

 Oakdale Electric Cooperative		Board Policy
Policy Name: Cooperative-Administered Dispute Resolution		Policy No: 1.09
Last Reviewed/Revised: 05-02-2023		Page 1 of 13

I. PURPOSE

The following is hereby adopted as the policy of Oakdale Electric Cooperative (“Cooperative”) for resolution of disputes that may arise between Cooperative and any of its members. This Policy and the more detailed procedures that are attached and incorporated herein, as authorized and provided for in the Cooperative’s Bylaws, apply to claims in which the amount at issue exceeds the dollar limit for Wisconsin Small Claims Court and other claims that are outside of the jurisdictional limits of the Wisconsin Small Claims Court. All claims within the jurisdiction of the Wisconsin Small Claims Court are excluded from arbitration, unless all parties to the dispute otherwise agree.

The Board of Directors will attempt to settle any dispute or claim between the Cooperative and a member through negotiation. After such an attempt to settle the matter, if it appears to the Board that the parties are at an impasse, the Board will initiate Arbitration or notify the member of the procedure for the member to initiate Arbitration.

II. POLICY

A. Committee on Dispute Resolution

1. The Board of Directors will select from among the members of the Cooperative a committee of three members to be the Committee on Dispute Resolution (Committee). To be appointed, a Committee member shall be a Cooperative member, qualified under the Bylaws and policies of the Cooperative, and shall not be a current member of the Board, although former Board members may be eligible to serve on the Committee. The Board may consider any eligible member but may give priority of consideration to members who have experience in court administration, judicial process or other dispute resolution.
2. The Committee has the responsibility to administer the procedures of Arbitration as established in Attachment A – Arbitration Process, which is incorporated in and a part of this Policy.
3. Each Committee member shall serve for an appointed term of three calendar years, except that the terms of the initial Committee members shall be for one, two and three year terms respectively. Thereafter, one Committee member will be appointed by the Board of Directors each year.

4. Committee members may serve two complete, consecutive terms of three years. If a Committee member is appointed to complete an unexpired term (or an abbreviated term such as two of the initial Committee) that member is eligible, but not required, to serve two full terms following their initial appointment.
5. Vacancies on the Committee for any reason shall be filled for the unexpired term by appointment of the Board of Directors.
6. Committee members shall not serve as arbitrators and shall have no authority other than to administer the rules and procedures established in the Attachments to this policy.
7. Each Committee member shall be paid \$300.00 per arbitration claim filing plus reimbursement of reasonable expenses.

B. Appointment of Arbitrator

1. During the process of Arbitration, the Committee has the responsibility to secure the services of one Arbitrator to participate in the Arbitration process, in accordance with the procedures for selecting the Arbitrator described in Attachment A. If a single Arbitrator is unacceptable to the participants in the Arbitration, a process to select a Tribunal (panel of three Arbitrators) is also provided in the procedures described in Attachment A.
2. The Arbitrator(s) shall be impartial as to all parties and qualified by experience or education in the subject matter of the dispute. Notwithstanding that experience requirement, a retired judge would ordinarily be deemed qualified regardless of the nature of the claim.
3. Compensation for Arbitrator(s) shall be established as set forth in Attachment A.

C. Representation

The Cooperative and the member may each, at its, his or her own expense, be represented by legal counsel or other authorized representative throughout the Arbitration process.

- III. PROCEDURE: See Attachment A for the Process and Procedure that will be followed by all parties involved in Arbitration.
- IV. RESPONSIBILITY: Board of Directors to appoint Committee. Committee on Dispute Resolution shall administer this policy. The General Manager & CEO shall be responsible for coordinating the process and procedure at the Committee's direction.

