

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

**August 28, 2014**

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## ARTICLE I. INTRODUCTION

### I.1. Overview

I.1.1. Capitalized terms in this document, which are not defined explicitly herein, are defined in the PECO Energy Company - Pennsylvania Default Service Supplier Master Agreement (“Uniform SMA” or “SMA”). The Uniform SMA is attached as Appendix 1 to this document.

I.1.2. As part of its third Default Service Plan (“DSP III”), PECO Energy Company (“Company” or “PECO”) is proposing a competitive bidding process to obtain full requirements supply for the Company to meet a portion of its obligations as Default Service Provider pursuant to Chapter 28 of the Pennsylvania Public Utility Code, 66 Pa. C. S. §§ 2801-2812. This competitive bidding process is consistent with Chapter 28, with P.L. 1592 No. 129 (“Act 129”), with the Pennsylvania Public Utility Commission’s (“Commission” or “PaPUC”) Default Service regulations in its Final Rulemaking Order in Docket No. L-2009-2095604, and the Commission’s Final Policy Statement on Default Service in Docket No. M-2009-2140580.

I.1.3. PECO currently provides electric generation service to all customers within its service territory who do not select an electric generation supplier (“EGS”). Such customers are “Default Service customers” or “DS Customers”. The competitive bidding process would procure supply for the period beginning June 1, 2015 when PECO’s second Default Service Plan (“DSP II”) expires.

I.1.4. The competitive bidding process will be conducted through a series of Requests for Proposals (“RFPs”) issued twice yearly. The RFP consists of a total of thirteen (13) documents. This main document is called the “RFP Rules” and it describes how the RFP will be conducted. The following documents are appended to, and shall be considered an integral part of, the RFP Rules:

Appendix 1: Uniform SMA

Appendix 2: Guaranty Process

Appendix 3: Standard Part 1 Form (including the Nomination Form as an Attachment)

Appendix 4: Short Part 1 Form (including the Nomination Form as an Attachment)

Appendix 5: Chief Financial Officer Attestation

Appendix 6: Officers’ Certificate (for RFP Bidders under an Agency Agreement)

Appendix 7: Part 2 Form

Appendix 8: Standard Pre-Bid Letter of Credit

Appendix 9: Sample Bid Form

Appendix 10: Tentative Schedule for Future Solicitations

Appendix 11: Confidentiality Statement

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

**Table I-1. Customer Classes**

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

I.1.6. For the RES, SC and MC Classes, the Company will solicit bids for the procurement of full requirements service on a fixed-price basis. For the LC&I Class, the Company will solicit bids for the procurement of full requirements service with energy priced to the PJM day-ahead spot market. In the event the Commission determines that default service for Medium Commercial customers should be priced on an hourly basis, during the course of DSP III, the MC Class would transition from full requirements service on a fixed-price basis to full requirement service with energy priced to the PJM day-ahead spot market. Otherwise, PECO will solicit bids for the MC Class for the procurement of full requirements service on a fixed-price basis for the duration of DSP III. The Default Service supply (“Default Supply” or “DS Supply”) for a Class is the full requirements

electricity supply based on the load of the retail customers in that Class measured and recorded by the Company and settled by PJM. The load of the Default Service customers in a Class is the “Default Load” or “DS Load” of that Class. A supplier selected through the competitive bidding process under DSP III to provide Default Supply for a particular Class and approved by the Commission becomes a “Default Supplier” or “DS Supplier” for that Class.

- I.1.7. A Default Service customer may choose to begin receiving service from an EGS on the customer’s meter reading date in accordance with the Company’s standard switching requirements as described in the Company’s Electric Generation Supplier Coordination Tariff including, without limitation, prior advance notice to the Company. A customer served by an EGS may return to Default Service on the customer’s meter reading date in accordance with the Company’s standard switching requirements as described in the Company’s Electric Generation Supplier Coordination Tariff including, without limitation, prior advance notice to the Company.
- I.1.8. There are four (4) “solicitations” or “DS Solicitations” under DSP III that will select electricity suppliers to provide Default Supply for the period June 1, 2015 through May 31, 2017 and for a portion of the Company’s requirements for the RES Class and SC Class for the period beyond June 1, 2017. Each solicitation will be identified by the month and year in which the Bid Date occurs. Solicitations will be held in March 2015, September 2015, March 2016, and September 2016. A typical schedule for a solicitation is provided in Paragraph II.2.1. The Independent Evaluator and the Company may advise the Commission to postpone or modify the schedule of a solicitation when market conditions are impacted by extraordinary events, such as the advent of war, terrorism, or an act of God.
- I.1.9. For each solicitation, these RFP Rules will be updated to include the dates for that solicitation and to refer to the particular products to be procured in that solicitation. The RFP Rules may be further updated to reflect additional decisions by the Commission, relevant changes in law, or non-material modifications to the processing of Proposals expected to improve potential participation by suppliers. Further, the Independent Evaluator and the Company may amend the RFP Rules if necessary to correct typographical errors, cure inconsistencies in the provisions of this RFP, or clarify the intent of the provisions of this RFP.

- I.1.10. In the event the Commission determines that default service for Medium Commercial customers should be priced on an hourly basis, during the course of DSP III, the MC Class would transition from full requirements service on a fixed-price basis to full requirement service with energy priced to the PJM day-ahead spot market. Specifically, in the first two (2) solicitations under DSP III, the Company will solicit bids for the MC Class for the procurement of full requirements service on a fixed-price basis. With appropriate notice to suppliers, the Company will either: (i) procure full requirements service on a fixed-price basis in the March 2016 Solicitation for the MC Class for a period of six (6) months and procure full requirements service on a spot-price basis in the September 2016 Solicitation for the MC Class for a period of six (6) months; or: (ii) procure full requirements service on a spot-price basis in the March 2016 Solicitation for the MC Class for a period of twelve (12) months. Otherwise, PECO will solicit bids for the MC Class for the procurement of full requirements service on a fixed-price basis for the duration of DSP III.
- I.1.11. The rates of Default Service customers for a Class are determined on the basis of the prices determined through this RFP for that Class. Under DSP I, PECO met a portion of the expected seasonal energy requirements of the RES Class using blocks of energy. One (1) block of 50 MW of around-the-clock energy purchased under DSP I expires on December 31, 2015 and thus overlaps with the DSP III period. Rates through 2015 for the RES Class will incorporate the price for this block as well as any purchases and sales through the hourly spot energy market in PJM that PECO makes to balance the block of energy and load on an hourly basis. Starting in January 2016, this block will be replaced by two (2) full requirements tranches. PECO will assume responsibility for the remaining approximately 1.06% of the Default Load for the RES Class as a PJM Load Serving Entity (“LSE”), acquiring the necessary supply through PJM-administered markets and obtaining sufficient Alternative Energy Credits (“AECs”) at market prices to satisfy any near-term obligations under the AEPS Act. As provided in the Commission’s directive dated October 12, 2010 (Docket No. M-2009-2082042), PECO provides a Default Service rate calculation model that translates the prices determined through this RFP into Default Service rates. This calculation model is posted to the PECO website:

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

**I.2. Products and Bids**

I.2.1. Default Load for each Class is divided into tranches. A tranche for a Class represents a fixed percentage of the Default Load for that Class. A Default Supplier serving a tranche in a particular Class provides full requirements service for the percentage of that Class’ Default Load represented by that one (1) tranche for a specified period.

I.2.2. The total number of tranches of Default Load is based on that Class’ annual Peak Load Contribution (“PLC”) on the PECO system in accordance with PJM. The MW-Measure is calculated as the annual PLC for the Default Load of the Class divided by the total number of tranches. This figure is calculated for reference purposes only. The total number of tranches, the percentage size of each tranche, and the MW-Measure of each tranche are also shown in the following table.

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

Class	Total Tranches	% Size of a Tranche	Total Peak (MW)	Default Peak (MW)	MW-Measure of a Tranche
RES	62	1.60%	3,596.40	2,377.02	37.93
SC	24	4.17%	1,387.99	539.42	22.48
MC	12	8.33%	1,035.87	151.71	12.64
LC&I	8	12.50%	2,318.29	83.76	10.47

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

I.2.4. The actual Default Load for the RES, SC, MC, or LC&I Class will depend upon many factors including, but not limited to, customer migration to EGSs and weather conditions. The maximum peak load of a Class may be higher or lower than the PLC utilized to determine the MW-Measure of tranches for that Class. Each participant is responsible for evaluating the uncertainties associated with Default Service Load for a particular Class and supply period.

- I.2.5. Under DSP I, PECO met a portion of the expected seasonal energy requirements of the RES Class using blocks of energy. A block of 50 MW of around-the-clock energy purchased under DSP I expires on December 31, 2015 and thus will contribute to supply of the RES Class during a portion of the DSP III period. Under DSP II, as blocks of energy expired, PECO increased the number of full requirements tranches. Under DSP III, the Default Supply for the RES Class consists of purchases of spot market energy and other necessary services by PECO serving as the LSE (approximately 1.06%) and consists of full requirements tranches served by Default Suppliers for the remainder.
- I.2.6. A product for purposes of this RFP is defined by three characteristics: a) the Class to which it contributes Default Supply; b) the length of the supply period; and c) the date at which the supply period begins. For example, the RES-12-Jun15 product represents Default Supply for the RES Class for the supply period from June 1, 2015 through May 31, 2016. A product name may be abbreviated when the context is clear; for example, RES-12 refers to all products for the Residential Class that are twelve (12) months in duration, regardless of the start date of the supply period.
- I.2.7. A Proposal is a response to this RFP for a solicitation pursuant to these RFP Rules. An entity that submits any part of a response to this RFP for a solicitation is an “RFP Bidder”. A Bid for a tranche for any product is a price in dollars per MWh rounded to the nearest cent. An RFP Bidder may submit different Bids for different tranches of a given product.
- I.2.8. The table below provides the products that will be procured for each solicitation under DSP III for the RES, SC, and LC&I Classes.

**Table I-3. Schedule of Procurement for Products (RES, SC, LC&I Classes).**

Product	Solicitation			
	March 2015	September 2015	March 2016	September 2016
RES-6-Jun15	11	0	0	0
RES-12-Jun15	14	0	0	0
RES-18-Jun15	2	0	0	0
RES-24-Jun15	9	0	0	0
RES-12-Dec15	0	12	0	0



Product	Solicitation			
	March 2015	September 2015	March 2016	September 2016
RES-24-Dec15	0	9	0	0
RES-17-Jan16	0	2	0	0
RES-12-Jun16	0	0	12	0
RES-24-Jun16	0	0	9	0
RES-12-Dec16	0	0	0	12
RES-24-Dec16	0	0	0	9
SC-12-Jun15	12	0	0	0
SC-12-Dec15	0	12	0	0
SC-12-Jun16	0	0	12	0
SC-12-Dec16	0	0	0	12
LC&I-12-Jun15	8	0	0	0
LC&I-12-Jun16	0	0	8	0

I.2.9. The table below provides the products that will be procured for the first two (2) solicitations under DSP III for the MC Class.

**Table I-4. Schedule of Procurement for Products (MC Class).**

Product	Solicitation	
	March 2015	September 2015
MC-6-Jun15	12	0
MC-6-Dec15	0	12

As explained in Paragraph I.1.10, in the March 2016 Solicitation, in the event the Commission determines that default service for Medium Commercial customers should be priced on an hourly basis, during the course of DSP III, it is possible that the Company would: (a) procure twelve (12) tranches of MC-6-Jun16 as full requirements service on a fixed-price basis; and it is also possible that the Company would: (b) procure twelve (12) tranches of MC-12-Jun16 as full requirements

service on a spot-price basis. Under case (a), in the September 2016 Solicitation, the Company would procure twelve (12) tranches of MC-6-Dec16 as full requirements service on a spot-price basis. Under case (b), there would be no MC product in the September 2016 Solicitation.

