remaining directors. The successor director shall hold office for the unexpired term of the director replaced.

Section 5.08 Compensation. The board of directors shall serve without compensation by the Corporation.

Section 5.09 Reimbursement. Directors shall not have the right to reimbursement by the Corporation of expenses incurred by such directors, unless such reimbursement is authorized in advance, or later ratified, by the board of directors.

Section 5.10 Annual Meeting; Regular Meetings. An annual meeting of the board of directors shall be held without notice following the regular meeting of the members. In addition, regular meetings may be held at such time or times as fixed by the board of directors. Notice of regular meetings established by the board of directors need not be given.

Section 5.11 Special Meetings; Notice. Special meetings of the board of directors may be called by the president or by any three (3) directors and shall be held at the principal office of the Corporation, or such other place agreed upon by the board. Notice of the date, time, and place of a special meeting shall be given by the executive director not less than three (3) days prior to the meeting, or on a timeframe as otherwise agreed to, by mail, telegram, or electronic communication to each director.

Section 5.12 Quorum. A majority of the directors currently holding office is a quorum for the transaction of business. In the absence of quorum, a majority of the directors present may adjourn a meeting from time to time until a quorum is present.

Section 5.13 Board Action. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by law or these bylaws.

Section 5.14 Action Without a Meeting. Any action required or permitted to be taken at a meeting of the board of directors, other than an action requiring member approval, may be taken by written action signed, or consented to by authenticated electronic communication, by the number of directors that would be required to take the same action at a meeting of the board at which all directors were present. When written action is taken by less than all of the directors, all directors shall be notified immediately of the text of the action and its effective date.

Section 5.15 Meeting by Means of Remote Communication. Any meeting among directors may be conducted solely by one or more means of remote communication through which all of the directors may participate in the meeting, if the same notice is given of the meeting as would be required for a meeting, and if the number of directors participating in the meeting is sufficient to constitute a quorum at a meeting. A director may participate in a board meeting by means of conference telephone or any other means of remote communication authorized by the board; provided that all directors participating by remote communication and all directors physically present at the meeting may participate with each other during the meeting. Participation by a director in a meeting by remote communication constitutes presence at the meeting.

Section 5.16 Committees. A resolution approved by the affirmative vote of a majority of the board of directors may establish committees having the authority of the board of directors in the management of the business of the Corporation to the extent provided in the resolution. Committees are subject at all times to the direction and control of the board of directors. Committee members must be natural persons and must consist of one or more persons, who need not be directors, appointed (and subject to removal) by the board of directors. Minutes, if any, of committee meetings must be made available upon request to members of the committee and to the directors.

Section 5.17 Other Committees. Other committees not having and exercising the authority of the board of directors in the management of the Corporation may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. The president of the Corporation shall appoint the members thereof. Any member thereof may be removed by the president or by the board of directors, with or without cause.

ARTICLE 6 **OFFICERS**

Section 6.01 Officers. The officers of the Corporation shall be a president, one or more vice presidents (the number thereof to be determined by the board of directors), an executive director and such other officers, including a secretary, treasurer or one or more assistant secretaries or assistant treasurers, as the board of directors may deem desirable. Such officers shall have the authority and perform the duties set forth below or prescribed, from time to time, by the board of directors. The offices of president and vice president(s) must be held by members of the board of directors and must be an officer, agent, consultant, or employee of a Market Member.

Section 6.02 Election and Term of Office. The president and vice president(s) shall be elected annually by the board of directors at the annual meeting of the board of directors and shall serve for a term of one year. If the election of officers is not held at such meeting, such election shall be held as soon thereafter as is convenient. The executive director shall be appointed by the board of directors and shall serve at the pleasure of the board. Except as set forth above, all other officers may be appointed by the board of directors, and new offices may be created and filled at any meeting of the board of directors. Each officer shall hold office until a successor has been duly appointed and qualified, unless a prior vacancy shall occur.

Section 6.03 Removal. Any officer elected or appointed by the board of directors may be removed by the affirmative vote of two-thirds of the entire board of directors whenever in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 6.04 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the board of directors for the unexpired portion of the term.

Section 6.05 President; Chair of Board. The president shall be the chair of the board of directors. The president shall (a) preside at all meetings of the members and the board of directors; (b) call meetings of the members and the board of directors as provided by the bylaws and (c) perform such other duties and functions as from time to time may be assigned by the board of directors.

Section 6.06 Vice President; Vice Chair of Board. In the absence of the president, or in the event of the president's inability or refusal to act, the vice president shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. The vice president shall also perform such other duties and functions as from time to time may be assigned by the board of directors or the president.

