
**ENERGY SERVICES COMPANY (ESCO)
RETAIL ACCESS APPLICATION (RAAF)
INSTRUCTIONS**

1. **Business Information:** Please complete this section with your company name, address, telephone, fax number, website address, customer service email address and toll-free number. The address should be the main address for your company. This information will appear on the NYS Power to Choose website (if you are required to post rates) and our ESCO Directory. A copy of the NYS Department of State proof of acceptance will be required.

DBA Name: Please list “Doing Business As” (DBA) names that your company will use. A copy of the certificate of assumed name from the Department of State will be required before the DBA name(s) will be accepted.

Energy Affiliates: If your company has any energy affiliates (including upstream owners and subsidiaries), please list the contact information. Use additional sheets if necessary.

Criminal or Regulatory Sanctions: If, during the previous 36 months, criminal or regulatory sanctions have been imposed against any senior officer of the applicant, or any entity holding ownership interests of 10% or more in the applicant, please provide relevant contacts information for the individual(s) as well as a detailed explanation of the sanctions and any relevant context. Use additional sheets if necessary.

Other States: List all states that your company has operated in within the last 24 months.

Trade Names: List all trade names used in other states.

2. **Contact Information:** This section is used for Staff to contact individuals at the company. Please be advised that the regulatory contact will receive all correspondence regarding compliance. The information

provided in the “Power to Choose Website Information” section will be published online for customers.

3. Identify the market(s) for which the applicant is seeking eligibility by placing checkmarks in the relevant boxes. By checking the Mass Market box, the applicant will indicate that it recognizes the particular consumer protections that apply to that market and seeks eligibility to market to and enroll those customers.

4. Identify the types and locations of markets:

Eligible ESCOs who have completed Phase III Testing and are serving customers should place an “√” in the applicable cells of the table to designate the individual utility retail access programs in which you participate, and the customer market(s) in each program you serve; indicate the commodities you offer in each service territory, and indicate the billing options you offer in each territory.

New ESCOs applying for eligibility should leave this section blank. Once you have received eligibility and completed Phase III testing and begin serving in a territory, an updated RAAF should be completed and submitted

If you are an ESCO that has eligibility but are not serving, leave this section blank. Once you have completed Phase III testing and begin serving in a territory, an updated RAAF should be completed and submitted.

5. Identify Method(s) of Marketing: Place a check mark for each type of marketing you use (or plan to use) for mass market and/or non-residential customers.

- Door to Door
- Kiosk Sales (at store or event)
- Appointment Only
- Telemarketing
- Direct Mail
- Through Partners – a list of partners should be attached
- Online Advertisements – promotional materials should be included
- Web Enrollments

6. Identify Types of Products Offered: Place a check mark for each type of product you offer (or plan to offer) for mass market and/or non-residential customers.

- Variable (commodity only) guaranteed savings – the product must guarantee savings on an annual basis, or with greater frequency, and provide a credit or refund. Promotional items such as gift cards are no longer permitted.
- Fixed with price cap – fixed-rate products are limited to a price no greater than the trailing 12-month average utility supply rate plus a premium of no more than 5%. One-time Promotional items, such as gift cards, are no longer permitted.
- Renewable (50 percentage points greater than RES LSE Obligation for the

year) – renewable energy products will be permitted so long as 1) the renewable percentage mix meets the combination of the RES LSE obligation for the year plus 50 percentage points (but in no case greater than 100%); 2) the ESCO complies with the RES locational and delivery requirements when procuring RECs or entering into bilateral contracts; and 3) there is transparency of information and disclosures provided to the customers.

In addition: ESCOs will be permitted to satisfy their minimum renewable requirement: (1) by purchasing RECs from eligible renewable generators through NYGATS; (2) by purchasing Tier 1 RECs from NYSERDA; (3) by procuring RECs from eligible renewable generators through bilateral contracts; (4) by making Alternative Compliance Payments (ACP) to NYSERDA; or (5) by entering into bundled energy and REC purchase agreements with eligible renewable generators.

- Other Product Type Specifically Approved by the Commission - The applicant should identify any product it intends to offer that is permitted due to the fact that it was either generally approved by the Commission (to be sold by any eligible ESCO) or specifically approved (to be sold specifically by the applicant) in an Order that remains in effect. The applicant should provide sufficient detail as to any product in this category so as to clearly establish that the product is permitted.

