

Appendix 2 - Guaranty Process

This Guaranty Process has two parts with two distinct purposes. First, the Guaranty Process allows a prospective supplier unable to use the Standard Guaranty provided as Appendix G to the PECO Energy Company Pennsylvania Default Service Supplier Master Agreement (“Uniform SMA”) to submit for consideration by PECO Energy Company (“PECO”) an alternate guaranty form that the prospective supplier uses in its normal course of business. This first process is explained in Section 1 of this document. Second, the Guaranty Process allows a prospective supplier able to use the Standard Guaranty to propose modifications to the Standard Guaranty that are non-material in nature or are modifications advantageous to both PECO and the prospective supplier. This second process is explained in Section 2 of this document.

Section 1. Guaranty Process: Submission of an Alternate Guaranty Form

Any prospective supplier can apply to use an alternate guaranty form. Any alternate guaranty form, as is the case with the Standard Guaranty, must be a financial guaranty. While alternate forms of financial guaranty may be acceptable, performance guaranties are not acceptable.

The process for submitting an alternate guaranty form and the ground rules for PECO’s consideration of alternate guaranty forms are as follows:

1. PECO will consider alternate guaranty forms only if the guaranty is for unlimited liability. (A prospective supplier can utilize the safe harbor provided by the Standard Guaranty, which has a liability limit.)
2. PECO has specified a list of minimum requirements that any alternate guaranty form must satisfy. This list is under the heading: “Minimum Requirements for the Alternate Guaranty Form” below.
3. The Independent Evaluator will receive the alternate guaranty form, remove any information identifying the prospective supplier, and forward it to PECO and to outside counsel retained on behalf of PECO. PECO will determine, with the consultation of outside counsel and the Independent Evaluator as necessary, whether the alternate guaranty form provides sufficient assurances of payment, taking into account the following general considerations:
 - a. whether the alternate guaranty form conforms to the minimum requirements identified by PECO;
 - b. whether the alternate guaranty form, which is not subject to a monetary limit, provides credit protections comparable to the credit protections provided to PECO by the Standard Guaranty; and
 - c. whether the alternate guaranty form includes defenses in favor of the guarantor not found in the Standard Guaranty.

PECO may also identify specific changes that would permit the alternate guaranty form to be acceptable.

4. The Independent Evaluator will inform the prospective supplier of PECO's decision. The Independent Evaluator will inform the prospective supplier of any specific changes that may be required for the proposed alternate guaranty form to be acceptable to PECO. Prospective suppliers will be given an opportunity to resubmit the alternate guaranty form if changes are identified by PECO. Alternate guaranty forms that have been resubmitted may be rejected if they do not include the changes identified by PECO.
5. An alternate guaranty form approved through this Guaranty Process will be acceptable to PECO. This alternate guaranty form may be used by the prospective supplier through the end of DSP III barring changes in the applicable law or changes to the RFP as may be ordered by the Pennsylvania Public Utility Commission.

Minimum Requirements for the Alternate Guaranty Form

Below are the minimum requirements that must be met in order for any alternate guaranty form to be acceptable. As stated above, in determining whether an alternate guaranty form is acceptable and provides sufficient assurances of payment, PECO takes into account several general considerations, including whether the alternate guaranty form fulfills the following minimum requirements:

1. The guaranty must be an unconditional guaranty of payment of all amounts due by the Seller to PECO under the applicable SMA(s), i.e., the Uniform SMA and any previously entered Default Service SMA(s). To clarify the meaning of the term "unconditional guaranty of payment", sample language is provided in the last section of this document. The applicable SMA(s) must be expressly identified and the satisfaction of obligations through performance may not be authorized.
2. The guaranty may be terminated upon no less than thirty (30) calendar days advance written notice to PECO and termination will not discharge liabilities and obligations of the guarantor that have been incurred up to and including the effective date of the termination. The termination of an alternate guaranty will be effective only upon the receipt of substitute security or credit support that is acceptable to PECO.
3. The guaranty must not be subject to any monetary limit.
4. The guaranty must be accompanied by a certification from the guarantor that the alternate guaranty form, subject to changes needed to conform to the minimum requirements specified herein or to the specific changes identified by PECO, has been in general use by the prospective supplier in its ordinary course of business over the past twelve (12) months.
5. The guaranty must be a guaranty of payment and not of collection.
6. Assignment of the guaranty will not be permitted except with the prior written consent of PECO, except in the case of a Successor Guarantor as defined below (see sample assignment language).
7. The prospective supplier must provide an enforceability opinion with respect to the alternate guaranty form from its outside counsel. The enforceability opinion must be from a law firm of national (i.e., United States) standing. The prospective supplier must name the law firm that is offering the enforceability opinion in its submission. The enforceability opinion must not be

weaker than would be the industry norm and must contain only those qualifications that would be typical. The opinion will name PECO and explicitly state that PECO is entitled to rely on the opinion. The enforceability opinion must not be qualified by or conditioned on any of the following:

- a. the valid existence and good standing of the parties to the Uniform SMA;
- b. the power and authority of the prospective supplier and guarantor to execute, deliver, and perform their respective agreements;
- c. due execution of the Uniform SMA and the alternate guaranty form; or
- d. that the Uniform SMA is legal, valid, binding, and enforceable against all parties.

At the time that the prospective supplier submits its alternate guaranty form and supporting documentation, the opinion may be unsigned. If the prospective supplier becomes an RFP Bidder, the RFP Bidder will be required to submit, with its Part 2 Proposal, the enforceability opinion exactly as approved, duly signed, and on letterhead of a law firm of national standing.

