

**Interim Application for License to
Supply Electricity or Electric Generation Services to the Public in
the District of Columbia**

You may use the attached form to submit your application. **(Please remove this instruction sheet prior to filing.)** If you need more space than is provided on this form or if you are attaching exhibits, all attachments must be labeled or tabbed to identify the application item to which they respond. You are also required to file an electronic version of this document (excluding "confidential" information) using any version of Microsoft Word 7.0 (or higher) or Word Perfect software. One three and one half inch diskette must accompany the paper copies to be filed with the District of Columbia Public Service Commission.

To file an application with the District of Columbia Public Service Commission, **file a signed and verified original and 14 copies**, an electronic version of your application and attachments, and a nonrefundable license fee of \$400.00 (payable to "Public Service Commission") with the Commission's Secretary in Washington, D.C.:

**Mrs. Brinda Westbrook-Sedgwick
Commission Secretary
Public Service Commission of the District of Columbia
1325 G Street, N.W., Suite 800
Washington, D.C. 20005**

Questions pertaining to completion of this application may be directed to the Public Service Commission at the above address or you may call the Commission at the following number: 202.626.5100. You may reach the Public Service Commission electronically at www.dcpssc.org.

If your answer to any of these items changes during the pendency of your application, or if the information relative to any item herein changes while you are operating within the District of Columbia, you are under a duty to so inform the Commission immediately. If you receive a license from the Commission, certain information provided in this application must be updated on different time schedules. Within 30 days of a change, Section 1-3, 6, 14, 15, 18 and the averment regarding any civil, criminal or regulatory penalties, etc. imposed on Applicant, *et al.* must be updated. A licensee must inform the Commission of a change to the averment regarding bankruptcy proceedings instituted voluntarily or involuntarily immediately. Also, a licensee/supplier must provide annual updates of all items that have changed in the application. The annual update should be provided to the Commission within 120 days of the end of the licensee/supplier's fiscal year. A licensee/supplier also is required to officially notify the Commission if it plans to cease doing business in the District of Columbia 60 days prior to ceasing operations.

Confidentiality: Sections 4d and 14 of this Application related to ownership of the Applicant's corporation (to the extent such information is not already public) and financial information, respectively, will be treated as confidential information by the Commission to the extent permitted by law if the Applicant requests such treatment by stamping or marking the materials in question as "CONFIDENTIAL". Any interested person may request, however, release of this information by filing such a request with the Commission.

If such a request is made, Applicant shall have the burden of proving the confidential nature of the information. The Commission will notify the Applicant of any request for release of this information, and will permit the Applicant the opportunity to respond to the request through written motion filed with the Commission prior to the Commission's determination on the request.

If you are applying to provide service as an aggregator (as defined in the "Retail Electric Competition and Consumer Protection Act of 1999" at Section 101(2) and as defined in Commission regulations) who does not take title to electricity as a part of providing that service or if you are providing service as a broker (as defined in the "Retail Competition and Consumer Protection Act of 1999" at Section 101(7) and as defined in Commission regulations), you do not need to fill out certain questions in this Application. The exempted questions are marked.

Applicable law: The provisions set forth in this application related to licensing of electric suppliers and the provisions of electricity supply and electricity supply services are addressed in detail in the "Retail Electric Competition and Consumer Protection Act of 1999," and in the Commission's regulations.

Statements made in the Application are made under penalty of perjury (D.C. Code Section 22-2511), false swearing (D.C. Code Section 22-2513), and false statements (D.C. Code Section 22-2514). Perjury is punishable by a fine of up to \$5,000 or imprisonment for up to 10 years, or both. False swearing is punishable by a fine of up to \$2,500 and imprisonment for up to 3 years, or both. False statements are punishable by a fine of up to \$1,000 or imprisonment for up to 180 days, or both. Further amendments to these Code sections shall apply. If the Commission has reliable information that an Applicant has violated any or all of these sections of the D.C. Code, the Commission will forward the information to the appropriate law enforcement agency. Statements made in this Application are also subject to Commission regulations, which require the Applicant to certify the truthfulness of the contents of the Application. Any Applicant in violation of these regulations is subject to the penalties found in the "Retail Electric Competition and Consumer Protection Act of 1999", Section 108.

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BEFORE THE DISTRICT OF COLUMBIA PUBLIC SERVICE COMMISSION

Application Docket No. _____

Application of _____, d/b/a ("doing business as")

_____ for approval to offer, render, furnish, or supply electricity or electric generation services as a(n) _____, [as specified in item 10 below] to the public in the District of Columbia.

To the District of Columbia Public Service Commission:

BUSINESS INFORMATION

1. IDENTITY OF THE APPLICANT:

a. Legal Name: _____

Current Mailing Address: _____

Street Address (if different): _____

Website URL: _____

Other States, including District of Columbia, in which the Applicant is now or has been engaged in the retail sale of electricity or natural gas and the names under which the Applicant is engaged or has been engaged in such business(es):

Name: _____

Business Address: _____

License #/State of Issuance: _____

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Other States in which the Applicant has applied to provide retail electric or natural gas service but has been rejected. Applicant may limit response to the last

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three (3) years:

State(s): _____

Date of Application: _____

Attach additional sheets to the application if necessary.

b. Trade name (If Applicant will not be using a trade name, skip to question no. 2):

Trade Name: _____

2. a. CONTACT PERSON-REGULATORY CONTACT:

