

# **EXHIBIT C**

**PECO Energy Company**  
**Default Service Program**  
**Request for Proposals**

December 11, 2012

## TABLE OF CONTENTS

ARTICLE I.	INTRODUCTION .....	3
I.1.	Overview .....	3
I.2.	Products and Bids .....	6
I.3.	Process .....	12
I.4.	Supplier's Obligations .....	13
ARTICLE II.	Information and Schedule .....	16
II.1.	RFP Web Site .....	16
II.2.	RFP Schedule .....	17
ARTICLE III.	General Requirements for Proposals .....	19
ARTICLE IV.	Part 1 Proposal Requirements .....	24
IV.1.	Contact Information and Representations .....	24
IV.2.	Financial Requirements .....	28
IV.3.	Letters of Credit and Default Service SMA Documents .....	30
IV.4.	Regulatory Representations .....	34
IV.5.	Additional Representations .....	34
IV.6.	RFP Bidders Under an Agency Agreement .....	35
IV.7.	Foreign RFP Bidders and Foreign Entities .....	37
ARTICLE V.	Part 2 Proposal Requirements .....	42
V.1.	Contact Information and Representations .....	42
V.2.	Pre-Bid Letter of Credit .....	44
V.3.	Default Service SMA Documents .....	45
V.4.	RFP Bidders under an Agency Agreement .....	48
V.5.	Foreign RFP Bidders and Foreign Entities .....	49
ARTICLE VI.	Bid Submission .....	54
ARTICLE VII.	Process .....	56
VII.1.	Part 1 and Part 2 Proposals: Submission and Processing .....	56
VII.2.	Bids: Submission, Processing, and Evaluation .....	67
VII.3.	Post-Bid Process .....	70
VII.4.	Personnel and Confidentiality .....	73
ARTICLE VIII.	Reserved Rights .....	74

## ARTICLE I. INTRODUCTION

### I.1. Overview

- I.1.1. Capitalized terms in this document, which are not defined explicitly herein, are defined in the Supply Master Agreement (“Default Service SMA”). The Default Service SMA is attached as Appendix 1 to this document.
- I.1.2. As part of its second Default Service Plan (“DSP II”), PECO Energy Company (“Company” or “PECO”) is proposing a competitive bidding process to obtain full requirements electric supply for the Company to meet a portion of its obligations as Default Service Provider pursuant to Chapter 28 of the Pennsylvania Public Utility Code, 66 Pa. C. S. §§ 2801-2812. This competitive bidding process is consistent with Chapter 28, with P.L. 1592 No. 129 (“Act 129”), with the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) Default Service regulations in its Final Rulemaking Order in Docket No. L-2009-2095604, and the Commission’s Final Policy Statement on Default Service in Docket No. M-2009-2140580.
- I.1.3. PECO currently provides electric generation service to all customers within its service territory who do not select an electric generation supplier (“EGS”). Such customers are “Default Service” customers. The competitive bidding process would procure supply for the period beginning June 1, 2013 when PECO’s first Default Service Plan (“DSP I”) expires.
- I.1.4. The competitive bidding process will be conducted through a series of Requests for Proposals (“RFPs”) issued twice yearly. The RFP consists of a total of thirteen (13) documents. This main document is called the “RFP Rules” and it describes how the RFP will be conducted. The following documents are appended to, and shall be considered an integral part of, the RFP Rules:

- Appendix 1: Default Service SMA
- Appendix 2: Guaranty Process
- Appendix 3: Standard Part 1 Form (including the Nomination Form as an Attachment)
- Appendix 4: Short Part 1 Form (including the Nomination Form as an Attachment)
- Appendix 5: Chief Financial Officer Attestation
- Appendix 6: Officers’ Certificate (for RFP Bidders under an Agency Agreement)
- Appendix 7: Part 2 Form
- Appendix 8: Standard Pre-Bid Letter of Credit
- Appendix 9: Sample Bid Form
- Appendix 10: Tentative Schedule for Future Solicitations
- Appendix 11: Confidentiality Statement

I.1.5. DSP II plans for the procurement of full requirements supply through the competitive procurement process described in this document for four (4) Classes of Default Service customers: Residential (“RES”), Small Commercial (“SC”), Medium Commercial (“MC”), and Large Commercial and Industrial (“LC&I”). Each such Class is a group of specific rate schedules as provided in the following table:

**Table I-1. Customer Classes**

<b>Class</b>	<b>Customers Included</b>	<b>Rate Schedule</b>	<b>Description</b>
Residential	All residential customers	R	Residence Service
		RH	Residential Heating Service
Small Commercial	Non-residential customers in rate schedules GS, HT, and PD with Peak Load Contribution < 100kW and customers in rate schedules AL, TLCL, POL, SLE and SLS	GS	General Service
		HT	High-Tension Power
		PD	Primary – Distribution Power
		AL	Alley Lighting
		TLCL	Traffic Lighting Service
		POL	Private Outdoor Lighting
		SLE	Street Lighting Customer-Owned Facilities
Medium Commercial	Non-residential customers with Peak Load Contribution between 100kW and 500kW	GS	General Service
		HT	High-Tension Power
		PD	Primary –Distribution Power
Large Commercial and Industrial	Non-residential customers with Peak Load Contribution > 500k	GS	General Service
		HT	High-Tension Power
		PD	Primary –Distribution
		EP	Electric Propulsion

I.1.6. The Company will solicit bids under this Request for Proposals (“RFP”) for the procurement of full requirements service for the RES, SC and MC Classes on a fixed-price basis. The Company will solicit bids under this Request for Proposals (“RFP”) for the procurement of full requirements service with energy priced to the PJM day-ahead spot market for the LC&I Class. The Default Service supply (“Default Supply”) for a Class is the full requirements electricity supply based on the load of the retail customers in that Class measured and recorded by the Company and settled by PJM. The load of the Default Service customers in a Class is the Default Load of that Class. An

electric supplier selected through this competitive bidding process to provide Default Supply for a particular Class and approved by the Commission becomes a Default Supplier for that Class.

- I.1.7. A Default Service customer may choose to begin receiving service from an EGS on any meter reading date in accordance with the Company's standard switching requirements as described in the Company's Electric Generation Supplier Coordination Tariff including, without limitation, prior advance notice to the Company. A customer served by an EGS may return to Default Service on any meter reading date in accordance with the Company's standard switching requirements as described in the Company's Electric Generation Supplier Coordination Tariff including, without limitation, prior advance notice to the Company.
- I.1.8. The rates of Default Service customers for a Class are determined on the basis of the prices determined through this RFP for that Class. For the RES Class, rates also incorporate block energy purchases from DSP I as well as any purchases and sales through the hourly spot market energy in PJM as PECO balances the blocks of energy and load on an hourly basis. No additional block purchases for the RES Class are proposed under DSP II. As provided in the PUC's directive dated October 12, 2010 (Docket No. M-2009-2082042), PECO provides a Default Service rate calculation model that translates the prices determined through this RFP into Default Service rates. This calculation model is posted to the PECO Web site:
- <https://www.peco.com/CustomerService/RatesandPricing/EnergyChoice/Pages/PricetoCompare.aspx>
- I.1.9. There are five (5) solicitations under DSP II that will select electricity suppliers to provide Default Supply for the period June 1, 2013 through May 31, 2015, and for a portion of the Company's requirements for the period June 1, 2015 through November 31, 2016. Each solicitation will be identified by the month and year during which it will take place. Solicitations will be held in November 2012, January 2013, September 2013, January 2014, and September 2014. A typical schedule for a solicitation is provided in Section II. The Independent Evaluator and the Company may advise the Commission to postpone or modify the schedule of a solicitation when market conditions are impacted by extraordinary events, such as the advent of war, terrorism, or an act of God.

- I.1.10. For each solicitation, these RFP Rules will be updated to include the dates for that solicitation and to refer to the particular products to be procured in that solicitation. The RFP Rules may be further updated to reflect additional decisions by the Commission, relevant changes in law, or non-material modifications to the processing of Proposals expected to improve potential participation by suppliers. Further, the Independent Evaluator and the Company may amend the RFP Rules if necessary to correct typographical errors, cure inconsistencies in the provisions of this RFP, or clarify the intent of the provisions of this RFP.

## **I.2. Products and Bids**

- I.2.1. Default Load for each of the RES, SC, MC, and LC&I Classes is divided into tranches. A tranche for a Class represents a fixed percentage of the Default Load for that Class. A Default Supplier serving one tranche in a particular Class provides full requirements service for the percentage of that Class' Default Load represented by that one tranche for a specified period.
- I.2.2. The total number of tranches of Default Load is based on that Class' annual Peak Load Contribution ("PLC") on the PECO system in accordance with PJM. The MW-Measure is calculated as the annual PLC for the Default Load of the Class divided by the total number of tranches. This figure is calculated for reference purposes only. The total number of tranches, the percentage size of each tranche, and the MW-Measure of each tranche are also shown in the following table.

**Table I-2. Number of Tranches and Size of a Tranche for Default Load**

<b>Class</b>	<b>Total Tranches</b>	<b>% Size of a Tranche</b>	<b>Total Peak (MW)</b>	<b>Default Peak (MW)</b>	<b>MW-Measure of a Tranche</b>
RES	60	1.60%	3,568.91	2,444.52	40.74
SC	24	4.17%	1,329.98	562.63	23.44
MC	12	8.33%	996.10	167.11	13.93
LC&I	18	5.56%	2,480.81	81.82	4.55

- I.2.3. The total tranches and the tranche size for the SC, MC, and LC&I Classes are subject to change. The Independent Evaluator and PECO may revise the total number of tranches for a Class if doing so is expected to increase supplier interest. The Independent Evaluator informs Commission Staff of

such a revision and announces the revision to potential suppliers in advance of suppliers presenting their qualifications.

- I.2.4. The actual Default Load for the RES, SC, MC, or LC&I Class will depend upon many factors including, but not limited to, customer migration to EGSs and weather conditions. The maximum peak load of each Class may be higher or lower than the PLC utilized to determine the MW-Measure of tranches for each Class. Each participant is responsible for evaluating the uncertainties associated with Default Service Load for each of the Classes during the supply periods.
- I.2.5. Under DSP I, PECO met a portion of the expected seasonal energy requirements of the RES Class using blocks of energy. A block of 50 MW of around-the-clock energy purchased under DSP I expires on December 31, 2015 and thus will contribute to supply of the RES Class during the entire period of DSP II. A block of 160 MW of around-the-clock energy will expire on December 31, 2013 and a block of 100 MW of around-the-clock energy will expire on December 31, 2014. Both these blocks will be replaced by full requirements tranches.
- I.2.6. A product for purposes of this RFP is defined by three characteristics: a) the Class to which it contributes Default Supply; b) the length of the supply period; and c) the date at which the supply period begins. A product will typically be identified with these three characteristics; for example, the RES-12-Jun13 product represents Default Supply for the RES Class for the supply period June 1, 2013 through May 31, 2014. A product name may be abbreviated when the context is clear; for example, RES-12 refers to all products for the Residential Class that are twelve (12) months in duration, regardless of the start date of the supply period.
- I.2.7. The table below provides the schedule of procurement for the products under DSP II.



**Table I-3. Schedule of Procurement for Products.**

<b>Product</b>	<b>Solicitation</b>				
	<i>November 2012</i>	<i>January 2013</i>	<i>September 2013</i>	<i>January 2014</i>	<i>September 2014</i>
RES-6-Jun13	17	0	0	0	0
RES-12-Jun13	3	0	0	0	0
RES-18-Jun13	7	0	0	0	0
RES-24-Jun13	0	7	0	0	0
RES-12-Dec13	0	0	10	0	0
RES-17-Jan14	0	0	7	0	0
RES-18-Dec13	0	0	7	0	0
RES-12-Jun14	0	0	0	10	0
RES-24-Jun14	0	0	0	7	0
RES-12-Dec14	0	0	0	0	10
RES-24-Dec14	0	0	0	0	7
RES-5-Jan15	0	0	0	0	5
SC-6-Jun13	12	0	0	0	0
SC-12-Jun13	0	12	0	0	0
SC-12-Dec13	0	0	12	0	0
SC-12-Jun14	0	0	0	12	0
SC-12-Dec14	0	0	0	0	12
MC-6-Jun13	0	12	0	0	0
MC-6-Dec13	0	0	12	0	0
MC-6-Jun14	0	0	0	12	0
MC-6-Dec14	0	0	0	0	12
LC&I-12-Jun13	0	18	0	0	0
LC&I-12-Jun14	0	0	0	18	0

I.2.8. Each Class has Load Caps, which are limits on the number of tranches of Default Supply that an RFP Bidder can bid and serve for that Class. The Load Caps ensure that there will be a diversified pool of Default Suppliers for each Class. The Load Caps for a Class are set so that the customers of that Class have no more than a 50% exposure to any one Default Supplier at any given time. If two or more Default Suppliers are affiliated, the Load Caps will apply jointly to such group of Default Suppliers. The Load Caps apply to the list of products that contribute to Default Supply for a Class at a given point in time. The table below provides the Load Caps for the products under DSP II. For example, at any given point in time in the period from June 1, 2014 to November 30, 2014, the following products contribute to Default Supply for the Residential Class: RES-18-Jun13, RES-24-Jun13, RES-12-Dec 13, RES-18-Dec 13, RES-17-Jan14, RES-12-Jun14, and RES-24-Jun14. The number of tranches for these products combined is 55 tranches. For Residential customers to have no more than a 50% exposure to any one Default Supplier during this period, a single Default Supplier would need to bid and win no more than 27 tranches of all these products combined.

**Table I-4. Load Caps for DSP II.**

Class	Time Period	Product or Products that contribute to Default Supply during time period	Tranches Available	Load Cap
RES	Jun-Nov 13	RES-6-Jun13 and RES-12-Jun13 and RES-18-Jun13 and RES-24-Jun13	34	17
	Dec 13	RES-12-Jun13 and RES-18-Jun13 and RES-24-Jun13 and RES-12-Dec13 and RES-18-Dec13	34	17
	Jan-May 14	RES-12-Jun13 and RES-18-Jun13 and RES-24-Jun13 and RES-12-Dec13 and RES-18-Dec13 and RES-17-Jan14	41	20
	June-Nov 14	RES-18-Jun13 and RES-24-Jun13 and RES-12-Dec13 and RES-18-Dec13 and RES-17-Jan14 and RES-12-Jun14 and RES-24-Jun14	55	27
	Dec 14	RES-24-Jun13 and RES-18-Dec13 and RES-17-Jan14 and RES-12-Jun14 and RES-24-Jun14 and RES-12-Dec14 and RES-24-Dec14	55	27
	Jan-May 15	RES-24-Jun13 and RES-18-Dec13 and RES-17-Jan14 and RES-12-Jun14 and RES-24-Jun14 and RES-12-Dec14 and RES-24-Dec14 and RES-5-Jan15	60	30
SC	Jun-Nov 13	SC-6-Jun13 and SC-12-Jun13	24	12
	Dec 13-May 14	SC-12-Jun13 and SC-12-Dec13	24	12
	Jun-Nov 14	SC-12-Dec13 and SC-12-Jun14	24	12
	Dec 14-May 15	SC-12-Jun14 and SC-12-Dec14	24	12

<b>Class</b>	<b>Time Period</b>	<b>Product or Products that contribute to Default Supply during time period</b>	<i>Tranches Available</i>	<i>Load Cap</i>
MC	Any	MC-6	12	6
LC&I	Any	LC&I-12	18	9

I.2.9. The RFP Rules for each solicitation will contain a table with the available tranches and Load Caps for that solicitation specifically as well as an explanation of the Load Caps for that solicitation. This Paragraph includes as an example the explanation for the Load Caps in the January 2013 Solicitation with the associated table below. The Load Caps apply as follows:

- The Load Cap for the R Class will apply as follows. An RFP bidder is limited to 17 tranches for the RES-6-Jun13, RES-12-Jun13, RES-18-Jun13, and RES-24-Jun13 products combined. An RFP bidder may bid on all available tranches for the RES-24-Jun13 product in the January 2013 Solicitation unless the RFP bidder won more than 10 Residential tranches in the November 2012 solicitation. In that case, the RFP Bidder would be limited to bidding on 17 tranches less the number of tranches won in the November 2012 solicitation.
- The Load Cap for the SC Class will apply as follows. An RFP Bidder is limited to 12 tranches for the SC-6-Jun13 and SC-12-Jun13 products combined. An RFP bidder may bid on all available tranches for the SC-12-Jun13 product in the January 2013 Solicitation unless the RFP Bidder won 1 or more Small Commercial tranches in the November 2012 solicitation. In that case, the RFP bidder would be limited to bidding on 12 tranches less the number of tranches won in the November 2012 solicitation.
- The Load Cap for the MC Class will apply as follows: In the January 2013 solicitation, an RFP bidder is limited to 6 tranches for the MC-6-Jun13 product.
- The Load Cap for the LC&I Class will apply as follows: In the January 2013 solicitation, an RFP bidder is limited to 9 tranches for the LC&I-12-Jun13 product.

**Table I-5. Sample Table for Illustrative Purposes. January 2013 Solicitation.**

<b>Products</b>	<b>Available Tranches</b>	<b>Load Caps Apply to an RFP Bidder When an RFP Bidder has</b>	<b>Maximum Number of Tranches Bid if Load Caps Apply</b>
RES-24-Jun13	7	More than 10 RES tranches won in Nov 2012 Solicitation	17 less RES tranches won in Nov 2012 Solicitation
SC-12-Jun13	12	1 or more SC tranches won in Nov 2012 Solicitation	12 less SC tranches won in Nov 2012 Solicitation
MC-6-Jun13	12	Load Caps apply always	6
LC&I-12-Jun13	18	Load Caps apply always	9

- I.2.10. An electric supplier participating in this RFP bids to provide Default Supply for one or more of the RES, SC, MC, and LC&I Classes, and for one or more supply periods. An electric supplier selected through this RFP to provide Default Supply for a particular Class and approved by the Commission becomes a Default Supplier for that Class. The obligations of the Default Supplier are described in the Default Service SMA. The main provisions of the Default Service SMA are summarized in Section I.4.
- I.2.11. A Proposal is a response to this RFP for a solicitation pursuant to these RFP Rules. An entity that submits any part of a response to this RFP for a solicitation is an RFP Bidder. A Bid for a tranche for any product is a price in dollars per MWh rounded to the nearest cent. An RFP Bidder may submit different Bids for different tranches of a given product.
- I.2.12. The contingency plan for products that are more than six (6) months in duration is as follows. In the event that PECO is unable to obtain Default Supply for all tranches in a solicitation, PECO will assume responsibility for the unfilled tranches as a PJM Load Serving Entity ("LSE") for the first six (6) months of the supply period, acquiring the necessary supply through PJM-administered markets and obtaining sufficient Alternate Energy Credits ("AECs") at market prices to satisfy any near-term obligations under the AEPS Act. The unfilled tranches, with a supply period that starts six (6) months later than tranches that were unfilled, will be placed for re-bid in the next solicitation. For products that are six (6) months or shorter, PECO will assume responsibility for the unfilled

tranches as a LSE and will acquire the necessary supply through PJM-administered markets for the entire supply period. PECO reserves the right to file an alternate plan with the Commission.

- I.2.13. Any prospective supplier that meets the qualification standards established in these RFP Rules, and that is willing to provide prices at which to serve tranches of Default Service Load can respond to this RFP, including any PECO affiliates.

**I.3. Process**

- I.3.1. PECO and the Independent Evaluator will hold a Guaranty Process, described in more detail in Appendix 2. The Guaranty Process allows a supplier unable to use the Form of Guaranty provided as Exhibit F to the Default Service SMA to submit for consideration by PECO the guaranty that the supplier uses in its normal course of business. The Guaranty Process also allows a supplier able to use the Form of Guaranty provided as Exhibit F to the Default Service SMA to propose modifications to the Form of Guaranty that are non-material in nature, or that are advantageous to both PECO and the prospective supplier. All approved modifications will be posted in a single document on the RFP Web site in advance of the date at which RFP Bidders must respond to qualification standards. An RFP Bidder using the Form of Guaranty may elect to incorporate any or all of the approved modifications to the Form of Guaranty, regardless of whether the RFP Bidder itself or another RFP Bidder proposed the modification.
- I.3.2. RFP Bidders that did not qualify in a previous solicitation under DSP II use the Standard Part 1 Form provided as Appendix 3 of these RFP Rules to respond to the qualification standards described in Article IV. Previously qualified RFP Bidders under DSP II may participate in an abbreviated qualification by using the Short Part 1 Form provided as Appendix 4 of these RFP Rules to respond to the qualification standards described in Article IV. The qualification standards include the submission of contact information, general representations, and the submission of financial information for a creditworthiness assessment. Part 1 Proposals are submitted during the “Part 1 Window”. The generic term “Part 1 Form” refers either to the Standard Part 1 Form or the Short Part 1 Form. The Standard Part 1 Form and the Short Part 1 Form, as well as other forms

mentioned in these RFP Rules, are provided as Appendices to these RFP Rules and are also available electronically on the RFP Web site: [www.pecoprocmement.com](http://www.pecoprocmement.com).

- I.3.3. RFP Bidders use the Part 2 Form provided as Appendix 7 of these RFP Rules to respond to the Part 2 Proposal requirements described in Article V of these RFP Rules. The Part 2 Proposal requirements include additional representations, submission of the Default Service SMA for an RFP Bidder that is not a Default Supplier, and a Pre-Bid Letter of Credit in an amount sufficient to support the Bids. Part 2 Proposals are submitted during the “Part 2 Window”.
- I.3.4. RFP Bidders use the Bid Form provided with the Part 1 Notification to submit their Bids. A sample Bid Form is provided for illustrative purposes as Appendix 9 of these RFP Rules. Each RFP Bidder’s Bids must be received between 10 AM and 12 PM (noon) on the “Bid Date”.
- I.3.5. On the first business day after the Bid Date, the Independent Evaluator presents to the Commission the results of that solicitation in a confidential report to the Commission. The PUC has one (1) business day to consider the report of the Independent Evaluator and to approve or reject each of the winning Bids. If the PUC does not act within one (1) business day, the winning Bids are deemed to be approved.
- I.3.6. PECO and each RFP Bidder with Bids that are approved by the Commission proceed to the execution of the Transaction Confirmations within three (3) business days of the Commission decision. Within fifteen (15) days of the close of the solicitation, the Independent Evaluator releases the weighted average price as well as the percentage of load represented by each tranche for each product procured.

#### **I.4. Supplier’s Obligations**

- I.4.1. An electric supplier selected through this RFP to provide Default Supply for a particular Class and approved by the PUC becomes a Default Supplier for that Class. A Default Supplier may be providing Default Supply for one or more of the RES, SC, MC, and LC&I Classes.
- I.4.2. This section describes in general terms several provisions of the Default Service SMA. This is a summary only and is subject to and qualified in its entirety by the Default Service SMA provided as

- Appendix 1 to the RFP Rules. Each RFP Bidder accepts the obligations and associated rights to provide Default Service as defined in the Default Service SMA as part of its Proposal.
- I.4.3. Default Suppliers for a Class will serve the Company's Default Load for that Class. Default Service for one of these Classes is the Company's full requirements electricity service including, without limitation, energy, capacity, transmission (excluding Network Integration Transmission Service), ancillary services, applicable losses, congestion management costs, and such other services or products that are required to serve the Default Load for that Class (excluding distribution service).
- I.4.4. Default Suppliers are also responsible for providing AECs during the term of the Default Service SMA necessary for PECO to meet its obligations under the AEPS Act, as well as other Orders, regulations and rules that may be promulgated by the PUC with respect to the AEPS. Default Suppliers will be required to participate in the PJM Generation Attribute Tracking System ("PJM-EIS GATS") to transfer AECs to PECO. Default Suppliers will transfer AECs to PECO at the end of the first six months of an AEPS reporting period as well as at the end of period.
- I.4.5. A Default Supplier that fails to provide AECs required by the Default Service SMA will be required to pay liquidated damages based on the applicable AEC Non-Solar Penalty or the AEC Solar Penalty as defined in the Default Service SMA and the AECs that the Default Supplier has failed to provide. If the PUC subsequently establishes an alternative compliance payment under the AEPS Act for non-compliance with the Tier I (solar) requirements in excess of the AEC Solar Penalty, the Default Supplier shall also pay PECO the amount in excess of the AEC Solar Penalty; if the Tier I (solar) alternative compliance payment is less than AEC Solar Penalty, PECO shall refund the difference to the Default Supplier.
- I.4.6. PECO has obtained AECs from separate AEPS procurement(s) approved by the Commission and PECO will reduce the amount of AECs that Default Suppliers must provide. Prior to this procurement, PECO will inform RFP Bidders of the amounts of AECs allocated for this purpose.
- I.4.7. A Default Supplier for the RES, SC, and MC Classes will be paid a supplier-specific price for each MWh of electric load served as specified in the Transaction Confirmation for that product. The supplier-specific price will be the average of approved Bids for that RFP Bidder and for that product. A Default Supplier for the LC&I Class will be paid a supplier-specific price for each MWh of

electric load served as specified in the Transaction Confirmation for that product. The supplier-specific price will be the average of approved Bids for that RFP Bidder and for that product. A Default Supplier for the LC&I Class will also be paid the PJM day-ahead price for energy and the RPM price for capacity.

- I.4.8. The Default Supplier will specify in the Transaction Confirmation the price of each type of AECs included in its supplier-specific price.
- I.4.9. PECO will transfer the Auction Revenue Rights (“ARRs”) to Default Suppliers in proportion to the percentage of Default Load that they serve. A Default Supplier will participate in the PJM process for the nominations of ARR to the extent that the supply period under the Transaction Confirmation is inclusive of the PJM Planning Period for which the ARR is nominated; otherwise, PECO will participate in the PJM ARR nomination process.
- I.4.10. On April 29, 2011, the Commission initiated an investigation into Pennsylvania’s retail electricity market in its Order entered in Docket I-2011-2237952. The Commission adopted a Final Order on December 15, 2011 with recommended directives for each Electric Distribution Company’s (“EDC”) upcoming Default Service Programs and adopted a Tentative Order on the same date regarding the structure of retail auctions for residential customers. PECO’s Default Service Program is consistent with the Commission’s recommendations to file a two-year plan in case any long term changes proposed in the Investigation need to be implemented. Additionally, the Default Service SMA includes additional acknowledgments by the Default Supplier of the possibility of changes in Default Load in light of the Commission’s Retail Markets Investigation and its consideration of whether entities other than EDCs should be Default Service providers in the future, as well as additional retail market enhancements.



## ARTICLE II. Information and Schedule

### II.1. RFP Web Site

II.1.1. PECO and its Independent Evaluator have established an RFP Web site that is the main source of information. RFP Bidders and other stakeholders can visit this RFP Web site to obtain information and documents related to this RFP. The RFP Web site address is [www.pecoprocurement.com](http://www.pecoprocurement.com).

II.1.2. The RFP Web site contains the sections described below. New sections may be added as necessary to assist RFP Bidders.

Home: This section provides announcements of interest to RFP Bidders and to other interested parties, an outline of the RFP process, a search function, and a summary of important dates.

Background: These sections provide background information on the regulatory process, the results of the previous PECO solicitations and archives of documents, FAQs and announcements from previous solicitations provided for reference purposes only.

Supplier Information: This section provides documents regarding the RFP as well as frequently asked questions ("FAQs"), RFP-related announcements, and information about rates. All stakeholders, including RFP Bidders, are able to ask questions via a web form. The Independent Evaluator provides an answer to the question via email to the questioner, and a copy of the question and answer is posted so that all stakeholders and RFP Bidders have access to the same information. Aspects of the question and/or answer that might identify the party asking the question will be removed before posting.

Data Room: This section provides historical data to assist prospective suppliers. Links to the PJM Web site and related documents can also be found in this Section.

Calendar: This section provides the timeline for the main events in the current and upcoming solicitations.

Contact Us: This section gives any stakeholder an opportunity to register its email address to receive updates and announcements regarding this RFP. The section also provides the contact information for the Independent Evaluator, an electronic web form to submit questions to the

Independent Evaluator, and a web form for prospective suppliers to register for bidder information sessions.

## II.2. RFP Schedule

- II.2.1. Each solicitation will follow the general schedule provided below, except for the first solicitation during which a Guaranty Process will not be held. Specific times for submission of materials for the Part 1 Proposals, the Part 2 Proposals, and the Bids are provided elsewhere in this RFP. All such times are EPT unless specifically noted. This schedule may be amended if circumstances warrant. Any such amendments will be posted to the RFP Web site.

**Table II-1. Typical RFP Schedule**

<b>RFP Schedule</b>	
Guaranty Process begins	Day -8
Bidder Information Session	Day -7
Approved modifications to Form of Guaranty posted	Day -3
Decision on alternate guaranty forms	Day -3
Part 1 Window Opens	Day 0
Part 1 Date (Part 1 Window Closes)	Day 3
Part 1 Notification Date	Day 5
Part 2 Proposal Window Opens	Day 6
Bid Submission training	Day 7
Part 2 Date (Part 2 Window Closes)	Day 9
Part 2 Notification Date	Day 11
Bid Date (Bids are Due)	Day 12
IE provides its report to the PUC	Day 13
PUC Decision (close of business)	No later than Day 14
<i>If Bids are approved by the PUC:</i>	
PECO executes the Default Service SMA	Within three business days of the Bid Date
PECO sends Transaction Confirmations	By noon on the third business day after the Bid Date
Default Supplier meets the creditworthiness requirements and executes all Transaction Confirmation(s)	By 2 PM on the fourth business day after the Bid Date

- II.2.2. A total of five (5) solicitations are planned under DSP II. The Bid Dates for each of the solicitations are provided below.

**Table II-2. Bid Dates**

<b>Solicitation</b>	<b>Bid Dates</b>
November 2012	Tuesday, December 18, 2012
January 2013	Tuesday, January 29, 2013
September 2013	Tuesday, September 24, 2013
January 2014	Tuesday, January 28, 2014
September 2014	Tuesday, September 23, 2014

### ARTICLE III. General Requirements for Proposals

- III.1.1. An entity that submits any part of a response to this RFP for a solicitation is an RFP Bidder. Each RFP Bidder can submit at most one Part 1 Proposal and one Part 2 Proposal for each solicitation. An RFP Bidder that qualifies for this solicitation by submitting a Part 1 Proposal that fulfills all requirements described in Article IV and that submits a Part 2 Proposal that fulfills all the requirements described in Article V is eligible to submit Bids. All Part 1 Proposals and all Part 2 Proposals are submitted to the Independent Evaluator in accordance with the instructions provided in Article VII.
- III.1.2. The submission of a Part 1 Proposal or a Part 2 Proposal to the Independent Evaluator constitutes the RFP Bidder's acknowledgement and acceptance of all the terms and conditions of this RFP, regardless of the outcome of the solicitation or the outcome of such Proposal.
- III.1.3. Each solicitation will have a Part 1 Window during which Part 1 Proposals may be submitted. The last day of the Part 1 Window is called the Part 1 Date. The requirements of the Part 1 Proposal are described in Article IV. "Previously qualified RFP Bidder" means an RFP Bidder that met the qualification standards in a previous solicitation under DSP II by submitting a Part 1 Proposal that fulfilled all the requirements of Article IV. A previously qualified RFP Bidder may participate in an abbreviated Part 1 Proposal process.
- III.1.4. The Part 1 Proposal for an RFP Bidder includes one (1) electronic copy and two (2) hardcopy original completed Part 1 Forms, as well as one (1) copy of all documents required by the Part 1 Form. One (1) copy of the Part 1 Form, as well as any Draft Letter of Credit, must be submitted electronically in Microsoft Word, either on a CD that is included with the hardcopy Part 1 Forms or by email to the Independent Evaluator at [Pecoprocedurement@nera.com](mailto:Pecoprocedurement@nera.com). Any documents required by the Part 1 Form must be submitted either electronically (on a CD that is included with the Part 1 Proposal or by email to the Independent Evaluator at [Pecoprocedurement@nera.com](mailto:Pecoprocedurement@nera.com)) or in hard copy.

- III.1.5. Each RFP Bidder must comply with all Part 1 Proposal requirements described in Article IV. Section IV.1 describes the contact information and representations required. Section IV.2 describes financial requirements. Section IV.3 describes the process by which RFP Bidders may propose modifications to the Standard Pre-Bid and Post-Bid Letters of Credit and describes the information that RFP Bidders must provide for the Independent Evaluator to prepare the Default Service SMA documents. Section IV.4 describes the regulatory representations required. Section IV.5 lists additional representations that are required. Section IV.6 lists additional requirements applicable only to RFP Bidders submitting a Proposal under an Agency Agreement. Section IV.7 lists additional requirements applicable only to RFP Bidders that have not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia (“Foreign RFP Bidders”), or to RFP Bidders that rely on the financial standing of an entity that has not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia (“Foreign Entity”). Each of the Sections of Article IV explains the abbreviated Part 1 Proposal process in which previously qualified RFP Bidders may participate.
- III.1.6. The Independent Evaluator informs each RFP Bidder of whether it has met all qualification standards of Article IV through a Part 1 Notification that the Independent Evaluator sends to the RFP Bidder by the Part 1 Notification Date. The Independent Evaluator transmits within two business days of the Part 1 Notification Date a number of documents and instructions, called the Part 1 Materials, to each RFP Bidder that has a successful Part 1 Proposal.
- III.1.7. All information provided and certifications made in the Part 1 Proposal must remain valid and remain in full force and effect until six (6) business days after the Bid Date. Regardless of the reason, if any information provided in the Part 1 Proposal changes or any previous certification fails to remain valid, it is the sole responsibility of the RFP Bidder to notify the Independent Evaluator as soon as practicable. Failing to do so may result in disqualification of the RFP Bidder and of its Proposal. The Independent Evaluator reserves the right to change the assessment of an RFP Bidder’s qualifications based on any revised information provided by the RFP Bidder.
- III.1.8. Each solicitation will have a Part 2 Window during which Part 2 Proposals may be submitted. The last day of the Part 2 Window is the Part 2 Date. RFP Bidders also have the option to submit the

Part 2 Form during the Part 1 Window for early processing. The requirements of the Part 2 Proposal are described in this Article V. “Previously eligible RFP Bidder” means an RFP Bidder that became eligible to submit Bids in a previous solicitation held under DSP II by submitting a Part 1 Proposal that fulfilled all the requirements of Article IV and a Part 2 Proposal that fulfilled all the requirements of Article V. A previously eligible RFP Bidder may participate in an abbreviated Part 2 Proposal process.

- III.1.9. The Part 2 Proposal for an RFP Bidder includes one (1) electronic copy and two (2) hardcopy original completed Part 2 Forms, a Pre-Bid Letter of Credit, as well as two (2) originals of all Default Service SMA documents required by the Part 2 Form. One (1) copy of the Part 2 Form must be submitted electronically in Microsoft Word, either on a CD that is sent with the hardcopy Part 2 Forms or by email to the Independent Evaluator at [Pecoprocurement@nera.com](mailto:Pecoprocurement@nera.com). Any documents must be submitted in hard copy in the number of originals specified required by the Part 2 Form. The RFP Bidder uses for purposes of submission of the Part 2 Proposal the Default Service SMA documents received from the Independent Evaluator as part of the Part 1 Materials.
- III.1.10. Each RFP Bidder must comply with all Part 2 Proposal requirements described in Article V. Section V.1 describes the contact information and representations required by the Part 2 Proposal. Section V.2 describes the Pre-Bid Letter of Credit required to support the RFP Bidder’s Bids. Section V.3 lists the Default Service SMA documents required of an RFP Bidder, including the guaranty required of RFP Bidders relying on the financial standing of an RFP Guarantor. Section V.4 lists additional requirements applicable only to RFP Bidders submitting a Proposal under an Agency Agreement. Section V.5 lists additional requirements applicable only to Foreign RFP Bidders or to RFP Bidders that rely on the financial standing of a Foreign Entity. Each of the Sections of Article V explains the abbreviated Part 2 Proposal process in which previously eligible RFP Bidders may participate.
- III.1.11. The Independent Evaluator informs each RFP Bidder of whether it has met all qualification standards of Article IV and all requirements of Article V so that it is eligible to submit Bids through a Part 2 Notification. The Independent Evaluator sends the Part 2 Notification to the RFP Bidder on the Part 2 Notification Date.

- III.1.12. All information provided and certifications made in the Part 2 Proposal must remain valid and remain in full force and effect until six (6) business days after the Bid Date. Regardless of the reason, if any information provided in the Part 2 Proposal changes or any previous certification fails to remain valid, it is the sole responsibility of the RFP Bidder to notify the Independent Evaluator as soon as practicable. Failing to do so may result in disqualification of the RFP Bidder and of its Proposal. The Independent Evaluator reserves the right to change the assessment of an RFP Bidder's eligibility to submit Bids based on any revised information provided by the RFP Bidder.
- III.1.13. For a given solicitation, all representations and certifications required by this RFP must be made by a single individual who serves as Officer of the RFP Bidder. An Officer of the RFP Bidder is an individual authorized to undertake contracts (including the Default Service SMA) and bind that RFP Bidder. As a requirement of the Part 1 Proposal, the RFP Bidder must name an individual who serves as Officer of the RFP Bidder and must provide full contact information for this individual. The Officer of the Bidder may sign all representations and certifications of the Part 1 Form and Part 2 Form at one time and RFP Bidders have the option to submit the Part 2 Form during the Part 1 Window for early processing.
- III.1.14. The Officer of the RFP Bidder named in the Part 1 Proposal is expected to sign the Default Service SMA as well as any Transaction Confirmations if any of the RFP Bidder's Bids are approved by the Commission. In the Part 1 Proposal, the Officer of the RFP Bidder may nominate a substitute Officer to sign the Default Service SMA and/or the Transaction Confirmations in case the Officer of the Bidder is not available.
- III.1.15. Each RFP Bidder must comply with the instructions for the submission of Bids provided with its Part 1 Notification. Article VI describes in general terms the requirements for the submission of Bids.
- III.1.16. Proposals that do not adhere to the terms and conditions of this RFP, or that do not fulfill all requirements of Article IV, Article V, and Article VI of this RFP, or that are not submitted in accordance with the process of Article VII, will not be considered.
- III.1.17. The Independent Evaluator will send to each RFP Bidder that submitted a successful Part 1 Proposal in a previous solicitation under DSP II an email confirming its status as a previously

qualified RFP Bidder. Such RFP Bidder may participate in an abbreviated Part 1 Proposal process. The Independent Evaluator will send to each RFP Bidder that submitted a successful Part 1 Proposal and a successful Part 2 Proposal in a previous solicitation under DSP II an email confirming its status as a previously eligible RFP Bidder. Such RFP Bidder may participate in an abbreviated Part 1 Proposal process and an abbreviated Part 2 Proposal process.

