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FILE

April 17, 2019

Ohio Public Service Commission

Reference: Cases ~~15-0875-EE-AGG~~ and 15-0876-GA-AGG

Enclosed, please find 1 original power broker renewal and 3 copies as well as 1 original natural gas broker renewal application and 3 copies for Energy Solutions USA, Inc's electric & gas broker renewal licenses in the State of Ohio.

Thank You

Dan Cooke  
CIO  
Energy Solutions USA, Inc

RECEIVED-SOCKETING DIV

2019 APR 22 PM 1:49

PUCO

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## Public Utilities Commission

Mike DeWine, Governor  
M. Beth Trombold, Interim  
Chairman

### Commissioners

Thomas W. Johnson  
Lawrence K. Friedman  
Daniel R. Conway

April 3, 2019

ENERGY SOLUTIONS USA INC  
99 W. MCCANNS BLVD.  
ELMIRA HEIGHTS, NY 14903

### Notice of Pending Expiration of PUCO Certification

Company Name: ENERGY SOLUTIONS USA INC  
Certification Case No.: 15-0876-GA-AGG  
Certificate Expiration Date: 6/4/2019

#### To Whom It May Concern:

This letter serves to provide notice that the above-listed certificate issued by the Public Utilities Commission of Ohio pursuant to the Ohio Revised Code, is due to expire on 6/4/2019. If you have already filed your renewal application, or if you do not want to renew your certificate, please disregard this letter.

Rule 4901:1-24-09 O.A.C. requires renewal applications to be filed no less than 30 and no more than 60 days prior to the certificate expiration date. If the listed company wishes to continue to operate under the above certificate, a renewal application must be filed at least 30 days prior to the expiration date.

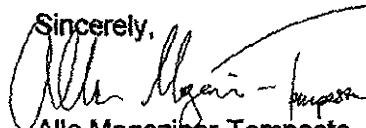
If the listed company has missed the 30-day deadline but the certificate has yet to expire, a motion to extend must be filed in the existing case by an attorney licensed to practice law in Ohio. A renewal application should be filed at the same time.

If the certificate has expired and the company wishes to continue operations in Ohio, a new certificate application must be filed. A motion requesting an extension of the original certificate and requesting to operate during pendency of the new certification application must be filed by an attorney licensed to practice law in Ohio. If you have additional questions you may call the Commission representative listed below.

Any company or company officer that continues to provide Ohio jurisdictional service under an expired certificate without Commission authorization may be assessed a civil forfeiture pursuant to Section 4905.54 of the Ohio Revised Code.

Questions regarding this notice should be directed to Alla Magaziner-Tempesta of the Commission's Reliability and Service Analysis Division, Service Monitoring and Enforcement Department, at [alla.magaziner-tempesta@puc.ohio.gov](mailto:alla.magaziner-tempesta@puc.ohio.gov) or at 614-728-2136.

Sincerely,



Alla Magaziner-Tempesta  
Utility Specialist 2



## **RENEWAL CERTIFICATION FILING INSTRUCTIONS COMPETITIVE RETAIL NATURAL GAS BROKER/AGGREGATORS**

**I. *Where to File:*** Applications should be sent to: Public Utilities Commission of Ohio (PUCO or Commission), Docketing Division, 180 East Broad Street, Columbus Ohio 43215-3793.

**II. *What to File:*** Applicant must submit one original notarized application signed by a principal officer and three copies, including all exhibits, affidavits, and other attachments. All attachments, affidavits, and exhibits should be clearly identified. *For example, Exhibit C-10 should be marked "Exhibit C-10 - Corporate Structure."* All pages should be numbered and attached in a sequential order.

***IMPORTANT REQUIREMENT:*** *The renewal application must be docketed in the applicant's original GA-AGG case number. Therefore, applicant should enter that number on the renewal application form when filing a renewal application.*

**III. *When to File:*** Pursuant to Rule 4901:1-27-09 of the Ohio Administrative Code, renewal applications shall be filed between 30 and 60 days to the prior certificate's expiration date.

**IV. *Renewal Application Form:*** The renewal application form is available on the PUCO Web site, [www.puco.ohio.gov](http://www.puco.ohio.gov) or directly from the Commission located at: Public Utilities Commission of Ohio, Docketing Division, 180 East Broad Street, Columbus, Ohio 43215-3793.

**V. *Confidentiality:*** An applicant may file financial statements, financial arrangements, and forecasted financial statements under seal. If these exhibits are filed under seal, they will be afforded protective treatment for a period of six years from the date of the certificate for which the information is being provided.

An applicant may file a motion for a protective order for other information not filed under seal per the previous paragraph. If the motion is filed in conformance with rule 4901:1-27-07 of the Administrative Code, it shall be automatically approved on the thirty-first day after the date of filing and the information shall be afforded protective treatment for a period of six years from the date of the certificate for which the information is being provided, unless the commission or an attorney examiner appointed by the commission rules otherwise.

At the expiration of the six-year period provided for in the previous paragraphs, the information will be automatically released into the open record. An applicant wishing to extend a protective order beyond the six-year time period must comply with paragraph (F) of rule 4901-1-24 of the Administrative Code.

**VI. *Commission Process for Certification Renewal:*** An application for renewal shall be made on forms approved and supplied by the Commission. The applicant shall complete the



appropriate renewal form in its entirety and supply all required attachments, affidavits, and evidence of capability specified by the form at the time an application is filed. The Commission renewal process begins when the Commission's Docketing Division receives and time/date stamps the application. An incomplete application may be suspended or rejected. An application that has been suspended as incomplete will cause delay in renewal.

The Commission may approve, suspend, or deny an application within 30 days. If the Commission does not act within 30 days, the renewal application is deemed automatically approved on the 31<sup>st</sup> day after the official filing date. If the Commission suspends the renewal application, the Commission shall notify the applicant of the reasons for such suspension and may direct the applicant to furnish additional information. The Commission shall act to approve or deny a suspended application within 90 days of the date that the renewal application was suspended.

