

**DEFAULT SERVICE PROGRAM
BLOCK ENERGY SUPPLY MASTER AGREEMENT
BETWEEN
PECO ENERGY COMPANY**

**AND
[SELLER NAME]**

DATED _____, 200__

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DEFAULT SERVICE PROGRAM

BLOCK ENERGY SUPPLY MASTER AGREEMENT

THIS DEFAULT SERVICE PROGRAM BLOCK ENERGY SUPPLY MASTER AGREEMENT (“Agreement”), is made and entered into as of _____, (“Effective Date”), by and between _____, hereinafter referred to as “Seller” and PECO Energy Company, hereinafter referred to as “Buyer” (each hereinafter referred to individually as a “Party” and collectively as the “Parties”).

WITNESSETH:

WHEREAS, the Pennsylvania Public Utility Commission Orders issued pursuant to the Electricity Generation Customer Choice and Competition Act, 66 Pa. C. S. Sections 2801-2812, direct Buyer to provide Default Service within Buyer’s Pennsylvania franchise service territory, and to purchase Block Energy Supply as part of those obligations; and

WHEREAS, Buyer has solicited offers for obtaining all or a portion of the Block Energy Supply pursuant to a Request for Proposals (“RFP”) and the Seller is a winning bidder in that solicitation; and

WHEREAS, Seller desires to sell Block Energy Supply and Buyer desires to purchase such Block Energy Supply on a firm and continuous basis; and

NOW, THEREFORE, and in consideration of the foregoing, and of the mutual promises, covenants, and conditions set forth herein, and other good and valuable consideration, the Parties hereto, intending to be legally bound by the terms and conditions set forth in this Agreement, hereby agree as follows:

ARTICLE 1 DEFINITIONS

In addition to terms defined elsewhere in this Agreement, the following definitions shall apply hereunder:

“Affiliate” means, with respect to any entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such entity. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

“Aggregate Buyer’s Exposure” means all Buyer’s Exposure for Aggregate Transactions.

“Aggregate Transactions” means all Transactions under this Agreement and all other transactions under Supply Master Agreements executed between the Parties pursuant to the PUC Orders.

“Agreement” means this Default Service Program Block Energy Supply Master Agreement.

“Ancillary Services” shall have the meaning ascribed thereto in the PJM Agreements.

“Bankrupt” means, with respect to any entity, such entity: (i) voluntarily files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it by its creditors and such petition is not dismissed within sixty (60) calendar days of the filing or commencement; (ii) makes an assignment or any general arrangement for the benefit of creditors; (iii) otherwise becomes insolvent, however evidenced; (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets; or (v) is generally unable to pay its debts as they fall due.

“Bankruptcy Code” means those laws of the United States of America related to bankruptcy, codified and enacted as Title 11 of the United States Code, entitled “Bankruptcy” and found at 11 U.S.C. § 101 *et seq.*

“Block Energy Supply” means Energy, transmission other than Network Integration Transmission Service, transmission losses, congestion management costs, and such other services or products that are required to supply the Specified Product to the Delivery Point.

“Business Day” means any day except a Saturday, Sunday or a day that PJM declares to be a holiday, as posted on the PJM website. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. Eastern Prevailing Time (“EPT”).

“Buyer Downgrade Event” means that Buyer’s (or Buyer’s Guarantor’s) Credit Rating is less than BBB- by S&P, BBB- by Fitch or Baa3 by Moody’s.

“Buyer’s Exposure” during the term of a Transaction shall be deemed equal to the positive difference between: (i) the MtM Exposure pursuant to a Transaction under this Agreement; less (ii) the sum of any unpaid or unbilled amounts owed by Buyer to Seller pursuant to a Transaction under this Agreement. With respect to the preceding sentence, “unbilled amounts owed by Buyer” shall consist of a good faith estimate by Buyer as to any amounts which will be owed by Buyer for service already rendered by Seller under a Transaction.

“Commercially Reasonable Efforts” means the taking by a person of such actions as would be in accordance with reasonable commercial practices as applied to the particular matter in question to achieve the result as expeditiously as practicable; provided, however, that such action shall not require that such person shall incur unreasonable expense.

“Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions, PJM charges, and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its Default Service Load obligations or entering into new arrangements which replace a Terminated Transaction; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with the termination of a Transaction.

“Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P, Moody’s or Fitch (discounted by one notch).

“Default Damages” means, for the period of time specified in Section 12.2(b)(ii) (Remedies), any direct damages and Costs, calculated in a commercially reasonable manner, that the Non-Defaulting Party incurs with respect to Block Energy Supply as a result of an Event of Default. Direct damages may include, but are not limited to: (i) the positive difference (if any) between the price of Block Energy Supply hereunder and the price at which the Buyer or Seller is able to purchase or sell (as applicable) Block Energy Supply (or any components of Block Energy Supply it is able to purchase or sell) from or to third parties, including PJM; (ii) Emergency Energy charges; and (iii) additional transmission or congestion costs incurred to purchase or sell Block Energy Supply.

“Default Service” shall have the meaning ascribed to it in the Electricity Generation Customer Choice and Competition Act and PUC Orders enacted thereunder.

“Default Settlement Amount” means, with respect to a Transaction and the Non-Defaulting Party, the Losses or Gains, and Costs, expressed in U.S. Dollars, which such Party incurs as a result of the liquidation of a Terminated Transaction pursuant to Article 12 (Events of Default – Remedies). The calculation of a Default Settlement Amount for a Terminated Transaction shall exclude any Default Damages calculated pursuant to Section 12.2(b)(ii) (Remedies) for the same Terminated Transaction. For the purposes of calculating the Termination Payment, the Default Settlement Amount shall be considered an amount due to the Non-Defaulting Party under this Agreement (and any other Supply Master Agreements) if the total of the Losses and Costs exceeds the Gains, and shall be considered an amount due to the Defaulting Party under this Agreement (or any other Supply Master Agreements) if the Gains exceed the total of the Losses and Costs.

“Delivery Period” means the period of delivery for a Transaction as specified in a Transaction Confirmation.

“Delivery Point” means the delivery point specified in a Transaction Confirmation.

“Eastern Prevailing Time” or “EPT” means Eastern Standard Time or Eastern Daylight Savings Time, whichever is in effect on any particular date.

“Emergency Energy” shall have the meaning ascribed to it in the PJM Agreements.

“Energy” means three-phase, 60-cycle alternating current electric energy, expressed in units of kilowatt-hours or megawatt-hours.

“Energy Block” means a quantity of Energy to be delivered to the Delivery Point that is awarded to Seller in accordance with Buyer’s RFP as set forth in a Transaction Confirmation. The number of Energy Blocks a Seller will supply is set forth in a Transaction Confirmation.

“Energy Block Size” means the size of the Energy Blocks awarded to a Seller in accordance with Buyer’s RFP as set forth in a Transaction Confirmation.

“Equitable Defenses” means any bankruptcy, insolvency, reorganization and other laws affecting creditors’ rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending.

“FERC” means the Federal Energy Regulatory Commission or its successor.

“Fitch” means Fitch Ratings (a subsidiary of Fimalac, S.A.) or its successor.

“Force Majeure” means an event or circumstance which prevents one Party from performing its obligations under one or more Transactions, which event or circumstance was not foreseen as of the date a Transaction is entered into, which is not within the reasonable control of, or the result of the negligence of the affected Party and which, by the exercise of due diligence, the Party is unable to mitigate or avoid or cause to be avoided. Notwithstanding the foregoing, under no circumstance shall an event of Force Majeure be based on: (i) the loss or failure of Seller’s supply; (ii) Seller’s ability to sell the Block Energy Supply at a price greater than that received under any Transaction; (iii) curtailment by a Transmitting Utility; (iv) Buyer’s ability to purchase the Block Energy Supply at a price lower than the price to be paid under any Transaction; (v) a change in any Requirement of Law; or (vi) labor stoppage or lockout. As used herein, Force Majeure shall include, without limitation, (i) sabotage, riots or civil disturbances, (ii) acts of God, (iii) acts of the public enemy, (iv) acts of vandalism, (v) terrorist acts affecting a facility, (vi) volcanic eruptions, earthquake, hurricane, flood, ice storms, explosion, fire, lightning, landslide or similarly cataclysmic occurrence, or (vii) appropriation or diversion of electricity by sale or order of any governmental authority having jurisdiction thereof. Economic hardship of either Party shall not constitute a Force Majeure under this Agreement.

“Gains” means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from a Terminated Transaction under any Supply Master Agreements, determined in a commercially reasonable manner.

“Governmental Authority” means any federal, state, local, municipal or other governmental entity, authority or agency, department, board, court, tribunal, regulatory commission, or other body, whether legislative, judicial or executive, together or individually, exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power over a Party or this Agreement.

“Guarantor” means any party who agrees to guaranty Seller’s financial obligations under this Agreement pursuant to a Guaranty Agreement, recognizing that such a party will be obligated to meet or exceed Buyer’s credit requirements for Seller and that the acceptability of such guaranty will be determined at Buyer’s sole discretion.

“Guaranty Agreement” means the guaranty agreement entered into by a Guarantor in the form attached hereto as Exhibit F or as otherwise permitted by the RFP.

“Guaranty Amount” means the maximum aggregate liability of the Guarantor under the Guaranty Agreement, if specified in the Guaranty Agreement.

“Interest Rate” means, for any date, the lesser of: (i) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%); and (ii) the maximum rate permitted by applicable law.

“Invoice” shall have the meaning ascribed to it in Section 7.1 (Billing).

“Letter(s) of Credit” means one or more irrevocable, transferable standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch, with such bank having a Credit Rating of at least A- from S&P or A3 from Moody’s and a minimum of \$10 billion in assets, in a form acceptable to Buyer in whose favor the letter of credit is issued (for clarification, the form of Letter of Credit attached as Exhibit C hereto or as otherwise permitted by the RFP shall be considered an acceptable form). Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit. Buyer reserves the right to monitor the financial position of the issuing bank and, if the issuing bank’s Credit Rating is downgraded by any increment; or if the issuing bank’s Current, Quick, Return on Assets, or Price/Earnings ratios diminish (reflecting the financial stability of the bank); or if Buyer determines, for any reason, at its sole discretion that the issuing bank’s position has deteriorated, then Buyer has the right to demand and receive, from the applicant for the Letter of Credit, that the Letter of Credit be reissued from a bank that meets or exceeds the Credit Ratings and asset valuation listed above.

“Locational Marginal Price” or “LMP” shall have the meaning ascribed to it in the PJM Agreements.

“Losses” means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from the termination of a Terminated Transaction, determined in a commercially reasonable manner.

“Mark to Market Exposure or “MtM Exposure” means, with respect to each month remaining in each Delivery Period, the sum of: (i) the relevant month On-Peak Forward Price minus the relevant month On-Peak Initial Mark Price, multiplied by the relevant month On-Peak Energy Quantity; and (ii) the relevant month Off-Peak Forward Price minus the relevant month Off-Peak Initial Mark Price, multiplied by the relevant month Off-Peak Energy Quantity. The method and an example for calculating the MtM Exposure are included in Exhibit E.

“Monthly Settlement Amount” means with respect to any calendar month during the Delivery Period, the product of the Specified Product, the number of applicable hours of Specified Product in the Month, and the Price.

“Monthly Settlement Date” means, with respect to any calendar month of a Delivery Period, the first Business Day after the nineteenth (19th) calendar day of the month following service.

“Moody’s” means Moody’s Investor Service, Inc. or its successor.

“MWh” means one megawatt of electric power used over a period of one hour which shall be rounded in a manner consistent with standards in the PJM Agreements. The current rounding standards are to the nearest one-thousandth of a megawatt hour.

“NERC” means the North American Electric Reliability Council or any successor organization thereto.

“Network Integration Transmission Service” shall have the meaning ascribed to it in the PJM Agreements.

“Non-Defaulting Party” means the Party not responsible for an Event of Default, as set forth in Article 12.

“Off-Peak Forward Price” means the price, as provided by the Pricing Agent, for Off-Peak Hours, stated in terms of \$/MWh, associated with each month remaining in a Delivery Period, and based on the most recent publicly available information and/or quotes from Reference Market-Makers on forward Energy transactions occurring at the PJM Western Hub (as discussed in Exhibit E), provided, however, that if such prices are not available, the price shall equal the product of: (i) the relevant month On-Peak Forward Price and (ii) the relevant month Off-Peak/On-Peak Price Ratio for each month remaining in a Delivery Period.

“Off-Peak Hours” means those hours which are not On-Peak Hours.

