

**TITLE 26 PUBLIC UTILITIES
DELAWARE ADMINISTRATIVE CODE**

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**DEPARTMENT OF STATE
PUBLIC SERVICE COMMISSION
3000 Energy Regulations**

**3001 Rules for Certification and Regulation of Electric Suppliers, Net Metering,
and Community Energy Facilities**

1.0 Definitions.

"Affiliated Interest" means:

1. Any Person or entity who owns directly, indirectly or through a chain of successive ownership, 10% or more of the voting securities of the Applicant;
2. Any Person or entity, 10% or more of whose voting securities are owned, directly or indirectly, by an affiliated interest as defined in 1 above; or
3. Any Person or entity, 10% or more of whose voting securities are owned, directly or indirectly, by the Applicant.

"Agent" means a Person who conducts marketing or sales activities, or both, interacting directly with Customers based on a contractual arrangement with and on behalf of an Electric Supplier or a Community Energy Facility. "Agent" does not include Brokers or Aggregators.

"Aggregator" means any Person or entity who contracts with an Electric Distribution Company, Electric Supplier or PJM Interconnection (or its successor) to provide energy services, which facilitate battery storage systems for Grid-Integrated Electric Vehicles and related technologies.

"Ancillary Services" means services that are necessary for the transmission and distribution of electricity from supply sources to loads and for maintaining reliable operation of the transmission and distribution system.

"Annualized Billing Period" means a period of 12 consecutive monthly billing periods. For Net Metering Customers, the first Annualized Billing Period begins on the first day of the first full monthly billing period after which the Customer-Generator Facility is interconnected with the Electric Distribution Company and is generating electricity. Effective January 1, 2023, a A Net Metering Customer may elect to change the end of the Annualized Billing Period on one time occasion in order to better utilize excess generation.

"Applicant" means:

1. A Person seeking to obtain an Electric Supplier Certificate;
2. An Electric Supplier seeking to amend its Electric Supplier Certificate; or
3. A Community Energy Facility seeking to obtain a Preliminary Certificate to Operate or a Final Certificate to Operate.

"Broker" means an entity or Person that acts as an agent or intermediary on behalf of the Customer in the sale or purchase of, but that does not take title to, electricity for sale to retail electric Customers or an entity or Person that acts as an agent or intermediary on behalf of the Customer in the purchase of a subscription to a Community Energy Facility but does not take title to the subscription.

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"Business Day" means any calendar day except Saturdays, Sundays or legal holidays as defined in 1 Del.C. §501.

"Co-location" means the siting of two or more Community Energy Facilities owned or developed by a single entity (or its Affiliated Interests) located on one parcel of land, or on contiguous parcels of land. For purposes of this definition:

1. **"Contiguous"** means touching along a boundary or a point. For example, parcels touching along a boundary are contiguous, as are parcels that meet only at a corner. Parcels, however near to each other, that are separated by a third parcel and do not touch along a boundary or a point are not contiguous. Additionally, parcels that are separated by a public road, railroad, or other right of way accessible at all times to the general public are not considered contiguous;

2. Parcels that are subdivided after July 1, 2021 shall be considered as a single parcel;

3. Projects owned or developed by separate entities (meaning that they are not affiliates) are not considered co-located; and

4. Projects need not be developed contemporaneously to be considered co-located. If a single project is developed and then a second, co-located project is developed on the same or a contiguous parcel at a later date by a single entity or its Affiliated Interests, these two projects will be considered co-located.

"Commission" means the Delaware Public Service Commission.

"Community-owned energy generating facility" or **"Community Energy Facility"** means a renewable energy generating facility that has multiple owners or customers who share the output of the generator, which may be located either as a stand-alone facility or behind the meter of a participating owner or customer and that meets all applicable requirements of Section 16.0 of these Regulations.

"Community Energy Facility Subscriber" or **"Subscriber"** means any Customer who participates in a Community Energy Facility project by means of having an active subscription to a Community Energy Facility or owning a portion of the Community Energy Facility. Subscribers are defined by the meter associated with their Delmarva bill.

"Consumer Protection Unit" means the Delaware Department of Justice Consumer Protection Unit or the Director of the Consumer Protection Unit, as applicable.

"Contract" means the total legal obligation resulting from the parties' agreement as effected by these Regulations and other applicable law. Contracts for Electric Supply Service and Community Energy Facility Subscriptions must be accompanied by a Contract Summary.

"Contract Summary" means a written summary of the material terms and conditions of service between an Electric Supplier and a Residential or Small Commercial Customer, or between a Community Energy Facility and a Subscriber. If the terms of the Contract Summary differ from the terms of the Contract, then the provision(s) most favorable to the Customer shall control.

"Cooperative" or **"DEC"** means Delaware Electric Cooperative, Inc. or its successor(s).

"Cramming" means the prohibited practice of charging Customers for services that they have not ordered or have been sold in a deceptive manner such that the Customer is not reasonably aware of the nature or price of the service for which he or she is being charged.