Name and Title: _____

Address: _____

Telephone: () _____

Fax: () _____

e-mail _____

b. CONTACT PERSON-CUSTOMER SERVICE (not required for aggregators who do not take title and/or brokers):

Name and Title: _____

Address: _____

Telephone: () _____

Fax: () _____

e-mail _____

3. RESIDENT AGENT:

Name and Title: _____

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Address: _____

Telephone: () _____

Fax: () _____

e-mail _____

4. PRIMARY CORPORATE OFFICERS/GENERAL PARTNERS:

President/General Partners: Name(s): _____

Business Address: _____

CEO: Name: _____

Business Address: _____

Secretary: Name: _____

Business Address: _____

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Treasurer: Name: _____

Business Address: _____

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a. APPLICANT'S BUSINESS FORM: (select and complete appropriate statement)

- ☐ Proprietorship
- ☐ Corporation
- ☐ Partnership
- ☐ Limited Partnership
- ☐ Limited Liability Company
- ☐ Limited Liability Partnership
- ☐ Other: _____

b. STATE OF FORMATION: Applicant's business is formed under the laws of the State of _____

c. STATUS: Provide a certificate issued by the state of formation certifying that the Applicant is in good standing and qualified to do business in the state of formation.

If formed under the laws of other than the District of Columbia, provide a certificate issued by the Department of Consumer and Regulatory Affairs certifying that the applicant is registered or qualified, in good standing, to do business in the District of Columbia.

d. OWNERSHIP: Provide on a separate sheet the names and addresses of all persons and entities that directly or indirectly own ten percent (10%) or more of the ownership interests in the Applicant, or have the right to vote ten percent (10%) or more of the Applicant's voting securities, or who otherwise have the power to control the Applicant.

5. AFFILIATES, OR PREDECESSOR(S), ENGAGED IN THE SALE OR TRANSPORTATION/TRANSMISSION OF ELECTRICITY OR NATURAL GAS AT WHOLESALE OR RETAIL OR THE PROVISION OF RETAIL TELEPHONE OR CABLE SERVICES TO THE PUBLIC: (select and complete appropriate statement) (Applicant may limit responses to the last five years)

The Applicant has no such Affiliate(s) or Predecessor(s).

Applicant is an Affiliate of a regulated utility in Pennsylvania, Virginia, Delaware, New Jersey or Maryland. Please provide regulated utility's name:

Affiliate(s), or Predecessor(s), other than a regulated utility in Pennsylvania, Virginia, Delaware, New Jersey or Maryland that provides, or provided, sale or

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transportation/transmission of electricity or natural gas at wholesale or retail or of retail telephone or cable services to the public:

Name: _____

Business Address: _____

License #/State of Issuance: _____

Location of Operations (Utility Service Territory): _____

Name: _____

Business Address: _____

License #/State of Issuance: _____

Location of Operations (Utility Service Territory): _____

Attach additional sheets to the application if necessary.

6. **ACTIONS AGAINST LICENSEES:** Provide the following information for the Applicant, any Predecessor(s), and any unregulated Affiliate that engages in or engaged in the sale or transportation/transmission of electricity or natural gas at wholesale or retail or the provision of retail telephone or cable services to the public. (Applicant may limit responses to the last five years).

- ☐ Actions such as Suspensions/Revocations/Limitations/Reprimands/Fines or other similar actions have been taken against the Applicant, Predecessor(s), or unregulated affiliate(s), and are described in the attached statement, including docket numbers, offense dates, and case numbers, if applicable. Formal investigations (defined as those investigations formally instituted in a public forum by way of the filing of a complaint, show cause order, or similar

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pleading) instituted by any regulatory agency or law enforcement agency relating to the Applicant, Predecessor(s), or unregulated affiliate(s) if, as a result of the investigation, Applicant's/ Predecessor's/or affiliate's license to provide service to the public was in jeopardy are also listed. The license number, state of issuance, and name of licensee are identified below:

State(s): _____

Name(s): _____

License Number(s)(or other applicable identification): _____

☐ No such action has been taken.

7 FERC FILING: Applicant has:

☐ Filed an Application with the Federal Energy Regulatory Commission ("FERC") to be a Power Marketer.

☐ Received approval from FERC to be a Power Marketer at Docket or Case Number: _____

☐ Not Applicable.

OPERATIONAL CAPABILITY

- 8. ISO/RTO AFFILIATION:** Provide evidence that the Applicant has met all applicable requirements of any ISO and/or RTO to be used by the Applicant. Indicate the evidence provided (not required for aggregators who do not take title and/or brokers)

Evidence of having met all applicable requirements of the PJM Interconnection, L.L.C.
(Attach evidence of being a signatory to all applicable agreements)

- 9. SOURCE OF SUPPLY:** (Check all that apply) (not required for aggregators who do not take title and/or brokers)

☐ Not applicable. Applicant will not be supplying retail electricity.

☐ Applicant owns generation.

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- ☐ **Applicant contracts for generation.**
- ☐ **Applicant obtains generation on the spot market.**
- ☐ **Other -- Applicant must attach a statement detailing its source of generation.**

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SCOPE OF OPERATIONS

(Check all that apply)

10. APPLICANT'S PROPOSED OPERATIONS: The Applicant proposes to operate as a:

- ☐ Marketer of electricity purchasing and taking title to electricity as an intermediary for sale to customers.
- ☐ Aggregator acting on behalf of customers to purchase electricity.
- ☐ Broker acting as an agent or intermediary on behalf of customers in the sale and purchase of electricity and who does not take title to electricity.

