

Jay County REMC

A Touchstone Energy® Cooperative 

INSTRUCTIONS FOR APPLICATION FOR ASSIGNMENT OF CAPITAL CREDITS FOR BUSINESS OR ENTITY NO LONGER IN EXISTENCE

When to Use this Application: This Application is to be used when Jay County Rural Electric Membership Corporation (the “Cooperative”) has allocated and/or retired capital credits to a **former business or entity member that no longer exists under Indiana law** (the “Entity”). Examples of entities are corporations, limited liability companies and unincorporated associations, like partnerships.

Complete this form as soon as possible once the Entity is no longer in existence (so that in the future, any retired capital credits will automatically be paid to the correct person or entity). This form also can be used if the Cooperative has issued a payment check for retired capital credits to the Entity. In that event, the proper successor in interest, beneficiary, or person authorized to collect and distribute the payment will fill out this Application so the payment check can be reissued to the proper successor in interest/beneficiary/recipient.

Who Can Submit this Application: The person (or entity) submitting this Application (the “Applicant”) must be:

- a. entitled to assume Entity’s capital credit account and receive payment of the Entity’s retired capital credits;
- b. the individual (or entity) authorized by all such proper recipients to receive payment of the Entity’s retired capital credits; or
- c. authorized by the Entity to submit this Application.

Application Submission: By submitting this Application, the Applicant is requesting that the Cooperative: (1) “assign” Entity’s account so that any outstanding or future distributions of capital credits will automatically be allocated and sent to the successor in interest or beneficiary of the Entity (s); and (2) if a check has been issued to the Entity, to reissue the check to the successor in interest or beneficiary of the Entity. Cooperative in its sole discretion may deny the reassignment of Entity’s account as requested in this Application.

Please return this form and the documents requested to:

484 S 200 W Portland, IN 47371 or napertb@jayremc.com

If you have any questions, please call 260-726-7121 or email napertb@jayremc.com

Directions:

Item 1: List the full legal name and account number of the former member Entity for which the capital credits have been allocated and/or retired. (This should be the exact legal name as listed in the records of the Indiana Secretary of State. If this name differs from the name on the utility account, please explain on a separate document).

Item 2: Check the box indicating the type of organization that the Entity was during its existence. (This should also match the records of the Secretary of State.) If not listed, check “Other” and list the organization type.

Item 3: List the full legal name, phone number, email, and address name of the person or entity making the application, referred to as “Applicant.”

Item 4: Circle the office or capacity in which Applicant served or is currently serving.

Item 5: List the full legal name(s) of the person(s), entity or entities that are legally entitled to receive retirements of capital credits from the Entity’s account. List the single address to which checks and future correspondence should be

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mailed. You must notify the Cooperative if the address changes.

Item 6: Indicate the circumstances surrounding the Entity's dissolution or termination. Check ONLY ONE box in Item 6. Refer to the Secretary of State's website for assistance determining the "official" description and for copies of the required documentation.

Item 6A: Check if Entity was administratively dissolved by the Secretary of State. An example is when the company failed to file biennial reports and was dissolved by the Secretary of State. ATTACH a copy of the Certificate of Administrative Dissolution.

Item 6B: Check if Entity was voluntarily dissolved or cancelled. An example is when the board of directors and shareholders decide to dissolve a corporation, wrap up the business, pay corporate debts and make appropriate filings with the Secretary of State. ATTACH a copy of the Articles of Dissolution or Certification of Cancellation

Item 6C: Check if Entity was judicially dissolved by order of a court. ATTACH a copy of the Decree of Judicial Dissolution.

Item 6D: Check if Entity was an unincorporated business association (e.g., partnership, limited partnership, or limited liability partnership) which has been terminated. ATTACH a copy of the Certificate of Cancellation of Certificate of Authority if applicable.

Item 6E: Check if none of the other selections in Item 6 apply. Explain why an attachment is unavailable or explain the circumstances surrounding the dissolution.

Item 7: Check if the Entity sold all or part of its assets to another person or entity and ceased doing business, then select either 7A or 7B depending on the circumstances. You MUST attach a copy of the sales contract, bill of sale, or other proper supporting documentation:

Item 7A: Check if Entity sold its entire ongoing business or transferred ALL of the assets (e.g., inventory and equipment) used in the business. For example, Magna Inc. sold its ongoing business, all of its assets, accounts and customer lists to Acme Inc., which moved in and took the business. In this case, the buyer should be the newly-designated account holder listed in item 5.