"Customer" means a purchaser of electricity with a Delmarva account number for ultimate consumption and not for resale in Delaware, including the owner/operator of any building or facility, but not the occupants thereof, who purchases and supplies electricity to the occupants of such building or facility.

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"Customer-Generator Facility" means equipment used by a Customer to generate, manage, and monitor electricity. A Customer-Generator Facility, which typically includes an electric generator and/or an equipment package, shall:

1. Satisfy all of the applicable requirements of Section 15.0 Net Metering of these Regulations;
2. Meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronic Engineers, and Underwriters Laboratories to ensure that net metering customers meet applicable safety and performance standards; and
3. Comply with the Electric Supplier's interconnection tariffs and operating guidelines.

"Delmarva" or **"DP&L"** means Delmarva Power & Light Company or its successor(s).

"Distribution Facilities" means electric facilities located in Delaware that are owned by a public utility that operate at voltages of 34,500 volts or below and that are used to deliver electricity to Customers, up through and including the point of physical connection with electric facilities owned by the Customer.

"Distribution Services" means those services, including metering, relating to the delivery of electricity to a Customer through Distribution Facilities.

"DNREC" means Delaware Department of Natural Resources and Environmental Control.

"Door-to-Door Sale" means a sale, or offer of Contracts for sale, in which the Electric Supplier or its Agent, or a Community Energy Facility or its Agent, personally solicits a Residential or Small Commercial Customer to sell Electric Supply Service or Community Energy Facility subscriptions. This term includes sales made at a place other than the Electric Supplier's or Community Energy Facility's place of business. This term does not include:

1. Sales made at Public Events;
2. For Small Commercial Customers, sales in response to or following a pre-scheduled appointment between the Small Commercial Customer and the Electric Supplier or Community Energy Facility; and
3. Any sale which is conducted entirely by mail, telephone or other Electronic means.

"DPA" means the Delaware Division of the Public Advocate.

"Electric Distribution Company" or **"EDC"** means a public utility owning and/or operating Transmission and/or Distribution Facilities in Delaware.

"Electric Supplier" means an entity or Person certified by the Commission that sells electricity to Customers utilizing the Transmission and/or Distribution Facilities of a nonaffiliated EDC, as defined in 26 Del.C. §1001(14), including:

1. Affiliates of an EDC;
2. Municipal corporations which choose to provide electricity outside their municipal limits (except to the extent provided prior to February 1, 1999);
3. Electric cooperatives which, having exempted themselves from the Commission's jurisdiction pursuant to 26 Del.C. §§202(g) and 223, choose to provide electricity outside their assigned service territories; and
4. Any Broker, Marketer or other entity (including public utilities and their Affiliates).

"Electric Supplier Certificate" or **"ESC"** means a certificate granted by the Commission to Electric Suppliers that have fulfilled the Commission's certification requirements. The

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Commission order approving an Applicant's application for certification as an Electric Supplier, Marketer, or Broker shall serve as the Electric Supplier Certificate.

"Electric Supply Service" means the provision of electricity and related services to Customers, as defined in 26 Del.C. §1001(15).

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, as defined in 6 Del.C. 12A-§102(5).

"Electronic mail" or **"e-mail"** means any message transmitted through the internet including, but not limited to, messages transmitted to or from any address affiliated with an internet site.

"Electronic Signature" means an Electronic sound, symbol, or process attached to or logically associated with a document or record and executed or adopted by a Person with the intent to sign the document or record, as defined in 6 Del.C. §12A-102(9).

"Eligible Energy Resources" means the following energy sources located within the PJM region or imported into the PJM region and tracked through the PJM Market Settlement System:

1. Solar energy technologies that employ solar radiation to produce electricity;
2. Electricity derived from wind energy;
3. Electricity derived from ocean energy including wave or tidal action, currents, or thermal differences;
4. Geothermal energy technologies that generate electricity with a steam turbine, driven by hot water or steam extracted from geothermal reservoirs in the earth's crust;
5. Electricity generated by a fuel cell powered by Renewable Fuels;
6. Electricity generated by the combustion of gas from the anaerobic digestion of organic material;
7. Electricity generated by a hydroelectric facility that has a maximum design capacity of 30 megawatts or less from all generating units combined that meet appropriate environmental standards as determined by DNREC (see DNREC Regulation 7 **DE Admin. Code** 106, Environmental Standards for Eligible Energy Resources);
8. Electricity generated from the combustion of biomass that has been cultivated and harvested in a sustainable manner as determined by DNREC, and is not combusted to produce energy in a waste to energy facility or in an incinerator (see DNREC Regulation 7 **DE Admin. Code** 106, Environmental Standards for Eligible Energy Resources);
9. Electricity generated by the combustion of methane gas captured from a landfill gas recovery system; provided, however, that:
 - a. Increased production of landfill gas from production facilities in operation prior to January 1, 2004 demonstrates a net reduction in total air emissions compared to flaring and leakage;
 - b. Increased utilization of landfill gas at electric generating facilities in operation prior to January 1, 2004 (i) is used to offset the consumption of coal, oil, or natural gas at those facilities, (ii) does not result in a reduction in the percentage of landfill gas in the facility's average annual fuel mix when calculated using fuel mix measurements for 12 out of any continuous 15 month period during which the electricity is generated, and (iii) causes no net increase in air emissions from the facility; and
 - c. Facilities installed on or after January 1, 2004 meet or exceed 2004 Federal and State air emission standards, or the Federal and State air emission

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standards in place on the day the facilities are first put into operation, whichever is higher.