Upon Commission approval, the applicant shall receive notification of approval and a numbered, renewed certificate that specifies the service(s) for which the applicant is certified and the dates for which the certificate is valid. Unless otherwise warranted, the renewed certification designation will remain consistent with the previously granted certification. For example, a certified marketer will renew as a certified marketer.

Unless otherwise specified by the Commission, the competitive retail natural gas service (CRNGS) supplier's renewed certificate is valid for an additional period of two years, beginning and ending on the dates specified on the certificate. The applicant may renew its certificate in accordance with Rule 4901:1-27-09 of the Ohio Administrative Code. CRNGS suppliers, which include marketers, shall inform the Commission of any material change to the information supplied in a renewal application within thirty (30) days of such material change in accordance with Rule 4901:1-27-11 of the Ohio Administrative Code.

**VII. *Contractual Arrangements for Capability Standards:*** If the applicant is relying upon contractual arrangements with a third-party, to meet any of the certification requirements, the applicant must provide with its application all of the following:

- The legal name of any contracted entity;
- A statement that a valid contract exists between the applicant and the third-party;
- A detailed summary of the contract(s), including all services provided thereunder; and
- The documentation and evidence to demonstrate the contracting entity's capability to meet the requirements as if the contracting entity was the applicant.

**VIII. Questions:** Questions regarding filing procedures should be directed to [CRNGS@puc.state.oh.us](mailto:CRNGS@puc.state.oh.us)

**IX. *Governing Law:*** The certification/renewal of CRNGS suppliers is governed by Chapters 4901:1-27 and 4901:1-29 of the Ohio Administrative Code, and Section 4929.20 of the Ohio Revised Code.



# Public Utilities Commission

PUCO USE ONLY - Version 1.08		
Date Received	Renewal Certification Number	ORIGINAL AGG Case Number
		15 - 0876 - GA-AGG

## RENEWAL CERTIFICATION APPLICATION COMPETITIVE RETAIL NATURAL GAS BROKERS/AGGREGATORS

Please type or print all required information. Identify all attachments with an exhibit label and title (*Example: Exhibit A-15 - Company History*). All attachments should bear the legal name of the Applicant. Applicants should file completed applications and all related correspondence with the Public Utilities Commission of Ohio, Docketing Division, 180 East Broad Street, Columbus, Ohio 43215-3793.

This PDF form is designed so that you may directly input information onto the form. You may also download the form by saving it to your local disk.

### SECTION A - APPLICANT INFORMATION AND SERVICES

#### A-1 Applicant intends to renew its certificate as: (check all that apply)

☐ Retail Natural Gas Aggregator ☒ Retail Natural Gas Broker

#### A-2 Applicant information:

Legal Name Energy Solutions USA, Inc.  
Address 99 W McCanns Blvd, Elmira Heights, NY 14903  
Telephone No. (888) 322-8755 Web site Address www.esui.us  
Current PUCO Certificate No. 15-443G(1) Effective Dates June 4, 2015 through June 4, 2017

#### A-3 Applicant information under which applicant will do business in Ohio:

Name Energy Solutions USA, Inc.  
Address 99 W McCanns Blvd, Elmira Heights, NY 14903  
Web site Address www.esui.us Telephone No. (888) 322-8755

#### A-4 List all names under which the applicant does business in North America:

Energy Solutions USA, Inc.

#### A-5 Contact person for regulatory or emergency matters:

Name Henry Fuksman Title President  
Business Address 99 W McCanns Blvd, Elmira Heights, NY 14903  
Telephone No. (888) 322-8755 Fax No. (866) 829-9700 Email Address info@esui.us

**A-6 Contact person for Commission Staff use in investigating customer complaints:**

Name Henry Fuksman

Title President

Business address 99 W McCanns Blvd, Elmira Heights, NY 14903

Telephone No. (888) 322-8755

Fax No. (866) 829-9700

Email Address info@esui.us

**A-7 Applicant's address and toll-free number for customer service and complaints**

Customer service address 99 W McCanns Blvd, Elmira Heights, NY 14903

Toll-Free Telephone No. (888) 322-8755

Fax No. (866) 829-9700

Email Address info@esui.us

**A-8 Provide "Proof of an Ohio Office and Employee," in accordance with Section 4929.22 of the Ohio Revised Code, by listing name, Ohio office address, telephone number, and Web site address of the designated Ohio Employee**

Name Energy Solutions USA, Inc attn: CT Corp

Title

Business address 4400 Easton Commons Way Suite 125, Columbus, OH, 43219

Telephone No. 614-280-3544

Fax No.

Email Address

CT-statecommunications@wolterkluwer.com

**A-9 Applicant's federal employer identification number 05-0547411**

**A-10 Applicant's form of ownership: (Check one)**

☐ Sole Proprietorship

☐ Partnership

☐ Limited Liability Partnership (LLP)

☐ Limited Liability Company (LLC)

☐ Corporation

☒ Other Foreign Corporation

**A-11 (Check all that apply) Identify each natural gas company service area in which the applicant is currently providing service or intends to provide service, including identification of each customer class that the applicant is currently serving or intends to serve, for example: *residential, small commercial, and/or large commercial/industrial (mercantile) customers*. (A mercantile customer, as defined in Section 4929.01(L)(1) of the Ohio Revised Code, means a customer that consumes, other than for residential use, more than 500,000 cubic feet of natural gas per year at a single location within the state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside of this state. In accordance with Section 4929.01(L)(2) of the Ohio Revised Code, "Mercantile customer" excludes a not-for-profit customer that consumes, other than for residential use, more than 500,000 cubic feet of natural gas per year at a single location within this state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside this state that has filed the necessary declaration with the Public Utilities Commission.)**

<input checked="" type="checkbox"/> Columbia Gas of Ohio	<input checked="" type="checkbox"/> Residential	<input checked="" type="checkbox"/> Small Commercial	<input checked="" type="checkbox"/> Large Commercial / Industrial
<input checked="" type="checkbox"/> Dominion East Ohio	<input checked="" type="checkbox"/> Residential	<input checked="" type="checkbox"/> Small Commercial	<input checked="" type="checkbox"/> Large Commercial / Industrial
<input checked="" type="checkbox"/> Duke Energy Ohio	<input checked="" type="checkbox"/> Residential	<input checked="" type="checkbox"/> Small Commercial	<input checked="" type="checkbox"/> Large Commercial / Industrial
<input checked="" type="checkbox"/> Vectren Energy Delivery of Ohio	<input checked="" type="checkbox"/> Residential	<input checked="" type="checkbox"/> Small Commercial	<input checked="" type="checkbox"/> Large Commercial / Industrial

**A-12** If applicant or an affiliated interest previously participated in any of Ohio's Natural Gas Choice Programs, for each service area and customer class, provide approximate start date(s) and/or end date(s) that the applicant began delivering and/or ended services.