Does Applicant intend to offer competitive billing services?: _____

Is the Applicant proposing to offer any other services? If so, please provide information regarding the proposed service in an attached statement.

11. AREA OF OPERATION: If the Applicant does not intend to offer services throughout the Potomac Electric Power Company territory in the District of Columbia, Applicant must, in an attached statement, describe in detail the area within the Utility's service territory in which Applicant's services will be offered.

- ☐ Applicant intends to offer service throughout the Potomac Electric Power Company service territory in the District of Columbia.
- ☐ Applicant intends to offer services in only a portion of Potomac Electric Power Company's service territory in the District of Columbia. Please see attached statement.

12. CUSTOMERS: Applicant proposes to initially provide services to:

- ☐ Residential Customers
- ☐ Commercial Customers
- ☐ Industrial Customers
- ☐ Other (Describe in attachment)

Also, Applicant proposes:

- ☐ Restrictions upon the number of end use customers. (Describe in attachment)
- ☐ No restrictions on the number of end use customers.

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- ☐ Restrictions upon the size of end use customers. (Describe in attachment)
- ☐ No restrictions on the size of end use customers.
- ☐ Other restrictions regarding customers. (Describe in attachment)

13. **START DATE:** The Applicant proposes to begin delivering services:

- ☐ Upon approval of the Application and license.
- ☐ Other approximate date of commencement

FINANCIAL INTEGRITY

14. **REQUIRED DOCUMENTATION OF FINANCIAL INTEGRITY:** To the extent available, Applicant shall provide the most recent versions of the following documents. Check each that is attached:

- ☐ Balance sheets, income statements and statements of cash flow for the two most recent 12 month periods for which information is available. Balance sheets, income statements and statements of cash flow must be for the Applicant, and not a parent corporation in the event one exists. Audited financial statements must be provided if they exist. Applicant should provide 10Ks and 10Qs if available.
- ☐ If the Applicant has not been in existence for at least two-12 month periods, it must provide balance sheets, income statements and statements of cash flow for the life of the business. Audited financial statements must be provided if they exist.
- ☐ In the event that a parent or other corporation or company has undertaken to guarantee the financial integrity of the Applicant, Applicant must submit such parent's, other corporation's or company's balance sheets, income statements and statements of cash flow, together with documentation of such undertaking to insure the financial integrity of the Applicant.
- ☐ Evidence that the Applicant is a licensed supplier in good standing or has engaged in the retail supply of electricity or electricity supply services in and/or other jurisdictions.
- ☐ Credit reports or ratings prepared by established credit bureaus or agencies regarding the Applicant's payment and credit history.

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- ☐ A current long-term bond rating, or other senior debt rating, if available.
- ☐ Organizational structure of Applicant. Include Applicant's parent, affiliate(s), and subsidiary(ies) if applicable.
- ☐ Evidence of general liability insurance.
- ☐ Other evidence of financial integrity (Please attach additional information to application).
- ☐ Applicant will not accept prepayments or deposits from customers.
- ☐ Applicant intends to accept prepayments and/or deposits from customers.

15. **BONDING REQUIREMENTS:** A bond, parent guarantee, or some other form of financial instrument ("bond") may be required if the Commission determines that such bond is necessary in order to ensure that the Applicant has sufficient financial integrity to be granted a License. The Commission shall determine the Bonding requirement on a case-by-case basis.

A bond, if required, shall be in the amount of \$50,000.00.

16. **NOTICE OF REQUIRED COMPLIANCE:** The Applicant is hereby notified that it is required to comply with the following:

- a. The Applicant may be required to submit bond(s), as applicable, as described Section 16 herein.
- b. The Applicant must update this application with the Commission immediately if any of the information provided in this Application changes during the pendency of the Application. If the Applicant receives a license from the Commission, licensee/supplier must, within 30 days of a change, update Sections 1-3, 6, 14, 15, 18 and the averment regarding any civil, criminal or regulatory penalties, etc. imposed on Applicant, et al.. Licensee/supplier must immediately update any change to the averment regarding bankruptcy proceedings instituted voluntarily or involuntarily.
- c. If the Applicant receives a license from the Commission, licensee/supplier must provide annual updates of all items that have changed in the application. The annual update should be provided to the Commission within 120 days of the end of the supplier's fiscal year.

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- d. Supplement this application in the event the Commission modifies the licensing requirements, or requests further information.
 - e. Agree that it will not present itself as a licensed retail supplier of electricity in District of Columbia, accept deposits, prepayments, or contract with any end-use customers without a license from the Commission.
 - f. Pay all fees imposed by the Commission and any applicable taxes.
 - g. Ensure that a copy of each service agreement entered into with Potomac Electric Power Company is provided to the Commission.
 - h. Agree that the license to sell electricity and electricity supply services is not transferable without the prior approval of the District of Columbia Public Service Commission.
17. **AFFIDAVITS REQUIRED:** The Applicant must supply Affidavits of Tax Compliance and General Compliance to the Commission with the completed Application. The affidavits are included with this Application packet and must be executed by the Applicant or representative with authority to bind the Applicant in compliance with District of Columbia law.
18. **FURTHER DEVELOPMENTS:** Applicant is under a continuing obligation to amend its application if substantial changes occur in the information upon which the Commission relied in approving the original filing.
19. **FEE:** The Applicant has enclosed the required initial licensing fee of \$400.00.
20. **NOTICE:** Pursuant to the Commission's licensure regulations, Applicant must serve the following interested persons and must certify that service has been made.