"Excess kWh Credit" means the credit that Electric Suppliers and EDCs provide to their net metering customers for any excess production of the customer's generating facility that exceeds the customer's on-site consumption of kilowatt-hours (kWh) in a billing period.

"FERC" means the Federal Energy Regulatory Commission.

"Final Certificate to Operate" means a certificate granted by the Commission to a Community Energy Facility that has fulfilled the Commission's final certification requirements under subsection 16.2.4 of these Regulations. The Commission order approving an Applicant's application for a Final Certificate to Operate as a Community Energy Facility shall serve as the Final Certificate to Operate.

"Fixed Price" means a Price that will remain the same for at least three billing cycles or the term of the Contract, whichever is longer.

"Fuel Cell" means an electric generating facility that: (a) includes integrated power plant systems containing a stack, tubular array, or other functionally similar configuration used to electrochemically convert fuel to electric energy, and (b) may include an inverter and fuel processing system or other plant equipment to support the plant's operation or its energy conversion, including heat recovery equipment.

"GATS" means the Generation Attribute Tracking System developed by PJM-Environmental Information Services, Inc. (PJM-EIS).

"Generation Attribute" means a non-price characteristic of the electrical energy output of a Generation unit, including but not limited to the unit's fuel type, geographic location, emissions, vintage, and RPS eligibility.

"Generation Unit" means a facility that converts a fuel or an energy resource into electrical energy.

"Grid-Integrated Electric Vehicle" means a battery-run motor vehicle that has the ability for two-way power flow between the vehicle and the electric grid and the communications hardware and software that allow for the external control of battery charging and discharging by an Electric Distribution Company, Electric Supplier, PJM Interconnection, or an Aggregator."

"Host Customer" means the customer account directly connected to a Customer-Generator Facility or Community Energy Facility, or, for a stand-alone Community Energy Facility, the customer account as designated by the Subscribers who share the energy production of the Community Energy Facility.

"Introductory Price" means a Price offered by an Electric Supplier for new Customers that will remain the same for a limited period of time between one and three billing cycles followed by a different Fixed or Variable Price that will be in effect for the remaining billing cycles of the Contract term, consistent with terms and conditions in the Contract.

"Low-income Customer" means a customer whose gross annual income, by family size, is at or below 200% of the U.S. Federal Poverty Guidelines, or 60% of the state median household income published by the United States Census Bureau, whichever is greater. Owners or operators of master-metered buildings whose tenants meet the income eligibility requirements for Low-income Customers may also qualify as a "Low-income Customer".

"Marketer" means an entity or Person that purchases and takes title to electricity for sale to Customers in this State, as defined in 26 Del.C. §1001(19).

"Net Metering" or "Net Energy Metering" means a service to a Customer whereby electric energy generated by the Customer, through a Customer-Generator Facility and delivered to

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the local distribution facilities of an EDC, may be used to offset electric energy provided by the EDC to the Customer.

"Permission to Operate" means Delmarva's approval for a Community Energy Facility to commence operation pursuant to subsection 16.3 of these Regulations.

"Person" means a natural person; a corporation, partnership, association, public trust, joint stock company, joint venture, or other group of persons, whether incorporated or not; a trustee or receiver of the foregoing; a municipality or other political subdivision of the State of Delaware; and any other governmental agency or any officer, agent or employee of such agency.

"PJM Interconnection, LLC" or **"PJM"** means the Regional Transmission Organization ("RTO") that is responsible for wholesale energy markets and the interstate transmission of energy throughout a multi-state area, or its successor organization.

"Preliminary Certificate to Operate" means a certificate granted by the Commission to a Community Energy Facility that has fulfilled the Commission's preliminary certification requirements under subsection 16.2.3 of these Regulations, which establishes project viability. The Commission order approving an Applicant's application for a Preliminary Certificate to Operate as a Community Energy Facility shall serve as the Preliminary Certificate to Operate.

"Price" or **"Rate"** means all charges (excluding taxes), including Fixed or Variable, to be charged by the Electric Supplier for Electric Supply Service or by the Community Energy Facility for subscription credits pursuant to the Contract.

"Public Event" means an event in a public location at which an Electric Supplier or Community Energy Facility may market and solicit Residential and Small Commercial Customers to enroll.