- III.1.18. The RFP Bidder, at its own cost and expense, shall defend PECO, and the Independent Evaluator and their subsidiaries, affiliates, successors and assigns, and each and every one of their respective past, present, or future officers, directors, trustees, employees, shareholders, executors, administrators, successors and assigns, other than entities that are also RFP Bidders, against any and all manner of past, present, or future claims, demands, disputes, controversies, complaints, suits, actions, proceedings, or allegations of any kind which in any manner relate to, arise out of, or result from any false statement in the Proposal or breach of any covenant by the RFP Bidder set forth herein. The RFP Bidder shall indemnify and hold harmless PECO, the Independent Evaluator, their parent companies, subsidiaries, affiliates, successors and assigns, and each and every one of their respective past, present, or future officers, directors, trustees, employees, shareholders and agents, as well as the heirs, executors, administrators, successors and assigns, other than entities that are RFP Bidders, against any and all liens, judgments, liabilities, losses, injuries, damages, fees, fines, penalties, costs or expenses which in any manner relate to, arise out of, or result from any false statement or misrepresentation in the Proposal or breach of any warranty by the RFP Bidder as set forth herein.



## ARTICLE IV. Part 1 Proposal Requirements

### IV.1. Contact Information and Representations

IV.1.1. Contact Information for the RFP Bidder. Each RFP Bidder must provide the RFP Bidder's legal name and address.

- An RFP Bidder that has not previously qualified must submit this contact information in its Part 1 Proposal.
- A previously qualified RFP Bidder either must confirm that the previously provided contact information remains valid or must update this information. If the RFP Bidder updates the RFP Bidder's legal name, the RFP Bidder must provide evidence of the change of name and represent that this is a change in only in the RFP Bidder's name and not a change in the corporate structure of the RFP Bidder. If there was a change in the corporate structure of the RFP Bidder, through a merger for example, the RFP Bidder may not participate in the abbreviated Part 1 Proposal or Part 2 Proposal process.

IV.1.2. Officer of the RFP Bidder. The Officer of the RFP Bidder must be an officer, a director, or an individual otherwise authorized to undertake contracts (including the Default Service SMA) and bind the RFP Bidder. The Officer of the RFP Bidder whose contact information is provided in the Part 1 Proposal must make all representations required by the Part 1 Form. Should the RFP Bidder submit a Part 2 Proposal, the individual named as Officer of the RFP Bidder in the Part 1 Proposal must make the representations required by the Part 2 Form. The Officer of the Bidder may sign all representations and certifications of the Part 1 Form and Part 2 Form at one time and RFP Bidders have the option to submit the Part 2 Form during the Part 1 Window for early processing.

- If an RFP Bidder has not previously qualified, or if the individual who served as Officer of the Bidder for a previously qualified RFP Bidder is not available in this solicitation, then the RFP Bidder must provide the name, title, and full contact information (address, phone number, email address) of the individual who will serve as Officer of the RFP Bidder.

- If the RFP Bidder has previously qualified and the individual who served as Officer of the Bidder in a previous solicitation is available for this solicitation, the RFP Bidder either must confirm that the previously submitted contact information for the Officer of the RFP Bidder remains valid or must update this information.
- Whether or not the RFP Bidder has previously qualified, the Officer of the RFP Bidder may name a Designee. The Officer of the Bidder will represent that the Designee is an individual authorized to undertake contracts (including the Default Service SMA) and bind the RFP Bidder. Either the Officer of the RFP Bidder or the Designee must sign the Default Service SMA. It is expected that either the Officer of the RFP Bidder or the Designee will sign the Transaction Confirmations should any of the RFP Bidder's Bids be approved by the Commission. Should neither the Officer of the Bidder or the Designee be available to sign the Transaction Confirmations, the RFP Bidder will advise PECO of this fact, will name another individual to sign the Transaction Confirmations, and will confirm that this individual is an officer, a director, or an individual otherwise authorized to undertake contracts (including the Default Service SMA) and bind the RFP Bidder.

IV.1.3. Communications with the RFP Bidder. The RFP Bidder must elect the method by which the Independent Evaluator will provide notifications to the RFP Bidder and by which the RFP Bidder will respond to the Independent Evaluator. The RFP Bidder must also elect the method by which the Independent Evaluator will provide documents necessary for participation to the RFP Bidder.

- If the RFP Bidder has not previously qualified, the RFP Bidder must elect whether the RFP Bidder will receive notifications from the Independent Evaluator and send responses to the Independent Evaluator by fax or by email. If the RFP Bidder elects to receive notifications by fax, a fax number must be provided for the Representative of the RFP Bidder. Such notifications include all notices assessing the completeness of the Part 1 Proposal or the Part 2 Proposal, as well as the Part 1 Notification and the Part 2 Notification. The RFP Bidder must also elect whether the RFP Bidder will receive documents needed for participation from the Independent Evaluator by overnight delivery service or by secure file transfer.

Such documents include the Default Service SMA documents, the confidential information required to submit Bids on the Bid Date, as well as any training materials prepared by the Independent Evaluator. The files for such documents may be large or may contain particularly sensitive information and thus are not typically suitable for delivery by email. However, if special circumstances warrant, the Independent Evaluator may transmit by email a particular document needed for participation in a solicitation upon agreement by the RFP Bidder.

- A previously qualified RFP Bidder either must confirm that the methods of communication that it previously elected remain valid or must update this information.
- Whether or not an RFP Bidder has previously qualified, an RFP Bidder that has elected to receive notifications by email may designate up to three (3) authorized individuals who will receive notifications in addition to the Representative of the RFP Bidder. Similarly, an RFP Bidder that has elected to receive documents by secure file transfer system may designate up to three (3) authorized individuals who will receive documents in addition to the Representative of the RFP Bidder. Each such authorized individual is a Nominee. Either the Representative of the RFP Bidder or the Officer of the RFP Bidder may use the Nomination section of the Part 1 Form for this purpose, providing for each authorized individual the individual's name and title, as well as contact information (phone number and email address). The Representative of the RFP Bidder or the Officer of the RFP Bidder may designate such other authorized individuals at any time during the solicitation using the Nomination section of the Part 1 Form and is not required to do so in the Part 1 Proposal provided, however, that the total number of Nominees not exceed three (3) individuals at any one time.

IV.1.4. Representative of the RFP Bidder. The Independent Evaluator uses the Representative as the main point of contact for the RFP Bidder. The Independent Evaluator always contacts the Representative if the Independent Evaluator requires additional information regarding the RFP Bidder's Proposal. The Independent Evaluator always sends correspondence related to the solicitation to the

Representative, including confidential information required to submit Bids on the Bid Date. The Representative of the RFP Bidder may, in the Part 1 Proposal or at any time during a solicitation, designate other authorized individuals to receive communications from the Independent Evaluator as well.

- If the RFP Bidder has not previously qualified, the Officer of the RFP Bidder must designate an individual to serve as Representative of the RFP Bidder. The RFP Bidder must provide the name, title, and full contact information (address, phone number, email address) of the individual named by the Officer of the RFP Bidder who will serve as Representative of the RFP Bidder.
- A previously qualified RFP Bidder either must confirm that the previously submitted contact information for the Representative of the RFP Bidder remains valid or must update this information. The Officer of the RFP Bidder may, at his or her option, name another individual to serve as Representative by providing all the required contact information.

IV.1.5. Representations by the Officer of the RFP Bidder. Whether or not the RFP Bidder has previously qualified, the Officer of the RFP Bidder must certify that:

- he/she is an officer, a director, or an individual otherwise authorized to undertake contracts (including the Default Service Program Supply Master Agreement) and bind the RFP Bidder;
- the Part 1 Proposal will remain valid and remain in full force and effect until six (6) business days after the Bid Date;
- all information provided in the Part 1 Proposal is true and accurate to the best of the Officer's knowledge and belief; and
- if, for any reason or due to any circumstance, any information provided in the Part 1 Proposal changes or any previous certification fails to remain valid before the sixth business day after the Bid Date, the Officer of the RFP Bidder or the Representative will notify the Independent Evaluator of such changes as soon as practicable but in no event later than one (1) day before the Bid Date.

IV.1.6. All information and certifications in this Section IV.1 must be provided exclusively by completing Section 1 of the Part 1 Form, as further explained in Article VII.

## **IV.2. Financial Requirements**

IV.2.1. An RFP Bidder includes in its Part 1 Proposal one (1) copy of any document required in this Section IV.2, either in hard copy or electronically on a CD.

IV.2.2. Election of Entity on Whose Financial Standing the RFP Bidder is Relying. For purposes of a creditworthiness evaluation, each RFP Bidder elects either: (a) to rely on its own financial standing; or: (b) to rely on the financial standing of another entity. The other entity on whose financial standing the RFP Bidder is relying is either a guarantor (the “RFP Guarantor”), or a Principal if the RFP Bidder is submitting a Proposal under an Agency Agreement. The requirements for an RFP Bidder submitting a Proposal under an Agency Agreement are further explained in Section IV.6.

- An RFP Bidder that has not previously qualified must clearly select one of these two (2) options in its Part 1 Proposal. If the RFP Bidder is relying on the financial standing of another entity, the RFP Bidder must provide that entity’s legal name and address.
- A previously qualified RFP Bidder must confirm that the identity of the entity on whose financial standing the RFP Bidder last relied remains valid in order to participate in the abbreviated Part 1 Proposal process. If the RFP Bidder changes the identity of the entity on whose financial standing the RFP Bidder relies, the RFP Bidder must use the Standard Part 1 Form and submit all information required for the Part 1 Proposal if the RFP Bidder had not previously qualified.

IV.2.3. Financial Information. The financial information submitted in the Part 1 Proposal pertains to the entity on whose financial standing the RFP Bidder is relying, as specified in response to Paragraph IV.2.2.

- Whether or not the RFP Bidder has previously qualified, an RFP Bidder that selects option (a) in Paragraph IV.2.2 must include available financial information for the RFP Bidder in its Part 1 Proposal. If available, the RFP Bidder must submit its most recent quarterly financial information, including a balance sheet, income statement, cash flow statement, and any

accompanying notes and schedules. If available, the most recent Securities and Exchange Commission (“SEC”) Form 10-Q or 10-K (whichever is more recent) must be submitted to fulfill this requirement. If the SEC Form 10-Q/10-K is unavailable, the RFP Bidder must submit its most recent quarterly, monthly or bi-annual financial information accompanied by an attestation by the RFP Bidder’s Chief Financial Officer (or equivalent position) that the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of the RFP Bidder. The requirements for this attestation are more specifically provided in Appendix 5 of these RFP Rules. If such financial information is unavailable for the RFP Bidder, the RFP Bidder must clearly state this fact.

- Whether or not the RFP Bidder has previously qualified, an RFP Bidder that selects option (b) in Paragraph IV.2.2 relies on the financial standing of another entity (an RFP Guarantor or a Principal) and financial information must be available for such an entity. An RFP Bidder must submit, if available, the entity’s most recent quarterly financial information, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules. If available, the most recent SEC Form 10-Q or 10-K (whichever is more recent) must be submitted to fulfill this requirement. If the SEC Form 10-Q/10-K is unavailable, the RFP Bidder must submit the entity’s most recent quarterly, monthly, or bi-annual financial information accompanied by an attestation by the entity’s Chief Financial Officer (or equivalent position) that the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of the entity. The requirements for this attestation are more specifically provided in Appendix 5 of these RFP Rules.

IV.2.4. Credit Ratings. The credit ratings submitted in the Part 1 Proposal pertain to the entity on whose financial standing the RFP Bidder is relying, as specified in response to Paragraph IV.2.2.

- An RFP Bidder that has not previously qualified must submit all available credit ratings for the entity on whose financial standing it is relying. This entity is the RFP Bidder if the RFP

Bidder selects option (a) in Paragraph IV.2.2. This entity is the RFP Guarantor or a Principal if the RFP Bidder selects option (b) in Paragraph IV.2.2. The RFP Bidder must submit all available ratings from the following rating agencies: Standard & Poor's Ratings Services ("S&P"), Moody's Investors Service, Inc. ("Moody's"), and Fitch Ratings ("Fitch"). If no ratings are available for the entity, the RFP Bidder must clearly state this fact.

- A previously qualified RFP Bidder must confirm that the credit ratings last submitted for the entity on whose financial standing the RFP Bidder relies remain valid or the RFP Bidder must update this information with respect to any or all of the credit ratings. The Independent Evaluator uses the information submitted by such RFP Bidder in the most recent solicitation under this RFP for which the RFP Bidder submitted a successful Part 1 Proposal. If the RFP Bidder updates the information, the RFP Bidder must state the name of the rating agency that has updated its credit rating, the updated credit rating, and the type of rating. The Independent Evaluator may also inquire specifically about one or more credit ratings on file for the entity on whose financial standing the RFP Bidder and ask the RFP Bidder to confirm that no updates have been issued.

IV.2.5. All information and certifications in this Section IV.2 must be provided exclusively by completing Section 2 of the Part 1 Form, as further explained in Article VII.

### **IV.3. Letters of Credit and Default Service SMA Documents**

IV.3.1. Standard Pre-Bid Letter of Credit. RFP Bidders have an opportunity, in the Part 1 Proposal, to propose modifications to the Pre-Bid Letter of Credit.

- Whether or not the RFP Bidder has previously qualified, an RFP Bidder must, in its Part 2 Proposal, submit a Pre-Bid Letter of Credit in an amount of at least: \$250,000 per tranche bid on products for the RES, SC, and MC Classes and \$125,000 per tranche bid on products for the LC&I Class.

This Pre-Bid Letter of Credit must be in the form of the Standard Pre-Bid Letter of Credit provided as Appendix 8 to these RFP Rules or must incorporate only modifications that have been approved by PECO and the Independent Evaluator.

- As part of the Part 1 Proposal, an RFP Bidder may request modifications to the Standard Pre-Bid Letter of Credit that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder. An RFP Bidder requests modifications to the Standard Pre-Bid Letter of Credit by submitting a Draft Pre-Bid Letter of Credit substantially in the form of the Standard Pre-Bid Letter of Credit indicating clearly any and all modifications to the Standard Pre-Bid Letter of Credit. The Draft Pre-Bid Letter of Credit must be submitted electronically, in Microsoft Word with tracked changes, and may be saved to a CD that is included with the Part 1 Proposal, or it may be emailed to the Independent Evaluator at [PecoProcurement@nera.com](mailto:PecoProcurement@nera.com). A Draft Pre-Bid Letter of Credit that is not substantially in the form of the Standard Pre-Bid Letter of Credit will not be considered or evaluated.
- All approved modifications to the Standard Pre-Bid Letter of Credit will be posted to the RFP Web site. Each RFP Bidder may use any of the approved modifications, regardless of whether the RFP Bidder itself or another RFP Bidder proposed the modification.

IV.3.2. Standard Post-Bid Letter of Credit. RFP Bidders have an opportunity, in the Part 1 Proposal, to propose modifications to the Post-Bid Letter of Credit.

- The Default Service SMA includes, as Exhibit C, a Form of Letter of Credit that may be used to post security under the terms of the Default Service SMA. This paragraph refers to this letter of credit as the “Standard Post-Bid Letter of Credit”.
- Whether or not the RFP Bidder has previously qualified, an RFP Bidder may, in its Part 1 Proposal, request modifications to the Standard Post-Bid Letter of Credit that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder. An RFP Bidder requests modifications to the Standard Post-Bid Letter of Credit by submitting a Draft Post-Bid Letter of Credit substantially in the form of the Standard Post-Bid Letter of Credit indicating clearly any and all modifications to the Standard Post-Bid Letter of Credit. The Draft Post-Bid Letter of Credit must be submitted electronically, in Microsoft Word with tracked changes, and may be saved to a CD that is included with the Part 1 Proposal, or it may be emailed to the Independent Evaluator at [PecoProcurement@nera.com](mailto:PecoProcurement@nera.com). A Draft Post-



Bid Letter of Credit that is not substantially in the form of the Standard Post-Bid Letter of Credit will not be considered or evaluated.

- All approved modifications to the Standard Post-Bid Letter of Credit will be posted to the RFP Web site. Each RFP Bidder may use any of the approved modifications, regardless of whether the RFP Bidder itself or another RFP Bidder proposed the modification.

IV.3.3. Information to Prepare the Default Service SMA. The requirements of this Paragraph apply only to RFP Bidders that are not Default Suppliers. Such RFP Bidder must, in its Part 2 Proposal, submit two (2) signed original Default Service SMAs, including all exhibits. The Default Service SMA is a document that the Independent Evaluator transmits to the RFP Bidder pursuant to a successful Part 1 Proposal. The Independent Evaluator transmits this document electronically either on a CD sent by overnight delivery to the Representative of the RFP Bidder or by secure file transfer, depending on the RFP Bidder's election under Paragraph IV.1.3.

- Such RFP Bidder that has not previously qualified must provide all information needed to prepare for execution the Default Service SMA, including all exhibits. The RFP Bidder will be required to specify any elections to be made in the Default Service SMA and to provide the contact information to prepare the form of notice, which is appended as Exhibit H to the Default Service SMA.
- Such previously qualified RFP Bidder either must confirm that all previously submitted information for preparation of the Default Service SMA and all exhibits remains valid or the RFP Bidder must update this information.

IV.3.4. Ability to Perform. The requirements of this Paragraph apply only to RFP Bidders that are not Default Suppliers.

- Whether or not the RFP Bidder has previously qualified, the Officer of the Bidder must certify that the RFP Bidder has no pending legal proceedings or, to its knowledge, threatened legal proceedings against it or any of its affiliates that could materially adversely affect its ability to perform its obligations under the Default Service SMA and each Transaction Confirmation.

IV.3.5. Guaranty. The requirements of this Paragraph apply only to RFP Bidders that rely on the financial standing of an RFP Guarantor. The requirements of this Paragraph apply to all RFP Bidders that rely on the financial standing of an RFP Guarantor, whether or not such RFP Bidders are previously qualified RFP Bidders or Default Suppliers, with one exception. If a Default Supplier relies on the financial standing of an RFP Guarantor and the Guaranty Amount under the guaranty currently held by PECO is equal to the RFP Guarantor's Unsecured Credit Limit, then such Default Supplier is exempted from the requirements of this Paragraph and of Paragraph IV.7.3. All other RFP Bidders that rely on the financial standing of an RFP Guarantor must, in the Part 1 Proposal, provide all information that will be needed to prepare the guaranty for execution. The Independent Evaluator uses this information to prepare the guaranty. The guaranty is a document that the Independent Evaluator transmits to each such RFP Bidder pursuant to a successful Part 1 Proposal. The Independent Evaluator transmits this document electronically either on a CD sent by overnight delivery to the Representative of the RFP Bidder or by secure file transfer, depending on such RFP Bidder's election under Paragraph IV.1.3.

- Such RFP Bidder that has not previously qualified will be required: (i) to specify the governing laws under which the RFP Guarantor is organized; (ii) to provide contact information for the RFP Guarantor, including the name and title of the signatory of the guaranty for notices under the guaranty; (iii) to make its elections to incorporate any or all of the approved modifications to the Form of Guaranty.
- Such previously qualified RFP Bidder either must confirm that the previously submitted information needed to prepare the guaranty, including any previous elections, remains valid or must update this information. Further, if there are any modifications to the Form of Guaranty newly approved for the current solicitation, such RFP Bidder must submit its elections for these modifications.
- Whether or not such RFP Bidder has previously qualified, such RFP Bidder may participate in the Guaranty Process, as explained in Paragraph I.3.1 and in Appendix 2.

IV.3.6. All information and certifications in this Section IV.3 must be provided exclusively by completing Section 3 of the Part 1 Form, as further explained in Article VII.

#### **IV.4. Regulatory Representations**

IV.4.1. FERC Authorization. The requirements of this Paragraph apply only to RFP Bidders that are not Default Suppliers.

- Whether or not such RFP Bidder has previously qualified, the Officer of such RFP Bidder must certify that the RFP Bidder has FERC authorization to make sales of energy, capacity, and ancillary services at market-based rates in PJM.
- Although a copy of the FERC Order granting such authority is not required, PECO may request a copy of this Order if such RFP Bidder becomes a Default Supplier.

IV.4.1. PJM Load Serving Entity. The requirements of this Paragraph apply only to RFP Bidders that are not Default Suppliers and that are not previously qualified RFP Bidders. A Default Supplier must be a Load Serving Entity (“LSE”) by the start of the supply period.

- Such RFP Bidder that has not previously qualified must, in its Part 1 Proposal, either: (i) demonstrate that the RFP Bidder is a Load Serving Entity (“LSE”) in PJM by providing the signature page of the Reliability Assurance Agreement (“RAA”); or (ii) certify that the RFP Bidder has investigated the requirements to become an LSE in PJM and that there exist no impediments for the RFP Bidder to become an LSE by the start of the supply period and to remain an LSE for the duration of the supply period.
- Such RFP Bidder that previously qualified has already satisfied this requirement and is not required to submit information anew.

IV.4.2. The certifications and documents in this Section IV.4 must be provided exclusively by completing Section 4 of the Part 1 Form, as further explained in Article VII.

#### **IV.5. Additional Representations**

IV.5.1. The Officer of an RFP Bidder that has not previously qualified must, in the Part 1 Proposal, affirmatively accept the terms of the Default Service SMA and of the RFP.

- The Officer of the RFP Bidder must certify that the he/she understands the terms of the Default Service SMA, that the RFP Bidder accepts all of the terms of the Default Service SMA without modifications, and that the RFP Bidder will execute Transaction Confirmation(s) for all Bids approved by the Commission.
- The Officer of the RFP Bidder must acknowledge that the submission of the Part 1 Proposal constitutes the RFP Bidder's acknowledgement and acceptance of all the terms and conditions of the RFP, regardless of the outcome of the solicitation or the outcome of such Proposal.

IV.5.2. Whether or not an RFP Bidder has previously qualified, the Officer of the RFP must certify that the RFP Bidder is not part of a bidding agreement, a joint venture for purposes of participating in any solicitation for this RFP, a bidding consortium, or any other type of agreement related to bidding in any solicitation of this RFP. An RFP Bidder found to be acting in concert with another RFP Bidder may be disqualified by the Independent Evaluator.

IV.5.3. The certifications in this Section IV.5 must be provided exclusively by completing Section 5 of the Part 1 Form, as further explained in Article VII.

#### **IV.6. RFP Bidders Under an Agency Agreement**

IV.6.1. The requirements of this Section IV.6 apply only to RFP Bidders submitting a Proposal under an agency authorization ("Agency Agreement"); other RFP Bidders are not subject to the requirements of this Section IV.6.

IV.6.2. Certifications. The Officer of an RFP Bidder submitting a Proposal under an Agency Agreement must make the following certifications.

- Whether or not an RFP has previously qualified, the Officer of such RFP Bidder must certify that the Officer of the RFP Bidder has the authority to bind the Principal(s).
- If an RFP Bidder has not previously qualified, the Officer of the RFP Bidder must acknowledge that an Officers' Certificate, substantially in the form of Appendix 6 to these RFP Rules, must be provided with the Part 2 Proposal.

IV.6.3. Additional Requirements. An RFP Bidder submitting a Proposal under an Agency Agreement must comply with the following additional requirements.

- If such RFP Bidder has not previously qualified, the RFP Bidder must:
  - (1) identify the Principal or Principals to the Agency Agreement;
  - (2) provide one (1) copy of its Agency Agreement with its Part 1 Proposal, either in hard copy or electronically on a CD;
  - (3) identify a Principal as the entity on whose financial standing the RFP Bidder relies, and for which financial information is provided under Section IV.2. If the RFP Bidder is acting as an agent for multiple Principals, the RFP Bidder must identify the Principal with the lowest credit rating as the entity on whose financial standing the RFP Bidder relies. If several Principals have the same lowest credit rating, the RFP Bidder must identify the Principal that also has the lowest tangible net worth as the entity on whose financial standing the RFP Bidder relies.
- If such RFP Bidder has previously qualified, the RFP Bidder either must confirm that the previously submitted information remains value or must update this information.

IV.6.4. Draft Officers' Certificate. Whether or not the RFP Bidder has previously qualified, an RFP Bidder submitting a Proposal under an Agency Agreement may, but is not required to, submit a draft Officers' Certificate for evaluation. If an RFP Bidder submits a draft Officers' Certificate for evaluation, the Independent Evaluator will provide this evaluation to the RFP Bidder, including notice of any changes required to the Officers' Certificate, along with the Part 1 Notification. This Officers' Certificate will state that: (i) the Agency Agreement submitted in response to this RFP is a true and complete copy of the Agency Agreement as currently in effect; (ii) the Agency Agreement is in full force and effect and shall remain in full force and effect for a period extending to six (6) business days following the Bid Date; (iii) there are no proceedings pending for the amendment or termination of the Agency Agreement, contemplated by the RFP Bidder, or contemplated by the Principal(s) to the RFP Bidder's knowledge; (iv) each individual who has executed the Officers' Certificate, the Agency Agreement, and the Default Service SMA is (or was at the time of the

execution of such documents) authorized to execute and deliver such documents on behalf of the Principal(s); and (v) the Officer of the RFP Bidder is authorized to execute any Transaction Confirmation(s) pursuant to the Default Service SMA on behalf of the Principal(s).

IV.6.5. The information required by this Section IV.6 must be provided exclusively by completing Section 6 of the Part 1 Form, as further explained in Article VII.

#### **IV.7. Foreign RFP Bidders and Foreign Entities**

IV.7.1. The requirements of this Section apply only to: (1) Foreign RFP Bidders that seek to be granted unsecured credit under the terms of the Default Service SMA; or (2) RFP Bidders that that rely on the financial standing of a Foreign Entity (either an RFP Guarantor or a Principal). Other RFP Bidders are not subject to the requirements of this Section.

IV.7.2. Additional requirements for Foreign RFP Bidders.

- Whether or not such RFP Bidder has previously qualified, such RFP Bidder may provide, in addition to supplying all required information and documents under Section IV.2, any additional evidence of creditworthiness so as to provide PECO with comparable assurances of creditworthiness as is applicable for an RFP Bidder that has been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia.
- If such RFP Bidder has not previously qualified, the Officer of a Foreign RFP Bidder must acknowledge that the following additional documents are required with the Part 2 Proposal for the Foreign RFP Bidder to be granted unsecured credit under the terms of the Default Service SMA: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Foreign RFP Bidder is incorporated or otherwise formed that the Default Service SMA is, or upon the completion of execution formalities will become, the binding obligation of the Foreign RFP Bidder in the jurisdiction in which it has been incorporated or otherwise formed; (ii) the sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the person executing the Default Service SMA on behalf of the Foreign RFP Bidder has the authority to execute the Default Service SMA and that the governing board of such Foreign RFP Bidder has approved the execution of the

Default Service SMA; and (iii) the sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the Foreign RFP Bidder has been authorized by its governing board to enter into agreements of the same type as the Default Service SMA.

- Whether or not such RFP Bidder has previously qualified, such RFP Bidder may, but is not required to, submit a draft of the following documents for evaluation: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Foreign RFP Bidder is incorporated or otherwise formed that the Default Service SMA is, or upon the completion of execution formalities will become, the binding obligation of the Foreign RFP Bidder in the jurisdiction in which it has been incorporated or otherwise formed; (ii) the sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the person executing the Default Service SMA on behalf of the Foreign RFP Bidder has the authority to execute the Default Service SMA and that the governing board of such Foreign RFP Bidder has approved the execution of the Default Service SMA; and (iii) the sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the Foreign RFP Bidder has been authorized by its governing board to enter into agreements of the same type as the Default Service SMA. Exhibit G to the Default Service SMA includes a sample of the legal opinion of outside counsel for the Foreign RFP Bidder that is sufficient. If such RFP Bidder submits a draft of these documents for evaluation, the Independent Evaluator will provide this evaluation to such RFP Bidder, including notice of any changes required to the documents, along with the Part 1 Notification.

IV.7.3. Additional requirements for RFP Bidders relying on the financial standing of a Foreign Guarantor.

- Whether or not such RFP Bidder has previously qualified, an RFP Bidder relying on the financial standing of a Foreign Entity as RFP Guarantor may provide, in addition to supplying all required information and documents under Section IV.2, any additional evidence of creditworthiness for the RFP Guarantor so as to provide PECO with comparable assurances of creditworthiness as is applicable for an entity that has been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia.

- If such RFP Bidder has not previously qualified, the Officer of such RFP Bidder must acknowledge that the following additional documents are required with the Part 2 Proposal for the Foreign Entity as RFP Guarantor to be granted unsecured credit and for the RFP Bidder to rely on the financial standing of the RFP Guarantor under the terms of the Default Service SMA: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the RFP Guarantor is incorporated or otherwise formed that the guaranty pursuant to the Default Service SMA is, or upon the completion of execution formalities will become, the binding obligation of the RFP Guarantor in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the person executing the guaranty pursuant to the Default Service SMA on behalf of the RFP Guarantor has the authority to execute the guaranty pursuant to the Default Service SMA and that the governing board of such RFP Guarantor has approved the execution of the guaranty pursuant to the Default Service SMA; and (iii) the sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the RFP Guarantor has been authorized by its governing board to enter into agreements of the same type as the guaranty pursuant to the Default Service SMA.
- Whether or not such RFP Bidder has previously qualified, the RFP Bidder may, but is not required to, submit with its Part 1 Proposal a draft of the following documents: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the RFP Guarantor is incorporated or otherwise formed that the guaranty pursuant to the Default Service SMA is, or upon the completion of execution formalities will become, the binding obligation of the RFP Guarantor in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the person executing the guaranty pursuant to the Default Service SMA on behalf of the RFP Guarantor has the authority to execute the guaranty pursuant to the Default Service SMA and that the governing board of such RFP Guarantor has



approved the execution of the guaranty pursuant to the Default Service SMA; and (iii) the sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the RFP Guarantor has been authorized by its governing board to enter into agreements of the same type as the guaranty pursuant to the Default Service SMA. Exhibit G to the Default Service SMA includes a sample for the legal opinion of outside counsel that is sufficient for a Foreign Entity as RFP Guarantor. If an RFP Bidder submits a draft of the documents for evaluation, the Independent Evaluator will provide this evaluation to the RFP Bidder, including notice of any changes required to the documents, along with the Part 1 Notification.

**IV.7.4. Additional Requirements for RFP Bidders submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal.**

- Whether or not such RFP Bidder has previously qualified, such RFP Bidder an RFP Bidder submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal may, in addition to supplying all required information and documents under Section IV.2, provide any additional evidence of creditworthiness for the Principal so as to provide PECO with comparable assurances of creditworthiness as is applicable for an entity that has been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia.
- If such RFP Bidder has not previously qualified, the Officer of such RFP Bidder must acknowledge that the following additional documents are required with the Part 2 Proposal for the RFP Bidder and the Foreign Entity as Principal to be granted unsecured credit under the terms of the Default Service SMA: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Principal is incorporated or otherwise formed that the Default Service SMA is, or upon the completion of execution formalities will become, the binding obligation of the Principal in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of the corporate secretary

(or similar officer) of such Principal that the Principal has been authorized by its governing board to enter into agreements of the same type as the Default Service SMA.

- Whether or not such RFP Bidder has previously qualified, such RFP Bidder may, but is not required to, submit with its Part 1 Proposal a draft of the following additional documents: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Principal is incorporated or otherwise formed that the Default Service SMA is, or upon the completion of execution formalities will become, the binding obligation of the Principal in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of the corporate secretary (or similar officer) of such Principal that the Principal has been authorized by its governing board to enter into agreements of the same type as the Default Service SMA. Exhibit G to the Default Service SMA includes a sample of the legal opinion of outside counsel that is sufficient for the Foreign Entity as Principal (Seller). If an RFP Bidder submits a draft of the documents for evaluation, the Independent Evaluator will provide this evaluation to the RFP Bidder, including notice of any changes required to the documents, along with the Part 1 Notification.

IV.7.5. The information required by this Section must be provided exclusively by completing Section 7 of the Part 1 Form, as further explained in Article VII.

## ARTICLE V. Part 2 Proposal Requirements

### V.1. Contact Information and Representations

V.1.1. Contact Information for the RFP Bidder. The RFP Bidder has an opportunity to update contact information provided in the Part 1 Proposal for the RFP Bidder or any individual. Whether or not the RFP Bidder is previously eligible, the RFP Bidder either must confirm that the contact information remains valid or must update this information.

V.1.2. Representations of the Officer of the RFP Bidder. For a given solicitation, all representations and certifications must be made by a single individual who serves as Officer of the RFP Bidder. All representations and certifications required by this RFP may be made at a single point in time and RFP Bidders have the option to submit the Part 1 Form and the Part 2 Form together during the Part 1 Window. If an RFP Bidder did not avail itself of this option and if the Officer of the RFP Bidder who made the representations and certifications of the Part 1 Form is unavailable to make the representations of the Part 2 Form, the RFP Bidder must re-submit the Part 1 Form in its entirety naming a new individual to serve as Officer of the RFP Bidder by the Part 2 Date, and that Officer of the RFP Bidder must make all representations and certifications required by the Part 1 Form and the Part 2 Form. Whether or not the RFP Bidder is previously eligible, the Officer of the RFP Bidder must certify that:

- the Part 2 Proposal will remain valid and remain in full force and effect until six (6) business days after the Bid Date and if any information provided in the Part 2 Proposal changes or any previous certification fails to remain valid during that time, the RFP Bidder will notify the Independent Evaluator as soon as practicable;
- the RFP Bidder is bidding independently and that it has no knowledge of any information concerning a Proposal by another RFP Bidder in response to this solicitation or any future solicitation under this RFP. Such information includes, but is not limited to: the fact that another RFP Bidder is submitting a Proposal in response to this solicitation or a subsequent solicitation under this RFP; the Bids by another RFP Bidder in this or in a subsequent

solicitation under this RFP; the number of tranches bid by another RFP Bidder for any product in this or in a subsequent solicitation under this RFP; the estimation by another RFP Bidder of the value of a tranche of a product; the estimation by another RFP Bidder of the risks associated with providing supply under the Default Service SMA; the preference of another RFP Bidder for bidding on specific products in this or in a subsequent solicitation under the RFP; and the contractual arrangements for power of another RFP Bidder to serve tranches of Default Service Load were that RFP Bidder to become a Default Supplier. This certification must be binding and in effect until the Commission has either approved or rejected each of the winning Bids for this solicitation;

- although the RFP Bidder may disclose aspects of its Proposal in communicating with its financial institution for the purpose of preparing the Pre-Bid Letter of Credit or in communicating with advisors (if any), any such communication is made in a manner that can reasonably be expected to maintain the confidentiality of its Proposal;
- with only the exceptions noted in the immediately previous certification, the RFP Bidder has not disclosed, and will not otherwise disclose, publicly or to any other party any information relating to its Proposal, which could have an effect on whether another party submits a Proposal in any solicitation under the RFP, or on the contents of the Proposal that another RFP Bidder would be willing to submit in response to the RFP. Such information includes, but is not limited to: the fact that the RFP Bidder is submitting a Proposal in response to this RFP; the RFP Bidder's Bids in this or in a subsequent solicitation under this RFP; the RFP Bidder's number of tranches bid for any product in this or in a subsequent solicitation under this RFP; the RFP Bidder's estimation of the value of a tranche of a product; the RFP Bidder's estimation of the risks associated with providing supply under the Default Service SMA; and the RFP Bidder's preference for bidding on specific products in this or in a subsequent solicitation under this RFP. This certification must be binding and in effect until the Commission has either approved or rejected each of the winning Bids for this solicitation;

- any Bid on any product submitted in response to this RFP for this solicitation is binding until six (6) business days after the Bid Date and constitutes a binding and irrevocable offer to provide service under the terms of the Default Service SMA at the price specified in the Bid;
- if the Commission approves some or all of the RFP Bidder's Bids, the Officer of the RFP Bidder or the Designee will execute, or will nominate another authorized individual to execute, all Transaction Confirmations required by the Commission's decision under the Default Service SMA by 2 PM of the fourth business day after the Bid Date; and
- In any such Transaction Confirmation, the RFP Bidder will specify a price for each type of AECs (Tier I, Tier I Solar, and Tier II) that is included in the RFP Bidder's winning Bids and each such price must be greater than \$0/AEC.

V.1.3. The information required by this Section V.1 must be provided exclusively by completing Section 1 of the Part 2 Form, as further explained in Article VII.

## **V.2. Pre-Bid Letter of Credit**

V.2.1. Whether or not an RFP Bidder is previously eligible, the RFP Bidder must provide an executed Pre-Bid Letter of Credit, drawn for the account of the RFP Bidder and acceptable to PECO, in an amount of at least: \$250,000 per tranche bid on products for the RES, SC, and MC Classes and \$125,000 per tranche bid on products for the LC&I Class in accordance with the requirements of this Section V.2. A single Pre-Bid Letter of Credit is submitted even if the RFP Bidder bids on more than one product or more than one Class.