Applicant: _____

By: _____

Printed Name: _____

Title: _____

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AFFIDAVIT OF TAX COMPLIANCE

State of _____ :
County of _____ : ss.

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

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 Public Service Commission of the District of Columbia ("Commission") that it is subject to, will pay, and in the past has paid, the full amount of taxes imposed by applicable statutes and ordinances, as may be amended from time to time. The Applicant acknowledges that failure to pay such taxes or otherwise comply with the taxation requirements of the District of Columbia, shall be cause for the Commission to revoke the license of the Applicant. The Applicant acknowledges that it shall provide to the Commission its jurisdictional Gross Receipts and power sales for ultimate consumption, for the previous year or as otherwise required by the Commission.

As provided by applicable Law, Applicant, by filing of this application waives confidentiality with respect to its tax information in the possession of the (appropriate taxing authority), regardless of the source of the information, and shall consent to the (appropriate taxing authority) providing that information to the Commission. The Commission shall retain such information confidentially. This does not constitute a waiver of the confidentiality of such information with respect to any party other than the Commission.

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

Signature of Affiant

Sworn and subscribed before me this _____ day of _____, ____.

Signature of official administering oath

My commission expires _____.

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AFFIDAVIT OF GENERAL COMPLIANCE

State of _____ :
County of _____ : ss.

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

He/she is the _____ (Officer/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 Public Service Commission of the District of Columbia ("Commission") that:

The Applicant agrees to comply with the terms and conditions of Potomac Electric Power Company's tariff and agreements with Potomac Electric Power Company.

The Applicant is in compliance with and agrees to comply with all applicable Federal and District of Columbia consumer protection and environmental laws and regulations, and Commission regulations, fees, assessments, orders and requirements.

Applicant agrees, upon request by the Commission, to provide copies to the Commission, of its consumer forms and/or contracts, its marketing or advertising materials, and its consumer education materials.

Applicant agrees to abide by any periodic reporting requirements set by the Commission by regulation, including any required periodic reporting to the (appropriate taxing authority).

Applicant agrees to provide proposed notice of the filing of its Application to the Commission so that it may forward the notice to the District of Columbia Register for publication.

The Applicant has obtained all the licenses and permits required to operate the proposed business in the District of Columbia.

The Applicant agrees to comply with power pool, control area, regional transmission operator, and/or ISO standards and requirements, as applicable.

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The Applicant agrees that it shall neither disclose nor resell customer data provided to the Applicant by Potomac Electric Power Company.

The Applicant agrees, if the Commission approves its Application, to post an appropriate bond or other form of financial guarantee as required by the Commission and its regulations.

The Applicant, including any of its Predecessor(s) and/or affiliates that engages in or engaged in the sale or transportation/transmission of electricity or natural gas at wholesale or retail or the provision of retail telephone or cable services to the public, the general partners, corporate officers or directors, or limited liability company managers or officers of the Applicant, its predecessor(s) or its affiliates:

1. Has had no civil, criminal or regulatory sanctions or penalties imposed against it within the previous five years pursuant to any state or federal consumer protection law or regulation; has not been convicted of any fraud-related crime (including, but not limited to, counterfeiting and forgery, embezzlement and theft, fraud and false statements, perjury, and securities fraud) within the last 5 years; and has not ever been convicted of a felony; or, alternatively
2. Has disclosed by attachment all such sanctions, penalties or convictions.

The Applicant further certifies that it:

1. Is not under involuntary bankruptcy/insolvency proceedings including but not limited to, the appointment of a receiver, liquidator, or trustee of the supplier, or a decree by such court adjudging the supplier bankrupt or insolvent or sequestering any substantial part of its property or a petition to declare bankruptcy as to reorganize the supplier; and
2. Has not filed a voluntary petition in bankruptcy under any provision of any Federal or state bankruptcy law, or its consent to the filing of any bankruptcy or reorganization petition against it under any similar law; or without limiting the generality of the foregoing, a supplier admits in writing its inability to pay its debts generally as they become due to consents to the appointment of a receiver, trustee or liquidator of it or of all or any part of its property.

That Applicant possesses the requisite managerial and financial fitness to provide service at retail in the District of Columbia.

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

Signature of Affiant

Sworn and subscribed before me this _____ day of _____, _____.

Signature of official administering oath

My commission expires _____.

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VERIFICATION

State of _____ :
County of _____ : SS.

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

He/she is the _____ (Officer/ Affiant) of _____ (Name of Applicant);

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

The Applicant understands that the making of false statement(s) herein may be grounds for denying the Application or, if later discovered, for revoking any authority granted pursuant to the Application. This Application is subject to all applicable sections of the District of Columbia Code as may be amended from time to time relating to perjury and falsification in official matters.

That the Applicant will supplement this Application in the event the Public Service Commission of the District of Columbia ("Commission") modifies the licensing requirements, or requests further information.

That the Applicant agrees that it will not present itself as a licensed retail supplier of electricity in the District of Columbia, accept deposits, prepayments, or contract with any end-use customers without a license from the Commission.