☐ Columbia Gas of Ohio

<input type="checkbox"/> Residential	Beginning Date of Service	End Date
<input checked="" type="checkbox"/> Small Commercial	Beginning Date of Service 04/01/2015	End Date 03/31/2020
<input type="checkbox"/> Large Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Industrial	Beginning Date of Service	End Date

☐ Dominion East Ohio

<input type="checkbox"/> Residential	Beginning Date of Service	End Date
<input checked="" type="checkbox"/> Small Commercial	Beginning Date of Service 04/01/2019	End Date 03/31/2020
<input type="checkbox"/> Large Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Industrial	Beginning Date of Service	End Date

☐ Duke Energy Ohio

<input type="checkbox"/> Residential	Beginning Date of Service	End Date
<input checked="" type="checkbox"/> Small Commercial	Beginning Date of Service 11/01/2012	End Date 11/30/2020
<input type="checkbox"/> Large Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Industrial	Beginning Date of Service	End Date

☐ Vectren Energy Delivery of Ohio

<input type="checkbox"/> Residential	Beginning Date of Service	End Date
<input type="checkbox"/> Small Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Large Commercial	Beginning Date of Service	End Date
<input type="checkbox"/> Industrial	Beginning Date of Service	End Date

**A-13** If not currently participating in any of Ohio's four Natural Gas Choice Programs, provide the approximate start date that the applicant proposes to begin delivering services:

<input type="checkbox"/>	Columbia Gas of Ohio	Intended Start Date	
<input type="checkbox"/>	Dominion East Ohio	Intended Start Date	
<input type="checkbox"/>	Duke Energy Ohio	Intended Start Date	
<input checked="" type="checkbox"/>	Vectren Energy Delivery of Ohio	Intended Start Date	5/31/2019

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED.

- A-14 Exhibit A-14 "Principal Officers, Directors & Partners,"** provide the names, titles, addresses and telephone numbers of the applicant's principal officers, directors, partners, or other similar officials.
- A-15 Exhibit A-15 "Company History,"** provide a concise description of the applicant's company history and principal business interests.
- A-16 Exhibit A-16 "Articles of Incorporation and Bylaws,"** provide the articles of incorporation filed with the state or jurisdiction in which the applicant is incorporated and any amendments thereto, *only if the contents of the originally filed documents changed since the initial application.*
- A-17 Exhibit A-17 "Secretary of State,"** provide evidence that the applicant is still currently registered with the Ohio Secretary of the State.

## **SECTION B - APPLICANT MANAGERIAL CAPABILITY AND EXPERIENCE**

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED

- B-1 Exhibit B-1 "Jurisdictions of Operation,"** provide a current list of all jurisdictions in which the applicant or any affiliated interest of the applicant is, at the date of filing the application, certified, licensed, registered, or otherwise authorized to provide retail natural gas service, or retail/wholesale electric services.
- B-2 Exhibit B-2 "Experience & Plans,"** provide a current description of the applicant's experience and plan for contracting with customers, providing contracted services, providing billing statements, and responding to customer inquiries and complaints in accordance with Commission rules adopted pursuant to Section 4929.22 of the Revised Code and contained in Chapter 4901:1-29 of the Ohio Administrative Code.
- B-3 Exhibit B-3 "Summary of Experience,"** provide a concise and current summary of the applicant's experience in providing the service(s) for which it is seeking renewed certification (e.g., number and types of customers served, utility service areas, volume of gas supplied, etc.).
- B-4 Exhibit B-4 "Disclosure of Liabilities and Investigations,"** provide a description of all existing, pending or past rulings, judgments, contingent liabilities, revocations of authority, regulatory investigations, or any other matter that could adversely impact the applicant's financial or operational



status or ability to provide the services for which it is seeking renewed certification since applicant last filed for certification.

- B-5 Exhibit B-5 "Disclosure of Consumer Protection Violations,"** disclose whether the applicant, affiliate, predecessor of the applicant, or any principal officer of the applicant has been convicted or held liable for fraud or for violation of any consumer protection or antitrust laws since applicant last filed for certification.

☒ No ☐ Yes

If Yes, provide a separate attachment labeled as Exhibit B-5 "Disclosure of Consumer Protection Violations," detailing such violation(s) and providing all relevant documents.

- B-6 Exhibit B-6 "Disclosure of Certification Denial, Curtailment, Suspension, or Revocation,"** disclose whether the applicant or a predecessor of the applicant has had any certification, license, or application to provide retail natural gas or retail/wholesale electric service denied, curtailed, suspended, or revoked, or whether the applicant or predecessor has been terminated from any of Ohio's Natural Gas Choice programs, or been in default for failure to deliver natural gas since applicant last filed for certification.

☒ No ☐ Yes

If Yes, provide a separate attachment, labeled as Exhibit B-6 "Disclosure of Certification Denial, Curtailment, Suspension, or Revocation," detailing such action(s) and providing all relevant documents.