“Off-Peak Initial Mark Price” means the Off-Peak Forward Price as of the Transaction Date.

“Off-Peak/On-Peak Price Ratio” means the relevant monthly ratio of off-peak pricing to on-peak pricing of the PJM Western Hub day-ahead prices as set forth by Buyer each October based on the previous 36-month period ending in September. The historical on-peak prices used for the ratio will be the PJM Western Hub day-ahead price for the On-Peak Hours. The historical off-peak prices used for the ratio will be the PJM Western Hub day-ahead prices for the Off-Peak Hours. For each month of the 36-month period, the monthly on-peak and off-peak prices will be summed and respectively divided by the amount of On-Peak Hours and Off-Peak Hours in that month. This calculated off-peak average price will be divided by the on-peak average price to determine the individual monthly ratios. Such monthly ratios for the same months within the 36-month period will then be summed and divided by three (3) to come up with the rolling three year monthly ratio average.

“Off-Peak Energy Quantity” means, for each month in each Transaction, the product of (i) the amount of Specified Product to be delivered during the Off-Peak Hours of the relevant month, and (ii) the percentage of Off-Peak Hours remaining (excluding current day) in such month.

“On-Peak Forward Price” means the price, as provided by the Pricing Agent, for On-Peak Hours, stated in terms of \$/MWh, associated with each month remaining in a Delivery Period, and based on the most recent publicly available information and/or quotes from Reference Market-Makers on forward Energy transactions occurring at the PJM Western Hub (as discussed in Exhibit E).

“On-Peak Hours” means Hour Ending (“HE”) 0800 through HE 2300 EPT, Monday through Friday, excluding Saturday, Sunday and PJM holidays.

“On-Peak Initial Mark Price” means the On-Peak Forward Price as of the Transaction Date.

“On-Peak Energy Quantity” means, for each month in each Transaction, the product of (i) the amount of Specified Product to be delivered during the On-Peak Hours of the relevant month, and (ii) the percentage of On-Peak Hours remaining (excluding current day) in such month.

“Performance Assurance” means collateral in the form of cash, Letter(s) of Credit, or other security acceptable to Buyer.

“PJM” means the PJM Interconnection, L.L.C. or any successor organization thereto.

“PJM Agreements” means the PJM OATT, PJM Operating Agreement, PJM RAA, and any other applicable PJM manuals or documents, or any successor, superseding or amended versions that may take effect from time to time.

“PJM E-Accounts” shall have the meaning ascribed to it in Section 4.2 (PJM E-Accounts).

“PJM OATT” or “PJM Tariff” means the Open Access Transmission Tariff of PJM or the successor, superseding or amended versions of the Open Access Transmission Tariff that may take effect from time to time.

“PJM Operating Agreement” means the Operating Agreement of PJM or the successor, superseding or amended versions of the Operating Agreement that may take effect from time to time.

“PJM Planning Period” shall have the meaning ascribed to it in the PJM Agreements. Currently, the PJM Planning Period is the twelve (12) months beginning June 1 and extending through May 31 of the following year.

“PJM Reliability Assurance Agreement” or “PJM RAA” means the PJM Reliability Assurance Agreement or any successor, superseding or amended versions of the PJM Reliability Assurance Agreement that may take effect from time to time.

“PJM Western Hub” means the aggregated LMP nodes defined as “PJM Western Hub” by PJM.

“Pricing Agent” shall be the person or entity described in Article 14.2 and Exhibit E.

“PUC” means the Pennsylvania Public Utility Commission and any successor thereto.

“PUC Orders” means the orders issued by the PUC pursuant to the Electricity Generation Customer Choice and Competition Act, 66 Pa. C. S. §§ 2801-2812, including the order authorizing the parties to enter into this Agreement.

“Price” means the price for Block Energy Supply specified in a Transaction Confirmation.

“Reference Market-Maker” means any broker in energy products who is not an Affiliate of Buyer or Seller.

“Request for Proposals” or “RFP” means the request for proposals issued from time to time by Buyer pursuant to the PUC Orders.

“ReliabilityFirst Corporation, or RFC” means one of eight approved Regional Entities in North America under the North American Electric Reliability Corporation (NERC) whose mission is to preserve and enhance electric service reliability and security for the interconnected electric systems within the ReliabilityFirst geographic area.

“Requirement of Law” means any federal, state and local law, statute, regulation, rule, code, ordinance, resolution, order, writ, judgment or decree enacted, adopted, issued or promulgated by any Governmental Authority (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements).

“S&P” means Standard & Poor’s Ratings Services, a division of McGraw Hill, Inc. and any successor thereto.

“Settlement Price” means the price as set forth in a Transaction Confirmation.

“Specified Product” means the product of the number of Energy Blocks awarded to the Seller in accordance with the Buyer’s RFP and the Energy Block Size, as set forth in a Transaction Confirmation.

“Supply Master Agreement” means this Agreement or any other similar agreement by which Seller provides Energy to Buyer (including any agreement to provide Energy as a component of other services to Buyer for the provision of Default Service).

“Tangible Net Worth” or “TNW” means an entity’s total assets (exclusive of intangible assets), minus that entity’s total liabilities, each as would be reflected on a balance sheet prepared in accordance with generally accepted accounting principles, and as of the relevant date of determination most recently filed with the United States Securities and Exchange Commission.

“Tax” or “Taxes” means all federal, state, local, or foreign income, gross income, gross receipts, sales, use, ad valorem, transfer, transfer pricing, franchise, single business, asset based, profits, license, capital, lease service, service use, value added, withholding, payroll, worker’s compensation, employment, excise, severance, gas import, stamp, occupation, premium, social security, unemployment, excise, property, real estate, intangible, environmental, windfall profits, customs taxes and duties and all other taxes or similar governmental fees, assessments or charges, however denominated, imposed by any federal, state, local or foreign Governmental Authority, together with any interest and any penalties, additions to tax or additional amounts with respect thereto.

“Termination Payment Date” shall have the meaning set forth in Section 12.4 (Notice of Termination Payment).

“Terminated Transaction(s)” means any Transaction which has been terminated in accordance with Section 12.2 (b) (Remedies).

“TNW Amount” shall equal the product of the applicable percentage corresponding to an entity’s Credit Rating, as determined pursuant to Section 14.3 (Unsecured Credit), and an entity’s Tangible Net Worth.

“Transaction” means a particular agreement by which Buyer purchases and Seller sells Block Energy Supply pursuant to this Agreement, the details of which are more fully set forth in a Transaction Confirmation.

“Transaction Confirmation” shall have the meaning ascribed to it in Section 2.15 (Transaction Confirmation).

“Transaction Date” means the date that a Transaction is executed as set forth in the Transaction Confirmation.

“Transmitting Utility” means the utility or utilities and their respective control area operators and their successors, transmitting Block Energy Supply.

“Unsecured Credit” means an amount that is the lower of: (i) the relevant Unsecured Credit Limit as determined pursuant to Section 14.3 (Unsecured Credit); (ii) the relevant TNW Amount, as determined pursuant to Section 14.3 (Unsecured Credit); or (iii) the Guaranty Amount from Seller’s Guarantor as set forth in the Guaranty Agreement.

“Unsecured Credit Limit” shall have the meaning ascribed to it in Section 14.3 (Unsecured Credit).

ARTICLE 2

TERMS AND CONDITIONS OF BLOCK ENERGY SUPPLY

2.1 Seller’s Obligation To Provide Service. With respect to a Transaction, Seller shall provide Block Energy Supply on a firm and continuous basis such that the Specified Product is supplied during the Delivery Period.

2.2 Buyer’s Obligation to Take Service. With respect to a Transaction, Buyer shall accept Block Energy Supply as provided by Seller pursuant to Section 2.1 (Seller’s Obligation to Provide Service), and shall pay Seller on the applicable Monthly Settlement Date for such Block Energy Supply in accordance with Section 7.3 (Payments of the Invoice) the Monthly Settlement Amount.

2.3 Congestion and Congestion Management. Seller is responsible for any congestion costs incurred to supply the Specified Product.

2.4 Reserved.

2.5 Changes in PJM Charges. Seller bears the risk of any changes in PJM products and pricing under the PJM Agreements during the term of this Agreement required to schedule and deliver the Specified Product.

2.6 Reserved.

2.7 Title Transfer. Seller shall cease to have title to, possession of, and risk of loss with respect to liability pursuant to Sections 9.1 (Seller's Indemnification for Third-Party Claims) and 9.2 (Buyer's Indemnification for Third-Party Claims) of Block Energy Supply scheduled and received or delivered hereunder at the Delivery Point. Seller warrants that it has good title to the Block Energy Supply sold and delivered hereunder and that it has the right to sell such Block Energy Supply, and that the Block Energy Supply delivered to Buyer shall be free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to the Delivery Point. The word "loss" in this Section 2.7 (Title Transfer) does not encompass electrical transmission and distribution losses which are the obligations of the Seller as defined in Block Energy Supply. As between Buyer and Seller only, Buyer shall take title to, possession of, and risk of loss with respect to liability pursuant to Sections 9.1 (Seller's Indemnification for Third-Party Claims) and 9.2 (Buyer's Indemnification for Third-Party Claims) of Block Energy Supply scheduled and received or delivered hereunder at the Delivery Point. Notwithstanding the foregoing, nothing contained in this Agreement is intended to create or increase liability of Buyer to any third party beyond such liability, if any, that would otherwise exist under the PJM Agreements or under applicable law.

2.8 Reserved.

2.9 Sales for Resale. All Block Energy Supply provided by Seller to Buyer shall be sales for resale.

2.10 PJM Membership. For the period of time that this Agreement is in effect, Seller shall be: (i) a member in good standing of PJM; and (ii) qualified as a PJM "Market Buyer" and "Market Seller" pursuant to the PJM Agreements. For the period of time that this Agreement is in effect, Buyer shall be a member in good standing of PJM.

2.11 Reserved.

2.12 FERC Authorization. For the period of time that this Agreement is in effect, Seller shall have FERC authorization to make sales of Energy at market based rates within PJM.

2.13 Reserved.

2.14 Other Fines and Penalties. If fees, fines, penalties, or costs are claimed or assessed against Buyer by any Governmental Authority or PJM due to noncompliance by Seller with this Agreement, any Requirements of Law, or the PJM Agreements, Seller shall indemnify and hold Buyer harmless against any and all losses, liabilities, damages, and claims suffered or incurred by Buyer, including claims for indemnity or contribution made by third parties against Buyer, except to the extent Buyer recovers any such losses, liabilities or damages through other provisions of this Agreement.

2.15 Transaction Confirmation. A Transaction shall be documented in a Transaction Confirmation in the form attached hereto as Exhibit A. On the third Business Day following the day on which the bid was submitted and if Seller is approved by the PUC as a provider of Block Energy Supply to Buyer, Buyer will forward by facsimile or other immediate means acceptable to both Parties, to Seller a partially executed Transaction Confirmation(s) and shall send by overnight delivery three (3) originals. Except as otherwise provided in the RFP, by 2:00 p.m. EPT on the next Business Day following Seller's receipt of such facsimile of partially executed Transaction Confirmation(s), Seller shall return by facsimile, or other immediate means acceptable to both Parties, to Buyer a fully executed Transaction Confirmation(s), and shall send by overnight delivery two (2) originals.

2.16 Governing Terms. Each Transaction shall be governed by this Agreement. This Agreement, including all exhibits hereto, any designated collateral, credit support, margin agreement or similar arrangements and all Transaction Confirmations shall form a single integrated agreement between Buyer and Seller. Any inconsistency between terms in this Agreement and terms in a Transaction Confirmation shall be resolved in favor of the terms of this Agreement.

2.17 Scheduling. Seller shall schedule Block Energy Supply as provided in the Transaction, pursuant to the PJM Agreements.

ARTICLE 3 RESERVED

ARTICLE 4 SPECIAL TERMS AND CONDITIONS

4.1 Buyer Retail Tariffs. Nothing in this Agreement shall interfere with or preclude Buyer from amending its retail electric service tariffs on file with the PUC from time to time (including Buyer's retail rates for distribution service) or entering into or amending any retail customer contracts in accordance with its retail electric service tariffs and Requirements of Law.

4.2 Reserved.

4.3 PJM E-Accounts. Buyer and Seller shall work with PJM to establish any PJM E-Accounts necessary for Seller to provide Block Energy Supply. In a timely manner, Buyer shall establish PJM E-Account contract(s) for the entire duration of the Transaction(s) and Seller shall confirm and comply with all PJM E-Account contract(s) for the entire duration of the Transaction(s).