- I.2.10. Each Class has Load Caps, which are limits on the number of tranches of Default Supply that an RFP Bidder can bid and serve for that Class. The Load Caps ensure that there will be a diversified pool of Default Suppliers for each Class. The Load Caps for a Class are set so that the Default Service customers of that Class have no more than a 50% exposure to any one Default Supplier at any given time. If two or more Default Suppliers are affiliated, the Load Caps will apply jointly to such group of Default Suppliers.
- I.2.11. The Load Caps apply to all products that contribute to Default Supply for a Class at a given point in time. The table below provides the Load Caps for each Class and time period taking into consideration products procured under DSP II and products to be procured under DSP III that contribute to Default Supply for that Class during that time period. The products procured under DSP II are italicized. For example, at any given point in time in the period from June 1, 2015 to November 30, 2015, the Default Supply for the RES Class includes the following products: *RES-24-Jun14*, *RES-12-Dec14*, *RES-24-Dec14*, *RES-6-Jun15*, *RES-12-Jun15*, *RES-18-Jun15*, and *RES-24-Jun15*. The number of tranches for all of these products combined is 60 tranches. For the Default Service customers in the RES Class to have no more than a 50% exposure to any one Default Supplier, no RFP Bidder can bid or serve more than 30 tranches of these products combined.

**Table I-5. Load Caps.**

<b>Class</b>	<b>Time Period</b>	<b>Product or Products that contribute to Default Supply during time period</b>	<i>Tranches Available</i>	<i>Load Cap</i>
RES	Jun-Nov 15	<i>RES-24-Jun14</i> and <i>RES-12-Dec14</i> and <i>RES-24-Dec14</i> and <i>RES-6-Jun15</i> and <i>RES-12-Jun15</i> and <i>RES-18-Jun15</i> and <i>RES-24-Jun15</i>	60	30
	Dec 15	<i>RES-24-Jun14</i> and <i>RES-24-Dec14</i> and <i>RES-12-Jun15</i> and <i>RES-18-Jun15</i> and <i>RES-24-Jun15</i> and <i>RES-12-Dec15</i> and <i>RES-24-Dec15</i>	60	30
	Jan 16-May 16	<i>RES-24-Jun14</i> and <i>RES-24-Dec14</i> and <i>RES-12-Jun15</i> and <i>RES-18-Jun15</i> and <i>RES-24-Jun15</i> and <i>RES-12-Dec15</i> and <i>RES-24-Dec15</i> and <i>RES-17-Jan16</i>	62	31

<b>Class</b>	<b>Time Period</b>	<b>Product or Products that contribute to Default Supply during time period</b>	<i>Tranches Available</i>	<i>Load Cap</i>
	Jun-Nov 16	RES-24-Dec14 and RES-18-Jun15 and RES-24-Jun15 and RES-12-Dec15 and RES-24-Dec15 and RES-17-Jan16 and RES-12-Jun16 and RES-24-Jun16	62	31
	Dec 16-May 17	RES-24-Jun15 and RES-24-Dec15 and RES-17-Jan16 and RES-12-Jun16 and RES-24-Jun16 and RES-12-Dec16 and RES-24-Dec16	62	31
SC	Jun-Nov 15	SC-12-Dec14 and SC-12-Jun15	24	12
	Dec 15-May 16	SC-12-Jun15 and SC-12-Dec15	24	12
	Jun-Nov 16	SC-12-Dec15 and SC-12-Jun16	24	12
	Dec 16-May 17	SC-12-Jun16 and SC-12-Dec16	24	12
MC	Any	MC-6 or MC-12	12	6
LC&I	Any	LC&I-12	8	4

I.2.12. The RFP Rules for each solicitation will contain a table with the available tranches and Load Caps for that solicitation specifically as well as an explanation of the Load Caps for that solicitation. This Paragraph includes as an example the explanation for the Load Caps in the March 2015 Solicitation with the associated tables below:

- The Load Cap for the RES Class will apply as follows. An RFP Bidder is limited to 30 tranches of the RES-24-Jun14, RES-12-Dec14, RES-24-Dec14, RES-6-Jun15, RES-12-Jun15, RES-18-Jun15, and RES-24-Jun15 products combined, including tranches of RES-24-Jun14, RES-12-Dec14, RES-24-Dec14 won under DSP II and tranches bid for RES-6-Jun15, RES-12-Jun15, RES-18-Jun15, and RES-24-Jun15 in this solicitation.
- The Load Cap for the SC Class will apply as follows. An RFP Bidder is limited to 12 tranches for the SC-12-Dec14 and SC-12-Jun15 products combined. An RFP Bidder may bid on all available tranches for the SC-12-Jun15 product in the March 2015 Solicitation unless the RFP Bidder won SC tranches in the September 2014 Solicitation under DSP II. In that case, the RFP Bidder is limited to bidding on 12 tranches less the number of tranches won in the September 2014 Solicitation under DSP II.

- The Load Cap for the MC Class will apply as follows. In the March 2015 Solicitation, an RFP Bidder is limited to 6 tranches for the MC-6-Jun15 product.
- The Load Cap for the LC&I Class will apply as follows. In the March 2015 Solicitation, an RFP Bidder is limited to 4 tranches for the LC&I-12-Jun15 product.

**Table I-6. Available Tranches and Load Caps (March 2015 Solicitation; RES Class).**

Products	Available Tranches	Load Caps Apply to an RFP Bidder When an RFP Bidder Has:	Load Caps for RES Class
RES-6-Jun15	11	Won more than 19 RES-24-Jun14, RES-12-Dec14, and RES-24-Dec14 tranches under DSP II	30 less RES-24-Jun14, RES-12-Dec14, and RES-24-Dec14 tranches won under DSP II
RES-12-Jun15	14	Won more than 16 RES-24-Jun14, RES-12-Dec14, and RES-24-Dec14 tranches under DSP II	
RES-18-Jun15	2	Won more than 28 RES-24-Jun14, RES-12-Dec14, and RES-24-Dec14 tranches under DSP II	
RES-24-Jun15	9	Won more than 21 RES-24-Jun14, RES-12-Dec14, and RES-24-Dec14 tranches under DSP II	

**Table I-7. Available Tranches and Load Caps (March 2015 Solicitation; SC, MC, and LC&I Classes).**

Products	Available Tranches	Load Caps Apply to an RFP Bidder When an RFP Bidder Has:	Load Caps
SC-12-Jun15	12	Won SC tranches in the September 2014 Solicitation under DSP II	12 less SC tranches won in the September 2014 Solicitation under DSP II
MC-6-Jun15	12	Load Caps apply always	6

LC&I-12-Jun15	8	Load Caps apply always	4
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- I.2.13. A supplier participating in this RFP bids to provide Default Supply for one or more of the RES, SC, MC, and LC&I Classes, and for one or more supply periods. The obligations of the Default Supplier are described in the Uniform SMA. The main provisions of the Uniform SMA are summarized in Section I.4.
- I.2.14. The contingency plan for the RES Class in the event that PECO is unable to obtain Default Supply for six (6) or more tranches in a solicitation is as follows. In this event, PECO will file a plan with the Commission within fourteen (14) business days of the Commission decision. Such plan will offer alternative options for procurement of the equivalent amount of Default Supply from potential wholesale suppliers. If such Default Supply is not obtained pursuant to such plan as approved by the Commission prior to the start of the supply period, PECO will assume responsibility for the unfilled tranches as a PJM Load Serving Entity (“LSE”) from the beginning of the supply period, acquiring the necessary supply through PJM-administered markets and obtaining sufficient AECs at market prices to satisfy any near-term obligations under the AEPS Act.
- I.2.15. The contingency plan for the RES Class in the event that PECO is unable to obtain Default Supply for fewer than six (6) tranches in a solicitation is the same as the contingency plan for the SC, MC, and LC&I Classes. This contingency plan is as follows. In the event that PECO is unable to obtain Default Supply in a solicitation for all tranches of a product that is more than six (6) months in duration, PECO will assume responsibility for the unfilled tranches as a PJM LSE for the first six (6) months of the supply period, acquiring the necessary supply through PJM-administered markets and obtaining sufficient AECs at market prices to satisfy any near-term obligations under the AEPS Act. The unfilled tranches, with a supply period that starts six (6) months later than tranches that were unfilled, will be placed for re-bid in the next solicitation. For products that are six (6) months or shorter, PECO will assume responsibility for the unfilled tranches as an LSE and will acquire the necessary supply through PJM-administered markets for the entire supply period. PECO reserves the right to file an alternate plan with the Commission.

I.2.16. Any prospective supplier that meets the qualification standards established in these RFP Rules and that is willing to provide prices at which to serve tranches of Default Service Load can respond to this RFP, including any PECO affiliates.

### **I.3. Process**

I.3.1. In a typical solicitation, PECO and the Independent Evaluator will hold a Guaranty Process, described in more detail in Appendix 2. The Guaranty Process allows a supplier unable to use the Guaranty provided as Appendix G to the Uniform SMA (the “Standard Guaranty”) to submit for consideration by PECO the guaranty that the supplier uses in its normal course of business. The Guaranty Process also allows a supplier able to use the Standard Guaranty provided as Appendix G to the Uniform SMA to propose modifications to the Standard Guaranty that are non-material in nature, or that are advantageous to both PECO and the prospective supplier. It is expected that all approved modifications will be posted in a single document on the RFP website in advance of the date at which RFP Bidders must respond to qualification standards. An RFP Bidder using the Standard Guaranty may elect to incorporate any or all of the approved modifications to the Standard Guaranty, regardless of whether the RFP Bidder itself or another RFP Bidder proposed the modification. If a Guaranty Process is not held in a particular solicitation, the Independent Evaluator announces this fact to RFP Bidders. In that case, any alternate form of guaranty approved by PECO for use by a particular RFP Bidder in the previous two (2) years and any modifications to the Standard Guaranty previously accepted by PECO remain acceptable, including such modifications accepted during DSP II.

I.3.2. RFP Bidders that did not qualify in a previous solicitation under DSP III use the Standard Part 1 Form provided as Appendix 3 of these RFP Rules to respond to the qualification standards described in Article IV. Previously qualified RFP Bidders under DSP III may participate in an abbreviated qualification process by using the Short Part 1 Form provided as Appendix 4 of these RFP Rules to respond to the qualification standards described in Article IV. The qualification standards include the submission of contact information, general representations, and the submission of financial information for a creditworthiness assessment. Part 1 Proposals are

submitted during the “Part 1 Window”. The generic term “Part 1 Form” refers either to the Standard Part 1 Form or the Short Part 1 Form. The Standard Part 1 Form and the Short Part 1 Form, as well as other forms mentioned in these RFP Rules, are provided as Appendices to these RFP Rules and are also available electronically on the RFP website: [www.PECOpurchase.com](http://www.PECOpurchase.com).

- I.3.3. RFP Bidders use the Part 2 Form provided as Appendix 7 of these RFP Rules to respond to the Part 2 Proposal requirements described in Article V of these RFP Rules. RFP Bidders that became eligible to submit Bids in a previous solicitation held under DSP III may participate in an abbreviated Part 2 Proposal process. The Part 2 Proposal requirements include additional representations and the submission of a Pre-Bid Letter of Credit in an amount sufficient to support the Bids. Part 2 Proposals are submitted during the “Part 2 Window”.
- I.3.4. RFP Bidders use the Bid Form provided with the Part 1 Notification to submit their Bids. A sample Bid Form is provided for illustrative purposes as Appendix 9 of these RFP Rules. Each RFP Bidder’s Bids must be received between 10 AM and 12 PM (noon) on the “Bid Date” or “Bid Proposal Due Date”.
- I.3.5. On the first business day after the Bid Date, the Independent Evaluator presents to the Commission the results of the solicitation in a confidential report. The Commission has one (1) business day to consider the report of the Independent Evaluator and to approve or reject each of the winning Bids. If the PaPUC does not act within one (1) business day, the winning Bids are deemed to be approved.
- I.3.6. PECO and each RFP Bidder with Bids that are approved by the Commission proceed to the execution of the Uniform SMA and the Transaction Confirmations within one (1) business day of the Commission decision. PECO and each such RFP Bidder execute a single Uniform SMA during the course of DSP III. Each solicitation, PECO and each such RFP Bidder execute one (1) Transaction Confirmation for each product for which such RFP Bidder has Bids that are approved by the Commission. Appendix E to the Uniform SMA specifies the AEPS percentage obligations in effect on the Bid Date for the period covered by each Transaction Confirmation.
- I.3.7. Within fifteen (15) days of the close of the solicitation, the Independent Evaluator releases the weighted average price for each product procured as well as the percentage of load represented by each tranche.

