

Todd-Wadena Electric Cooperative Dispute Resolution Rules

I. **PURPOSE.**

These rules are established by the Board of Directors of Todd-Wadena Electric Cooperative pursuant to Minnesota Statute 216B.164, Subd.11(a) for the dispute resolution process to be followed in all instances where issues arise under Minn. Stat. 216B.164.

II. **DEFINITIONS.**

For purposes of these rules the following words have the following meanings.

1. **Board** means a number of duly seated directors of Cooperative constituting a quorum that are assembled for the purpose of addressing the dispute or otherwise implementing these rules.
2. **Board Hearing** means the opportunity for the member to address the Board, present written and oral evidence, call witnesses and otherwise communicate its position regarding the dispute to the Board.
3. **Cooperative** means Todd-Wadena Electric Cooperative.
4. **Dispute** means an unresolved disagreement that has been articulated in writing and submitted to the Cooperative.
5. **Hearing Examiner** means the individual who has been selected under these rules to conduct the Board Hearing.
6. **Hearing Record** means the tape recording of the proceedings, written submissions, and other documentary evidence offered by either party and received and allowed into the record by the Hearing Examiner.
7. **Mediator** means an individual listed on the roster of neutrals for civil matters established by the State Court Administrator under Rule 114.12 of Minnesota's General Rules of Practice for District Courts who has been selected pursuant to these rules for the purpose of assisting in resolving the dispute.
8. **Member** means an individual(s) or entity that is a "member" as defined by the Bylaws of the Cooperative, is in good standing, and is involved in a dispute with this Cooperative.
9. **Substantial Evidence** means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. To be substantial, the evidence should be reasonable in nature, credible, and of solid value. Substantial evidence may consist of inferences, but such inferences must be logical and reasonable and must be based on the evidence. Inferences that are the result of speculation or conjecture cannot support a finding.

III. **DISPUTE PROCEDURES.**

- A. Initial Procedures.

1. A member who has a dispute with the Cooperative which arises from or is related to the member or Cooperative's rights or responsibilities under Minn. Stat. 216B.164 shall first prepare a written description of the dispute and provide as much explanation of the dispute as is reasonably necessary to allow others to understand the nature of the dispute.
2. The member shall furnish the written dispute to the Cooperative's Member Services Manager, who shall acknowledge receipt of the dispute by providing the member with a signed and dated receipt for the same.
3. Within ten (10) business days of receipt of the written dispute, the Cooperative shall contact the member and use its best efforts to schedule a meeting between the member and Cooperative staff, which shall include the Cooperative's General Manager/CEO. The purpose of this meeting shall be to discuss the dispute and try to come to a mutually amicable resolution of the dispute. Any resolution reached at this stage shall be reduced to writing and signed by the Cooperative and member.

B. Board Hearing

4. If no mutual resolution is reached at the meeting described in step #3 above, the member shall then have the right to have the dispute heard in a Hearing before a quorum of the Cooperative Board of Directors. Any request for this Hearing before the Board shall be made within ten (10) business days of the date when the meeting described in step #3 above occurred.
5. The Board Hearing shall be scheduled by the Cooperative's General Manager/CEO for a time and date that is within thirty (30) business days after the date when the request for said Board Hearing was received from the member. The Board Hearing shall take place at the Cooperative's principle business address or if that is not available at such other suitable place that the Cooperative's General Manager/CEO may designate.
6. The Board Hearing may be attended by Cooperative directors, Cooperative legal counsel, and staff, the member, the member's legal counsel, if any, and any witnesses the parties may deem necessary for proper presentation of their respective positions on the dispute. With the exception of legal counsels and or witnesses described above, the Board Hearing is only open to members of the cooperative in good standing.
7. The Board Hearing shall be recorded. Either party may retain a court reporter to record the Hearing at their expense. In this event, either party may obtain a transcript of the reported proceedings, at the requesting party's expense.
8. The Hearing shall be conducted by an individual designated by the Board, who may be the Cooperative's legal counsel or a non-member who is retained specifically for this purpose. The individual selected shall be referred to herein as the Hearing Examiner. The Cooperative will pay the expense for the Hearing Examiner.
9. The Hearing Examiner shall conduct the Hearing; insure that decorum and civility are followed; have the ability to order the removal of individuals from the Hearing room; swear in witnesses; accept testimony and documentary exhibits; record the proceedings and save the record afterwards; rule on any procedural objections; ask questions of any individual present; and generally be in charge of the Hearing procedure.
10. Minnesota rules of evidence shall not be strictly applied to the Hearing process and any evidence that in the Hearing Examiner's judgment is reasonably trustworthy and probative to the issues involved, may be received into the record.
11. At the Board Hearing, the member shall articulate the nature of the dispute and shall come forward with substantial evidence to support the member's position. A representative