V.2.2. The RFP Bidder must either use the Standard Pre-Bid Letter of Credit provided in Appendix 8 to these RFP Rules, or the RFP Bidder must submit a Pre-Bid Letter of Credit that incorporates only those modifications to the Standard Pre-Bid Letter of Credit accepted as a result of the evaluation of the Part 1 Proposals. All approved modifications will be posted to the RFP Web site. An RFP Bidder may use any of the approved modifications, regardless of whether the RFP Bidder itself or another RFP Bidder proposed the modification. The RFP Bidder cannot, in its Part 2 Proposal, propose or incorporate any modification to its Pre-Bid Letter of Credit other than the modifications approved and posted as such on the RFP Web site.

- V.2.3. Payment under the Pre-Bid Letter of Credit can be demanded by PECO if: (i) the RFP Bidder has made a material omission or misrepresentation in its Part 1 Proposal or in its Part 2 Proposal; (ii) the RFP Bidder discloses information relating to its Proposal publicly or to any other party before the Commission has either approved or rejected each of the winning Bids for this solicitation; or (iii) the Commission approves some or all of the RFP Bidder's Bids and the RFP Bidder fails to execute all Transaction Confirmations in the timeframe required by the Default Service SMA or fails to meet the creditworthiness requirements of the Default Service SMA upon execution of the Transaction Confirmations.
- V.2.4. PECO and the Independent Evaluator will release the Pre-Bid Letter of Credit no later than six (6) business days after the Bid Date. An RFP Bidder may, in Section 2 of the Part 2 Form, provide special instructions for the return of the Pre-Bid Letter of Credit. If the Commission does not approve any of the RFP Bidder's Bids, PECO and the Independent Evaluator will release that RFP Bidder's Pre-Bid Letter of Credit within three (3) business days of the Bid Date.
- V.2.5. Acknowledgment of Documents Required. If the Part 2 Form is submitted for early processing and the Pre-Bid Letter of Credit is not included with the Part 2 Form, the Officer of the RFP Bidder acknowledges that the Pre-Bid Letter of Credit is required.
- V.2.6. The information required by this Section V.2 must be provided exclusively by completing Section 2 of the Part 2 Form, as further explained in Article VII.

### **V.3. Default Service SMA Documents**

- V.3.1. Default Service SMA. The requirements of this Paragraph apply only to RFP Bidders that are not Default Suppliers. The Independent Evaluator, using the information provided by the RFP Bidder in its Part 1 Proposal in response to the requirements of Paragraph IV.3.3, prepares the Default Service SMA, including all necessary exhibits, for execution. Each RFP Bidder that qualified pursuant to a successful Part 1 Proposal receives from the Independent Evaluator the Default Service SMA, which the Independent Evaluator either transmits by secure file transfer or saves electronically on a CD that is sent by overnight delivery service. The individual who signs the

Default Service SMA is either the Officer of the RFP Bidder or the Designee named in the Part 1 Proposal. Whether or not the RFP Bidder is previously eligible:

- the RFP Bidder must print two (2) originals of the Default Service SMA document that the RFP Bidder received directly from the Independent Evaluator upon qualifying pursuant to a successful Part 1 Proposal;
- the Officer of the RFP Bidder or the Designee must sign:
  - The two (2) signature pages of the originals of the Default Service SMA; and
  - The two (2) originals of Exhibit J, the PJM Declaration of Authority.
- The RFP Bidder must submit both originals of the Default Service SMA, including all exhibits.

V.3.2. Guaranty. The Independent Evaluator, using the information provided by the RFP Bidder in its Part 1 Proposal in response to the requirements of Paragraph IV.3.5, prepares the guaranty for execution. With the exception of a Default Supplier that posted a guaranty in an amount equal to its RFP Guarantor's Unsecured Credit Limit, each RFP Bidder that qualified pursuant to a successful Part 1 Proposal and that relies on the financial standing of an RFP Guarantor receives from the Independent Evaluator the guaranty, which the Independent Evaluator either transmits by secure file transfer or saves electronically on a CD that is sent by overnight delivery service. If an RFP Bidder is a Default Supplier, the guaranty submitted under this Paragraph will replace the existing guaranty should the RFP Bidder have winning Bids approved by the Commission in this solicitation and PECO will return the existing guaranty upon execution of the guaranty submitted under this Paragraph. Whether or not the RFP Bidder is previously eligible:

- The RFP Bidder or RFP Guarantor must print two (2) originals of the guaranty received from the Independent Evaluator;
- The RFP Guarantor must fill in the Guaranty Amount, which is the maximum aggregate liability under the terms of the guaranty.
  - If an RFP Bidder is a Default Supplier, the Guaranty Amount must meet or exceed the lesser of (i) the Unsecured Credit Limit corresponding to the RFP Guarantor lowest Credit Rating most recently published by S&P, Fitch and/or Moody's and the RFP

Guarantor TNW Amount; (ii) the sum of the Guaranty Amount of any current guaranty held by PECO under the Default Service SMA with the RFP Bidder and \$600,000 per tranche bid.

- If an RFP Bidder is not a Default Supplier, the Guaranty Amount must meet \$600,000 per tranche bid.
- The RFP Guarantor must sign two (2) originals of the guaranty.
- The RFP Bidder must submit the two (2) signed originals of the guaranty and the Guaranty Amount must comply with the requirements of this Paragraph.

V.3.3. Enforceability Opinion for an Alternate Guaranty. The Guaranty Process allows a supplier unable to use the Form of Guaranty provided as Exhibit F to the Default Service SMA to submit for consideration by PECO the guaranty that the supplier uses in its normal course of business. Such a guaranty is called an “alternate guaranty” and the process by which suppliers may obtain approval to use an alternate guaranty is described in Appendix 2. The requirements of this Paragraph only apply to RFP Bidders that obtained approval from PECO to use an alternate guaranty form and that were not previously eligible. Such RFP Bidder must provide, with its Part 2 Proposal, an executed enforceability opinion for its approved alternate guaranty form on the letterhead of a law firm of national standing.

V.3.4. Acknowledgment of Documents Required. The requirements of this Paragraph do not apply to RFP Bidders that are Default Suppliers and that do not rely on the financial standing of an RFP Guarantor. If the Part 2 Form is submitted for early processing, the Officer of an RFP Bidder acknowledges the Default Service SMA documents that are required for the particular circumstances of the RFP Bidder:

- The Officer of an RFP Bidder that is not a Default Supplier and that relies on its own financial standing of an RFP acknowledges that two (2) originals of the Default Service SMA are required;



- The Officer of an RFP Bidder that is not a Default Supplier and that relies on the financial standing of an RFP Guarantor acknowledges that two (2) originals of the Default Service SMA are required and two (2) originals of the guaranty are required.

V.3.5. The information required by this Section V.3 must be provided exclusively by completing Section 3 of the Part 2 Form, as further explained in Article VII

#### **V.4. RFP Bidders under an Agency Agreement**

V.4.1. The requirements of this Section V.4 apply only to RFP Bidders submitting a Proposal under an Agency Agreement; other RFP Bidders are not subject to the requirements of this Section V.4.

V.4.2. Officers' Certificate. Whether or not the RFP Bidder is previously eligible, the RFP Bidder must submit an Officers' Certificate substantially in the form of Appendix 6 to these RFP Rules. The Officers' Certificate must be signed by an officer of each Principal.

- The Officers' Certificate must be signed by an officer of each Principal.
- The Officers' Certificate states that: (i) the copy of the Agency Agreement submitted with the Part 1 Proposal is a true and complete copy of the Agency Agreement as currently in effect; (ii) the Agency Agreement is in full force and effect and shall remain in full force and effect for a period extending to six (6) business days following the Bid Date; (iii) there are no proceedings pending for the amendment or termination of the Agency Agreement; (iv) each individual who has executed the Officers' Certificate, the Agency Agreement, and the Default Service SMA submitted with the Part 2 Proposal is (or was at the time of the execution of such documents) authorized to execute and deliver such documents on behalf of the Principal(s); and (v) the Officer of the RFP Bidder is authorized to execute any Transaction Confirmation pursuant to the Default Service SMA on behalf of the Principal(s).
- An Officers' Certificate submitted by a previously eligible RFP Bidder and that was previously acceptable to PECO will remain acceptable to PECO unless there has been a change in the circumstances of the RFP Bidder submitting a Proposal under an Agency Agreement.

V.4.3. Signatory to the Default Service SMA. If the Principal does not authorize the RFP Bidder to sign the Default Service SMA or to execute a Transaction Confirmation, such RFP Bidder must name a representative of the Principal who will sign the Default Service SMA and all necessary exhibits as required by Section V.3 and who will be authorized to sign any Transaction Confirmation should such RFP Bidders have winning Bids that are approved by the Commission.

- If such RFP Bidder is not previously eligible, the RFP Bidder must name a representative of a Principal authorized to sign the Default Service SMA and any Transaction Confirmation and provide contact information for this individual (address, phone number, and email address).
- If such RFP Bidder is previously eligible, the RFP Bidder either: (i) must confirm that the representative of the Principal remains authorized to sign the Default Service SMA and any Transaction Confirmation and that the previously submitted contact information remains valid; or: (ii) must update this information.

V.4.4. An RFP Bidder that relies on the financial standing of a Principal that is a Foreign Entity must also comply with requirements detailed in Section V.5.

V.4.5. The information required by this Section V.4 must be provided exclusively by completing Section 4 of the Part 2 Form, as further explained in Article VII.

## **V.5. Foreign RFP Bidders and Foreign Entities**

V.5.1. The requirements of this Section V.5 apply only to Foreign RFP Bidders that seek to be granted unsecured credit under the terms of the Default Service SMA or to RFP Bidders that rely on the financial standing of a Foreign Entity (either an RFP Guarantor or a Principal). Other RFP Bidders are not subject to the requirements of this Section V.5.

V.5.2. Required Documents for Foreign RFP Bidders. A Foreign RFP Bidder receives from the Independent Evaluator upon successfully completing the Part 1 Proposal a provisional creditworthiness assessment that presumes the receipt of the following fully executed additional documents: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Foreign RFP Bidder is incorporated or otherwise formed that the Default Service SMA is, or upon the completion of execution formalities will become, the binding obligation of the Foreign

RFP Bidder in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the person executing the Default Service SMA on behalf of the Foreign RFP Bidder has the authority to execute the Default Service SMA and that the governing board of such Foreign RFP Bidder has approved the execution of the Default Service SMA; and (iii) the sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the Foreign RFP Bidder has been authorized by its governing board to enter into agreements of the same type as the Default Service SMA. Exhibit G to the Default Service SMA includes a sample of the legal opinion of outside counsel for the Foreign RFP Bidder that is sufficient.

- If the Foreign RFP Bidder is not previously eligible, such RFP Bidder must submit these fully executed documents in a form acceptable to PECO for the Independent Evaluator to confirm the creditworthiness assessment provided with the Part 1 Notification. If the Foreign RFP Bidder submits these fully executed documents in a form acceptable to PECO, the Independent Evaluator includes in the Part 2 Notification a confirmation of the creditworthiness assessment provided with the Part 1 Notification. Otherwise, the Independent Evaluator provides with the Part 2 Notification a revised creditworthiness assessment that states that the Foreign RFP Bidder is not granted unsecured credit.
- If the Foreign RFP Bidder is previously eligible and has previously submitted these additional documents in a form acceptable to PECO, such RFP Bidder either: (i) must confirm that these documents remain valid; or (ii) must update any document that failed to remain valid. The Independent Evaluator confirms the creditworthiness assessment in the Part 2 Notification if all required documents are submitted and are acceptable to PECO. Otherwise, the Independent Evaluator provides with the Part 2 Notification a revised creditworthiness assessment that states that the Foreign RFP Bidder is not granted unsecured credit.

V.5.3. Required Documents for RFP Bidders with a Foreign Entity as RFP Guarantor. If a Default Supplier relies on the financial standing of an RFP Guarantor and the Guaranty Amount under the guaranty currently held by PECO is equal to the RFP Guarantor's Unsecured Credit Limit, then such Default

Supplier is exempted from the requirements of this Paragraph. An RFP Bidder that relies on the financial standing of a Foreign Entity as RFP Guarantor receives, with its Part 1 Notification, a provisional creditworthiness assessment for its RFP Guarantor that presumes the receipt of the following fully executed additional documents in a form acceptable to PECO: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the RFP Guarantor is incorporated or otherwise formed that the guaranty pursuant to the Default Service SMA is, or upon the completion of execution formalities will become, the binding obligation of the RFP Guarantor in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the person executing the guaranty pursuant to the Default Service SMA on behalf of the RFP Guarantor has the authority to execute the guaranty pursuant to the Default Service SMA and that the governing board of such RFP Guarantor has approved the execution of the guaranty pursuant to the Default Service SMA; and (iii) the sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the RFP Guarantor has been authorized by its governing board to enter into agreements of the same type as the guaranty pursuant to the Default Service SMA. Exhibit G to the Default Service SMA includes a sample of the legal opinion of outside counsel that is sufficient for the Foreign Entity as RFP Guarantor.

- If such RFP Bidder is not previously eligible, such RFP Bidder must submit these fully executed documents in a form acceptable to PECO for the Independent Evaluator to confirm the creditworthiness assessment provided with the Part 1 Notification. If the RFP Bidder submits these fully executed documents and these documents are acceptable to PECO, the Independent Evaluator includes in the Part 2 Notification a confirmation of the creditworthiness assessment provided with the Part 1 Notification. If the RFP Bidder does not submit these documents, or if these documents are not acceptable to PECO, the Independent Evaluator provides with the Part 2 Notification a revised creditworthiness assessment that states that the Foreign Entity as RFP Guarantor is not granted unsecured credit. The RFP Bidder may not rely on the financial standing of the RFP Guarantor. Any

guaranty submitted in the Part 2 Proposal will be removed from consideration and the Independent Evaluator may request additional information regarding the RFP Bidder under Section IV.2.

- If such RFP Bidder is previously eligible and has submitted these additional documents in a form acceptable to PECO, such RFP Bidder either: (i) must confirm that these documents remain valid; or (ii) must update any document that failed to remain valid. The Independent Evaluator confirms the creditworthiness assessment provided with the Part 1 Notification if the RFP Bidder all required documents are submitted and are acceptable to PECO. Otherwise, the Independent Evaluator provides with the Part 2 Notification a revised creditworthiness assessment that states that the RFP Guarantor is not granted unsecured credit. The RFP Bidder may not rely on the financial standing of the RFP Guarantor. Any guaranty submitted with the Part 2 Proposal will be removed from consideration and the Independent Evaluator may request additional information regarding the RFP Bidder under Section IV.2.

- V.5.4. Required Documents for RFP Bidders with a Foreign Entity as Principal. An RFP Bidder submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal receives, with its Part 1 Notification, a provisional creditworthiness assessment that presumes the receipt of the following documents fully executed and acceptable to PECO: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Principal is incorporated or otherwise formed that the Default Service SMA is, or upon the completion of execution formalities will become, the binding obligation of the Principal in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of the corporate secretary (or similar officer) of such Principal that the Principal has been authorized by its governing board to enter into agreements of the same type as the Default Service SMA. Exhibit G to the Default Service SMA includes a sample of the legal opinion of outside counsel that is sufficient for a Foreign Entity as Principal (Seller).
- If such RFP Bidder is not previously eligible, such RFP Bidder must submit these fully executed documents in a form acceptable to PECO for the Independent Evaluator to confirm

the creditworthiness assessment provided with the Part 1 Notification. If the RFP Bidder submits these fully executed documents and these documents are acceptable to PECO, the Independent Evaluator includes in the Part 2 Notification a confirmation of the creditworthiness assessment provided with the Part 1 Notification. If the RFP Bidder does not submit these documents, or if these documents are not acceptable to PECO, the Independent Evaluator provides with the Part 2 Notification a revised creditworthiness assessment that states that the RFP Bidder and the Foreign Entity as Principal are not granted unsecured credit.

- If such RFP Bidder is previously eligible, such RFP Bidder either: (i) must confirm that these documents remain valid; or (ii) must update any document that failed to remain valid. The Independent Evaluator confirms the creditworthiness assessment provided with the Part 1 Notification if the RFP Bidder all required documents are submitted and are acceptable to PECO. Otherwise, the Independent Evaluator provides with the Part 2 Notification a revised creditworthiness assessment that states that the RFP Bidder and the Foreign Entity as Principal are not granted unsecured credit.

V.5.5. The information required by this Section V.5 must be provided exclusively by completing Section 5 of the Part 2 Form, as further explained in Article VII.

**ARTICLE VI. Bid Submission**

- VI.1.1. The Independent Evaluator prepares an electronic Bid Form for each RFP Bidder qualified pursuant to a successful Part 1 Proposal. If the RFP Bidder cannot bid on all tranches available of a product because of the Load Cap to which such product belongs and because of tranches previously won by the RFP Bidder, the Bid Form reflects that fact. The Independent Evaluator sends at the same time instructions for completion of the Bid Form, for the optional encryption of the Bid Form, for electronic transfer of the completed Bid Form to the Independent Evaluator, for an alternate submission method for Bids in case of technical difficulties with the electronic transfer, as well as information used for authenticating the Bids, including the RFP Bidder's unique username, password, and security codes. The Independent Evaluator transmits these materials, the Part 1 Materials, by secure file transfer or sends these materials saved electronically to a CD by overnight delivery service within two (2) business days of the Part 1 Notification Date. The Independent Evaluator requires a confirmation of receipt of these materials by fax or email.
- VI.1.2. The exclusive method for submitting an RFP Bidder's Bids is the Bid Form. An RFP Bidder must fill out all required information on the Bid Form according to the instructions provided by the Independent Evaluator. An RFP Bidder may, but is not required to, encrypt its Bid Form. Encryption provides an additional layer of protection for the confidentiality of the RFP Bidder's data. An RFP Bidder must submit the Bid Form to the Independent Evaluator through a secure file transfer system according to the instructions provided by the Independent Evaluator. An RFP Bidder must fill out contact information on its Bid Form and the Independent Evaluator will use that information to confirm receipt of the Bids. All instructions noted in this Paragraph are included in the Part 1 Materials.
- VI.1.3. In case of technical difficulties while using the secure file transfer system, the Independent Evaluator will instruct the RFP Bidder to print the Bid Form and fax it to the Independent Evaluator. If the RFP Bidder does not have immediate fax capabilities, the Independent Evaluator will accept an email submission; however, the Independent Evaluator will recommend that the Bid

Form in this case be encrypted and the Independent Evaluator will note for the RFP Bidder that such transmission may not be secure. An RFP Bidder that is not able to use the secure file transfer system must advise the Independent Evaluator of that fact by phone and must at that time provide authenticating information. The Independent Evaluator will provide additional instructions for such a contingency that will be included with the Part 1 Materials.

- VI.1.4. All Bid Forms must be received between 10 AM and 12 PM (noon) on the Bid Date. No late Bid Forms will be accepted regardless of the method used by the RFP Bidder to submit its Bid Form.
- VI.1.5. A Bid for a tranche for any product is a price in U.S. Dollars per MWh, in the format \$xx.xx or \$xxx.xx, rounded to the nearest cent. The number of tranches bid on a product is the number of tranches of that product for which a Bid is provided.
- VI.1.6. A Bid that is not expressed in dollars per MWh will automatically be rejected. A Bid that has more than two (2) decimals will be automatically rounded to the nearest cent.
- VI.1.7. The RFP Bidder may not bid on less than a full tranche for a product. The RFP Bidder may not bid on fractions, portions, or parts of tranches.
- VI.1.8. The RFP Bidder may not submit any additional instructions, contingencies, or conditions on its Bids. Any such additional instructions, contingencies, or conditions will be ignored.
- VI.1.9. An RFP Bidder may not submit Bids that exceed the Load Caps and the Bid Form will include guidance for the RFP Bidder so that the RFP Bidder submits Bids that conform with the Load Caps. The Load Caps are described in Paragraph I.2.8.
- VI.1.10. The number of tranches bid for an RFP Bidder may not exceed the number of tranches supported by the Pre-Bid Letter of Credit. The amount of the Pre-Bid Letter of Credit is described in Paragraph V.2.1. The procedure used by the Independent Evaluator to modify the Bid Form is described in Paragraph VI.1.10.
- VI.1.11. Bids are evaluated on a price-only basis, in accordance with the process described in Section VII.2.



## ARTICLE VII. Process

### VII.1. Part 1 and Part 2 Proposals: Submission and Processing

- VII.1.1. The Independent Evaluator, for the purposes of this RFP, transmits all communications to the Representative of the RFP Bidder. In its Part 1 Proposal, the RFP Bidder elects whether to receive notifications from the Independent Evaluator by email or by fax. In its Part 1 Proposal, the RFP Bidder elects whether documents and manuals from the Independent Evaluator are transmitted by secure file transfer or are saved electronically to a CD that is sent by overnight delivery service. If the RFP Bidder elects to receive communications from the Independent Evaluator by email and secure file transfer, the Representative or the Officer of the RFP Bidder may designate up to three (3) Nominees who will also receive communications from the Independent Evaluator.
- VII.1.2. Any notification or written communication will be deemed received by the RFP Bidder at the time of delivery or transmission, provided that when delivery or transmission occurs after 6 PM on a business day or occurs on a day that is not a business day, receipt will be deemed to occur at 9 AM on the following business day.
- VII.1.3. The exclusive method of responding to the qualification standards for the Part 1 Proposal listed in Article IV of these RFP Rules is the use of the Part 1 Form. RFP Bidders that did not qualify in a previous solicitation under DSP II must use the Standard Part 1 Form provided as Appendix 3 of these RFP Rules to respond to the qualification standards described in Article IV. Previously qualified RFP Bidders may participate in an abbreviated Part 1 Proposal process by using the Short Part 1 Form provided as Appendix 4. The generic term "Part 1 Form" refers either to the Standard Part 1 Form or to the Short Part 1 Form. Responses to the qualification standards of Article IV that do not use the Part 1 Form will not be considered and the Part 1 Proposal will be considered deficient.
- VII.1.4. An RFP Bidder must provide contact information for the RFP Bidder, name an Officer of the RFP Bidder who designates a Representative of the RFP Bidder, make elections on the method that the Independent Evaluator will use to transmit notifications and to transmit documents to the RFP

Bidder, and make general representations as required by Section IV.1, exclusively by completing Section 1 of the Part 1 Form. An RFP Bidder must show compliance with the financial requirements of Section IV.2 exclusively by completing Section 2 of the Part 1 Form and by providing all documents supporting the financial information and credit information as requested in that section of the Part 1 Form. The RFP Bidder must provide all information to prepare the Default Service SMA and guaranty (if applicable), as required by Section IV.3, exclusively by completing Section 3 of the Part 1 Form. The RFP Bidder must show that it has all regulatory authorizations necessary for it to legally perform its obligations under the Default Service SMA and the Transaction Confirmations as required by Section IV.4, exclusively by completing Section 4 of the Part 1 Form. An RFP Bidder must make any additional representations required by Section IV.5 exclusively by completing Section 5 of the Part 1 Form. An RFP Bidder submitting a Proposal under an Agency Agreement must provide any additional information required by Section IV.6, exclusively by completing Section 6 of the Part 1 Form. A Foreign RFP Bidder that seeks to be granted unsecured credit under the terms of the Default Service SMA, or an RFP Bidder relying on the financial standing of a Foreign Entity, either an RFP Guarantor or a Principal, must provide any additional information required by Section IV.7, exclusively by completing Section 7 of the Part 1 Form.

VII.1.5. The Part 1 Proposal consists of one (1) electronic copy and two (2) hardcopy original Part 1 Forms and one (1) copy of all documents requested in the Part 1 Form and in Article IV of these RFP Rules. One (1) copy of the Part 1 Form, as well as any Draft Letter of Credit, must be submitted electronically in Microsoft Word, either on a CD that is included with the Part 1 Proposal or by email to the Independent Evaluator at [PecoProcurement@nera.com](mailto:PecoProcurement@nera.com). Any documents required by the Part 1 Form must be submitted either electronically (on a CD that is included with the Part 1 Proposal or by email to the Independent Evaluator at [Pecoprocurement@nera.com](mailto:Pecoprocurement@nera.com)) or in hard copy.

VII.1.6. An RFP Bidder must deliver its hardcopy Part 1 Forms and any documents that the RFP Bidder submits in hardcopy by certified mail, registered mail, hand delivery, or overnight delivery service to the Independent Evaluator by 12 PM (noon) on the Part 1 Date at the following address: NERA - Independent Evaluator, PECO Default Service Program RFPs, 1835 Market Street, Suite 1205,

Philadelphia, PA 19103. Photocopies and facsimiles of the Part 1 Form will not be considered. No late Part 1 Proposals will be accepted under any circumstances.

- VII.1.7. The Independent Evaluator receives and processes the Part 1 Proposals during the Part 1 Window. If a Part 1 Proposal is received by mail or email, the Independent Evaluator sends an acknowledgment to the RFP Bidder consisting of the first page of the Part 1 Form stamped with the time and the date that it was received; the Independent Evaluator sends such acknowledgment by email or fax, at the RFP Bidder's option. If a Part 1 Proposal is hand-delivered, the Independent Evaluator provides an acknowledgment to the individual making the delivery consisting of a photocopy of the first page of the Part 1 Form stamped with the time and the date that it was received. The Independent Evaluator only processes Part 1 Proposals during the Part 1 Window and, if the Part 1 Proposal arrives before the Part 1 Window opens the Independent Evaluator confirms receipt no later than on the first day of the Part 1 Window.
- VII.1.8. If the Part 1 Proposal arrives before 12 PM (noon) on any business day during the Part 1 Window, the Independent Evaluator sends the acknowledgment confirming receipt on the day the Part 1 Proposal is received with the results of an initial review. The initial review states either that the Part 1 Proposal is complete and is being considered, or the initial review lists items of the Part 1 Proposal that are deficient or require clarification. If a Part 1 Proposal arrives after 12 PM (noon) on any business day during the Part 1 Window prior to the Part 1 Date, the Independent Evaluator sends the acknowledgment along with the initial review by 12 PM (noon) of the next business day. The Independent Evaluator sends such acknowledgments by fax or email, at the RFP Bidder's option.
- VII.1.9. An RFP Bidder that submits a Draft Pre-Bid Letter of Credit will receive a review of any proposed modifications within two (2) business days. the Independent Evaluator sends such review by email or fax, at the RFP Bidder's option. The RFP Bidder can only submit one (1) Draft Pre-Bid Letter of Credit. Any review communicated to the RFP Bidder of the Draft Pre-Bid Letter of Credit is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this review. All modifications accepted to the Standard Pre-Bid Letter of Credit for the benefit of a single RFP Bidder will be made available to all RFP Bidders on an optional basis. All such modifications will be

posted in a single document on the RFP Web site that will be updated daily during the Part 1 Window. By 12 PM (noon) on the day the Part 2 Window opens, the final document containing all accepted modifications will be posted.

- VII.1.10. An RFP Bidder that submits a Draft Post-Bid Letter of Credit will receive a review of any proposed modifications within seven (7) business days. The Independent Evaluator sends such review by email or fax, at the RFP Bidder's option. The RFP Bidder can only submit one (1) Draft Post-Bid Letter of Credit. Any review communicated to the RFP Bidder of the Draft Post-Bid Letter of Credit is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this review. All modifications accepted to the Standard Post-Bid Letter of Credit for the benefit of a single RFP Bidder will be made available to all RFP Bidders on an optional basis. All such modifications will be posted in a single document on the RFP Web site that will be posted no later than 6 PM on the Part 2 Date.
- VII.1.11. An RFP Bidder submitting a Proposal under an Agency Agreement that submits a Draft Officers' Certificate will receive an evaluation of this document by the Part 1 Notification Date. The Independent Evaluator sends such review by email or fax, at the RFP Bidder's option. Any evaluation communicated to the RFP Bidder of the Draft Officers' Certificate is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this evaluation.
- VII.1.12. A Foreign RFP Bidder that submits a draft of any of the documents described in Paragraph IV.7.2 will receive an evaluation of these documents by the Part 1 Notification Date. The Independent Evaluator sends such review by email or fax, at the RFP Bidder's option. Any evaluation communicated to the RFP Bidder of such draft documents is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this evaluation.
- VII.1.13. An RFP Bidder that relies on the financial standing of a Foreign Entity as RFP Guarantor and that submits a draft of any of the documents described in Paragraph IV.7.3 will receive an evaluation of these documents along by the Part 1 Notification Date. The Independent Evaluator sends such review by email or fax, at the RFP Bidder's option. Any evaluation communicated to the RFP Bidder of such draft documents is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this evaluation.

- VII.1.14. An RFP Bidder submitting a Proposal under an Agency Agreement that relies on the financial standing of a Foreign Entity as Principal and that submits a draft of any of the documents described in Paragraph IV.7.4 will receive an evaluation of these documents by the Part 1 Notification Date. The Independent Evaluator sends such review by email or fax, at the RFP Bidder's option. Any evaluation communicated to the RFP Bidder of such draft documents is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this evaluation.
- VII.1.15. The RFP Bidder includes, in its Part 1 Proposal, a certification from the Officer of the RFP Bidder that the RFP Bidder is bidding independently and is not acting in concert with another RFP Bidder. The Independent Evaluator may request additional information to ascertain that the RFP Bidder is bidding independently of other RFP Bidders. An RFP Bidder that is not bidding independently of another RFP Bidder may fail to qualify.
- VII.1.16. If an RFP Bidder receives any notice from the Independent Evaluator that any item of the Part 1 Proposal is deficient or requires clarification, the RFP Bidder has until 12 PM (noon) on the Part 1 Date, or until 6 PM on the business day following the business day during which the Independent Evaluator transmits such notice, whichever comes later, to respond. If the RFP Bidder does not correct or adequately explain the deficiency within the time allowed, the Part 1 Proposal may be rejected. The Independent Evaluator sends such notice by fax or email, at the RFP Bidder's option.
- VII.1.17. An RFP Bidder meets the qualification standards of this RFP if its Part 1 Proposal is received on or before 12 PM (noon) on the Part 1 Date, if its Part 1 Proposal is complete, and if its Part 1 Proposal fully complies with all requirements of Article IV.
- VII.1.18. The Independent Evaluator informs each RFP Bidder of whether it has met all qualification standards of Article IV through a Part 1 Notification that the Independent Evaluators sends no later than 6 PM on the Part 1 Notification Date.
- VII.1.19. If the RFP Bidder has a successful Part 1 Proposal, within two (2) business days of the Part 1 Notification Date, the Independent Evaluator transmits to the RFP Bidder a number of documents and instructions, called the Part 1 Materials. The Part 1 Materials include: (i) the Bid Form; (ii) instructions for filling out and optionally encrypting the Bid Form; (iii) instructions for the submission of the completed Bid Form from the RFP Bidder to the Independent Evaluator by secure

file transfer system; (iv) instructions for an alternate method for submission of the Bids in case of technical difficulties with the secure file transfer system; (v) an invitation to a training session on the Bid submission process; and (vi) a username, a password, and security codes to be used for Bid submission uniquely by that RFP Bidder. For an RFP Bidder that is required to submit a guaranty with the Part 2 Proposal, the Part 1 Materials also include the guaranty. For an RFP Bidder that is required to submit the Default Service SMA documents with the Part 2 Proposal, the Part 1 Materials also include such documents. The Part 1 Materials may also include other training materials or important notifications to RFP Bidders. The Independent Evaluator transmits the Part 1 Materials by secure file transfer or sends a CD to which the Part 1 Materials are saved electronically by overnight delivery service, at the RFP Bidder's option.

VII.1.20. If an RFP Bidder fails to qualify, the Independent Evaluator notifies the RFP Bidder of that fact and returns one (1) copy of the Part 1 Form by overnight delivery service. The Independent Evaluator also sends the notification by fax or email, at the RFP Bidder's option.

VII.1.21. The Independent Evaluator requires an acknowledgment from the RFP Bidder that the RFP Bidder has received intact the information necessary to submit Bids and that no one but authorized personnel of the RFP Bidder has had access to this information. The RFP Bidder may make this acknowledgment by fax or email, at the RFP Bidder's option. The RFP Bidder's Bids are only evaluated if this acknowledgment is received.

VII.1.22. The exclusive method of responding to the requirements for Part 2 Proposals listed in Article V of these RFP Rules is the use of the Part 2 Form provided as Appendix 7. Responses to the requirements of Article V that do not use the Part 2 Form will not be considered and the Part 2 Proposal will be considered deficient.

VII.1.23. An RFP Bidder must confirm its contact information and make any general representations required by Section V.1 exclusively by completing Section 1 of the Part 2 Form. An RFP Bidder must submit the Pre-Bid Letter of Credit as required by Section V.2 and as instructed in Section 2 of the Part 2 Form. An RFP Bidder, if required to confirm that it is submitting documents related to the Default Service SMA by Section V.3, will also be instructed to do so by Section 3 of the Part 2 Form. An RFP Bidder submitting a Proposal under an Agency Agreement must submit additional

documents as required by Section V.4 and as instructed in Section 4 of the Part 2 Form. A Foreign RFP Bidder that seeks to be granted unsecured credit under the terms of the Default Service SMA, or an RFP Bidder that seeks to rely on the financial standing of a Foreign Entity (either an RFP Guarantor or a Principal), must submitting any additional documents as required by Section V.5 and as instructed by Section 5 of the Part 2 Form. If the RFP Bidder submitted the Part 2 Form for early processing, the Officer of the RFP Bidder will be required to acknowledge that the submission of the documents specified by Article V is required. Responses to the requirements of Article V that do not use the Part 2 Form will not be considered and the Part 2 Proposal will be considered deficient.

VII.1.24. The Part 2 Proposal consists of electronic copy and two (2) hardcopy original Part 2 Forms, the Pre-Bid Letter of Credit, as well as one (1) hard copy of any other document requested of the RFP Bidder in the Part 2 Form and in Article V of these RFP Rules. In particular:

- For RFP Bidders that are not Default Suppliers, the Part 2 Proposal must include two (2) signed originals of the Default Service SMA, including two (2) signed originals of Exhibit J, the PJM Declaration of Authority.
- For an RFP Bidder relying on the financial standing of an RFP Guarantor, except in the case of a Default Supplier whose RFP Guarantor already has with PECO a guaranty for its full Unsecured Credit Limit, the Part 2 Proposal also includes two (2) signed originals of the guaranty.
- For an RFP Bidder submitting a Proposal under an Agency Agreement, the Part 2 Proposal also includes an executed Officers' Certificate.
- For an RFP Bidder that: (i) is submitting a Proposal under an Agency Agreement and relying on the financial standing of a Foreign Entity as Principal; or (ii) is a Foreign RFP Bidder; or (iii) relies on the financial standing of a Foreign Entity as RFP Guarantor; the Part 2 proposal also includes any documents required by Section V.5 as a condition of being granted unsecured credit. These documents may include an executed legal opinion of outside counsel and a sworn certificate of the corporate secretary.

- VII.1.25. An RFP Bidder must deliver its original hardcopy Part 2 Forms and all documents required by the Part 2 Proposal by certified mail, registered mail, hand delivery or overnight delivery service to the Independent Evaluator by 12 PM (noon) on the Part 2 Date at the following address: NERA - Independent Evaluator, PECO Default Service Program RFPs, 1835 Market Street, Suite 1205, Philadelphia, PA 19103. Photocopies and facsimiles of the Part 2 Form will not be considered. No late Part 2 Proposals will be accepted under any circumstances.
- VII.1.26. Each solicitation has a Part 2 Window during which Part 2 Proposals may be submitted. The last day of the Part 2 Window is the Part 2 Date. RFP Bidders must provide the Part 2 Proposal to the Independent Evaluator by 12 PM (noon) on the Part 2 Date. RFP Bidders also have the option to submit the Part 2 Form during the Part 1 Window for early processing. If a Part 2 Proposal is received by post, the Independent Evaluator sends an acknowledgment to the RFP Bidder consisting of the first page of the Part 2 Form stamped with the time and the date that it was received; the Independent Evaluator sends such acknowledgment by email or fax, at the RFP Bidder's option. If a Part 2 Proposal is hand-delivered, the Independent Evaluator provides an acknowledgment to the individual making the delivery consisting of a photocopy of the first page of the Part 2 Form stamped with the time and the date that it was received. The Independent Evaluator confirms receipt as long as the Part 2 Proposal arrives after the opening of the Part 1 Window. However, Part 2 Proposals are only processed during the Part 1 Window or during the Part 2 Window.
- VII.1.27. If the Part 2 Proposal arrives before 12 PM (noon) on any business day after the opening of the Part 1 Window, the Independent Evaluator sends the acknowledgment confirming receipt on the day the Part 2 Proposal is received with the results of an initial review. The initial review states either that the Part 2 Proposal is complete and is being considered, or the initial review lists items of the Part 2 Proposal that are deficient or require clarification. If a Part 2 Proposal arrives after 12 PM (noon) on any business day during the Part 2 Window prior to the Part 2 Date, the Independent Evaluator sends the acknowledgment along with the initial review by 12 PM (noon) of the next business day. The Independent Evaluator sends such acknowledgments by fax or email, at the RFP Bidder's option.