## **SECTION C - APPLICANT FINANCIAL CAPABILITY AND EXPERIENCE**

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED

- C-1 Exhibit C-1 "Annual Reports,"** provide the two most recent Annual Reports to Shareholders. If applicant does not have annual reports, the applicant should provide similar information, labeled as Exhibit C-1, or indicate that Exhibit C-1 is not applicable and why.  
(This is generally only applicable to publicly traded companies who publish annual reports.)
- C-2 Exhibit C-2 "SEC Filings,"** provide the most recent 10-K/8-K Filings with the SEC. If applicant does not have such filings, it may submit those of its parent company. If the applicant does not have such filings, then the applicant may indicate in Exhibit C-2 whether the applicant is not required to file with the SEC and why.
- C-3 Exhibit C-3 "Financial Statements,"** provide copies of the applicant's two most recent years of audited financial statements (balance sheet, income statement, and cash flow statement). If audited financial statements are not available, provide officer certified financial statements. If the applicant has not been in business long enough to satisfy this requirement, it shall file audited or officer certified financial statements covering the life of the business. If the applicant does not have a balance sheet, income statement, and cash flow statement, the applicant may provide a copy of its two most recent years of tax returns (with social security numbers and account numbers redacted).

**C-4 Exhibit C-4 “Financial Arrangements,”** provide copies of the applicant's financial arrangements to satisfy collateral requirements to conduct retail electric/gas business activity (e.g., parental or third party guarantees, contractual arrangements, credit agreements, etc.).

Renewal applicants can fulfill the requirements of Exhibit C-4 by providing a current statement from an Ohio local distribution utility (LDU) that shows that the applicant meets the LDU's collateral requirements.

First time applicants or applicants whose certificate has expired as well as renewal applicants can meet the requirement by one of the following methods:

1. The applicant itself stating that it is investment grade rated by Moody's, Standard & Poor's or Fitch and provide evidence of rating from the rating agencies.
2. Have a parent company or third party that is investment grade rated by Moody's, Standard & Poor's or Fitch guarantee the financial obligations of the applicant to the LDU(s).
3. Have a parent company or third party that is not investment grade rated by Moody's, Standard & Poor's or Fitch but has substantial financial wherewithal in the opinion of the Staff reviewer to guarantee the financial obligations of the applicant to the LDU(s). The guarantor company's financials must be included in the application if the applicant is relying on this option.
4. Posting a Letter of Credit with the LDU(s) as the beneficiary.

If the applicant is not taking title to the electricity or natural gas, enter "N/A" in Exhibit C-4. An N/A response is only applicable for applicants seeking to be certified as an aggregator or broker.

**C-5 Exhibit C-5 “Forecasted Financial Statements,”** provide two years of forecasted income statements for the applicant's **NATURAL GAS related business activities in the state of Ohio Only**, along with a list of assumptions, and the name, address, email address, and telephone number of the preparer. The forecasts should be in an annualized format for the two years succeeding the Application year.

**C-6 Exhibit C-6 “Credit Rating,”** provide a statement disclosing the applicant's current credit rating as reported by two of the following organizations: Duff & Phelps, Fitch IBCA, Moody's Investors Service, Standard & Poor's, or a similar organization. In instances where an applicant does not have its own credit ratings, it may substitute the credit ratings of a parent or an affiliate organization, provided the applicant submits a statement signed by a principal officer of the applicant's parent or affiliate organization that guarantees the obligations of the applicant. If an applicant or its parent does not have such a credit rating, enter "N/A" in Exhibit C-6.

**C-7 Exhibit C-7 “Credit Report,”** provide a copy of the applicant's current credit report from Experian, Dun and Bradstreet, or a similar organization. An applicant that provides an investment grade credit rating for Exhibit C-6 may enter "N/A" for Exhibit C-7.

- C-8 Exhibit C-8 "Bankruptcy Information,"** provide a list and description of any reorganizations, protection from creditors or any other form of bankruptcy filings made by the applicant, a parent or affiliate organization that guarantees the obligations of the applicant or any officer of the applicant in the current year or within the two most recent years preceding the application.
- C-9 Exhibit C-9 "Merger Information,"** provide a statement describing any dissolution or merger or acquisition of the applicant within the two most recent years preceding the application.
- C-10 Exhibit C-10 "Corporate Structure,"** provide a description of the applicant's corporate structure, not an internal organizational chart, including a graphical depiction of such structure, and a list of all affiliate and subsidiary companies that supply retail or wholesale electricity or natural gas to customers in North America. If the applicant is a stand-alone entity, then no graphical depiction is required and applicant may respond by stating that they are a stand-alone entity with no affiliate or subsidiary companies.

## **SECTION D – APPLICANT TECHNICAL CAPABILITY**

**PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED.**

- D-1 Exhibit D-1 "Operations,"** provide a current written description of the operational nature of the applicant's business functions.
- D-2 Exhibit D-2 "Operations Expertise,"** given the operational nature of the applicant's business, provide evidence of the applicant's current experience and technical expertise in performing such operations.
- D-3 Exhibit D-3 "Key Technical Personnel,"** provide the names, titles, email addresses, telephone numbers, and background of key personnel involved in the operational aspects of the applicant's current business.

**Applicant Signature and Title**

*Key Usan, President*

**Sworn and subscribed before me this**

*17th*

**day of**

*April*

**Month**

*2019*

**Year**

*Stacie A. MacLaury*

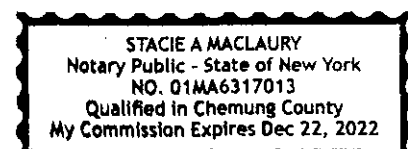
**Signature of official administering oath**

*Stacie A. MacLaury*

**Print Name and Title**

**My commission expires on**

*12/22/2022*





# The Public Utilities Commission of Ohio

## Competitive Retail Natural Gas Service Affidavit Form (Version 1.07)

In the Matter of the Application of )

Energy Solutions USA, Inc )

for a Certificate or Renewal Certificate to Provide )

Competitive Retail Natural Gas Service in Ohio. )

Case No. 15 - 0876 - GA-AGG

County of Chemung

State of New York

Henry Fuksman

[Affiant], being duly sworn/affirmed, hereby states that:

- (1) The information provided within the certification or certification renewal application and supporting information is complete, true, and accurate to the best knowledge of affiant.
- (2) The applicant will timely file an annual report of its intrastate gross receipts and sales of hundred cubic feet of natural gas pursuant to Sections 4905.10(A), 4911.18(A), and 4929.23(B), Ohio Revised Code.
- (3) The applicant will timely pay any assessment made pursuant to Section 4905.10 or Section 4911.18(A), Ohio Revised Code.
- (4) Applicant will comply with all applicable rules and orders adopted by the Public Utilities Commission of Ohio pursuant to Title 49, Ohio Revised Code.
- (5) Applicant will cooperate with the Public Utilities Commission of Ohio and its staff in the investigation of any consumer complaint regarding any service offered or provided by the applicant.
- (6) Applicant will comply with Section 4929.21, Ohio Revised Code, regarding consent to the jurisdiction of the Ohio courts and the service of process.
- (7) Applicant will inform the Public Utilities Commission of Ohio of any material change to the information supplied in the certification or certification renewal application within 30 days of such material change, including any change in contact person for regulatory or emergency purposes or contact person for Staff use in investigating customer complaints.
- (8) Affiant further sayeth naught.