"Regulations" means the Commission's Regulations for Certification and Regulation of Electric Suppliers, Net Metering, and Community Energy Facilities (26 **DE Admin. Code** 3001 *et seq.*).

"Renewable Energy Credit" or **"REC"** means a tradable instrument comprised of all the Generation Attributes equal to 1 megawatt-hour of electricity derived from Eligible Energy Resources and that is used to track and verify compliance with the provisions of the Renewable Energy Portfolio Standards Act, 26 **Del.C.** §351 *et. seq.* A REC does not include emission reduction credits and/or allowances encumbered or used by a Generation Unit for compliance with local, state, or federal operating and/or air quality permits associated with the 1 megawatt-hour of electricity.

"Renewable Energy Portfolio Standard" or **"RPS"** means the percentage of retail electricity sales in the State that is to be derived from Eligible Energy Resources.

"Rescission Period" means the time period within which a Residential or Small Commercial Customer may choose to cancel, without penalty, a Contract for Electric Supply Service with an Electric Supplier or a Contract for subscription credits with a Community Energy Facility.

"Residential Customer" means a retail electric Customer eligible to take service classified as Residential under the tariff of the Customer's Electric Distribution Company currently on file with the Commission.

"Residential Subscriber" means a Residential Customer who has subscribed to a Community Energy Facility.

"Secretary" means the Secretary of the Commission, or any employee of the Commission designated by the Secretary and authorized by the Executive Director.

"Slamming" means the prohibited unauthorized enrollment of a Customer without the Customer's permission or the unauthorized transfer of a Customer to another Electric Supplier.

"Small Commercial Customer" means a Customer taking service under a current Electric Distribution Company tariff governing Service Classification "Small General Service-Non

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Demand Rate" or the current Cooperative tariff governing Service Classification "General Service." However, for the purposes of these Regulations, any Small Commercial Customer who has joined with an affiliated non-Small Commercial Customer or a non-Residential Customer for the purpose of contracting for Electric Supply Service shall be exempt from the definition of a Small Commercial Customer.

"Small Commercial Subscriber" means a Small Commercial Customer who has subscribed to a Community Energy Facility.

"Societal Benefits Program" means a program required by law in which a benefit to the public at large accrues as a result of its implementation. Societal Benefits Programs include:

Green Energy Fund under 26 Del. C §1014 (a);

Low Income Fund under 26 Del. C. § 1014 (b);

Charges incurred by the EDC in complying with the state mandated renewable energy portfolio standard under 26 Del. C. § 358(f)(1);

The charge imposed under 26 Del. C. § 364 for qualified fuel cells; and

Energy efficiency programs under 29 Del. C. § 8059 (h)(1)(e).

"Solar Renewable Energy Credit" or ("**SREC**") means a tradable instrument that is equal to 1 megawatt-hour of retail electricity sales in the State that is derived from solar photovoltaic energy resources and that is used to track and verify compliance with the provisions of the Renewable Energy Portfolio Standards Act, 26 Del.C. §351 et seq.

"Staff" means full-time professional employees of, and outside counsel and consultants retained by, the Commission who render advice to the Commission.

"Standard Offer Service" or "**SOS**" means the provision of Electric Supply Service by a Standard Offer Service Supplier to Customers who do not otherwise receive Electric Supply Service from an Electric Supplier, as defined in 26 Del.C. §1001(23).

"Standard Offer Service Supplier" or "**SOSS**" means an EDC serving within its certificated territory, as defined in 26 Del.C. §1001(24).

"State" means the State of Delaware.

"Telemarketing" means any unsolicited telephone calls initiated by, or on behalf of, an Electric Supplier or a Community Energy Facility to a Residential or Small Commercial Customer in order to market Electric Supply Service or Community Energy Facility subscriptions.

"Third party verification" or "**TPV**" means a method to record consent from a Residential or Small Commercial Customer agreeing to each of the below-listed material Contract terms that is recorded by an independent person not party to the agreement or that may be performed by an automated, computerized system. To be valid, the TPV must occur without the presence of the sales agent, and at the outset must describe how the Residential or Small Commercial Customer can cancel the TPV and the enrollment at any time prior to completion without penalty. The consent from the Residential or Small Commercial Customer must be given without unreasonable assistance from the individual conducting the TPV and must include an acknowledgement from the Residential or Small Commercial Customer:

1. That he or she is voluntarily choosing to enroll with an Electric Supplier or a Community Energy Facility;
2. Of the type of product offered (introductory, variable, fixed, or some combination);
3. Of the Price that will be charged for the first month's service and when or if the Price may change;

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4. Of the duration of the Contract;
5. Of the amount of an early termination fee (if applicable);
6. If a Residential Customer, that he or she is the account holder or authorized to make the switch;
7. If a Small Commercial Customer, that he or she is authorized to make the switch;
8. That the Residential or Small Commercial Customer has been provided with information on how the Contract can be renewed and, if applicable, what the Supplier or the Community Energy Facility can do if the Customer fails to respond to the renewal notice;
9. That the Residential or Small Commercial Customer has been provided information on how to access the Electric Supplier's or the Community Energy Facility's historical pricing information;
10. That the Residential or Small Commercial Customer has been provided information on how to access future pricing information; and
11. That the Residential or Small Commercial Customer has received the Electric Supplier's or the Community Energy Facility's customer support contact information.