#### **I.4. Supplier's Obligations**

- I.4.1. A supplier selected through this RFP to provide Default Supply for a particular Class and approved by the Commission becomes a "Default Supplier" for that Class. A Default Supplier may be providing Default Supply for one or more of the RES, SC, MC, and LC&I Classes.
- I.4.2. This Section describes in general terms several provisions of the Uniform SMA. This is a summary only and is subject to and qualified in its entirety by the Uniform SMA provided as Appendix 1 to the RFP Rules. Each RFP Bidder accepts the obligations and associated rights to provide Default Service as defined in the Uniform SMA as part of its Proposal.
- I.4.3. Default Suppliers for a Class will serve the Company's Default Load for that Class. Default Service for one of these Classes is the Company's full requirements service including, without limitation, energy, capacity, transmission (excluding Network Integration Transmission Service), ancillary services, AECs for compliance with the AEPS Act, transmission and distribution losses, congestion management costs, and such other services or products that are required to serve the specified percentage of Default Load for that Class (except for distribution service).
- I.4.4. Default Suppliers are also responsible for providing AECs during the term of the Uniform SMA necessary for PECO to meet its obligations under the AEPS Act, as well as other Orders, regulations and rules that may be promulgated by the PaPUC with respect to the AEPS. Default Suppliers will be required to participate in the PJM Generation Attribute Tracking System ("PJM-EIS GATS") to transfer AECs to PECO. The Company will provide an estimate of the Default Supplier's AEPS obligation following the second quarter of the AEPS Reporting Period and the Default Supplier will be required to transfer AECs to PECO in the amount of the estimate within forty-five (45) calendar days of the date of that estimate. The Company will provide a final statement to the Default Supplier within thirty (30) calendar days of the end of AEPS Reporting Period and the Default Supplier will be required to transfer AECs in the amount of the final statement within forty-five (45) calendar days after the date of the final statement.
- I.4.5. A Default Supplier that fails to provide sufficient AECs for a tranche will be required to pay any AEPS penalties, costs, charges, etc. assessed against the Default Supplier and/or the Company associated with the Default Supplier's non-performance with AEPS requirements.



- I.4.6. PECO has obtained AECs from separate AEPS procurement(s) approved by the Commission and PECO will reduce the amount of AECs that Default Suppliers must provide. Prior to solicitation, PECO will inform RFP Bidders of the amounts of AECs allocated for this purpose for each tranche of each product for which Default Supply is procured in that solicitation.
- I.4.7. A Default Supplier for a product will be paid a supplier-specific price for each MWh of electric load served as specified in the Transaction Confirmation for that product. The supplier-specific price for a Default Supplier for a product will be the average of approved Bids for that Default Supplier and for that product. A Default Supplier for the LC&I Class will also be paid the PJM day-ahead price for energy and the Reliability Pricing Model (“RPM”) price for capacity.
- I.4.8. The Default Supplier will specify in the Transaction Confirmation the price of each type of AECs included in its supplier-specific price.
- I.4.9. PECO will transfer or assign Auction Revenue Rights (“ARRs”) to each Default Supplier in proportion to the percentage of Default Load that it serves. A Default Supplier will participate in the PJM process for the nominations of ARR to the extent that the supply period under the Transaction Confirmation is inclusive of the PJM Planning Period for which the ARR are nominated; otherwise, PECO will participate in the PJM ARR nomination process.
- I.4.10. Prior to DSP II, the Commission initiated an investigation into Pennsylvania’s retail electricity market in its Order entered in Docket I-2011-2237952 and subsequently directed PECO and other Default Service Providers to undertake a variety of retail market enhancements. During DSP II, PECO implemented a variety of programs to support EGSs and expand retail choice, including an EGS standard offer customer referral program (“Standard Offer Program). Under DSP III, PECO is proposing a Uniform SMA, which was developed through the uniform procurement process envisioned by the Commission in its End State Order entered on February 15, 2013. The allocation of risk and responsibilities in the Uniform SMA are generally consistent with the Default Service SMA used by PECO in DSP I and DSP II. PECO is not proposing any substantive changes to the Uniform SMA developed through the uniform procurement process. However, the sections of the Uniform SMA specific to an electric distribution company (“EDC”) include revisions to PJM bill line items which allocate responsibility for meter error correction to suppliers instead of PECO and

assign responsibility for generation deactivation charges to PECO (which will collect such charges through its bypassable transmission rate).

- I.4.11. In the event of the passage of legislation by the Pennsylvania General Assembly which has the effect of fundamentally changing the provision of Default Service in Pennsylvania (or the responsibilities of EDCs with respect to such service) in a manner that materially impacts the remainder of PECO's DSP III, PECO will, within 30 business days of such legislation becoming law, confer with the parties to the Joint Petition for Partial Settlement dated August 28, 2014 (the "Settlement Parties"). After obtaining input from the Settlement Parties, PECO will, if necessary to comply with such law, petition the Commission for authorization to suspend or modify any solicitation scheduled, but not yet conducted under DSP III, or seek such other declaratory guidance as deemed appropriate by PECO, in order to implement the law. In such event, PECO will seek input and approval from the Commission on the provision of Default Service for the remainder of the DSP III term. Nothing within this paragraph creates any additional rights for Default Suppliers to petition to modify or terminate contracts for the provision of Default Service that were executed prior to such legislation becoming law.

## ARTICLE II. Information and Schedule

### II.1. RFP Website

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

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

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

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

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

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

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

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

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

## II.2. RFP Schedule

II.2.1. Each solicitation will follow the order of events in the general schedule provided below.

**Table II-1. General Schedule**

<b>Event</b>	<b>Timing</b>
Guaranty Process begins	Day -8
Bidder Information Session	Day -7
Approved modifications to Standard Guaranty posted	Day -3
Decision on alternate guaranty forms	Day -3
Part 1 Window Opens	Day 0
Part 1 Date (Part 1 Window Closes)	Day 4
Part 1 Notification Date	Day 6
Part 2 Proposal Window Opens	Day 7
Bid Submission training	Day 8
Part 2 Date (Part 2 Window Closes)	Day 11
Part 2 Notification Date	Day 13
Bid Date (Bids are Due)	Day 14
IE provides its report to the PaPUC	Day 15
PaPUC Decision (close of business)	No later than Day 16
<i>If Bids are approved by the PaPUC:</i>	
PECO and each winning RFP Bidder proceeds to execution of the Uniform SMA and each Transaction Confirmation	Within three business days of the Bid Date

II.2.2. A total of four (4) solicitations are planned under DSP III. The Bid Dates for each of the solicitations are provided below.

**Table II-2. Bid Dates**

<b>Solicitation</b>	<b>Bid Dates</b>
March 2015	Tuesday, March 10, 2015
September 2015	Tuesday, September 22, 2015
March 2016	Tuesday, March 8, 2016
September 2016	Tuesday, September 20, 2016

II.2.3. The date for each event in each solicitation is provided in the Tentative Schedule for Future Solicitations attached as Appendix 10 to these RFP Rules. The dates follow the order of events and the number of days between events in the general schedule above except as needed to

accommodate holidays. The schedule for a solicitation may be amended if circumstances warrant. Any such amendments will be posted to the RFP website.

II.2.4. Specific times for submission of materials for the Part 1 Proposals, the Part 2 Proposals, and the Bids are provided elsewhere in this RFP. All such times are EPT unless specifically noted.

### **ARTICLE III. General Requirements for Proposals**

- III.1.1. An entity that submits any part of a response to this RFP for a solicitation is an “RFP Bidder”. An RFP Bidder can submit at most one Part 1 Proposal and one Part 2 Proposal for each solicitation. An RFP Bidder that qualifies for a solicitation by submitting a Part 1 Proposal that fulfills all requirements described in Article IV and that submits a Part 2 Proposal that fulfills all the requirements described in Article V is eligible to submit Bids in that solicitation. All Part 1 Proposals and all Part 2 Proposals are submitted to the Independent Evaluator in accordance with the instructions provided in Article VII and any additional instructions that the Independent Evaluator provides to RFP Bidders in an addendum to these RFP Rules.
- III.1.2. The submission of a Part 1 Proposal or a Part 2 Proposal to the Independent Evaluator constitutes the RFP Bidder’s acknowledgement and acceptance of all the terms and conditions of this RFP, regardless of the outcome of the solicitation or the outcome of such Proposal.
- III.1.3. Each solicitation will have a Part 1 Window during which Part 1 Proposals may be submitted. The last day of the Part 1 Window is the “Part 1 Date”. The requirements of the Part 1 Proposal are described in Article IV. “Previously qualified RFP Bidder” means an RFP Bidder that met the qualification standards in a previous solicitation under DSP III by submitting a Part 1 Proposal that fulfilled all the requirements of Article IV. A previously qualified RFP Bidder may participate in an abbreviated Part 1 Proposal process. A supplier selected through the competitive bidding process under DSP III to provide Default Supply for a particular Class and approved by the Commission becomes a Default Supplier for that Class.
- III.1.4. The Part 1 Proposal for an RFP Bidder includes the completed Part 1 Form as well as one (1) copy of all documents required by the Part 1 Form. The Part 1 Form, or portions of the Part 1 Form, may be available to be completed online by RFP Bidders through an application website. One (1) scanned copy of the completed and signed Part 1 Form, as well as any Draft Letter of Credit in Microsoft Word, must be submitted electronically, either on a CD sent by overnight delivery service to the Independent Evaluator or by email to the Independent Evaluator at

[PECOprocurement@nera.com](mailto:PECOprocurement@nera.com). Any hard copies of the Part 1 Form required by the Part 1 Proposal must be sent by overnight delivery service to the Independent Evaluator. Any additional documents required by the Part 1 Proposal other than the Part 1 Form must be submitted either electronically (on a CD sent by overnight delivery service or by email to the Independent Evaluator at [PECOprocurement@nera.com](mailto:PECOprocurement@nera.com)) or in hard copy. If the Part 1 Form is available in part or in its entirety to be completed online by RFP Bidders through an application website, additional instructions will be provided to RFP Bidders in an addendum to these RFP Rules.

- III.1.5. Each RFP Bidder must comply with all Part 1 Proposal requirements described in Article IV. Section IV.1 describes the contact information and representations required. Section IV.2 describes financial requirements. Section IV.3 describes the process by which RFP Bidders may propose modifications to the Standard Pre-Bid and Post-Bid Letters of Credit and describes the information that an RFP Bidder is asked to provide for the Independent Evaluator to prepare the Uniform SMA documents should the Independent Evaluator identify one or more of the RFP Bidder's Bids to the Commission as winning Bids. Section IV.4 describes the regulatory representations required. Section IV.5 lists additional representations that are required. Section IV.6 lists additional requirements applicable only to RFP Bidders submitting a Proposal under an Agency Agreement. Section IV.7 lists additional requirements applicable only to RFP Bidders that have not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia ("Foreign RFP Bidders"), or to RFP Bidders that rely on the financial standing of an entity that has not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia ("Foreign Entity"). Each of the Sections of IV.1 explains the abbreviated Part 1 Proposal process in which previously qualified RFP Bidders may participate.
- III.1.6. The Independent Evaluator informs each RFP Bidder of whether it has met all qualification standards of Article IV through a Part 1 Notification that the Independent Evaluator sends to the RFP Bidder by the Part 1 Notification Date. The Independent Evaluator transmits within two (2) business days of the Part 1 Notification Date to each RFP Bidder that has a successful Part 1 Proposal a number of documents and instructions, called the Part 1 Materials.