That the Applicant agrees that a license issued pursuant to this Application may not be transferred without prior approval by the Commission.

That the Applicant agrees to update information contained in this Application in accordance with the schedule set forth in the Application.

That the facts above set forth are true and correct to the best of his/her present knowledge, information, and belief after due inquiry and that he/she expects said Applicant

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to be able to prove the same at any hearing hereof.

Signature of Affiant

Sworn and subscribed before me this _____ day of _____,
20____.

Signature of official administering oath

My commission expires _____.

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APPLICANT'S GENERAL AUTHORIZATION FOR VERIFICATION OF FINANCIAL INFORMATION, ETC.

TO WHOM IT MAY CONCERN:

I/We have applied to the District of Columbia Public Service Commission (the "Commission") for a license to be an Electricity Supplier, or to provide certain Electricity Supply related services, and authorize you to release to the Staff of the Commission and its authorized representatives and agents any information or copies of records requested concerning:

MY/OUR COMPANY OR BUSINESS AND ITS HISTORY, PERFORMANCE, OPERATIONS, CUSTOMER RELATIONS, FINANCIAL CONDITION, INCLUDING BANK ACCOUNT TRANSACTIONS AND BALANCES, PAYMENT HISTORY WITH SUPPLIERS AND OTHER CREDITORS, VERIFICATION OF NET WORTH AND OTHER INFORMATION AND RECORDS WHICH THE COMMISSION REQUIRES TO VERIFY OR MAKE INQUIRY CONCERNING MY/OUR FINANCIAL INTEGRITY AND THE INFORMATION CONTAINED IN MY/OUR LICENSE APPLICATION OR OTHER INFORMATION PROVIDED BY ME/US TO THE COMMISSION OR, STAFF OF THE COMMISSION OR ITS REPRESENTATIVES OR AGENTS.

This Authorization is continuing in nature and includes release of information following issuance of a license, for reverification, quality assurance, internal review, etc. The information is for the confidential use of the Commission and the Staff of the Commission in determining my/our financial integrity for being a licensee or to confirm information I/We have supplied and may not be released except by order of the Commission or by order of a court of competent jurisdiction.

A photographic or fax copy of this authorization may be deemed to be the equivalent of the original and may be used as a duplicate original. The original signed form is maintained by the Staff of the Commission.

APPLICANT'S AUTHORIZATION TO RELEASE INFORMATION:

APPLICANT (Please print)

APPLICANT'S SIGNATURE

DATE

TITLE

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INTERIM LICENSING STANDARDS OF THE DISTRICT OF COLUMBIA

PUBLIC SERVICE COMMISSION

Subtitle __: Licensing Requirements for Electricity Suppliers

.01 General Provisions

.01 Application of Standards (or Scope of Rule)

A. Application. These standards apply to a person who engages in the business of an Electricity Supplier in the District of Columbia. Electricity Suppliers include Aggregators, Brokers, or Marketers who generate electricity, sell electricity, or purchase, broker, arrange for, or market electricity for sale to customers.

B. Purpose. These standards provide uniform requirements for obtaining an Electricity Supplier license in the District of Columbia, describe the administrative procedures available to the Applicants and licensees, and outline the grounds for Commission action regarding a licensee, and the sanctions that may be imposed by the Commission.

C. Restrictions. As a condition of filing a license Application, no person shall present itself as a licensed retail Electricity Supplier, accept deposits or prepayments from retail customers, or contract with retail customers, prior to receipt of a license from the Commission.

.02 Definitions

A. In these standards the following terms have the meanings indicated.

B. Terms Defined (non-exhaustive list)

(1) Act. "Act" means the "Retail Competition and Consumer Protection Act of 1999."

(2) Affiliate. For purposes of these standards, "affiliate" means a person that directly or indirectly, or through one or more intermediaries, controls, is controlled by, or is under common control with, or has, directly or indirectly, any economic interest in another person.

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(3) **Aggregator.** "Aggregator" means a person that acts on behalf of customers to purchase electricity.

(4) **Applicant.** "Applicant" means the person or entity that applies for an electricity supply license required by the Act.

(5) **Application.** "Application" means the written request by a person or entity for an electricity supply license in a form specified by the Commission.

(6) **Broker.** "Broker" means a person that acts as an agent or intermediary in the sale and purchase of electricity but who does not take title to electricity.

(7) **Commission.** "Commission" means the Public Service Commission of the District of Columbia.

(8) **Competitive billing.** "Competitive billing" means the right of a customer to receive a single bill from the Electric Company, a single bill from the Electricity Supplier, or separate bills from the Electric Company and the Electricity Supplier.

(9) **Consolidator.** "Consolidator" means any owner of or property manager for multi-family residential, commercial office, industrial, and retail facilities who combines more than one property for the primary purpose of contracting with an aggregator or electric energy service provider for electric energy services for those properties, and who: (A) Does not take title to electric energy; (B) Does not sell electric energy to buildings not owned or managed by such owner or property manager; (C) Does not offer aggregation of electric energy services to other, unrelated end-users; and (D) Arranges for the purchase of electric energy services only from duly licensed electric energy service providers or Aggregators.

(10) **Consumer or customer.** For purposes of these standards, "consumer" or "customer" means a purchaser of electricity for end use in the District of Columbia. The term excludes an occupant of a building where the owner, lessee, or manager manages the internal distribution system serving the building and supplies electricity solely to occupants of the building for use by the occupants.