4.4 Reliability Guidelines. Each Party agrees to adhere to the applicable operating policies, criteria and/or guidelines of the NERC, ReliabilityFirst Corporation, PJM, their successors, and any regional or sub regional requirements.

ARTICLE 5 TERM AND SURVIVAL

5.1 Term. Unless otherwise agreed upon by Buyer and Seller, this Agreement shall continue in full force and effect from the Effective Date until the end of all Transaction(s) executed under this Agreement unless this Agreement is terminated prematurely pursuant to Article 12 (Events of Default; Remedies) of this Agreement.

5.2 Survival. All provisions of this Agreement which must, in order to give full force and effect to the rights and obligations of the Parties hereto, survive termination or expiration of this Agreement, shall so survive, including, without limitation, Sections 2.6, 2.7, 2.13, 2.14, and Articles 1 (Definitions), 5 (Term and Survival), 7 (Billing and Settlement), 8 (Taxes), 9 (Indemnification), 10 (Limitations on Liability), 12 (Events of Default; Remedies), 13 (Dispute Resolution), and 16 (Miscellaneous).

ARTICLE 6 RESERVED

ARTICLE 7 BILLING AND SETTLEMENT

7.1 Billing. Unless otherwise agreed to by the Parties, on or before the seventh (7th) Business Day of each month, Seller shall deliver to Buyer, via electronic transmission or other means agreed to by the Parties, an Invoice that sets forth the total amount due for the previous calendar month for all Transactions. The Invoice shall detail, for each Transaction, where applicable, the following:

- (a) MWhs of Energy delivered
- (b) Settlement Price
- (c) Monthly Settlement Amount
- (d) and any other adjustments permitted under this Agreement.

7.2 Reserved.

7.3 Reserved.

7.4 Payments of the Invoice. On the Monthly Settlement Date, Buyer will pay to Seller, or Seller will pay to the Buyer, as the case may be, the total amount due in the applicable Invoice, subject to Section 7.5 (Netting of Payments). All payments shall be made by “Electronic Funds Transfer” (EFT) via “Automated Clearing House” (ACH), to a bank designated in writing by such Party, by 12:00 p.m. EPT on the Monthly Settlement Date, unless otherwise agreed to by the Parties. Payment of Invoices shall not relieve the paying Party from any other responsibilities or obligations it has under this Agreement (other than the obligation to make such payment), nor shall such payment constitute a waiver of any claims arising hereunder.

7.5 Netting of Payments. Buyer and Seller shall discharge mutual debts and payment obligations due and owing to each other under this Agreement, as of the Monthly Settlement Date, such that all amounts owed by each Party to the other Party shall be reflected in a single amount due to be paid by the Party who owes it and received by the other Party, provided that the calculation of the net amount shall not include any disputed amounts being withheld pursuant to Section 7.6 (Billing Disputes and Adjustments of Invoices).

7.6 Billing Disputes and Adjustment of Invoices.

(a) Within ninety (90) days of the date on which an Invoice is issued, Seller may in good faith, adjust the Invoice to correct any errors. The adjustment shall include interest calculated at the Interest Rate from the original due date to the date of payment. Seller shall provide Buyer a written explanation for the basis of the adjustment.

(b) A Party may dispute an Invoice in good faith at any time within one hundred twenty (120) calendar days after the date the Invoice in dispute is issued, even if such Party has already paid amounts shown on such Invoice in full. An Invoice shall become final, and not subject to dispute, on the date one hundred twenty (120) calendar days from the date such Invoice is issued unless, within that period, a Party: (a) presents the dispute in writing to the non-disputing Party accompanied by a brief explanation of the source of the dispute; and (b) submits documentation supporting the dispute to the non-disputing Party within thirty (30) calendar days thereafter.

7.7 Interest on Unpaid Amounts. Interest on delinquent amounts (including any damages subsequently determined to be owed by a Party), other than amounts in dispute as described in Section 7.6 (Billing Disputes and Adjustment of Invoices), shall be calculated as simple (not compounded) interest at the Interest Rate from the original due date to the date of payment.

7.8 Currency. All payments under this Agreement shall be in the currency of the United States (US\$).

ARTICLE 8

TAXES

8.1 Cooperation. Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize Taxes, so long as neither Party is materially adversely affected by such efforts.

8.2 Taxes.

(a) As between the Parties, Seller is responsible for the payment of all Taxes imposed on the wholesale sales of Block Energy Supply under this Agreement.

(b) Any Party paying Taxes that should have been paid by the other Party pursuant to Section 8.2(a) (Taxes), shall be reimbursed by such other Party in the next Invoice issued pursuant to Section 7.1 (Billing).

ARTICLE 9 INDEMNIFICATION

9.1 Seller's Indemnification for Third-Party Claims. Seller shall indemnify, hold harmless, and defend Buyer and its Affiliates, and their respective officers, directors, employees, agents, contractors, subcontractors, invitees, successors, representatives and permitted assigns (collectively, "Buyer's Indemnitees") from and against any and all claims, liabilities, costs, losses, damages, punitive damages and expenses including reasonable attorney and expert fees, disbursements actually incurred, and any penalties or fines imposed by Government Authorities in any action or proceeding between Buyer and a third party or Seller for damage to property of unaffiliated third parties, injury to or death of any person, including Buyer's employees or any third parties, to the extent directly caused by the negligence, gross negligence or willful misconduct of Seller and/or its officers, directors, employees, agents, contractors, subcontractors or invitees arising out of or connected with Seller's performance under this Agreement, Seller's exercise of rights under this Agreement, or Seller's breach of this Agreement. Buyer shall have the right to hire the attorney of its choice to defend it in any proceeding brought against it pursuant to this provision.

9.2 Buyer's Indemnification for Third-Party Claims. Buyer shall indemnify, hold harmless, and defend Seller and its Affiliates, and their respective officers, directors, employees, agents, contractors, subcontractors, invitees, successors, representatives and permitted assigns (collectively, "Seller's Indemnitees") from and against any and all claims, liabilities, costs, losses, damages, and expenses including reasonable attorney and expert fees, disbursements actually incurred, and any penalties or fines imposed by Government Authorities in any action or proceeding between Seller and a third party or Buyer for damage to property of unaffiliated third parties, injury to or death of any person, including Seller's employees or any third parties, to the extent directly caused by the gross negligence or willful misconduct of Buyer and/or its officers, directors, employees, agents, contractors, subcontractors or invitees arising out of or connected with Buyer's performance under this Agreement, Buyer's exercise of rights under this Agreement, or Buyer's breach of this Agreement. Seller shall have the right to hire the attorney of its choice to defend it in any proceeding brought against it pursuant to this provision.

9.3 Indemnification Procedures. If either Party intends to seek indemnification under Sections 9.1 (Seller's Indemnification for Third-Party Claims) or 9.2 (Buyers Indemnification for Third-Party Claims), as applicable, from the other Party, the Party seeking indemnification shall give the other Party notice of such claim within ninety (90) calendar days of the later of the commencement of, or the Party's actual knowledge of, such claim or action. Such notice shall describe the claim in reasonable detail, and shall indicate the amount, estimated if necessary, of the claim that has been, or may be, sustained by said Party. To the extent that the other Party will have been actually and materially prejudiced as a result of the failure to provide such notice, such notice will be a condition precedent to any liability of the other Party under the provisions for indemnification contained in this Agreement. Neither Party may settle or compromise any claim without the prior consent of the other Party; provided, however, said consent shall not be unreasonably withheld or delayed.

ARTICLE 10
LIMITATIONS ON REMEDIES, LIABILITY AND DAMAGES

EXCEPT AS SET FORTH IN THIS AGREEMENT, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO COSTS AND DEFAULT DAMAGES AS DEFINED IN THIS AGREEMENT, SUCH COSTS AND DEFAULT DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE, TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE 11
FORCE MAJEURE

11.1 Force Majeure. Notwithstanding anything in this Agreement to the contrary, the Parties shall be excused from performing their respective obligations under this Agreement (other than the obligation to make payments with respect to performance prior to the event of Force Majeure) and shall not be liable for damages or otherwise due to their failure to perform during any period that one Party is unable to perform due to an event of Force Majeure, provided that the Party declaring an event of Force Majeure shall: (i) act expeditiously to resume performance; (ii) exercise all commercially reasonable efforts to mitigate or limit damages to the other Party; and (iii) fulfills the requirements set forth in Section 11.2 (Notification).

11.2 Notification. A Party unable to perform under this Agreement due to an event of Force Majeure shall: (i) provide prompt written notice of such event of Force Majeure to the

other Party, which shall include an estimate of the expected duration of the Party's inability to perform due to the event of Force Majeure; and (ii) provide prompt notice to the other Party when performance resumes.

ARTICLE 12

EVENTS OF DEFAULT; REMEDIES

12.1 Events of Default. An "Event of Default" shall mean, with respect to a Party ("Defaulting Party"), the occurrence of any of the following:

(a) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within two (2) Business Days after written notice;

(b) any representation or warranty made by such Party herein or by Seller in response to the RFP is intentionally or unintentionally false or misleading in any material respect when made or when deemed made or repeated, and such failure is not remedied within three (3) Business Days after written notice;

(c) the failure of a Party to comply with the requirements of Section 2.10 (PJM Membership) and 2.12 (FERC Authorization) if such failure is not remedied within three (3) Business Days after written notice;

(d) PJM has declared a Party to be in default of any provision of any PJM Agreement, which default prevents a Party's performance hereunder if such failure is not remedied within three (3) Business Days after written notice;

(e) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) if such failure is not remedied within three (3) Business Days after written notice;

(f) such Party becomes Bankrupt;

(g) such Party consolidates with, or merges with or into, or transfers all or substantially all of its assets to, another entity, or assigns the Agreement or any rights, interests, or obligations hereunder without the prior written consent of the other Party when such consent is required, and, at the time of such consolidation, merger, transfer or assignment, the resulting, surviving, transferee, or assigned entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party;

(h) the occurrence and continuation of: (i) a default, event of default or other similar condition or event in respect of such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than five percent (5%) of such Party's TNW, which results in such indebtedness becoming immediately due and payable or; (ii) a default by such Party in making on the due date therefore one or more payments, individually or collectively, in an aggregate amount of not less than five percent (5%) of such Party's TNW.

(i) the failure of a Party to comply with its obligations pursuant to Article 14 (Creditworthiness) if such failure is not remedied within three (3) Business Days after written notice including, with respect to Seller, the posting of Performance Assurance requested by Buyer;

(j) with respect to Seller's Guarantor: (i) if any representation or warranty made by the Guarantor in connection with this Agreement is intentionally or unintentionally false or misleading in any material respect when made or when deemed made or repeated; (ii) the failure of the Guarantor to make any payment required or to perform any other material covenant or obligation in any guaranty made in connection with this Agreement and such failure shall not be remedied within three (3) Business Days after written notice; (iii) the failure of the Guarantor's guaranty to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) prior to the satisfaction of all obligations of such Party under this Agreement without the written consent of the other Party; (iv) the Guarantor repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of any guaranty; or (v) conditions described with respect to a Party in subparagraph (f) of this Section 12.1 (Events of Default) occurs with respect to its Guarantor.

12.2 Remedies. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing under this Agreement or any other Supply Master Agreement, the Non-Defaulting Party shall provide written notice to the Defaulting Party and shall have the right to temporarily suspend performance pursuant to Section 12.2(a) (Remedies) or implement all remedies pursuant to Section 12.2(b) (Remedies):

(a) If an Event of Default has occurred and is continuing, the Non-Defaulting Party shall have the right to suspend performance, provided that such suspension shall not continue for longer than ten (10) Business Days. At any time during or subsequent to the temporary suspension of performance, the Non-Defaulting Party may proceed with the steps outlined in Section 12.2(b) (Remedies). If, by the end of the ten (10) Business Day period of suspension, the Non-Defaulting Party has not commenced the implementation of the remedies pursuant to Section 12.2(b) (Remedies), then the Non-Defaulting Party must resume performance of its obligations under this Agreement.