Affiant Signature & Title

Sworn and subscribed before me this

11th

day of

April

Month

2019

Year

Signature of Official Administering Oath

Print Name and Title

STACIE A MACLAURY  
Notary Public - State of New York  
NO. 01MA6317013  
Qualified in Chemung County  
My Commission Expires Dec 22, 2022

My commission expires on

12/22/2022

## **Exhibit A-14 "Principle Officers, Directors & Partners"**

### **President/CEO**

Name: Henry Fuksman

Business Address: 99 W McCanns Blvd  
Elmira Heights, NY 14903

Phone: (888) 322-8755 x111

## **Exhibit A-15 “Company History”**

After twenty-five years of experience in the energy industry, Henry Fuksman founded Energy Solutions USA, Inc. with the goal of helping small to medium size businesses realize significant savings on the energy consumption. He understood that the deregulation of energy in New York State, and across the country, presented tremendous opportunity to provide customized and cost-effective energy packages to individual consumers who might not otherwise be aware that they had alternative procurement options.

Over the years, Energy Solutions USA, Inc. has grown into an independent energy management company serving businesses of all sizes in the mid-Atlantic and east coast states. Energy Solutions USA, Inc. has built and maintains strategic relationships with numerous regional and national energy suppliers, guaranteeing our clients competitive energy pricing, personalized service, and the best energy products for their businesses.

Energy Solutions USA Inc intends to provide energy consulting and electric and natural gas brokering services to commercial, industrial, residential and government customers.

# **Exhibit A-16 "Articles of Incorporation and Bylaws"**

## **CERTIFICATE OF INCORPORATION**

**OF**

**ENERGY SOLUTIONS USA, INC.**

**Under Section 402 of the Business Corporation Law**

### ***IT IS HEREBY CERTIFIED THAT:***

1. The name of the corporation is:

**ENERGY SOLUTIONS USA, INC.**

2. The purpose of the corporation is to engage in any lawful act or activity for which corporations may be organized pursuant to the Business Corporation Law of the State of New York. The corporation is not to engage in any act or activity requiring any consents or approvals of any State official department, board, agency or other party without such consent or approval first being obtained.

For the accomplishment of the aforesaid purposes, and in furtherance thereof, the corporation shall have, and may exercise, all of the powers conferred by the Business Corporation Law upon corporations formed thereunder, subject to any limitations contained in Article 2 of said law or in accordance with the provisions of any other statute of the State of New York.

3. The number of shares which the corporation shall have the authority to issue is 200 shares at no par value.
4. The office of the corporation is to be located in the County of Livingston, State of New York.
5. The Secretary of State is designated as agent of the corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the corporation served upon him is:

**ENERGY SOLUTIONS, USA, INC.  
c/o Dibble & Miller, P. C.  
55 Canterbury Road  
Rochester, New York 14607**

6. The undersigned incorporator is of the age of eighteen years or older.
7. Written consent of shareholders without a meeting, pursuant to Section 615 of the Business Corporation Law, shall be permitted as follows:

## **Exhibit A-16 "Articles of Incorporation and Bylaws"**

### **Certificate of Incorporation . . .**

- (a) Whenever shareholders are required or permitted to take any action by vote, such action may be taken without a meeting on written consent, setting forth the action so taken, signed by the holders of all outstanding shares entitled to vote thereon or, signed by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. In addition, this provision shall not be construed to alter or modify the provisions of any section or any provision in the certificate of incorporation not inconsistent with the Business Corporation Law under which the written consent of the holders of less than all outstanding shares is sufficient for corporate action.
  - (b) No written consent shall be effective to take the corporate action referred to therein unless, within sixty days of the earliest dated consent delivered in the manner required by this provision to the corporation, written consents signed by a sufficient number of holders to take action are delivered to the corporation by delivery to its registered office in this state, its principal place of business, or an officer or agent of the corporation having custody of the book in which proceedings of meetings of shareholders are recorded. Delivery made to a corporation's registered office shall be by hand or by certified or registered mail, return receipt requested.
  - (c) Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those shareholders who have not consented in writing.
  - (d) Written consent thus given by the holders of such number of shares as is required under paragraph (a) of this provision shall have the same effect as a valid vote of holders of such number of shares.
8. Pursuant to Business Corporation Law and Sections 616 and 620 thereof, the board of directors, the corporation and the shareholders of the corporation, in the sale, lease, exchange or other disposition of all or substantially all of the assets of the corporation, shall be limited and restricted as follows:
- (a) A sale, lease, exchange or other disposition of all or substantially all the assets of a corporation if not made in the usual or regular course of the business actually conducted by such corporation, shall be authorized, notwithstanding Section 909 of the Business Corporation Law, or any other applicable law, rule or regulation to the contrary, only in accordance with the following procedure:
    - (1) The board shall authorize the proposed sale, lease, exchange or other disposition and direct its submission to a vote of shareholders.
    - (2) Notice of meeting shall be given to each shareholder of record, whether or not entitled to vote.