(11) **Deposit.** "Deposits" include all payments made by a customer to an Electricity Supplier to secure the Electricity Supplier against the customer's nonpayment or default.

(12) **Electric Company.** For purposes of these standards, "Electric Company" means every corporation, company, association, joint-stock company or association, partnership, or person and doing business in the District of Columbia, their lessees, trustees, or receivers, appointed by any court whatsoever, physically transmitting or distributing electricity in the District of Columbia to retail electric customers. The term

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excludes any building owner, lessee, or manager who, respectively, owns, leases, or manages, the internal distribution system serving the building and who supplies electricity and other electricity related services solely to the occupants of the building for use by the occupants.

(13) Electricity Supplier. "Electricity Supplier" means a person, including an Aggregator, Broker, or Marketer, who generates electricity; sells electricity; or purchases, brokers, arranges or, markets electricity for sale to customers. The terms excludes the following: (A) Building owners, lessees, or managers who manage the internal distribution system serving such building and who supply electricity solely to the occupants of the building for use by the occupants; (B)(i) Any person who purchases electricity for its own use or for the use of its subsidiaries or affiliates; or (ii) Any apartment building or office building manager who aggregates electric service requirements for his or her building or buildings, and who does not: (I) Take title to electricity; (II) Market electric services to the individually-metered tenants of his or her building; or (III) Engage in the resale of electric services to others; (C) Property owners who supply small amounts of power, at cost, as an accommodation to lessors or licensees of the property; and (D) A consolidator.

(14) Independent System Operator or "ISO." "Independent System Operator" means an entity authorized by the Federal Energy Regulatory Commission to control a regional transmission grid.

(15) Initiating Service in the District. "Initiating service in the District," means the earliest calendar date on which the Electricity Supplier is contractually obligated to provide electric service to any District of Columbia residential or small commercial customer.

(16) License. "License" means the authority granted by the Commission to a person to do business as an Electricity Supplier in the District of Columbia.

(17) Marketer. "Marketer" means a person who purchases and takes title to electricity as an intermediary for sale to customers.

(18) Person. "Person" means every individual, corporation, company, association, joint stock company, association, firm, partnership, or other entity.

(19) Prepayments. "Prepayments" include all payments made by a residential and/or small commercial consumer to an Electricity Supplier for services that have not been rendered at the time of payment.

(a) Where an Electricity Supplier charges for services based on a quantity of electricity, such as a price per kilowatt/hour, then prepayments include any payments for any quantity that has not been delivered to the consumer at the time of payment.

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(b) Where an Electricity Supplier charges for services based on a period of time, such as charging a membership fee, initiation fee or other fee for services for a time period, then prepayments include the amount of the total charges collected by the Electricity Supplier for the period of time less the prorated value of the period of time for which services have been rendered.

(c) Where an Electricity Supplier charges for services based on a measure other than quantity of electricity delivered or a period of time, the Commission shall determine, on a case-by-case basis, whether the charges involve a prepayment.

(d) Prepayments do not include any funds received in advance of the services being rendered as a result of the consumer's voluntary participation in a budget billing or level billing plan by which the consumer's anticipated electrical costs are averaged over a period of time.

(20) Regional Transmission Operator or "RTO." "Regional Transmission Operator" means a person who performs the same transmission system coordination functions as an Independent System Operator.

(21) Residential customers. "Residential customers" are defined as those customers served under Potomac Electric Power Company ("PEPCO") Rate Schedule DC-R, DC-AE, DC-R-TM, or DC-R-TM-EX, as proposed by PEPCO in Formal Case No. 945, subject to any revisions made to those tariff sheets by the District of Columbia Public Service Commission.

(22) Small commercial customers. "Small commercial customers" are defined as those customers served under PEPCO Rate schedule DC-GS or DC-GS-3A, as proposed by PEPCO in Formal Case No. 945, subject to any revisions made to those tariff sheets by the District of Columbia Public Service Commission. Small commercial customers exclude accounts on the above rate schedules in (1) apartment buildings with four or more units; (2) commercial office buildings or (3) accounts owned or managed by a consolidator.

.02 Licensing Requirements

.01 Persons Subject to Licensing Requirements. Any person who engages in the business of an Electricity Supplier in the District of Columbia must hold a license issued by the Commission.

.02 Application Filing Requirements for Electricity Suppliers. An Application or an electricity supply license shall include the following information, in a manner and form specified by the Commission:

A. Proof of technical and managerial competence;

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B. Proof of compliance with all applicable requirements of the Federal Energy Regulatory Commission, and any Independent System Operator or regional or system transmission operator to be used by the Applicant;

C. Proof of compliance with applicable federal and District of Columbia environmental laws and regulations. This proof may be provided through a sworn verification that the Applicant is currently in compliance with, and will comply with, applicable federal and District of Columbia environmental laws and regulations;

D. Proof of financial integrity;

E. Proof that the Applicant has registered with the Department of Consumer and Regulatory Affairs to do business in the District of Columbia;

F. An agreement or promise to be subject to all applicable taxes;

G. An agreement or promise to comply with all of the requirements of the Act and all orders and regulations of the Commission issued under the Act;

H. Applicant's web-site address; and

I. Any other information required by the Commission.

.03 Licensing Procedures

.01 Scope. These procedures apply to the Application for an Electricity Supplier license before the Commission.