Issued: 06/30/2021	Reviewed Date (no revisions): 05-02-2023	Revised Date:
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ATTACHMENT A

Arbitration Process and Procedures

1. Initiation of Dispute Resolution

- a. If efforts to resolve a dispute by agreement between a member and the Cooperative are not successful, arbitration may be commenced by either party in the following manner:
 - i. A party initiating arbitration (“Claimant”) shall file a written Demand for Arbitration (“Demand”) with the Committee on Dispute Resolution (“Committee”) at the following address: 489 N. Oakwood St., Tomah, WI 54660 (the “Committee Office”). The Demand for Arbitration shall consist of a statement setting forth in reasonable detail the nature of the dispute, the amount involved, if any, the remedy sought, and a return address and other contact information for the receipt of all papers relating to the arbitration. A sample form of such notification is attached as an exhibit to this Procedure. A filing fee as prescribed in these Procedures shall accompany any Demand filed by a member.
 - ii. Within 30 days of receipt of a Demand, the Committee shall give written notice of the filing of such a Demand to the Respondent, along with a full and complete copy of the Demand. For a member, the Committee may use the member’s most recent address in the billing records of the Cooperative.
 - iii. A Respondent may file an Answering Statement, and if so filed, it must be filed with the Committee at the Committee Office within forty-five (45) days after the postmark (or equivalent) on the notice of the Demand from the Committee. The Respondent shall at the same time send a copy of the Answering Statement to the Claimant at the address set forth in the Demand. The Answering Statement shall include any admissions, denials or comments on the claims made in the Demand for Arbitration and a statement of the general nature of Respondent’s defense(s).
 - iv. If the Respondent believes it has a counterclaim against the Claimant, it may set forth that counterclaim in a Statement of Counterclaim, setting forth the nature of the counterclaim, the amount involved, if any, and the remedy sought. The Statement of Counterclaim shall be filed with the Committee and delivered to the Claimant with the Answering Statement (and may be included as a section of that Answering Statement). If a counterclaim is made by a member, that member shall forward to the Committee

along with the Answering Statement the fee prescribed in these Procedures. The legal principles of claim and issue preclusion shall apply such that failure to make a Statement of Counterclaim may result in the waiver of claims.

- v. If no Answering Statement is filed within the time allowed under this policy, the claim set forth in the Demand shall be treated as denied. Failure to file an Answering Statement shall not deny a Respondent the right to appear at the arbitration hearing and fully defend the claim. Failure to timely file a Statement of Counterclaim as authorized hereunder shall deny the Respondent the right to present evidence on, and request any relief or remedy with regard to, any such counterclaim at the arbitration hearing.
- vi. The Committee shall keep all dispute records separate from all other Cooperative records and it shall use reasonable efforts to keep all such records confidential, except as to the parties and as otherwise agreed by the parties to that dispute.

2. Appointment of Arbitrator(s)

- a. All claims, including counterclaims, shall be heard by a single arbitrator unless a party objects to a single arbitrator. In the event of such objection, all claims shall be heard by a panel of three arbitrators, to be selected as prescribed herein.
- b. Arbitrators shall be impartial as to all parties and qualified by experience or education in the subject matter(s) of the dispute. A retired judge would ordinarily be deemed qualified regardless of the nature of the claims. The Committee shall make all final determinations of the qualifications and impartiality of any arbitrators, and the Committee's decisions on arbitrators' fitness to serve shall be binding upon the parties.
- c. Prior to the appointment of any arbitrators, the Committee shall contact prospective arbitrators to determine their impartiality and availability to arbitrate the dispute. In the event that any party objects to the qualifications of an arbitrator, as prescribed for herein, the Committee shall also inquire and make the final determination of whether the prospective arbitrator is qualified to serve. In determining the qualifications, impartiality, and availability of prospective arbitrators, the Committee shall adhere to the following guidelines:
 - i. The Committee shall ask prospective arbitrators whether each one will be available during the time period agreed to by the parties or otherwise determined by the Committee, will agree to serve if selected, and will agree to render a decision within a period of time to be specified by the Committee;
 - ii. The Committee shall inquire whether prospective arbitrators have any past or current relationship with any of the parties that could reasonably call into question the arbitrator's impartiality, and whether any other

circumstances exist which would otherwise reasonably call into question the arbitrator's impartiality;

