Filing Instructions for Retail Electric Suppliers

I. Where to File: Applications should be filed in the Commission’s electronic filing system, DelaFile, which can be accessed at https://delafile.delaware.gov/

II. What to File: Applicant must use the attached form to submit the Application. (Please remove this instruction sheet prior to filing). To submit an application please provide the $750 non-refundable application fee, all exhibits, affidavits, and other attachments. All exhibits should be clearly identified. For example, Exhibit A should be marked “Exhibit A – Delaware Certificate of Good Standing.” Each exhibit should be attached as a separate document to the filing in DelaFile.

III. Confidentiality: All information disclosed in this application is considered public information unless specifically labeled confidential. The Applicant has the responsibility to disclose to the Commission Secretary what is privileged or confidential information not otherwise available to the public. The Applicant should attach in DelaFile one copy of all confidential information, documents should be stamped “CONFIDENTIAL” at the top in clear and conspicuous letters, the security level for this document in DelaFile should be designated “confidential”; a separate redacted version of all confidential documents should be attached to the filing in DelaFile, and the security level in DelaFile should be designated “public.” If your Application includes confidential information, please complete Attachment C. For more information, see 26 Del. Admin. C. § 1001 – Rules of Practice and Procedure of the Delaware Public Service Commission.

IV. Material Changes: Applicants shall inform Staff of any material changes in any information submitted in the application that occur from the time the application is submitted to the time the Commission considers the application. Failure to provide such notice within ten (10) Business Days after any material change may be grounds for rejection of this application.

Questions regarding this application: Please contact Clishona Marshall at (302) 736-7539 or email at Clishona.Marshall@delaware.gov or Malika Davis at (302) 736-7563 or email at islah.causey@delaware.gov.

Revised December 6, 2021
Incomplete applications or those not including the necessary fees, supporting documentation or information may be rejected and processing delayed. The Applicant must then refile the application with the required information and filing fee.

If the application when submitted and reviewed is found to be deficient, the Applicant will be given the opportunity to provide the additional information; however, an incomplete or abandoned application will be closed four (4) months after the initial filing date, unless such time period is extended by the Commission.

REFER TO 26 Del. Admin. C. § 3001 FOR SPECIFIC INFORMATION REQUIRED. UNLESS OTHERWISE NOTED, CAPITALIZED TERMS SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN 26 Del. Admin. C. § 3001. COMMISSION STAFF MAY REQUEST ADDITIONAL INFORMATION IN ORDER TO COMPLETE THE PROCESSING OF THE APPLICATION.
1. Legal name of Applicant and the name under which the Applicant proposes to do business in Delaware.

__________________________ d/b/a ________________________________

Name

☐ Applicants with a d/b/a must submit a copy of the Registration of Trade, Business & Fictitious Name Certificate for each of the three Delaware counties. Provided in Exhibit _____

☐ Provide a list of names under which the Applicant, its Affiliated Interests, or any current or previous officer, director, or manager has previously done business in Delaware. Provided in Exhibit _____

2. State of Formation Certifications:
State of Formation: __________________

☐ Provide a Certificate of Good Standing issued by the Secretary of State of the state of formation or incorporation (if different from the State of Delaware) dated within the past 12 months certifying that the Applicant is in good standing and qualified to do business in the state of formation or apply for a waiver of this requirement. Provided in Exhibit _____

☐ Provide a copy of the Applicant’s Business License certifying that the Applicant is registered and/or qualified to do business in the state of formation or incorporation (if different from the State of Delaware) or apply for a waiver of this requirement. Provided in Exhibit _____
3. **Authority to do Business in Delaware:**
   - □ Provide a Certificate of Good Standing issued by the Delaware Secretary of State dated within the past 12 months certifying that the Applicant is in good standing and qualified to do business in Delaware. Provided in Exhibit _____
   - □ Provide the permanent copy of the Applicant's Delaware Business License certifying that the Applicant is registered and/or qualified to do business in Delaware. Provided in Exhibit _____

4. **Delaware Registered Agent:**
   Each Applicant shall provide a designation in writing of the name and address of a person resident within the State of Delaware upon which service of any notice, order or process may be made. This information must be updated if changed.

   __________________________
   Name

   ______________________________________________________________________
   Address

   __________________________
   Phone

   __________________________
   Email Address

5. **Leadership:**
   Provide the names, titles, addresses, and telephone numbers of the Applicants' principal officers, directors, partners, or other similar officials. Provided in Exhibit _____

6. **Corporate Structure:**
   Each Applicant shall provide a description of the Applicant's corporate structure, including all parent, affiliated, and subsidiary companies.