"Transmission Facilities" means electric facilities located in Delaware and owned by a public utility that operate at voltages above 34,500 volts and that are used to transmit and deliver electricity to Customers (including any Customers taking electric service under interruptible rate schedules as of December 31, 1998) up through and including the point of physical connection with electric facilities owned by the Customer, as defined in 26 **Del.C.** §1001(26).

"Transmission Services" means the delivery of electricity from supply sources through Transmission Facilities, as defined in 26 **Del.C.** §1001(27).

"Unsubscribed Energy" means any community-owned energy generating facility percentage of output that is not allocated to any Subscriber.

"Variable Price" means a Price that can change from month to month (but not more frequently) on a Residential or Small Commercial Customer's bill according to the terms and conditions in the Contract.

"VREC" or "Voluntary Renewable Energy Credit" means a tradable instrument comprised of all the generation attributes equal to 1 megawatt-hour of electricity derived from the types of renewable energy sources listed in 26 **Del.C.** §352(6)(a)-(i) and that is generated via PJM-EIS GATS, its successor, another regional renewable energy certificate tracking system, or Green e-Energy and used to track and verify compliance with the provisions of these Regulations.

"Written Notice" means notice in writing, mailed by First Class mail to the Person who is being given notice, sent to the current billing address as shown on the records of the Electric Distribution Company, Electric Supplier, or Community Energy Facility, or via Electronic mail to a valid e-mail address if the Customer authorizes the receipt of the applicable communication via electronic means and provides a valid e-mail address.

25 DE Reg. 963 (04/01/22)

14.0 Disclosure of Fuel Resource Mix. RESERVED

- 14.1 ~~Each Electric Supplier, except Brokers, shall file a report with the Commission disclosing the aggregate proportions of fuel resource mix for the electricity supplied to its~~

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~~Customers in Delaware for each quarter during the year. Such reports shall be filed not later than sixty (60) calendar days following the end of each quarter. The reports shall include, but are not limited to:~~

- ~~14.1.1 The total number of Customers by each Customer class served during that quarter;~~
 - ~~14.1.2 The total amount of electricity (kWh or MWh) supplied to each Customer class; and~~
 - ~~14.1.3 The fuel resource mix by percentage for each resource.~~
- ~~14.2 Each Electric Supplier and SOSS shall also disclose the information under subsection 14.1.3 to its Customers annually via bill inserts or a bill message with website link to the Supplier's or SOSS's fuel resource mix and each of the other three quarters by providing information on the Customer's bill for that quarter directing the Customer to obtain the information on the Electric Supplier's website or by a telephone request. Each Electric Supplier must maintain and update the information in subsection 14.1.3 as required by 26 Del.C. §1012. Information reported under subsection 14.1.3 may be utilized in any consumer education program developed in accordance with 26 Del.C. §1014(e).~~

15.0 Net Metering

15.1 General Provisions

15.1.1 Net Metering can occur in two circumstances as follows:

Condition 1 - Individual Customer/Single Account/Single Premise where all Net Metering activity occurs at a single customer premise for a single customer account;

and

Condition 2 - Individual Customer/Multiple Accounts/Single or Multiple Premises where a single customer can aggregate Net Metering for crediting to multiple accounts and/or premises.

See Section 16.0 of these Regulations for the rules governing Community Energy Facilities.

15.1.2 Each Electric Supplier providing Electric Supply Service shall offer Customers the option of Net Metering if a Customer generates electricity at the Customer's premises, subject to all of the following requirements:

15.1.2.1 The Customer owns and operates; leases and operates; or contracts with a third party who owns and operates the electric generation facility with a capacity that:

15.1.2.1.1 Will not exceed 25 kW per DP&L meter for residential Customers;

15.1.2.1.2 Will not exceed 2 MW per DP&L meter for non residential Customers;

15.1.2.1.3 Will not exceed 100 kW per DP&L meter for farm customers, as those customers are described in 3 Del.C. §902(3); provided, however, that the Delaware Energy Office DNREC may grant exceptions to this limitation in accordance with 26 Del.C. §1014(d)(1)b;

15.1.2.1.4 For Condition 2, the sum of electric generation capacity will not exceed the applicable limits per meter specified in subsections 15.1.2.1.1 through 15.1.2.1.3 above;