- VII.1.28. An RFP Bidder's Part 2 Proposal is automatically deficient if the Pre-Bid Letter of Credit proposes or includes modifications to the Standard Pre-Bid Letter of Credit included as Appendix 8 of these RFP Rules other than those accepted modifications posted in a single document on the RFP Web site. If an RFP Bidder receives notice from the Independent Evaluator that its Pre-Bid Letter of Credit is deficient, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. The Independent Evaluator sends such notices by fax or email, at the RFP Bidder's option.
- VII.1.29. The amount of the Pre-Bid Letter of Credit must be at least: \$250,000 per tranche bid on products for the RES, SC, and MC Classes and \$125,000 per tranche bid on products for the LC&I Class. The Guaranty Amount for RFP Bidders that are not Default Suppliers must be equal or exceed \$600,000 per tranche bid. The Guaranty Amount for RFP Bidders that are Default Suppliers must be equal or exceed the lesser of: (i) the Guaranty Amount of any current guaranty with PECO under a Default Service SMA, plus an amount equal to \$600,000 per tranche bid; (ii) the Unsecured Credit Limit of the RFP Guarantor. A Default Supplier whose RFP Guarantor has a current guaranty with PECO under a Default Service SMA for the RFP Guarantor's Unsecured Credit Limit is not required to submit a guaranty. An RFP Bidder's Part 2 Proposal is automatically deficient if the amount of the Pre-Bid Letter of Credit is not consistent with the Guaranty Amount. If an RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. The Independent Evaluator provides such notice by fax or email, at the RFP Bidder's option.
- VII.1.30. For an RFP Bidder submitting a Proposal under an Agency Agreement that provides the documents required under Paragraph V.4.1, PECO and the Independent Evaluator will determine whether the documents provided are sufficient, without any liability or obligation to the RFP Bidder or its Principal(s). If the documents are insufficient and the RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until

12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the documents remain insufficient, the RFP Bidder's Part 2 Proposal may be rejected. The Independent Evaluator provides such notice by fax or email, at the RFP Bidder's option.

- VII.1.31. For a Foreign RFP Bidder that submits the documents required under Paragraph V.5.2, PECO and the Independent Evaluator will determine whether the documents provided are acceptable to PECO, without any liability or obligation to the Foreign RFP Bidder. If the documents are not acceptable to PECO and the RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the deficiency remains, the Independent Evaluator provides with the Part 2 Notification a revised creditworthiness assessment that states that the Foreign RFP Bidder is not granted unsecured credit. If the Foreign RFP Bidder had submitted these documents with its Part 1 Proposal for evaluation and if the Foreign RFP Bidder conforms the documents submitted with the Part 2 Proposal to the evaluation provided with its Part 1 Notification, then these documents will automatically be considered acceptable to PECO. The Independent Evaluator provides such notices by fax or email, at the RFP Bidder's option.
- VII.1.32. For an RFP Bidder relying on the financial standing of a Foreign Entity as RFP Guarantor and that submits the documents required under Paragraph V.5.3, PECO and the Independent Evaluator will determine whether the documents provided are acceptable to PECO, without any liability or obligation to the RFP Bidder or the RFP Guarantor. If the documents are acceptable to PECO and the RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the deficiency remains, the RFP Bidder the Independent Evaluator provides with the Part 2 Notification a revised creditworthiness assessment that states that the RFP Guarantor is not granted unsecured credit. The RFP Bidder may not rely on the financial standing of the RFP Guarantor and the Independent Evaluator may request additional

information regarding the RFP Bidder under Section IV.2. If the RFP Bidder had submitted these documents with its Part 1 Proposal for evaluation and if the RFP Bidder conforms the documents submitted with the Part 2 Proposal to the evaluation provided with its Part 1 Notification, then these documents will automatically be considered acceptable to PECO. The Independent Evaluator provides such notices by fax or email, at the RFP Bidder's option.

VII.1.33. For an RFP Bidder relying on a Foreign Entity as Principal that provides the documents required under Paragraph V.5.4, PECO and the Independent Evaluator will determine whether the documents provided are acceptable to PECO, without any liability or obligation to the RFP Bidder or its Principal(s). If the documents are not acceptable to PECO and the RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the deficiency remains, the Independent Evaluator provides with the Part 2 Notification a revised creditworthiness assessment that states that the RFP Bidder and its Principal are not granted unsecured credit. If the RFP Bidder had submitted these documents with its Part 1 Proposal for evaluation and if the RFP Bidder conforms the documents submitted with the Part 2 Proposal to the evaluation provided with its Part 1 Notification, then these documents will automatically be considered acceptable to PECO. The Independent Evaluator provides such notices by fax or email, at the RFP Bidder's option.

VII.1.34. With the exceptions noted in the Paragraphs of this section, if an RFP Bidder receives any notice from the Independent Evaluator that an item of the Part 2 Proposal is deficient or requires clarification, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the RFP Bidder does not correct or adequately explain the deficiency within the time allowed, the Part 2 Proposal may be rejected.

VII.1.35. An RFP Bidder's Part 2 Proposal is successful if its Part 2 Proposal is received on or before 12 PM (noon) on the Part 2 Date, if its Part 2 Proposal is complete, and if its Part 2 Proposal fully complies with the requirements of Article V of these RFP Rules.

VII.1.36. An RFP Bidder that submits a Part 2 Proposal will be notified whether it is eligible to submit Bids no later than 6 PM on the Part 2 Notification Date. The Independent Evaluator provides such notification by fax or email, at the RFP Bidder's option.

VII.1.37. If the RFP Bidder has not qualified to submit Bids, the Independent Evaluator notifies the RFP Bidder of that fact, returns one (1) copy of the Part 2 Form, and returns all documents submitted for the Part 2 Proposal except for the Pre-Bid Letter of Credit by overnight delivery service. The Independent Evaluator also provides the notification by fax or email, at the RFP Bidder's option.

## **VII.2. Bids: Submission, Processing, and Evaluation**

VII.2.1. An RFP Bidder must submit its Bids in accordance with the instructions provided in the Part 1 Materials and in accordance with the requirements of Article VI. An RFP Bidder's Bids must be received between 10 AM and 12 PM (noon) on the Bid Date. The requirements for Bid submission are the same for all RFP Bidders, regardless of whether they were previously eligible to submit Bids.

VII.2.2. The Bid Form, as provided to each RFP Bidder with the Part 1 Notification, is the exclusive method for the submission of Bids. A sample of the Bid Form is provided for illustrative purposes as Appendix 9 of these RFP Rules. The Bid Form is prepared specifically for each RFP Bidder. The Bid Form must be filled out completely and transferred according to the instructions provided by the Independent Evaluator in the Part 1 Materials. The RFP Bidder may encrypt the Bid Form using the instructions provided by the Independent Evaluator. Bids on any Bid Form that is incompletely or inconsistently filled out will be considered deficient and will not be evaluated.

VII.2.3. An RFP Bidder submits its Bids electronically, by transferring its Bid Form through a secure file transfer system. The RFP Bidder must use the username and the password provided by the Independent Evaluator to access the secure file transfer system. The Independent Evaluator supplies a security code that the RFP Bidder may use to encrypt the Bid Form.

VII.2.4. An RFP Bidder that must resort to an alternate method for submitting its Bid Form by fax because of technical difficulties with the secure file transfer system must follow the instructions provided by the Independent Evaluator for this contingency. These instructions will include a representative of

the RFP Bidder phoning the Independent Evaluator to advise the Independent Evaluator of the use of an alternate method for the submission of the Bid Form and to provide authenticating information. The primary alternate submission method is fax; the Independent Evaluator will accept an email submission but the Independent Evaluator will recommend that the Bid Form in this case be encrypted and the Independent Evaluator will note for the RFP Bidder that such transmission may not be secure.

- VII.2.5. All Bid Forms must be received between 10 AM and 12 PM (noon) on the Bid Date. No late Bid Forms will be considered regardless of the method used by the RFP Bidder to submit its Bid Form.
- VII.2.6. If an RFP Bidder submits its Bid Form more than once between 10 AM and 12 PM (noon) on the Bid Date, the last Bid Form submitted in accordance with all requirements of the Bid Form and of Article VI automatically supersedes all previously submitted Bid Form(s).
- VII.2.7. The Independent Evaluator acknowledges receipt of the Bid Form with each RFP Bidder by telephone. The telephone number used is the telephone number provided on the Bid Form. If the Bid Form received by the Independent Evaluator is not encrypted by the RFP Bidder, the Independent Evaluator will require that the RFP Bidder provide the security code to the Independent Evaluator before the Bid Form is acknowledged and evaluated. The Independent Evaluator makes this acknowledgment within fifteen (15) minutes of receipt of the Bid Form. An RFP Bidder that does not receive an acknowledgment within fifteen (15) minutes of submitting its Bid Form should assume technical difficulties, should proceed to submitting its Bid Form by and alternate method, and should phone the Independent Evaluator immediately.
- VII.2.8. If the Bid Form received by the Independent Evaluator is incomplete or inconsistent with all requirements of the Bid Form and of Article VI, the Independent Evaluator will advise the RFP Bidder of that fact when confirming receipt of the Bid Form. The RFP Bidder may correct and resubmit the Bid Form as long as the Bid Form is received between 10 AM and 12 PM (noon) on the Bid Date. If the corrected Bid Form is not received between 10 AM and 12 PM (noon) on the Bid Date, the Bids on the Bid Form will not be evaluated.
- VII.2.9. It is the responsibility of the RFP Bidder to ensure that a completely and consistently filled out Bid Form is submitted between 10 AM and 12 PM (noon) on the Bid Date. The Independent Evaluator

will hold a training session for RFP Bidders to practice the Bid submission process. RFP Bidders are encouraged to participate to minimize the possibility of technical difficulties with the submission of their Bid Forms.

VII.2.10. The Independent Evaluator will verify that the Pre-Bid Letter of Credit is in an amount sufficient to support the number of tranches bid by each RFP Bidder. If an RFP Bidder's Pre-Bid Letter of Credit is insufficient to support the number of tranches bid by the RFP Bidder, the Independent Evaluator will contact the RFP Bidder on a best efforts basis. The RFP Bidder may correct and resubmit the Bid Form as long as the Bid Form is received between 10 AM and 12 PM (noon) on the Bid Date. If the Independent Evaluator is not able to contact the RFP Bidder in time or if the RFP Bidder has not submitted a revised Bid Form between 10 AM and 12 PM (noon) on the Bid Date, the Independent Evaluator will modify the Bid Form. The Independent Evaluator will determine for such RFP Bidder the greatest number of whole tranches that its Pre-Bid Letter of Credit is sufficient to support. The Independent Evaluator will strike a Bid from a Bid Form for any tranche that is not supported by the Pre-Bid Letter of Credit. The Independent Evaluator will remove a Bid first from the product where there is most competition, as measured by the ratio of the number of tranches bid to the number of tranches needed. For that product, the Independent Evaluator will start with the tranche that has the highest Bid. If more than one RFP Bidder submitted Pre-Bid Letters of Credit that are insufficient to support the number of tranches bid by each such RFP Bidder, the Independent Evaluator will first modify the Bid Form from the RFP Bidder whose Bid Form is received last.

VII.2.11. By submitting a Proposal in response to an RFP, each RFP Bidder is authorizing the Independent Evaluator to modify the RFP Bidder's Bid Form as specified Paragraph VII.2.10. Each RFP Bidder acknowledges and accepts that the methodology may result in removal of a Bid that would have been approved by the Commission or the retention of a Bid that was not approved by the Commission.

VII.2.12. The Bids supported by adequate Pre-Bid Letters of Credit will be evaluated on a price-only basis. The Bids for each product will be ranked from lowest to highest price until all Bids are ranked or until the number of Bids that are ranked equals the number of tranches available for the product.

- VII.2.13. If two or more RFP Bidders submit Bids that are identical for a product, these Bids will be considered “Tied Bids” at that price. The Independent Evaluator will use the tie-breaking procedure described in the next paragraph if: i) in total, more Bids must be ranked for a product than there are tranches available for that product; ii) the tie among two or more Tied Bids must be broken in order to determine the RFP Bidders that have submitted the lowest Bids on that product.
- VII.2.14. The tie-breaking procedure will award tranches in the following order: (1) to the RFP Bidder which, if awarded the tranche, would hold the fewest tranches for the product for any one month during the product term; (2) to the RFP Bidder which, if awarded the tranche, would hold the fewest tranches for the Class in question for any one month during the product term; and then (3) to the RFP Bidder which, if awarded the tranche, would hold the fewest tranches in aggregate for any one month during the product term. If a tie were to remain, it would be broken by random selection.
- VII.2.15. An RFP Bidder acting in concert with another RFP Bidder may be disqualified by the Independent Evaluator on behalf of the Company in its sole and exclusive discretion. The RFP Bidder will be considered to have made a material misrepresentation in its Part 2 Proposal and payment under the Pre-Bid Letter of Credit can be demanded by PECO.
- VII.2.16. For each product in this solicitation, a Default Supplier will be paid a supplier-specific price for each MWh of electric load served as specified in the Transaction Confirmation for that product. The supplier-specific price will be the average of approved Bids for that product.

### **VII.3. Post-Bid Process**

- VII.3.1. The Independent Evaluator phones each RFP Bidder that has submitted Bids by 6 PM on the Bid Date and identifies the RFP Bidder’s Bids that are provided to the Commission as winning Bids. The Independent Evaluator also provides a notification by fax or email, at the RFP Bidder’s option.
- VII.3.2. The Independent Evaluator presents the results of the solicitation to the PUC on the first business day after the Bid Date in a confidential report. This confidential report will include the winning Bids determined during the evaluation. The Independent Evaluator also provides this confidential report to PECO and the Pennsylvania Office of Consumer Advocate (“OCA”) in redacted format.

- VII.3.3. The PUC will have one (1) business day to consider the report of the Independent Evaluator and to approve or reject each of the winning Bids. If the PUC does not act within one (1) business day, the winning Bids are deemed to be approved.
- VII.3.4. The Independent Evaluator notifies all RFP Bidders that have approved Bids. Such RFP Bidders are called Default Suppliers. When referring specifically to RFP Bidders that were not already Default Suppliers, the term New Default Suppliers will be used. When referring specifically to RFP Bidders that were already Default Suppliers, the term Existing Default Suppliers will be used. The Independent Evaluator provides to PECO the name of each Default Supplier, the number of tranches won by each Default Supplier in this solicitation, and the Default Supplier's price for each product in this solicitation. The price for each such Default Supplier and for a given product is the average of the Default Supplier's approved Bids for that product in this solicitation.
- VII.3.5. If an RFP Bidder is not awarded tranche(s), within three (3) business days of the Bid Date, the Independent Evaluator will destroy the two (2) signed originals of the Default Service SMA, and (if applicable) the two (2) signed originals of the guaranty to the RFP Bidder. The Independent Evaluator will send a notification to such RFP Bidder that the Independent Evaluator does not retain these documents. At the request of the RFP Bidder, the Independent Evaluator will return the signature pages rather than destroying the documents.
- VII.3.6. For New Default Suppliers, PECO executes the two (2) originals of the Default Service SMA, including the PJM Declaration of Authority, by the third business day after the Bid Date. PECO sends one (1) original Default Service SMA to the New Default Supplier.
- VII.3.7. For Default Suppliers that rely on the financial standing of an RFP Guarantor, PECO executes the two (2) originals of the guaranty by the third business day after the Bid Date. PECO sends one (1) original guaranty to the Default Supplier. For an Existing Default Supplier, PECO returns at the same time any existing guaranty that PECO holds for the Default Supplier.
- VII.3.8. By 12 PM (noon) of the third business day after the Bid Date, PECO partially executes all Transaction Confirmations for each Default Supplier and sends by fax one (1) copy of each Transaction Confirmation to the Default Supplier. PECO also sends at that time three (3) partially executed originals of each Transaction Confirmation by overnight delivery service to the Default



Supplier. PECO also provides a copy of Exhibit I with the Transaction Confirmation(s), which specifies the AEPS percentage obligations in effect on the Bid Date for the period covered by each Transaction Confirmation. There is one (1) Transaction Confirmation for each product, for each approved Default Supplier, and for each solicitation.

- VII.3.9. By 2 PM on the fourth business day after the Bid Date, the Default Supplier executes each Transaction Confirmation and sends a copy by fax of all Transaction Confirmations to PECO. The Officer of the Default Supplier named in the Part 1 Proposal or the Designee is expected to sign the Transaction Confirmation(s). If these individuals are unavailable to sign the Transaction Confirmation(s), the Default Supplier will advise PECO of this fact, will name another individual to sign the Transaction Confirmation(s), and will confirm that this individual is an officer, a director, or an individual otherwise authorized to undertake contracts (including the Default Service SMA) and bind the Default Supplier. The Default Supplier also sends to PECO two (2) originals of each Transaction Confirmation by overnight delivery service.
- VII.3.10. As provided in the PUC's directive dated October 12, 2010 (Docket No. M-2009-2082042), the Independent Evaluator will release, within fifteen (15) days of the close of the solicitation, the weighted average price and the percentage of load represented by each tranche for each product procured through this RFP. The Independent Evaluator will issue an announcement on behalf of PECO with this information and the announcement will also be posted to the RFP Web site.
- VII.3.11. Within fifteen (15) days of the close of the solicitation, the Independent Evaluator provides to PECO a report on the solicitation. This report is based on the confidential report provided to the Commission, except that no losing bid information specific to a particular RFP Bidder is provided and that any information that an RFP Bidder may consider confidential or proprietary is also redacted.
- VII.3.12. As provided in the PUC's directive dated October 12, 2010 (Docket No. M-2009-2082042), PECO will continue to provide a default service rate calculation model. The model shows the methodology for translating RFP results into default service rates. This calculation model is posted to the PECO Web site:

<https://www.peco.com/CustomerService/RatesandPricing/EnergyChoice/Pages/PricetoCompare.aspx>.

#### **VII.4. Personnel and Confidentiality**

- VII.4.1. Any information provided by an RFP Bidder in its Part 1 Proposal is provided on a confidential basis to the Independent Evaluator and may be provided on a confidential basis to the Commission Staff. PECO representatives will review the information provided to fulfill the requirements of Section IV.2, Section IV.3, Section IV.6, and Section IV.7 and will participate in the evaluation of the creditworthiness of each RFP Bidder.
- VII.4.2. Any information provided by an RFP Bidder in its Part 2 Proposal is provided on a confidential basis to the Independent Evaluator, and may be provided on a confidential basis to the Commission Staff. PECO representatives will review the Pre-Bid Letter of Credit with the name of the RFP Bidder and the amount redacted and will participate in the evaluation of this Pre-Bid Letter of Credit. PECO representatives will also review the documents provided to fulfill the requirements of Section V.4 and Section V.5.
- VII.4.3. The Independent Evaluator and representatives from PECO involved in the evaluation of Proposals will consider all data and information provided by RFP Bidders in response to this RFP to be confidential and will attempt to limit its disclosure to the public in accordance with the provisions of this Section. PECO will also take reasonable action to ensure that its employees, representatives and agents authorized to consider and evaluate all Proposals protect the confidentiality of such data and information. Each representative of the Independent Evaluator and PECO that has access to any portion of the Proposals is required to sign a Confidentiality Statement in the form of Appendix 11 to these RFP Rules prior to evaluation of any portion of the Proposals. The list of all signatories is available to an RFP Bidder upon request.
- VII.4.4. However, absolute protection from public disclosure of the RFP Bidders' data and information filed in response to this RFP cannot be provided and is not intended. By submitting a Proposal in response to this RFP, each RFP Bidder acknowledges and agrees to the limitations of the confidentiality provisions set forth in this Section.

VII.4.5. In addition, the RFP Bidders' data and information filed in response to the RFP will be disclosed if required by any federal, state or local agency (including, without limitation, the Commission) or by a court of competent jurisdiction. PECO or the Independent Evaluator will notify the RFP Bidder in advance of such disclosure and cooperate with such RFP Bidder, to the extent deemed reasonable by PECO, and at the expense of the RFP Bidder, to prevent the disclosure of such materials. In any event, PECO, its employees, and agents including the Independent Evaluator will not be responsible to the RFP Bidders or any other party or liable for any disclosure of such designated materials before, during or subsequent to this RFP.

## **ARTICLE VIII. Reserved Rights**

VIII.1.1. PECO will not be liable to any RFP Bidder or any other party for failure to execute a Default Service SMA or any Transaction Confirmation. Nothing herein may be construed to bind PECO unless and until the Commission has approved winning Bids, and the Default Service SMA and each Transaction Confirmation with an approved Default Supplier has been executed and is effective. Once effective, it is the Default Service SMA and not the RFP Rules or any documents relating thereto that will govern the relationship between and the responsibilities of the parties.

VIII.1.2. The Independent Evaluator reserves the right to reject Proposals submitted in response to this RFP that are incomplete, or do not conform with the requirements of this RFP, or are submitted beyond the deadline for submission, or are submitted by an RFP Bidder that tries to unduly influence in any way the evaluation process.



# **DEFAULT SERVICE PROGRAM SUPPLY MASTER AGREEMENT**



## Guaranty Process

This Guaranty Process has two parts with two distinct purposes. First, the Guaranty Process allows a prospective supplier unable to use the Form of Guaranty provided as Exhibit F to the Default Service Program Supply Master Agreement (“Default Service 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 Form of Guaranty to propose modifications to the Form of 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 Form of 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 Form of 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 Form of Guaranty; and
  - c. whether the alternate guaranty form includes defenses in favor of the guarantor not found in the Form of Guaranty.

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

## **Appendix 2 to the RFP Rules**

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 II 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). To clarify the meaning of the term "unconditional guaranty of payment", sample language is provided in the last section of this document. The 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



## Appendix 2 to the RFP Rules

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 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 SMA and the alternate guaranty form; or
- d. that the 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 12 PM (noon<sup>1</sup>) on August 17, 2012. Materials must be submitted electronically by email to the Independent Evaluator at [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com).

By August 21, 2012, 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 August 23, 2012. The deadline for resubmitting the alternate guaranty form and any other supporting documentation is 6 PM on August 23, 2012. The Independent Evaluator will advise prospective suppliers of the final decision with respect to the alternate guaranty form in writing on or before August 24, 2012.

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<sup>1</sup> All times are Eastern Prevailing Times.

**Appendix 2 to the RFP Rules**

<b>Timetable for Submission of Alternate Guaranty Forms</b>	
Deadline to submit alternate guaranty form and all required documentation	Noon on Friday, August 17, 2012
Independent Evaluator informs prospective suppliers of any required changes	Tuesday, August 21, 2012
Deadline to submit required modifications or revisions to the alternate guaranty form or other required documents	6PM on Thursday, August 23, 2012
Deadline to submit revised enforceability opinion	6PM on Thursday, August 23, 2012
Independent Evaluator informs prospective suppliers of PECO's decision	Friday, August 24, 2012

## 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 Default Service SMA, irrespective of any claim or dispute as to the Default Service SMA's validity, regularity or enforceability, or the lack of authority of the RFP Bidder to enter into the Default Service 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 Form of Guaranty**

A prospective supplier can utilize the safe harbor provided by the Form of Guaranty appended as Exhibit F to the SMA. This section describes the process by which a prospective supplier may request modifications to this Form of Guaranty.

A prospective supplier may request modifications to the Form of 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 Form of Guaranty by submitting a Draft Guaranty using substantially the Form of Guaranty and indicating clearly any and all modifications to the Form of Guaranty. A Draft Guaranty that does not substantially use the Form of 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 Form of Guaranty will be posted to the RFP Web site. All modifications accepted to the Form of Guaranty for the benefit of a single prospective supplier will be made available to all prospective suppliers using the Form of Guaranty on an optional basis.

### **Timetable**

Prospective suppliers that wish to propose modifications to the Form of 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](mailto:pecoprocurement@nera.com).

The deadline to submit proposed modifications to the Form of Guaranty is 12 PM (noon) on August 17, 2012. By August 24, 2012, 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 Web site by 6 PM on August 24, 2012.

<b>Timetable for Process to Propose Modifications to the Form of Guaranty</b>	
Deadline to submit proposed modifications to the Form of Guaranty	Noon on Friday, August 17, 2012
Independent Evaluator informs proposing parties of PECO's decision and posts document containing all acceptable modifications	Friday, August 24, 2012



**STANDARD PART 1 FORM  
DEFAULT SERVICE PROGRAM  
REQUEST FOR PROPOSALS  
PART 1 DATE: October 24, 2012**

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PECO Energy Company ("Company" or "PECO") is intending to obtain full requirements electric supply to meet a portion of its obligations as Default Service Provider through this Request for Proposals ("RFP").

This Standard Part 1 Form is the only form that may be used to submit a Part 1 Proposal if you have not submitted a successful Part 1 Proposal in a previous solicitation for this RFP.

Before completing this Part 1 Form, please review the RFP, including the Default Service Program Supply Master Agreement, so that you understand the conditions under which the RFP will be conducted. These documents are posted at [www.pecoprocmnt.com](http://www.pecoprocmnt.com).

By submitting a Part 1 Proposal in response to this RFP, you are agreeing to all terms and conditions of this RFP.

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*Any information provided by an RFP Bidder in this Part 1 Proposal is provided on a confidential basis to the Independent Evaluator, and may be provided on a confidential basis to the Staff of the Pennsylvania Public Utility Commission. PECO representatives will review the information provided to fulfill the requirements of Section 2, Section 3, Section 6, and Section 7, and will participate in the evaluation of the creditworthiness of each RFP Bidder. Information regarding the content or status of any Part 1 Proposal will not be released publically or to any individual RFP Bidder during the evaluation process.*

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## INSTRUCTIONS FOR PROPOSAL

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RFP Bidders submit this Part 1 Form and all documents required herein to respond to the qualification standards for the RFP.

This Part 1 Form must be used to submit a Part 1 Proposal by all RFP Bidders that have not submitted a successful Part 1 Proposal in a previous solicitation under DSP II.

### **Please complete all sections.**

#### **I. Part 1 Proposal Submission**

An RFP Bidder must:

- Submit **two (2) original** completed Part 1 Forms (with original signatures) by mail;
- Submit **one (1) electronic copy** (on a CD via mail or by email to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com)) of the completed Part 1 Form in **Microsoft Word**;
- Submit **one (1) copy** (one hard copy or one electronic copy on a CD via mail or by email to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com)) of documents required to support the Part 1 Form as specified in Section 2, Section 3, and Section 6; and
- Manually insert the name of the RFP Bidder **on every page** of the Part 1 Form.

*The completed Part 1 Proposal MUST be received by the Independent Evaluator no later than 12 PM (noon) EPT<sup>1</sup> on October 24, 2012 (the Part 1 Date) at:*

NERA - Independent Evaluator  
PECO Default Service Program RFP  
1835 Market Street, Suite 1205  
Philadelphia, PA 19103

Inquiries may be directed to the Independent Evaluator by:

- telephone (215) 568-0200
- fax (215) 568-9358
- through the “Ask a Question” page on the RFP Web site at [www.pecoprocurement.com](http://www.pecoprocurement.com)

**Photocopies and facsimiles of completed forms will not be accepted under any circumstances.**

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<sup>1</sup> All times are Eastern Prevailing Times (“EPT”).

## **II. Part 1 Proposal Submission**

### Notifications

The Independent Evaluator sends you notifications by email or fax, at your option.

### Confirmation

If your Part 1 Proposal is received by mail or email, a confirmation consisting of the first page of your Part 1 Form stamped with the time and the date that it was received will be sent to you. This confirmation of receipt will be sent after an initial review, either with a confirmation that your proposal is complete, or with a deficiency notice (see below). If your Part 1 Proposal is hand-delivered, a confirmation consisting of a photocopy of the first page of your Part 1 Form stamped with the time and the date that it was received will be provided to the deliverer.

### Timing of Part 1 Proposal Review

The Part 1 Window opens at 8 AM on October 19, 2012 and closes at 12 PM (noon) on October 24, 2012. The last day of the Part 1 Window, October 24, 2012, is called the Part 1 Date. The Independent Evaluator performs an initial review of all Part 1 Proposals during the Part 1 Window. Part 1 Proposals received prior to the Part 1 Window are processed on October 19, 2012. Part 1 Proposals received during the Part 1 Window are processed on the day they are received. Proposals received after the Part 1 Window are late proposals and are not processed.

### Incomplete Part 1 Proposals

If your Part 1 Proposal is incomplete or requires clarification, the Independent Evaluator will send a deficiency notice to you. You will have until noon on the Part 1 Date, or until 6 PM on the business day following the business day during which a deficiency notice is sent to you, whichever comes later, to respond. If you do not correct or adequately explain the deficiency within the time allowed, your Part 1 Proposal may be rejected and you may be unable to participate in the RFP. One copy of your Part 1 Form will be returned to you.

### Late Part 1 Proposals

No late Part 1 Proposals will be accepted under any circumstances.

### Part 1 Notification

Each RFP Bidder that submits a Part 1 Proposal will be notified by fax or email whether it met all qualification standards of this RFP no later than 6 PM on October 26, 2012 (the Part 1 Notification Date).



*Name of RFP Bidder*

### RFP Bidders Under Agency Agreements

An RFP Bidder submitting a Proposal under an Agency Agreement is required to provide additional information in Section 6 of this Part 1 Form.

### Foreign RFP Bidders and Foreign Entities

An RFP Bidder that has not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia (“Foreign RFP Bidder”), or an RFP Bidder that is relying on the financial standing of an entity (an RFP Guarantor or a Principal) that has not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia (a “Foreign Entity”) is required to provide additional information in Section 7 of this Part 1 Form.

## PART 1 FORM

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### 1. Contact Information and Representations

**COMPLETE ALL INFORMATION IN THIS SECTION 1 OF THIS PART 1 FORM.**

*First Item: Name and Address of the RFP Bidder*

*Legal Name of RFP Bidder*

*Street Address*

*City*

*State*

*Zip Code*

*Second Item: Officer of the RFP Bidder and Designee*

The contact information in this section is the contact information for an individual who is an officer, a director, or an individual otherwise authorized to undertake contracts (including the Default Service Program Supply Master Agreement) and bind the RFP Bidder. **The Officer of the RFP Bidder named below must:**

- make all representations required by the Part 1 Form; and
- make all representations required by the Part 2 Form.

**THE CONTACT INFORMATION FOR THE OFFICER OF THE RFP BIDDER APPEARS BELOW.**

*Last Name*

*Given Name(s)*

*Mr/Mrs/Ms/Dr/(other)*

*Title*

*Street Address*

*City*

*State*

*Zip Code*

*Telephone No.*

*Fax No.*

*Email Address*

*Name of RFP Bidder*

The Officer of the RFP Bidder may name a Designee. Either the Officer of the Bidder or the Designee must sign the Default Service Program Supply Master Agreement.

Does the Officer of the RFP Bidder opt to name a Designee?

☐ yes

☐ no

**If yes**, please continue providing the information required by this section.

**If no**, please proceed to the next item.

\_\_\_\_ (the Officer of the RFP Bidder named above) hereby names \_\_\_\_\_, whose contact information is immediately below, to serve as the Designee. I certify that this individual is authorized to undertake contracts (including the Default Service SMA) and bind the RFP Bidder.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

**THE CONTACT INFORMATION FOR THE DESIGNEE APPEARS BELOW.**

*Last Name*

*Given Name(s)*

*Mr/Mrs/Ms/Dr/(other)*

*Title*

*Street Address*

*City*

*State*

*Zip Code*

*Telephone No.*

*Fax No.*

*Email Address*

\_\_\_\_\_  
*Name of RFP Bidder*

**Third Item: Communications with the RFP Bidder**

- 1) Please elect the method by which the Independent Evaluator will provide notifications to the RFP Bidder and by which the RFP Bidder will respond to the Independent Evaluator. Such notifications include all notices assessing the completeness of the Part 1 Proposal or the Part 2 Proposal, as well as the Part 1 Notification and the Part 2 Notification.

☐ fax      ☐ email

If the RFP Bidder elected to receive notifications by fax, please provide a fax number for the Representative of the RFP Bidder.

*Fax No.*

- 2) Please elect the method by which the Independent Evaluator will provide documents necessary for participation to the RFP Bidder. Such documents include the Default Service SMA documents, the confidential information required to submit Bids on the Bid Date, as well as any training materials prepared by the Independent Evaluator. These documents are either provided electronically by secure electronic file transfer or these documents are saved to a CD sent by overnight delivery service.

☐ secure electronic file transfer      ☐ overnight delivery service

**NOTIFICATIONS SENT BY OVERNIGHT DELIVERY SERVICE WILL BE SENT TO THE ADDRESS PROVIDED FOR THE REPRESENTATIVE. ANY SUCH NOTIFICATION WILL BE DEEMED RECEIVED BY THE RFP BIDDER AT THE TIME OF DELIVERY OR TRANSMISSION, PROVIDED THAT WHERE DELIVERY OR TRANSMISSION OCCURS AFTER 6 PM ON A BUSINESS DAY OR OCCURS ON A DAY THAT IS NOT A BUSINESS DAY, RECEIPT WILL BE DEEMED TO OCCUR AT 9 AM ON THE FOLLOWING BUSINESS DAY. NOTIFICATIONS SENT BY EMAIL OR SECURE FILE TRANSFER WILL BE SENT TO THE EMAIL ADDRESS(ES) PROVIDED FOR THE REPRESENTATIVE AND FOR UP TO THREE (3) NOMINEES AS DESIGNATED IN THE NOMINATION FORM.**

\_\_\_\_\_  
*Name of RFP Bidder*

**Fourth Item: Representative of the RFP Bidder**

The Officer of the RFP Bidder must designate an individual to serve as Representative of the RFP Bidder. The Officer of the RFP Bidder may name himself or herself as the Representative.

The Independent Evaluator uses the Representative as the main point of contact for the RFP Bidder. The Independent Evaluator always contacts the Representative if the Independent Evaluator requires additional information regarding the RFP Bidder's Proposal. The Independent Evaluator always sends correspondence related to the solicitation to the Representative, including confidential information required to submit Bids on the Bid Date.

**IF THE RFP BIDDER OPTED FOR COMMUNICATIONS BY EMAIL AND/OR SECURE FILE TRANSFER, THE REPRESENTATIVE MAY DESIGNATE UP TO THREE (3) OTHER AUTHORIZED INDIVIDUALS TO RECEIVE COMMUNICATIONS FROM THE INDEPENDENT EVALUATOR IN ADDITION TO THE REPRESENTATIVE. THE REPRESENTATIVE DESIGNATES EACH INDIVIDUAL BY COMPLETING THE NOMINATION FORM ATTACHED TO THE PART 1 FORM FOR EACH INDIVIDUAL. THIS IS NOT A REQUIREMENT OF THE PART 1 PROPOSAL AS THE REPRESENTATIVE MAY DESIGNATE SUCH NOMINEES AT ANY TIME.**

Below, the Representative is designated by the Officer of the RFP Bidder.

\_\_\_\_ (the Officer of the RFP Bidder named above) hereby designates \_\_\_\_\_, whose contact information is immediately below, to serve as the Representative of the RFP Bidder.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

**THE CONTACT INFORMATION FOR THE REPRESENTATIVE OF THE RFP BIDDER APPEARS BELOW.**

*Last Name*

*Given Name(s)*

*Mr/Mrs/Ms/Dr/(other)*

*Title*

*Street Address*

*City*

*State*

*Zip Code*

*Telephone No.*

*Alternate Telephone No. (if available)*

*Email Address*

\_\_\_\_\_  
*Name of RFP Bidder*

*Fifth Item: Representations of the Officer of the RFP Bidder*

**THESE CERTIFICATIONS MUST BE SIGNED BY THE OFFICER OF THE RFP BIDDER AND THE SIGNATURE MUST BE NOTARIZED OR ATTESTED WITH THE CORPORATE SEAL.**

I certify that:

- (1) I am an officer, a director, or an individual otherwise authorized to undertake contracts (including the Default Service Program Supply Master Agreement) and bind the RFP Bidder.
- (2) This Part 1 Proposal will remain valid and remain in full force and effect until six (6) business days after the Bid Date.
- (3) To the best of my knowledge and belief, all information provided in this Part 1 Proposal is true and accurate.
- (4) If, for any reason or due to any circumstance, any information provided in this Part 1 Proposal changes or any previous certification fails to remain valid before the sixth business day after the Bid Date, I or the Representative will notify the Independent Evaluator of such changes as soon as practicable.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature and Seal from Notary Public

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Name of RFP Bidder*

## 2. Financial Requirements

**PROVIDE ALL INFORMATION REQUESTED IN THIS SECTION 2 OF THIS PART 1 FORM.**

*First Item: Name of Entity on Whose Financial Standing the RFP Bidder Is Relying*

For purposes of a creditworthiness evaluation, the RFP Bidder must clearly select whether the RFP Bidder is: (a) relying on its own financial standing; or (b) relying on the financial standing of another entity. The other entity on whose financial standing the RFP Bidder is relying must be named below and is either an RFP Guarantor, or a Principal if the RFP Bidder is submitting a Proposal under an Agency Agreement.

**CHECK ONE OF THE TWO BOXES BELOW:**

- ☐ (a) the RFP Bidder is relying on its own financial standing
- ☐ (b) the RFP Bidder is relying on the financial standing of **[name of the entity]**, which is either (check one): ☐ an RFP Guarantor or: ☐ a Principal

If the RFP Bidder is relying on the financial standing of another entity, please provide that entity's legal name and address.

*Legal Name of Entity*

*Street Address*

*City*

*State*

*Zip Code*

The financial and credit information provided in this section must pertain to the entity named above (the RFP Bidder, or an RFP Guarantor, or a Principal). All RFP Bidders submitting a Proposal under an Agency Agreement must select option (b) above. If the RFP Bidder is acting as an agent for multiple Principals, the RFP Bidder must identify the Principal with the lowest credit rating as the entity on whose financial standing the RFP Bidder relies.

*Second Item: Financial Information*

**PLEASE PROVIDE THE REQUESTED INFORMATION EITHER IN HARD COPY, OR ELECTRONICALLY ON A CD OR BY EMAIL. IF PROVIDING HARD COPIES OF FINANCIAL STATEMENTS, ONE COPY IS SUFFICIENT.**

**IF THE RFP BIDDER IS RELYING ON ITS OWN FINANCIAL STANDING, AND IF FINANCIAL INFORMATION IS UNAVAILABLE FOR THE RFP BIDDER, THE RFP BIDDER MUST CLEARLY STATE THIS FACT IN SECTION 8 OF THIS PART 1 FORM. IF THE RFP BIDDER IS RELYING ON THE FINANCIAL STANDING OF ANOTHER ENTITY, FINANCIAL INFORMATION MUST BE AVAILABLE FOR THAT ENTITY.**

\_\_\_\_\_  
*Name of RFP Bidder*

The required financial information is the most recent quarterly financial information, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules. If available, the most recent Securities and Exchange Commission ("SEC") Form 10-Q or 10-K (whichever is more recent) must be submitted to fulfill this requirement.