(b) In addition to any other remedies available at law or in equity to the Non-Defaulting Party, if an Event of Default has occurred and is continuing under this Agreement or any other Supply Master Agreement, the Non-Defaulting Party shall have the right to implement any or all of the following remedies:

(i) to designate a day, in such notice, no earlier than the day such notice is effective and no later than twenty (20) calendar days after such notice is effective, as an early termination date ("Early Termination Date") for the purposes of determining the Default Settlement Amount, to accelerate all amounts owing between the Parties and to liquidate and terminate all, but not less than all, Transactions (each a "Terminated Transaction") under the Agreement;

- (ii) to calculate and receive from the Defaulting Party, payment for any Default Damages and Costs, as defined in this Agreement, the Non-Defaulting Party incurs as of the date of the event giving rise to the Event of Default, until the earlier of: (x) the Early Termination Date (if applicable); or (y) the Event of Default has been cured by the Defaulting Party; or (z) the Non-Defaulting Party waives such Event of Default;
- (iii) to withhold any payments due to the Defaulting Party under this Agreement as an offset to any Default Damages and Costs, as defined in this Agreement, or Termination Payment, as defined in Section 12.3 (Calculation and Net Out of Default Settlement Amounts).

(c) If an Event of Default has occurred and the Non-Defaulting Party is the Buyer, then:

- (i) unless the Event of Default was a failure by Seller to meet any or all of its Block Energy Supply obligations, Buyer may offer to waive the default on such terms and conditions as Buyer, at its sole discretion, may deem appropriate to propose (“Special Remedy”); provided, however, that
- (ii) any such Special Remedy can only be offered to Seller if it first is specifically approved by the PUC in accordance with PUC Orders.

12.3 Calculation and Net Out of Default Settlement Amounts.

(a) The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Default Settlement Amount for each such Terminated Transaction as of the Early Termination Date or, to the extent that in the reasonable opinion of the Non-Defaulting Party certain of such Terminated Transactions are commercially impracticable to liquidate and terminate or may not be liquidated and terminated under applicable law on the Early Termination Date, as soon thereafter as is reasonably practicable. The Non-Defaulting Party shall aggregate all Default Settlement Amounts into a single liquidated amount (the “Termination Payment”) by netting out: (i) all Default Settlement Amounts that are due to the Defaulting Party, plus, at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party pursuant to Article 14 (Creditworthiness), plus any or all other amounts due to the Defaulting Party under this Agreement; against (ii) all Default Settlement Amounts that are due to the Non-Defaulting Party plus any or all other amounts due to the Non-Defaulting Party, including but not limited to Default Damages and Costs, under this Agreement or any other Supply Master Agreement. The Termination Payment shall be due to or due from the Non-Defaulting Party, as appropriate. When the Buyer is the Non-Defaulting Party and replaces Seller’s Block Energy Supply obligation under this Agreement, the result of that procedure will be deemed to be commercially reasonable for purposes of calculating the Default Settlement Amounts.

(b) The Parties recognize, however, the final calculation of Default Settlement Amounts hereunder may not be known for some time since the level of such Default Settlement Amounts may be dependent upon the arrangements made by the Buyer to obtain replacement services or a replacement supplier. The Buyer and the Seller agree that, until the calculation of Default Settlement Amounts under this provision is completed, the amount and payment of the Termination Payment shall be immediately due and owing as an estimate of the amounts ultimately determined to be due and owing. After Default Settlement Amounts have been finally determined under this Section 12.3, the amounts due and owing will be reconciled with payments already made.

12.4 Notice of Termination Payment. As soon as practicable after an Early Termination Date is declared, the Non-Defaulting Party shall provide written notice to the Defaulting Party of the amount of the Termination Payment. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Defaulting Party or the Non-Defaulting Party, as applicable, shall make the Termination Payment within five (5) Business Days after such notice is effective (the “Termination Payment Date”).

12.5 Disputes With Respect to Termination Payment. If the Defaulting Party disputes the Non-Defaulting Party’s calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of Non-Defaulting Party’s calculation of the Termination Payment, provide to the Non-Defaulting Party a notice that it intends to dispute the calculation of the Termination Payment (“Termination Payment Dispute Notice”), pursuant to the provisions of Article 13 (Dispute Resolution), and provided, the Defaulting Party shall first transfer collateral to the Non-Defaulting Party in an amount equal to the Termination Payment, such collateral to be in a form acceptable to the Non-Defaulting Party by the Termination Payment Date.

12.6 Duty to Mitigate. Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party’s failure to perform pursuant to this Agreement. Seller agrees that Buyer’s implementation of any contingency plan approved by the PUC for procurement of Default Service shall be deemed to be commercially reasonable.

12.7 Grant of Security Interest and Additional Remedies. To secure its obligations under this Agreement and to the extent that the Seller delivered Performance Assurance or other collateral hereunder, Seller hereby grants to Buyer a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, Buyer, and in all amounts owed to Seller by Buyer under or in connection with any agreement for supply of Energy for provision of Default Service. Seller agrees to take such action as reasonably required to perfect in favor of Buyer a first priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence of an Event of Default caused by Seller, Buyer may do any one or more of the following: (i) exercise any of the rights and remedies of Buyer with respect to all collateral, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of Seller in the possession of Buyer whether held in

connection with this Agreement or any other agreement(s) between Buyer and Seller for supply of Energy for provision of Default Service; (iii) draw on any outstanding letter of credit issued for Buyer's benefit; and (iv) liquidate all security held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller. Buyer shall apply the proceeds of the collateral realized upon the exercise of such rights or remedies to reduce Seller's obligation under this Agreement or any other agreement(s) between Seller and Buyer for the supply of Energy for Default Service (Seller remaining liable for any amounts owing to Buyer after such application), subject to Buyer's obligation to the return of any surplus proceeds remaining after such obligations are satisfied in full.

12.8 Reserved.

ARTICLE 13 DISPUTE RESOLUTION

13.1 Informal Dispute Resolution. Before pursuing resolution of any dispute arising out of this Agreement, the disputing Party shall provide written notice to the other Party setting forth the nature of the dispute, the amount involved, if any, and the remedies sought. The Parties shall use good faith and reasonable commercial efforts to informally resolve such dispute. Such efforts shall last for a period of at least thirty (30) calendar days from the date that the notice of the dispute is first delivered from one Party to the other Party. Any amounts that are owed by one Party to the other Party as a result of resolution of a dispute pursuant to this Section 13.1 (Informal Dispute Resolution), shall be paid within two (2) Business Days of such resolution and the payment shall include simple (not compounded) interest on the payment calculated at the Interest Rate from the original due date through the date of payment.

13.2 Formal Dispute Resolution. After the requirements of Section 13.1 (Informal Dispute Resolution) have been satisfied, all disputes, except as noted below, between the Parties shall be submitted to the appropriate authority.

ARTICLE 14 CREDITWORTHINESS

14.1 Performance Assurance Requirement. With respect to Aggregate Transactions, if at any time and from time to time during the term of this Agreement, Aggregate Buyer's Exposure exceeds the Unsecured Credit on any Business Day, then Buyer shall request that Seller post Performance Assurance in an amount equal to the amount by which Aggregate Buyer's Exposure exceeds the Unsecured Credit (rounding upwards to the nearest \$100,000), less any Performance Assurance already posted with Buyer. Notwithstanding the above, Seller shall only be required to post the required Performance Assurance to the extent the amount of the total required Performance Assurance is equal to or greater than \$500,000. Subsequent and incremental requests for Performance Assurance shall be in \$100,000 increments. Buyer's request for Performance Assurance shall not be disputed by Seller.

14.2 Aggregate Buyer's Exposure.

(a) In order to determine the amount of Performance Assurance during the term of this Agreement, Buyer shall calculate the Aggregate Buyer's Exposure once per Business Day. On a Transaction Date, the Buyer's Exposure for that Transaction shall be deemed equal to zero, and to the extent that the calculations of the Aggregate Buyer's Exposure for a given date result in a negative number, the Aggregate Buyer's Exposure for such date shall also be deemed equal to zero.

(b) Buyer shall contract with and pay for the services of a single independent consultant to provide pricing services (the "Pricing Agent") with respect to Transactions under this Agreement. The Pricing Agent shall provide to the Buyer the On-Peak Initial Mark Price and the Off-Peak Initial Mark Price. In addition, on each Business Day, the Pricing Agent shall provide to the Buyer the On-Peak Forward Price and the Off-Peak Forward Price. To the extent that information and/or quotes are not available to determine an On-Peak Forward Price or Off-Peak Forward Price for a given month the Pricing Agent shall be permitted to use information and/or quotes relevant to such month for which information/and quotes are available in order to provide the Buyer the required On-Peak Forward Price and Off-Peak Forward Price for such month. Exhibit E presents in more detail the methodology to be used by the Pricing Agent in determining the Off-Peak Initial Mark Price, On-Peak Initial Mark Price, the On-Peak Forward Price, and the Off-Peak Forward Price. Buyer shall use reasonable efforts to provide Seller with Aggregate Buyer's Exposure on each Business Day subject to the confidentiality provisions of this Agreement.

(c) Pursuant to Section 14.1 (Performance Assurance Requirement) above, Seller shall not dispute any request by Buyer for Performance Assurance. Notwithstanding such provision, Seller may dispute the Pricing Agent's determinations of the On-Peak Initial Mark Price, Off-Peak Initial Mark Price, On-Peak Forward Price and Off-Peak Forward Price if Seller can demonstrate that the Pricing Agent has been grossly negligent or has exhibited willful misconduct in such determinations, or that the Pricing Agent is making such determinations in a manner that is arbitrary, capricious or erroneous on its face, provided, however, that Seller shall remain obligated to post any Performance Assurance requested by Buyer during the pendency of any such dispute.

14.3 Unsecured Credit.

(a) During the term of this Agreement, Buyer shall extend, solely with respect to the Performance Assurance set forth in Section 14.1 (Performance Assurance Requirement), Unsecured Credit of this Agreement, to Seller in an amount initially determined on the Effective Date and redetermined each Business Day thereafter pursuant to this Section 14.3 (Unsecured Credit).

(b) For purposes of determining Unsecured Credit, the relevant Unsecured Credit Limit for Aggregate Transactions shall not exceed the Unsecured Credit Limit listed in the following table that corresponds to Seller's (or Seller's Guarantor's) lowest Credit Rating most recently published by S&P, Fitch and/or Moody's. The relevant TNW Amount shall be calculated using the percentage listed in the following table that corresponds to Seller's (or Seller's Guarantor's) lowest Credit Rating most recently published by S&P, Fitch and/or Moody's.

Credit Rating			Unsecured Credit Limit is the lower of TNW Amount and Unsecured Credit Cap below:	
S&P	Fitch	Moody's	TNW Amount	Unsecured Credit Cap
A- or above	A- or above	A3 or above	16% of TNW	\$60,000,000
BBB+	BBB+	Baa1	10% of TNW	\$40,000,000
BBB	BBB	Baa2	8% of TNW	\$30,000,000
BBB-	BBB-	Baa3	6% of TNW	\$15,000,000
Below BBB-	Below BBB-	Below Baa3	0% of TNW	0

(c) The analysis of Unsecured Credit will also include consideration of the Guaranty Agreement, if any, submitted by Seller in connection with this contract.

14.4 Reserved.

14.5 Reserved.

14.6 Performance Assurance Transfers/Returns.

(a) If the request for Performance Assurance is made by Buyer before 1:00 p.m. EPT on a Business Day, then if Seller is posting cash as the form of Performance Assurance collateral, Seller shall be required to deliver the Performance Assurance cash to Buyer on the Business Day following the date of such request; and if Seller is posting a Letter of Credit or other security as acceptable to Buyer as the form of Performance Assurance collateral, Seller shall be required to deliver the Performance Assurance Letter of Credit or other security on the second Business Day following the date of such request. If a request for Performance Assurance collateral is made by Buyer at or after 1:00 p.m. EPT, then if Seller is posting cash as the form of Performance Assurance collateral, Seller shall be required to deliver the Performance Assurance cash to Buyer on the second Business Day following the date of such request; and if Seller is posting a Letter of Credit or other security as acceptable to Buyer as the form of Performance Assurance collateral, Seller shall be required to deliver the Performance Assurance Letter of Credit or other security on the third Business Day following the date of such request. Telephone, facsimile, or other communication means mutually acceptable by the Parties, are suitable means for the Buyer to make requests for Performance Assurance. Buyer shall not be entitled to hold Performance Assurance collateral in the form of cash; rather, Performance Assurance collateral in the form of cash

shall be held in any major U.S. commercial bank, or a foreign bank with a U. S. branch office, (which is not Buyer or an Affiliate of Buyer), and has assets of at least \$10 billion and a Credit Rating of at least “A” by Standard and Poor’s, or “A2” by Moody’s Investor Services (“Qualified Institution”). Buyer will pay to Seller on the third Business Day of each calendar quarter the amount of interest it receives based upon the applicable overnight repurchase interest rate from the Qualified Institution on any Performance Assurance collateral in the form of cash posted by Seller. The interest amount or portion thereof not returned to Seller pursuant to this Section 14.6 (Performance Assurance Transfers/Returns) will constitute Performance Assurance and will be subject to the provisions of Article 14 (Creditworthiness) of this Agreement.