- designated by the Cooperative shall have an opportunity to examine any witnesses and to ask the member questions regarding any documentary evidence offered as an exhibit into the record or about any document referenced by the member as part of its case-in-chief.
12. After the member has concluded its presentation of evidence, questioning of witnesses, making any desired statements and otherwise presenting its case-in-chief, the Cooperative, by its designated individual, shall come forward with any comments, witness testimony or documentary exhibits that it may wish to present. The member shall have the opportunity to ask the Cooperative witnesses, if any, questions it may have and to comment on any document submitted for the record or referenced by the Cooperative as part of its case-in-chief.
 13. At the conclusion of the party's respective cases-in-chief, the Hearing Examiner shall afford each party an opportunity to make any final comment regarding the dispute.
 14. Once the parties have concluded their final comments, the Hearing Record will be considered to be closed. At this time, the member and all other individuals shall leave the room where the Hearing was conducted, leaving just the Cooperative Board, its legal counsel, if any, and the Hearing Examiner. The Board shall then deliberate until it is able to make a final decision regarding the dispute. The Board may rely on its Director's independent recollections of facts, may review documentary exhibits, and may request a Hearing Examiner to produce for review any part of the Hearing Record made.
 15. Within twenty-four (24) hours of the conclusion of the Hearing, the Board shall make a final decision regarding resolution of the dispute. As part of the final decision, the Board shall prepare written Findings of Fact upon which the decision is based. In rendering its decision, the Board shall be governed by the following principles. If the Board finds by a majority vote of those directors in attendance at the Hearing that substantial evidence exists in the record to support the member's position that the cooperative failed to properly follow applicable state statutes, the Cooperative policies, or the Cooperative procedures, the Board should establish an appropriate remedy that is just, fair, reasonable and final toward the member and which purports to resolve the dispute. If the Board concludes by a majority vote of those directors in attendance at the Hearing that the member's position on the dispute is not supported by substantial evidence in the record, then the Board shall issue a ruling denying the member's dispute.
 16. A complete copy of the Hearing Record shall be maintained at the Cooperative offices and shall be available to members for review upon request. A copy of the Board's final written ruling shall be recorded in the minutes from the Board Hearing. The Board Hearing shall be considered a special meeting of the Board.
 17. Any fees, expenses and other miscellaneous charges incurred as a result of employing a Hearing Examiner for purposes of these rules shall be born exclusively by the Cooperative.

IV. MEDIATION.

1. Following conclusion of the Board Hearing and issuance of the Board's written Findings and decision, if the member is not satisfied with said ruling, it may demand that the parties participate in a non-binding mediation process; said mediation to be conducted within sixty (60) business days of the date of the Board's written ruling. Said mediation demand must be made in writing within ten (10) business days of the date of the Boards written ruling. At any mediation conducted pursuant to this rule, the Cooperative shall be represented, at a minimum, by its Board Chair and General Manager/CEO.

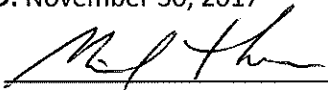
2. Within ten (10) business days of either party making a demand for mediation, the Cooperative shall furnish the member with a copy of the roster of available neutrals maintained by the State Court Administrator under Rule 114.12 of Minnesota's General Rules of Practice for District Courts. Thereafter, the parties shall attempt to agree upon a mediator who is willing and able to conduct the mediation. In the event the parties are unable to mutually agree upon a mediator, a coin toss will be utilized to determine who the mediator is. A United States quarter will be used for purposes of this coin toss and the member shall be designated "head" on the coin and the Cooperative shall be designated "tail". In the presence of the member, the Cooperative's General Manager shall flip the coin and the winner shall select the mediator. The mediation shall take place at the Cooperative's headquarters or such other location that may be mutually agreed upon.
3. The mediation shall be non-binding and either party may declare an impasse and terminate the mediation at any time.
4. The Cooperative and the member involved in the dispute shall share the expense of mediation. The Cooperative shall be responsible for 90% of the mediator's cost/expenses and the member shall be responsible for 10% of the mediator's cost/expense.
5. If an agreeable resolution is reached in the mediation process, the same shall be committed to a written Mediated Settlement Agreement to be signed by both parties.

V. MISCELLANEOUS.

1. These rules are being implemented in conjunction with amendments to Minn. Stat. 216B.164, subd. 11. The Cooperative Board of Director's reserves the right to amend these rules at appropriate future dates.

ADOPTED: November 30, 2017

SIGNED:


Michael Thorson, Chairman