If the SEC Form 10-Q or 10-K is unavailable, the RFP Bidder must submit the entity's most recent quarterly, monthly, or bi-annual financial information accompanied by an attestation by the entity's Chief Financial Officer (or equivalent position) that the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of the entity. The requirements for this attestation are more specifically provided in Appendix 5 of the RFP Rules.

Please indicate here the information provided (check only one):

- ☐ SEC Form 10-Q or 10-K (most recent); or  
☐ Other quarterly, monthly, or bi-annual financial information with an attestation of the Chief Financial Officer.

**Third Item: Credit Ratings**

The RFP Bidder must submit all available ratings for the entity from the following rating agencies: Standard & Poor's Ratings Services ("S&P"), Moody's Investors Service, Inc. ("Moody's"), and Fitch Ratings ("Fitch").

1. Is the entity rated by S&P?  
☐ yes ☐ no

**If yes**, please provide:

- The entity's rating \_\_\_\_\_
- The type of rating \_\_\_\_\_

2. Is the entity rated by Moody's?  
☐ yes ☐ no

**If yes**, please provide:

- The entity's rating \_\_\_\_\_
- The type of rating \_\_\_\_\_

3. Is the entity rated by Fitch?  
☐ yes ☐ no

**If yes**, please provide:

- The entity's rating \_\_\_\_\_
- The type of rating \_\_\_\_\_



### 3. Letters of Credit and Default Service Supply Master Agreement Documents

COMPLETE ALL INFORMATION REQUESTED IN THIS SECTION 3 OF THIS PART 1 FORM.

First Item: Pre-Bid Letter of Credit

Are you submitting a Draft Pre-Bid Letter of Credit?

☐ yes

☐ no

An RFP Bidder may request modifications to the Standard Pre-Bid Letter of Credit that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder. An RFP Bidder requests modifications to the Standard Pre-Bid Letter of Credit by submitting a Draft Pre-Bid Letter of Credit substantially in the form of the Standard Pre-Bid Letter of Credit indicating clearly any and all modifications to the Standard Pre-Bid Letter of Credit. A Draft Pre-Bid Letter of Credit that is not substantially in the form of the Standard Pre-Bid Letter of Credit will not be considered or evaluated.

**ALL APPROVED MODIFICATIONS TO THE STANDARD PRE-BID LETTER OF CREDIT ARE POSTED TO THE RFP WEB SITE. EACH RFP BIDDER MAY USE ANY OF THE APPROVED MODIFICATIONS, REGARDLESS OF WHETHER THE RFP BIDDER ITSELF OR ANOTHER RFP BIDDER PROPOSED THE MODIFICATION.**

<http://pecoprocurement.com/index.cfm?s=supplierInformation&p=documents>

**THE DRAFT PRE-BID LETTER OF CREDIT MUST BE SUBMITTED ELECTRONICALLY, IN MICROSOFT WORD WITH TRACKED CHANGES, AND MAY BE SAVED TO A CD THAT IS INCLUDED WITH THIS PART 1 PROPOSAL, OR IT MAY BE EMAILED TO THE INDEPENDENT EVALUATOR AT PECOPROCUREMENT@NERA.COM.**

Second Item: Post-Bid Letter of Credit

Are you submitting a Draft Post-Bid Letter of Credit?

☐ yes

☐ no

An RFP Bidder may request modifications to the Standard Post-Bid Letter of Credit that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder. An RFP Bidder requests modifications to the Standard Post-Bid Letter of Credit by submitting a Draft Post-Bid Letter of Credit substantially in the form of the Standard Post-Bid Letter of Credit indicating clearly any and all modifications to the Standard Post-Bid Letter of Credit. A Draft Post-Bid Letter of Credit that is not substantially in the form of the Standard Post-Bid Letter of Credit will not be considered or evaluated.

\_\_\_\_\_  
*Name of RFP Bidder*

**THE DRAFT POST-BID LETTER OF CREDIT MUST BE SUBMITTED ELECTRONICALLY, IN MICROSOFT WORD WITH TRACKED CHANGES, AND MAY BE SAVED TO A CD THAT IS INCLUDED WITH THIS PART 1 PROPOSAL, OR IT MAY BE EMAILED TO THE INDEPENDENT EVALUATOR AT PECOPROUREMENT@NERA.COM.**

**ALL APPROVED MODIFICATIONS TO THE STANDARD POST-BID LETTER OF CREDIT ARE POSTED TO THE RFP WEB SITE. EACH RFP BIDDER MAY USE ANY OF THE APPROVED MODIFICATIONS, REGARDLESS OF WHETHER THE RFP BIDDER ITSELF OR ANOTHER RFP BIDDER PROPOSED THE MODIFICATION.**

**<http://pecoprourement.com/index.cfm?s=supplierInformation&p=documents>**

\_\_\_\_\_  
Name of RFP Bidder

Third Item: Information Needed to Prepare the Default Service Program Supply Master Agreement and Its Exhibits

The Independent Evaluator transmits the Default Service Program Supply Master Agreement to each RFP Bidder that qualified pursuant to a successful Part 1 Proposal. The RFP Bidder, in its Part 1 Proposal, must provide all information needed to prepare the Default Service Program Supply Master Agreement for execution, including all exhibits.

1. Under Section 12.3 of the Default Service Program Supply Master Agreement, the Seller may, in its sole discretion, add the following subsection 12.3(c).

*12.3(c) In order to avoid doubt regarding a commercially reasonable calculation for the purposes of calculating the Default Settlement Amounts by the Non-Defaulting Party, the quantity of amounts of Energy, Capacity and other services to have been provided under a Transaction for the period following the Early Termination Date (the "Termination Quantity") shall be deemed those quantity amounts that would have been delivered on an hourly basis had the Transaction been in effect during the previous calendar year, adjusted for such Default Service Load changes as have occurred since the previous calendar year. Nothing in this section shall limit the right of the Buyer when Seller is the Defaulting Party to replace Seller's Full Requirements Service obligation and the result of any Commission-approved procedure will be deemed to be commercially reasonable for purposes of calculating the Default Settlement Amounts and will be deemed to have been determined by reference to the Termination Quantity.*

Do you intend for subsection 12.3(c) to be included as part of the Default Service Program Supply Master Agreement?

☐ yes

☐ no

2. The information that you provide below will be used to complete Exhibit H (Form of Notice) to the Default Service Program Supply Master Agreement.

(a) All Notices:

Last Name

Given Name(s)

Mr/Mrs/Ms/Dr/(other)

Street Address

City

State

Zip Code

Telephone No.

Fax No.

DUNS

Federal Tax I.D. Number

(b) Invoices:

ATTN:

Last Name

Given Name(s)

Mr/Mrs/Ms/Dr/(other)

Telephone No.

Fax No.

(c) Scheduling:

ATTN:

Last Name

Given Name(s)

Mr/Mrs/Ms/Dr/(other)

Telephone No.

Fax No.

(d) Payments:

ATTN:

Last Name

Given Name(s)

Mr/Mrs/Ms/Dr/(other)

Telephone No.

Fax No.

(e) Wire Transfer:

Bank

ABA

ACCT

(f) Credit and Collections:

ATTN:

Last Name

Given Name(s)

Mr/Mrs/Ms/Dr/(other)

Telephone No.

Fax No.

(g) Additional Notices of an Event of Default to:

ATTN:

Last Name

Given Name(s)

Mr/Mrs/Ms/Dr/(other)

Telephone No.

Fax No.

\_\_\_\_\_  
*Name of RFP Bidder*

**IF ANY OF THE INFORMATION REQUESTED TO PREPARE THE DEFAULT SERVICE PROGRAM SUPPLY MASTER AGREEMENT AND ITS EXHIBITS IS UNAVAILABLE, PLEASE ENTER N/A IN THE FIELDS OR STATE BELOW THAT THE INFORMATION FOR ALL FIELDS LEFT BLANK IS UNAVAILABLE.**

--

*Fourth Item: Ability to Perform*

The Officer of the RFP Bidder must sign the following certification.

I certify that the RFP Bidder has no pending legal proceedings or, to its knowledge, threatened legal proceedings against it or any of its affiliates that could materially adversely affect its ability to perform its obligations under the Default Service Program Supply Master Agreement and each Transaction Confirmation.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

*Fifth Item: Information Needed to Prepare the Guaranty*

Is the RFP Bidder relying on the financial standing of an RFP Guarantor?

☐ yes

☐ no

**If no**, please proceed to Section 4, "Regulatory Representations".

**If yes**, please continue to the following question:

Does the RFP Guarantor already have an existing guaranty *from a previous solicitation under this RFP* for the maximum amount of the Unsecured Credit Limit?

☐ yes

☐ no

**If yes**, please proceed to Section 4, "Regulatory Representations".

**If no**, please provide:

- (a) The following information regarding the RFP Guarantor:

*Name of RFP Guarantor*

--

Name of RFP Bidder

Whether the RFP Guarantor is a Corporation, Partnership, etc.

Jurisdiction under whose laws the RFP Guarantor is existing and organized.

Name of relevant and binding corporate organizational document, such as Declaration of Trust, Limited Liability Company Agreement, Articles of Incorporation and by-laws

- (b) The following information regarding the RFP Bidder

Whether the RFP Bidder is a Corporation, Partnership, etc.

Jurisdiction under whose laws the RFP Bidder is existing and organized

- (c) The name and contact information for the person to whom notices and other communications will be sent under the guaranty:

Last Name

Given Name(s)

Mr/Mrs/Ms/Dr/(other)

Title

Company

Street Address

City

State

Zip Code

Phone Number

Fax

- (d) The name and title of the person who will be signing the guaranty:

Last Name

Given Name(s)

Mr/Mrs/Ms/Dr/(other)

Title

(e) Elections to the Form of Guaranty:

Is the RFP Guarantor using the Form of Guaranty without any modifications and without electing any of the optional changes below?

☐ yes

☐ no

**If yes**, please proceed to Section 4, “Regulatory Representations”. Do not elect any modifications below.

**If no**, please indicate whether the RFP Guarantor is adopting each change. All such optional changes are shown in redline below.

**(Optional Change #1) Paragraph 1:**

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Seller as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). [Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \$ \_\_\_\_, less excluding the value of other liquid securities posted by the Seller under the Agreement(s)] All such principal, interest, obligations and liabilities, collectively, are the “Guaranteed Obligations”. This Guaranty is a guarantee of payment and not of collection.

Do you want to adopt optional change #1?

☐ yes

☐ no

**(Optional Change #2) Paragraph 1:**

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Seller as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). [Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \$ \_\_\_\_, less the value of other liquid securities posted by the Seller under the Agreement(s).] All such principal, interest, obligations and liabilities, collectively, are the “Guaranteed Obligations”. This Guaranty is a guarantee of payment and not of collection.

Do you want to adopt optional change #2?

☐ yes

☐ no

**(Optional Change #3) Paragraph 1:**

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Seller as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). [Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \$\_\_\_\_, less the value other liquid securities posted by the Seller under the Agreement(s).] All such principal, interest, obligations and liabilities, collectively, are the "Guaranteed Obligations". This Guaranty is a guarantee of payment and not of collection. For the avoidance of doubt, this Guaranty guarantees only payment obligations of Seller and does not guarantee physical delivery or, to the extent applicable, reporting obligations of Seller.

Do you want to adopt optional change #3?

☐ yes ☐ no

**(Optional Change #4) Paragraph 1:**

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Seller as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). [Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed [\$\_\_\_\_], less the value of other liquid securities posted by the Seller under the Agreement(s).] All such principal, interest, obligations and liabilities, collectively, are the "Guaranteed Obligations". This Guaranty is a guarantee of payment and not of collection.

Do you want to adopt optional change #4?

☐ yes ☐ no

**(Optional Change #5) Paragraph 1:**

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Seller as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). [Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \$\_\_\_\_, less the value of other liquid securities posted by the Seller under the Agreement(s).] All such principal, interest, obligations and liabilities, collectively, are the "Guaranteed Obligations". This Guaranty is a guarantee of payment and not of collection. Guarantor's obligations and liability under this Guaranty shall be limited to payment obligations only and Guarantor shall have no obligation to perform under any Agreement, including, without limitation, to sell, deliver, supply or transport gas, electricity or any other commodity.

Do you want to adopt optional change #5?

☐ yes ☐ no



**(Optional Change #6) Paragraph 1:**

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Seller as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). [Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \$\_\_\_\_, less the value of other liquid securities posted by the Seller under the Agreement(s).] All such principal, interest, obligations and liabilities, collectively, are the "Guaranteed Obligations". This Guaranty is a guarantee of payment and not of collection. By acceptance of this Guaranty, the Guaranteed Party agrees that this Guaranty replaces, supersedes and renders null and void the Guaranty dated [\_\_\_\_\_] from the Guarantor to the Guaranteed Party in the maximum aggregate liability of [\_\_\_\_\_] USD.

***PLEASE NOTE*** that Optional Change #6 is only acceptable if the RFP Bidder has an existing outstanding guaranty with PECO from a previous solicitation under the Default Service RFP, and references such guaranty in the brackets above. Please note that the guaranty is only "accepted" once it is signed by PECO; if the RFP Bidder submits a guaranty with its Part 2 Proposal and incorporates the above modification, but the RFP Bidder does not win at the RFP in that solicitation, the submitted guaranty will be returned without a signature from PECO and the previous guaranty will remain in force.

Do you want to adopt optional change #6?

☐ yes

☐ no

If **yes**, you must provide:

Date of Existing Guaranty

Amount of Existing Guaranty

**(Optional Change #7) Paragraph 2:**

2. The Guarantor hereby waives diligence, acceleration, notice of acceptance of this Guaranty and notice of any liability to which it may apply, and waives presentment and all demands whatsoever except as noted herein, notice of protest, notice of dishonor or nonpayment of any such liability, suit or taking of other action by Guaranteed Party against, and any other notice to (except as explicitly provided herein), any party liable thereon (including the Guarantor), filing of claims with a court in the event of the insolvency or bankruptcy of the Seller, and any right to require a proceeding first against the Seller.

Do you want to adopt optional change #7?

☐ yes

☐ no

**(Optional Change #8) Paragraph 4:**

4. Subject to the terms and conditions hereof, the obligations of the Guarantor under this Guaranty are absolute, irrevocable and unconditional and, shall not be released, discharged or otherwise affected by: (a) any extension, renewal, settlement, compromise, waiver, consent, discharge or release by the Seller concerning any provision of the Agreement(s) governing any of the Guaranteed Obligations of the Seller; (b) the rendering of any judgment against the Seller or any action to enforce the same; (c) the existence, or extent of, any release, exchange, surrender, non-perfection or invalidity of any direct or indirect security for any of the Guaranteed Obligations; (d) any modification, amendment, waiver, extension of or supplement to any of the Agreement(s) or the Guaranteed Obligations agreed to from time to time by the Seller and the Guaranteed Party; (e) any change in the corporate existence (including its constitution, laws, rules, regulations or powers), structure or ownership of the Seller or the Guarantor, or any insolvency, bankruptcy, reorganization or other similar proceedings affecting the Seller, its assets or the Guarantor; (f) the existence of any claim, set-off or other rights which the Guarantor may have at any time against the Seller, or the Guaranteed Party, whether in connection herewith or in connection with any unrelated transaction; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim; and (g) the invalidity, irregularity or unenforceability in whole or in part of the Agreement(s) or any Guaranteed Obligations or any instrument evidencing any Guaranteed Obligations or the absence of any action to enforce the same.

Do you want to adopt optional change #8?

☐ yes ☐ no

**(Optional Change #9) Paragraph 5:**

5. Until such time as the Guaranteed Obligations have been paid in full, the~~The~~ Guarantor hereby irrevocably waives (a) any right of reimbursement or contribution, and (b) any right of salvage against the Seller or any collateral security or guaranty or right of offset held by the Guaranteed Party therefor.

Do you want to adopt optional change #9?

☐ yes ☐ no

**(Optional Change #10) Paragraph 11:**

11. Subject to Paragraph 10, this Guaranty shall remain in full force and effect until all Guaranteed Obligations have been fully and finally performed, at which point it will expire. The Guarantor may terminate this Guaranty upon thirty (30) days prior written notice to the Guaranteed Party which termination shall be effective only upon receipt by the Guaranteed Party of alternative means of security or credit support, as specified in the Agreement(s) and in a form reasonably acceptable to the Guaranteed Party. Upon ~~the effectiveness of any~~ such expiration or termination, the Guarantor shall have no further liability under this Guaranty, except with respect to the Guaranteed Obligations arising or created prior to the time the expiration or termination is effective, which Guaranteed Obligations shall remain guaranteed pursuant to the terms of this Guaranty until finally and fully performed.

Do you want to adopt optional change #10?

☐ yes

☐ no

**(Optional Change #11) Paragraph 11:**

11. Subject to Paragraph 10, this Guaranty shall remain in full force and effect until all Guaranteed Obligations have been fully and finally performed, at which point it will expire. The Guarantor may terminate this Guaranty upon thirty (30) days prior written notice to the Guaranteed Party which termination shall be effective only upon receipt by the Guaranteed Party of alternative means of security or credit support, as specified in the Agreement(s) and in a form reasonably acceptable to the Guaranteed Party. Upon the effectiveness of any such expiration or termination, the Guarantor shall have no further liability under this Guaranty, except with respect to the Guaranteed Obligations arising or created prior to ~~the time the such~~ expiration or termination is ~~effective~~, which Guaranteed Obligations shall remain guaranteed pursuant to the terms of this Guaranty until finally and fully performed.

Do you want to adopt optional change #11?

☐ yes

☐ no

**(Optional Change #12) Paragraph 12:**

12. All payment demands, requests, instructions, notices and other communications hereunder shall be made at the addresses by hand delivery, by next day delivery service effective upon receipt, or by certified mail return receipt requested (effective upon scheduled weekday delivery day) or telefacsimile (effective upon receipt of evidence, including telefacsimile evidence, that telefacsimile was received).

Do you want to adopt optional change #12?

☐ yes

☐ no

**(Optional Change #13) Paragraph 13:**

13. The Guarantor represents and warrants that: (a) it is duly organized and validly existing under the laws of the jurisdiction in which it was organized and has the power and authority to execute, deliver, and perform this Guaranty; (b) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over the Guarantor is required on the part of the Guarantor for the execution, delivery and performance of this Guaranty except for those already made or obtained; (c) this Guaranty constitutes a valid and legally binding agreement of the Guarantor, and is enforceable against the Guarantor, except as such enforcement may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity; and (d) the execution, delivery and performance of this Guaranty by the Guarantor have been and remain duly authorized by all necessary corporate or comparable action and do not contravene any provision of its Articles of Incorporation and by-laws or any law, regulation or contractual restriction binding on it or its assets.

Do you want to adopt optional change #13?

☐ yes

☐ no

**(Optional Change #14) Paragraph 14:**

14. This Guaranty and the rights and obligations of the Seller and the Guarantor hereunder shall be construed in accordance with and governed by the laws of the Commonwealth of Pennsylvania. The Guarantor and Guaranteed Party jointly and severally agree and irrevocably submit to the exclusive jurisdiction of state and federal courts located in the Commonwealth of Pennsylvania over any disputes arising or relating to this Guaranty and waive and agree not to assert as a defense any objections to such venue or, including the defense of inconvenient forum.

Do you want to adopt optional change #14?

☐ yes

☐ no

**(Optional Change #15) Paragraph 14:**

14. This Guaranty and the rights and obligations of the Seller and the Guarantor hereunder shall be construed in accordance with and governed by the laws of the ~~Commonwealth of Pennsylvania~~ State of New York. The Guarantor and Guaranteed Party jointly and severally agree and irrevocably submit to the exclusive jurisdiction of state and federal courts located in the Commonwealth of Pennsylvania over any disputes arising or relating to this Guaranty and waive and agree not to assert as a defense any objections to venue or inconvenient forum.

Do you want to adopt optional change #15?

☐ yes

☐ no

\_\_\_\_\_  
Name of RFP Bidder

**(Optional Change #16) Paragraph 17:**

~~17. If the Guarantor is a trust: no trustee of the Guarantor shall be held to any liability whatsoever for any obligation under this Guaranty, and this Guaranty shall not be enforceable against any such trustee in their or its, his or her individual capacities or capacity; and this Guaranty shall be enforceable against the trustees of the Guarantor only as such, and every person, firm, association, trust or corporation having any claim or demand arising under this Guaranty and relating to the Guarantor or any trustee of the Guarantor shall look solely to the trust estate of the Guarantor for the payment or satisfaction thereof.~~

You may only adopt optional change #16 if the Guarantor is not a trust. Do you want to adopt optional change #16?

☐ yes

☐ no

**If yes,** the Representative of the RFP Bidder or the Officer of the RFP Bidder must make the following representations:

I certify that the Guarantor, on whose financial standing the RFP Bidder will be relying, is not a trust.

\_\_\_\_\_  
Signature of Officer or Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Name of RFP Bidder*

**(Optional Change #17) Closing Paragraph and Signature Block:**

IN WITNESS WHEREOF, the Guarantor and the Guaranteed Party have caused this Guaranty to be executed and delivered as of the date first written above to be effective as of the earliest effective date of any of the Agreement(s).

Accepted and Agreed to:

[GUARANTOR]

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

PECO ENERGY COMPANY

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Do you want to adopt optional change #17?

☐ yes

☐ no

\_\_\_\_\_  
Name of RFP Bidder

**(Optional Changes #18, #19 & #20): If the RFP Bidder wishes to add an Additional Guarantor to the Standard Form of Guaranty, all three changes below must be made.**

Do you want to adopt optional changes #18, #19 & #20?

☐ yes

☐ no

**If yes, you must provide:**

Name of Additional Guarantor

Place of Incorporation of Additional Guarantor

**(Optional Change #18) Preamble:**

THIS GUARANTY (this "Guaranty"), dated as of \_\_\_\_\_, 20 \_\_, is made by \_\_\_\_\_ (the "Guarantor"), a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ [a state of the United States or of the District of Columbia] and \_\_\_\_\_ (the "Additional Guarantor"), a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ [a state of the United States or of the District of Columbia], in favor of PECO Energy Company (the "Guaranteed Party"), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania. Terms not defined herein shall have the meanings given to them in the Default Service Program Supply Master Agreement dated \_\_\_\_\_, 20 \_\_ (as amended, modified or extended from time to time, the "Agreement(s)"), between the Guaranteed Party and \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ (the "Seller"). This Guaranty is made by Guarantor in consideration for, and as an inducement for the Guaranteed Party to enter into, the Agreement(s) with the Seller. Guarantor, subject to the terms and conditions hereof, hereby unconditionally, irrevocably and absolutely guarantees to the Guaranteed Party the full and prompt payment when due, subject to any applicable grace period, of all payment obligations of the Seller to the Guaranteed Party arising out of the Agreement(s). Without limiting the generality of the foregoing, Guarantor further agrees as follows:

**(Optional Change #19) Additional Paragraph:**

18. Additional Guarantor joins this Guaranty and agrees to be jointly and severally liable with Guarantor for each and all of the obligations and responsibilities of the Guarantor pursuant to this Guaranty. Guarantor agrees and acknowledges that Additional Guarantor has assumed the obligations described in this Paragraph 18 and that such assumption in no way limits or restricts Guarantor's obligations hereunder or Guaranteed Party's rights to enforce said obligations.

\_\_\_\_\_  
Name of RFP Bidder

**(Optional Change #20) Closing Paragraph and Signature Block:**

IN WITNESS WHEREOF, the Guarantor and the Additional Guarantor and the Guaranteed Party have caused this Guaranty to be executed and delivered as of the date first written above to be effective as of the earliest effective date of any of the Agreement(s).

Accepted and Agreed to:

[GUARANTOR]

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

[ADDITIONAL GUARANTOR]

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

PECO ENERGY COMPANY

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



\_\_\_\_\_  
*Name of RFP Bidder*

#### **4. Regulatory Representations**

##### First Item: FERC Authorization

A copy of the FERC Order granting authority to make sales at market-based rates in PJM is not required; however, PECO may request a copy of this Order if the RFP Bidder becomes a Default Supplier.

I certify that the RFP Bidder has FERC authorization to make sales of energy, capacity, and ancillary services at market-based rates in PJM. I acknowledge that although a copy of the FERC Order granting such authority is not required, PECO may request a copy of this Order if the RFP Bidder becomes a Default Supplier.

\_\_\_\_\_  
Signature of Officer of the RFP Bidder

\_\_\_\_\_  
Date

##### Second Item: PJM Load Serving Entity

By the time service begins, a Default Supplier must be a Load Serving Entity ("LSE") in PJM and must be a signatory of the Reliability Assurance Agreement ("RAA").

Is the RFP Bidder an LSE in PJM?

☐ yes

☐ no

**If yes,** please provide a copy of the signature page of the RAA.

**If no,** please make the following certification.

I certify that the RFP Bidder has investigated the requirements to become an LSE in PJM and that there exist no impediments for the RFP Bidder to become an LSE by the start of the supply period and to remain an LSE for the duration of the supply period.

\_\_\_\_\_  
Signature of Officer of the RFP Bidder  
that is not an LSE

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Name of RFP Bidder*

## 5. Additional Representations

**THIS CERTIFICATION MUST BE SIGNED BY THE OFFICER OF THE RFP BIDDER.**

- (1) I understand the terms of the Default Service Program Supply Master Agreement. The RFP Bidder accepts all of the terms of the Default Service Program Supply Master Agreement without modifications, and the RFP Bidder will execute Transaction Confirmation(s) for all Bids approved by the Commission.
- (2) The submission of this Part 1 Proposal constitutes the RFP Bidder's acknowledgement and acceptance of all the terms and conditions of the RFP, regardless of the outcome of the solicitation or the outcome of such Proposal.
- (3) I certify that the RFP Bidder is not part of a bidding agreement, a joint venture for purposes of participating in any solicitation for this Full Requirements RFP, a bidding consortium, or any other type of agreement related to bidding in any solicitation of these RFPs.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

An RFP Bidder found to be acting in concert with another RFP Bidder may be disqualified by the Independent Evaluator.

\_\_\_\_\_  
*Name of RFP Bidder*

## 6. RFP Bidders Under Agency Agreements

Is the RFP Bidder submitting a Proposal under an Agency Agreement?

☐ yes

☐ no

If **no**, please proceed to Section 7, “Foreign RFP Bidders and Foreign Entities”.

If **yes**, please continue and fill in all required information in this section.

### First Item: Certifications

#### THE OFFICER OF THE RFP BIDDER MUST MAKE THE FOLLOWING REPRESENTATION.

I certify that I have the authority to bind the Principal(s) under the Agency Agreement provided with this Part 1 Proposal. I acknowledge that with the Part 2 Proposal, I will be required to submit an Officers’ Certificate signed by an officer of each Principal substantially in the form of Appendix 6 to the RFP Rules.

\_\_\_\_\_  
Signature of Officer submitting a Proposal  
under an Agency Agreement

\_\_\_\_\_  
Date

### Second Item: Principals and Agency Agreement

If more than one entity is serving as Principal, please list each entity under “Name of Principal or Principals”.

*Name of Principal or Principals*

--

### Agency Agreement

A copy of the Agency Agreement is required. Please submit one copy (either in hard copy or electronically on a CD via mail or by email) with this Part 1 Proposal.

### Financial Information

In Section 2, you must select option (b) and name the Principal with the lowest credit rating as the entity on whose financial standing you are relying. If several Principals have the same lowest credit rating, please identify the Principal that also has the lowest tangible net worth as the entity on whose financial standing the RFP Bidder relies.

\_\_\_\_\_  
*Name of RFP Bidder*

*Third Item: Draft Officers' Certificate*

The RFP Bidder may, but is not required to, submit a draft Officers' Certificate for evaluation. If a draft Officers' Certificate is submitted for evaluation, the Independent Evaluator will inform the RFP Bidder of any changes required.

Is the RFP Bidder submitting a draft Officers' Certificate?

☐ yes

☐ no

\_\_\_\_\_  
*Name of RFP Bidder*

## 7. Foreign RFP Bidders and Foreign Entities

Is the RFP Bidder a Foreign RFP Bidder?

☐ yes ☐ no

Is the RFP Bidder relying on the financial standing of a Foreign Entity (RFP Guarantor or Principal)?

☐ yes ☐ no

If **no** to both questions, please proceed to Section 8, "Justification of Omissions".

If **yes** to one of these questions, please complete all information required in this section.

### First Item: Evidence of Creditworthiness

In addition to supplying all required information and documents under Section 2 of this Part 1 Form, a Foreign RFP Bidder or an RFP Bidder relying on the financial standing of a Foreign Entity may provide any additional evidence of creditworthiness for the Foreign RFP Bidder or the Foreign Entity so as to provide PECO with comparable assurances of creditworthiness applicable for an entity that has been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia.

Are you submitting additional evidence of creditworthiness for the Foreign RFP Bidder or for a Foreign Entity on whose financial standing the RFP Bidder relies?

☐ yes ☐ no

### Second Item: Representations

#### **THE OFFICER OF A FOREIGN RFP BIDDER MUST MAKE THE FOLLOWING CERTIFICATION:**

I acknowledge that the following additional documents are required with the Part 2 Proposal for the Foreign RFP Bidder to be granted unsecured credit under the terms of the Default Service Program Supply Master Agreement: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Foreign RFP Bidder is incorporated or otherwise formed that the Default Service Program Supply Master Agreement is, or upon the completion of execution formalities will become, the binding obligation of the Foreign RFP Bidder in the jurisdiction in which it has been incorporated or otherwise formed; (ii) the sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the person executing the Default Service Program Supply Master Agreement on behalf of the Foreign RFP Bidder has the authority to execute the Default Service Program Supply Master Agreement and that the governing board of such Foreign RFP Bidder has approved the execution of the Default Service Program Supply Master Agreement; and (iii) the sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the Foreign RFP Bidder has been authorized by its governing board to enter into agreements of the same type as the Default Service Program Supply Master Agreement.

\_\_\_\_\_  
Signature of Officer of the Foreign RFP Bidder

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Name of RFP Bidder*

**THE OFFICER OF AN RFP BIDDER RELYING ON THE FINANCIAL STANDING OF AN RFP GUARANTOR THAT IS A FOREIGN ENTITY AND THAT DOES NOT ALREADY HAVE AN EXISTING GUARANTY FROM A PREVIOUS SOLICITATION UNDER THIS RFP FOR THE MAXIMUM AMOUNT OF THE UNSECURED CREDIT LIMIT MUST MAKE THE FOLLOWING CERTIFICATION:**

I acknowledge that the following additional documents are required with the Part 2 Proposal for the RFP Guarantor to be granted unsecured credit and for the RFP Bidder to rely on the financial standing of the RFP Guarantor under the terms of the Default Service Program Supply Master Agreement: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the RFP Guarantor is incorporated or otherwise formed that the guaranty pursuant to the Default Service Program Supply Master Agreement is, or upon the completion of execution formalities will become, the binding obligation of the RFP Guarantor in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the person executing the guaranty pursuant to the Default Service Program Supply Master Agreement on behalf of the RFP Guarantor has the authority to execute the guaranty pursuant to the Default Service Program Supply Master Agreement and that the governing board of such RFP Guarantor has approved the execution of the guaranty pursuant to the Default Service Program Supply Master Agreement; and (iii) the sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the RFP Guarantor has been authorized by its governing board to enter into agreements of the same type as the guaranty pursuant to the Default Service Program Supply Master Agreement.

\_\_\_\_\_  
Signature of Officer of the RFP Bidder relying on the financial  
standing of an RFP Guarantor that is a Foreign Entity

\_\_\_\_\_  
Date

**THE OFFICER OF AN RFP BIDDER THAT IS SUBMITTING A PROPOSAL UNDER AN AGENCY AGREEMENT WITH A PRINCIPAL THAT IS A FOREIGN ENTITY MUST MAKE THE FOLLOWING CERTIFICATION:**

I acknowledge that the following additional documents are required with the Part 2 Proposal for the RFP Bidder and its Principal to be granted unsecured credit under the terms of the Default Service Program Supply Master Agreement: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Principal is incorporated or otherwise formed that the Default Service Program Supply Master Agreement is, or upon the completion of execution formalities will become, the binding obligation of the Principal in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of the corporate secretary (or similar officer) of such Principal that the Principal has been authorized by its governing board to enter into agreements of the same type as the Default Service Program Supply Master Agreement.

\_\_\_\_\_  
Signature of Officer of the RFP Bidder submitting a Proposal  
Under an Agency Agreement and the Principal is a Foreign Entity

\_\_\_\_\_  
Date

Name of RFP Bidder

Third Item: Draft Documents

The Officer of the RFP Bidder has acknowledged in the immediately preceding certifications that additional documents are required with the Part 2 Proposal for unsecured credit to be granted under the terms of the Default Service Program Supply Master Agreement. The RFP Bidder may, but is not required to, submit a draft of these documents, in hard copy or electronically on a CD via mail or by email, with its Part 1 Proposal.

Are you submitting draft of any of these additional documents for evaluation?

☐ yes ☐ no

If **no**, please proceed to Section 8, "Justification of Omissions".

If **yes**, please check all that apply:

**FOR FOREIGN RFP BIDDERS:**

☐ Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the Default Service Program Supply Master Agreement is binding. Exhibit G to the Default Service Program Supply Master Agreement includes a sample of this legal opinion.

☐ Draft sworn certificate of the corporate secretary (or similar officer) of the Foreign RFP Bidder that the person executing the Default Service Program Supply Master Agreement is so authorized and that its governing board has approved the execution of the Default Service Program Supply Master Agreement.

☐ Draft sworn certificate of the corporate secretary (or similar officer) of the Foreign RFP Bidder that its governing board has authorized the execution of agreements of the same type as the Default Service Program Supply Master Agreement in the past.

**FOR RFP BIDDERS RELYING ON THE FINANCIAL STANDING OF AN RFP GUARANTOR THAT IS A FOREIGN ENTITY:**

☐ Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the guaranty pursuant to the Default Service Program Supply Master Agreement is binding. Exhibit G to the Default Service Program Supply Master Agreement includes a sample of this legal opinion.

☐ Draft sworn certificate of the corporate secretary (or similar officer) of the RFP Guarantor that the person executing the guaranty is so authorized and that its governing board has approved the execution of the guaranty pursuant to the Default Service Program Supply Master Agreement.

☐ Draft sworn certificate of the corporate secretary (or similar officer) of the RFP Guarantor that its governing board has authorized the execution of a guaranty of the same type as the guaranty pursuant to the Default Service Program Supply Master Agreement in the past.

*Name of RFP Bidder*

**FOR RFP BIDDERS SUBMITTING A PROPOSAL UNDER AN AGENCY AGREEMENT WITH A PRINCIPAL THAT IS A FOREIGN ENTITY:**

- ☐ Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the Default Service Program Supply Master Agreement is binding. Exhibit G to the Default Service Program Supply Master Agreement includes a sample of this legal opinion.
- ☐ Draft sworn certificate of the corporate secretary (or similar officer) of the Principal that its governing board has authorized the execution of agreements of the same type as the Default Service Program Supply Master Agreement in the past.



*Name of RFP Bidder*

## **8. Justification of Omissions**

If you are unable to provide all documents or information required with this Part 1 Form, please justify fully any omissions in the space provided below.

## Checklist

**This is a checklist of required documents that must be included in the Part 1 Proposal.**

- ☐ **Two (2) originals** of the completed Part 1 Form (with original signatures and original notarized signatures where required) *[Instructions]*
- ☐ **One (1) copy** (electronically on a CD via mail or by email) of the completed Part 1 Form in **Microsoft Word**; *[Instructions]*
- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): If submitting a Proposal under an Agency Agreement, a copy of the Agency Agreement. *[Section 6]*

For the entity (the RFP Bidder, a Guarantor, or a Principal) on whose financial standing the RFP Bidder relies:

- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): most recent SEC Form 10-Q or 10-K (whichever is more recent); if unavailable, the most recent quarterly, monthly or bi-annual financial information accompanied by an attestation by the entity's Chief Financial Officer (or equivalent position) that the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of the entity. *[Section 2]*

**This is a checklist of optional documents that the RFP Bidder may use to prepare the Part 1 Proposal:**

- ☐ **One (1) copy** (electronically on a CD or via email): Draft Pre-Bid Letter of Credit. *[Section 2]*
- ☐ **One (1) copy** (electronically on a CD or via email): Draft Post-Bid Letter of Credit. *[Section 2]*
- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Documentation showing the name of the rating agency, the type of rating, and the rating of the entity *[Section 2]*

An RFP Bidder submitting a Proposal under an Agency Agreement may also provide the following draft document for evaluation:

- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft Officers' Certificate. *[Section 6]*

An RFP Bidder submitting a Proposal under an Agency Agreement with a Principal that is a Foreign Entity may also provide the following draft documents for evaluation:

- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the Default Service Program Supply Master Agreement is binding. *[Section 7]*
- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft sworn certificate of the corporate secretary (or similar officer) of the Principal that its governing board has authorized the execution of agreements of the same type as the Default Service Program Supply Master Agreement in the past. *[Section 7]*

A Foreign RFP Bidder may also provide the following draft documents for evaluation:

- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the Default Service Program Supply Master Agreement is binding. *[Section 7]*
- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft sworn certificate of the corporate secretary (or similar officer) of the Foreign RFP Bidder that the person executing the Default Service Program Supply Master Agreement is so authorized and that its governing board has approved the execution of the Default Service Program Supply Master Agreement. *[Section 7]*
- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft sworn certificate of the corporate secretary (or similar officer) of the Foreign RFP Bidder that its governing board has authorized the execution of agreements of the same type as the Default Service Program Supply Master Agreement in the past. *[Section 7]*

An RFP Bidder relying on the financial standing of an RFP Guarantor that is a Foreign Entity may also provide the following draft documents for evaluation:

- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the guaranty pursuant to the Default Service Program Supply Master Agreement is binding. *[Section 7]*
- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft sworn certificate of the corporate secretary (or similar officer) of the RFP Guarantor that the person executing the guaranty is so authorized and that its governing board has approved the execution of the guaranty pursuant to the Default Service Program Supply Master Agreement. *[Section 7]*
- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft sworn certificate of the corporate secretary (or similar officer) of the RFP Guarantor that its governing board has authorized the execution of a guaranty of the same type as the guaranty pursuant to the Default Service Program Supply Master Agreement in the past. *[Section 7]*

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***End of Part 1 Form***

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## ATTACHMENT TO THE PART 1 FORM NOMINATION FORM DEFAULT SERVICE PROGRAM REQUEST FOR PROPOSALS

An RFP Bidder that has elected to receive notifications by email and/or has elected to receive documents by secure file transfer system in Section 1 of the Part 1 Form may designate up to three (3) authorized individuals who will receive notifications and/or documents in addition to the Representative of the RFP Bidder. The RFP Bidder may designate other authorized individuals at any time during the solicitation using this Nomination FORM and is not required to do so in the Part 1 Proposal.