- III.1.7. All information provided and certifications made in the Part 1 Proposal must remain valid and remain in full force and effect until six (6) business days after the Bid Date. Regardless of the reason, if any information provided in the Part 1 Proposal changes or any previous certification fails to remain valid, it is the sole responsibility of the RFP Bidder to notify the Independent Evaluator as soon as practicable. Failing to do so may result in disqualification of the RFP Bidder and of its Proposal. The Independent Evaluator reserves the right to change the assessment of an RFP Bidder's qualifications based on any revised information provided by the RFP Bidder.
- III.1.8. Each solicitation will have a Part 2 Window during which Part 2 Proposals may be submitted. The last day of the Part 2 Window is the "Part 2 Date". RFP Bidders also have the option to submit the Part 2 Form during the Part 1 Window for early processing. The requirements of the Part 2 Proposal are described in Article V. "Previously eligible RFP Bidder" means an RFP Bidder that became eligible to submit Bids in a previous solicitation held under DSP III by submitting a Part 1 Proposal that fulfilled all the requirements of Article IV and a Part 2 Proposal that fulfilled all the requirements of Article V. A previously eligible RFP Bidder may participate in an abbreviated Part 2 Proposal process.
- III.1.9. The Part 2 Proposal for an RFP Bidder includes the completed Part 2 Form and an executed Pre-Bid Letter of Credit. The Part 2 Form, or portions of the Part 2 Form, may be available to be completed online by RFP Bidders through an application website. One (1) scanned copy of the completed and signed Part 2 Form must be submitted electronically, either on a CD sent by overnight delivery service to the Independent Evaluator or by email to the Independent Evaluator at [PECOprocurement@nera.com](mailto:PECOprocurement@nera.com). Any hard copies of the Part 2 Form required by the Part 2 Proposal must be sent by overnight delivery service to the Independent Evaluator. Any documents required by the Part 2 Proposal in hard copy must be submitted in the number of originals specified by the Part 2 Form. Any documents required by the Part 2 Proposal and that may be submitted electronically may be saved to a CD sent by overnight delivery service to the Independent Evaluator or by email to the Independent Evaluator at [PECOprocurement@nera.com](mailto:PECOprocurement@nera.com). If the Part 2 Form is available in part or in its entirety to be completed online by RFP Bidders through an application



website, additional instructions will be provided to RFP Bidders in an addendum to these RFP Rules.

- III.1.10. Each RFP Bidder must comply with all Part 2 Proposal requirements described in Article V. Section V.1 describes the contact information and representations required by the Part 2 Proposal. Section V.2 describes the Pre-Bid Letter of Credit required to support the RFP Bidder's Bids. Section V.3 lists the guaranty documents required of an RFP Bidder relying on the financial standing of an RFP Guarantor. Section V.4 lists additional requirements applicable only to RFP Bidders submitting a Proposal under an Agency Agreement. Section V.5 lists additional requirements applicable only to Foreign RFP Bidders or to RFP Bidders that rely on the financial standing of a Foreign Entity. Each of the Sections of Article V explains the abbreviated Part 2 Proposal process in which previously eligible RFP Bidders may participate.
- III.1.11. The Independent Evaluator informs each RFP Bidder of whether it has met all qualification standards of Article IV and all requirements of Article V so that it is eligible to submit Bids through a Part 2 Notification. The Independent Evaluator sends the Part 2 Notification to the RFP Bidder by the Part 2 Notification Date.
- III.1.12. All information provided and certifications made in the Part 2 Proposal must remain valid and remain in full force and effect until six (6) business days after the Bid Date. Regardless of the reason, if any information provided in the Part 2 Proposal changes or any previous certification fails to remain valid, it is the sole responsibility of the RFP Bidder to notify the Independent Evaluator as soon as practicable. Failing to do so may result in disqualification of the RFP Bidder and of its Proposal. The Independent Evaluator reserves the right to change the assessment of an RFP Bidder's eligibility to submit Bids based on any revised information provided by the RFP Bidder.
- III.1.13. For a given solicitation, all representations and certifications required by this RFP must be made by a single individual who serves as Officer of the RFP Bidder. An Officer of the RFP Bidder is an individual authorized to undertake contracts (including the Uniform SMA) and bind that RFP Bidder. As a requirement of the Part 1 Proposal, the RFP Bidder must name an individual who serves as Officer of the RFP Bidder and must provide full contact information for this individual. The Officer of the RFP Bidder may sign all representations and certifications of the Part 1 Form and

Part 2 Form at one time and RFP Bidders have the option to submit the Part 2 Form during the Part 1 Window for early processing.

- III.1.14. The Officer of the RFP Bidder named in the Part 1 Proposal will sign, or will nominate another authorized individual to execute the Uniform SMA as well as any Transaction Confirmations if any of the RFP Bidder's Bids are approved by the Commission.
- III.1.15. Each RFP Bidder must comply with the instructions for the submission of Bids provided with its Part 1 Notification. Article VI describes in general terms the requirements for the submission of Bids.
- III.1.16. Proposals that do not adhere to the terms and conditions of this RFP, or that do not fulfill all requirements of Article IV, Article V, and Article VI of this RFP, or that are not submitted in accordance with the process of Article VII or in accordance with the instructions provided by the Independent Evaluator in an addendum to these RFP Rules, will not be considered.
- III.1.17. The Independent Evaluator will send to each RFP Bidder that submitted a successful Part 1 Proposal in a previous solicitation under DSP III an email confirming its status as a previously qualified RFP Bidder. Such RFP Bidder may participate in an abbreviated Part 1 Proposal process. The Independent Evaluator will send to each RFP Bidder that submitted a successful Part 1 Proposal and a successful Part 2 Proposal in a previous solicitation under DSP III an email confirming its status as a previously eligible RFP Bidder. Such RFP Bidder may participate in an abbreviated Part 1 Proposal process and an abbreviated Part 2 Proposal process.
- III.1.18. The RFP Bidder, at its own cost and expense, shall defend PECO, and the Independent Evaluator and their subsidiaries, affiliates, successors and assigns, and each and every one of their respective past, present, or future officers, directors, trustees, employees, shareholders, executors, administrators, successors and assigns, other than entities that are also RFP Bidders, against any and all manner of past, present, or future claims, demands, disputes, controversies, complaints, suits, actions, proceedings, or allegations of any kind which in any manner relate to, arise out of, or result from any false statement in the Proposal or breach of any covenant by the RFP Bidder set forth herein. The RFP Bidder shall indemnify and hold harmless PECO, the Independent Evaluator, their parent companies, subsidiaries, affiliates, successors and assigns, and each and every one of their

respective past, present, or future officers, directors, trustees, employees, shareholders and agents, as well as the heirs, executors, administrators, successors and assigns, other than entities that are RFP Bidders, against any and all liens, judgments, liabilities, losses, injuries, damages, fees, fines, penalties, costs or expenses which in any manner relate to, arise out of, or result from any false statement or misrepresentation in the Proposal or breach of any warranty by the RFP Bidder as set forth herein.

## ARTICLE IV. Part 1 Proposal Requirements

### IV.1. Contact Information and Representations

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

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

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

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

- If the RFP Bidder has previously qualified and the individual who served as Officer of the RFP Bidder in a previous solicitation is available for this solicitation, the RFP Bidder either must confirm that the previously submitted contact information for the Officer of the RFP Bidder remains valid or must update this information.

IV.1.3. Representative of the RFP Bidder. The Independent Evaluator uses the Representative as the main point of contact for the RFP Bidder. The Independent Evaluator contacts the Representative if the Independent Evaluator requires additional information regarding the RFP Bidder's Proposal. The Independent Evaluator sends correspondence related to the solicitation to the Representative, including confidential information required to submit Bids on the Bid Date.

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

IV.1.4. Nominees. The Independent Evaluator provides notifications to the RFP Bidder by email and provides documents needed for participation by secure file transfer. Whether or not an RFP Bidder has previously qualified, an RFP Bidder may designate up to three (3) authorized individuals to receive communications from the Independent Evaluator in addition to the Representative of the RFP Bidder. Each such authorized individual is a Nominee. Either the Representative of the RFP Bidder or the Officer of the RFP Bidder may use the Nomination Section of the Part 1 Form for this purpose, providing for each authorized individual the individual's name and title, as well as contact information (phone number and email address). The Representative of the RFP Bidder or the Officer of the RFP Bidder may designate such other authorized individuals at any time during the

solicitation using the Nomination Section of the Part 1 Form and is not required to do so in the Part 1 Proposal provided, however, that the total number of Nominees not exceed three (3) individuals at any one time.

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

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

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

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

IV.2.1. Election of Entity on Whose Financial Standing the RFP Bidder is Relying. For purposes of a creditworthiness evaluation, each RFP Bidder elects either: (a) to rely on its own financial standing; or: (b) to rely on the financial standing of another entity. The other entity on whose financial standing the RFP Bidder is relying is either a guarantor (the “RFP Guarantor”), or a Principal if the RFP Bidder is submitting a Proposal under an Agency Agreement. The requirements for an RFP Bidder submitting a Proposal under an Agency Agreement are further explained in Section IV.6.

- An RFP Bidder that has not previously qualified must clearly select one of these two (2) options in its Part 1 Proposal. If the RFP Bidder is relying on the financial standing of another entity, the RFP Bidder must provide that entity's legal name and address.
- A previously qualified RFP Bidder must confirm that the identity of the entity on whose financial standing the RFP Bidder last relied remains valid in order to participate in the abbreviated Part 1 Proposal process. If such RFP Bidder changes the identity of the entity on whose financial standing the RFP Bidder relies, the RFP Bidder must use the Standard Part 1 Form and submit all information required for the Part 1 Proposal if the RFP Bidder had not previously qualified. Such RFP Bidder must either confirm that the previously provided legal name and address of the entity on whose financial standing the RFP Bidder relies remain valid or the RFP Bidder must update this information. If the RFP Bidder updates the entity's legal name, the RFP Bidder must provide evidence of the change of name. If there was a change in the corporate structure of the entity, through a merger for example, the RFP Bidder must use the Standard Part 1 Form to present its Part 1 Proposal.

IV.2.2. Financial Information. The financial information submitted in the Part 1 Proposal pertains to the entity on whose financial standing the RFP Bidder is relying, as specified in response to Paragraph IV.2.1.

- Whether or not the RFP Bidder has previously qualified, an RFP Bidder that selects option (a) in Paragraph IV.2.1 must include available financial information for the RFP Bidder in its Part 1 Proposal. If available, the RFP Bidder must submit its most recent quarterly financial information, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules. If available, the most recent Securities and Exchange Commission ("SEC") Form 10-Q or 10-K (whichever is more recent) must be submitted to fulfill this requirement. If the SEC Form 10-Q/10-K is unavailable, the RFP Bidder must submit its most recent quarterly, monthly or bi-annual financial information accompanied by an attestation by the RFP Bidder's Chief Financial Officer (or equivalent position) that the information contained in the financial statements fairly presents in all material respects the

financial condition and results of the operations of the RFP Bidder. The requirements for this attestation are provided more specifically in Appendix 5 of these RFP Rules. If such financial information is unavailable for the RFP Bidder, the RFP Bidder must clearly state this fact.

- Whether or not the RFP Bidder has previously qualified, an RFP Bidder that selects option (b) in Paragraph IV.2.1 relies on the financial standing of another entity (an RFP Guarantor or a Principal) and financial information must be available for such an entity. An RFP Bidder must submit, if available, the entity's most recent quarterly financial information, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules. If available, the most recent SEC Form 10-Q or 10-K (whichever is more recent) must be submitted to fulfill this requirement. If the SEC Form 10-Q/10-K is unavailable, the RFP Bidder must submit the entity's most recent quarterly, monthly, or bi-annual financial information accompanied by an attestation by the entity's Chief Financial Officer (or equivalent position) that the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of the entity. The requirements for this attestation are provided more specifically in Appendix 5 of these RFP Rules.

IV.2.3. Credit Ratings. The credit ratings submitted in the Part 1 Proposal pertain to the entity on whose financial standing the RFP Bidder is relying, as specified in response to Paragraph IV.2.1.

- An RFP Bidder that has not previously qualified must submit all available credit ratings for the entity on whose financial standing it is relying. This entity is the RFP Bidder if the RFP Bidder selects option (a) in Paragraph IV.2.1. This entity is the RFP Guarantor or a Principal if the RFP Bidder selects option (b) in Paragraph IV.2.1. The RFP Bidder must submit all available ratings from the following rating agencies: Standard & Poor's Ratings Services ("S&P"), Moody's Investors Service, Inc. ("Moody's"), and Fitch Ratings ("Fitch"). If no ratings are available for the entity, the RFP Bidder must clearly state this fact.