(b) On any Business Day (but no more frequently than weekly with respect to Letters of Credit or other security acceptable to Buyer, and daily with respect to cash), Seller, at its sole cost, may request that the Performance Assurance be reduced correspondingly to reflect the decrease in Buyer Exposure or an increase in Seller’s Unsecured Credit, if any (rounding upwards for any fractional amount to the nearest \$100,000). Buyer shall be required to return the amount of the reduction in Performance Assurance due in accordance with the timeframes set forth in Section 14.6(a). Telephone, facsimile, or other communication means mutually acceptable by the Parties, are suitable means for the Buyer to make requests for Performance Assurance. A written means is suitable for the Seller to make requests for return of Performance Assurance.

(c) Reserved.

(d) In the event that Seller fails to provide Performance Assurance collateral, or Buyer fails to return Performance Assurance collateral pursuant to the terms of this Article 14 (Creditworthiness) after Seller has provided sufficient collateral for any reduced Performance Assurance within the applicable timeframes, then an Event of Default pursuant to Section 12.1(i) (Events of Default) shall be deemed to have occurred with respect to the non-performing Party (following any applicable cure period) and the other Party will be entitled to the remedies set forth therein. In instances caused by the timing of the requests for both the return of Performance Assurance and placement of Performance Assurance, a situation may arise where the Parties are both sending and receiving Transactions on the same day. In these instances, the Parties may net the requested amounts and proceed with only one Transaction. Netting is only permitted for Performance Assurance purposes if it is mutually agreed to by both Parties in advance and confirmed in advance.

14.7 Credit Rating Changes. If during the term of the Agreement, Seller’s or Seller’s Guarantor’s, if applicable, Credit Rating changes, by either being upgraded or downgraded by any of the rating agencies referenced in Section 14.3 (Unsecured Credit) of the Agreement, the Seller shall be required to provide written notice to Buyer of such Credit Rating change no later than two (2) Business Days after the date of such change. However, if Seller’s, or Seller’s Guarantor’s, if applicable, equity is publicly traded on the “New York Stock Exchange”, “NASDAQ National Market”, or “American Stock Exchange”, the Buyer will waive the requirement to provide written notice.

14.8 Tangible Net Worth. During the term of the Agreement, Seller, or Seller's Guarantor, if applicable, shall be required to provide Buyer written financial information to determine the Seller's, or Seller's Guarantor's Tangible Net Worth. Financial information shall include an audited "Annual Report", containing, but not limited to, a balance sheet prepared in accordance with generally accepted accounting principles, a schedule of long term debt including maturity dates, and all notes to the financial statement that apply to long term debt, short term borrowing, and liquidity and capital resources. The Seller, or Seller's Guarantor, shall also provide the Buyer written financial information on a quarterly basis containing a balance sheet prepared in accordance with generally accepted accounting principles. However, if Seller's, or Seller's Guarantor's, if applicable, equity is publicly traded on the New York Stock Exchange, NASDAQ National Market, or American Stock Exchange, the Buyer will waive the requirement to provide written financial information.

14.9 Foreign Entities. The following standards shall apply to Seller, or Seller's Guarantor, that have not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia and whose financial data is not denominated in United States currency and does not conform to generally accepted accounting principles (GAAP) in the United States. For Sellers who cannot meet the following requirements, the posting of cash or Letter of Credit in an acceptable form (see standard format in Exhibit C) for the Aggregate Buyer's Exposure shall be required.

(a) Seller shall supply such evidence of creditworthiness so as to provide Buyer with comparable assurances of creditworthiness as is applicable above for Sellers that have been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia. Buyer shall have full discretion, without liability or recourse to Seller, to evaluate the evidence of creditworthiness submitted by such Seller; or

(b) The Guarantor of Seller shall supply such evidence of creditworthiness so as to provide Buyer with comparable assurances of creditworthiness as is applicable above for Guarantors of Sellers that have been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia. Buyer shall have full discretion, without liability or recourse to the Guarantor or Seller, to evaluate the evidence of creditworthiness submitted by such Guarantor.

(c) Sellers or Guarantors of Sellers that have not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia and whose financial data is not denominated in United States currency or does not conform to generally accepted accounting principles (GAAP) in the United States shall, in addition to all documentation required elsewhere in this Section 14.9 (Foreign Entities), supply the following as a condition of being granted Unsecured Credit, up to a maximum level, for the purpose of covering the Aggregate Buyer's Exposure:

For Seller:

(1) A legal opinion of counsel qualified to practice in the foreign jurisdiction in which Seller is incorporated or otherwise formed that this Agreement is, or upon the completion of execution formalities

will become, the binding obligation of Seller in the jurisdiction in which it has been incorporated or otherwise formed; and

(2) The sworn certificate of the corporate secretary (or similar officer) of such Seller that the person executing this Agreement on behalf of Seller has the authority to execute the Agreement and that the governing board of such Seller has approved the execution of this Agreement; and

(3) The sworn certificate of the corporate secretary (or similar officer) of such Seller that Seller has been authorized by its governing board to enter into agreements of the same type as this Agreement.

Buyer shall have full discretion, without liability or obligation to Seller, to evaluate the sufficiency of the documents submitted by Seller.

For Guarantor of Seller:

(1) A legal opinion of counsel qualified to practice in the foreign jurisdiction in the which the Guarantor is incorporated or otherwise formed that this Guaranty is, or upon the completion of execution formalities will become, the binding obligation of the Guarantor in the jurisdiction in which it has been incorporated or otherwise formed; and

(2) The sworn certificate of the corporate secretary (or similar officer) of such Guarantor that the person executing the Guaranty on behalf of the Guarantor has the authority to execute the Guaranty and that the governing board of such Guarantor has approved the execution of the Guaranty; and

(3) The sworn certificate of the corporate secretary (or similar officer) of such Guarantor that the Guarantor has been authorized by its governing board to enter into agreements of the same type as this Guaranty.

Buyer shall have full discretion, without liability or obligation to the Guarantor or Seller, to evaluate the sufficiency of the documents submitted by such Guarantor, including any legal opinion(s). Forms of legal opinions for Seller and Guarantor acceptable to Buyer are attached in Exhibit G.

14.10 Accelerated Payments by Buyer. If at any time and from time to time during the term of this Agreement, a Buyer Downgrade Event occurs, notwithstanding the provisions of Article 7 (Billing and Settlement), Seller shall have the right to require Buyer to divide the Monthly Settlement Amount into twice-monthly amounts and pay such amounts on a twice-monthly basis for so long as the Buyer Downgrade Event continues. A “twice-monthly basis” as referred to in the preceding sentence means that each month will be divided into two billing periods. The first twice-monthly billing period shall begin on the first (1st) calendar day of the

month and end on the fifteenth (15th) calendar day of the month. The second twice-monthly billing period shall begin on the sixteenth (16th) calendar day of the month and end on the last calendar day of the month. For twice monthly payments, the Monthly Settlement Date will apply to the payment for the second twice-monthly billing period. The settlement date for the first twice-monthly billing period shall be the first Business Day after fourth (4th) calendar day of the month following service. For example, for service from January 1 through January 15, the settlement date would be the first Business Day after the fourth (4th) calendar day of February. Buyer's failure to make such accelerated payments shall be deemed an Event of Default under Section 12.1 (Events of Default) of the Agreement.

ARTICLE 15

REPRESENTATIONS AND WARRANTIES

15.1 Representations and Warranties. On the Effective Date and throughout the term of this Agreement, each Party represents and warrants to the other Party that:

(a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

(b) it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement and each Transaction;

(c) the execution, delivery and performance of this Agreement and each Transaction are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;

(d) this Agreement and each Transaction constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject to any Equitable Defenses;

(e) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it becoming Bankrupt;

(f) there are no pending, or to its knowledge threatened, actions, suits or proceedings against it or any of its Affiliates, or any legal proceedings before any Governmental Authority that could materially adversely affect its ability to perform its obligations under this Agreement and each Transaction;

(g) no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement and each Transaction;

(h) with respect to Buyer, it is acting to fulfill its obligations under and in accordance with PUC Orders to enter into this Agreement;

(i) it is not relying upon the advice or recommendations of the other Party in entering into this Agreement, it is capable of understanding, understands and accepts the

terms, conditions and risks of this Agreement and each Transaction, and the other Party is not acting as a fiduciary for or advisor to it in respect of this Agreement;

(j) it is a “forward contract merchant” within the meaning of the Bankruptcy Code;

(k) it has entered into this Agreement and each Transaction in connection with the conduct of its business and it has the capacity or ability to provide or take delivery of the Block Energy Supply; and it is an “eligible contract participant” as defined in Section 1a(12) of the Commodity Exchange Act.

15.2 Notification. If a Party learns that any of its representations and warranties under Section 15.1 are no longer true during the Term, the Party shall immediately notify the other Party in accordance with Section 16.1.

15.3 Additional Understandings. This Agreement is for the purchase and sale of Block Energy Supply that will be delivered in quantities expected to be used or sold over a defined period(s) in the normal course of business, and it is the intention at the inception and throughout the term of this Agreement and each Transaction hereunder that the Agreement will result in physical delivery and not financial settlement, and the Agreement does not provide for an option by either Party with respect to the quantity of Block Energy Supply to be delivered or received during performance of the Agreement. This Agreement has been drafted to effectuate Buyer’s and Seller’s specific intent so that in accordance with Financial Accounting Standards Board Statement No. 133 (“FAS 133”), as amended, Buyer would be able to elect to use accrual accounting for its purchases under this Agreement, while Seller would be able to elect to use either accrual or mark-to-market accounting for its sales under the Agreement. If either Buyer or Seller determines, in good faith, that the intended accounting treatment has become jeopardized, due to a change in interpretations of FAS 133, as amended, or otherwise, then Buyer and Seller agree to meet and use their best efforts to reform the Agreement so that, with the minimum changes possible, the Agreement again qualifies for the intended accounting treatments.

15.4 Bankruptcy Issues. The Parties intend that (i) all Transactions constitute a “forward contract” within the meaning of the Bankruptcy Code; (ii) all payments made or to be made by one Party to the other Party pursuant to this Agreement constitute “settlement payments” within the meaning of the Bankruptcy Code; (iii) all transfers of Performance Assurance by Seller to Buyer under this Agreement constitute “margin payments” within the meaning of the Bankruptcy Code; and (iv) this Agreement constitutes a “master netting agreement” within the meaning of the Bankruptcy Code.

ARTICLE 16 MISCELLANEOUS

16.1 Notices. Unless otherwise specified herein, all notices shall be in writing and delivered by hand, overnight or facsimile (provided a copy is also sent by overnight mail). Notice shall be effective on the next Business Day after it is sent. A Party may change its address by providing notice of the same in accordance with this Section 16.1 (Notices). Notice information for Buyer and Seller is shown on Exhibit G.

16.2 General. This Agreement supersedes all prior oral or written agreements, commitments, negotiations, understandings or discussions with respect to the subject matter hereof except for other agreements specifically referenced herein. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof. Each Party further agrees that it will not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement. Any provision declared or rendered unlawful will not otherwise affect the remaining lawful obligations that arise under this Agreement or any Transaction; provided that in such event the Parties shall use commercially reasonable efforts to amend this Agreement or any Transaction in order to give effect to the original intention of the Parties. This Agreement is not intended to create nor shall it be construed to create an association, joint venture, or partnership between the Parties, or to impose any partnership or fiduciary obligation or liability upon either Party. Neither Party shall have the power to bind or obligate the other Party, nor shall a Party be liable for the payment or performance of any debts, obligations or liabilities of the other Party, unless expressly assumed in writing.