## Exhibit A-16 "Articles of Incorporation and Bylaws"

### Certificate of Incorporation . . .

- (3) The shareholders shall approve such sale, lease, exchange or other disposition and may fix, or may authorize the board to fix, any of the terms and conditions thereof and the consideration to be received by the corporation therefor, which may consist in whole or in part of cash or other property, real or personal, including shares, bonds or other securities of any other domestic or foreign corporation or corporations, by affirmative vote at a meeting of shareholders of the holders of two-thirds of all outstanding shares entitled to vote thereon.
  - (b) A recital in a deed, lease or other instrument of conveyance executed by a corporation to the effect that the property described therein does not constitute all or substantially all of the assets of the corporation, or that the disposition of the property affected by said instrument was made in the usual or regular course of business of the corporation, or that the shareholders have duly authorized such disposition, shall be presumptive evidence of the fact so recited.
  - (c) The board may not abandon the proposed sale, lease, exchange or other disposition without further action by shareholders.
  - (d) This provision shall not be altered or amended in, or terminated or stricken from, the certificate of incorporation except by two-thirds of all of the outstanding shares entitled to vote thereon.
  - (e) This provision shall be valid only so long as no shares of the corporation are listed on a national securities exchange or regularly quoted in an over-the-counter market by one or more members of a national or affiliated securities association.
  - (f) The existence of this provision shall be noted conspicuously on the face or back of every certificate for shares issued by this corporation.
9. Pursuant to Business Corporation Law and Sections 616 & 620 thereof, the board of directors, the corporation and the shareholders of the corporation, in any merger or consolidation, as defined in Section 901 of the Business Corporation Law, shall be limited and restricted as follows:
- (a) Notwithstanding Section 903 of the Business Corporation Law, or any other applicable law, rule or regulation to the contrary, the board of each constituent corporation, upon adopting the plan of merger or consolidation, as defined in Section 902 of the Business Corporation Law, shall submit such plan to a vote of shareholders in accordance with the following:
    - (1) Notice of meeting shall be given to each shareholder of record, as of the record date fixed pursuant to Section 604 (Fixing record date) of the Business Corporation Law, whether or not entitled to vote. A copy of the plan of merger or consolidation or an outline of the material features of the plan shall accompany such notice.

## Exhibit A-16 "Articles of Incorporation and Bylaws"

### Certificate of Incorporation . . .

- (2) The plan of merger or consolidation shall be adopted at a meeting of shareholders by two-thirds of the votes of all outstanding shares entitled to vote thereon. The holders of shares of a class or series of a class shall be entitled to vote together and to vote as a separate class if both of the following conditions are satisfied:
- (A) such shares will remain outstanding after the merger or consolidation or will be converted into the right to receive shares of stock of the surviving or consolidated corporation or another corporation, and
  - (B) the certificate or articles of incorporation of the surviving or consolidated corporation or of such other corporation immediately after the effectiveness of the merger or consolidation would contain any provision which, is not contained in the certificate of incorporation of the corporation and which, if contained in an amendment to the certificate of incorporation, would entitle the holders of shares of such class or such one or more series to vote and to vote as a separate class thereon pursuant to section 804 (Class voting on amendment) of the Business Corporation Law. In such case, in addition to the authorization of the merger or consolidation by the requisite number of votes of all outstanding shares entitled to vote thereon pursuant to the first sentence of this subparagraph (2), the merger or consolidation shall be authorized by a two-thirds of the votes of all outstanding shares of the class entitled to vote as a separate class. If any provision referred to in this subparagraph would affect the rights of the holders of shares of only one or more series of any class but not the entire class, then only the holders of those series whose rights would be affected shall together be considered a separate class for purposes of this section.
- (b) Notwithstanding shareholder authorization and at any time prior to the filing of the certificate of merger or consolidation, the plan of merger or consolidation may be abandoned pursuant to a provision for such abandonment, if any, contained in the plan of merger or consolidation.
- (c) This provision shall not be altered or amended in, or terminated or stricken from, the certificate of incorporation except by two-thirds of all of the outstanding shares entitled to vote thereon.
- (d) This provision shall be valid only so long as no shares of the corporation are listed on a national securities exchange or regularly quoted in an over-the-counter market by one or more members of a national or affiliated securities association.
- (e) The existence of this provision shall be noted conspicuously on the face or back of every certificate for shares issued by this corporation.
10. Pursuant to the Business Corporation Law and Sections 616 and 620 thereof, the board of directors, the corporation and the shareholders of the corporation, are limited and restricted in the issuance of shares of the corporation until preemptive rights are granted, notwithstanding

## Exhibit A-16 "Articles of Incorporation and Bylaws"

### Certificate of Incorporation . . .

Section 622 of the Business Corporation Law, or any other applicable law, rule or regulation to the contrary, to shareholders as follows:

(a) As used in this provision, the term:

- (1) "Unlimited dividend rights" means the right without limitation as to amount either to all or to a share of the balance of current or liquidating dividends after the payment of dividends on any shares entitled to a preference.
- (2) "Equity shares" means shares of any class, whether or not preferred as to dividends or assets, which have unlimited dividend rights.
- (3) "Voting rights" means the right to vote for the election of one or more directors, excluding a right so to vote which is dependent on the happening of an event specified in the certificate of incorporation which would change the voting rights of any class of shares.
- (4) "Voting shares" means shares of any class which have voting rights, but does not include bonds on which voting rights are conferred under section 518 (Corporate bonds) of the Business Corporation Law.
- (5) "Preemptive right" means the right to purchase shares or other securities to be issued or subject to rights or options to purchase, as such right is defined in this provision.

(b) Except as otherwise provided in the certificate of incorporation, and except as provided in this provision, the holders of equity shares of any class, in case of the proposed issuance by the corporation of, or the proposed granting by the corporation of rights or options to purchase, its equity shares of any class or any shares or other securities convertible into or carrying rights or options to purchase its equity shares of any class, shall, if the issuance of the equity shares proposed to be issued or issuable upon exercise of such rights or options or upon conversion of such other securities would adversely affect the unlimited dividend rights of such holders, have the right during a reasonable time and on reasonable conditions, both to be fixed by the board, to purchase such shares or other securities in such proportions as shall be determined as provided in this provision.