   ______________________________________________________________________

   ______________________________________________________________________

   ______________________________________________________________________

   Additionally, a graphical depiction of such structure is required. Provided in Exhibit _____

7. **Regulatory Contact Person:** This person will be the Commission’s main point of contact and the initial point of contact regarding this Application. The Commission will also send any correspondence to this person.

   __________________________________________
   Name of Regulatory Contact

   __________________________________________
   Title

   __________________________________________
   Telephone Number

   __________________________________________
   Email Address
8. **Complaint Contact Person**: If contact is different from the Regulatory Contact. This person will ordinarily be the initial point of contact for resolving complaints filed with the Commission.

   __________________________________________
   Name of Complaint Contact

   __________________________________________
   Title

   __________________________________________
   Telephone Number                      Email Address

9. **Applicant’s Attorney**: This person may be the secondary contact for resolving complaints filed with the Commission. The Commission may also send any correspondence to this person. This information is required to be updated if there is a change.

   __________________________________________
   Name of Attorney

   __________________________________________
   Firm

   __________________________________________
   Address

   __________________________________________
   Telephone Number                      Email Address

   [ ] No Attorney

10. **Toll-Free Telephone Number of Applicant’s Customer Service Department**: This number will be listed on the Commission’s website as a resource for existing and potential customers.

   __________________________________________
   Toll-free customer service number

11. **Consent to Jurisdiction**:  

    Applicant consents to the jurisdiction of the Delaware courts for acts or omissions arising from the Electric Supplier’s and its Agent’s activities in the State of Delaware.

   __________________________________________
   By (signature)

   __________________________________________
   Typed or Printed Name

   __________________________________________
   Title
12. Criminal Activities Statement:

☐ A statement detailing any criminal activities, except for misdemeanors or lesser violations, of which the Applicant, any of its Affiliated Interests, officers, and directors (and prior officers and directors who left the Applicant’s employ less than three (3) months before the filing of the application) have been convicted. Any criminal disclosure shall include a copy of any order of conviction and restitution. Provided in Exhibit ______

☐ A statement detailing any pending charges, except for misdemeanors or lesser violations, against the Applicant, any of its Affiliated Interests, officers, and directors. Provided in Exhibit ______

☐ Neither the Applicant nor its affiliated interests, officers or directors have been charged or convicted of any felonies.

13. Performance Bonds:

Each Applicant shall submit a copy of its performance bond or guarantee that it has obtained as security to the Electric Distribution Company if required in the Service Agreement between the Applicant and the Electric Distribution Company.

☐ Required information is provided in Exhibit ______

☐ Performance bond or guarantee not required

14. Certified Financial Statements and other Indicia of Financial Capability: Applicants submitting European-style financial statements shall include a statement of similarity.

☐ Provide copies of certified financial statements (balance sheet, income statement, statement of cash flows current within twelve (12) months of the filing). Provided in Exhibit _____ (If publicly traded the Applicant must submit the certified financial statements and its most recent annual report to the shareholders and SEC Form 10-K, or a link to the report on the SEC website. If not publicly traded, the Applicant must submit the accounting statements, including balance sheet and income statement, audited financial statements, bank account statements, tax returns or other indicia of financial capability, or if applicable, the certified financial statements of a publicly traded parent.)

☐ Other indicia of financial capability submitted in support of the application (should be current within twelve (12) months of the filing). Provided in Exhibit _____

15. Bankruptcy Disclosure:

☐ See Exhibit _____ for detailed statement of all bankruptcy proceedings filed by the Applicant in the past 24 months
Neither the Applicant nor its affiliated interests has filed bankruptcy in the past 24 months

16. Compliance with Regional Requirements:

☐ Proof of PJM Membership is provided in Exhibit _____

Provide a brief description of the Applicant’s experience in the PJM regulated wholesale energy market or other regional energy markets:

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

17. Provide a statement detailing that the Applicant has the technical ability to secure generation or otherwise obtain and deliver electricity through compliance with PJM’s requirements.

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

By (signature)

Typed or Printed Name

Title

18. Description of the Nature of the Business Being Conducted: Description of service, types of customers, and geographic area to be served.

Description of service:

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________
*If more space is required please attach a separate sheet of paper with the above information.
Provided in Exhibit ______

Types of Customers: *Check all that apply*

- Residential
- Large Commercial
- Industrial
- Small Commercial

*Geographic Area: Applicant should check one or both*

- Delmarva Power & Light Service Territory
- Delaware Electric Cooperative Services Territory

19. **Relevant Retail Experience of Each Principal Officer Responsible for Delaware Operations.** In order to fulfill the requirements of the Supplier Rules, an Applicant must present substantial evidence of technical and managerial competency. The Applicant must submit, in an attachment, detailed professional resumes including dates, jobs/job titles and duties for each principal officer responsible for operations in Delaware.