\_\_\_\_ (the Officer of the RFP Bidder or Representative of the RFP Bidder) authorizes the individual whose contact information is immediately below to receive notifications and documents.

\_\_\_\_\_  
Signature of Officer or Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

### Contact Information for Nominee

*Last Name*

*GivenName(s)*

*Mr/Mrs/Ms/Dr/(other)*

*Title*

*Telephone No.*

*Alternate Telephone No. (if available)*

*Email Address*

Notes (such as period during which the Nominee is authorized or the individual that the Nominee is replacing)

**SHORT PART 1 FORM  
DEFAULT SERVICE PROGRAM  
REQUEST FOR PROPOSALS  
PART 1 DATE: October 24, 2012**

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PECO Energy Company (“Company” or “PECO”) is intending to obtain full requirements electric supply to meet a portion of its obligations as Default Service Provider through this Request for Proposals (“RFP”).

This Short Part 1 Form may only be used by an entity that has submitted a successful Part 1 Proposal in a previous solicitation under DSP II. **If you have not submitted a successful Part 1 Proposal in a previous solicitation under DSP II, you must use the Standard Part 1 Form to submit your Part 1 Proposal.**

Before completing this Part 1 Form, please review the RFP, including the Default Service Program Supply Master Agreement, so that you understand the conditions under which the RFP will be conducted. These documents are posted at [www.pecoprocmnt.com](http://www.pecoprocmnt.com).

By submitting a Part 1 Proposal in response to this RFP, you are agreeing to all terms and conditions of this RFP.

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*Any information provided by an RFP Bidder in this Part 1 Proposal is provided on a confidential basis to the Independent Evaluator, and may be provided on a confidential basis to the Staff of the Pennsylvania Public Utility Commission. PECO representatives will review the information provided to fulfill the requirements of Section 2, Section 3, Section 6, and Section 7, and will participate in the evaluation of the creditworthiness of each RFP Bidder. Information regarding the content or status of any Part 1 Proposal will not be released publically or to any individual RFP Bidder during the evaluation process.*

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*Under this first solicitation under DSP II, no RFP Bidder is eligible to use the Short Part 1 Form. The Short Part 1 Form is issued to provide RFP Bidders with an example of the form that they may be able to use in a future solicitation.*

\_\_\_\_\_  
Name of RFP Bidder

## INSTRUCTIONS FOR PROPOSAL

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RFP Bidders submit this Part 1 Form and all documents required herein to respond to the qualification standards for the RFP.

This Part 1 Form may be used to submit a Part 1 Proposal by all RFP Bidders that have submitted a successful Part 1 Proposal in a previous solicitation under DSP II.

### **Please complete all sections.**

#### **I. Part 1 Proposal Submission**

An RFP Bidder must:

- Submit **two (2) original** completed Part 1 Forms (with original signatures);
- Submit **one (1) electronic copy** (on a CD via mail or by email to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com)) of the completed Part 1 Form in **Microsoft Word**;
- Submit **one (1) copy** (one hard copy or one electronic copy on a CD via mail or by email to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com)) of documents required to support the Part 1 Form as specified in Section 2, Section 3, and Section 6; and
- Manually insert the name of the RFP Bidder **on every page** of the Part 1 Form.

*The completed Part 1 Proposal MUST be received by the Independent Evaluator no later than 12:00 PM (noon) EPT<sup>1</sup> on October 24, 2012 (the Part 1 Date) at:*

NERA - Independent Evaluator  
PECO Default Service Program RFP  
1835 Market Street, Suite 1205  
Philadelphia, PA 19103

Inquiries may be directed to the Independent Evaluator by:

- telephone (215) 568-0200
- fax (215) 568-9358
- through the "Ask a Question" page on the RFP Web site at [www.pecoprocurement.com](http://www.pecoprocurement.com)

**Photocopies and facsimiles of completed forms will not be accepted under any circumstances.**

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<sup>1</sup> All times are Eastern Prevailing Times ("EPT").

\_\_\_\_\_  
*Name of RFP Bidder*

## **II. Part 1 Proposal Submission**

### Notifications

The Independent Evaluator sends you notifications by email or fax, at your option.

### Confirmation

If your Part 1 Proposal is received by mail or email, a confirmation consisting of the first page of your Part 1 Form stamped with the time and the date that it was received will be sent to you. This confirmation of receipt will be sent after an initial review, either with a confirmation that your proposal is complete, or with a deficiency notice (see below). If your Part 1 Proposal is hand-delivered, a confirmation consisting of a photocopy of the first page of your Part 1 Form stamped with the time and the date that it was received will be provided to the deliverer.

### Timing of Part 1 Proposal Review

The Part 1 Window opens at 8 AM on October 19, 2012 and closes at 12 PM (noon) on October 24, 2012. The last day of the Part 1 Window, October 24, 2012, is called the Part 1 Date. The Independent Evaluator performs an initial review of all Part 1 Proposals during the Part 1 Window. Part 1 Proposals received prior to the Part 1 Window are processed on October 19, 2012. Part 1 Proposals received during the Part 1 Window are processed on the day they are received. Proposals received after the Part 1 Window are late proposals and are not processed.

### Incomplete Part 1 Proposals

If your Part 1 Proposal is incomplete or requires clarification, the Independent Evaluator will send a deficiency notice to you. You will have until noon on the Part 1 Date, or until 6 PM on the business day following the business day during which a deficiency notice is sent to you, whichever comes later, to respond. If you do not correct or adequately explain the deficiency within the time allowed, your Part 1 Proposal may be rejected and you may be unable to participate in the RFP. One copy of your Part 1 Form will be returned to you.

### Late Part 1 Proposals

No late Part 1 Proposals will be accepted under any circumstances.

### Part 1 Notification

Each RFP Bidder that submits a Part 1 Proposal will be notified by fax or email whether it met all qualification standards of this RFP no later than 6 PM on October 26, 2012 (the Part 1 Notification Date).

*Name of RFP Bidder*

RFP Bidders Under Agency Agreements

An RFP Bidder submitting a Proposal under an Agency Agreement is required to provide additional information in Section 6 of this Part 1 Form.

Foreign RFP Bidders and Foreign Entities

An RFP Bidder that has not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia (“Foreign RFP Bidder”), or an RFP Bidder that is relying on the financial standing of an entity (an RFP Guarantor or a Principal) that has not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia (a “Foreign Entity”) is required to provide additional information in Section 7 of this Part 1 Form.



\_\_\_\_\_  
*Name of RFP Bidder*

## PART 1 FORM

Did you submit a successful Part 1 Proposal in a previous solicitation under DSP II?

☐ yes

☐ no

**If yes**, please **CONTINUE** filling out this form, beginning with “Contact Information and Representations” below.

**If no**, **STOP**. You cannot use this Short Part 1 Form. **You must use the Standard Part 1 Form** instead.

### 1. Contact Information and Representations

First Item: Name and Address of the RFP Bidder

Have the name and address of the RFP Bidder changed since you previously submitted this information?

☐ yes

☐ no

**If no**, please proceed to the next item below in this section, “Officer of the RFP Bidder”.

**If yes**, and the change is only to the legal name and address of the RFP Bidder please make all necessary corrections and provide evidence as described below. If there was a change in the corporate structure, through a merger for example, **please use the Standard Part 1 Form**.

**IF THE LEGAL NAME OF THE RFP BIDDER HAS CHANGED, PLEASE PROVIDE EVIDENCE OF THE CHANGE OF NAME. PLEASE PROVIDE ONE COPY OF THE REQUESTED INFORMATION EITHER IN HARD COPY, OR ELECTRONICALLY ON A CD VIA MAIL OR BY EMAIL.**

*Legal Name of RFP Bidder*

*Street Address*

*City*

*State*

*Zip Code*

\_\_\_\_\_  
*Name of RFP Bidder*

**Second Item: Officer of the RFP Bidder and Designee**

**THE OFFICER OF THE RFP BIDDER MUST BE AVAILABLE TO MAKE ALL REPRESENTATIONS FOR THIS SOLICITATION.**

1) Will the previously named Officer of the RFP Bidder be available to make all representations required by the Part 1 and Part 2 Proposal?

☐ yes

☐ no

2) Is the contact information for the Officer of the RFP Bidder the same as was previously submitted?

☐ yes

☐ no

3) Does the Officer of the RFP Bidder waive its option to designate a Designee for this solicitation?

☐ yes

☐ no

**If yes to ALL questions above**, please proceed to the next item below in this section, "Representative of the RFP Bidder".

**If you answered NO to the question 1)**, please name another individual as Officer of the RFP Bidder by filling the information below. The individual named as Officer of the RFP Bidder must be an officer, a director, or an individual otherwise authorized to undertake contracts (including the Default Service Program Supply Master Agreement) and bind the RFP Bidder. **If you answered NO to question 2)**, please make all necessary corrections below.

*Last Name*

*Given Name(s)*

*Mr/Mrs/Ms/Dr/(other)*

*Title*

*Street Address*

*City*

*State*

*Zip Code*

*Telephone No.*

*Fax No.*

*Email Address*

**If you answered NO to question 3)**, please designate a Designee below.

\_\_\_\_\_  
*Name of RFP Bidder*

The Officer of the RFP Bidder may name a Designee. Either the Officer of the Bidder or the Designee must sign the Default Service Program Supply Master Agreement.

\_\_\_\_ (the Officer of the RFP Bidder named above) hereby names \_\_\_\_\_, whose contact information is immediately below, to serve as the Designee. I certify that this individual is authorized to undertake contracts (including the Default Service SMA) and bind the RFP Bidder.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

**CONTACT INFORMATION FOR THE DESIGNEE APPEARS BELOW.**

*Last Name*

*Given Name(s)*

*Mr/Mrs/Ms/Dr/(other)*

*Title*

*Street Address*

*City*

*State*

*Zip Code*

*Telephone No.*

*Fax No.*

*Email Address*

\_\_\_\_\_  
*Name of RFP Bidder*

Third Item: Communications with the RFP Bidder

**THE INDEPENDENT EVALUATOR SENDS NOTIFICATIONS BY FAX OR EMAIL AND DOCUMENTS BY SECURE FILE TRANSFER OR SAVED ON A CD SENT BY OVERNIGHT DELIVERY.**

Do you want to change the manner in which you receive notifications and documents from the Independent Evaluator?

☐ yes

☐ no

**If no**, please proceed to the next item below in this section, "Representations of the Officer of the RFP Bidder".

**If yes**, please make all elections below.

- 1) Please elect the method by which the Independent Evaluator will provide notifications to the RFP Bidder and by which the RFP Bidder will respond to the Independent Evaluator. Such notifications include all notices assessing the completeness of the Part 1 Proposal or the Part 2 Proposal, as well as the Part 1 Notification and the Part 2 Notification.

☐ fax

☐ email

If the RFP Bidder elected to receive notifications by fax, please provide a fax number for the Representative of the RFP Bidder.

*Fax No.*

- 2) Please elect the method by which the Independent Evaluator will provide documents necessary for participation to the RFP Bidder. Such documents include the Default Service SMA documents, the confidential information required to submit Bids on the Bid Date, as well as any training materials prepared by the Independent Evaluator.

☐ secure electronic file transfer

☐ overnight delivery service

**NOTIFICATIONS SENT BY OVERNIGHT DELIVERY SERVICE WILL BE SENT TO THE ADDRESS PROVIDED FOR THE REPRESENTATIVE. ANY SUCH NOTIFICATION WILL BE DEEMED RECEIVED BY THE RFP BIDDER AT THE TIME OF DELIVERY OR TRANSMISSION, PROVIDED THAT WHERE DELIVERY OR TRANSMISSION OCCURS AFTER 6 PM ON A BUSINESS DAY OR OCCURS ON A DAY THAT IS NOT A BUSINESS DAY, RECEIPT WILL BE DEEMED TO OCCUR AT 9 AM ON THE FOLLOWING BUSINESS DAY. NOTIFICATIONS SENT BY EMAIL OR SECURE FILE TRANSFER WILL BE SENT TO THE EMAIL ADDRESS(ES) PROVIDED FOR THE REPRESENTATIVE AND IN ATTACHMENT 1 FOR AUTHORIZED INDIVIDUALS DESIGNATED TO RECEIVE COMMUNICATIONS.**

\_\_\_\_\_  
*Name of RFP Bidder*

Third Item: Representative of the RFP Bidder

**THE REPRESENTATIVE PREVIOUSLY NAMED MUST BE AVAILABLE DURING THIS SOLICITATION TO BE THE POINT OF CONTACT FOR THE INDEPENDENT EVALUATOR AND TO RECEIVE CORRESPONDENCE FROM THE INDEPENDENT EVALUATOR.**

**IF THE RFP BIDDER OPTED FOR COMMUNICATIONS BY EMAIL AND/OR SECURE FILE TRANSFER, THE REPRESENTATIVE MAY DESIGNATE UP TO THREE (3) OTHER AUTHORIZED INDIVIDUALS TO RECEIVE COMMUNICATIONS FROM THE INDEPENDENT EVALUATOR IN ADDITION TO THE REPRESENTATIVE. THE REPRESENTATIVE DESIGNATES EACH INDIVIDUAL BY COMPLETING THE NOMINATION FORM ATTACHED TO THE PART 1 FORM FOR EACH INDIVIDUAL. THIS IS NOT A REQUIREMENT OF THE PART 1 PROPOSAL AS THE REPRESENTATIVE MAY DESIGNATE SUCH NOMINEES AT ANY TIME.**

1) Is the previously named Representative available to be the point of contact for the Independent Evaluator and to receive correspondence from the Independent Evaluator?

☐ yes

☐ no

2) Is the contact information for the Representative of the RFP Bidder the same as was previously submitted?

☐ yes

☐ no

**If yes to BOTH questions**, please proceed to the next item below in this section, "Representations of the Officer of the RFP Bidder".

**If you answered NO to question 1)**, the Officer of the RFP Bidder must name a new Representative of the RFP Bidder and must provide all information requested below. The Officer of the RFP Bidder may name himself or herself as the Representative.

**If you answered NO to question 2)**, please make all necessary corrections to the contact information for the Representative starting on the next page.

**THIS REPRESENTATION OF THE OFFICER OF THE RFP BIDDER IS ONLY REQUIRED IF THE PREVIOUSLY NAMED REPRESENTATIVE WILL NOT BE AVAILABLE FOR THIS SOLICITATION AND THE OFFICER OF THE RFP BIDDER IS NAMING A NEW REPRESENTATIVE.**

\_\_\_ (the Officer of the RFP Bidder named above) hereby designates \_\_\_, whose contact information is immediately below, to serve as the Representative of the RFP Bidder.

\_\_\_\_\_  
Signature of Officer to name a new Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

*Name of RFP Bidder*

<i>Last Name</i>	<i>Given Name(s)</i>	<i>Mr/Mrs/Ms/Dr/(other)</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>

*Title*

*Street Address*

  

<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>

<i>Telephone No.</i>	<i>Alternate Telephone No. (if available)</i>	<i>Email Address</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>

*Fax No.*

\_\_\_\_\_  
*Name of RFP Bidder*

**Fourth Item: Representations of the Officer of the RFP Bidder**

**WHETHER OR NOT THE RFP BIDDER HAS PREVIOUSLY QUALIFIED, THE FOLLOWING CERTIFICATIONS MUST BE SIGNED BY THE OFFICER OF THE RFP BIDDER AND THE SIGNATURE MUST BE NOTARIZED OR ATTESTED WITH THE CORPORATE SEAL.**

I certify that:

- (1) I am an officer, a director, or an individual otherwise authorized to undertake contracts (including the Default Service Program Supply Master Agreement) and bind the RFP Bidder. This Part 1 Proposal will remain valid and remain in full force and effect until six (6) business days after the Bid Date.
- (2) To the best of my knowledge and belief, all information provided in this Part 1 Proposal is true and accurate.
- (3) If, for any reason or due to any circumstance, any information provided in this Part 1 Proposal changes or any previous certification fails to remain valid before the sixth business day after the Bid Date, I or the Representative will notify the Independent Evaluator of such changes as soon as practicable.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature and Seal from Notary Public

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Name of RFP Bidder*

## 2. Financial Requirements

**PROVIDE ALL INFORMATION REQUESTED IN THIS SECTION 2 OF THIS PART 1 FORM.**

*First Item:* Name of Entity on Whose Financial Standing the RFP Bidder is Relying

Has the entity on whose financial standing the RFP Bidder relies changed since the last solicitation for which the RFP Bidder was qualified?

☐ yes

☐ no

**If yes**, PLEASE USE THE STANDARD PART 1 FORM to submit your Part 1 Proposal.

**If no**, please proceed to the next question.

Is the legal name and address of the entity on whose financial standing the RFP Bidder relies provided in the Initial Status Notification correct?

☐ yes

☐ no

**If yes**, please proceed to the next item below in this section, "Financial Information".

**If no**, please make any needed correction below.

*Legal Name of Entity*

*Street Address*

*City*

*State*

*Zip Code*

The financial and credit information provided in the remainder of this section must pertain to the entity on whose financial standing the RFP Bidder is relying (the RFP Bidder, or an RFP Guarantor, or a Principal).



\_\_\_\_\_  
*Name of RFP Bidder*

Second Item: Financial Information

**PLEASE PROVIDE THE REQUESTED INFORMATION EITHER IN HARD COPY, OR ELECTRONICALLY ON A CD OR BY EMAIL. IF PROVIDING HARD COPIES OF FINANCIAL STATEMENTS, ONE COPY IS SUFFICIENT.**

**IF THE RFP BIDDER IS RELYING ON ITS OWN FINANCIAL STANDING, AND IF FINANCIAL INFORMATION IS UNAVAILABLE FOR THE RFP BIDDER, THE RFP BIDDER MUST CLEARLY STATE THIS FACT IN SECTION 8 OF THIS PART 1 FORM. IF THE RFP BIDDER IS RELYING ON THE FINANCIAL STANDING OF ANOTHER ENTITY, FINANCIAL INFORMATION MUST BE AVAILABLE FOR THAT ENTITY.**

The required financial information is the most recent quarterly financial information, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules. If available, the most recent Securities and Exchange Commission ("SEC") Form 10-Q or 10-K (whichever is more recent) must be submitted to fulfill this requirement.

If the SEC Form 10-Q or 10-K is unavailable, the RFP Bidder must submit the entity's most recent quarterly, monthly, or bi-annual financial information accompanied by an attestation by the entity's Chief Financial Officer (or equivalent position) that the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of the entity. The requirements for this attestation are more specifically provided in Appendix 5 of the RFP Rules.

Please indicate here the information provided (check only one):

- ☐ SEC Form 10-Q or 10-K (most recent); or  
☐ Other quarterly, monthly, or bi-annual financial information with an attestation of the Chief Financial Officer.

\_\_\_\_\_  
*Name of RFP Bidder*

**Third Item: Credit Ratings**

**THE INITIAL STATUS NOTIFICATION THAT A PREVIOUSLY QUALIFIED RFP BIDDER RECEIVES FROM THE INDEPENDENT EVALUATOR PROVIDES THE CREDIT RATINGS FOR THE ENTITY ON WHOSE FINANCIAL STANDING THE RFP BIDDER LAST RELIED.**

Are the credit ratings for the entity in the Initial Status Notification up-to-date and accurate?

☐ yes

☐ no

**If yes**, please proceed to Section 3, "Letters of Credit and Default Service Program Supply Master Agreement".

**If no**, please fill in the information below.

1. Has the rating from S&P for the entity changed since the last solicitation?

☐ yes

☐ no

**If yes**, please provide:

- The entity's rating \_\_\_\_
- The type of rating \_\_\_\_

2. Has the rating from Moody's for the entity changed since the last solicitation?

☐ yes

☐ no

**If yes**, please provide:

- The entity's rating \_\_\_\_
- The type of rating \_\_\_\_

3. Has the rating from Fitch for the entity changed since the last solicitation?

☐ yes

☐ no

**If yes**, please provide:

- The entity's rating \_\_\_\_
- The type of rating \_\_\_\_

\_\_\_\_\_  
*Name of RFP Bidder*

### **3. Letters of Credit, Guaranty and Default Service Program Supply Master Agreement**

**COMPLETE ALL INFORMATION REQUESTED IN THIS SECTION 3 OF THIS PART 1 FORM.**

#### **First Item: Pre-Bid Letter of Credit**

Are you submitting a Draft Pre-Bid Letter of Credit?

☐ yes

☐ no

An RFP Bidder may request modifications to the Standard Pre-Bid Letter of Credit that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder. An RFP Bidder requests modifications to the Standard Pre-Bid Letter of Credit by submitting a Draft Pre-Bid Letter of Credit substantially in the form of the Standard Pre-Bid Letter of Credit indicating clearly any and all modifications to the Standard Pre-Bid Letter of Credit. A Draft Pre-Bid Letter of Credit that is not substantially in the form of the Standard Pre-Bid Letter of Credit will not be considered or evaluated.

**ALL APPROVED MODIFICATIONS TO THE STANDARD PRE-BID LETTER OF CREDIT ARE POSTED TO THE RFP WEB SITE. EACH RFP BIDDER MAY USE ANY OF THE APPROVED MODIFICATIONS, REGARDLESS OF WHETHER THE RFP BIDDER ITSELF OR ANOTHER RFP BIDDER PROPOSED THE MODIFICATION.**

**<http://pecoprocurement.com/index.cfm?s=supplierInformation&p=documents>**

**THE DRAFT PRE-BID LETTER OF CREDIT MUST BE SUBMITTED ELECTRONICALLY, IN MICROSOFT WORD WITH TRACKED CHANGES, AND MAY BE SAVED TO A CD THAT IS INCLUDED WITH THIS PART 1 PROPOSAL, OR IT MAY BE EMAILED TO THE INDEPENDENT EVALUATOR AT PECOPROCUREMENT@NERA.COM.**

#### **Second Item: Post-Bid Letter of Credit**

Are you submitting a Draft Post-Bid Letter of Credit?

☐ yes

☐ no

An RFP Bidder may request modifications to the Standard Post-Bid Letter of Credit that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder. An RFP Bidder requests modifications to the Standard Post-Bid Letter of Credit by submitting a Draft Post-Bid Letter of Credit substantially in the form of the Standard Post-Bid Letter of Credit indicating clearly any and all modifications to the Standard Post-Bid Letter of Credit. A Draft Post-Bid Letter of Credit that is not substantially in the form of the Standard Post-Bid Letter of Credit will not be considered or evaluated.

**THE DRAFT POST-BID LETTER OF CREDIT MUST BE SUBMITTED ELECTRONICALLY, IN MICROSOFT WORD WITH TRACKED CHANGES, AND MAY BE SAVED TO A CD THAT IS INCLUDED WITH THIS PART 1 PROPOSAL, OR IT MAY BE EMAILED TO THE INDEPENDENT EVALUATOR AT PECOPROCUREMENT@NERA.COM.**

**ALL APPROVED MODIFICATIONS TO THE STANDARD POST-BID LETTER OF CREDIT ARE POSTED TO THE RFP WEB SITE. EACH RFP BIDDER MAY USE ANY OF THE APPROVED MODIFICATIONS, REGARDLESS OF WHETHER THE RFP BIDDER ITSELF OR ANOTHER RFP BIDDER PROPOSED THE MODIFICATION.**

**<http://pecoprocurement.com/index.cfm?s=supplierInformation&p=documents>**

\_\_\_\_\_  
Name of RFP Bidder

Third Item: Information Needed to Prepare the Default Service Program Supply Master Agreement and its Exhibits

Are you a Default Supplier with PECO (i.e., you have a current and fully executed Default Service Program Supply Master Agreement with PECO for Bids approved by the Commission in a previous solicitation)?

☐ yes

☐ no

**If yes**, please proceed to the next item below in this section, "Certification on Pending Legal Proceedings".

**If no**, please continue filling in information for this item on the Default Service Program Supply Master Agreement. **THE INITIAL STATUS NOTIFICATION THAT A PREVIOUSLY QUALIFIED RFP BIDDER RECEIVES FROM THE INDEPENDENT EVALUATOR PROVIDES ALL INFORMATION NEEDED TO PREPARE THE DEFAULT SERVICE SMA FOR EXECUTION, INCLUDING ALL EXHIBITS, AND THE LAST ELECTIONS OF THE RFP BIDDER.**

Is the information, as provided in the Initial Status Notification, needed to prepare the Default Service SMA and all exhibits, including the last elections of the RFP Bidder, up-to-date and accurate?

☐ yes

☐ no

**If yes**, please proceed to the next item below in this section, "Certification on Pending Legal Proceedings".

**If no**, please make all necessary corrections below.

1. Under Section 12.3 of the Default Service Program Supply Master Agreement, the Seller may, in its sole discretion, add the following subsection 12.3(c). If you are correcting this election, please do so below.

*12.3(c) In order to avoid doubt regarding a commercially reasonable calculation for the purposes of calculating the Default Settlement Amounts by the Non-Defaulting Party, the quantity of amounts of Energy, Capacity and other services to have been provided under a Transaction for the period following the Early Termination Date (the "Termination Quantity") shall be deemed those quantity amounts that would have been delivered on an hourly basis had the Transaction been in effect during the previous calendar year, adjusted for such Default Service Load changes as have occurred since the previous calendar year. Nothing in this section shall limit the right of the Buyer when Seller is the Defaulting Party to replace Seller's Full Requirements Service obligation and the result of any Commission-approved procedure will be deemed to be commercially reasonable for purposes of calculating the Default Settlement Amounts and will be deemed to have been determined by reference to the Termination Quantity.*

Do you intend for subsection 12.3(c) to be included as part of the Default Service Program Supply Master Agreement?

☐ yes

☐ no

\_\_\_\_\_  
*Name of RFP Bidder*

2. If you are correcting the information used to complete Exhibit H (Form of Notice) to the Default Service SMA, please enter all corrections below.

(a) All Notices:

<i>Last Name</i>	<i>Given Name(s)</i>	<i>Mr/Mrs/Ms/Dr/(other)</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Street Address</i>		
<input type="text"/>		
<input type="text"/>		
<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Telephone No.</i>	<i>Fax No.</i>	
<input type="text"/>	<input type="text"/>	
<i>DUNS</i>	<i>Federal Tax I.D. Number</i>	
<input type="text"/>	<input type="text"/>	

(b) Invoices:

<i>ATTN:</i>		
<i>Last Name</i>	<i>Given Name(s)</i>	<i>Mr/Mrs/Ms/Dr/(other)</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Telephone No.</i>	<i>Fax No.</i>	
<input type="text"/>	<input type="text"/>	

(c) Scheduling:

<i>ATTN:</i>		
<i>Last Name</i>	<i>Given Name(s)</i>	<i>Mr/Mrs/Ms/Dr/(other)</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Telephone No.</i>	<i>Fax No.</i>	
<input type="text"/>	<input type="text"/>	

(d) Payments:

<i>ATTN:</i>		
<i>Last Name</i>	<i>Given Name(s)</i>	<i>Mr/Mrs/Ms/Dr/(other)</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Telephone No.</i>	<i>Fax No.</i>	
<input type="text"/>	<input type="text"/>	

\_\_\_\_\_  
Name of RFP Bidder

(e) Wire Transfer:

Bank

ABA

ACCT

(f) Credit and Collections:

ATTN:

Last Name

Given Name(s)

Mr/Mrs/Ms/Dr/(other)

Telephone No.

Fax No.

(g) Additional Notices of an Event of Default to:

ATTN:

Last Name

Given Name(s)

Mr/Mrs/Ms/Dr/(other)

Telephone No.

Fax No.

Fourth Item: Ability to Perform

Are you a Default Supplier with PECO (i.e., you have a current and fully executed Default Service Program Supply Master Agreement with PECO for Bids approved by the Commission in a previous solicitation)?

☐ yes

☐ no

**If yes**, please proceed to the next item below in this section, "Information Needed to Prepare the Guaranty".  
**If no**, the Officer of the RFP Bidder must sign the following certification.

I certify that the RFP Bidder has no pending legal proceedings or, to its knowledge, threatened legal proceedings against it or any of its affiliates that could materially adversely affect its ability to perform its obligations under the Default Service Program Supply Master Agreement and each Transaction Confirmation.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Name of RFP Bidder*

**Fifth Item: Information Needed to Prepare the Guaranty**

Is the RFP Bidder relying on the financial standing of an RFP Guarantor?

☐ yes

☐ no

**If no**, please proceed to Section 4, "Regulatory Representations".

**If yes**, please continue to the following question:

Does the RFP Guarantor already have an existing guaranty *from a previous solicitation under this RFP* for the maximum amount of the Unsecured Credit Limit?

☐ yes

☐ no

**If yes**, please proceed to Section 4, "Regulatory Representations".

**If no**, please continue to the following question:

**THE INITIAL STATUS NOTIFICATION THAT A PREVIOUSLY QUALIFIED RFP BIDDER RECEIVES FROM THE INDEPENDENT EVALUATOR PROVIDES ALL INFORMATION NEEDED TO PREPARE THE GUARANTY FOR EXECUTION, INCLUDING THE LAST ELECTIONS OF THE RFP BIDDER.**

Is the information, as provided in the Initial Status Notification, needed to prepare the Guaranty for execution including the last elections of the RFP Bidder, up-to-date and accurate?

☐ yes

☐ no

**If yes**, please proceed to the next item below in this section, "Optional Modifications to the Guaranty".

**If no**, please make all necessary corrections below.

To correct the information regarding the RFP Guarantor, please use the fields below:

*Name of RFP Guarantor*

*Whether the RFP Guarantor is a Corporation, Partnership, etc.*

*Jurisdiction under whose laws the RFP Guarantor is existing and organized .*

*Name of relevant and binding corporate organizational document, such as Declaration of Trust, Limited Liability Company Agreement, Articles of Incorporation and by-laws.*

\_\_\_\_\_  
*Name of RFP Bidder*

To correct the information regarding the RFP Bidder, please use the fields below:

*Whether the RFP Bidder is a Corporation, Partnership, etc.*

*Jurisdiction under whose laws the RFP Bidder is existing and organized .*

To correct the name and contact information for the person to whom notices and other communications will be sent under the guaranty, please use the fields below:

*Last Name*

*Given Name(s)*

*Mr/Mrs/Ms/Dr/(other)*

*Title*

*Company*

*Street Address*

*City*

*State*

*Zip Code*

*Phone Number*

*Fax*

To correct the name and title of the person who will be signing the guaranty, please use the fields below:

*Last Name*

*Given Name(s)*

*Mr/Mrs/Ms/Dr/(other)*

*Title*



\_\_\_\_\_  
*Name of RFP Bidder*

Sixth Item: Optional Modifications to the Guaranty

Is the RFP Guarantor using the Form of Guaranty without any modifications and without electing any of the optional changes below?

☐ yes

☐ no

**If yes**, please proceed to Section 4, "Regulatory Representations". **Do not** elect any modifications below.

**If no**, please indicate whether the RFP Guarantor is adopting each change. All such optional changes are shown in redline below.

\_\_\_\_\_  
*Name of RFP Bidder*

**(Optional Change #1) Paragraph 1:**

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Seller as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). [Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \$\_\_\_\_, ~~less~~ excluding the value of other liquid securities posted by the Seller under the Agreement(s)] All such principal, interest, obligations and liabilities, collectively, are the "Guaranteed Obligations". This Guaranty is a guarantee of payment and not of collection.

Do you want to adopt optional change #1?

☐ yes

☐ no

**(Optional Change #2) Paragraph 1:**

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Seller as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). [Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \$\_\_\_\_, less the value of other liquid securities posted by the Seller under the Agreement(s).] All such principal, interest, obligations and liabilities, collectively, are the "Guaranteed Obligations". This Guaranty is a guarantee of payment and not of collection.

Do you want to adopt optional change #2?

☐ yes

☐ no

**(Optional Change #3) Paragraph 1:**

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Seller as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). [Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \$\_\_\_\_, less the value other liquid securities posted by the Seller under the Agreement(s).] All such principal, interest, obligations and liabilities, collectively, are the "Guaranteed Obligations". This Guaranty is a guarantee of payment and not of collection. For the avoidance of doubt, this Guaranty guarantees only payment obligations of Seller and does not guarantee physical delivery or, to the extent applicable, reporting obligations of Seller.

Do you want to adopt optional change #3?

☐ yes

☐ no

**(Optional Change #4) Paragraph 1:**

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Seller as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). [Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed [\$\_\_\_\_], less the value of other liquid securities posted by the Seller under the Agreement(s).] All such principal, interest, obligations and liabilities, collectively, are the "Guaranteed Obligations". This Guaranty is a guarantee of payment and not of collection.

Do you want to adopt optional change #4?

☐ yes

☐ no

**(Optional Change #5) Paragraph 1:**

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Seller as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). [Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \$\_\_\_\_, less the value of other liquid securities posted by the Seller under the Agreement(s).] All such principal, interest, obligations and liabilities, collectively, are the "Guaranteed Obligations". This Guaranty is a guarantee of payment and not of collection. Guarantor's obligations and liability under this Guaranty shall be limited to payment obligations only and Guarantor shall have no obligation to perform under any Agreement, including, without limitation, to sell, deliver, supply or transport gas, electricity or any other commodity.

Do you want to adopt optional change #5?

☐ yes

☐ no

**(Optional Change #6) Paragraph 1:**

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Seller as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). [Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \$\_\_\_\_, less the value of other liquid securities posted by the Seller under the Agreement(s).] All such principal, interest, obligations and liabilities, collectively, are the "Guaranteed Obligations". This Guaranty is a guarantee of payment and not of collection. By acceptance of this Guaranty, the Guaranteed Party agrees that this Guaranty replaces, supersedes and renders null and void the Guaranty dated [\_\_\_\_\_] from the Guarantor to the Guaranteed Party in the maximum aggregate liability of [\_\_\_\_\_] USD.

**PLEASE NOTE** that Optional Change #6 is only acceptable if the RFP Bidder has an existing outstanding guaranty with PECO from a previous solicitation under the Default Service RFP, and references such guaranty in the brackets above. Please note that the guaranty is only "accepted" once it is signed by PECO; if the RFP Bidder submits a guaranty with its Part 2 Proposal and incorporates the above modification, but the RFP Bidder does not win at the RFP in that solicitation, the submitted guaranty will be returned without a signature from PECO and the previous guaranty will remain in force.

Do you want to adopt optional change #6?

☐ yes

☐ no

If **yes**, you must provide:

Date of Existing Guaranty

Amount of Existing Guaranty

**(Optional Change #7) Paragraph 2:**

2. The Guarantor hereby waives diligence, acceleration, notice of acceptance of this Guaranty and notice of any liability to which it may apply, and waives presentment and all demands whatsoever except as noted herein, notice of protest, notice of dishonor or nonpayment of any such liability, suit or taking of other action by Guaranteed Party against, and any other notice to (except as explicitly provided herein), any party liable thereon (including the Guarantor), filing of claims with a court in the event of the insolvency or bankruptcy of the Seller, and any right to require a proceeding first against the Seller.

Do you want to adopt optional change #7?

☐ yes

☐ no

**(Optional Change #8) Paragraph 4:**

4. Subject to the terms and conditions hereof, the obligations of the Guarantor under this Guaranty are absolute, irrevocable and unconditional and, shall not be released, discharged or otherwise affected by: (a) any extension, renewal, settlement, compromise, waiver, consent, discharge or release by the Seller concerning any provision of the Agreement(s) governing any of the Guaranteed Obligations of the Seller; (b) the rendering of any judgment against the Seller or any action to enforce the same; (c) the existence, or extent of, any release, exchange, surrender, non-perfection or invalidity of any direct or indirect security for any of the Guaranteed Obligations; (d) any modification, amendment, waiver, extension of or supplement to any of the Agreement(s) or the Guaranteed Obligations agreed to from time to time by the Seller and the Guaranteed Party; (e) any change in the corporate existence (including its constitution, laws, rules, regulations or powers), structure or ownership of the Seller or the Guarantor, or any insolvency, bankruptcy, reorganization or other similar proceedings affecting the Seller, its assets or the Guarantor; (f) the existence of any claim, set-off or other rights which the Guarantor may have at any time against the Seller, or the Guaranteed Party, whether in connection herewith or in connection with any unrelated transaction; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim; and (g) the invalidity, irregularity or unenforceability in whole or in part of the Agreement(s) or any Guaranteed Obligations or any instrument evidencing any Guaranteed Obligations or the absence of any action to enforce the same.

Do you want to adopt optional change #8?

☐ yes

☐ no

**(Optional Change #9) Paragraph 5:**

5. Until such time as the Guaranteed Obligations have been paid in full, the~~The~~ Guarantor hereby irrevocably waives (a) any right of reimbursement or contribution, and (b) any right of salvage against the Seller or any collateral security or guaranty or right of offset held by the Guaranteed Party therefor.

Do you want to adopt optional change #9?