16.3 Rules of Interpretation. The following principles shall be observed in the interpretation and construction of this Agreement:

- (a) unless otherwise stated, the terms “include” and “including” when used in this Agreement shall be interpreted to mean by way of example only and shall not be considered limiting in any way;
- (b) all titles and headings used herein are for convenience and reference purposes only, do not constitute a part of this Agreement and shall be ignored in construing or interpreting the obligations of the parties under this Agreement;
- (c) references to the singular include the plural and vice versa;
- (d) references to Articles, Sections, and the Recitals are, unless the context indicates otherwise, references to Articles, Sections, and the Recitals of this Agreement;
- (e) the reference to any Party includes such Party’s legal and/or permitted successors and assignees;
- (f) reference to any document other than this Agreement refers to such documents as may be amended, modified, replaced or superseded from time to time, or any successor document(s) thereto;
- (g) reference to any law or regulation refers to such law or regulation as may be amended, modified, replaced or superseded from time to time, or any successor law(s) or regulation(s) thereto;
- (h) “herein,” “hereof,” and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Section or provision;

(i) in carrying out its rights, obligations and duties under this Agreement, each Party shall have an obligation of good faith and fair dealing.

16.4 Audits and Record Retention. Each Party has the right on at least three (3) Business Days prior written notice, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made in accordance with Sections 7.1 (Billing) and 7.7 (Interest on Unpaid Balances). The Parties shall retain for a period of at least two (2) years following the expiration of the Term all necessary records so as to permit the Parties to confirm the accuracy of any Invoice or calculation of payments due hereunder; provided, however, that if a Party has provided notice in accordance with this Agreement that it disputes the accuracy of any Statement or calculation of any payments, the Parties agree that they shall retain all records related to such dispute until the dispute is finally resolved.

16.5 Confidentiality.

(a) Each Party shall hold in confidence and not release or disclose any document or information furnished by the other Party in connection with this Agreement, unless: (i) compelled to disclose such document or information by judicial, regulatory or administrative process or other provision of law; (ii) such document or information is generally available to the public; (iii) such document or information was available to the receiving Party on a non-confidential basis; or (iv) such document or information was available to the receiving Party on a non-confidential basis from a third-party, provided that the receiving Party does not know, and, by reasonable effort, could not know that such third-party is prohibited from transmitting the document or information to the receiving Party by a contractual, legal or fiduciary obligation.

(b) Notwithstanding any other provision of this Section 16.5 (Confidentiality), a Party may disclose to its employees, representatives and agents all documents and information furnished by the other Party in connection with this Agreement, provided that such employees, representatives and agents have been advised of the confidentiality provisions of this Section 16.5 (Confidentiality), and further provided that in no event shall a document or information be disclosed in violation of the standard of conduct requirements established by FERC.

(c) A Party receiving notice or otherwise concluding that any confidential document or information furnished by the other Party in connection with this Agreement is being sought under any provision of law, to the extent it is permitted to do so under any applicable law, shall: (i) promptly notify the other Party; and (ii) use reasonable efforts in cooperation with the other Party to seek confidential treatment of such confidential information.

(d) Any independent auditor performing an audit on behalf of a Party pursuant to Section 16.4 (Audit) shall be required to execute a confidentiality agreement with the Party

being audited. Such audit information shall be treated as confidential pursuant to this Section 16.5 (Confidentiality).

(e) The Parties agree that monetary damages may be inadequate to compensate a Party for the other Party's breach of its obligations under this Section 16.5 (Confidentiality). Each Party accordingly agrees that the other Party shall be entitled to equitable relief, by way of injunction or otherwise, if the Party breaches or threatens to breach its obligations under this Section 16.5 (Confidentiality), which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law.

16.6 Successors and Assigns. This Agreement and all of the provisions hereof are binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assigns. Nothing in this Agreement is intended to confer benefits, rights or remedies unto any Person other than the Parties and their permitted successors and assigns, and no third party shall have the right to enforce the provisions of this Agreement.

16.7 Assignment.

(a) The Parties shall not assign any of their rights or obligations under this Agreement without obtaining (a) any necessary regulatory approval(s) and (b) the prior written consent of the non-assigning Party, which consent shall not be unreasonably withheld; provided, however, that Buyer agrees that it shall grant its consent to a proposed assignment by the Seller if the proposed assignee meets all of Buyer's creditworthiness requirements then in effect under Article 14. No assignment of this Agreement shall relieve the assigning Party of any of its obligations under this Agreement until such obligations have been assumed by the assignee and all necessary consents have been obtained.

(b) Any assignment in violation of this Section 16.7 shall be void; provided, however, Buyer may assign any or all of its rights and obligations under this Agreement, without Seller's consent, to any entity succeeding to all or substantially all of the assets of Buyer, if such assignee agrees, in writing, to be bound by all of the terms and conditions and all necessary regulatory approvals are obtained. Seller may, with prior written notice to Buyer but without obtaining the approval of Buyer, assign the accounts, revenues or proceeds under this Agreement to a third party. Buyer agrees that, following receipt of such notice of the assignment of accounts, revenues or proceeds and such other documentation that Buyer may reasonably request, Buyer will pay amounts becoming due to Seller under this Agreement directly to the designated assignee; provided, however, that nothing herein shall enlarge or expand the rights of such designated assignee beyond the rights granted to Seller and the right of such designated assignee to receive payments shall be subject to all defenses, offsets and claims of Buyer arising under this Agreement. Buyer further agrees that, in the event necessary regulatory approvals to effectuate an assignment have been sought in good faith but that action by the regulatory body is pending, Buyer shall accept the performance of the proposed assignee as a Party to this Agreement, as co-obligor with the Buyer proposing to assign its interest, until such approvals are obtained; provided, however, that, in the event the regulatory body declines to grant its approval, the request for approval of the assignment shall be deemed to have been rejected for good reason.

16.8 Governing Law. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTITUTED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.

16.9 Jurisdiction and Venue. Except for matters jurisdictional to FERC, the PUC or the appellate courts having jurisdiction over the PUC or FERC matters, all disputes hereunder shall be resolved in the Federal or State courts of Pennsylvania and each Party hereby irrevocably submits to the in personam jurisdiction of such courts. Each Party hereby waives its respective rights to any jury trial with respect to any litigation arising under or in connection with this Agreement.

16.10 Amendments. Except as provided in Section 16.11 (PJM Agreement Modifications), neither this Agreement nor any Transaction shall be amended, modified, terminated, discharged or supplemented, nor any provision hereof waived, unless mutually agreed, in writing, by the Parties. Furthermore, it is the express intent of the Parties that neither Party shall unilaterally seek to obtain from any Governmental Authority any relief changing the rates or other terms of this Agreement or any Transaction, notwithstanding any market conditions that may occur in the future or that exist at the time of the formation of this Agreement or any Transaction. The Parties hereby acknowledge and agree that both Parties have negotiated and entered into this Agreement and each Transaction freely and in good faith and that the terms of this Agreement and each Transaction have not been affected in any way, either directly or indirectly, by (A) any fraud, duress, unfairness, or any inequity in the relative bargaining power of the Parties or (B) any manipulation, unlawful activity, disruption, anomaly, dysfunction, or other adverse market conditions of any type or description. To the extent permitted by law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives its rights (i) to submit any filing to any Governmental Authority seeking modification or rescission of any rates or other terms of this Agreement or any Transaction under Sections 205 or 206 of the Federal Power Act or otherwise, (ii) to argue before any Governmental Authority that any review, modification, or rescission of this Agreement or any Transaction should be considered under any standard of review other than the “public interest” standard set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) and affirmed by Morgan Stanley Capital Group, Inc. v. Public Utility District No. 1 of Snohomish County, Washington, et al., 554 U.S. ___, 128 S. Ct. 2733 (June 26, 2008) (the “Mobile-Sierra Doctrine”), and (iii) to argue before any Governmental Authority that any terms of this Agreement or any Transaction should be modified or rescinded based on (A) any claim of fraud, duress, unfairness, bad faith, or inequity in the relative bargaining power of the Parties or (B) any claim of market manipulation, unlawful activity, disruption, anomaly, dysfunction, or other adverse market conditions of any type or description.

16.11 PJM Agreement Modifications.

(a) If the PJM Agreements are amended or modified so that any schedule or section references herein to such agreements is changed, such schedule or section references herein shall be deemed to automatically (and without any further action by the Parties) refer

to the new or successive schedule or section in the PJM Agreements which replaces that originally referred to in this Agreement.

(b) If the applicable provisions of the PJM Agreements referenced herein, or any other PJM rules relating to the implementation of this Agreement, are changed materially from those in effect on the Effective Date, both Parties shall cooperate to make conforming changes to this Agreement to fulfill the purposes of this Agreement, including Seller's responsibility for changes in PJM products and pricing during the Term under Section 2.5 (Other Changes in PJM Charges).

16.12 Delay and Waiver. Except as otherwise provided in this Agreement, no delay or omission to exercise any right, power or remedy accruing to the respective Parties hereto upon any breach or default of any other Party under this Agreement shall impair any such right, power or remedy, nor shall it be construed to be a waiver of any such similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character of any breach or default under this Agreement, or any waiver of any provision or condition of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing.

16.13 Regulatory Approvals. The commencement of the Delivery Period is subject to: the receipt by Seller and Buyer of all approvals required of the PUC.

16.14 Regulatory Cooperation. Seller will cooperate with Buyer in any regulatory compliance efforts that may be required to maintain the ongoing lawfulness and enforceability of the terms of this Agreement and to fulfill any regulatory reporting requirement associated with the provision of Block Energy Supply before FERC, the PUC, or any other Governmental Authority asserting jurisdiction.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement to be effective as of the day and year first written above.

PECO ENERGY COMPANY

SELLER

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A
FORM OF TRANSACTION CONFIRMATION

BLOCK ENERGY SUPPLY

This Transaction Confirmation letter is being provided pursuant to and in accordance with the Default Service Program Block Energy Supply Master Agreement (“Agreement”) dated _____ between PECO Energy Company (“Company” or “PECO Energy”) and _____ (“Seller”). Terms used but not defined herein shall have the meanings ascribed to them in the Agreement. This Transaction Confirmation shall confirm the following terms of the transaction (“Transaction”) agreed to on _____ (“Transaction Date”).

Product:	Energy, [On-peak: 5x16 Monday-Friday, excluding NERC Holidays, Hour Ending 0800 through Hour Ending 2300], Eastern Prevailing Time]
Customer Supply Group:	Residential
Delivery Point:	PE Zone
Delivery Period:	[beginning on January 1, 20XX and ending on February 2X, 20XX][beginning on June 1, 20XX and ending on August 31, 20XX];
Scheduling:	Seller shall submit the Specified Product through PJM eSchedules no later than four weeks prior to the beginning of the Delivery Period. Buyer shall confirm the Specified Product through PJM eSchedules not later than three weeks prior to the beginning of the Delivery Period.
Market:	Seller must schedule and deliver in the PJM Day-Ahead Market.
Number of Energy Blocks:	XX
Energy Block Size	XX MW
Specified Product	XX MW
Price	\$XX.XXXX (\$/MWh)

Please confirm that the terms stated herein accurately reflect the agreement reached on the date above between Seller and Buyer by returning an executed copy of this Transaction Confirmation by facsimile to PECO Energy at (xxx) xxx.xxxx in accordance with Section 2.15 – Transaction Confirmation of the Agreement. The signatories to this Transaction must have the authority to enter into this Transaction.

PECO ENERGY COMPANY (BUYER)

By: _____

Name: _____

Title: _____

SELLER

By: _____

Name: _____

Title: _____

EXHIBIT B

RESERVED

EXHIBIT C

FORM OF
PERFORMANCE ASSURANCE LETTER OF CREDIT

{TO BE ISSUED ON THE LETTERHEAD OF THE ISSUING BANK}

IRREVOCABLE LETTER OF CREDIT NO.

ISSUE DATE _____

EXPIRY DATE _____

APPLICANT

[NAME]

[ADDRESS]

BENEFICIARY

[NAME]

[ADDRESS]

CURRENCY

AMOUNT

USD *****\$

WE HEREBY ISSUE IN YOUR FAVOR OUR IRREVOCABLE LETTER OF CREDIT NO: _____ FOR THE ACCOUNT OF _____ (APPLICANT) FOR AN AMOUNT OR AMOUNTS NOT TO EXCEED IN THE AGGREGATE US DOLLARS _____ AVAILABLE BY YOUR DRAFT(S) AT SIGHT ON THE BANK OF _____ (“ISSUER”) _____ (ADDRESS), EFFECTIVE _____ AND EXPIRING AT OUR COUNTERS ON _____ OR ANY AUTOMATICALLY EXTENDED EXPIRY DATE, AS PROVIDED HEREIN. THIS LETTER OF CREDIT IS AVAILABLE IN ONE OR MORE DRAFTS UP TO THE AGGREGATE AMOUNT SET FORTH HEREIN.