- Provided in Exhibit ______

20. **List of States Presently Selling Electric Supply/Broker Services and a List of States with Pending Applications:** Please provide a list of the states in which the Applicant, or any of its affiliates, is now or has been engaged in the retail sale of electricity, status of the application (approved or pending), type of license, license number (if approved) or commission docket number (if pending):

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<thead>
<tr>
<th>State</th>
<th>Status</th>
<th>Type of License</th>
<th>License No</th>
<th>Date Issued</th>
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*If more space is required please attach a separate sheet of paper with the above information. Provided in Exhibit ______

**Applicant is required to provide a copy of any order or decision from the state’s public utility commission for each state listed above. Provided in Exhibit ______

21. **List of States in Which Applicant has Received Authority to Sell/Broker Services but is not Currently Providing Services.**

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<tr>
<th>State</th>
<th>Status</th>
<th>Type of License</th>
<th>License No</th>
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*Applicant shall provide a copy of any order or decision from the state’s public utility commission for each state listed above. Provided in Exhibit _____

22. List of States or federal jurisdictions in which the Applicant or any of its Affiliated Interests has been found to be in violation of a state’s laws, rules, or regulations. Provided in Exhibit _____

23. Please provide a copy of any settlement, adjudication, or court order with respect to an action filed by a state Attorney General, the Federal Trade Commission, or U.S. Department of Justice concerning the Applicant’s participation in retail and federal electricity, natural gas, or telecommunications markets. Provided in Exhibit _____

24. Other Proceedings List of states or federal jurisdictions in which Applicant or its Affiliated Interests has been denied approval and/or had authority revoked and the case number, venue, and final orders and settlement agreements for each case identified.

State: ______ Case Number: __________ Venue: _______ Final Order No: ___________ Date Issued: _______

State: ______ Case Number: __________ Venue: _______ Final Order No: ___________ Date Issued: _______

*If the Applicant has been denied approval or had its authority revoked by a state Commission please provide a detailed explanation for each state. Provided in Exhibit _____

☐ Applicant has never been denied or revoked

25. Pending Proceeding for Revocation/Suspensions: Applicant shall provide a list of proceedings in which a revocation or suspension of authority to sell or broker electricity is pending for the Applicant or its Affiliated Interests.

State: ______ Case Number: __________ Venue: __________

State: ______ Case Number: __________ Venue: __________

☐ Additional information provided in Exhibit _____

26. FERC Approval as a Marketer:

☐ Provided in Exhibit _____

27. Security: The Financial security requirements of this Section apply only to Applicants that seek an Electric Supplier Certificate to provide service to Residential and Small Commercial Customers (does not apply to Standard Offer Service). The Applicant must maintain financial security that complies with this subsection for as long as it holds an Electric Supplier Certificate to supply service to Residential and/or Small Commercial Customers. The Applicant must submit a
replacement security instrument at least seven days prior to the expiration or cancellation of a previously submitted financial security instrument. Upon termination of an Electric Supplier Certificate, the financial security instrument shall remain in full force until the Commission determines that all obligation of the Electric Supplier have been satisfied.

☐ Security in the amount of $100,000 provided in Exhibit ______

Type of Security used to satisfy this requirement:

☐ Stock Proceeds or stockholder equity
☐ Line of Credit
☐ Identifiable Assets
☐ Letter of Credit
☐ Loan
☐ Certificate of Deposit

28. Any other Information:

☐ Other material submitted in support of the Application. Provided in Exhibit ______
☐ No other supporting material is provided

29. Verification of Application: The Application must be accompanied by a signed, notarized verification of a principal officer of the Applicant stating that all information in the Application is true and correct as filed to the best of the principal’s or officer’s belief. Where the Applicant is a corporation or an association, the verification shall be signed by an officer thereof and notarized. (See Attachment A for an example)

☐ Verification is provided in Exhibit ______

30. Waiver of Certification Requirements: Only applicable to Applicants requesting a waiver.

☐ Applicant requests a waiver of the requirements in Section(s) _____ of the Supplier Rules. Please provide a detailed explanation and supporting documentation in support of the request. Provided in Exhibit ______
☐ No waiver requested

31. Public Notice of Filing: Each Applicant shall publish notice of the filing of the application in two (2) newspapers having general circulation throughout the State of Delaware in a form to be prescribed by the Commission.