☐ yes

☐ no

**(Optional Change #10) Paragraph 11:**

11. Subject to Paragraph 10, this Guaranty shall remain in full force and effect until all Guaranteed Obligations have been fully and finally performed, at which point it will expire. The Guarantor may terminate this Guaranty upon thirty (30) days prior written notice to the Guaranteed Party which termination shall be effective only upon receipt by the Guaranteed Party of alternative means of security or credit support, as specified in the Agreement(s) and in a form reasonably acceptable to the Guaranteed Party. Upon ~~the effectiveness of any~~ such expiration or termination, the Guarantor shall have no further liability under this Guaranty, except with respect to the Guaranteed Obligations arising or created prior to the time the expiration or termination is effective, which Guaranteed Obligations shall remain guaranteed pursuant to the terms of this Guaranty until finally and fully performed.

Do you want to adopt optional change #10?

☐ yes

☐ no

**(Optional Change #11) Paragraph 11:**

11. Subject to Paragraph 10, this Guaranty shall remain in full force and effect until all Guaranteed Obligations have been fully and finally performed, at which point it will expire. The Guarantor may terminate this Guaranty upon thirty (30) days prior written notice to the Guaranteed Party which termination shall be effective only upon receipt by the Guaranteed Party of alternative means of security or credit support, as specified in the Agreement(s) and in a form reasonably acceptable to the Guaranteed Party. Upon the effectiveness of any such expiration or termination, the Guarantor shall have no further liability under this Guaranty, except with respect to the Guaranteed Obligations arising or created prior to ~~the time the~~ such expiration or termination ~~is effective~~, which Guaranteed Obligations shall remain guaranteed pursuant to the terms of this Guaranty until finally and fully performed.

Do you want to adopt optional change #11?

☐ yes

☐ no

**(Optional Change #12) Paragraph 12:**

12. All payment demands, requests, instructions, notices and other communications hereunder shall be made at the addresses by hand delivery, by next day delivery service effective upon receipt, or by certified mail return receipt requested (effective upon scheduled weekday delivery day) or telefacsimile (effective upon receipt of evidence, including telefacsimile evidence, that telefacsimile was received).

Do you want to adopt optional change #12?

☐ yes

☐ no

**(Optional Change #13) Paragraph 13:**

13. The Guarantor represents and warrants that: (a) it is duly organized and validly existing under the laws of the jurisdiction in which it was organized and has the power and authority to execute, deliver, and perform this Guaranty; (b) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over the Guarantor is required on the part of the Guarantor for the execution, delivery and performance of this Guaranty except for those already made or obtained; (c) this Guaranty constitutes a valid and legally binding agreement of the Guarantor, and is enforceable against the Guarantor, except as such enforcement may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity; and (d) the execution, delivery and performance of this Guaranty by the Guarantor have been and remain duly authorized by all necessary corporate or comparable action and do not contravene any provision of its Articles of Incorporation and by-laws or any law, regulation or contractual restriction binding on it or its assets.

Do you want to adopt optional change #13?

☐ yes

☐ no

**(Optional Change #14) Paragraph 14:**

14. This Guaranty and the rights and obligations of the Seller and the Guarantor hereunder shall be construed in accordance with and governed by the laws of the Commonwealth of Pennsylvania. The Guarantor and Guaranteed Party jointly and severally agree and irrevocably submit to the exclusive jurisdiction of state and federal courts located in the Commonwealth of Pennsylvania over any disputes arising or relating to this Guaranty and waive and agree not to assert as a defense any objections to such venue or, including the defense of inconvenient forum.

Do you want to adopt optional change #14?

☐ yes

☐ no

**(Optional Change #15) Paragraph 14:**

14. This Guaranty and the rights and obligations of the Seller and the Guarantor hereunder shall be construed in accordance with and governed by the laws of the ~~Commonwealth of Pennsylvania~~ State of New York. The Guarantor and Guaranteed Party jointly and severally agree and irrevocably submit to the exclusive jurisdiction of state and federal courts located in the Commonwealth of Pennsylvania over any disputes arising or relating to this Guaranty and waive and agree not to assert as a defense any objections to venue or inconvenient forum.

Do you want to adopt optional change #15?

☐ yes

☐ no

\_\_\_\_\_  
Name of RFP Bidder

**(Optional Change #16) Paragraph 17:**

~~17. If the Guarantor is a trust: no trustee of the Guarantor shall be held to any liability whatsoever for any obligation under this Guaranty, and this Guaranty shall not be enforceable against any such trustee in their or its, his or her individual capacities or capacity; and this Guaranty shall be enforceable against the trustees of the Guarantor only as such, and every person, firm, association, trust or corporation having any claim or demand arising under this Guaranty and relating to the Guarantor or any trustee of the Guarantor shall look solely to the trust estate of the Guarantor for the payment or satisfaction thereof.~~

You may only adopt optional change #16 if the Guarantor is not a trust. Do you want to adopt optional change #16?

☐ yes ☐ no

**If yes,** the Representative of the RFP Bidder or the Officer of the RFP Bidder must make the following representations:

I certify that the Guarantor, on whose financial standing the RFP Bidder will be relying, is not a trust.

\_\_\_\_\_  
Signature of Officer or Representative

\_\_\_\_\_  
Date



\_\_\_\_\_  
*Name of RFP Bidder*

**(Optional Change #17) Closing Paragraph and Signature Block:**

IN WITNESS WHEREOF, the Guarantor and the Guaranteed Party have caused this Guaranty to be executed and delivered as of the date first written above to be effective as of the earliest effective date of any of the Agreement(s).

Accepted and Agreed to:

[GUARANTOR]

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

PECO ENERGY COMPANY

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Do you want to adopt optional change #17?

☐ yes

☐ no

\_\_\_\_\_  
Name of RFP Bidder

**(Optional Changes #18, #19 & #20): If the RFP Bidder wishes to add an Additional Guarantor to the Standard Form of Guaranty, all three changes below must be made.**

Do you want to adopt optional changes #18, #19 & #20?

☐ yes

☐ no

**If yes, you must provide:**

Name of Additional Guarantor

Place of Incorporation of Additional Guarantor

**(Optional Change #18) Preamble:**

THIS GUARANTY (this "Guaranty"), dated as of \_\_\_\_\_, 20\_\_, is made by \_\_\_\_\_ (the "Guarantor"), a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ [a state of the United States or of the District of Columbia] and \_\_\_\_\_ (the "Additional Guarantor"), a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ [a state of the United States or of the District of Columbia], in favor of PECO Energy Company (the "Guaranteed Party"), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania. Terms not defined herein shall have the meanings given to them in the Default Service Program Supply Master Agreement dated \_\_\_\_\_, 20\_\_ (as amended, modified or extended from time to time, the "Agreement(s)"), between the Guaranteed Party and \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ (the "Seller"). This Guaranty is made by Guarantor in consideration for, and as an inducement for the Guaranteed Party to enter into, the Agreement(s) with the Seller. Guarantor, subject to the terms and conditions hereof, hereby unconditionally, irrevocably and absolutely guarantees to the Guaranteed Party the full and prompt payment when due, subject to any applicable grace period, of all payment obligations of the Seller to the Guaranteed Party arising out of the Agreement(s). Without limiting the generality of the foregoing, Guarantor further agrees as follows:

**(Optional Change #19) Additional Paragraph:**

18. Additional Guarantor joins this Guaranty and agrees to be jointly and severally liable with Guarantor for each and all of the obligations and responsibilities of the Guarantor pursuant to this Guaranty. Guarantor agrees and acknowledges that Additional Guarantor has assumed the obligations described in this Paragraph 18 and that such assumption in no way limits or restricts Guarantor's obligations hereunder or Guaranteed Party's rights to enforce said obligations.

\_\_\_\_\_  
*Name of RFP Bidder*

**(Optional Change #20) Closing Paragraph and Signature Block:**

IN WITNESS WHEREOF, the Guarantor and the Additional Guarantor and the  
Guaranteed Party have caused this Guaranty to be executed and delivered as of the date  
first written above to be effective as of the earliest effective date of any of the  
Agreement(s).

Accepted and Agreed to:

[GUARANTOR]

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

[ADDITIONAL GUARANTOR]

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

PECO ENERGY COMPANY

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
*Name of RFP Bidder*

#### **4. Regulatory Representations**

Are you a Default Supplier with PECO (i.e., you have a current and fully executed Default Service Program Supply Master Agreement with PECO for Bids approved by the Commission in a previous solicitation)?

☐ yes   ☐ no

**If yes**, please proceed to Section 5, “Additional Representations”.

**If no**, please make the following certification.

##### FERC Authorization

A copy of the FERC Order granting authority to make sales at market-based rates in PJM is not required; however, PECO may request a copy of this Order if the RFP Bidder becomes a Default Supplier.

I certify that the RFP Bidder has FERC authorization to make sales of energy, capacity, and ancillary services at market-based rates in PJM. I acknowledge that although a copy of the FERC Order granting such authority is not required, PECO may request a copy of this Order if the RFP Bidder becomes a Default Supplier.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Name of RFP Bidder*

## **5. Additional Representations**

**THIS CERTIFICATION MUST BE SIGNED BY THE OFFICER OF THE RFP BIDDER.**

I certify that the RFP Bidder is not part of a bidding agreement, a joint venture for purposes of participating in any solicitation for this RFP, a bidding consortium, or any other type of agreement related to bidding in any solicitation of these RFPs.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

An RFP Bidder found to be acting in concert with another RFP Bidder may be disqualified by the Independent Evaluator.

\_\_\_\_\_  
*Name of RFP Bidder*

## 6. RFP Bidders Under Agency Agreements

Is the RFP Bidder submitting a Proposal under an Agency Agreement?

☐ yes

☐ no

**If no**, please proceed to Section 7, “Foreign RFP Bidders and Foreign Entities”.

**If yes**, please continue and fill in all required information in this Section.

### First Item: Certifications

**THE OFFICER OF THE RFP BIDDER MUST MAKE THE FOLLOWING REPRESENTATION.**

I certify that I have the authority to bind the Principal(s).

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

### Second Item: Principals and Agency Agreement

**THE INITIAL STATUS NOTIFICATION THAT A PREVIOUSLY QUALIFIED RFP BIDDER RECEIVES FROM THE INDEPENDENT EVALUATOR PROVIDES THE NAME OF EACH PRINCIPAL.**

1) Is the information regarding the Principals in the Initial Status Notification up-to-date and accurate?

☐ yes

☐ no

2) Can the RFP Bidder confirm that there have been no changes to the Agency Agreement?

☐ yes

☐ no

**If yes to BOTH questions**, please proceed to the next item below in this section, “Draft Officers’ Certificate”.

**If no to question 1)** please make all necessary corrections below.

**If no to question 2)**, please provide one copy of the Agency (either in hard copy or electronically on a CD via mail or by email) with this Part 1 Proposal.

*Name of Principal or Principals*

--

\_\_\_\_\_  
*Name of RFP Bidder*

*Third Item: Draft Officers' Certificate*

The RFP Bidder may, but is not required to, submit a draft Officers' Certificate for evaluation. If a draft Officers' Certificate is submitted for evaluation, the Independent Evaluator will inform the RFP Bidder of any changes required.

Is the RFP Bidder submitting a draft Officers' Certificate?

☐ yes

☐ no

\_\_\_\_\_  
*Name of RFP Bidder*

## 7. Foreign RFP Bidders and Foreign Entities

Is the RFP Bidder a Foreign RFP Bidder?

☐ yes ☐ no

Is the RFP Bidder relying on the financial standing of a Foreign Entity (RFP Guarantor or Principal)?

☐ yes ☐ no

If **no** to both questions, please proceed to Section 8, "Justification of Omissions".

If **yes** to one or both of these questions, please complete all information required in this section.

### First Item: Evidence of Creditworthiness

In addition to supplying all required information and documents under Section 2 of this Part 1 Form, a Foreign RFP Bidder or an RFP Bidder relying on the financial standing of a Foreign Entity may provide any additional evidence of creditworthiness for the Foreign RFP Bidder or the Foreign Entity so as to provide PECO with comparable assurances of creditworthiness as is applicable for an entity that has been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia.

Are you submitting additional evidence of creditworthiness for the Foreign RFP Bidder or for a Foreign Entity on whose financial standing the RFP Bidder relies?

☐ yes ☐ no

### Second Item: Draft Documents

The Officer of the RFP Bidder has previously acknowledged additional documents are required with the Part 2 Proposal for unsecured credit to be granted under the terms of the Default Service Program Supply Master Agreement. The RFP Bidder may, but is not required to, submit a draft of these documents, in hard copy or electronically on a CD via mail or by email, with its Part 1 Proposal.

Are you submitting draft of any of these additional documents for evaluation?

☐ yes ☐ no

If **no**, please proceed to Section 8, "Justification of Omissions".

If **yes**, please check all that apply:



*Name of RFP Bidder*

**FOR FOREIGN RFP BIDDERS:**

☐ Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the Default Service Program Supply Master Agreement is binding. Exhibit G to the Default Service Program Supply Master Agreement includes a sample of this legal opinion.

☐ Draft sworn certificate of the corporate secretary (or similar officer) of the Foreign RFP Bidder that the person executing the Default Service Program Supply Master Agreement is so authorized and that its governing board has approved the execution of the Default Service Program Supply Master Agreement.

☐ Draft sworn certificate of the corporate secretary (or similar officer) of the Foreign RFP Bidder that its governing board has authorized the execution of agreements of the same type as the Default Service Program Supply Master Agreement in the past.

**FOR RFP BIDDERS RELYING ON THE FINANCIAL STANDING OF AN RFP GUARANTOR THAT IS A FOREIGN ENTITY:**

☐ Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the guaranty pursuant to the Default Service Program Supply Master Agreement is binding. Exhibit G to the Default Service Program Supply Master Agreement includes a sample of this legal opinion.

☐ Draft sworn certificate of the corporate secretary (or similar officer) of the RFP Guarantor that the person executing the guaranty is so authorized and that its governing board has approved the execution of the guaranty pursuant to the Default Service Program Supply Master Agreement.

☐ Draft sworn certificate of the corporate secretary (or similar officer) of the RFP Guarantor that its governing board has authorized the execution of a guaranty of the same type as the guaranty pursuant to the Default Service Program Supply Master Agreement in the past.

**FOR RFP BIDDERS SUBMITTING A PROPOSAL UNDER AN AGENCY AGREEMENT WITH A PRINCIPAL THAT IS A FOREIGN ENTITY:**

☐ Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the Default Service Program Supply Master Agreement is binding. Exhibit G to the Default Service Program Supply Master Agreement includes a sample of this legal opinion.

☐ Draft sworn certificate of the corporate secretary (or similar officer) of the Principal that its governing board has authorized the execution of agreements of the same type as the Default Service Program Supply Master Agreement in the past.

\_\_\_\_\_  
*Name of RFP Bidder*

**8. Justification of Omissions**

If you are unable to provide all documents or information required with this Part 1 Form, please justify fully any omissions in the space provided below.

\_\_\_\_\_  
Name of RFP Bidder

## **Checklist**

**This is a checklist of documents that must be included in the Part 1 Proposal.**

- ☐ **Two (2) originals** of the completed Part 1 Form (with original signatures and original notarized signatures where required) *[Instructions]*
- ☐ **One (1) copy** (electronically on a CD via mail or by email) of the completed Part 1 Form in **Microsoft Word**;
- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email) of evidence of a change of name if the legal name of the RFP Bidder has changed. *[Section 1]*

For the entity (the RFP Bidder, a Guarantor, or a Principal) on whose financial standing the RFP Bidder relies:

- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): most recent SEC Form 10-Q or 10-K (whichever is more recent); if unavailable, the most recent quarterly, monthly or bi-annual financial information accompanied by an attestation by the entity's Chief Financial Officer (or equivalent position) that the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of the entity. *[Section 2]*

**This is a checklist of optional documents that the RFP Bidder may use to prepare the Part 1 Proposal:**

- ☐ **One (1) copy** (electronically on a CD via mail or by email): Draft Pre-Bid Letter of Credit. *[Section 2]*
- ☐ **One (1) copy** (electronically on a CD via mail or by email): Draft Post-Bid Letter of Credit. *[Section 2]*
- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Documentation showing the name of the rating agency, the type of rating, and the rating of the entity, if not submitted in a previous RFP *[Section 2]*

An RFP Bidder submitting a Proposal under an Agency Agreement may provide the Agency Agreement if it has changed. Such RFP Bidder may also provide the following draft document for evaluation:

- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft Officers' Certificate. *[Section 6]*

\_\_\_\_\_  
*Name of RFP Bidder*

An RFP Bidder submitting a Proposal under an Agency Agreement with a Principal that is a Foreign Entity may also provide the following draft documents for evaluation:

- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the Default Service Program Supply Master Agreement is binding. *[Section 7]*
- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft sworn certificate of the corporate secretary (or similar officer) of the Principal that its governing board has authorized the execution of agreements of the same type as the Default Service Program Supply Master Agreement in the past. *[Section 7]*

\_\_\_\_\_  
*Name of RFP Bidder*

A Foreign RFP Bidder may also provide the following draft documents for evaluation:

- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the Default Service Program Supply Master Agreement is binding. *[Section 7]*
- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft sworn certificate of the corporate secretary (or similar officer) of the Foreign RFP Bidder that the person executing the Default Service Program Supply Master Agreement is so authorized and that its governing board has approved the execution of the Default Service Program Supply Master Agreement. *[Section 7]*
- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft sworn certificate of the corporate secretary (or similar officer) of the Foreign RFP Bidder that its governing board has authorized the execution of agreements of the same type as the Default Service Program Supply Master Agreement in the past. *[Section 7]*

An RFP Bidder relying on the financial standing of an RFP Guarantor that is a Foreign Entity may also provide the following draft documents for evaluation:

- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the guaranty pursuant to the Default Service Program Supply Master Agreement is binding. *[Section 7]*
- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft sworn certificate of the corporate secretary (or similar officer) of the RFP Guarantor that the person executing the guaranty is so authorized and that its governing board has approved the execution of the guaranty pursuant to the Default Service Program Supply Master Agreement. *[Section 7]*
- ☐ **One (1) copy** (hard copy or electronically on a CD via mail or by email): Draft sworn certificate of the corporate secretary (or similar officer) of the RFP Guarantor that its governing board has authorized the execution of a guaranty of the same type as the guaranty pursuant to the Default Service Program Supply Master Agreement in the past. *[Section 7]*

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***End of Part 1 Form***

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## **Requirements for Chief Financial Officer Attestation**

The attestation by the Chief Financial Officer, if required by Article IV, must fulfill the following requirements:

1. the attestation is a notarized affidavit attached to the financial information provided by the entity;
2. the attestation identifies the person making the affidavit as the Chief Financial Officer (or equivalent position);
3. the Chief Financial Officer (or equivalent) attests that "the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of \_\_\_\_\_[name of entity]".





**Officers' Certificate  
(RFP Bidders Under an Agency Agreement)**

**Sample**

The undersigned hereby certify that they are duly elected, qualified and acting officers holding the offices set forth below their respective names of \_\_\_\_\_ [name of Principal(s)], the "Principal" or together the "Principals". As such, they are familiar with the affairs of the Principal(s) and the Proposal submitted in response to PECO Energy Company's Default Service Program RFP under DSP II, including the agency authorization submitted with the Proposal (the "Agency Agreement"). They are authorized to execute and deliver this certificate on behalf of the Principal(s).

They further certify that:

- (i) the copy of the Agency Agreement submitted with the Proposal is a true and complete copy of the Agency Agreement as currently in effect;
- (ii) the Agency Agreement is in full force and effect and shall remain in full force and effect for a period extending to six (6) business days following the Bid Date;
- (iii) there are no proceedings pending for the amendment or termination of the Agency Agreement, contemplated by the RFP Bidder, or contemplated by the Principal(s) to the RFP Bidder's knowledge;
- (iv) each individual who has executed this officers' certificate, the Agency Agreement, and the Default Service Program Supply Master Agreement ("Default Service SMA") submitted with the Part 2 Proposal is (or was at the time of the execution of such documents) authorized to execute and deliver such documents on behalf of the Principal(s); and
- (v) \_\_\_\_\_ [insert name], the Officer of the RFP Bidder named in the Part 1 Proposal, is authorized to execute any Transaction Confirmation(s) pursuant to the Default Service SMA on behalf of the Principal(s).

Capitalized terms used in this officers' certificate without definition have the meanings assigned to such terms in the RFP Rules.



\_\_\_\_\_  
*Name of RFP Bidder*

**PART 2 FORM  
DEFAULT SERVICE PROGRAM  
REQUEST FOR PROPOSALS  
PART 2 DATE: November 1, 2012**

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PECO Energy Company (“Company” or “PECO”) is intending to obtain full requirements electric supply to meet a portion of its obligations as Default Service Provider through this Request for Proposals (“RFP”).

This Part 2 Form is the only form that may be used to submit a Part 2 Proposal. Before completing this Part 2 Form, please review the RFP including the Default Service Program Supply Master Agreement so that you understand the conditions under which the RFP will be conducted. These documents are posted at [www.pecoprocurement.com](http://www.pecoprocurement.com).

By having submitted a Part 1 Proposal in response to this RFP, you agreed to all terms and conditions of this RFP.

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*Any information provided by an RFP Bidder in this Part 2 Proposal is provided on a confidential basis to the Independent Evaluator, and may be provided on a confidential basis to the Staff of the Pennsylvania Public Utility Commission (“Commission”). PECO representatives will review the information provided to fulfill the requirements of Section 4 and Section 5, and will participate in the evaluation of the Pre-Bid Letter of Credit with the name of the RFP Bidder and the amount redacted.*

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\_\_\_\_\_  
Name of RFP Bidder

## INSTRUCTIONS FOR PROPOSAL

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RFP Bidders use the Part 2 Form to submit a Part 2 Proposal in the RFP.

### **Please complete all sections.**

#### **I. Part 2 Proposal Submission**

An RFP Bidder must:

- Submit **two (2) original** completed Part 2 Forms (with original signatures);
- Submit **one (1) electronic copy** (on CD via mail or by email to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com)) of the completed Part 2 Form in **Microsoft Word**;
- Submit documents required to support the Part 2 Form as specified in Sections 2 and 3; and
- Manually insert the name of the RFP Bidder **on every page** of the Part 2 Form.

In addition, an RFP Bidder must respond to Sections 4 and 5 of the Part 2 Form and submit documents requested as applicable to the RFP Bidder.

*The completed Part 2 Proposal MUST be received by the Independent Evaluator no later than 12 PM (noon) EPT<sup>1</sup> on November 1, 2012 (the Part 2 Date) at:*

NERA - Independent Evaluator  
PECO Default Service Program RFPs  
1835 Market Street, Suite 1205  
Philadelphia, PA 19103

Inquiries may be directed to the Independent Evaluator by:

- telephone (215) 568-0200
- fax (215) 568-9358
- through the “Ask a Question” page on the Web site at [www.pecoprocurement.com](http://www.pecoprocurement.com)

**Photocopies and facsimiles of completed forms will not be accepted under any circumstances.**

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<sup>1</sup> Unless noted otherwise, all times refer to the Eastern Prevailing Time (EPT) zone.

Name of RFP Bidder

## **II. Part 2 Proposal Submission**

### Notifications

The Independent Evaluator sends you notifications by email or fax, at your option.

### Confirmation

If your Part 2 Proposal is received by mail or email, a confirmation consisting of the first page of your Part 2 Form stamped with the time and the date that it was received will be sent to you. This confirmation of receipt will be sent after an initial review, either with a confirmation that your proposal is complete, or with a deficiency notice (see below). If your Part 2 Proposal is hand-delivered, a confirmation consisting of a photocopy of the first page of your Part 2 Form stamped with the time and the date that it was received will be provided to the deliverer.

### Timing of Part 2 Proposal Review

The Part 2 Window opens at 8 AM on October 29, 2012 and closes at 12 PM (noon) on November 1, 2012. The last day of the Part 2 Window, November 1, 2012, is called the Part 2 Date. Part 2 Proposals received during the Part 2 Window are processed on the day they are received. RFP Bidders also have the option to submit the Part 2 Form during the Part 1 Window for early processing. If the Part 2 Form is received during the Part 1 Window, the Evaluation team will review the Part 2 Form as soon as practicable. If a Part 2 Form is received before the Part 1 Window opens, the evaluation team will review the Part 2 Form as soon as practicable after the Part 1 Window opens. Proposals received after the Part 2 Date are late proposals and are not processed.

### Incomplete Part 2 Proposals

If your Part 2 Proposal is incomplete or requires clarification, the Independent Evaluator will send a deficiency notice to you. If the deficiency or request for clarification concerns your Pre-Bid Letter of Credit, or your guaranty, or documents required to fulfill the requirements of Section 4 and Section 5 of this Part 2 Form, you will have until noon on the Part 2 Date, or until 6 PM of the second business day following the business day during which you are notified, whichever comes later, to respond. For any other deficiencies or requests for clarification you will have until 12 PM (noon) on the Part 2 Date, or until 6 PM on the business day following the business day during which a deficiency notice is sent to you, whichever comes later, to respond. If you do not correct or adequately explain the deficiency within the time allowed, your Part 2 Proposal may be rejected and you may be unable to participate in the RFP. One (1) copy of the Part 2 Form and all documents except for the Pre-Bid Letter of Credit will be returned to you.

### Late Part 2 Proposals

No late Part 2 Proposals will be accepted under any circumstances.

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*Name of RFP Bidder*

## Part 2 Notification

When your Part 2 Proposal is complete, the Independent Evaluator will send a complete notice to your Representative with a copy of the first page of your Part 2 Form stamped “complete”. Each RFP Bidder that submits a Part 2 Proposal will be notified whether it is eligible to submit a Bid on the Bid Date for the RFP no later than 6 PM on November 5, 2012 (the Part 2 Notification Date).

## RFP Bidders Under Agency Agreements

An RFP Bidder submitting a Proposal under an Agency Agreement is required to submit additional documents as specified in Section 4.

## Foreign RFP Bidders and Foreign Entities

An RFP Bidder that has not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia (“Foreign RFP Bidder”), or an RFP Bidder that is relying on the financial standing of an entity (an RFP Guarantor or a Principal) that has not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia (a “Foreign Entity”), is required to provide additional information in Section 5 of this Part 2 Form. Please note that if the RFP bidder has previously qualified and submitted these additional documents, fully executed, and deemed sufficient in a previous solicitation, re-submission may not be required provided that the documents remain certifiably up-to-date and valid.

\_\_\_\_\_  
*Name of RFP Bidder*

## PART 2 FORM

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### 1. Contact Information and Representations

COMPLETE ALL INFORMATION IN THIS SECTION 1 OF THIS PART 2 FORM.

Name and Address of the RFP Bidder

Is the contact information in provided in your Part 1 Form still valid?

☐ yes ☐ no

**If yes**, please proceed to the Representations on page 8 of this form.

**If no**, please make any corrections in the space provided below.

*Legal Name of RFP Bidder*

*Street Address*

*City*

*State*

*Zip Code*

**THE OFFICER OF THE RFP BIDDER NAMED IN THE PART 1 PROPOSAL WILL MAKE ALL REPRESENTATIONS AND CERTIFICATIONS IN THIS PART 2 PROPOSAL. IF THE RFP BIDDER MUST CHANGE THE INDIVIDUAL WHO SERVES AS OFFICER OF THE RFP BIDDER, THE RFP BIDDER MUST RE-SUBMIT BY THE PART 2 DATE ITS PART 1 FORM IN ITS ENTIRETY NAMING THE NEW INDIVIDUAL AS OFFICER OF THE RFP BIDDER, AND THE NEW OFFICER OF THE RFP BIDDER MUST MAKE ALL REPRESENTATIONS AND CERTIFICATIONS REQUIRED IN THIS RFP FOR THIS SOLICITATION.**

*Last Name of Officer of the RFP Bidder*

*Given Name(s)*

*Mr/Mrs/Ms/Dr/(other)*

*Title of Officer of the RFP Bidder*

*Street Address*

*City*

*State*

*Zip Code*

*Telephone No.*

*Fax No.*

*Email Address*

**Appendix 7 to the RFP Rules**

            
*Name of RFP Bidder*

In the Part 1 Proposal, the Officer of the RFP Bidder was given the option to name a Designee of the RFP Bidder. Please use the space below to update contact information for the Designee of the RFP Bidder if necessary.

<i>Last Name of the Designee</i>	<i>Given Name(s)</i>	<i>Mr/Mrs/Ms/Dr/(other)</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Title</i>		
<input type="text"/>		
<i>Street Address</i>		
<input type="text"/>		
<input type="text"/>		
<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Telephone No.</i>	<i>Fax No.</i>	<i>Email Address</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>

The Independent Evaluator, for the purposes of this RFP, will always send all communications to the Representative and will also send communications by email or secure file transfer to other authorized individuals designated in Attachment 1 to the Part 1 Form. Please use the fields below to make any correction to the contact information for the Representative.

<i>Last Name of Representative</i>	<i>Given Name(s)</i>	<i>Mr/Mrs/Ms/Dr/(other)</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Title</i>		
<input type="text"/>		
<i>Street Address</i>		
<input type="text"/>		
<input type="text"/>		
<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Telephone No. of Representative</i>	<i>Alternate Telephone No.</i>	<i>Email Address of Representative</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Fax No. of Representative</i>		
<input type="text"/>		



\_\_\_\_\_  
*Name of RFP Bidder*

Representations of the Officer of the RFP Bidder

**THE FOLLOWING CERTIFICATIONS MUST BE SIGNED BY THE OFFICER OF THE RFP BIDDER AND THE SIGNATURE MUST BE NOTARIZED OR ATTESTED WITH THE CORPORATE SEAL.**

- (1) I certify that this Part 2 Proposal will remain valid and remain in full force and effect until six (6) business days after the Bid Date.
- (2) I certify that the RFP Bidder is bidding independently and that it has no knowledge of any information concerning a Proposal by another RFP Bidder in response to this solicitation or any future solicitation under this RFP. Such information includes, but is not limited to: the fact that another RFP Bidder is submitting a Proposal in response to this solicitation or a subsequent solicitation under this RFP; the Bids by another RFP Bidder in this or in a subsequent solicitation under this RFP; the number of tranches bid by another RFP Bidder for any product in this or in a subsequent solicitation under this RFP; the estimation by another RFP Bidder of the value of a tranche of a product; the estimation by another RFP Bidder of the risks associated with providing supply under the Default Service SMA; the preference of another RFP Bidder for bidding on specific products in this or in a subsequent solicitation under the RFP; and the contractual arrangements for power of another RFP Bidder to serve tranches of Default Service Load were that RFP Bidder to become a Default Supplier. This certification must be binding and in effect until the Commission has either approved or rejected each of the winning Bids for this solicitation.
- (3) I certify that although the RFP Bidder may disclose aspects of its Proposal in communicating with its financial institution for the purpose of preparing the Pre-Bid Letter of Credit or in communicating with advisors (if any), any such communication is made in a manner that can reasonably be expected to maintain the confidentiality of this Proposal.
- (4) I certify that, with only the exceptions noted in (4) above, the RFP Bidder has not disclosed, and will not otherwise disclose, publicly or to any other party any information relating to its Proposal, which could have an effect on whether another party submits a Proposal in any solicitation under the RFP, or on the contents of such Proposal that another RFP Bidder would be willing to submit in response to the RFP. Such information includes, but is not limited to: the fact that the RFP Bidder is submitting a Proposal in response to this RFP; the RFP Bidder's Bids in this or in a subsequent solicitation under this RFP; the RFP Bidder's number of tranches bid for any product in this or in a subsequent solicitation under this RFP; the RFP Bidder's estimation of the value of a tranche of a product; the RFP Bidder's estimation of the risks associated with providing supply under the Default Service SMA; and the RFP Bidder's preference for bidding on specific products in this or in a subsequent solicitation under this RFP. This certification must be binding and in effect until the Commission has either approved or rejected each of the winning Bids for this solicitation.
- (5) I certify that any Bid on any product submitted in response to this RFP for this solicitation is binding until six (6) business days after the Bid Date and constitutes a binding and irrevocable offer to provide service under the terms of the Default Service SMA at the price specified in the Bid.

\_\_\_\_\_  
*Name of RFP Bidder*

- (6) I certify that if the Commission approves some or all of the RFP Bidder's Bids, I or the Designee will execute, or will nominate another authorized individual to execute, all Transaction Confirmation(s) required by the Commission's decision under the Default Service SMA by 2 PM of the fourth business day after the Bid Date.
- (7) I certify that in any such Transaction Confirmation, the RFP Bidder will specify a price for each type of AECs (Tier I, Tier I Solar, and Tier II) that is included in the RFP Bidder's winning Bids and each such price will be greater than \$0/AEC.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature and Seal from Notary Public

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Name of RFP Bidder*

## 2. Pre-Bid Letter of Credit

**PROVIDE ALL INFORMATION REQUESTED IN THIS SECTION 2 OF THIS PART 2 FORM.**

### First Item: Use of Standard Pre-Bid Letter of Credit

The RFP Bidder must either use the Standard Pre-Bid Letter of Credit, provided on [www.pecoprocurement.com](http://www.pecoprocurement.com), or the RFP Bidder must submit a Pre-Bid Letter of Credit that incorporates only those modifications to the Standard Pre-Bid Letter of Credit accepted as a result of the evaluation of the Part 1 Proposals.

The RFP bidder is submitting an executed Pre-Bid Letter of Credit (check one):

- ☐ using the Standard Pre-Bid Letter of Credit; or  
☐ incorporating only approved modifications.

Are you submitting this Part 2 Proposal during the Part 1 Window for early processing?

☐ yes ☐ no

**If yes**, the Officer of the RFP Bidder must make the acknowledgement below.

**If no**, please proceed to the next item in this Section 2, "Amount of the Pre-Bid Letter of Credit".

### Acknowledgement of Documents Required

I acknowledge that with the Part 2 Proposal, I will be required to submit an executed Pre-Bid Letter of Credit.

\_\_\_\_\_  
Signature of Officer of the RFP Bidder

\_\_\_\_\_  
Date

### Second Item: Amount of the Pre-Bid Letter of Credit

**INSTRUCTION: THE RFP BIDDER MUST PROVIDE AN EXECUTED PRE-BID LETTER OF CREDIT, DRAWN FOR THE ACCOUNT OF THE RFP BIDDER AND ACCEPTABLE TO PECO, IN AN AMOUNT OF \$250,000 PER TRANCHE BID ON PRODUCTS FOR THE RESIDENTIAL, SMALL COMMERCIAL AND MEDIUM COMMERCIAL CLASSES, AND \$125,000 PER TRANCHE BID ON PRODUCTS FOR THE LARGE COMMERCIAL AND INDUSTRIAL CLASS. A SINGLE PRE-BID LETTER OF CREDIT IS SUBMITTED EVEN IF THE RFP BIDDER BIDS ON MORE THAN ONE PRODUCT OR MORE THAN ONE CLASS.**

\_\_\_\_\_  
*Name of RFP Bidder*

*Third Item: Instructions for Release of the Pre-Bid Letter of Credit*

PECO and the Independent Evaluator will release the Pre-Bid Letter of Credit no later than six (6) business days after the Bid Date. If the Commission does not approve any of the RFP Bidder's Bids, PECO and the Independent Evaluator will release that RFP Bidder's Pre-Bid Letter of Credit within three (3) business days of the Bid Date. Please provide any special instructions for returning the Pre-Bid Letter of Credit below.

--

\_\_\_\_\_  
*Name of RFP Bidder*

### 3. Default Service SMA Documents

Are you a Default Supplier with PECO such that you have a current and fully executed Default Service Program Supply Master Agreement with PECO for Bids approved by the Commission in a previous solicitation?

☐ yes   ☐ no

**If yes**, please proceed to the next item in this Section 3, “RFP Bidders Relying on the Financial Standing of an RFP Guarantor”.

**If no**, please continue filling in information for this item on the Default Service Program Supply Master Agreement.

**PROVIDE ALL INFORMATION AS INSTRUCTED IN THIS SECTION 3 OF THIS PART 2 FORM.**

#### The Default Service SMA and Exhibits

Each RFP Bidder that qualified pursuant to a successful Part 1 Proposal receives from the Independent Evaluator the Default Service SMA, which the Independent Evaluator either transmits by secure file transfer or saves electronically on a CD that is sent by overnight delivery service.

**AN RFP BIDDER MUST PROVIDE TWO (2) SIGNED ORIGINALS OF THE DEFAULT SERVICE SMA WITH ALL EXHIBITS, INCLUDING TWO (2) SIGNED ORIGINALS OF THE PJM DECLARATION OF AUTHORITY (EXHIBIT J). EITHER THE OFFICER OF THE RFP BIDDER OR DESIGNEE OF THE RFP BIDDER SIGNS TWO (2) ORIGINALS OF THE DEFAULT SERVICE SMA AND OF EXHIBIT J.**

Are you submitting this Part 2 Proposal during the Part 1 Window for early processing?

☐ yes   ☐ no

**If yes**, the Officer of the RFP Bidder must make the acknowledgement below.

**If no**, please proceed to the next item in this Section 3, “RFP Bidders Relying on the Financial Standing of an RFP Guarantor”.

#### Acknowledgement of Documents Required

I acknowledge that with the Part 2 Proposal, I will be required to submit two (2) signed originals of the Default Service SMA with all exhibits, including two (2) signed originals of the PJM Declaration of Authority (Exhibit J).

\_\_\_\_\_  
Signature of Officer of the RFP Bidder

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of RFP Bidder

RFP Bidders Relying on the Financial Standing of an RFP Guarantor

Are you relying on the financial standing of an RFP Guarantor?

☐ yes ☐ no

**If no**, please proceed to Section 4.

**If yes**, please continue to the following question:

Does the RFP Guarantor already have an existing guaranty *from a previous solicitation under this RFP* for the maximum amount of the Unsecured Credit Limit?