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

IV.2.4. An RFP Bidder includes in its Part 1 Proposal one (1) copy of any document required in this Section IV.2, electronically (on a CD sent by overnight delivery service or by email to the Independent Evaluator at [PECOprocurement@nera.com](mailto:PECOprocurement@nera.com)) or in hard copy, or as further specified in the Part 1 Form. All information and certifications in this Section IV.2 must be provided exclusively by completing Section 2 of the Part 1 Form, as further explained in Article VII.

### **IV.3. Letters of Credit and Uniform SMA Documents**

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

- Whether or not the RFP Bidder has previously qualified, an RFP Bidder must, in its Part 2 Proposal, submit a Pre-Bid Letter of Credit in an amount of at least: \$250,000 per tranche bid on products of the RES, SC, and MC Classes; and \$125,000 per tranche bid on a product for the LC&I Class. This Pre-Bid Letter of Credit must be in the form of the Standard Pre-Bid Letter of Credit provided as Appendix 8 to these RFP Rules or must incorporate only modifications that have been approved by PECO and the Independent Evaluator.
- As part of the Part 1 Proposal, an RFP Bidder may request modifications to the Standard Pre-Bid Letter of Credit that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder. An RFP Bidder requests modifications to the Standard Pre-Bid Letter of

Credit by submitting a Draft Pre-Bid Letter of Credit substantially in the form of the Standard Pre-Bid Letter of Credit indicating clearly any and all modifications to the Standard Pre-Bid Letter of Credit. The Draft Pre-Bid Letter of Credit must be submitted electronically, in Microsoft Word with tracked changes, and may be saved to a CD sent by overnight delivery service or may be emailed to the Independent Evaluator at [PECOprocurement@nera.com](mailto:PECOprocurement@nera.com). A Draft Pre-Bid Letter of Credit that is not substantially in the form of the Standard Pre-Bid Letter of Credit will not be considered or evaluated.

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

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

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

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

IV.3.3. Ability to Perform. The requirements of this Paragraph apply only to RFP Bidders that are not Default Suppliers. Whether or not the RFP Bidder has previously qualified, the Officer of the Bidder must certify that the RFP Bidder (i) has no actions at law, suits in equity, proceedings or claims pending or, to the RFP Bidder's knowledge, threatened against it before any federal, state, foreign or local court, tribunal or governmental agency or authority that might materially delay, prevent or hinder the RFP Bidder's performance of its obligations under the Uniform SMA; and (ii) is not bankrupt or insolvent and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt or insolvent.

IV.3.4. Information to Prepare the Uniform SMA. This Paragraph applies only to RFP Bidders that are not Default Suppliers. Such RFP Bidder will be asked, in its Part 1 Proposal, to provide all information needed by the Independent Evaluator to prepare for execution the Uniform SMA and its Exhibits. If the Independent Evaluator identifies one or more of such RFP Bidder's Bids to the Commission as winning Bids, the Independent Evaluator will use this information to prepare the Uniform SMA and its Exhibits for execution.

- Such RFP Bidder will be asked: (i) to specify any elections to be made in the Uniform SMA; and (ii) to provide the contact information required to prepare the Form of Notice, which is included as Exhibit 2 to the Uniform SMA; and (iii) to provide any additional information required to prepare the Uniform SMA and its Exhibits.
- If such RFP Bidder fails to submit these elections and information with the Part 1 Proposal, the Officer of the RFP Bidder must acknowledge that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder's Bids to the Commission as winning Bids, the RFP Bidder will be required to provide: (i) any elections to be made in the Uniform SMA; and (ii) the contact information to prepare the

Form of Notice; and (iii) any additional information required to prepare the Uniform SMA and its Exhibits; by 12 PM (noon) EPT on the day after such notification is received.

- For an RFP Bidder that is not a Default Supplier, the Part 1 Proposal can only be complete if (i) all information required for the preparation of the Uniform SMA and its Exhibits is submitted and complete; or (ii) the Officer of the RFP Bidder has signed an acknowledgment that the RFP Bidder is required to provide all information required for the preparation of the Uniform SMA and its Exhibits by 12 PM (noon) EPT on the day after the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder's Bids to the Commission as winning Bids. Failure to abide by this commitment will be considered a material omission or representation of the Part 1 Proposal.

IV.3.5. Guaranty. This Paragraph applies only to RFP Bidders that rely on the financial standing of an RFP Guarantor. Such RFP Bidder will be asked to provide, in the Part 1 Proposal, all information needed to prepare the guaranty for execution. If the Independent Evaluator identifies one or more of such RFP Bidder's Bids to the Commission as winning Bids, the Independent Evaluator will use this information to prepare the guaranty.

- Such RFP Bidder will be asked: (i) to specify the governing laws under which the RFP Guarantor is organized; (ii) to provide contact information for the RFP Guarantor, including the name and title of the signatory of the guaranty for notices under the guaranty; (iii) to make its elections to incorporate any or all of the approved modifications to the Standard Guaranty.
- Such RFP Bidder is asked to submit the information with the Part 1 Proposal. If the RFP Bidder fails to submit all information required for preparation of the Guaranty with the Part 1 Proposal, the Officer of the RFP Bidder must acknowledge that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder's Bids to the Commission as winning Bids, the RFP Bidder must provide all required information by 12 PM (noon) EPT on the day after such notification is received.

- For an RFP Bidder that relies on the financial standing of an RFP Guarantor, the Part 1 Proposal can only be complete if (i) all information required for the preparation of a guaranty is submitted and complete; or (ii) the Officer of the RFP Bidder has signed an acknowledgment that the RFP Bidder is required to provide all information required for the preparation of the guaranty by 12 PM (noon) EPT on the day after the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder's Bids to the Commission as winning Bids. Failure to abide by this commitment will be considered a material omission or representation of the Part 1 Proposal.

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

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

IV.4.1. PJM Load Serving Entity. The requirements of this Paragraph apply only to RFP Bidders that are not Default Suppliers and that are not previously qualified RFP Bidders. A Default Supplier must be a Load Serving Entity ("LSE") by the start of the supply period. An RFP Bidder that has not previously qualified must, in its Part 1 Proposal, either: (i) demonstrate that the RFP Bidder is a Load Serving Entity ("LSE") in PJM by providing the signature page of the Reliability Assurance Agreement ("RAA"); or (ii) certify that the RFP Bidder has investigated the requirements to become an LSE in PJM and that there exist no impediments for the RFP Bidder to become an LSE by the start of the supply period and to remain an LSE for the duration of the supply period. The RFP Bidder undertakes to be qualified as a PJM LSE by the start of the supply period should the RFP Bidder become a Default Supplier.

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

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

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

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

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

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

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

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

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

- Whether or not an RFP has previously qualified, the Officer of such RFP Bidder must certify that the Officer of the RFP Bidder has the authority to bind the Principal(s).

- If an RFP Bidder has not previously qualified, the Officer of the RFP Bidder must acknowledge that an Officers' Certificate, signed by an officer of each Principal and substantially in the form of Appendix 6 to these RFP Rules, must be provided with the Part 2 Proposal.

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

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

IV.6.4. Draft Officers' Certificate. Whether or not the RFP Bidder has previously qualified, an RFP Bidder submitting a Proposal under an Agency Agreement may, but is not required to, submit a draft Officers' Certificate for evaluation. If an RFP Bidder submits a draft Officers' Certificate for evaluation, the Independent Evaluator will provide this evaluation to the RFP Bidder, including notice of any changes required to the Officers' Certificate, along with the Part 1 Notification. This Officers' Certificate will state that: (i) the Agency Agreement submitted in response to this RFP is a true and complete copy of the Agency Agreement as currently in effect; (ii) the Agency Agreement is in full force and effect and shall remain in full force and effect for a period extending to six (6)

business days following the Bid Date; (iii) there are no proceedings pending for the amendment or termination of the Agency Agreement, contemplated by the RFP Bidder, or contemplated by the Principal(s) to the RFP Bidder's knowledge; (iv) each individual who has executed the Officers' Certificate and the Agency Agreement is (or was at the time of the execution of such documents) authorized to execute and deliver such documents on behalf of the Principal(s); and (v) the Officer of the RFP Bidder is authorized to execute the Uniform SMA as well as any Transaction Confirmation(s) pursuant to the Uniform SMA on behalf of the Principal(s).

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

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

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

IV.7.2. Additional requirements for Foreign RFP Bidders.

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



formed; (ii) the sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the person executing the Uniform SMA on behalf of the Foreign RFP Bidder has the authority to execute the Uniform SMA and that the governing board of such Foreign RFP Bidder has approved the execution of the Uniform SMA; and (iii) the sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the Foreign RFP Bidder has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA.

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

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

- Whether or not such RFP Bidder has previously qualified, an RFP Bidder relying on the financial standing of a Foreign Entity as RFP Guarantor may provide, in addition to supplying

all required information and documents under Section IV.2, any additional evidence of creditworthiness for the RFP Guarantor so as to provide PECO with comparable assurances of creditworthiness as is applicable for an entity that has been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia.

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

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

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

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

Principal that the Principal has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA.

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

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

## ARTICLE V. Part 2 Proposal Requirements

### V.1. Contact Information and Representations

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

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

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

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

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

- any Bid on any product submitted in response to this RFP for this solicitation is binding until six (6) business days after the Bid Date and constitutes a binding and irrevocable offer to provide service under the terms of the Uniform SMA at the price specified in the Bid;
- the Officer of the RFP Bidder will execute (or will nominate another authorized individual to execute) the Uniform SMA and all Transaction Confirmation(s) for the RFP Bidder's Bids that are approved by the Commission no later than 2PM on the third business day after the Commission has accepted such Bids; and
- In each Transaction Confirmation, the RFP Bidder will specify a price for each type of AECs (Tier I, Tier I Solar, and Tier II) that is included in the RFP Bidder's winning Bids and each such price must be greater than \$0/AEC.

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

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

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

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

incorporate any modification to its Pre-Bid Letter of Credit other than the modifications approved and posted as such on the RFP website.

V.2.3. PECO and the Independent Evaluator will release the Pre-Bid Letter of Credit no later than six (6) business days after the Bid Date. An RFP Bidder may, in Section 2 of the Part 2 Form, provide special instructions for the return of the Pre-Bid Letter of Credit. If the Commission does not approve any of the RFP Bidder's Bids, PECO and the Independent Evaluator will release that RFP Bidder's Pre-Bid Letter of Credit within three (3) business days of the Bid Date.

V.2.4. Payment under the Pre-Bid Letter of Credit can be demanded by PECO if: (i) the RFP Bidder has made a material omission or misrepresentation in its Part 1 Proposal or in its Part 2 Proposal; (ii) the RFP Bidder discloses information relating to its Proposal publicly or to any other party before the Commission has rendered its decision on the results of this solicitation; or (iii) the RFP Bidder has one or more Bids approved by the Commission and the RFP Bidder fails to execute the Uniform SMA and its Exhibits or fails to meet the creditworthiness requirements within the timeframe required.

V.2.5. The information required by this Section V.2 must be provided exclusively by completing Section 2 of the Part 2 Form, as further explained in Article VII.

### **V.3. Guaranty Documents**

V.3.1. Intent to Provide a Guaranty. The requirements of this Paragraph only apply to RFP Bidders that rely on the financial standing of an RFP Guarantor and that are not Default Suppliers.

- Such RFP Bidder must provide in its Part 2 Proposal a statement from a representative of the RFP Guarantor acknowledging that the RFP Guarantor: (i) has been asked to provide a financial guaranty on behalf of the RFP Bidder should the RFP Bidder become a Default Supplier pursuant to its response under this RFP for procuring supply under the terms of the Uniform SMA; (ii) has an unsecured debt rating that meets the Minimum Rating as defined in the Uniform SMA; and (iii) would consider providing a financial guaranty on behalf of the RFP Bidder should there be no material change in affairs for at least the Indicative Amount. This RFP Guarantor may add that this statement should not and cannot be taken as an



indication of financing commitment of any kind whatsoever, or an absolute commitment to provide a financial guaranty.