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- 15.1.2.1.5 Uses as its primary source of fuel: solar, wind, hydro, a fuel cell or gas from the anaerobic digestion of organic material;
- 15.1.2.1.6 Is interconnected and operated in parallel with an Electric Supplier's transmission and distribution facilities; and
- 15.1.2.1.7 Is designed to produce no more than 110% of the Host Customer's expected aggregate electrical consumption, calculated on the average of the two previous 12 month periods of actual electrical usage at the time of installation of energy generating equipment and subject to the capacity limits specified in subsections 15.1.2.1.1 through 15.1.2.1.3 of these Regulations. For new building construction or in instances where less than two previous 12 month periods of actual usage is available, electrical consumption will be estimated at 110% of the consumption of units of similar size and characteristics at the time of installation of energy generating equipment and subject to the capacity limits specified in subsections 15.1.2.1.1 through 15.1.2.1.3 of these Regulations.
- 15.2 Net metering shall be accomplished through a single meter. ~~at the Electric Supplier's expense, that runs forward and backward in order to measure~~ measures net energy flow during a billing period.
- 15.2.1 ~~To maintain system safety and reliability, an additional meter or meters to monitor the flow of electricity in each direction may be installed with the consent of the Customer, which consent may be waived by the customer, at the expense of the Electric Supplier, and the~~ The additional metering shall be used only to provide the information necessary to accurately bill or credit the Customer pursuant to subsection 15.3 of these Regulations, or to collect system performance information. ~~on the eligible technology for research purposes.~~
- 15.2.2 ~~Where a larger capacity meter is required to serve the Customer, or a larger capacity meter is requested by the Customer, the Customer shall pay the Electric Supplier the difference between the larger capacity meter investment and the metering investment normally provided under the Customer's service classification. If an additional meter or meters are installed, the net energy metering calculation shall yield a result identical to that of a single meter.~~
- 15.2.3 ~~If the existing electrical meter of a Customer is incapable of measuring the flow of electricity in two directions through no fault of the customer, the Electric Supplier shall be responsible for all expenses involved in purchasing and installing such a meter. Non-residential customers shall be responsible for paying the reasonable cost of any new, replacement, or modified meter or meters installed for net-metering purposes. Residential customers shall not be responsible for paying more than \$200.00 toward the reasonable cost of any new, replacement, or modified meter or meters installed for net-metering purposes. Non-residential and residential customers shall not own the meter or meters, which shall remain the property of the electric distribution company.~~
- 15.3 ~~For Net Metering Condition 1 and Condition 2 if, during any billing period, a Customer-Generator Facility produces more energy than that consumed by the Customer, or aggregate total kWh of the Customer, the Electric Supplier will credit the Customer in kWh's, valued at an amount per kWh equal to the sum of volumetric energy (kWh) components of the delivery service charges and supply service charges for residential Customers and the sum of the volumetric energy (kWh) components of the delivery service charges and supply service charges for non-residential Customers for any excess energy production of their generating facility that exceeds the Customer's on-site, or aggregate total, consumption of kWh in a billing~~

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~~period. During any billing period prior to the end of the Annualized Billing Period, the crediting of excess energy kWh will result in the reduction of cost paid by the Customer for the equivalent volumetric energy kWh of delivery service charges, if applicable, and supply service charges. Electric Suppliers and EDCs shall credit Excess kWh Credits to the customer's subsequent monthly billing periods to offset the customer's consumption in those billing periods.~~

- 15.3.1 ~~Excess kWh credits Credits at the end of the Annualized Billing Period shall revert to the EDC providing electric distribution to the Customer. shall be credited to subsequent billing periods to offset a Customer's consumption in those billing periods until all credits are used. During any subsequent billing period prior to the end of the Annualized Billing Period, the crediting of excess energy kWh will result in the reduction of cost paid by the Customer for the equivalent volumetric energy kWh of delivery service charges, if applicable, and supply service charges.~~
- 15.3.2 ~~At the end of the Annualized Billing Period, a Customer may request a payment from the Electric Supplier for any excess kWh credits. The payment for residential customer accounts shall be calculated by multiplying the excess kWh credits by the Customer's Supply Service Charges based on a weighted average of the first block of the summer (June through September) and winter Supply Service Charges (October through May) in effect at the end of the Customer's Annualized Billing Period and the preceding 11 billing periods, excluding non-volumetric charges, such as the transmission capacity charge and/or demand charges. The payment for non-residential customer accounts shall be calculated by multiplying the excess kWh credits by the Customer's Supply Service Charges that would otherwise be applicable at the end of the Customer's Annualized Billing Period. If such payment would be less than \$25.00, the Electric Supplier may credit the Customer's account through monthly billing. For existing and future Net Energy Metering Customers, both residential and nonresidential, the monthly Excess kWh Credit shall be valued at the sum of the volumetric (kWh) components of the supply service charges and distribution service charges, not including the charges for Societal Benefits Programs, according to each participating Customer account's rate schedule.~~
- 15.3.3 ~~Any excess kWh credits Excess kWh Credits shall not reduce any fixed monthly Customer charges imposed by the Electric Supplier EDC.~~
- 15.3.4 ~~The Customer shall retain ownership of all RECs associated with electric energy produced from all eligible energy resources of the Customer-Generator Facility and consumed by the Customer unless the customer has relinquished such ownership by contractual agreement with a third party or by other means.~~
- 15.3.5 ~~Subsections 15.3 through 15.3.4 shall not apply to Community Energy Facilities, which are addressed in Section 16 of these Regulations.~~
- 15.3.6 ~~Excess kWh Credits for supply service are the responsibility of the entity providing supply to the Customer rather than solely the responsibility of the EDC.~~
- 15.3.7 ~~In the event that a Net Energy Metering Customer abandons the property where the energy generating equipment is located, the equipment may remain connected to the electric distribution system, unless the equipment presents a risk to the safety and reliability of the electric distribution system.~~
- ~~15.3.5-15.3.8~~ 15.3.8 ~~Electric Suppliers and EDCs shall provide net-metered Customers electric service at non-discriminatory rates that are identical, with respect to rate structure and monthly charges, to the rates that a Customer who is not Net-Metering would be charged. Electric Suppliers shall not charge a Net-Metering Customer any stand-by fees or similar charges.~~