- iii. In assessing the prospective arbitrator's qualifications, the Committee shall request and review a current resume or similar document attesting to the prospective arbitrator's experience and qualifications to serve as an arbitrator. Such document shall be made part of the official record of the arbitration. In the event that such resume or similar document is not available or does not sufficiently describe the prospective arbitrator's qualifications, or if the Committee otherwise deems it necessary or desirable, the Committee shall interview the prospective arbitrator and inquire about his/her experience and expertise (a) in industries relevant to the subject matter of the dispute; (b) with the relevant law to be applied; and (c) arbitrating or litigating similar disputes.
- iv. Arbitrators may be qualified to serve through any of the following ways:
 - 1. A minimum of ten (10) years of senior level business professional experience or legal practice pertaining to the subject matter(s) of the dispute;
 - 2. Training and certification by a nationally-recognized dispute resolution certification program or association;
 - 3. An educational degree or professional license pertaining to the subject matter(s) of the dispute;
- d. If the parties agree to have the matter decided by a single arbitrator, they may submit to the Committee up to three (3) agreed-upon candidates to serve, and may indicate the order of preference by which the arbitrator should be selected from these candidates. The name(s) of the arbitrator(s) shall be submitted to the Committee within thirty (30) days after an Answering Statement is filed with the Committee and served on Claimant, or if no Answering Statement is filed, within thirty (30) days after the deadline for filing such Answering Statement. Thereafter, the Committee shall make arrangements to retain the services of the agreed-upon arbitrator(s) based on the availability of the proposed candidates, in the order of preference indicated by the parties. In the event that no candidate submitted by the parties is available to serve as arbitrator, then a three-arbitrator panel ("Panel") shall be selected as prescribed below.
- e. The Committee will notify the parties in the event that no candidate submitted by the parties is available to serve as arbitrator. The parties will then have thirty (30) days from the date of notification in which to nominate an arbitrator of that party's choosing, subject to the approval of the Committee regarding qualifications and impartiality of arbitrators, as defined in these Procedures. If any party fails to nominate its arbitrator within thirty (30) days of receiving notice from the Committee, the Committee shall

nominate the arbitrator on behalf of the delinquent party.

- f. If a Panel will preside over the arbitration, after each party has nominated a qualified and impartial arbitrator, then the arbitrators nominated by each party shall mutually designate an additional arbitrator to hear the matter. The third arbitrator selected by the party-designated arbitrators shall serve as Chairperson. If available, the third arbitrator to be selected by the party-designated arbitrators shall be an attorney licensed in the State of Wisconsin or a retired judge of the state or federal judiciary of Wisconsin, in either case possessing a minimum of ten (10) years' experience in the practice of law.
- g. When the arbitrator(s) are selected, the Committee shall send the Demand for Arbitration, the Answering Statement, the Statement of Counterclaim, if any, and any other pleadings and correspondence to each of the arbitrator(s).
- h. Other than resolution of discovery disputes which shall be decided by the Chairperson as provided in Section 5, below, all actions of the Tribunal shall be by majority vote. At least two (2) Arbitrators shall be required for a quorum to proceed on any matter before the Tribunal.
- i. If either party has reason to question the impartiality or the qualifications of an arbitrator, the party shall file a written objection with the Committee, and the Committee shall proceed to determine if the arbitrator is impartial and qualified. Parties who fail to file their objections with the Committee within thirty (30) days of (1) receiving notification of the designation of the prospective arbitrator, or (2) becoming aware of circumstances that reasonably call into question the arbitrator's impartiality, whichever occurs later, may be deemed to have waived such objections to the prospective arbitrator.
- j. If the Committee determines that the prospective arbitrator is not qualified or impartial, then the Committee shall disqualify that prospective arbitrator from serving and shall notify the parties of the same. An alternative arbitrator shall then be selected as provided by the following:
 - i. If the disqualified arbitrator was designated by a party, then the party who selected the disqualified prospective arbitrator shall have thirty (30) days from receiving notice from the Committee in which to designate an alternative arbitrator.
 - ii. If the disqualified arbitrator was designated by the Committee, then the Committee shall designate an alternative arbitrator within thirty (30) days of the disqualification of the initial arbitrator.
 - iii. If the disqualified arbitrator was designated by the party-designated arbitrators, then the latter shall designate an alternative arbitrator within thirty (30) days of the disqualification of the initial arbitrator.