Section 6.07 Executive Director. The board of directors shall appoint an executive director who shall be the chief executive officer of the Corporation. The executive director shall (a) have general and active management of the business of the Corporation; (b) see that all board of directors' orders, resolutions, and directions are carried into effect; (c) sign and deliver in the name of the Corporation, all deeds, mortgages, bonds, contracts, membership certificates and other instruments of the Corporation that may be authorized by the board of directors; (d) record the minutes of the meetings of the members and of the board of directors; (e) duly give all required notices in accordance with these bylaws, and as required by law; (f) maintain, in a safe and secure manner, all of the corporate records of the Corporation and, when necessary, certify proceedings of the board of directors and members; (g) maintain a register of the current names and post office addresses of all members; (h) keep on file at all times a complete copy of the articles of incorporation and bylaws of the

Corporation containing all amendments thereto, which copies shall always be open to the inspection of any member and (i) perform other duties and functions as from time to time may be assigned by the board of directors.

Section 6.08 Treasurer. In addition, unless the board of directors appoints a treasurer to fulfill the following duties, the executive director shall exercise the duties and functions of the office of treasurer and shall (a) keep accurate financial records for the Corporation; (b) deposit money, drafts and checks in the name of and to the credit of the Corporation in the banks and depositories designated by the board; (c) endorse for deposit notes, checks and drafts received by the Corporation as ordered by the board, making proper vouchers for the deposit; (d) disburse corporate funds and issue checks and drafts in the name of the Corporation, as ordered by the board and (e) upon request, provide the president and the board of directors an account of transactions by such officer and of the financial condition of the Corporation.

ARTICLE 7 **CERTIFICATES OF MEMBERSHIP**

Section 7.01 Certificates of Membership. The board of directors may provide for the issuance of certificates evidencing membership in the Corporation, which certificates shall be in such form as may be determined by the board. Such certificates shall be signed by the president or vice president and by the executive director. All certificates evidencing membership for each class of membership shall be consecutively numbered. The name and address of each member, the class of membership represented by such certificate and the date of issuance of the certificate shall be entered on the records of the Corporation. If any certificate is lost, mutilated, or destroyed, a new certificate may be issued therefore on such terms and conditions as the board of directors may determine.

Section 7.02 Issuance of Certificates. If the board of directors determines to issue membership certificates pursuant to Section 7.01 above, a certificate of membership shall be issued to a member, in its name, when such member has been accepted for membership by the board of directors and has paid any initiation dues, assessments or other fees that may then be required.

ARTICLE 8 **REGULATORY PARTICIPANTS**

Section 8.01 Participation. Any federal, state, or provincial agency in the United States or Canada exercising regulatory authority within the energy industry may become a regulatory participant by providing written notice to the executive director. Each regulatory participant shall receive notice of the meetings of the Corporation and the committees, described in Section 5.17 and may participate in such meetings, but shall not be a member of the Corporation and shall have no vote in actions by the Corporation or its committees. Any regulatory participant may terminate its participation, effective upon its written notice to the executive director of its desire to terminate such participation.

Section 8.02 Non-Assessment. Regulatory participants shall not be assessed any dues, assessments, fees or other charges.

ARTICLE 9 **PARTICIPATION BY FEDERAL POWER MARKETING ADMINISTRATIONS**

Section 9.01 Participation by the United States. The participation by the United States through Federal power marketing administrations (PMA) in the Corporation is subject in all respects to acts of Congress and to regulations of the Secretary of Energy established thereunder. This reservation includes, but is not limited to, the statutory limitations upon the authority of the Secretary of Energy to submit disputes arising hereunder to arbitration. In the event of a conflict between this Article 9 and any other Article of these bylaws, this Article 9 shall have precedence with respect to the application of these bylaws to the United States.

Section 9.02 Contingent upon Appropriations. Where activities provided for herein extend beyond the current fiscal year, continued expenditures by the United States are contingent upon Congress making the necessary appropriations required for the continued performance of the obligations of the United States hereunder. In case such appropriations are not made, the Corporation and its members hereby release the United States from its contractual obligations under these bylaws and from all liability due to the failure of Congress to make such appropriation.

Section 9.03 Officials not to Benefit. No member of or delegate to Congress or PMA employee shall be admitted to any share or part of, or to any benefit that may have arisen from, these Bylaws, but this restriction shall not be construed to extend to these Bylaws if made with a corporation or company for its general benefit.

Section 9.04 Covenant Against Contingent Fees. The Corporation and its members warrant that no Person or selling agency has been employed or retained to solicit or secure participation by a PMA in the Corporation upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the members for the purpose of securing business. For breach or violation of this warranty, a PMA shall have the right to annul its participation in the Corporation without liability or, in its discretion, to deduct from its dues or fees the full amount of such commission, percentage, brokerage, or contingent fee.