.02 Form. An Application for a License must be made to the Commission in writing on the applicable form; be verified by oath or affirmation; be accompanied by an Application fee of \$400.00.

.03 Number of Copies; Service. Each Applicant must file an original Application, with the number of copies and in such format as specified by the Commission.

.04 Change in Application Information. The Applicant shall inform the Commission of any change in the information provided in the Application during the pendency of the Application process.

.05 Notice of Application. The Applicant shall provide to the Commission with its Application a proposed Notice of Application. The Commission shall review this notice and shall forward it within five (5) days of receipt of the Application for publication in the District of Columbia Register.

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.06 Comments or Complaint Regarding Filed Application. Any interested person may file comments or a complaint to any Application filed with the Commission within thirty (30) days of the filing of the Application. The Commission may waive this filing deadline at its discretion.

.07 Notice of Incomplete Application. The Commission shall review the submitted Application for completeness within ten (10) days of receipt of an Application. The Commission shall make reasonable attempts, at its discretion, to remedy minor omissions in the Application through informal communications with the Applicant. If these attempts are unsuccessful, within fifteen (15) days of receipt of an incomplete Application, the Commission shall notify the Applicant in writing of the deficiencies in the Application and shall return the incomplete Application to the Applicant.

.08 Review of a Complete Application. The Commission shall notify the Applicant in writing as soon as practicable, but in no event later than ten (10) days after the receipt of a complete Application, of the Commission's receipt of the complete Application for a Electricity Supplier License. The Commission shall conduct an appropriate investigation of the information provided by the applicant in the complete Application. The Commission (designated staff) shall conclude its investigation, and make a recommendation to the Commission for the approval or denial of the License within twenty (20) days of providing notice to the Applicant of the receipt of the complete Application. In the event that the Commission (designated staff) recommends denial of a License to an applicant, the Commission shall state in writing its reasons for such denial, and provide a copy of its determination to the Commission and the Applicant immediately upon conclusion of the investigation. A copy of the Commission determination shall also be served on the Office of People's Counsel.

.09 Decision on License Application. All Applications shall be considered by the Commission, including consideration at a public hearing if deemed necessary by the Commission.

.10 Licensee's Updated Information. The licensed Electricity Supplier shall comply with any information update requirements or supplemental information requirements established by the Commission in this part.

.11 Term of License. Licenses are valid until revoked by the Commission or surrendered by the licensed Electricity Supplier.

.12 Transfer of License. A License is not transferable without the prior approval of the Commission given after due public notice of the transfer application.

.13 Cessation of Business in the District of Columbia or to a Customer Class. A licensee is required to provide to the Commission at least sixty (60) days prior written notice of the licensee's intention to cease providing services (a) in the District of Columbia;

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or (b) to all customers within a specified customer class. Upon receipt of such notice, the Commission may order the licensee to provide such further notice to the public that it deems necessary, and/or take other appropriate actions.

.14 Accuracy of Information. Any Applicant who knowingly or in reckless disregard submits misleading, incomplete or inaccurate information may be penalized in accordance with applicable law and the provisions of these standards.

.15 Copies of Electronic Data Interchange Trading Partner Agreement and Supplier Coordination Agreement with the Electric Company. The Applicant or licensee shall file a copy of the Electronic Data Interchange Trading Partner Agreement and Supplier Coordination Agreement entered into with the Electric Company, with the Commission within ten (10) days of execution of such agreements.

.16 Proprietary and Confidential Information. In its Application, the Applicant may designate documentation provided in response to Sections 4d and 14 of the Application related to ownership of the Applicant's corporation (to the extent such information is not already public) and financial information as confidential information. The Commission may, however, order release of this information upon request of an interested party. If such request is made, the Applicant shall have the burden of proving the confidential nature of the information. The Commission will notify the Applicant of any request for release of this information and will permit the Applicant to respond to the request through written motion filed with the Commission prior to the Commission's determination on the request.

.03 Form Of The Bond. Any person required to provide a bond under this section shall provide a bond in a form required by the Commission. At a minimum, this form shall:

A. Designate the District of Columbia, or the Commission, as the sole beneficiary of the bond;

B. Be continuous and subject to nonrenewal only upon at least sixty (60) days notice to the Commission;

C. Cover payment of all District of Columbia deposits and prepayments, as identified by the Commission under these standards, of the Electricity Supplier that occurred while the bond was in force; and

D. State that the proceeds of the bond shall be paid or disbursed as directed by the Commission.

.04 Bond Foreclosure. The Commission may foreclose upon any bond posted with the Commission when, in the Commission's discretion, foreclosure is necessary to

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insure the fair and lawful treatment of the District of Columbia's residential and/or small commercial customers by an Applicant or licensee or to protect the District of Columbia against unpaid Electricity Supplier monies.

05. Compliance Investigations. The Commission may initiate investigations and may utilize all appropriate enforcement tools if it determines an Electricity Supplier is not appropriately bonded.

.05 Commission Reporting Requirements

.01 Updates to Application. If the Applicant's answer to any of the sections in the Application itself change during the pendency of the Application, Applicant must inform the Commission immediately. After an Application has been approved, a licensee must inform the Commission of changes to sections 1-3, 6, 14, 15, 18 and the averment regarding any civil, criminal or regulatory penalties, etc. imposed on Applicant, *et al.* within thirty (30) days of the change. A licensee must inform the Commission of changes to the averment regarding bankruptcy proceedings instituted voluntarily or involuntarily within twenty-four (24) hours of the institution of such proceedings. In addition, after an Application has been approved a licensee must inform the Commission of any changes to any section of the Application on an annual basis. Annual updates must be filed with the Commission within 120 days of the end of the licensee's fiscal year.