- k. Such alternative arbitrator shall be subject to the same conditions to serving as applicable to an initial arbitrator, including the procedure and time limits for objections to the alternative arbitrator. The process for selecting an alternative arbitrator shall also apply in the event that an arbitrator is no longer able to serve for any reason, including disqualification, death, or resignation.

3. Date, Time and Place of Arbitration

The Arbitrator(s) shall set the date and time of the hearing as soon as it is reasonably possible after a meeting and consultation with the parties. Unless otherwise agreed to by the parties and the Arbitrator(s), the arbitration hearing shall be held at a reasonably convenient location designated by the Committee.

4. Representation

Any party may be represented by legal counsel or other authorized representative throughout the arbitration process.

5. Witnesses, Subpoenas, Discovery, and Applicable Authority

- a. The parties shall have such rights in regard to the taking of discovery as provided for by Chapter 804 of the Wisconsin Statutes, or any successor statutes. The arbitrator(s) shall have such authority to permit discovery and enforce the parties' obligations to provide discovery as would a Wisconsin circuit court judge. The parties shall also have full authority to compel the attendance of third-party witnesses as provided by law, including but not limited to Chapter 788 of the Wisconsin Statutes or any successor statutes. In cases presided over by a Panel, any disputes over pre-hearing discovery shall be submitted to and resolved by the Chairperson of the Tribunal, giving due regard to the nature and complexity of the Claim(s) and Counterclaim(s), if any.
- b. The arbitrator(s) have full authority to determine whether or not a particular issue raised by any party may be determined by the arbitration, including but not limited to the power to rule on the scope of the arbitration agreement and the arbitrator(s)' own jurisdiction.
- c. The arbitrator(s) shall resolve all disputes in accordance with Wisconsin substantive law and shall give full effect to the Wisconsin Rules of Evidence and statutes of limitation and repose arising under Wisconsin law, including barring of a claim where the applicable statute of limitations or repose would bar such claim in Circuit Court.
- d. Unless otherwise modified herein, the arbitrator(s) shall have such authority as possessed by a Wisconsin circuit court judge to impose time limits on any phase of the proceedings, to hold pre-hearing conferences and hearings to resolve matters that may arise in the arbitration, schedule pre-hearing motions, briefs and memoranda, and any other matters

necessary for the proper administration and/or resolution of the arbitration.

- e. Unless otherwise modified herein, during any part of the proceedings, the arbitrator(s) shall have such authority as possessed by a Wisconsin circuit court judge to impose sanctions, award recovery of fees and costs, and take such other action to maintain the integrity of the proceedings.
- f. During any part of the proceedings, unless otherwise modified herein, the arbitrator(s) shall have such authority as possessed by a Wisconsin circuit court judge to determine all or a portion of the issues in dispute through summary adjudication (e.g. motions to dismiss or for summary judgment) determined upon the submission of documents and other evidence rather than through a live hearing.