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- ~~15.3.6~~ 15.3.9 If a Net Metering Customer terminates its service with the EDC Electric Distribution Company or changes Electric Supplier, the Electric Supplier terminating service shall treat the end of service period as if it were the end of the Annualized Billing Period for any excess kWh credits.
- ~~15.3.7~~ 15.3.10 If the total generating capacity, measured in megawatts (MW) of alternating current (AC), of all Customer-generation using net metering systems served by an electric utility exceeds 8% (5%) of the capacity necessary to meet the EDC's Electric Supplier's aggregated Customer monthly peak demand for a particular calendar year, average Delaware transmission peak demand for the preceding 3 years, the EDC Electric Supplier may elect not to provide Net Metering services to additional Customers.
- ~~15.3.8~~ 15.3.11 Where applicable, the requirements established in subsection 15.6 of these Regulations shall apply to this subsection 15.3.
- 15.4 RESERVED.
- 15.5 RESERVED.
- 15.6 Subject to the applicable Net Metering provisions of Section 15.0 of these Regulations, in instances where one customer has multiple meters under the same account or different accounts, regardless of the physical location and rate class, the customer may aggregate meters for the purpose of net metering regardless of which individual meter receives energy from a Customer-Generator Facility, provided that:
- 15.6.1 DP&L shall only allow meter aggregation for customer accounts of which it provides electric supply service; and
- 15.6.2 The Customer-Generator Facility is designed to produce no more than 110% of the Customer's aggregate electrical consumption of the individual meters or accounts that the Customer is entitled to aggregate under this subsection 15.6 calculated on the average of the two previous 12 month periods of actual electrical usage. For new building construction or in instances where less than two previous 12 month periods of actual usage is available, electrical consumption will be estimated at 110% of the consumption of units of similar size and characteristics at the time of installation of energy generating equipment; and
- 15.6.3 A Customer-Generator Facility shall not exceed the sum total of the capacity limits among the participants of a Customer-Generator Facility as defined under subsections 15.1.1.1 through 15.1.1.3 of these Regulations; and
- 15.6.4 At least ninety days before a Customer commences construction of a Customer-Generator Facility or a Customer is entitled to aggregate multiple meters, the customer shall file with DP&L the following information:
- 15.6.4.1 a list of individual meters the Customer is entitled to aggregate, identified by name, address, rate schedule, and account number, and ranked according to the order which the Customer desires to apply credit for excess energy to each individual meter; and
- 15.6.4.2 a description of the Customer-Generator Facility, including the facility's location, capacity, and fuel type or generating technology; and
- 15.6.4.3 a complete interconnection application to facilitate a transmission and distribution analysis, including an evaluation of potential reliability, safety and stability impacts and determination of whether infrastructure upgrades are necessary and appropriate allocation of applicable interconnection costs.