Timetable

Prospective suppliers that wish to secure approval of an alternate guaranty form must make their submission according to the following timetable. This timetable ensures that a prospective supplier is aware of whether its alternate guaranty form is accepted before the prospective supplier must submit its qualifications in the Part 1 Proposal. No late submission will be accepted under any circumstances.

The deadline to submit an alternate guaranty form, with all the required documentation including a certification from the guarantor and an enforceability opinion as specified in the Minimum Requirements above, is 6 PM¹ on February 5, 2015. Materials must be submitted electronically by email to the Independent Evaluator at PECOprocurement@nera.com.

By February 9, 2015, the Independent Evaluator will inform each prospective supplier whether its alternate guaranty form is acceptable or whether it must modify its alternate guaranty form for it to be acceptable to PECO. A prospective supplier will have no less than two (2) business days to incorporate any necessary changes identified by PECO and to resubmit the alternate guaranty form. The deadline for resubmitting a revised enforceability opinion is 6 PM on February 11, 2015. The deadline for resubmitting the alternate guaranty form and any other supporting documentation is 6 PM on February 11, 2015. The Independent Evaluator will advise prospective suppliers of the final decision with respect to the alternate guaranty form in writing on or before February 12, 2014.

¹ All times are Eastern Prevailing Times.

Timetable for Submission of Alternate Guaranty Forms	
Deadline to submit alternate guaranty form and all required documentation	6 PM on Thursday, February 5, 2015
Independent Evaluator informs prospective suppliers of any required changes	Monday, February 9, 2015
Deadline to submit required modifications or revisions to the alternate guaranty form or other required documents	6PM on Wednesday, February 11, 2015
Deadline to submit revised enforceability opinion	6PM on Wednesday, February 11, 2015
Independent Evaluator informs prospective suppliers of PECO's decision	Thursday, February 12, 2015

Sample Language

The process for submission of alternate guaranty forms is designed to give prospective suppliers some flexibility while at the same time assuring adequate credit protection for PECO and its customers. PECO provides sample language below for the purpose of clarifying certain aspects of the minimum requirements for alternate guaranty forms. This language is not required, but would be deemed acceptable to PECO. PECO reserves the right to reject alternate guaranty forms that do not contain language that, in PECO's view, provides substantially comparable protections to the language set forth below.

Subject	Sample Language
Unconditional Guaranty	"Guarantor agrees that its obligations hereunder are unconditional and will not be discharged except by complete payment of all amounts due under the Uniform SMA, irrespective of any claim or dispute as to the Uniform SMA's validity, regularity or enforceability, or the lack of authority of the RFP Bidder to enter into the Uniform SMA."
Assignment	"Guarantor may not assign its rights nor delegate its obligations under this Guaranty, in whole or in part, without the prior written consent of PECO, and any purported assignment or delegation absent such consent is void, except for an assignment and delegation of all of Guarantor's rights and obligations hereunder to a Successor Guarantor. For purposes of this paragraph, a "Successor Guarantor" means a partnership, corporation, trust or other organization in whatever form that succeeds to all or substantially all of the Guarantor's assets and business and that assumes all of the Guarantor's obligations hereunder by contract or operation of law; provided, that, such Successor Guarantor will have a long-term unsubordinated debt rating that is not lower than the lesser of (i) A2/A or (ii) the rating of the Guarantor immediately prior to such assumption."

Section 2. Process to Propose Modifications to the Standard Guaranty

A prospective supplier can utilize the safe harbor provided by the Standard Guaranty appended as Appendix G to the SMA. This section describes the process by which a prospective supplier may request modifications to this Standard Guaranty.

A prospective supplier may request modifications to the Standard Guaranty that are non-material in nature, or that are advantageous to both PECO and the prospective supplier. A prospective supplier requests modifications to the Standard Guaranty by submitting a Draft Guaranty using substantially the Standard Guaranty and indicating clearly any and all modifications to the Standard Guaranty. A Draft Guaranty that does not substantially use the Standard Guaranty will not be considered or evaluated.

The prospective supplier can only submit one (1) Draft Guaranty. Any review communicated to the prospective supplier of the Draft Guaranty is final. The prospective supplier cannot submit a subsequent request for changes on the basis of this review.

All approved modifications to the Standard Guaranty will be posted to the RFP website. All modifications accepted to the Standard Guaranty for the benefit of a single prospective supplier will be made available to all prospective suppliers using the Standard Guaranty on an optional basis.

Timetable

Prospective suppliers that wish to propose modifications to the Standard Guaranty must make their submission according to the timetable below. This timetable ensures that a prospective supplier is aware of whether its proposed modifications accepted before the prospective supplier must submit its qualifications in the Part 1 Proposal. No late submission will be accepted under any circumstances.

The Draft Guaranty must be submitted electronically by email, in Microsoft Word with tracked changes, to the Independent Evaluator at PECOprocurement@nera.com.

The deadline to submit proposed modifications to the Standard Guaranty is 6 PM on February 5, 2015. By February 6, 2015, the Independent Evaluator will inform the prospective supplier whether its proposed modifications are acceptable to PECO.

The document containing all acceptable modifications will be posted to the RFP website by 6 PM on February 6, 2015.

Timetable for Process to Propose Modifications to the Standard Guaranty	
Deadline to submit proposed modifications to the Standard Guaranty	6 PM on Thursday, February 5, 2015
Independent Evaluator informs proposing parties of PECO's decision and posts document containing all acceptable modifications	Friday, February 6, 2015