6. Hearings and Other Proceedings

- a. Unless a dispute is fully resolved by summary adjudication as provided herein, all issues raised in the Demand for Arbitration, the Answering Statement and the Statement of Counterclaim, if any, and unresolved by summary adjudication, shall be determined through a hearing as provided in this section.
- b. A hearing shall be opened by the recording of the date, time and place of the hearing, and the presence of the arbitrator(s), the parties and their representatives, if any, and by the inclusion into the record of the Demand for Arbitration, the Answering Statement and the Statement of Counterclaim, if any.
- c. If either party to the arbitration requests it, a stenographer certified to transcribe such a proceeding shall be appointed by the Committee for such purpose. Each party shall share equally in the cost of such service. The parties may agree on other forms of preservation of the record, including but not limited to tape recording, video recording or other forms of electronic preservation of the record.
- d. The arbitrator(s) may, at the beginning and/or close of the Hearing, require or permit statements (orally or in writing), with the intent to clarify the issues involved.
- e. The Claimant shall then present evidence to support its claim. The Respondent shall then present evidence supporting its defense and/or counterclaim(s). Witnesses for each party shall be sworn under oath by a person qualified to administer an oath, and shall thereafter submit to questions or other examination as prescribed by the arbitrator(s).
- f. The arbitrator(s) shall have the discretion to vary the procedure and order of evidence and witnesses, but shall afford all parties a full and equal opportunity for the presentation of any material and relevant evidence, including a reasonable opportunity to cross-examine the other party's witnesses and to rebut the other party's evidence. The arbitrator(s) shall apply burdens of proof in accordance with Wisconsin law.

- g. Unless otherwise modified herein, the arbitrator(s) shall have such authority over the conduct of the hearing as possessed by a Wisconsin circuit court judge presiding over a civil trial, including but not limited to such matters as the applicability of privilege; the admissibility, relevance, materiality, and weight of evidence being offered; and the exclusion of witnesses from the hearing,
- h. Exhibits, when offered by any party, may be received in evidence by the arbitrator(s). The Committee is responsible for maintaining the records, evidence and exhibits from the hearing as part of the official record of the arbitration.
- i. The names and addresses of all witnesses and a description of the exhibits in the order received shall be made a part of the record, and maintained by the Committee.

7. Communication with the Arbitrator(s)

Copies of all written or electronic communications to or from the Arbitrator(s) shall be served upon the Arbitrator(s) and all parties and a copy filed with the Committee at the Committee Office for inclusion in the official case record. Filing and service of such documents and communications may be accomplished electronically as directed by the Arbitrator(s) on a case-by-case determination. In no circumstances shall any party have ex parte communications with any arbitrator on any matters concerning the case being arbitrated, except on matters of scheduling, in which case the arbitrator, at the earliest opportunity, shall discuss the scheduling matter with all parties.

8. Decisions

- a. A decision on the issues to be arbitrated shall be in writing and shall be signed by all arbitrator(s) joining in the decision. The decision shall state the legal and factual reasoning upon which the decision rests, unless the parties agree otherwise. A member of the Panel who does not join in a majority decision may, but is not required to, issue a dissenting opinion.
- b. All decisions shall be issued by the arbitrator(s) within 60 days of the close of such hearing (or the receipt of post-hearing briefs, if allowed by the Panel). If the arbitrators unanimously agree that the complexity of the issues and the record require it, that schedule for issuance of the final decision or award may be extended up to an additional 60 days. The parties may agree on the record or in writing to a longer period of time.
- c. The arbitrator(s) may order any remedy, relief, or award, whether legal or equitable, that a Wisconsin circuit court judge could order.

9. Additional Provisions

- a. The arbitrator(s) shall dismiss the proceedings at any time upon the joint request of all of the parties. The parties may agree to keep any agreements and other terms of dismissal confidential.
- b. If there is an award of damages, costs or other relief, the unsuccessful party shall pay any amount set by the arbitrator(s) and shall comply with any other remedy or relief awarded by the arbitrator(s) within sixty (60) days of the written decision required herein unless the decision specifies a longer period of time, or an extension is granted in writing by the arbitrator(s), or as otherwise directed by a court with jurisdiction over the matter.
- c. By participating in the arbitration process, all parties understand that the successful party may file an action in the appropriate Circuit Court in Wisconsin for the sole purpose of enforcement of any award, remedy, or relief granted by said Arbitrator(s).
- d. All costs incurred by the enforcing party as allowed by law for the collection of a judgment shall be limited to the statutory costs as if the matter were being heard in a Circuit Court in the State of Wisconsin, and such statutory costs shall be added to such award, remedy or relief so collected by the enforcing party. Interest on any award, judgment, or order where money has been awarded shall run from the date of written award, judgment or order at the same rate as provided for judgments in the State of Wisconsin. Pre-judgment interest shall not be awarded. Attorney fees are not awardable; each party being solely responsible for their own attorneys' fees.
- e. Each of the various exhibits and written submittals shall be returned to the party filing it two (2) years after issuance of the decision or award, unless the parties shall jointly request retention for some shorter or longer period. In the event of such a request, the Committee shall determine the appropriate length of time to retain those materials. At a party's request, and with the concurrence of the Committee, any such materials may be destroyed rather than returned to the party.