(c) Except as otherwise provided in the certificate of incorporation, and except as provided in this provision, the holders of voting shares of any class, in case of the proposed issuance by the corporation of, or the proposed granting by the corporation of rights or options to purchase, its voting shares of any class or any shares or other securities convertible into or carrying rights or options to purchase its voting shares of any class, shall, if the issuance of the voting shares proposed to be issued or issuable upon exercise of such rights or options or upon conversion of such other securities would adversely affect the voting rights of such holders, have the right during a reasonable time and on reasonable conditions, both to be fixed by the board, to purchase such shares or other securities in such proportions as shall be determined as provided in this provision.

## Exhibit A-16 "Articles of Incorporation and Bylaws"

### Certificate of Incorporation . . .

- (d) The preemptive right provided for in paragraphs (b) and (c) shall entitle shareholders having such rights to purchase the shares or other securities to be offered or optioned for sale as nearly as practicable in such proportions as would, if such preemptive right were exercised, preserve the relative unlimited dividend rights and voting rights of such holders and at a price or prices not less favorable than the price or prices at which such shares or other securities are proposed to be offered for sale to others, without deduction of such reasonable expenses of and compensation for the sale, underwriting or purchase of such shares or other securities by underwriters or dealers as may lawfully be paid by the corporation. In case each of the shares entitling the holders thereof to preemptive rights does not confer the same unlimited dividend right or voting right, the board shall apportion the shares or other securities to be offered or optioned for sale among the shareholders having preemptive rights to purchase them in such proportions as in the opinion of the board shall preserve as far as practicable the relative unlimited dividend rights and voting rights of the holders at the time of such offering. The apportionment made by the board shall, in the absence of fraud or bad faith, be binding upon all shareholders.
- (e) Unless otherwise provided in the certificate of incorporation, shares or other securities offered for sale or subjected to rights or options to purchase shall not be subject to preemptive rights if they:
- (1) Are to be issued by the board to effect a merger or consolidation or offered or subjected to rights or options for consideration other than cash;
  - (2) Are to be issued or subjected to rights or options under paragraph (d) of section 505 (Rights and options to purchase shares; issue of rights and options to directors, officers and employees) of the Business Corporation Law;
  - (3) Are to be issued to satisfy conversion or option rights theretofore granted by the corporation;
  - (4) Are treasury shares;
  - (5) Are part of the shares or other securities of the corporation authorized in its original certificate of incorporation and are issued, sold or optioned within two years from the date of filing such certificate; or
  - (6) Are to be issued under a plan of reorganization approved in a proceeding under any applicable act of congress relating to reorganization of corporations.
- (f) Shareholders of record entitled to preemptive rights on the record date fixed by the board under Section 604 (Fixing record date) of the Business Corporation Law, or, if no record date is fixed, then on the record date determined under such section 604, and no others shall be entitled to the right defined in this section.

## Exhibit A-16 "Articles of Incorporation and Bylaws"

### Certificate of Incorporation . . .

- (g) The board shall cause to be given to each shareholder entitled to purchase shares or other securities in accordance with this section, a notice directed to him or her in the manner provided in Section 605 (Notice of meetings of shareholders) of the Business Corporation Law setting forth the time within which and the terms and conditions upon which the shareholder may purchase such shares or other securities and also the apportionment made of the right to purchase among the shareholders entitled to preemptive rights. Such notice shall be given personally or by mail at least fifteen days prior to the expiration of the period during which the shareholder shall have the right to purchase. All shareholders entitled to preemptive rights to whom notice shall have been given as aforesaid shall be deemed conclusively to have had a reasonable time in which to exercise their preemptive rights.
- (h) Shares or other securities which have been offered to shareholders having preemptive rights to purchase and which have not been purchased by them within the time fixed by the board may thereafter, for a period of not exceeding one year following the expiration of the time during which shareholders might have exercised such preemptive rights, be issued, sold or subjected to rights or options to any other person or persons at a price, without deduction of such reasonable expenses of and compensation for the sale, underwriting or purchase of such shares by underwriters or dealers as may lawfully be paid by the corporation, not less than that at which they were offered to such shareholders. Any such shares or other securities not so issued, sold or subjected to rights or options to others during such one year period shall thereafter again be subject to the preemptive rights of shareholders.
- (i) Except as otherwise provided in the certificate of incorporation and except as provided in this provision, no holder of any shares of any class shall as such holder have any preemptive right to purchase any other shares or securities of any class which at any time may be sold or offered for sale by the corporation. Unless otherwise provided in the certificate of incorporation, holders of bonds on which voting rights are conferred under section 518 (Corporate bonds) of the Business Corporation Law shall have no preemptive rights.
- (j) Section 622(b)(2) of the Business Corporation Law, effective February 22, 1998, states that corporations incorporated on or after such date do not have preemptive rights, unless expressly provided in the certificate of incorporation. This provision of this certificate of incorporation is expressly intended to invoke any rights granted as a result of such provision to provide shareholders of this corporation with preemptive rights.
- (k) This provision shall not be altered or amended in, or terminated or stricken from, the certificate of incorporation except by two-thirds of all of the outstanding shares entitled to vote thereon.
- (l) This provision shall be valid only so long as no shares of the corporation are listed on a national securities exchange or regularly quoted in an over-the-counter market by one or more members of a national or affiliated securities association.

## Exhibit A-16 "Articles of Incorporation and Bylaws"

Certificate of Incorporation . . .

(m) The existence of this provision shall be noted conspicuously on the face or back of every certificate for shares issued by such corporation.

***IN WITNESS THEREOF***, this certificate has been subscribed this 30th day of December, 2002 by the undersigned, who affirms that the statements made herein are true under the penalties of perjury.



Gerald W. Dibble, Esq., Incorporator  
55 Canterbury Road  
Rochester, New York 14607

### Affirmation of the Incorporator

***In Witness Whereof***, this Certificate has been subscribed by the undersigned, who affirms that the statements made herein are true under the penalty of perjury.