THIS LETTER OF CREDIT IS PRESENTABLE AND PAYABLE AT OUR COUNTERS AND WE HEREBY ENGAGE WITH YOU THAT DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE HONORED ON PRESENTATION IF ACCOMPANIED BY THE REQUIRED DOCUMENTS PURSUANT TO THE TERMS OF THIS LETTER OF CREDIT.

THE BELOW MENTIONED DOCUMENT(S) MUST BE PRESENTED ON OR BEFORE THE EXPIRY DATE OF THIS INSTRUMENT IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT.

1. YOUR SIGNED AND DATED STATEMENT, READING AS FOLLOWS:

“THE AMOUNT FOR THIS DRAWING, USD (INSERT AMOUNT), BEING MADE UNDER THE BANK OF _____ (BANK) LETTER OF CREDIT NUMBER (INSERT LETTER OF CREDIT REFERENCE NUMBER), REPRESENTS AN AMOUNT DUE AND

PAYABLE TO BENEFICIARY FROM APPLICANT FOR PERFORMANCE ASSURANCE RELATED TO THE BENEFICIARY'S PENNSYLVANIA DEFAULT SERVICE PROGRAM BLOCK ENERGY SUPPLY MASTER AGREEMENT DATED BETWEEN _____ AND _____."

2. THIS ORIGINAL LETTER OF CREDIT AND ANY AMENDMENT(S).

IF PRESENTATION OF ANY DRAWING IS MADE ON A BUSINESS DAY (AS HEREIN DEFINED) AND SUCH PRESENTATION IS MADE ON OR BEFORE 11:00 A.M. NEW YORK TIME, ISSUER SHALL SATISFY SUCH DRAWING REQUEST ON THE NEXT BUSINESS DAY. IF THE DRAWING IS RECEIVED AFTER 11:00 A.M. NEW YORK TIME, ISSUER WILL SATISFY SUCH DRAWING REQUEST ON THE SECOND FOLLOWING BUSINESS DAY.

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT WILL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ONE YEAR FROM THE EXPIRATION DATE HEREOF, OR ANY FUTURE EXPIRATION DATE, UNLESS AT LEAST 90 DAYS PRIOR TO ANY EXPIRATION DATE WE NOTIFY YOU AT THE ABOVE ADDRESS BY REGISTERED MAIL OR HAND DELIVERED COURIER THAT WE ELECT NOT TO CONSIDER THIS LETTER OF CREDIT RENEWED FOR ANY SUCH PERIOD.

THIS LETTER OF CREDIT MAY BE TERMINATED UPON BENEFICIARY'S RECEIPT OF FULL PAYMENT FROM THE APPLICANT AND ISSUER'S RECEIPT OF A WRITTEN RELEASE FROM THE BENEFICIARY RELEASING THE ISSUER FROM ITS OBLIGATIONS UNDER THIS LETTER OF CREDIT.

THE TERM "BUSINESS DAY" AS USED HEREIN MEANS ANY DAY OTHER THAN (I) A SATURDAY, (II) A SUNDAY, OR (III) A DAY ON WHICH BANKING INSTITUTIONS LOCATED IN THE CITY OF NEW YORK, NEW YORK ARE REQUIRED OR AUTHORIZED BY LAW TO BE CLOSED.

APPLICANT'S FILING OF A BANKRUPTCY, RECEIVERSHIP OR OTHER DEBTOR-RELIEF PETITION, AND/OR APPLICANT'S DISCHARGE THEREUNDER, SHALL IN NO WAY AFFECT THE LIABILITY OF [BANK] UNDER THIS LETTER OF CREDIT AND [BANK] SHALL ALWAYS REMAIN LIABLE TO [BENEFICIARY] FOR THE FULL AMOUNT OF APPLICANT'S OBLIGATIONS HEREIN TO [BENEFICIARY] NOT TO EXCEED THE AVAILABLE AMOUNT IN THIS LETTER OF CREDIT.

ADDITIONAL TERMS AND CONDITIONS:

1. ALL COMMISSIONS AND OTHER BANKING CHARGES WILL BE BORNE BY THE APPLICANT.
2. THIS LETTER OF CREDIT MAY NOT BE TRANSFERRED OR ASSIGNED.
3. THIS LETTER OF CREDIT IS IRREVOCABLE.

4. THIS LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES (1998) OF THE INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590 ("ISP98"). AS TO MATTERS NOT GOVERNED BY ISP98, THIS LETTER OF CREDIT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, INCLUDING, TO THE EXTENT NOT INCONSISTENT WITH ISP98, THE UNIFORM COMMERCIAL CODE AS IN EFFECT IN THE STATE OF NEW YORK. THIS LETTER OF CREDIT MAY NOT BE AMENDED, CHANGED OR MODIFIED WITHOUT THE EXPRESS WRITTEN CONSENT OF THE BENEFICIARY AND THE ISSUER.
5. THE BENEFICIARY SHALL NOT BE DEEMED TO HAVE WAIVED ANY RIGHTS UNDER THIS LETTER OF CREDIT, UNLESS THE BENEFICIARY OR AN AUTHORIZED AGENT OF THE BENEFICIARY SHALL HAVE SIGNED A DATED WRITTEN WAIVER. NO SUCH WAIVER, UNLESS EXPRESSLY SO STATED THEREIN, SHALL BE EFFECTIVE AS TO ANY TRANSACTION THAT OCCURS SUBSEQUENT TO THE DATE OF THE WAIVER, NOR AS TO ANY CONTINUANCE OF A BREACH AFTER THE WAIVER.
6. A FAILURE TO MAKE ANY PARTIAL DRAWINGS AT ANY TIME SHALL NOT IMPAIR OR REDUCE THE AVAILABILITY OF THIS LETTER OF CREDIT IN ANY SUBSEQUENT PERIOD OR OUR OBLIGATION TO HONOR YOUR SUBSEQUENT DEMANDS FOR PAYMENT MADE IN ACCORDANCE WITH THE TERMS OF THIS LETTER OF CREDIT.

Authorized Signature: _____

Title: _____

Please direct any written correspondence, including drawing or inquiries to:

[Bank name, address and phone number]

EXHIBIT D

RESERVED

EXHIBIT E

METHODOLOGY FOR CALCULATION OF MARK TO MARKET (MTM) EXPOSURE

Disclaimer: The prices that appear in this Exhibit are purely hypothetical and are not based on or derived from any actual source for forward pricing. There are solely for purposes of illustration. As set forth in Article 14 (Creditworthiness) of this Agreement, the Mark to Market (MtM) Exposure is an amount calculated each Business Day for the Seller that reflects the financial exposure to the Buyer due to fluctuations in forward market prices for Energy. The Aggregate Buyer's Exposure is the sum of the calculated Buyer's Exposure for all Transactions under this Agreement and all other transactions under all Supply Master Agreements executed between the Parties pursuant to the PUC Orders to serve Buyer's Default Service Load. The Buyer's Exposure under each Transaction shall be calculated pursuant to the Supply Master Agreement under which the Transaction was executed.

This Exhibit E explains the methodology and data sources that the Buyer will use to calculate the MtM Exposure and total MtM Exposure.

On a Transaction Date, the Buyer's Exposure for that Transaction shall be deemed equal to zero. To the extent that the calculations of the Aggregate Buyer's Exposure for a given Business Day result in a negative number, the Aggregate Buyer's Exposure for such date shall be deemed equal to zero.

Calculation of the MtM Exposure and Total MtM Exposure

For each Transaction, on each Business Day subsequent to the Transaction Date, the MtM Exposure will be calculated, with respect to each month remaining in the Delivery Period, as the sum of the following:

- § the relevant month On-Peak Forward Price minus the relevant month On-Peak Initial Mark Price, multiplied by the relevant month On-Peak Energy Quantity
- § the relevant month Off-Peak Forward Price minus the relevant month Off-Peak Initial Mark Price, multiplied by the relevant month Off-Peak Energy Quantity.

Parameters

In calculating the MtM Exposure for each Transaction, the following parameters are set on the Transaction Date:

- § On-Peak Initial Mark Price
- § Off-Peak/On-Peak Price Ratio
- § Off-Peak Initial Mark Price
- § Number of awarded Energy Blocks
- § Energy Block Size

In calculating the MtM Exposure for each Transaction, the following parameters are set each Business Day subsequent to the Transaction Date:

- § On-Peak Forward Price
- § Off-Peak Forward Price
- § On-Peak Energy Quantity
- § Off-Peak Energy Quantity

Process to Update the On-Peak Initial Mark Prices and Off-Peak Initial Mark Prices on a Daily Basis

On each Business Day subsequent to the Transaction Date, the Pricing Agent will contact four Reference Market-Makers to obtain price quotes for on-peak and off-peak energy for PJM Western Hub. The Pricing Agent may not rely upon quotes from Seller or any Affiliate of Seller.

The updated mark for a month will be equal to the average mark for that month over all sources from which a quote is available. If a monthly quote is available from any source, only the monthly quote or monthly quotes shall be used. Where quotes provide a bid and ask, the average shall be used.

Where a quote for an individual month is unavailable, but the month is quoted as part of a “packaged” quote (e.g., January 2011 is only available in the form of a January/February 2011 “packaged” quote or an annual quote):

- § If the other month/months of the package quote is/are also unavailable, then the marks for all months of the package will be calculated by multiplying the packaged quote by the ratio of the corresponding month to the corresponding calculated package quote from the previous day.

Example: There are no On-Peak quotes available on day X during the contract for July 2011 or August 2011. However, there is an On-Peak July/August 2011 packaged quote of \$73.00/MWh available. The On-Peak marks from day X-1 for July 2011 and August 2011 were \$73.50/MWh and \$76.50/MWh respectively. The day X On-Peak mark for July 2011 is set at $73.00 * [73.50] / [(73.50 * 352) + (76.50 * 336)] / (352+336) = 73 * (73.50 / 74.97) = \$71.57/\text{MWh}$. The day X On-Peak mark for August 2011 is set at $73.00 * [76.50] / [(73.50 * 352) + (76.50 * 336)] / (352+336) = 73 * (76.50 / 74.97) = \$74.49/\text{MWh}$.

- § If the other month/months of the package quote is/are available, then the mark for the month will be set such that the average of the month and the other month(s) (weighted for either the On-Peak Hours or Off-Peak Hours as applicable) equals the packaged quote (see calculation example below).

Example: There are no On-Peak available for August 2011. However, there is an On-Peak July/August 2011 package quote available of \$75.00/MWh and an On-Peak July 2011 quote of \$73.00/MWh. The On-Peak mark for August 2011 is set at $[75 * (352 + 336) - 73 * (336)] / [352 + 336] = \$77.10/\text{MWh}$.

If, on a given Business Day, the Pricing Agent is not able to obtain quotes from the Reference Market-Makers, then Buyer will look to reasonable alternative sources of price data (excluding Seller or any Affiliate of Seller) and will rely on the prices from those alternative data sources to update the mark if pricing data is available from those alternative sources. As a reasonable alternative source of price data, the Buyer may use the following methodology:

- A calendar year on-peak/off-peak energy price, for the calendar year pertaining to the delivery period for which the On-Peak/Off-Peak Forward Price is being developed, is calculated using the following methodology:
 - First, a Market-Implied Heat Rate is calculated as the ratio of the calendar year On-Peak and/or Off-Peak forward energy price (calculated using On-Peak/Off-Peak Forward Prices) to the calendar year Henry Hub forward natural gas price (calculated using Henry Hub forward natural gas prices

quoted by NYMEX) for the calendar year for which price data sufficient to calculate both prices are available and that is the farthest year in the future. As an alternative, the applicable Market-Implied Heat Rate may be determined by calculating the market-implied heat rates applicable to the last three years for which data are available that are the farthest in the future, and performing an extrapolation.

- Next, this calculated Market-Implied Heat Rate is applied to the calendar year Henry Hub forward natural gas price (calculated using Henry Hub forward natural gas prices quoted by NYMEX) for the calendar year pertaining to the delivery period for which the On-Peak/Off-Peak Forward Price is being developed.
- The resulting calculated calendar year price for on-peak or off-peak energy is converted into respective monthly prices by applying the inter-month shape of actual On-Peak/Off-Peak Forward Prices for the calendar year that is the farthest year in the future for which prices are available.

Quotes from the sources will be examined to identify quotes that are out of line and potentially invalid or are in obvious error. Sources will be asked to either correct or verify data that is anomalous and/or inconsistent with that provided by other sources or is in obvious error. If the data cannot be verified in time for the daily mark, the anomalous data will be discarded.

EXHIBIT F

FORM OF GUARANTY

GUARANTY

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], 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 Block Energy 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:

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 \$____, 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.