- The form of notice will be forwarded to the Applicant upon receipt of the Application for an Electric Supplier Certificate

  ○ Affidavits of Publication for each public notice issued must be provided to the Commission. (The Company must upload a copy of the affidavits of publication and file in DelaFile as a separate exhibit)
32. **Marketing Plans and Materials:** If the Applicant intends to serve Residential and Small Commercial Customers, the Applicant shall provide the marketing plan and all marketing materials (please see Reg. 49, Supplier Rule - Sections 2.2.13 – 2.2.14 for a complete list of materials to be submitted).

**Proposed Marketing Method (check all that apply)**
- Door-to-Door
- Telemarketing
- Direct mail
- Other marketing channels (provide method in description below)

Please provide a description of the marketing plan(s) the Applicant plans to use in Delaware. Identify any third party vendors that the Applicant will utilize and provide a copy of any scripts utilized by the Company or its representatives. Additionally, please include the manner in which the Applicant will ensure oversight, training, and compliance with the Supplier Regulations.

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

☐ Scripts and additional information provided in **Exhibit _____**

33. **Contracts:** At the time of the filing, the Applicant shall provide its Standard Contract and Contract Summary for Residential and Small Commercial Customers. Such contract is subject to review by the Commission Staff and, if Staff determines that such contract is not consistent with the Supplier Rules, Staff shall have the authority to require changes in order to make it consistent with the Rules or the Electric Supplier faces denial of its Electric Supplier Certificate by the Commission after a hearing. **Such contract shall be in clear and plain language and include explicit terms and conditions which at a minimum contain all of the requirements from Section 6.0 of the Supplier Rules.**

☐ Contract and Contract Summary provided in **Exhibit _____**

34. **General Compliance:** Please complete the “Affidavit of General Compliance” in Attachment B.
REPORTING REQUIREMENTS FOR ELECTRIC SUPPLIERS

Applicant agrees to provide the following information to the Commission:

- Electric Supplier Annual Report due April 30th of each year
- Required 10-Day notifications provided in 26 Del. Admin. C. § 3001 section 12.2
- Required 30-Day notifications provided in 26 Del. Admin. C. § 3001 section 12.3
- Green Power Products reports provided for in 26 Del. Admin. C. § 3001 section 13.4
- Net Metering reports provided for in 26 Del. Admin. C. § 3001 section 15.11
- Annual Gross Revenue Return and Statement of Assessment due March 31st of each year
- Annual Financial Report due April 30th of each year

_________________________________
By (signature)

_________________________________
Typed or Printed Name

_________________________________
Title
Attachment A

VERIFICATION

STATE OF _________________  )
   ) SS
COUNTY OF _________________  )

On this _____ day of _____________, 20___, personally came before me, the subscriber, a Notary Public in and for the state and county aforesaid, _________________ [name of individual who is signing] as the _________________ [authority of individual or title of individual who is signing, e.g., President, Vice President, Sole Member/Manager, Trustee, etc.] of ________________ [name of company or entity that is filing], known to me personally to be such or having presented to me satisfactory evidence of identity, and acknowledged this document to be [his or her] act and deed and the act and deed of such _________________ [type of filer, e.g. corporation, limited liability company, etc.], that the signature of such individual is in [his or her] own proper handwriting, and that the facts set forth in this _________________ [type of filing, e.g., application, petition, etc.] are true and correct to the best of [his or her] knowledge, information, and belief.

___________________________________
Signature of individual
Printed Name: _______________________

SIGNED AND SWORN (OR AFFIRMED) before me on this ___ day of ______________, 20__, by ______________________ (name of individual who signed above).

___________________________________
Signature of Notarial Officer

______________________________
Title (e.g., Notary Public)

My Commission Expires:
_____________________, 20___
Attachment B

APPLICATION AFFIDAVIT

STATE OF )
COUNTY OF ) SS

______________________________, Affiant, being duly [sworn/affirmed] according to law, deposes and says that:

He/she is the ______ (Office of Affiant) of __________________________ (Name of Applicant);

That he/she is authorized to and does make this affidavit for said Applicant;

That the Applicant herein certifies to the Commission that:

The Applicant agrees to comply with all applicable Federal and state consumer protection and environmental laws and regulations, and Delaware PSC regulations, fees, assessment, and reporting requirements;

The Applicant has obtained all the licenses and permits required to operate the proposed business in the State of Delaware;

That the Applicant has the burden of producing information and supporting documentation demonstrating its technical and financial fitness to be certified as an Electric Supplier pursuant to 26 Del. Admin. C. § 3001;