- The Indicative Amount must meet or exceed the sum of: (i) \$600,000 times the number of tranches bid on products for the REC, SC, and MC Classes; and (ii) \$300,000 times the number of tranches bid on products for the LC&I Class.
- The individual signing the intent to provide a guaranty must be a representative of the RFP Guarantor authorized to undertake contracts (including the Guaranty) and bind that RFP Guarantor.

V.3.2. Enforceability Opinion for an Alternate Guaranty. The Guaranty Process allows a supplier unable to use the Standard Guaranty provided as Appendix G to the Uniform SMA to submit for consideration by PECO the guaranty that the supplier uses in its normal course of business. Such a guaranty is called an “alternate guaranty form” and the process by which suppliers may obtain approval to use an alternate guaranty is described in Appendix 2. The requirements of this Paragraph only apply to RFP Bidders that rely on the financial standing of an RFP Guarantor, that have obtained approval from PECO to use an alternate guaranty form, and that are not previously eligible. Such RFP Bidder must provide, with its Part 2 Proposal, an executed enforceability opinion for its approved alternate guaranty form on the letterhead of a law firm of national standing.

V.3.3. The information required by this Section V.3 must be provided exclusively by completing Section 3 of the Part 2 Form, as further explained in Article VII.

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

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

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

- The Officers' Certificate must be signed by an officer of each Principal.

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

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

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

V.4.4. An RFP Bidder that relies on the financial standing of a Principal that is a Foreign Entity must also comply with requirements detailed in Paragraph V.5.4.

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

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

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

V.5.2. Required Documents for Foreign RFP Bidders. A Foreign RFP Bidder receives from the Independent Evaluator upon successfully completing the Part 1 Proposal a provisional creditworthiness assessment that presumes the receipt of the following fully executed additional documents: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Foreign RFP Bidder is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the Foreign RFP Bidder in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the person executing the Uniform SMA on behalf of the Foreign RFP Bidder has the authority to execute the Uniform SMA and that the governing board of such Foreign RFP Bidder has approved the execution of the Uniform SMA; and (iii) the sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the Foreign RFP Bidder has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA. The IE will make available to RFP bidders a sample of the legal opinion of outside counsel that is sufficient for a Foreign Entity as Principal.

- If the Foreign RFP Bidder is not previously eligible, such RFP Bidder must submit these fully executed documents in a form acceptable to PECO for the Independent Evaluator to confirm the creditworthiness assessment provided with the Part 1 Notification. If the Foreign RFP Bidder submits these fully executed documents in a form acceptable to PECO, the Independent Evaluator includes in the Part 2 Notification a confirmation of the

creditworthiness assessment provided with the Part 1 Notification. Otherwise, the Independent Evaluator provides with the Part 2 Notification a revised creditworthiness assessment that states that the Foreign RFP Bidder is not granted unsecured credit.

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

V.5.3. Required Documents for RFP Bidders with a Foreign Entity as RFP Guarantor. An RFP Bidder that relies on the financial standing of a Foreign Entity as RFP Guarantor receives, with its Part 1 Notification, a provisional creditworthiness assessment for its RFP Guarantor that presumes the receipt of the following fully executed additional documents in a form acceptable to PECO: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the RFP Guarantor is incorporated or otherwise formed that the guaranty pursuant to the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the RFP Guarantor in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the person executing the guaranty pursuant to the Uniform SMA on behalf of the RFP Guarantor has the authority to execute the guaranty pursuant to the Uniform SMA and that the governing board of such RFP Guarantor has approved the execution of the guaranty pursuant to the Uniform SMA; and (iii) the sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the RFP Guarantor has been authorized by its governing board to enter into agreements of the same type as the guaranty pursuant to the Uniform SMA. The IE will make available to RFP bidders a sample of the legal opinion of outside counsel that is sufficient for a Foreign Entity as Principal.

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

V.5.4. Required Documents for RFP Bidders with a Foreign Entity as Principal. An RFP Bidder submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal receives, with its Part 1 Notification, a provisional creditworthiness assessment that presumes the receipt of the following

documents fully executed and acceptable to PECO: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Principal is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the Principal in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of the corporate secretary (or similar officer) of such Principal that the Principal has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA. The IE will make available to RFP bidders a sample of the legal opinion of outside counsel that is sufficient for a Foreign Entity as Principal.

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

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

## **ARTICLE VI. Bid Submission**

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

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

- VI.1.4. All Bid Forms must be received between 10 AM and 12 PM (noon) on the Bid Date. No late Bid Forms will be accepted regardless of the method used by the RFP Bidder to submit its Bid Form.
- VI.1.5. A Bid for a tranche for any product is a price in U.S. Dollars per MWh, in the format \$xx.xx or \$xxx.xx, rounded to the nearest cent. The number of tranches bid on a product is the number of tranches of that product for which a Bid is provided.
- VI.1.6. A Bid that is not expressed in dollars per MWh will automatically be rejected. A Bid that has more than two (2) decimals will be automatically rounded to the nearest cent.
- VI.1.7. The RFP Bidder may not bid on less than a full tranche for a product. The RFP Bidder may not bid on fractions, portions, or parts of tranches.
- VI.1.8. The RFP Bidder may not submit any additional instructions, contingencies, or conditions on its Bids. Any such additional instructions, contingencies, or conditions will be ignored.
- VI.1.9. An RFP Bidder may not submit Bids that exceed the Load Caps and the Bid Form will include guidance for the RFP Bidder so that the RFP Bidder submits Bids that conform with the Load Caps. The Load Caps are described in Paragraph I.2.11.
- VI.1.10. The number of tranches bid for an RFP Bidder may not exceed the number of tranches supported by the Pre-Bid Letter of Credit. The amount of the Pre-Bid Letter of Credit is described in Paragraph V.2.1. The procedure used by the Independent Evaluator to modify the Bid Form is described in Paragraph VII.2.10.
- VI.1.11. Bids are evaluated on a price-only basis, in accordance with the process described in Section VII.2.



## **ARTICLE VII. Process**

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

- VII.1.1. The Independent Evaluator, for the purposes of this RFP, transmits all communications to the Representative of the RFP Bidder. The Representative or the Officer of the RFP Bidder may designate up to three (3) Nominees who will also receive communications from the Independent Evaluator.
- VII.1.2. Any notification or written communication will be deemed received by the RFP Bidder at the time of delivery or transmission, provided that when delivery or transmission occurs after 6 PM on a business day or occurs on a day that is not a business day, receipt will be deemed to occur at 9 AM on the following business day.
- VII.1.3. The exclusive method of responding to the qualification standards for the Part 1 Proposal listed in Article IV of these RFP Rules is the use of the Part 1 Form. RFP Bidders that did not qualify in a previous solicitation under DSP III must use the Standard Part 1 Form provided as Appendix 3 of these RFP Rules to respond to the qualification standards described in Article IV. Previously qualified RFP Bidders may participate in an abbreviated Part 1 Proposal process by using the Short Part 1 Form provided as Appendix 4. The generic term “Part 1 Form” refers either to the Standard Part 1 Form or to the Short Part 1 Form. Responses to the qualification standards of Article IV that do not use the Part 1 Form will not be considered and the Part 1 Proposal will be considered deficient.
- VII.1.4. An RFP Bidder must provide contact information for the RFP Bidder, name an Officer of the RFP Bidder who designates a Representative of the RFP Bidder, make elections on the method that the Independent Evaluator will use to transmit notifications and to transmit documents to the RFP Bidder, and make general representations as required by Section IV.1, exclusively by completing Section 1 of the Part 1 Form. An RFP Bidder must show compliance with the financial requirements of Section IV.2 exclusively by completing Section 2 of the Part 1 Form and by providing all documents supporting the financial information and credit information as requested in that Section

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

VII.1.5. The Part 1 Proposal for an RFP Bidder includes the completed Part 1 Form as well as one (1) copy of all documents required by the Part 1 Form. The Part 1 Form, or portions of the Part 1 Form, may be available to be completed online by RFP Bidders through an application website. One (1) scanned copy of the completed and signed Part 1 Form, as well as any Draft Letter of Credit in Microsoft Word, must be submitted electronically, either on a CD sent by overnight delivery service to the Independent Evaluator or by email to the Independent Evaluator at [PECOprocurement@nera.com](mailto:PECOprocurement@nera.com). Any hard copies of the Part 1 Form required by the Part 1 Proposal must be sent by overnight delivery service to the Independent Evaluator. Any additional documents required by the Part 1 Proposal other than the Part 1 Form must be submitted either electronically (on a CD sent by overnight delivery service or by email to the Independent Evaluator at [PECOprocurement@nera.com](mailto:PECOprocurement@nera.com)) or in hard copy. If the Part 1 Form is available in part or in its entirety to be completed online by RFP Bidders through an application website, additional instructions will be provided to RFP Bidders in an addendum to these RFP Rules.

VII.1.6. An RFP Bidder must deliver any original hardcopy Part 1 Forms or any documents that the RFP Bidder submits in hardcopy by hand delivery or overnight delivery service to the Independent Evaluator by 12 PM (noon) on the Part 1 Date at the following address: NERA - Independent

Evaluator, PECO Default Service Program RFPs, 1835 Market Street, Suite 1205, Philadelphia, PA 19103. Facsimiles of the Part 1 Form will not be considered. No late Part 1 Proposals will be accepted under any circumstances.

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

(noon) on the day the Part 2 Window opens, the final document containing all accepted modifications will be posted.

- VII.1.10. An RFP Bidder that submits a Draft Post-Bid Letter of Credit will receive a review of any proposed modifications within seven (7) business days. The Independent Evaluator sends such review by email. The RFP Bidder can only submit one (1) Draft Post-Bid Letter of Credit. Any review communicated to the RFP Bidder of the Draft Post-Bid Letter of Credit is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this review. All modifications accepted to the Standard Post-Bid Letter of Credit for the benefit of a single RFP Bidder will be made available to all RFP Bidders on an optional basis. All such modifications will be posted in a single document on the RFP website that will be posted no later than 6 PM on the Part 2 Date.
- VII.1.11. An RFP Bidder submitting a Proposal under an Agency Agreement that submits a Draft Officers' Certificate will receive an evaluation of this document by the Part 1 Notification Date. The Independent Evaluator sends such review by email. Any evaluation communicated to the RFP Bidder of the Draft Officers' Certificate is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this evaluation.
- VII.1.12. A Foreign RFP Bidder that submits a draft of any of the documents described in Paragraph IV.7.2 will receive an evaluation of these documents by the Part 1 Notification Date. The Independent Evaluator sends such review by email. Any evaluation communicated to the RFP Bidder of such draft documents is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this evaluation.
- VII.1.13. An RFP Bidder that relies on the financial standing of a Foreign Entity as RFP Guarantor and that submits a draft of any of the documents described in Paragraph IV.7.3 will receive an evaluation of these documents along by the Part 1 Notification Date. The Independent Evaluator sends such review by email. Any evaluation communicated to the RFP Bidder of such draft documents is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this evaluation.
- VII.1.14. An RFP Bidder submitting a Proposal under an Agency Agreement that relies on the financial standing of a Foreign Entity as Principal and that submits a draft of any of the documents described in Paragraph IV.7.4 will receive an evaluation of these documents by the Part 1 Notification Date.

The Independent Evaluator sends such review by email. Any evaluation communicated to the RFP Bidder of such draft documents is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this evaluation.