Item 7B: Check if Entity did not sell all or substantially all of its assets to another party. For example, ABC LLC sold only its inventory to Bob before ABC ceased doing business and filed for termination. In this case, the seller would likely be the newly-designated account holder listed in item 5.

Item 8: Warranties and representations regarding who is legally entitled or authorized to have the Entity's account reassigned and receive the payment of the Entity's retired capital credits.

Item 8A: Applicant is the sole person or entity entitled to receive the payment. If Applicant checks Item 8A and is not the sole beneficiary or fails to list all of the beneficiaries or properly distribute the proceeds, then both the Cooperative and the proper recipients can sue Applicant and recover damages.

Item 8B: If Applicant is not the sole beneficiary, list all the proper beneficiaries/recipients.

Item 9: Warranties and representations regarding who is legally entitled or authorized to have the Entity's account reassigned and receive the payment of the Entity's retired capital credits.

Disclaimer: The Cooperative, in accepting and processing this Application is making no independent determination as to the factual representations made in the Application and is making no independent determination of the legal effect of the documents attached thereto.

In the processing of this Application, the Cooperative is not offering any legal advice or opinion in regard to who is entitled to receive the Entity's accrued capital credits. If there is any question about who is entitled to receive the accrued capital credits of the Entity, Applicant should, and is encouraged, to seek advice from his/her own legal counsel.

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APPLICATION FOR ASSIGNMENT OF CAPITAL CREDIT ACCOUNT OF BUSINESS OR ENTITY NO LONGER IN EXISTENCE

Detailed instructions are included at the beginning of this Application.

1. Former Entity name: _____

Account Number (if known): _____

2. Organization type (*check only one*):

- | | |
|---|--|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Limited Liability Partnership |
| <input type="checkbox"/> Non-Profit or Mutual Benefit Corporation | |
| <input type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Other: _____ |

3. Applicant: (*person or entity making this Application*):

Name: _____

Title: _____
(if Applicant is a representative of a business):

Phone Number: _____

Email: _____

Address: _____

Make check payable to:
(If different than at left)

Name of individual or Estate: _____

Address: _____

4. Applicant's Relationship to Former Entity (if any): _____

Examples include, but are not limited to:

Corporation – Officer; Attorney for corporation; Incorporator; Shareholder; Director; Receiver or Trustee

LLC – Member; Manager; Attorney for LLC; Organizer; Receiver or Trustee

Limited Partnership – General Partner; Attorney for LLP; Receiver or Trustee

Limited Liability Partnership – General Partner; Attorney for LLP; Receiver or Trustee

Partnership – General Partner; Attorney for partnership; Receiver or Trustee

5. Assignee: _____

(name of person, business, or organization to whom the account should be assigned)

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Permanent mailing address of Assignee: _____

Indicate nature of Assignee (*check only one*):

- | | |
|---|--|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Limited Liability Partnership |
| <input type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Other type of Entity: _____ |
| <input type="checkbox"/> Successor in Interest (person) | <input type="checkbox"/> Beneficiary of Successor in Interest (person) |

6. Indicate the circumstances surrounding the Former Entity's dissolution or terminating by checking the appropriate box and **attaching the proper supporting documentation** as indicated (*check only one*):

- ☐ 6A. The Former Entity was **administratively dissolved** by the Secretary of State and a copy of the Certificate of Administrative Dissolution issued by the Secretary of State is attached hereto.
- ☐ 6B. The Former Entity was **voluntarily dissolved** and a copy of the Articles of Dissolution issued by the Secretary of State is attached hereto.
- ☐ 6C. The Former Entity was **judicially dissolved**, and a copy of the Decree of Judicial Dissolution (or equivalent) is attached hereto.
- ☐ 6D. The Applicant warrants that the Former Entity was an **unincorporated** business association (*e.g.*, Partnership, Limited Partnership, or Limited Liability Partnership) that has been properly dissolved or terminated pursuant to applicable laws and any agreements controlling the Former Entity's ownership or governance and a copy of the Certificate of Cancellation of Certificate of Authority, if applicable, is attached hereto.
- ☐ 6E. **Other**, EXPLAIN: The Applicant warrants that: _____

7. ☐ The Former Entity **sold all or part of its assets** and ceased doing business.