.02 Annual Reporting Requirements. A licensed Electricity Supplier must provide any information required by any other Commission regulation.

.06 Commission Action Regarding a Licensee

.01 Commission Investigation. The Commission may initiate an investigation of the licensee upon its own motion or upon the complaint of the Office of the People's Counsel, the Office of Corporation Counsel, or any aggrieved party. The Commission shall provide written notice of the investigation to the licensee, and shall provide the licensee an opportunity for hearing in accordance with Commission law and regulations.

.02 Grounds for Commission Action. The Commission may take action regarding a licensee for just cause as determined by the Commission. "Just cause" includes, but is not limited to, the following:

A. Knowingly or with reckless disregard, providing false or misleading information to the Commission;

B. Switching, or causing to be switched, the electricity supply for a customer without first obtaining the customer's permission;

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- C.** Disclosing information about a customer supplied to the Electricity Supplier by the customer, or using information about a customer for any purpose other than the purpose for which the information was originally acquired, without the customer's written consent, unless the disclosure is for bill collection or credit rating reporting purposes;
- D.** Adding services or new charges to a customer's existing retail electric service options without customer consent;
- E.** Failing to provide adequate and accurate information to each customer about the Market Participant's available services and charges;
- F.** Discriminating against any customer based wholly or partly on the race, color, creed, national origin, sex, or sexual orientation of the customer or for any arbitrary, capricious, or unfairly discriminatory reason;
- G.** Refusing to provide service to a customer unless the refusal is based on standards reasonably related to the Market Participant's economic and business purposes;
- H.** understandable about its services and rates for small commercial
Failing to post on the internet information that is readily and residential electric customers;
- I.** Failing to provide electricity for its customers;
- J.** Committing fraud or engaging in marketing, advertising, or trade practices that are unfair, false, misleading, or deceptive;
- K.** Failing to maintain financial integrity;
- L.** Violating a Commission regulation or order;
- M.** Failing to pay, collect, remit or calculate accurately applicable taxes;
- N.** Violating an applicable provision of the District of Columbia Code or any other applicable consumer protection law;
- O.** Conviction by the licensee or principal of the licensee (including the general partners, corporate officers or directors, or limited liability managers of officers of

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the Company) of any fraud-related crimes (including, but not limited to, counterfeiting and forgery, embezzlement and theft, fraud and false statements, perjury, and securities fraud);

P. Imposition of a civil, criminal or regulatory sanction(s) or penalties against the licensee or principal of the licensee (including the general partners, corporate officers or directors, or limited liability managers or officers of the Company) pursuant to any state or Federal consumer protection law or regulation;

Q. Conviction by the licensee or principal of the licensee (including the general partners, corporate officers or directors, or limited liability managers or officers of the Company) of any felony;

R. Filing of involuntary bankruptcy/insolvency proceedings against the licensee or filing of voluntary bankruptcy/insolvency proceedings by the licensee.

S. Suspension or revocation of a license by any state or federal authority, including, but not limited to, suspension or revocation of a license to be a power marketer issued by the Federal Energy Regulatory Commission.

T. Imposition of any enforcement action by any ISO/RTO used by the licensee.

.07 Sanctions and Enforcement

.01 Sanctions. Electricity Suppliers are subject to sanctions for violations of the District of Columbia Code, and applicable Commission regulations and orders. The following sanctions may be imposed by the Commission:

A. Civil Penalty. The Commission may impose a civil penalty of not more than \$10,000 for each violation. Each day a violation continues shall be considered a separate violation for purposes of this penalty. The Commission shall determine the amount of a civil penalty after consideration of the following:

- (1) the number of previous violations on the part of the licensee;
- (2) the gravity and duration of the current violation; and

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(3) the good faith of the licensee in attempting to achieve compliance after the Commission provides notice of the violation.

B. Customer Refund or Credit. The Commission may order a licensee to issue a refund or credit to a customer.

C. Cease and Desist Order. The Commission may order the licensee to (1) cease adding or soliciting additional customers; (2) cease serving customers in the District of Columbia; and (3) cease any action found to be in violation of Commission law, or Commission rules and regulations.

D. Cancellation of a contract or part of a contract between a customer and a licensee;

E. Suspension of License; and

F. Revocation of License.

.02 Commission Access to Records. As part of any Commission investigation, the Commission shall have access to any accounts, books, papers, and documents of the licensee that the Commission considers necessary in order to resolve the matter under investigation.

.03 Emergency Action by the Commission. The Commission may temporarily suspend a License, issue a temporary cease and desist order, or take any other appropriate temporary remedial action, pending a final determination after notice and hearing, if the Commission determines that there is reasonable cause to believe that customers or the reliability of electric supply in the District of Columbia will be harmed by the actions of a licensee.

.08 Commission Assessment and Fees

.01 The licensee shall pay any assessment for the costs and expenses of the Commission and the Office of the People's Counsel as required by Title 43 of the District of Columbia Code.

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.02 The licensee shall pay any additional fees imposed by the Commission.