7. Additional Requirements:

- A. Copy and proof of acceptance of your registration with the NYS Dept of State and a copy of your certificate of assumed name (if applicable);
- B. Comprehensive copy of your standard sales agreement(s) for each service class and commodity, including presentation of the customer disclosure statement;
- C. Marketing representative ID badge;
- D. Marketing standards quality assurance plan;
- E. Third party verification script;
- F. Sample forms of notices for assignment, discontinuance and transfer of 5000 or more customers to other providers;
- G. Sample of your billing format;
- H. Procedures you will use to obtain customer's authorization for historic usage and credit information;
- I. Copies of information and promotional materials used for mass marketing purposes;
- J. HEFPA documents, if providing energy supply to residential customers;
- K. Internal procedures for the prevention of slamming or cramming;
- L. A list of entities, including contracts and sub-contractors, that will market on behalf of your ESCO;
- M. Attestation that you will comply with the requirements of the New York State's Environmental Disclosure Program, if you intend to serve electric customers;
- N. NYS DPS Office of Consumer Services Service Provider Form;
- O. Letter from utility that you have successfully completed EDI Phase 1 Testing; The application is available on the Department Website at:

<http://www3.dps.ny.gov/W/PSCWeb.nsf/ArticlesByTitle/90172D773887F5A385257687006F391D?OpenDocument>

ESCOs that already have eligibility with the Department and are submitting an application as part of a triennial or Order 15-M-0127 are not required to resubmit

EDI Phase I testing application and letter of completion.

P. Disclose each state in which the ESCO operates or have operated within the 24 months prior to the date of the application and provide any data in their possession regarding complaint history in those states. If the ESCO operates under multiple trade names, it must identify each name used and the state(s) in which each name is used;

Q. List and describe any security breaches associated with customer proprietary information that occurred in any jurisdiction in which it operates, under any trade name, within the 24 months prior to the application, and actions taken by the applicant in response to the incident. ESCOs also shall provide specific policies and procedures addressing how they intend to secure customer data;

R. Disclose any history of bankruptcy, dissolution, merger, or acquisition activities during the 24 months prior to this application for each trade name used as well as affiliates of the ESCO, including upstream owners and subsidiaries; and,

S. Officer certification sworn to by a high-level officer of the ESCO, such as president, chief operating officer or equivalent, in which the officer affirms that the ESCO is willing and able to comply with all applicable laws and regulations.

8. Signature: Sign and print your name, include your title the date and company name. The person signing this application attests to the following: that she or he is an owner, partner, or officer of the business named on this application, the answers and materials contained in this application package are true and the application package submitted is complete and accurate. An ESCO that knowingly makes false statements in this application package is subject to denial or revocation of eligibility.

9. Filing Information: In order to become an eligible ESCO in New York State to supply electricity and/or natural gas to residential or non-residential consumers, the applicant is required to file a retail access application package. Directions to register for e-filing through DMM is available on our website at:
http://www3.dps.ny.gov/W/PSCWeb.nsf/All/CC256BE982C58CF785257687006F39_CE?OpenDocument

E-Filing:

For New ESCOs: The retail access application package (RAAF) should be e-filed through the Department's document matter management system (DMM) in matter number **15-00555**.

For Existing ESCOs: updates to the RAAF should be e-filed through DMM matter number **14-02554**.

FOR UPDATED APPLICATIONS PURSUANT TO ORDER 15-M-0157 DUE MARCH 11, 2020 THE APPLICATION SHOULD BE FILED IN MATTER 19-02972.

Process: Once the retail access application package has been completed and reviewed, including compliance requirements for EDI Phase I testing, environmental disclosure statements and HEFPA criteria for residential customers, a letter of eligibility will be issued to an ESCO from the NY Department of Public Service (DPS). The letter must be presented to the utility by the applicant prior to initiating contact with the utility to fulfill the requirements in its retail access program, which

includes a financial creditworthiness review, completion of the EDI Phase III testing and execution of any operating and billing agreements.

Marketing and Power to Choose: The applicant may not actively market to or enroll customers in a utility service territory until both the DPS and utility filing requirements have been completed. At such time, the ESCO is required to post rates for residential customers to the NY Power to Choose website. Instructions to register and post rates will be listed in your initial eligibility letter.

Trade Secret/Confidentiality: If the application package contains information that is considered trade secret or sensitive for competitive market security reasons, the applicant may request the NYS DPS to withhold disclosure of the information, pursuant to the Freedom of Information Law (Public Officers Law, Article 6) and NYS Public Service Commission regulations (16 NYCRR §6-1.3). To file with trade secret status, you are required to submit a trade secret letter addressed to the Records Access Officer, a cover letter addressed to the Secretary, the entire application and a redacted application in DMM. Information on how to file confidential documents can be found on our website at:

http://www3.dps.ny.gov/W/PSCWeb.nsf/All/2C2BF964121B6B2B85257B6B00675C_5D?OpenDocument