

**Minnesota Valley Electric Cooperative
DISTRIBUTED GENERATION DISPUTE RESOLUTION RULES**

I. PURPOSE.

These rules are established by the Board of Directors of Minnesota Valley Electric Cooperative pursuant to Minnesota Statutes §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 the 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 a member to address the Board, present written and oral evidence, call witnesses and otherwise communicate its position regarding a dispute to the Board.
3. **Cooperative** means Minnesota Valley 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 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. **Written Description of Dispute.** 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. An approved Distributed Generation Dispute Form is attached.
2. **File Dispute Description with Cooperative.** The member shall furnish the written dispute to the Cooperative's Executive Assistant to the CEO, who shall acknowledge receipt of the dispute by providing the member with a signed and dated receipt for the same.
3. **Informal Meeting to Attempt to Resolve.** 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 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

1. **Request for Hearing.** If no mutual resolution is reached at the meeting described in Section III(A)(3) of this policy, 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 by the member of the Cooperative within ten (10) business days of the date when the meeting described in Section III(A)(3) above occurred.
2. **Scheduling of Hearing.** The Board Hearing shall be scheduled by the Cooperative's CEO for a time and date that is within sixty (60) 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 principal business address or if that is not available at such other suitable place that the Cooperative's CEO may designate.
3. **Attendance at Hearing.** The Board Hearing may be attended by Cooperative directors, Cooperative legal counsel, 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 counsel and/or witnesses described above, the Board Hearing is only open to members of the Cooperative in good standing.
4. **Recording of Hearing.** 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.
5. **Appointment of Hearing Examiner.** 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.

6. **Conduct of the Hearing by the Hearing Examiner.** 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.
7. **Evidence at the Hearing.** 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.
8. **Presentation by the Member.** 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 the member's case-in-chief.
9. **Presentation by the Cooperative.** After the member has concluded its presentation of evidence, questioning of witnesses, making any desired statements and otherwise presenting member's 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.
10. **Final Comments.** At the conclusion of the parties' respective cases-in-chief, the Hearing Examiner shall afford each party an opportunity to make any final comment regarding the dispute.
11. **Deliberations and Decision by the Board.** 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 Directors' independent recollections of facts, may review documentary exhibits, and may ask the Hearing Examiner to produce for review any part of the Hearing Record made.
12. **Decision, Findings of Fact, Substantial Evidence Standard.** Within twenty-four (24) hours of the conclusion of the Hearing, the Board shall make a final decision regarding resolution of the dispute. Within ten (10) business days of the final decision, the Board shall prepare a record of the written final decision including 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, Cooperative policies, or Cooperative procedures, the Board shall 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.

A copy of the written, final decision of the Board shall be mailed to the member by U.S. mail with postage prepaid thereon at the member's address as shown on the books and records of the Cooperative.

13. **Hearing Record.** A complete copy of the Hearing Record shall be maintained at the Cooperative's headquarters 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.
14. **Hearing Examiner's Charges.** Any fees, expenses and other miscellaneous charges incurred as a result of employing a Hearing Examiner for purposes of these rules shall be borne exclusively by the Cooperative.

IV. **MEDIATION.**

1. **Mediation Demand, Scheduling, and the Cooperative's Representatives.** 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, the member may demand that the parties participate in a non-binding mediation process. The mediation shall be conducted within ninety (90) business days of the date of the Board's written ruling. That mediation demand must be made in writing within twelve (12) business days of the date of the mailing of the written final decision of the Board to the member. At any mediation conducted pursuant to this rule, the Cooperative shall be represented, at a minimum, by its president (or vice-president if the president is absent) and CEO.
2. **Selecting the Mediator.** 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 CEO 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. **A Process to Voluntarily Reach Agreement.** The mediation shall be non-binding and either party or the mediator may declare an impasse and terminate the mediation at any time.
4. **Mediation Expense.** 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/expense and the member shall be responsible for 10% of the mediator's cost/expense.

5. **Written Resolution.** If an agreeable resolution is reached in the mediation process, that resolution shall be committed to a written Mediated Settlement Agreement to be legally binding upon and signed by both parties.

V. **MISCELLANEOUS.**

1. **Legal Authority.** These rules are being implemented in conjunction with the 2017 amendments to Minn. Stat. §216B.164, subd. 11. The Cooperative Board of Director's reserves the right to amend these rules.

Responsibility: Board of Directors

Approved: _____

Effective: _____



Board President

**MINNESOTA VALLEY ELECTRIC COOPERATIVE
DISTRIBUTED GENERATION DISPUTE FORM**

A member who has a dispute with the Cooperative with respect to the member's or the Cooperative's rights or obligations regarding distributed generation (such as wind generation or solar facilities) shall first complete this form. The Cooperative will schedule an informal meeting between you and the Cooperative's CEO within 10 business days of receipt of this form. If that meeting does not resolve the dispute, then a hearing by the Cooperative's Board of Directors will be scheduled. This process is governed by the Cooperative's distributed generation rules as authorized by Minnesota Statutes §216B.164, Subd. 11.

1. Date: _____

2. Your name, address, email address, and phone number:

3. Describe the nature of the dispute: _____

4. Describe the statute, rule, policy, regulation, or other authority, if any, that you claim is at issue: _____

5. The date when the dispute arose: _____

6. How should this dispute be resolved? Describe what you are requesting from the Cooperative: _____

7. Identify any individuals who you believe have knowledge related to this dispute:

8. In the event that a hearing by the Board of Directors is needed, please provide the following:

A. In addition to yourself, will any other persons testify at the hearing? Yes ____ No ____
If so, please list their names and contact information (address, email address, and phone number):

B. How much time will you need to present your side of this dispute? _____ hour(s).

C. Will you be represented by legal counsel? If so, who? (List name, address, email address, and phone number): _____

Thank you.

Signature of Member