



Filing Instructions for Community Energy Facilities – Preliminary Certificate to Operate

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. Preregistration: Before the application for a Preliminary Certificate to Operate can be submitted in DelaFile two actions are required:

- 1) a company representative must be registered as a system user in order to file documents and:



Delafile User
Registration.pdf

- 2) the company must be registered as a Community Energy Facility in the system



Company User
Registration.pdf

Please fill out one User Registration Form for each person who will file applications and fill out one Company Registration Form. E-mail the completed forms to DelafileAdmin@delaware.gov. PSC Staff will set up the users and companies in the DelaFile E-filing system. Users will receive automated emails from the system when the company registration is complete with a link to activate the account. Please follow the instructions in those emails.

III. What to File: Applicant should type the following docket caption when filing the application in Delafile.

IN THE MATTER OF THE APPLICATION FOR A PRELIMINARY CERTIFICATE TO OPERATE
FOR ____[NAME OF FACILITY IF APPLICABLE]____ COMMUNITY
ENERGY FACILITY LOCATED AT ____[NUMBER STREET, CITY, STATE,
ZIP]____ PARCEL # ____[NUMBER]____ (FILED ____ MONTH
DAY YEAR ____)

Applicant should 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.

IV. 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.

Questions regarding this application: Please contact or email at Amy.Willey@delaware.gov, Samuel.Kayne@delaware.gov, and pamela.knotts@delaware.gov

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

If the submitted application is found to be deficient, the Applicant will be given the opportunity to provide the required information; however, an incomplete or abandoned application will be closed four (4) months after the initial submission 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.



Application for Preliminary Certificate to Operate

1. Legal name of Applicant and the name under which the Applicant proposes to do business in Delaware.

Applicant_____

Parent Company (if applicable)_____

or d/b/a (if applicable)_____

☐ If applicable, **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** _____

1b. Tax Identification or Employer Identification Number: _____

1c. Company Mailing Address: _____

1d. Physical Address of Community Energy Facility (if different):

And Parcel #

1e. Identify the functions that the Applicant will undertake on its own behalf.

Develop ☐ Own ☐ Solicit Subscribers ☐ Finance ☐

Manage Subscriptions ☐ Build ☐ Operate CEFs ☐

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 (or a certification that the company is entitled to do business in the state) 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 post office address of a Registered Agent within the State of Delaware upon whom 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:**

6a. Each Applicant shall provide a description of the Applicant's corporate structure, including any Affiliated Interests engaged in operations in the United States related to energy. **Exhibit** _____ if need more space.

6b. 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. **Website Address:**

9. **Consent to Jurisdiction:**

Applicant consents to the jurisdiction of the Delaware courts for acts or omissions arising from the Community Energy Facility's and its Agent's activities in the State of Delaware.

By (signature)

Typed or Printed Name

Title

10. **Proof of Site Control:**

Each Applicant shall submit a proof of site control for the parcel where the Community Energy Facility is, or will be, located, by providing one of the following.

- ☐ Fully executed lease agreement provided. in **Exhibit** _____
- ☐ Deed of sale. Provided in **Exhibit** _____
- ☐ Property deed. Provided in **Exhibit** _____
- ☐ Binding option agreement with defined lease or purchase terms. Provided in **Exhibit** _____

11. Interconnection Feasibility:

Each Applicant shall submit a copy of completed interconnection study or a signed interconnection agreement with Delmarva. If Delmarva determines that an interconnection study is unnecessary, then a written statement from Delmarva to that effect, which includes the facility's capacity and generating technology, may substitute for a completed interconnection study.

- ☐ Completed interconnection study. Provided in **Exhibit** _____
- ☐ Signed interconnection agreement. Provided in **Exhibit** _____
- ☐ Written statement from Delmarva. Provided in **Exhibit** _____

12. Any other Information:

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

13. 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** _____

14. Waiver of Certification Requirements:

- ☐ Applicant requests a waiver of the requirements in Section(s) _____ of the Community Energy Facilities' rules (26 Del. Admin. C. § 3001, Section 16). Please provide a detailed explanation and supporting documentation in support of the request. Provided in Exhibit _____

15. General Compliance: Please complete the "Affidavit of General Compliance" in Attachment B.

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).

SEAL

Signature of Notarial Officer

Title (e.g., Notary Public)

My Commission Expires:

_____, 20____

Attachment B

APPLICATION AFFIDAVIT

STATE OF _____)
) SS
COUNTY OF _____)

_____, 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 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 managerial and operational ability to be granted a Preliminary Certificate to Operate as a Community Energy Facility 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 prior to the Preliminary Certificate to Operate being issued;

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 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

SEAL

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(l) because it is [DESCRIPTION OF REASON AND SPECIFIC EXEMPTION UNDER 29 Del. C. § 10002(l)]; 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 NAME]

My commission expires: _____

[NOTARY SEAL]

Checklist of Required Items for Preliminary Certificate to Operate.

- ☐ Registration of Trade, Business & Fictitious Name Certificate for each Delaware County where business is expected to be conducted **Exhibit** _____
- ☐ Certification Documents from the state of formation or incorporation **Exhibit** _____
- ☐ Delaware Certificate of Good Standing or a certification of entitlement to do business in the State of Delaware **Exhibit** _____

- ☐ Delaware Business License **Exhibit** _____
- ☐ Leadership Information **Exhibit** _____
- ☐ Graphical Depiction of Corporate Structure **Exhibit** _____
- ☐ Proof of site control **Exhibit** _____
- ☐ Proof of Interconnection feasibility **Exhibit** _____
- ☐ Waiver request, if applicable **Exhibit** _____
- ☐ Other materials submitted in support of the Application **Exhibit** _____
- ☐ Verification of Application (Attachment A)
- ☐ Application Affidavit (Attachment B)
- ☐ Affidavit of General Compliance, if applicable (Attachment C)