December 30, 2002



Gerald W. Dibble, Esq., Incorporator  
55 Canterbury Road  
Rochester, New York 14607  
(716) 271-1500

## Exhibit A-17 "Secretary of State"

Jon Husted  
Ohio Secretary

[Jon Husted & the Office](#) | [Elections & Voting](#) | [Campaign Finance](#) | [Legislation & Ballot Issues](#) | [Businesses](#) | [Records](#) | [Media Center](#) | [Publications](#)

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#### Corporation Details

Corporation Details		
Entity Number	2389054	
Business Name	ENERGY SOLUTIONS USA, INC.	
Filing Type	FOREIGN CORPORATION	
Status	Active	
Original Filing Date	04/24/2015	
Expiry Date		
Location:	County:	State: NEW YORK

Agent/Registered Information		
CT CORPORATION SYSTEM		
1300 EAST NINTH STREET		
CLEVELAND, OH 44114		
Effective Date: 04/24/2015		
Contact Status: Active		

Filings		
Filing Type	Date of Filing	Document Number/Link
FOREIGN LICENSE/FOR-PROFIT	04/24/2015	201511901571

**Exhibit A-17 "Secretary of State"**

**\*201511901571\***

DATE	DOCUMENT ID	DESCRIPTION	FILING	EXPED	PENALTY	CERT	COPY
04/30/2015	201511901571	FOREIGN LICENSE/FOR-PROFIT (FLF)	125.00	.00	.00	.00	.00

**Receipt**

This is not a bill. Please do not remit payment.

CT CORPORATION SYSTEM  
4400 EASTON COMMONS WAY - #125  
CHRIS RICKARD  
COLUMBUS, OH 43219

**STATE OF OHIO  
CERTIFICATE**

**Ohio Secretary of State, Jon Husted**

**2389054**

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

**ENERGY SOLUTIONS USA, INC.**

and, that said business records show the filing and recording of:

Document(s):  
**FOREIGN LICENSE/FOR-PROFIT**

Document No(s):  
**201511901571**

Effective Date: **04/24/2015**

Authorization to transact business in Ohio is hereby given, until surrender, expiration or cancellation of this license.



United States of America  
State of Ohio  
Office of the Secretary of State

Witness my hand and the seal of the  
Secretary of State at Columbus, Ohio this  
30th day of April, A.D. 2015.

*Jon Husted*

Ohio Secretary of State



## **Exhibit B-1 “Jurisdictions of Operations”**

States in which the Applicant is now or has been engaged in the retail sale (including Brokering) of electricity or natural gas:

State:	NY	Type of License:	N/A	License No:	N/A
State:	PA	Type of License:	Electric	License No:	A-2012-2281591
State:	PA	Type of License:	Natural Gas	License No:	A-2014-2400844
State:	MA	Type of License:	Electric	License No:	EB-384
State:	MA	Type of License:	Natural Gas	License No:	RA-169
State:	MD	Type of License:	Electric	License No:	IR-3352
State:	MD	Type of License:	Natural Gas	License No:	IR-3353

## **Exhibit B-2 “Experience & Plans”**

Energy Solutions USA Inc intends to provide energy consulting and electric and natural gas brokering services to commercial, industrial, residential and government customers.

Energy Solutions USA Inc intend to act as Broker/Marketer, acting as an intermediary in the sale and purchase of electric energy but does not take title to electric energy. Therefore, Energy Solutions USA, Inc acting as a broker for energy suppliers, will not be providing billing statements. Any response to customer inquiries, Energy Solutions USA, Inc will act as an intermediary with the energy supplier in regards to billing inquiries and complaints from customers.

## Exhibit B-3 “Summary of Experience” (CONFIDENTIAL)

Energy Solutions USA Inc as an energy broker does not supply natural gas. The table below summarizes the local utility companies and states where we have experience in aggregating customer loads for the purposes of brokering natural gas agreements with energy suppliers.

Utility	Service	State	Dth (Annual)
ATCO	Gas	AB-Canada	6,180
CGMA	Gas	MA	8,004
NSTAR	Gas	MA	2,211
BGE	Gas	MD	37,177
DTE	Gas	MI	4,832
PSEG	Gas	NJ	3,279
SJG	Gas	NJ	1,158
CHG&E	Gas	NY	14,978
CNG	Gas	NY	771
ConEd	Gas	NY	1,533
NFG	Gas	NY	576
NGRID	Gas	NY	1,394
NGRIDBUG	Gas	NY	344
NGRIDLI	Gas	NY	133
NYSEG	Gas	NY	1,137
O&R	Gas	NY	440
RGE	Gas	NY	1,177
CGOH	Gas	OH	7,318
DE	Gas	OH	3,495
DUKEOH	Gas	OH	516
CPG	Gas	PA	450
EQUITABLE	Gas	PA	98
PECO	Gas	PA	36,560
PGW	Gas	PA	524
PNG	Gas	PA	543
UGI	Gas	PA	930
VE	Gas	PA	226
CGVA	Gas	VA	58,359

## **Exhibit B-4 “Disclosure of Liabilities and Investigations”**

Energy Solutions USA Inc has not been nor is it currently the defendant of a criminal or civil proceeding within the last five (5) years.

## **Exhibit C-1 “Annual Reports”**

Energy Solutions USA, Inc does not have any shareholders and therefore does not issue annual reports and is not applicable.

## **Exhibit C-2 “SEC Filings”**

Energy Solutions USA, Inc is not a publically traded company and is not required to file with the SEC so this section is not applicable.

## **Exhibit C-4 “Financial Arrangements”**

Not applicable. Energy Solutions USA, Inc is acting as a natural gas broker without taking title to the natural gas.

## **Exhibit C-6 “Credit Rating”**

**Not applicable. Energy Solutions USA, Inc is not rated by a rating agency.**



## **Exhibit C-7 “Credit Report”**

**Not applicable. Energy Solutions USA, Inc does not have a credit rating.**

## **Exhibit C-8 “Bankruptcy Information”**

Energy Solutions USA Inc has not within the past two (2) years nor is it currently filing for Bankruptcy. This section is not applicable.

## **Exhibit C-9 “Merger Information”**

Energy Solutions USA Inc has not within the past five (5) years nor is it currently filing for a Merger. This section is not applicable.

## **Exhibit C-10 “Corporate Structure”**

Energy Solutions USA, Inc is owned by Henry Fuksman who is both the President and CEO. In addition, there are five employees in sales and one IT administrator.

Energy Solutions USA, Inc has no affiliates nor any predecessors.