10. Fees and Costs

- a. Any member filing a Demand for Arbitration or a counterclaim shall remit to the Committee a filing fee in the amount of \$300 to defray the costs of the Committee's service. The filing fee shall be in the form of a personal or certified check or money order made payable to the Cooperative. The failure to remit the required filing fee shall result in the rejection of the member's Demand or counterclaim. The filing of such Demand or counterclaim without the required fee shall not cause the tolling or suspension of any statutes of limitation or repose that may be applicable to that member's claim(s).
- b. The Cooperative shall be responsible for covering all other costs of the Committee's service, and therefore shall not be required to pay any fee upon the filing of a Demand or counterclaim.

- c. Each arbitrator shall be paid at a reasonable rate, which may include reimbursement of the arbitrator's reasonable expenses, that is negotiated and agreed to by the Committee. A reasonable fee shall be paid to each arbitrator for each day of hearing and for days reasonably required to deliberate on the record and reach a decision or award. Each party shall pay an equal portion of the arbitrators' fees and expenses.
- d. Subject to the provisions of Paragraph 9(d), above, each party shall be responsible for their own expenses of arbitration, including without limitation, attorneys' fees, expert and other witness fees, and travel and lodging.

NOTICE AND DEMAND FOR ARBITRATION
Pursuant to the Bylaws and Process and Procedures for Arbitration of
Oakdale Electric Cooperative

Any and all disputes, claims or controversies arising from or relating in any way to the Cooperative's provision of electrical energy or other services, or its furnishing of any goods or its conduct of its operations (except matters qualifying for resolution in small claims court), and which have not been resolved by agreement, shall at the request of any party be resolved by binding arbitration. If you have such a claim or dispute please provide the following information:

Date: _____

Claimant Name: _____

Type of Business (if applicable): _____

Street Address: _____

Mailing Address If Different: _____

City, State, & Zip Code: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Name of Attorney or Representative (if any): _____

Name of the Firm or Company: _____

Street Address: _____

Mailing Address If Different: _____

City, State, & Zip Code: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Respondent Name: _____

Please complete following contact information for any Respondent other than Oakdale Electric Cooperative:

Type of Business or Occupation (if applicable): _____

Street Address: _____

Mailing Address If Different: _____

City, State, & Zip Code: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Name of Attorney or Representative (if any): _____

Name of the Firm or Company: _____

Street Address: _____

Mailing Address If Different: _____

City, State, & Zip Code: _____

Telephone Number: _____ Fax Number: _____
E-mail Address: _____

1. Claimant shall set forth in detail an explanation of the nature of the dispute:

(If additional space is required, please add a blank sheet and continue explanation attaching same to this form).

In order to initiate this claim, the claimant shall file with the Committee on Dispute Resolution of Oakdale Electric Cooperative the signed original of this Notice and Demand at 489 N. Oakwood St., Tomah, WI 54660 (in care of "Dispute Resolution Committee Office"). A filing fee shall accompany this Notice and Demand in the amount of three hundred dollars (\$300.00), payable to "Oakdale Electric Cooperative."

I certify that the facts set forth above are true and correct to the best of my knowledge.

Signed: _____ Title (if any): _____

Print name: _____