If you checked Item 7 above, check only one of the following that applies and **attach a copy of the sales contract, bill of sale, or other proper supporting documentation**:

- ☐ 7A. The undersigned warrants that the Former Entity sold its entire business or sold ALL of the assets of the Entity.
- ☐ 7B. The undersigned warrants that the sale of the Former Entity's assets:
- a. did NOT transfer all of the assets of the Entity;
 - b. did not transfer the Cooperative account or otherwise transfer the right to payment of the capital credits refund; and
 - c. the disposition of the assets was properly authorized by the governing body and/or owners of the Entity as required by applicable law.

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8. The Applicant warrants to the Cooperative that under applicable laws of the State of Indiana (*check only one*):

- ☐ 8A. Applicant (and no other person or entity) is legally entitled to assume Former Entity's capital credit account and receive all Former Entity's capital credit payments.
- ☐ 8B. The following recipient(s) is (are) legally entitled assume Former Entity's capital credit account and to receive the Former Entity's capital credit payments:

(list all persons or entities (including Applicant, if appropriate) that are entitled to receive payment for the Former Entity's capital credit refund). Applicant agrees to distribute the capital credit payments received from the Cooperative to those listed in Item 8B, if any, in full accordance with the plan of dissolution, organizational documents, agreement among owners or as provided by applicable law.

9. In consideration of receiving payment of the Former Entity's retired capital credits and assigning patronage capital allocated to the Former Entity as directed herein, the undersigned agrees to permit the Cooperative to deduct from the Former Entity's capital credit account:

- a. All amounts owed the Cooperative by the Former Entity, and
- b. All amounts owed the Cooperative by the Applicant or Assignee(s) identified in Items 5 and/or 8A above.

10. **THE APPLICANT FURTHER SWEARS, WARRANTS, AND COVENANTS THAT (i) NO ACTION OR EVENT EXISTS WHEREIN THE CAPITAL CREDITS OF THE FORMER ENTITY WITH THE COOPERATIVE HAVE BEEN TRANSFERRED, PROMISED, GRANTED, CLAIMED OR AWARDED; (ii) APPLICANT SHALL INDEMNIFY AND HOLD HARMLESS THE COOPERATIVE FROM ANY CLAIM OR DEMAND MADE AGAINST THE COOPERATIVE, AND THE COST AND EXPENSE OF DEFENDING SAME, BY VIRTUE OF ITS PAYMENT OF THE CAPITAL CREDIT ACCOUNT IN THE MANNER PROVIDED FOR IN THIS APPLICATION OR ARISING IN ANY WAY FROM THE COOPERATIVE'S RELIANCE UPON INFORMATION PROVIDED BY THE APPLICANT HEREIN, (iii) ALL DOCUMENTATION PROVIDED BY APPLICANT WITH THIS APPLICATION IS, TO THE BEST OF APPLICANT'S KNOWLEDGE, TRUE AND ACCURATE; (iv) THE APPLICANT IS DULY AUTHORIZED TO MAKE THIS APPLICATION AND, , IF APPLICABLE, RECEIVE SUCH PAYMENT AND (v) THE APPLICANT HAS RECEIVED THE CONSENT OF EACH OF THE PERSONS WITH AN INTEREST IN THE ASSETS OF THE DISSOLVED FORMER ENTITY TO COMPLETE THIS FORM, IF NECESSARY, MAKE THE STATEMENTS MADE HEREIN, AND RECEIVE THE PAYMENT OF THE FULL AMOUNT OF THE ENTITY'S CAPITAL CREDITS FROM THE COOPERATIVE.**

11. As a part of this Application and to induce the Cooperative to act upon this Application, the Applicant does hereby warrant and covenant and does, after being duly sworn, depose and say that all of the information provided in this Application is true and correct.

IN WITNESS WHEREOF, the undersigned has executed this Application as of this ____ day of _____ 20__.

Signed: _____

Print: _____

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State of Indiana
County of _____

I, a Notary Public, hereby certify that _____ whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he/she/they executed the same voluntarily on the day the same bears date.

Given under my hand this the _____ day of _____, 20____.

(Seal, if any)

(Signature of notarial officer)

My commission expires: _____

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