☐ yes ☐ no

**If yes**, please proceed to Section 4.

**If no**, please continue to the following section:

Guaranty

An RFP Bidder relying on the financial standing of an RFP Guarantor must provide two (2) signed originals of the guaranty with the Part 2 Proposal.

**FOR RFP BIDDERS THAT ARE NOT CURRENTLY SUPPLIERS AND THAT ARE USING THE FORM OF GUARANTY, THE GUARANTY AMOUNT MUST MEET OR EXCEED \$600,000 PER TRANCHE BID ON THE FIXED-PRICE PRODUCTS. FOR RFP BIDDERS THAT ARE CURRENTLY SUPPLIERS AND THAT ARE USING THE FORM OF GUARANTY, THE GUARANTY AMOUNT MUST MEET OR EXCEED THE LESSER OF (I) THE UNSECURED CREDIT LIMIT; (II) THE SUM OF THE GUARANTY AMOUNT OF ANY CURRENT GUARANTY HELD BY PECO UNDER THE DEFAULT SERVICE SMA AND \$600,000 PER TRANCHE BID ON THE FIXED-PRICE PRODUCTS.**

Are you submitting this Part 2 Proposal during the Part 1 Window for early processing?

☐ yes ☐ no

**If yes**, the Officer of the RFP Bidder must make the acknowledgement below.

**If no**, please proceed to the next item in this Section 3, “Enforceability Opinion for an Alternate Guaranty”.

Acknowledgement of Documents Required

I acknowledge that with the Part 2 Proposal, I will be required to submit two (2) signed originals of the guaranty.

\_\_\_\_\_  
Signature of Officer relying on the Financial  
Standing of an RFP Guarantor

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Name of RFP Bidder*

Enforceability Opinion for an Alternate Guaranty

Are you using an Alternate Guaranty Form?

☐ yes ☐ no

**If no**, please proceed to Section 4 of this form.

**If yes**, please continue filling out this section.

Have you obtained approval from PECO to use an alternate guaranty form in a previous solicitation and submitted a successful Part 2 Proposal in that previous solicitation?

☐ yes ☐ no

**If yes**, please proceed to Section 4 of this form.

**If no**, please continue completing this section.

RFP Bidders using an alternate guaranty form approved by PECO are required to provide an executed enforceability opinion for this alternate guaranty form on the letterhead of a law firm of national standing.

**AN RFP BIDDER USING AN ALTERNATE GUARANTY FORM APPROVED BY PECO PURSUANT TO THE GUARANTY PROCESS MUST SUBMIT A GUARANTY WITH NO MONETARY LIMIT.**

Are you submitting this Part 2 Proposal during the Part 1 Window for early processing?

☐ yes ☐ no

**If yes**, the Officer of the RFP Bidder must make the acknowledgement below.

**If no**, please proceed to Section 4.

Acknowledgement of Documents Required

I acknowledge that with the Part 2 Proposal, I will be required to submit an executed enforceability opinion.

\_\_\_\_\_  
Signature of Officer of the RFP Bidder

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Name of RFP Bidder*

#### 4. RFP Bidders Under Agency Agreements

Are you submitting a Proposal under an Agency Agreement?

☐ yes ☐ no

**If no**, please proceed to Section 5, “Foreign RFP Bidders and Foreign Entities”.

**If yes**, please complete the requirements of this Section.

##### Officer’s Certificate

**PLEASE PROVIDE THE REQUIRED OFFICERS’ CERTIFICATE, SIGNED BY AN OFFICER OF EACH PRINCIPAL, WITH THIS PART 2 FORM.** The Independent Evaluator and PECO will determine whether the document provided is sufficient, without any liability or obligation to the RFP Bidder or its Principal(s). A previously eligible RFP Bidder will have presented an Officers’ Certificate acceptable to PECO at the time of the previously successful Part 2 Proposal; such Officers’ Certificate in the same form will remain acceptable to PECO unless there has been a change in the circumstances of the RFP Bidder submitting a Proposal under an Agency Agreement.

##### Signatory to the Default Service SMA

Is a representative of the RFP Bidder authorized to execute Transaction Confirmations pursuant to the Default Service SMA?

☐ yes ☐ no

**If yes**, please proceed to Section 5.

**If no**, the RFP Bidder must name a representative of a Principal that is so authorized. This individual must also execute the two (2) originals of the Default Service SMA signature page and the two (2) originals of the PJM Declaration of Authority that are submitted with the Part 2 Proposal.

Is the RFP Bidder in the following situation: (1) the RFP Bidder is previously eligible; (2) the RFP Bidder provided information for a representative of a Principal in that previous solicitation and that Principal remains authorized to sign the Default Service SMA and any Transaction Confirmation; and (3) the RFP Bidder can confirm that the information for the representative of a Principal provided in the Notification of Qualification accurate and up-to-date?

☐ yes ☐ no

**If yes**, please proceed to Section 5.

**Otherwise**, please provide the information requested below.



**Appendix 7 to the RFP Rules**

\_\_\_\_\_  
*Name of RFP Bidder*

Please provide the name and contact information of this representative below.

*Last Name of Representative*

*Given Name(s)*

*Mr/Mrs/Ms/Dr/(other)*

*Telephone No. of Representative*

*Alternate Telephone No.*

*Email Address of Representative*

*Fax No. of Representative*

Name of RFP Bidder

## 5. Foreign RFP Bidders and Foreign Entities

Are you a Foreign RFP Bidder or an RFP Bidder relying on the financial standing of a Foreign Entity (RFP Guarantor or Principal)?

☐ yes ☐ no

**If no**, please proceed to Section 6.

**If yes**, please complete all information required in this Section 5 of this Part 2 Form.

### Foreign RFP Bidder

**A FOREIGN RFP BIDDER MUST PROVIDE THE ADDITIONAL DOCUMENTS LISTED BELOW FOR THE FOREIGN RFP BIDDER TO BE GRANTED UNSECURED CREDIT UNDER THE TERMS OF THE DEFAULT SERVICE SMA.**

Have you submitted all additional documents listed below, fully executed, and deemed sufficient in the Part 2 Proposal of a previous solicitation?

☐ yes ☐ no

**If yes**, please confirm by checking here ☐ that these documents remain up-to-date and valid and proceed to the next item in this Section 5 of this Part 2 Form.

**If no**, or if any additional document previously submitted is not up-to-date and valid, please complete this section and provide the documents listed below.

- **one (1) executed original** legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Foreign RFP Bidder is incorporated or otherwise formed that the Default Service SMA is, or upon the completion of execution formalities will become, the binding obligation of the Foreign RFP Bidder in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit G to the Default Service SMA includes a sample of this legal opinion.
- **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the person executing the Default Service SMA on behalf of the Foreign RFP Bidder has the authority to execute the Default Service SMA and that the governing board of such Foreign RFP Bidder has approved the execution of the Default Service SMA.
- **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the Foreign RFP Bidder has been authorized by its governing board to enter into agreements of the same type as the Default Service SMA.

If the Foreign RFP Bidder does not submit these documents, or if these documents are not sufficient, the Foreign RFP Bidder is not granted unsecured credit under the terms of the Default Service SMA.

\_\_\_\_\_  
*Name of RFP Bidder*

Are you submitting this Part 2 Proposal during the Part 1 Window for early processing?

☐ yes   ☐ no

**If yes**, the Officer of the RFP Bidder must make the acknowledgement below.

**If no**, please proceed to the next item in Section 5, “Foreign RFP Guarantor”.

Acknowledgement of Documents Required

I acknowledge that with the Part 2 Proposal, I will be required to submit additional documents listed above for the Foreign RFP Bidder to be granted unsecured credit under the terms of the Default Service SMA.

\_\_\_\_\_  
Signature of Officer of the RFP Bidder

\_\_\_\_\_  
Date

Name of RFP Bidder

Foreign RFP Guarantor

**AN RFP BIDDER RELYING ON THE FINANCIAL STANDING OF AN RFP GUARANTOR THAT IS A FOREIGN ENTITY MUST PROVIDE THE ADDITIONAL DOCUMENTS LISTED BELOW FOR THE RFP GUARANTOR TO BE GRANTED UNSECURED CREDIT UNDER THE TERMS OF THE DEFAULT SERVICE SMA.**

Have you submitted all additional documents listed below, fully executed, and deemed sufficient in the Part 2 Proposal of a previous solicitation?

☐ yes ☐ no

**If yes**, please confirm by checking here ☐ that these documents remain up-to-date and valid and proceed to the next item in this Section 5 of this Part 2 Form.

**If no**, or if any of the additional documents is not up-to-date and valid, please complete this section and provide the documents listed below.

- **one (1) executed original** legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the RFP Guarantor is incorporated or otherwise formed that the guaranty pursuant to the Default Service SMA is, or upon the completion of execution formalities will become, the binding obligation of the RFP Guarantor in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit G to the Default Service SMA includes a sample of this legal opinion.
- **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the person executing the guaranty pursuant to the Default Service SMA on behalf of the RFP Guarantor has the authority to execute the guaranty pursuant to the Default Service SMA and that the governing board of such RFP Guarantor has approved the execution of the guaranty pursuant to the Default Service SMA;
- **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the RFP Guarantor has been authorized by its governing board to enter into agreements of the same type as the guaranty pursuant to the Default Service SMA.

If the RFP Bidder does not submit these documents, or if these documents are not sufficient, the Foreign RFP Guarantor is not granted unsecured credit under the terms of the Default Service SMA. In that case, the RFP Bidder may not rely on the financial standing of the RFP Guarantor. Any guaranty submitted with the Part 2 Proposal will be removed from consideration and the Independent Evaluator may request additional financial or credit information regarding the RFP Bidder.

Are you submitting this Part 2 Proposal during the Part 1 Window for early processing?

☐ yes ☐ no

**If yes**, the Officer of the RFP Bidder must make the acknowledgement on the next page.

**If no**, please proceed to the next item in Section 5, "Agency Agreement with a Foreign Principal".

\_\_\_\_\_  
*Name of RFP Bidder*

Acknowledgement of Documents Required

I acknowledge that with the Part 2 Proposal, I will be required to submit additional documents listed above for the Foreign RFP Bidder to be granted unsecured credit under the terms of the Default Service SMA.

\_\_\_\_\_  
Signature of Officer of the RFP Bidder

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Name of RFP Bidder*

Agency Agreement with a Foreign Principal

**AN RFP BIDDER SUBMITTING A PROPOSAL UNDER AN AGENCY AGREEMENT WITH A PRINCIPAL THAT IS A FOREIGN ENTITY MUST PROVIDE THE ADDITIONAL DOCUMENTS LISTED BELOW FOR THE RFP BIDDER AND ITS PRINCIPAL TO BE GRANTED UNSECURED CREDIT UNDER THE TERMS OF THE DEFAULT SERVICE SMA.**

Have you submitted all additional documents listed below, fully executed, and deemed sufficient in the Part 2 Proposal of a previous solicitation?

☐ yes   ☐ no

**If yes**, please confirm by checking here ☐ that these documents remain up-to-date and valid and proceed to Section 6 of this Part 2 Form.

**If no**, or if any of the additional documents is not up-to-date and valid, please complete this section and provide the documents listed below.

- **one (1) executed original** legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Principal is incorporated or otherwise formed that the Default Service SMA is, or upon the completion of execution formalities will become, the binding obligation of the Principal in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit G to the Default Service SMA includes a sample of this legal opinion.
- **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such Principal that the Principal has been authorized by its governing board to enter into agreements of the same type as the Default Service SMA.

If the RFP Bidder does not submit these documents, or if these documents are not sufficient, the RFP Bidder and its Principal(s) are not granted unsecured credit under the terms of the Default Service SMA.

Are you submitting this Part 2 Proposal during the Part 1 Window for early processing?

☐ yes   ☐ no

**If yes**, the Officer of the RFP Bidder must make the acknowledgement on the next page.

**If no**, please proceed to Section 6.

\_\_\_\_\_  
*Name of RFP Bidder*

**Acknowledgement of Documents Required**

I acknowledge that with the Part 2 Proposal, I will be required to submit additional documents listed above for the Foreign RFP Bidder and its Principal to be granted unsecured credit under the terms of the Default Service SMA.

\_\_\_\_\_  
Signature of Officer of the RFP Bidder

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Name of RFP Bidder*

## 6. Justification of Omissions

If you are unable to provide all documents or information with this Part 2 Form, please justify fully any omissions in the space provided below.



\_\_\_\_\_  
Name of RFP Bidder

## Checklist

**This is a checklist of documents that must be included in the Part 2 Proposal.**

- ☐ **Two (2) originals** of the completed Part 2 Form (with original signatures and original notarized signatures where required) *[Instructions Part 1]*
- ☐ **One (1) copy** (on CD via mail or by email to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com)) of the completed Part 1 Form in **Microsoft Word** *[Instructions Part 1]*
- ☐ **One (1) executed original** Pre-Bid Letter of Credit, drawn for the account of the RFP Bidder and acceptable to PECO, in an amount of \$250,000 per tranche bid on products for the Residential, Small Commercial and Medium Commercial Classes, and in an amount of \$125,000 per tranche bid on products for the Large Commercial and Industrial Class, that either uses the Standard Pre-Bid Letter of Credit provided in Appendix 11 to the RFP Rules, or a Pre-Bid Letter of Credit that incorporates only those modifications to the Standard Pre-Bid Letter of Credit accepted as a result of the evaluation of the Part 1 Proposals. *[Section 2]*
- ☐ **Two (2) signed originals** of the Default Service SMA, including exhibits if the RFP Bidder is not a current Default Supplier. *[Section 3]*
- ☐ **Two (2) signed originals** of the guaranty if the RFP Bidder is relying on the financial standing of an RFP Guarantor. *[Section 3]*
- ☐ **One (1) executed original** Enforceability Opinion Letter if the RFP Bidder is submitting an alternate guaranty approved by PECO pursuant to the Guaranty Process and if the RFP Bidder did not submit the Enforceability Opinion Letter pursuant to a successful Part 2 Proposal in a previous solicitation. *[Section 3]*
- ☐ **One (1) executed** Officers' Certificate if the RFP Bidder is submitting a Proposal under an Agency Agreement. *[Section 4]*

An RFP Bidder submitting a Proposal under an Agency Agreement with a Principal that is a Foreign Entity, as a condition of being granted unsecured credit, must also provide the following executed documents, unless these documents were deemed sufficient when provided in a previous solicitation and are up-to-date:

- ☐ **One (1) executed** legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the Default Service SMA is binding. *[Section 5]*
- ☐ **One (1) executed** sworn certificate of the corporate secretary (or similar officer) of the Principal that its governing board has authorized the execution of agreements of the same type as the Default Service SMA in the past. *[Section 5]*

*Name of RFP Bidder*

A Foreign RFP Bidder, as a condition of being granted unsecured credit, must also provide the following documents, unless these documents were deemed sufficient when provided in a previous solicitation and are up-to-date:

- ☐ **One (1) executed** legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the Default Service SMA is binding. *[Section 5]*
- ☐ **One (1) executed** sworn certificate of the corporate secretary (or similar officer) of the Foreign RFP Bidder that the person executing the Default Service SMA is so authorized and that its governing board has approved the execution of the Default Service SMA. *[Section 5]*
- ☐ **One (1) executed** sworn certificate of the corporate secretary (or similar officer) of the Foreign RFP Bidder that its governing board has authorized the execution of agreements of the same type as the Default Service SMA in the past. *[Section 5]*

An RFP Bidder relying on the financial standing of an RFP Guarantor that is a Foreign Entity, as a condition of being granted unsecured credit, must also provide the following documents, unless these documents were deemed sufficient when provided in a previous solicitation and are up-to-date:

- ☐ **One (1) executed** legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the guaranty pursuant to the Default Service SMA is binding. *[Section 5]*
- ☐ **One (1) executed** sworn certificate of the corporate secretary (or similar officer) of the RFP Guarantor that the person executing the guaranty is so authorized and that its governing board has approved the execution of the guaranty pursuant to the Default Service SMA. *[Section 5]*
- ☐ **One (1) executed** sworn certificate of the corporate secretary (or similar officer) of the RFP Guarantor that its governing board has authorized the execution of a guaranty of the same type as the guaranty pursuant to the Default Service SMA in the past. *[Section 5]*

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***End of Part 2 Form***

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## Standard Pre-Bid Letter of Credit

[On Issuing Bank's Letterhead]

### IRREVOCABLE STANDBY LETTER OF CREDIT

\_\_\_\_\_ ("Date of Issuance")

Letter of Credit No. \_\_\_\_\_

Beneficiary:

PECO Energy Company ("PECO")  
c/o NERA Economic Consulting, Inc. ("NERA")  
Independent Evaluator  
PECO Default Service Program  
1835 Market Street, Suite 1205  
Philadelphia, PA 19103

Applicant:

[Name of RFP Bidder]

[Address]

1. We, \_\_\_\_\_ (the "Issuing Bank"), hereby establish this Irrevocable Standby Letter of Credit (this "Letter of Credit") in your favor in the amount of USD \$\_\_\_\_\_, effective immediately and available to you at sight upon demand at our counters at \_\_\_\_\_ [designate Issuing Bank's location for presentments] and expiring at 5:00 PM (New York, NY time<sup>1</sup>) on \_\_\_\_\_ [no earlier than October 2, 2012 which is at least fifteen days following the Bid Date] (the "Expiration Date"), unless terminated earlier in accordance with the provisions of Paragraph 9 hereof.
2. This Letter of Credit is issued at the request and for the account of \_\_\_\_\_ (including its successors and assigns, the "Bidder"). This Letter of Credit may be drawn by presenting the documents required by paragraph 3 hereof, including your certificate stating that:
  - a) "the Bidder has made a material omission or misrepresentation in the Part 1 Proposal or the Part 2 Proposal submitted in connection with this solicitation"; or
  - b) "the Bidder has disclosed information relating to its Proposal publicly or to any other party before the PUC has rendered its decision on the results of the solicitation"; or
  - c) "the Bidder has one or more Bids approved by the PUC and the RFP Bidder fails to execute all Transaction Confirmations in the timeframe required by the Default Service SMA".

<sup>1</sup> If the issuer of the Letter of Credit is located in an area that is not in the Eastern Time zone, this time and all other times in this Letter of Credit, and the definition of a Business Day should be adjusted accordingly, here and in Paragraphs 5 and 9.

## Appendix 8 to the RFP Rules

3. We hereby irrevocably authorize you to draw on us, in accordance with the terms and conditions hereof, up to the amount available under this Letter of Credit from time to time, subject to reduction as provided in Paragraph 8. A partial or full drawing hereunder may be presented by you on any Business Day on or prior to the Expiration Date by delivering or transmitting to the Issuing Bank at \_\_\_\_\_, (a) Annex 1 hereto, appropriately completed and duly signed by an Authorized Officer of PECO, which is your notice, and (b) Annex 2 hereto, appropriately completed and duly signed by an Authorized Officer of PECO, which is your draft.
4. Drafts, document(s) and other communications hereunder may be presented or delivered to us by facsimile transmission. Presentation of documents to effect a draw by facsimile must be made to the following facsimile number: \_\_\_\_\_, and confirmed by telephone to us at the following number: \_\_\_\_\_. In the event of a presentation via facsimile transmission, no mail confirmation is necessary and the facsimile transmission will constitute the operative drawing documents.
5. We will honor a drawing hereunder made in compliance with the terms and provisions of this Letter of Credit by transferring in immediately available funds the amount specified in your draft (or so much thereof as is available hereunder) delivered or transmitted to us in connection with such drawing to the account designated as provided below, by 3:00 PM (New York, NY time) on the date of such drawing, if delivery or transmission of the requisite documents pursuant to Paragraph 3 hereof is made prior to 11:00 AM (New York, NY time) on a Business Day, but at the opening of business on the first Business Day next succeeding the date of such drawing if delivery or transmission of the requisite documents pursuant to Paragraph 3 hereof is made on or after 11:00 AM (New York, NY time) on any Business Day.
6. If a demand for payment made by you hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give you notice not later than the time provided in Paragraph 5 above for honor of a drawing presented to us, that the demand for payment was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons why the demand for payment was not so effected, and that we will upon your instructions hold any documents at your disposal or return the same to you. Upon being notified that the demand for payment was not effected in conformity with this Letter of Credit, you may attempt to correct any such non-conforming demand for payment to the extent that you are entitled to do so, provided, however, in such event a conforming demand for payment must be timely made in accordance with the terms of this Letter of Credit.
7. Unless otherwise hereafter designated in writing to us by an Authorized Officer of PECO, all payments made by us under this Letter of Credit shall be transmitted by wire transfer to PECO pursuant to the following instructions:

PECO Energy Company

Account No.: \_\_\_\_\_

Bank: \_\_\_\_\_

Bank's Address: \_\_\_\_\_

ABA Routing No.: \_\_\_\_\_

Contact: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

8. Partial drawings are permitted hereunder and multiple drawings are permitted hereunder. The amount available for drawing by you under this Letter of Credit shall be automatically reduced by

## Appendix 8 to the RFP Rules

the amount of any drawings paid through us referencing this Letter of Credit. Presentation of demands for drawings in amounts that exceed the amount available to be drawn hereunder shall not be deemed a failure to comply with the requirements of Paragraph 3 hereof, provided that the amounts payable on any such demand shall thus be limited to the amount then available to be drawn under this Letter of Credit.

9. This Letter of Credit shall terminate on the earliest of the date (a) you have made drawings which exhaust the amounts available to be drawn under this Letter of Credit, (b) we receive from you a Certificate of Cancellation in the form of Annex 3 hereto together with the original of this Letter of Credit returned for cancellation, or (c) 5:00 PM (New York, NY time) on the Expiration Date.
10. This Letter of Credit is not transferable, and except as otherwise expressly stated herein, is subject to the Uniform Customs and Practices for Documentary Credits – 2007 revision, ICC Publication No. 600, or any successor publication thereto (the “UCP”). All banking charges are for the account of the Bidder. This Letter of Credit shall, as to matters not governed by the UCP, be governed and construed in accordance with New York law, without regard to principles of conflicts of law.
11. Article 36 of the UCP as it applies to this Letter of Credit is hereby modified to provide as follows:

If on the last Business Day for presentation the place for presentation stated in this Letter of Credit is for any reason closed, then the last day for presentation is automatically extended to the day occurring thirty calendar days after the place for presentation re-opens for business.

Article 36 of the UCP as it applies to this Letter of Credit is hereby further modified by providing that any alternate place for presentation we may designate pursuant to this rule must be in the United States.

12. As used herein:

“Authorized Officer” shall mean President, Treasurer, any Vice President or Senior Vice President or any Assistant Treasurer.

“Bids” shall mean the price offers submitted by the Applicant in response to PECO Energy Company’s Default Service Program RFP for Full Requirements Products.

“Bid Date” shall mean the day on which the Bidder may submit Bids in the solicitation.

“Bidder” shall mean an entity that has successfully completed the Part 1 Proposal, and that submits the Part 2 Proposal.

“Business Day” shall mean any day on which commercial banks are not authorized or required to close in New York, NY and any day on which payments can be effected on the Fedwire system.

“Default Service SMA” shall mean the Default Service Program Supply Master Agreement by which PECO can contract with winners of full requirements products from this solicitation.

“Independent Evaluator” shall mean the administrator of PECO Energy Company’s Default Service Program RFP for Full Requirements Products.

“PUC” shall mean the Pennsylvania Utility Commission.

## Appendix 8 to the RFP Rules

"Proposal" shall mean a response by the Applicant to PECO Energy Company's Default Service Program RFP for Full Requirements Products in a solicitation, including the Part 1 Proposal and the Part 2 Proposal.

"Transaction Confirmation" shall mean an agreement pursuant to the Default Service SMA that documents certain terms of a transaction between the Applicant and PECO Energy Company.

13. This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, changed, amplified or limited by reference to any document, instrument or agreement referred to herein, except for Annexes 1 through 3 hereto and the notices referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except as set forth above. Except as otherwise expressly stated herein, this Letter of Credit may not be amended or modified by us without the consent of an Authorized Officer of PECO or an Authorized Officer of the Independent Evaluator on behalf of PECO.
14. We, the Issuing Bank, certify that as of the Date of Issuance our senior unsecured debt is rated "A" or better by Standard & Poor's, or "A2" or higher from Moody's Investors Service.
15. This original Letter of Credit has been sent to the Independent Evaluator at 1835 Market Street, Suite 1205, Philadelphia, PA 19103 (as per Bidder's instructions, the Independent Evaluator holds the Letter of Credit for the benefit of PECO). The aggregate amount paid to PECO during the validity of this Letter of Credit will not exceed the amount of this Letter of Credit. Any demands or communications in the form of the attached Annexes or other communications directed to us under this Letter of Credit must be signed by an Authorized Officer of PECO. Acceptance or rejection of any amendments to this Letter of Credit must be signed by an Authorized Officer of PECO or an Authorized Officer of the Independent Evaluator on behalf of PECO.

Very truly yours,  
[Issuing Bank]

\_\_\_\_\_  
Signature: \_\_\_\_\_

Name:

Title:

Date:

## ***Annex 1 to Letter of Credit***

DRAWING UNDER LETTER OF CREDIT NO. \_\_\_\_\_

\_\_\_\_\_, 20\_\_

To: [Issuing Bank]  
[Address]

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

The undersigned is making a drawing under Your Letter of Credit No. \_\_\_\_\_ (the "Letter of Credit") in the amount specified below and hereby certifies to you as follows:

1. Capitalized terms used herein that are not defined herein shall have the meanings ascribed thereto in the Letter of Credit.
2. The undersigned is making a drawing under the Letter of Credit. The amount to be received by PECO is (USD) \$\_\_\_\_\_.
3. Pursuant to Paragraph 2 of the Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_, the undersigned is entitled to make a drawing under the Letter of Credit in as much as the Bidder has \_\_\_\_\_ [state a reason from conditions (a) – (c) of Paragraph 2 of the Letter of Credit].
4. The undersigned acknowledges that, upon your honoring the drawing herein requested, the amount of the Letter of Credit available for drawing shall be automatically decreased by the amount of this drawing honored by you.

Very truly yours,

PECO Energy Company

By \_\_\_\_\_

Name:

Title:

Date:

cc: \_\_\_\_\_[Bidder]



***Annex 2 to Letter of Credit***

SIGHT DRAFT

Amount: \$\_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

At sight, pay to the order of PECO Energy Company the sum of \_\_\_\_\_ U.S. Dollars.

Drawn under Irrevocable Letter of Credit No. \_\_\_\_\_ of \_\_\_\_\_  
[identify Issuing Bank] dated \_\_\_\_\_, 200\_.

To: \_\_\_\_\_ [Issuing Bank]  
\_\_\_\_\_ [Address]  
\_\_\_\_\_

PECO Energy Company

By \_\_\_\_\_  
Name:  
Title:  
Date:

***Annex 3 to Letter of Credit***

CERTIFICATE OF CANCELLATION

\_\_\_\_\_, 20\_\_

To: [Issuing Bank]  
[Address]

Attention: Standby Letter of Credit Unit/Your Letter of Credit No. \_\_\_\_\_

Ladies and Gentlemen:

The undersigned hereby certifies to you that the above-referenced Letter of Credit may be cancelled without further payment. Attached hereto is the original Letter of Credit, marked cancelled.

PECO Energy Company

By \_\_\_\_\_

Name:

Title:

Date:

cc: \_\_\_\_\_ [Bidder]



**PECO Energy Company  
Default Service Program RFP  
November 2012 Solicitation**

**General Information  
Bid Date: Tuesday, November 6, 2012**

**Template Information:**

In addition to this 'General Information' sheet, this Bid Form contains the 'Bids' sheet.  
The 'Bids' sheet is for entering Bids for all 4 Fixed-Price products.

**Bidder Information:**

Company Name  
Contact Name  
Phone Number


**Bidder Information is incomplete. All fields are mandatory.**

**Class & Product Information:**

A "Class" is a grouping of PECO's retail customers. PECO will procure full requirements products for three Classes under this RFP: Residential ("R"), Small Commercial ("SC"), and Medium Commercial ("MC").

Number of tranches available		
Class	Supply Period	Available Tranches
Residential	June 2013 - November 2013	17
Residential	June 2013 - May 2014	3
Residential	June 2013 - November 2014	7
Small Commercial	June 2013 - November 2013	12

The Load Caps for a Class are set so that the customers of that Class have no more than a 67% exposure to any one Default Supplier at any given time. The Load Caps apply to the list of products that contribute to Default Supply for a Class at a given point in time. The Load Cap for an RFP Bidder that is a Default Supplier will take into account tranches won in previous solicitations.

R Class: An RFP Bidder is limited to 22 tranches of the RES-6-Jun13, RES-12-Jun13, and RES-18-Jun13 products combined.

SC Class: An RFP Bidder can bid on all available SC Class tranches in this November 2012 Solicitation.

**Complete and Sign Certification:**

I, \_\_\_\_\_, certify under penalty of perjury that I am authorized to submit these Bids.

By affixing my electronic signature below I understand and agree with the following: Any Bid on any product submitted in response to this RFP for this solicitation is binding until six (6) business days after the Bid Date and constitutes a binding and irrevocable offer to provide service under the terms of the Default Service Program Supply Master Agreement at the price specified in the Bid.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature

Please enter your Name, Company Name, and Electronic Signature.

**PECO Energy Company  
Default Service Program RFP  
November 2012 Solicitation**

**Bids**

**Bid Date: Tuesday, November 6, 2012**

**Bids**

- A 'Bid' is a price in \$/MWh for one tranche of a given product.
- A 'Bid' is rounded to the nearest cent.
- An RFP Bidder may submit different Bids for different tranches of a given product.
- Bids should be entered from top to bottom, without skipping rows.

**Bids (All Bids are in \$/MWh)**

Residential	Residential	Residential	Small Commercial
June 2013 - November 2013	June 2013 - May 2014	June 2013 - November 2014	June 2013 - November 2013
Bid (\$/MWh)	Bid (\$/MWh)	Bid (\$/MWh)	Bid (\$/MWh)
1	1	1	1
2	2	2	2
3	3	3	3
4		4	4
5		5	5
6		6	6
7		7	7
8		8	8
9		9	9
10		10	10
11		11	11
12		12	12
13			
14			
15			
16			
17			

**Number of Tranches bid**

Residential	Residential	Residential	Small Commercial
June 2013 - November 2013	June 2013 - May 2014	June 2013 - November 2014	June 2013 - November 2013
-	-	-	-
<b>Total</b>			<b>Total</b>
Residential			Small Commercial
-			-



## Appendix 10 to the RFP Rules

### Future Solicitations

#### Tentative Schedule for Future Solicitations

The tentative schedules for future solicitations are provided in this Appendix 10. These schedules may be modified in accordance with Paragraph I.1.11 of the RFP Rules.

Activity	Date
<b>November 2012 Solicitation</b>	
Bidder Information Session	Thursday, November 29, 2012
Part 1 Proposal Window Opens	Friday, November 30, 2012
Part 1 Date (Part 1 Proposal Window Closes)	Wednesday, December 05, 2012
Part 1 Notification Date	Friday, December 07, 2012
Part 2 Proposal Window Opens	Monday, December 10, 2012
Bid Submission training	Wednesday, December 12, 2012
Part 2 Date (Part 2 Proposal Window Closes)	Thursday, December 13, 2012
Part 2 Notification Date	Monday, December 17, 2012
Bid Date (Bids are Due)	Tuesday, December 18, 2012
IE provides its report to the PUC	Wednesday, December 19, 2012
PUC Decision (close of business)	Thursday, December 20, 2012
If Bids are approved by the PUC:	
PECO executes the Default Service SMA	Within three business days of the Bid Date
PECO sends Transaction Confirmations by overnight delivery service	By noon on the third business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements and executes all Transaction Confirmation(s)	By 2 PM on the fourth business day after the Bid Date

## Appendix 10 to the RFP Rules

Activity	Date
<b>January 2013 Solicitation</b>	
Prospective suppliers participate in the Guaranty Process	Thursday, December 20, 2012
Approved modifications to Form of Guaranty posted	Friday, December 21, 2012
Decision on alternate guaranty forms	Monday, January 7, 2013
Bidder Information Session	Monday, January 7, 2013
Part 1 Proposal Window Opens	Thursday, January 10, 2013
Part 1 Date (Part 1 Proposal Window Closes)	Tuesday, January 15, 2013
Part 1 Notification Date	Thursday, January 17, 2013
Part 2 Proposal Window Opens	Friday, January 18, 2013
Bid Submission training	Tuesday, January 22, 2013
Part 2 Date (Part 2 Proposal Window Closes)	Thursday, January 24, 2013
Part 2 Notification Date	Monday, January 28, 2013
Bid Date (Bids are Due)	Tuesday, January 29, 2013
IE provides its report to the PUC	Wednesday, January 30, 2013
PUC Decision (close of business)	Thursday, January 31, 2013
<u>If Bids are approved by the PUC:</u>	
PECO executes the Default Service SMA	Within three business days of the Bid Date
PECO sends Transaction Confirmations by overnight delivery service	By noon of the fourth business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements and executes all Transaction Confirmation(s)	By 2 PM on the fifth business day after the Bid Date



**September 2013 Solicitation**

Prospective suppliers participate in the Guaranty Process	Monday, August 26, 2013
Bidder Information Session	Tuesday, August 27, 2013
Approved modifications to Form of Guaranty posted	Tuesday, September 3, 2013
Decision on alternate guaranty forms	Tuesday, September 3, 2013
Part 1 Proposal Window Opens	Friday, September 6, 2013
Part 1 Date (Part 1 Proposal Window Closes)	Wednesday, September 11, 2013
Part 1 Notification Date	Friday, September 13, 2013
Part 2 Proposal Window Opens	Monday, September 16, 2013
Bid Submission training	Tuesday, September 17, 2013
Part 2 Date (Part 2 Proposal Window Closes)	Thursday, September 19, 2013
Part 2 Notification Date	Monday, September 23, 2013
Bid Date (Bids are Due)	Tuesday, September 24, 2013
IE provides its report to the PUC	Wednesday, September 25, 2013
PUC Decision (close of business)	Thursday, September 26, 2013

If Bids are approved by the PUC:

PECO executes the Default Service SMA

PECO sends Transaction Confirmations by overnight delivery service  
Default Service Supplier meets the creditworthiness requirements and  
executes all Transaction Confirmation(s)

Within three business days of the Bid Date  
By noon of the third business day after the Bid Date  
By 2 PM on the fourth business day after the Bid Date

## Appendix 10 to the RFP Rules

### January 2014 Solicitation

Prospective suppliers participate in the Guaranty Process	Wednesday, December 18, 2013
Approved modifications to Form of Guaranty posted	Thursday, December 19, 2013
Decision on alternate guaranty forms	Monday, January 6, 2014
Bidder Information Session	Monday, January 6, 2014
Part 1 Proposal Window Opens	Thursday, January 9, 2014
Part 1 Date (Part 1 Proposal Window Closes)	Tuesday, January 14, 2014
Part 1 Notification Date	Thursday, January 16, 2014
Part 2 Proposal Window Opens	Friday, January 17, 2014
Bid Submission training	Tuesday, January 21, 2014
Part 2 Date (Part 2 Proposal Window Closes)	Thursday, January 23, 2014
Part 2 Notification Date	Monday, January 27, 2014
Bid Date (Bids are Due)	Tuesday, January 28, 2014
IE provides its report to the PUC	Wednesday, January 29, 2014
PUC Decision (close of business)	Thursday, January 30, 2014
If Bids are approved by the PUC:	Within three business days of the Bid Date
PECO executes the Default Service SMA	By noon of the third business day after the Bid Date
PECO sends Transaction Confirmations by overnight delivery service	By 2 PM on the fourth business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements and executes all Transaction Confirmation(s)	

**September 2014 Solicitation**

Prospective suppliers participate in the Guaranty Process	Monday, August 25, 2014
Approved modifications to Form of Guaranty posted	Tuesday, August 26, 2014
Decision on alternate guaranty forms	Tuesday, September 2, 2014
Bidder Information Session	Tuesday, September 2, 2014
Part 1 Proposal Window Opens	Friday, September 5, 2014
Part 1 Date (Part 1 Proposal Window Closes)	Wednesday, September 10, 2014
Part 1 Notification Date	Friday, September 12, 2014
Part 2 Proposal Window Opens	Monday, September 15, 2014
Bid Submission training	Tuesday, September 16, 2014
Part 2 Date (Part 2 Proposal Window Closes)	Thursday, September 18, 2014
Part 2 Notification Date	Monday, September 22, 2014
Bid Date (Bids are Due)	Tuesday, September 23, 2014
IE provides its report to the PUC	Wednesday, September 24, 2014
PUC Decision (close of business)	Thursday, September 25, 2014
<u>If Bids are approved by the PUC:</u>	
PECO executes the Default Service SMA	Within three business days of the Bid Date
PECO sends Transaction Confirmations by overnight delivery service	By noon of the third business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements and executes all Transaction Confirmation(s)	By 2 PM on the fourth business day after the Bid Date



## Confidentiality Statement

I, \_\_\_\_\_**{name of person}**, am employed by \_\_\_\_\_**{name of employer}**.

I will be considering, reviewing and evaluating responses from RFP Bidders or I will have access to information submitted by RFP Bidders that is not publically released. In this capacity, I sign below and hereby acknowledge and understand the Confidentiality Provisions of the RFP Rules and, consistent with those rules, agree to take all reasonable precautions to ensure that all data and information supplied by all RFP Bidders are maintained in confidence and not disclosed to individuals other than those that have signed this Confidentiality Statement. My signature is witnessed by the Independent Evaluator.

A list of signatories of this Confidentiality Statement is maintained by the Independent Evaluator and available to all signatories and to RFP Bidders upon request. I undertake to consult this list of signatories before communication RFP information to another person.

If any data or information supplied by an RFP Bidder is disclosed publicly by that RFP Bidder itself or by the Pennsylvania Public Utility Commission, such information will cease to be Confidential.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date