- VII.1.15. The RFP Bidder includes, in its Part 1 Proposal, a certification from the Officer of the RFP Bidder that the RFP Bidder is bidding independently and is not acting in concert with another RFP Bidder. The Independent Evaluator may request additional information to ascertain that the RFP Bidder is bidding independently of other RFP Bidders. An RFP Bidder that is not bidding independently of another RFP Bidder may fail to qualify.
- VII.1.16. If an RFP Bidder receives any notice from the Independent Evaluator that any item of the Part 1 Proposal is deficient or requires clarification, the RFP Bidder has until 12 PM (noon) on the Part 1 Date, or until 6 PM on the business day following the business day during which the Independent Evaluator transmits such notice, whichever comes later, to respond. If the RFP Bidder does not correct or adequately explain the deficiency within the time allowed, the Part 1 Proposal may be rejected. The Independent Evaluator sends such notice to the RFP Bidder by email.
- VII.1.17. An RFP Bidder meets the qualification standards of this RFP if its Part 1 Proposal is received on or before 12 PM (noon) on the Part 1 Date, if its Part 1 Proposal is complete, and if its Part 1 Proposal fully complies with all requirements of Article IV.
- VII.1.18. The Independent Evaluator informs each RFP Bidder of whether it has met all qualification standards of Article IV through a Part 1 Notification that the Independent Evaluators sends no later than 6 PM on the Part 1 Notification Date.
- VII.1.19. If the RFP Bidder has a successful Part 1 Proposal, within two (2) business days of the Part 1 Notification Date, the Independent Evaluator transmits to the RFP Bidder a number of documents and instructions, called the Part 1 Materials. The Part 1 Materials include: (i) the Bid Form; (ii) instructions for filling out and optionally encrypting the Bid Form; (iii) instructions for the submission of the completed Bid Form from the RFP Bidder to the Independent Evaluator by secure file transfer system; (iv) instructions for an alternate method for submission of the Bids in case of technical difficulties with the secure file transfer system; (v) an invitation to a training session on the Bid submission process; and (vi) a username, a password, and security codes to be used for Bid

submission uniquely by that RFP Bidder. The Part 1 Materials may also include other training materials or important notifications to RFP Bidders. The Independent Evaluator transmits the Part 1 Materials by secure file transfer. However, if special circumstances warrant, the Independent Evaluator may transmit by email a particular document needed for participation in a solicitation upon agreement by the RFP Bidder.

- VII.1.20. If an RFP Bidder fails to qualify, the Independent Evaluator notifies the RFP Bidder of that fact by email. The Independent Evaluator also returns one (1) hardcopy of the Part 1 Form, if one was submitted, by overnight delivery service.
- VII.1.21. The Independent Evaluator requires an acknowledgment from the RFP Bidder that the RFP Bidder has received intact the information necessary to submit Bids and that no one but authorized personnel of the RFP Bidder has had access to this information. The RFP Bidder may make this acknowledgment by email. The RFP Bidder's Bids are only evaluated if this acknowledgment is received.
- VII.1.22. The exclusive method of responding to the requirements for Part 2 Proposals listed in Article V of these RFP Rules is the use of the Part 2 Form provided as Appendix 7. Responses to the requirements of Article V that do not use the Part 2 Form will not be considered and the Part 2 Proposal will be considered deficient.
- VII.1.23. An RFP Bidder must confirm its contact information and make any general representations required by Section V.1 exclusively by completing Section 1 of the Part 2 Form. An RFP Bidder must submit the Pre-Bid Letter of Credit as required by Section V.2 and as instructed in Section 2 of the Part 2 Form. An RFP Bidder relying on the financial standing of an RFP Guarantor will provide intent to provide a guaranty from its RFP Guarantor as required by Section V.3 exclusively by completing Section 3 of the Part 2 Form. An RFP Bidder submitting a Proposal under an Agency Agreement must submit additional documents as required by Section V.4 and as instructed in Section 4 of the Part 2 Form. A Foreign RFP Bidder that seeks to be granted unsecured credit under the terms of the Uniform SMA, or an RFP Bidder that seeks to rely on the financial standing of a Foreign Entity (either an RFP Guarantor or a Principal), must submit any additional documents as required by Section V.5 and as instructed by Section 5 of the Part 2 Form. If the RFP Bidder

submitted the Part 2 Form for early processing, the Officer of the RFP Bidder will be required to acknowledge that the submission of the documents specified by Article V is required. Responses to the requirements of Article V that do not use the Part 2 Form will not be considered and the Part 2 Proposal will be considered deficient.

VII.1.24. The Part 2 Proposal consists of one (1) scanned copy completed Part 2 Form, the Pre-Bid Letter of Credit, any hardcopies of the Part 2 Form required by the Part 2 Proposal, as well as one (1) copy of any other document requested of the RFP Bidder in the Part 2 Form and in Article V of these RFP Rules. In particular:

- For an RFP Bidder relying on the financial standing of an RFP Guarantor and that is not a Default Supplier, the Part 2 Proposal also includes an acknowledgment from a representative of the RFP Guarantor.
- For an RFP Bidder submitting a Proposal under an Agency Agreement, the Part 2 Proposal also includes an executed Officers' Certificate.
- For an RFP Bidder that: (i) is submitting a Proposal under an Agency Agreement and relying on the financial standing of a Foreign Entity as Principal; or (ii) is a Foreign RFP Bidder; or (iii) relies on the financial standing of a Foreign Entity as RFP Guarantor; the Part 2 proposal also includes any documents required by Section V.5 as a condition of being granted unsecured credit. These documents may include an executed legal opinion of outside counsel and a sworn certificate of the corporate secretary.

VII.1.25. An RFP Bidder must deliver any original hardcopy Part 2 Forms and all documents required by the Part 2 Proposal by certified mail, registered mail, hand delivery or overnight delivery service to the Independent Evaluator by 12 PM (noon) on the Part 2 Date at the following address: NERA - Independent Evaluator, PECO Default Service Program RFPs, 1835 Market Street, Suite 1205, Philadelphia, PA 19103. Facsimiles of the Part 2 Form will not be considered. No late Part 2 Proposals will be accepted under any circumstances.

VII.1.26. Each solicitation has a Part 2 Window during which Part 2 Proposals may be submitted. The last day of the Part 2 Window is the Part 2 Date. RFP Bidders must provide the Part 2 Proposal to the

Independent Evaluator by 12 PM (noon) on the Part 2 Date. RFP Bidders also have the option to submit the Part 2 Form during the Part 1 Window for early processing. When a Part 2 Proposal is received, the Independent Evaluator sends an acknowledgment to the RFP Bidder by email. If a Part 2 Proposal is hand-delivered, the Independent Evaluator provides an acknowledgment to the individual making the delivery consisting of a photocopy of the first page of the Part 2 Form stamped with the time and the date that it was received. The Independent Evaluator confirms receipt as long as the Part 2 Proposal is received after the opening of the Part 1 Window. However, Part 2 Proposals are only processed during the Part 1 Window or during the Part 2 Window.

- VII.1.27. If the Part 2 Proposal is received before 12 PM (noon) on any business day after the opening of the Part 1 Window, the Independent Evaluator sends the acknowledgment confirming receipt on the day the Part 2 Proposal is received with the results of an initial review. The initial review states either that the Part 2 Proposal is complete and is being considered, or the initial review lists items of the Part 2 Proposal that are deficient or require clarification. If a Part 2 Proposal is received after 12 PM (noon) on any business day during the Part 2 Window prior to the Part 2 Date, the Independent Evaluator sends the acknowledgment along with the initial review by 12 PM (noon) of the next business day. The Independent Evaluator sends such acknowledgments by email.
- VII.1.28. An RFP Bidder's Part 2 Proposal is automatically deficient if the Pre-Bid Letter of Credit proposes or includes modifications to the Standard Pre-Bid Letter of Credit included as Appendix 8 of these RFP Rules other than those accepted modifications posted in a single document on the RFP website. If an RFP Bidder receives notice from the Independent Evaluator that its Pre-Bid Letter of Credit is deficient, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. The Independent Evaluator sends such notices by email.
- VII.1.29. The amount of the Pre-Bid Letter of Credit must be at least \$250,000 per tranche bid on the RES, SC, and MC products, plus \$125,000 per tranche bid on the LC&I product. The Indicative Amount for RFP Bidders that rely on the financial standing of an RFP Guarantor and that do not hold a current Uniform SMA with PECO must be equal or exceed \$600,000 per tranche bid on products of the RES, SC, and MC Classes, plus \$300,000 per tranche bid on the LC&I Class. An RFP Bidder's Part 2



Proposal is automatically deficient if the amount of the Pre-Bid Letter of Credit is not consistent with the Indicative Amount of the Guaranty provided in the Part 2 Form. If an RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. The Independent Evaluator provides such notice to the RFP Bidder by email.

VII.1.30. For an RFP Bidder that received approval from PECO to use an alternate guaranty form through the Guaranty Process, PECO and the Independent Evaluator will determine whether the enforceability opinion required under Paragraph V.3.2 is acceptable to PECO, without any liability or obligation to the RFP Bidder or the RFP Guarantor. If the document is not acceptable to PECO and the RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the document remains insufficient, the RFP Bidder's Part 2 Proposal may be rejected. The Independent Evaluator provides such notice to the RFP Bidder by email.

VII.1.31. For an RFP Bidder submitting a Proposal under an Agency Agreement that provides the documents required under Paragraph V.4.1, PECO and the Independent Evaluator will determine whether the documents provided are sufficient, without any liability or obligation to the RFP Bidder or its Principal(s). If the documents are insufficient and the RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the documents remain insufficient, the RFP Bidder's Part 2 Proposal may be rejected. The Independent Evaluator provides such notice to the RFP Bidder by email.

VII.1.32. For a Foreign RFP Bidder that submits the documents required under Paragraph V.5.2, PECO and the Independent Evaluator will determine whether the documents provided are acceptable to PECO, without any liability or obligation to the Foreign RFP Bidder. If the documents are not

acceptable to PECO and the RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the deficiency remains, the Independent Evaluator provides with the Part 2 Notification a revised creditworthiness assessment that states that the Foreign RFP Bidder is not granted unsecured credit. If the Foreign RFP Bidder had submitted these documents with its Part 1 Proposal for evaluation and if the Foreign RFP Bidder conforms the documents submitted with the Part 2 Proposal to the evaluation provided with its Part 1 Notification, then these documents will automatically be considered acceptable to PECO. The Independent Evaluator provides such notices to the RFP Bidder by email.

VII.1.33. For an RFP Bidder relying on the financial standing of a Foreign Entity as RFP Guarantor and that submits the documents required under Paragraph V.5.3, PECO and the Independent Evaluator will determine whether the documents provided are acceptable to PECO, without any liability or obligation to the RFP Bidder or the RFP Guarantor. If the documents are acceptable to PECO and the RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the deficiency remains, the RFP Bidder the Independent Evaluator provides with the Part 2 Notification a revised creditworthiness assessment that states that the RFP Guarantor is not granted unsecured credit. The RFP Bidder may not rely on the financial standing of the RFP Guarantor and the Independent Evaluator may request additional information regarding the RFP Bidder under Section IV.2. If the RFP Bidder had submitted these documents with its Part 1 Proposal for evaluation and if the RFP Bidder conforms the documents submitted with the Part 2 Proposal to the evaluation provided with its Part 1 Notification, then these documents will automatically be considered acceptable to PECO. The Independent Evaluator provides such notices to the RFP Bidder by email.

VII.1.34. For an RFP Bidder relying on a Foreign Entity as Principal that provides the documents required under Paragraph V.5.4, PECO and the Independent Evaluator will determine whether the

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

- VII.1.35. With the exceptions noted in the Paragraphs of this Section, if an RFP Bidder receives any notice from the Independent Evaluator that an item of the Part 2 Proposal is deficient or requires clarification, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the RFP Bidder does not correct or adequately explain the deficiency within the time allowed, the Part 2 Proposal may be rejected.
- VII.1.36. An RFP Bidder's Part 2 Proposal is successful if its Part 2 Proposal is received on or before 12 PM (noon) on the Part 2 Date, if its Part 2 Proposal is complete, and if its Part 2 Proposal fully complies with the requirements of Article V of these RFP Rules.
- VII.1.37. An RFP Bidder that submits a Part 2 Proposal will be notified whether it is eligible to submit Bids no later than 6 PM on the Part 2 Notification Date. The Independent Evaluator provides such notification to the RFP Bidder by email.
- VII.1.38. If the RFP Bidder has not qualified to submit Bids, the Independent Evaluator notifies the RFP Bidder of that fact, returns one (1) copy of the Part 2 Form, and returns all documents submitted for the Part 2 Proposal except for the Pre-Bid Letter of Credit by overnight delivery service. The Independent Evaluator also provides the notification to the RFP Bidder by email.