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, 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.

3. The Guaranteed Party may, at any time and from time to time, without notice to or consent of the Guarantor, without incurring responsibility to the Guarantor and without impairing or releasing the obligations of the Guarantor hereunder, upon or without any terms or conditions: (a) take or refrain from taking any and all actions with respect to the Guaranteed Obligations, any Agreement(s) with respect to the Guaranteed Obligations or any person (including the Seller) that the Guaranteed Party determines in its sole discretion to be necessary

or appropriate; (b) take or refrain from taking any action of any kind in respect of any security for any Guaranteed Obligation(s) or liability of the Seller to the Guaranteed Party; or (c) compromise or subordinate any Guaranteed Obligation(s) or liability of the Seller to the Guaranteed Party including any security therefor.

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, 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.

5. 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.

6. The Guarantor will not exercise any rights, which it may acquire by way of subrogation until all Guaranteed Obligations to the Guaranteed Party pursuant to the Agreement(s) have been paid in full.

7. Subject to the terms and conditions hereof, this Guaranty is a continuing Guaranty and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon. Except for a failure to comply with any applicable statute of limitations, no failure or delay on the part of the Guaranteed Party in exercising any right, power or privilege hereunder, and no course of dealing between the Guarantor and the Guaranteed Party, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights, powers and remedies herein expressly provided are cumulative and not exclusive of any rights, powers or remedies, which the Guaranteed Party would otherwise have. No notice to or demand on the Guarantor in any case shall entitle the Guarantor to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Guaranteed Party to any other or further action in any circumstances without notice or demand.

8. This Guaranty shall be binding upon the Guarantor and upon its successors and assigns and shall inure to the benefit of and be enforceable by the Guaranteed Party and its successors

and assigns; provided, however, that the Guarantor may not assign or transfer any of its rights or obligations hereunder without the prior written consent of the Guaranteed Party. The assignment rights of the Guaranteed Party will be in accordance with any applicable terms of the Agreement(s).

9. Neither this Guaranty nor any provision hereof may be changed, waived, discharged or terminated except upon written agreement of the Guaranteed Party and the Guarantor.

10. The Guarantor's liability as guarantor shall continue and remain in full force and effect in the event that all or any part of any payment made hereunder or any obligation or liability guaranteed hereunder is recovered (as a fraudulent conveyance, preference or otherwise) rescinded or must otherwise be reinstated or returned due to bankruptcy or insolvency laws or otherwise. If claim is ever made upon the Guaranteed Party for repayment or recovery of any amount or amounts received from the Guarantor or the Seller in payment or on account of any of the Guaranteed Obligations and the Guaranteed Party repays all or part of such amount by reason of (a) any judgment, decree or order of any court or administrative body having jurisdiction over such payee or any of its property, or (b) any settlement or compromise of any such claim effected by such payee with any such claimant (including the Guarantor), then and in such event the Guarantor agrees that any such judgment, decree, order, settlement or compromise shall be binding upon it, notwithstanding any revocation hereof or the cancellation of the Agreement(s) or other instrument evidencing any liability of the Guarantor, and the Guarantor shall be and remain liable to the Guaranteed Party hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by the Guaranteed Party.

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.

12. All 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)

If to the Guarantor: *[To be completed]*

If to the Guaranteed Party: *[To be completed]*

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; 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 [insert appropriate corporate organizational document, such as Declaration of Trust, Limited Liability Company Agreement, Articles of Incorporation and by-laws] or any law, regulation or contractual restriction binding on it or its assets.

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 venue or inconvenient forum. The Guarantor and the Guaranteed Party consent to and grant any such court jurisdiction over the person of such party and over the subject matter of such dispute and agree that summons or other legal process in connection with any such action or proceeding shall be deemed properly and effectively served when sent by certified U.S. mail, return receipt requested, to the address of the other party set forth in Paragraph 12 hereof, or in such other manner as may be permitted by law. The Guarantor and the Guaranteed Party each hereby irrevocably waives any and all rights to trial by jury with respect to any legal proceeding arising out of or relating to this Guaranty.

15. This writing is the complete and exclusive statement of the terms of this Guaranty and supersedes all prior oral or written representations, understandings, and agreement(s) between the Guaranteed Party and the Guarantor with respect to subject matter hereof. The Guaranteed Party and the Guarantor agree that there are no conditions to the full effectiveness of this Guaranty.

16. Every provision of this Guaranty is intended to be severable. If any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

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.

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: _____

PECO ENERGY COMPANY

Signature: _____

Name: _____

Title: _____

Date: _____

EXHIBIT G

[OPINION OF SELLER’S COUNSEL]

_____, 200_

PECO Energy Company

Ladies and Gentlemen:

We have acted as counsel to _____ (the “Seller”) in connection with the Default Service Program Block Energy Supply Master Agreement (the “Agreement”) between Seller and PECO Energy Company (the “Buyer”) executed by Seller on [date]. Unless otherwise defined in this opinion, capitalized terms are used herein as defined in the Agreement.

In acting as counsel to the Seller, we have examined the Agreement. We have also examined such other documents, records and instruments and made such examination of law, as we have deemed necessary in connection with the opinions set forth below.

We have assumed the genuineness of all signatures (other than signatures of officers or other representatives of the Seller), the legal capacity of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified, conformed, photostatic or facsimile copies, the authenticity of the originals of all documents submitted to us as copies, and that the documents reviewed by us, other than the Agreement, have not been modified, amended, changed or supplemented in any material respect after the respective dates of our review thereof. We have also assumed that the Agreement is the legal, valid and binding obligation of the Buyer, enforceable against the Buyer in accordance with its terms.

As to any facts that are material to the opinions hereinafter expressed that we did not independently establish or verify, we have, with your consent, relied without investigation upon the representations of the Seller contained in the Agreement and upon certificates of officers of the Seller, although we advise you that nothing has come to our attention that has caused us to believe that such reliance is unwarranted.

On the basis of the foregoing, and subject to the qualifications, limitations, assumptions and exceptions set forth herein, we are of the opinion that:

1. The Seller is duly organized and validly existing in good standing under the laws of _____ [jurisdiction of incorporation or organization], and has the requisite power and authority to execute, deliver and perform its obligations under the Agreement.
2. The execution and delivery by the Seller of, and the performance by the Seller of its obligations under, the Agreement, have been duly authorized by all necessary [corporate, limited liability, partnership or other] action.
3. The Agreement has been duly executed and delivered by the Seller and, upon execution by Buyer, constitutes the legally valid and binding agreement of the Seller, enforceable against the Seller in accordance with its terms, subject to customary exceptions for laws affecting the rights of creditors generally and general principles of equity.
4. No permits, licenses, authorizations, consents or approvals by or from, or filings or registrations with, any governmental authority or agency in [specified jurisdiction] are required in connection with the execution, delivery or performance by the Seller of the Agreement which have not been obtained or made.
5. The execution and delivery by the Seller of the Agreement, and compliance by the Seller with the provisions thereof, do not and will not (i) result in a violation of the organizational or constitutive documents of the Seller, or (ii) conflict with or constitute a breach of any applicable law or regulation of [specified jurisdiction].

The foregoing opinions are subject to the following additional qualification:

- A. Provisions of the Agreement relating to indemnification or exculpation may be limited by public policy or by law.
- B. The opinions expressed herein are limited to the laws of [specified jurisdiction], and we express no opinion as to the laws of any other jurisdiction.

This opinion letter is effective only as of the date hereof. We do not assume responsibility for updating this opinion letter as of any date subsequent to its date, and we assume no responsibility for advising you of any changes with respect to any matters described in this opinion letter that may occur, or facts that may come to our attention, subsequent to the date hereof.

This opinion is rendered to the addressees hereof and is intended solely for their benefit in connection with the transactions described herein. This opinion may not be relied upon by such addressees or any other person or entity for any other purpose, or quoted or furnished to or relied upon by any other person, firm or corporation for any purpose, without our prior written consent.

Very truly yours,

[OPINION OF GUARANTOR'S COUNSEL]

_____, 200_

PECO Energy Company

Ladies and Gentlemen:

We have acted as counsel to _____ (the "Guarantor") with respect to a Guaranty Agreement, dated as of _____ (the "Guaranty") issued by the Guarantor in relation to a Default Service Program Block Energy Supply Master Agreement between PECO Energy Company (the "Buyer") and _____ (the "Seller") executed by Seller on [date]. Unless otherwise defined in this opinion, capitalized terms are used herein as defined in the Agreement.

In acting as counsel to the Guarantor, we have examined the original Default Service Program Supply Master Agreement executed by the Seller and the original Guaranty issued by the Guarantor. We have also examined such other documents, records and instruments and made such examination of law, as we have deemed necessary in connection with the opinions set forth below.

We have assumed the genuineness of all signatures (other than signatures of officers of the Guarantor), the legal capacity of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified, conformed, photostatic or facsimile copies, the authenticity of the originals of all documents submitted to us as copies, and that the documents reviewed by us, other than the Guaranty and the Agreement, have not been modified, amended, changed or supplemented in any material respect after the respective dates of our review thereof. We have also assumed that the Agreement is the legal, valid and binding obligation of the Buyer, enforceable against the Buyer in accordance with its terms.

On the basis of the foregoing, and subject to the qualifications, limitations, assumptions and exceptions set forth herein, we are of the opinion that:

1. The Guarantor is duly organized and validly existing in good standing under the laws of _____ [jurisdiction of incorporation or organization], and has the requisite power and authority to execute, deliver and perform its obligations under the Guaranty.

2. The execution and delivery by the Guarantor of, and the performance by the Guarantor of its obligations under, the Guaranty, have been duly authorized by all necessary [corporate, limited liability, partnership or other] action.
3. The Guaranty has been duly executed and delivered by the Guarantor and constitutes the legally valid and binding agreement of the Guarantor, enforceable against the Guarantor in accordance with its terms, subject to customary exceptions for laws affecting the rights of creditors generally and general principles of equity.
4. No permits, licenses, authorizations, consents or approvals by or from, or filings or registrations with, any governmental authority or agency in [specified jurisdiction] are required in connection with the execution, delivery or performance by the Guarantor of the Guaranty which have not been obtained or made.
5. The execution and delivery by the Guarantor of the Guaranty, and compliance by the Guarantor with the provisions thereof, do not and will not (i) result in a violation of the organizational or constitutive documents of the Guarantor, or (ii) conflict with or constitute a breach of any applicable law or regulation of [specified jurisdiction].
6. The payment obligations of the Guarantor under the Guaranty constitute unsubordinated general obligations of the Guarantor and rank pari passu with all unsecured and unsubordinated obligations of the Guarantor.

The opinions expressed herein are limited to the laws of [specified jurisdiction], and we express no opinion as to the laws of any other jurisdiction.

This opinion letter is effective only as of the date hereof. We do not assume responsibility for updating this opinion letter as of any date subsequent to its date, and we assume no responsibility for advising you of any changes with respect to any matters described in this opinion letter that may occur, or facts that may come to our attention, subsequent to the date hereof.

This opinion is rendered to the addressees hereof and is intended solely for their benefit in connection with the transactions described herein. This opinion may not be relied upon by such addressees or any other person or entity for any other purpose, or quoted or furnished to or relied upon by any other person, firm or corporation for any purpose, without our prior written consent.

Very truly yours,

EXHIBIT H
FORM OF NOTICE

Any notices required under this Agreement shall be made as follows:

Buyer:

All Notices:

Street:
City/State/Zip:
Attn:
Facsimile:
Duns:
Federal Tax ID Number:

Invoices:

Attn:
Phone:
Facsimile:

Scheduling:

Attn:
Phone:
Facsimile:

Payments:

Attn:
Phone:
Facsimile:

Wire Transfer:

BNK:
ABA:
ACCT:

Seller:

All Notices:

Street:
City/State/Zip
Attn:
Facsimile:
Duns:
Federal Tax ID Number:

Invoices:

Attn:
Phone:
Facsimile:

Scheduling:

Attn:
Phone:
Facsimile:

Payments:

Attn:
Phone:
Facsimile:

Wire Transfer

BNK:
ABA:
ACCT:

Credit and Collections:

Attn:

Phone:

Facsimile:

With additional Notices of an

Event of Default to:

Attn:

Phone:

Facsimile:

Credit and Collections:

Attn:

Phone:

Facsimile:

With Additional Notices of an

Event of Default to:

Attn:

Phone:

Facsimile:

EXHIBIT I

RESERVED

EXHIBIT J

RESERVED