Section 9.05 Contractor Agreement. For the purpose of this Section 9.05 the term "Contract" shall mean these bylaws and the term "Contractor" shall mean the Corporation. During the performance of this Contract, the Contractor agrees to the following provisions.

(a) **Equal Opportunity Employment Practices.** Section 202 of the Executive Order No. 11246, 30 Fed. Reg. 12319 (1965), as amended by Executive Order No. 12086, 43 Fed. Reg. 46501 (1978), which provides, among other things, that the Contractor will not discriminate against any employee or

applicant for employment because of race, color, religion, sex, or national origin, is incorporated by reference in the Contract.

(b) **Contract Work Hours and Safety Standards.** The Contract, to the extent that it is of a character specified in Section 103 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 329 (1986) (the "Act"), is subject to the provisions of the Act, 40 U.S.C. §§ 327-333 (1986), and to regulations promulgated by the Secretary of Labor pursuant to the Act.

(c) **Use of Convict Labor.** The Contractor agrees not to employ any person undergoing sentence of imprisonment in performing the Contract except as provided by 18 U.S.C. § 4082(c)(2) (1986) and Executive Order No. 11755, 39 Fed. Reg. 779 (1973).

ARTICLE 10 **BOOKS AND RECORDS**

Section 10.01 **Books and Records; Financial Statements.** The Corporation shall keep at its registered office correct and complete copies of its articles of incorporation and bylaws, accounting records, and minutes of meetings of members, board of directors, and committees having any of the authority of the board of directors. A member, or the agent or attorney of a member, may inspect all books and records for any proper purpose at any reasonable time. Upon request, the Corporation shall give the member a statement showing the financial results of all operations and transactions affecting income and surplus during its last annual accounting period and a balance sheet containing a summary of its assets and liabilities as of the closing date of the accounting period.

ARTICLE 11 **FISCAL YEAR**

Section 11.01 **Fiscal Year.** The fiscal year of the Corporation shall be the calendar year.

ARTICLE 12 **TRANSFER OF ASSETS**

Section 12.01 **Member Approval Not Required.** The Corporation, by affirmative vote of the board of directors, may sell, lease, transfer, or dispose of all or substantially all of its property and assets in the usual and regular course of its activities and, subject to Minnesota Statutes, Section 317A.501, Subd. 1, grant a security interest in all or substantially all of its property and assets whether or not in the usual and regular course of its activities, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board of directors considers expedient, in which case no member approval is required.

Section 12.02 **Member Approval; When Required.** The Corporation, by affirmative vote of two-thirds of the entire board of directors, may sell, lease, transfer, or dispose of all or substantially all of its property and assets, including its good will, not in the usual and regular course of its activities, upon those terms and conditions and for those considerations, which may be money, securities, or other instruments for the payment of money or other property, as the board of directors considers expedient when approved at a regular or special meeting of the members by the affirmative vote of two-thirds of all Market Members. Notice of the meeting must be given to Market Members. The notice must state that a purpose of the meeting is to consider the sale, lease, transfer, or other disposition of all or substantially all of the property and assets of the Corporation.

ARTICLE 13 **CONTRACTS, CHECKS, DEPOSITS, AND GIFTS**

Section 13.01 **Contracts.** The board of directors may authorize any officer or officers or agent or agents of the Corporation, in addition to the officers so authorized by these bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or may be confined to specific instances.

Section 13.02 **Checks, Drafts, or Orders.** All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers or agent or agents of the Corporation, and in such manner as shall from time to time be determined by resolution of the board of directors.

Section 13.03 **Deposits.** All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the board of directors may select.

Section 13.04 **Gifts.** The board of directors may accept on behalf of the Corporation any contribution, gift, bequest, or devise for any purpose of the Corporation.

ARTICLE 14 **INDEMNIFICATION**

Section 14.01 **Indemnification.** The Corporation shall indemnify directors, officers, and employees for such expenses and liabilities, in such manner, under such circumstances, and to the extent permitted or required by Minnesota Statutes, Section 317A.521, and as the same may be amended.

ARTICLE 15 **AMENDMENT OF BYLAWS**

Section 15.01 **Amendment of Bylaws.** The power to adopt, amend, or repeal the bylaws is vested in the board of directors. The power of the board is subject to the power of the Market Members under applicable law to adopt, amend, or repeal

bylaws adopted, amended, or repealed by the board. After the adoption of the initial bylaws, the board may not adopt, amend, or repeal a bylaw giving a quorum for meetings of members, prescribing procedures for removing directors or filling vacancies in the board, or fixing the number of directors or their classifications, qualifications, or terms of office, but may adopt or amend a bylaw to increase the number of directors. An amendment of the bylaws shall require the affirmative vote of two-thirds of all the directors, or in case member action is required, the affirmative vote of two-thirds of all the Market Members.