That the Applicant has answered the questions on the application correctly, truthfully, and completely and provided supporting documentation as required;

That the Applicant acknowledges that it is under a duty to update information provided in answer to questions on this application and contained in supporting documents;

That the Applicant acknowledges that it is under a duty to supplement information provided in answer to questions on this application and contained in supporting documents as requested by the Commission and/or Commission Staff;

That as a condition of receiving an Electric Supplier Certificate, the Applicant agrees that it must comply with and ensure that its employees, agents, representatives, and independent contractors comply with the customer protections set forth in Commission regulations at 26 Del. Admin. C. § 3001, as well as any future amendments. Further, that Electric Suppliers and Brokers
are responsible for any false, fraudulent, deceptive or unlawful marketing or billing acts performed by their Agents in the conduct of marketing or sales activities on behalf of the Electric Supplier or Broker; and

That the facts above set forth are true and correct to the best of his/her knowledge, information, and belief and that he/she expects said Applicant to be able to prove the same at any hearing hereof.

___________________________________
Signature of individual
Printed Name: _______________________

SIGNED AND SWORN (OR AFFIRMED) before me on this ___ day of ______________, 20__, by ______________________ (name of individual who signed above).

_______________________________
Signature of Notarial Officer

______________________________
Title (e.g., Notary Public)

My Commission Expires:
_____________________, 20___
Attachment C

Attestation of Submission of Confidential, Proprietary, and Privileged Material
Per 26 Del. Admin. C. § 1001-1.11

I, [NAME], [TITLE] of [COMPANY/ORGANIZATION], do hereby attest, under penalty of perjury, that [DESCRIPTION OF DOCUMENT / INFORMATION] is 1) not a “public record” as defined by 29 Del. C. § 10002(o) because it is [DESCRIPTION OF REASON AND SPECIFIC EXEMPTION UNDER 29 Del. C. § 10002(o)]; and 2) is not subject to inspection by either the public or by other parties unless an appropriate proprietary agreement is executed.

As such, I request that the Delaware Public Service Commission accord confidential treatment to [DESCRIPTION OF DOCUMENT / INFORMATION] in accordance with 26 Del. Admin. C. § 1001-1.11.

In compliance with 26 Del. Admin. C. § 1001-1.11.3, I have submitted, attached to this Attestation, for filing a copy of the document described above without the confidential information, with an indication that the claimed confidential information has been deleted.

Executed [DATE]

_____________________________________________
[NAME]

[STATE]

[COUNTY]

Sworn to and subscribed before me on [DATE] by [NAME]

_____________________________________________ [NOTARY SEAL]

[NOTARY NAME]

My commission expires: _________________________
Checklist of Required Items for Electricity Supplier Applications – Application may be rejected if documents are not available at the time of submission.

☐ Registration of Trade, Business & Fictitious Name Certificate for each Delaware County where business is expected to be conducted
☐ Certification Documents from the state of formation or incorporation
☐ Delaware Certificate of Good Standing
☐ Delaware Business License
☐ Leadership Information
☐ Graphical Depiction of Corporate Structure
☐ Criminal Activities Statement
☐ Performance Bond (if required)
☐ Certified Financial Statements (dated within one year of filing)
☐ Publicly traded applicants – recent annual report and SEC Form 10-K
☐ Not publicly traded applicants – accounting statements or other Indicia of Financial Capability
☐ Bankruptcy disclosure
☐ Proof of PJM Membership
☐ Relevant Retail Experience
*If filed under confidential seal a redacted version and attestation (Attachment C) must be uploaded separately in DelaFile
☐ FERC Approval as a Marketer
☐ Security
☐ Marketing Plans and Materials
☐ Residential/Small Commercial Contract and Contract Summary
☐ Verification of Application (Attachment A)
☐ Application Affidavit (Attachment B)
☐ Affidavit of General Compliance (Attachment C)

Additional Items for Suppliers:

☐ Description of the Nature of Business Being Conducted (if additional space is required)
☐ States presently selling electricity supply/broker services and pending applications (if additional space is required)
☐ States in which authority to provide services has been received but not currently providing services (if additional space is required)
☐ List of states of federal jurisdictions in which Applicant or any of its Affiliated Interests has been found in violation of laws, rules, or regulations
☐ List of states in which Applicant has been denied approval and/or had authority revoked or suspended (detailed explanation)  Exhibit ____
☐ Pending Proceedings  Exhibit ____
☐ Security Bond (if required)  Exhibit ____
☐ Waiver request  Exhibit ____
☐ Other materials submitted in support of the Application  Exhibit ____