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- 15.6.5 The Customer may change its list of aggregated meters specified in subsection 15.6.4.1 no more than once annually by providing ninety days' written notice; and
- 15.6.6 Credit shall be applied first to the meter through which the Customer-Generator Facility supplies electricity, then through the remaining meters for the Customer's accounts according to the rank order as specified in accordance with subsection 15.6.4.1 above; and
- 15.6.7 Credit in kilowatt-hours (kWh) shall be valued according to subsection 15.3 of these Regulations and each account's rate schedule as specified in subsection 15.6.4.1 above; and
- 15.6.8 DP&L may require that a Customer's aggregated meters as specified in subsection 15.6.4.1 above be read on the same billing cycle.
- 15.7 RESERVED.
- 15.8 Nothing in these Rules is intended in any way to limit eligibility for net energy metering services based upon direct ownership, joint ownership, or third-party ownership or financing agreement related to an electric generation facility, where net energy metering would otherwise be available
- 15.9 For public utilities regulated by the Commission, net metering aggregation disputes limited to the correct application of Commission-approved tariffs shall be resolved by the Commission. All other disputes with an Electric Supplier, DEC, or municipal electric companies shall be resolved by the appropriate governing body with jurisdiction over such disputes.
- 15.10 Any requirements necessary to permit interconnected operations between the Customer-Generator Facility and the Electric Supplier, and the costs associated with such requirements, shall be dealt with in a manner consistent with a standard tariff filed with the Commission by the Electric Supplier. An Electric Supplier's interconnection rules shall be developed by using the Interstate Renewable Energy Council's Model Interconnection Rules and best practices identified by the U.S. Department of Energy. Electric Suppliers shall not require eligible net metering customers who meet all applicable safety and performance standards to install excessive controls, perform or pay for unnecessary tests, or purchase excessive liability insurance.
- 15.11 Each Electric Supplier shall submit an annual net-metering report to the Commission 90 days after the end of the calendar year. Such report shall include the following information from the previous calendar year:
- 15.11.1 The total number of Customer-Generator Facilities;
- 15.11.2 The total estimated rated generating capacity of its net-metered Customer-Generator Facilities;
- 15.11.3 The total estimated net kilowatt-hours received from Customer-Generator Facilities; and
- 15.11.4 The total estimated amount of energy produced by Customer-Generator Facilities, using a methodology approved by the Commission.
- 15.11.5 The annual net-metering report may be revised as necessary to reflect changes in information available from net metered facilities upon consultation and agreement between the Electric Supplier and the Staff of the Commission.
- 15.12 The Commission shall periodically review the impact of net-metering rules in this section and recommend changes or adjustments necessary for the economic health of utilities.
- 15.13 A retail electric customer having on its premises one or more grid Grid-Integrated Electric Vehicles shall be credited in kilowatt-hours (kWh) for energy discharged to the grid

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- from the Grid-Integrated Electric Vehicle's battery at the same kWh rate that customer pays to charge the battery from the grid, as determined in subsection 15.3 of these Regulations. Excess kWh credits shall be handled in the same manner as Net Metering as described in subsection 15.3 of these Regulations. To qualify under this section of the Rule, the Grid-Integrated Electric Vehicle must meet the requirements in subsections 15.1.1.1., 15.1.1.2, and 15.1.1.5 of these Regulations. Connection and metering of Grid-Integrated Electric Vehicles shall be subject to the rules and regulations found in subsections 15.3, 15.10, and 15.11 of these Regulations.
- 15.14 The Commission may adopt tariffs for regulated electric utilities that are not inconsistent with subsection 15.13 of these Regulations. Such tariffs may include rate and credit structures that vary from those set forth in subsection 15.13 of these Regulations, as long as alternative rate and credit structures are not inconsistent with the development of Grid-Integrated Electric Vehicles.

25 DE Reg. 963 (04/01/22)

17.0 Other General Rules.

- 17.1 Proprietary Information. Under Delaware's Freedom of Information Act, 29 Del.C. ch. 100, all information filed with the Commission is considered of public record unless it contains "trade secrets and commercial or financial information obtained from a person which is of a privileged or confidential nature." 29 Del.C. ~~§10002(d)(2)~~§10002(o). To qualify as a non-public record under this exemption, materials received by the Commission must be clearly and conspicuously marked on the title page and on every page containing the sensitive information as "proprietary" or "confidential" or words of similar effect. A redacted public version and an attestation that the information is not subject to public inspection or disclosure must accompany the information filed. The Commission shall presumptively deem all information so designated to be exempt from public record status. However, upon receipt of a request for access to information designated proprietary or confidential, the Commission may review the appropriateness of such designation and may determine to release the information requested. Prior to such release, the Commission shall provide the entity which submitted the information with reasonable notice and an opportunity to show why the information should not be released.

17.2 Failure to Comply with these Rules.

- 17.2.1 The failure by any Electric Supplier or a Community Energy Facility to comply with these requirements and the requirements in other Sections of these Regulations may result in penalties, including monetary assessments, suspension or revocation of the Electric Supplier's ESC, suspension or revocation of the Community Energy Facility's Final Certificate to Operate, or other sanction as determined by the Commission.
- 17.2.2 If an Electric Supplier or Community Energy Facility has a similar license issued by another state, the federal government, or PJM or similar entity suspended or revoked, the Commission may suspend or revoke the Electric Supplier's ESC or the Community Energy Facility's Final Certificate to Operate after notice and an evidentiary hearing.

3 DE Reg. 538 (10/01/99)

10 DE Reg. 1160 (01/01/07)

12 DE Reg. 518 (10/01/08)

13 DE Reg. 150 (01/01/10)

15 DE Reg. 102 (07/01/11)

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20 DE Reg. 827 (04/01/17)

25 DE Reg. 963 (04/01/22)