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

- VII.2.1. An RFP Bidder must submit its Bids in accordance with the instructions provided in the Part 1 Materials and in accordance with the requirements of Article VI. An RFP Bidder's Bids must be received between 10 AM and 12 PM (noon) on the Bid Date. The requirements for Bid submission are the same for all RFP Bidders, regardless of whether they were previously eligible to submit Bids.
- VII.2.2. The Bid Form, as provided to each RFP Bidder with the Part 1 Notification, is the exclusive method for the submission of Bids. A sample of the Bid Form is provided for illustrative purposes as Appendix 9 of these RFP Rules. The Bid Form is prepared specifically for each RFP Bidder. The Bid Form must be filled out completely and transferred according to the instructions provided by the Independent Evaluator in the Part 1 Materials. The RFP Bidder may encrypt the Bid Form using the instructions provided by the Independent Evaluator. Bids on any Bid Form that is incompletely or inconsistently filled out will be considered deficient and will not be evaluated.
- VII.2.3. An RFP Bidder submits its Bids electronically, by transferring its Bid Form through a secure file transfer system. The RFP Bidder must use the username and the password provided by the Independent Evaluator to access the secure file transfer system. The Independent Evaluator supplies a security code that the RFP Bidder may use to encrypt the Bid Form.
- VII.2.4. An RFP Bidder that must resort to an alternate method for submitting its Bid Form by fax because of technical difficulties with the secure file transfer system must follow the instructions provided by the Independent Evaluator for this contingency. These instructions will include a representative of the RFP Bidder phoning the Independent Evaluator to advise the Independent Evaluator of the use of an alternate method for the submission of the Bid Form and to provide authenticating information. The primary alternate submission method is fax; the Independent Evaluator will accept an email submission but the Independent Evaluator will recommend that the Bid Form in this case be encrypted and the Independent Evaluator will note for the RFP Bidder that such transmission may not be secure.

- VII.2.5. All Bid Forms must be received between 10 AM and 12 PM (noon) on the Bid Date. No late Bid Forms will be considered regardless of the method used by the RFP Bidder to submit its Bid Form.
- VII.2.6. If an RFP Bidder submits its Bid Form more than once between 10 AM and 12 PM (noon) on the Bid Date, the last Bid Form submitted in accordance with all requirements of the Bid Form and of Article VI automatically supersedes all previously submitted Bid Form(s).
- VII.2.7. The Independent Evaluator acknowledges receipt of the Bid Form with each RFP Bidder by telephone. The telephone number used is the telephone number provided on the Bid Form. If the Bid Form received by the Independent Evaluator is not encrypted by the RFP Bidder, the Independent Evaluator will require that the RFP Bidder provide the security code to the Independent Evaluator before the Bid Form is acknowledged and evaluated. The Independent Evaluator makes this acknowledgment within fifteen (15) minutes of receipt of the Bid Form. An RFP Bidder that does not receive an acknowledgment within fifteen (15) minutes of submitting its Bid Form should assume technical difficulties, should proceed to submitting its Bid Form by an alternate method, and should phone the Independent Evaluator immediately.
- VII.2.8. If the Bid Form received by the Independent Evaluator is incomplete or inconsistent with all requirements of the Bid Form and of Article VI, the Independent Evaluator will advise the RFP Bidder of that fact when confirming receipt of the Bid Form. The RFP Bidder may correct and resubmit the Bid Form as long as the Bid Form is received between 10 AM and 12 PM (noon) on the Bid Date. If the corrected Bid Form is not received between 10 AM and 12 PM (noon) on the Bid Date, the Bids on the Bid Form will not be evaluated.
- VII.2.9. It is the responsibility of the RFP Bidder to ensure that a completely and consistently filled out Bid Form is submitted between 10 AM and 12 PM (noon) on the Bid Date. The Independent Evaluator will hold a training session for RFP Bidders to practice the Bid submission process. RFP Bidders are encouraged to participate to minimize the possibility of technical difficulties with the submission of their Bid Forms.
- VII.2.10. The Independent Evaluator will verify that the Pre-Bid Letter of Credit is in an amount sufficient to support the number of tranches bid by each RFP Bidder. If an RFP Bidder's Pre-Bid Letter of Credit is insufficient to support the number of tranches bid by the RFP Bidder, the Independent Evaluator

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

- VII.2.11. By submitting a Proposal in response to an RFP, each RFP Bidder is authorizing the Independent Evaluator to modify the RFP Bidder's Bid Form as specified Paragraph VII.2.10. Each RFP Bidder acknowledges and accepts that the methodology may result in removal of a Bid that would have been approved by the Commission or the retention of a Bid that was not approved by the Commission.
- VII.2.12. The Bids supported by adequate Pre-Bid Letters of Credit will be evaluated on a price-only basis. The Bids for each product will be ranked from lowest to highest price until all Bids are ranked or until the number of Bids that are ranked equals the number of tranches available for the product.
- VII.2.13. If two or more RFP Bidders submit Bids that are identical for a product, these Bids will be considered "Tied Bids" at that price. The Independent Evaluator will use the tie-breaking procedure described in the next Paragraph if: i) in total, more Bids must be ranked for a product than there are tranches available for that product; ii) the tie among two or more Tied Bids must be broken in order to determine the RFP Bidders that have submitted the lowest Bids on that product.

- VII.2.14. The tie-breaking procedure will award tranches in the following order: (1) to the RFP Bidder which, if awarded the tranche, would hold the fewest tranches for the product for any one month during the product term; (2) to the RFP Bidder which, if awarded the tranche, would hold the fewest tranches for the Class in question for any one month during the product term; and then (3) to the RFP Bidder which, if awarded the tranche, would hold the fewest tranches in aggregate for any one month during the product term. If a tie were to remain, it would be broken by random selection.
- VII.2.15. An RFP Bidder acting in concert with another RFP Bidder may be disqualified by the Independent Evaluator on behalf of the Company in its sole and exclusive discretion. The RFP Bidder will be considered to have made a material misrepresentation in its Part 2 Proposal and payment under the Pre-Bid Letter of Credit can be demanded by PECO.
- VII.2.16. For each product in this solicitation, a Default Supplier will be paid a supplier-specific price for each MWh of electric load served as specified in the Transaction Confirmation for that product. The supplier-specific price will be the average of approved Bids for that product.

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

- VII.3.1. The winning RFP Bidders and PECO must execute the Uniform SMAs and Transaction Confirmations within three (3) days of acceptance of the results by the Commission.
- VII.3.2. PECO can collect on the Pre-Bid Letter of Credit if a winning RFP Bidder does not execute the Uniform SMA and all Transaction Confirmations, or if the winning RFP Bidder does not fulfill the creditworthiness requirements in the required timeframe.
- VII.3.3. The Independent Evaluator phones each RFP Bidder that has submitted Bids by 6 PM on the Bid Date and identifies the RFP Bidder's Bids that are provided to the Commission as winning Bids. The Independent Evaluator also provides a notification to the RFP Bidder by email.
- VII.3.4. An RFP Bidder that: (i) is not a Default Supplier; and (ii) has Bids that are identified to the Commission as winning Bids; and (iii) did not provide the necessary information to prepare the Uniform SMA with the Part 1 Proposal, will receive a notification from the Independent Evaluator on the Bid Date. This notification will require that such RFP Bidder provide all information needed

to prepare the Uniform SMA by 12 PM (noon) on the next day. The Independent Evaluator uses this information to prepare the Uniform SMA for each such RFP Bidder.

- VII.3.5. An RFP Bidder that: (i) relies on the financial standing of an RFP Guarantor; (ii) has Bids that are identified to the Commission as winning Bids; and (iii) did not provide the information necessary to prepare the guaranty with the Part 1 Proposal will receive a notification from the Independent Evaluator on the Bid Date. This notification will require that such RFP Bidder provide all information needed to prepare the guaranty by 12 PM (noon) on the next day. The Independent Evaluator uses this information to prepare the guaranty for each such RFP Bidder.
- VII.3.6. The Independent Evaluator presents the results of the solicitation to the Commission on the business day after the Bid Date in a confidential report. This confidential report will include the winning Bids identified during the evaluation. The Commission will have one (1) business day to consider the report of the Independent Evaluator and to approve or reject each of the winning Bids. If the Commission does not act within one (1) business day, the winning Bids are deemed to be approved.
- VII.3.7. On the day that the Commission approves some or all of the winning Bids, the Independent Evaluator notifies all RFP Bidders that have approved Bids. Such RFP Bidders are called Default Suppliers. When referring specifically to RFP Bidders that are not already Default Suppliers, the term New Default Suppliers will be used. When referring specifically to RFP Bidders that are already Default Suppliers, the term Existing Default Suppliers will be used.
- VII.3.8. On the day the Commission approves some or all of the winning Bids, the Independent Evaluator provides to PECO the name of each Default Supplier, the number of tranches won by each Default Supplier, and the Default Supplier's price for each product. The price for each such Default Supplier and for a given product is the average of the Default Supplier's approved Bids for that product in this solicitation.
- VII.3.9. On the day the Commission approves some or all of the winning Bids, the Independent Evaluator sends to PECO by secure file transfer the Uniform SMA, including all Exhibits, for each New Default Supplier. On the same day, the Independent Evaluator sends to PECO by secure file transfer the guaranty for each Default Supplier relying on the financial standing of an RFP Guarantor. The



Independent Evaluator also sends to PECO by secure file transfer the most current contact information that the Independent Evaluator has for each Default Supplier.

VII.3.10. On the business day following the Commission approval of some or all of the winning Bids, PECO prepares one (1) Transaction Confirmation (Exhibit 1 of the Uniform SMA) for each product and Default Supplier. PECO partially executes two (2) originals of each Transaction Confirmation for each Default Supplier and each product. PECO also partially executes two (2) originals of the Uniform SMA with each New Default Supplier.

VII.3.11. By 12PM on the second business day following the Commission approval of some or all of the winning Bids, PECO sends:

- One (1) copy of the signature page of the Uniform SMA (page 75) and one (1) copy of the signature page of Exhibit 3, the PJM Declaration of Authority (page 9) by fax or other electronic means to each New Default Supplier;
- One (1) copy of the partially executed Transaction Confirmation by fax or other electronic means to each Default Supplier for each product for which the Default Supplier has won tranches; and
- The guaranty by secure file transfer for each Default Supplier relying on the financial standing of an RFP Guarantor.

PECO also informs each Default Supplier of its specific creditworthiness requirements.

VII.3.12. By close of the second business day following the Commission approval of some or all of the winning Bids, PECO sends by overnight delivery service:

- The two (2) originals of the partially executed Uniform SMA, including all Exhibits, to each New Default Supplier; and
- Two (2) original partially executed Transaction Confirmations to each Default Supplier for each product for which such Default Supplier has approved Bids.

VII.3.13. By 2PM on the third business day following Commission approval of some or all of the winning Bids:

- Each New Default Supplier partially executes the two (2) originals of the Uniform SMA and the two (2) originals of Exhibit 3, the PJM Declaration of Authority and returns one (1) copy of these signature pages to PECO by fax or other electronic means;
- Each Default Supplier partially executes the two (2) originals of the Transaction Confirmations and returns one (1) copy of the signature page to PECO by fax or other electronic means; and
- Each Default Supplier relying on the financial standing of an RFP Guarantor executes the guaranty sent by secure file transfer and returns one (1) copy of the signature page of the guaranty to PECO by fax or other electronic means.

VII.3.14. By close of the third business day following Commission approval of some or all of the winning Bids:

- Each New Default Supplier returns by overnight delivery service to PECO one (1) original of the Uniform SMA, including all Exhibits;
- Each Default Supplier returns by overnight delivery service to PECO one (1) original of the Transaction Confirmation;
- Each Default Supplier complies with all instructions from PECO to fulfill the creditworthiness requirements under the Uniform SMA.

VII.3.15. Following receipt of originals by PECO:

- PECO and each New Default Supplier have one (1) fully executed original of the Uniform SMA and of Exhibit 3, the PJM Declaration of Authority, as well as all other Exhibits;
- PECO and each Default Supplier have one (1) fully executed original of a Transaction Confirmation for each product for which the Default Supplier has approved Bids;

VII.3.16. As provided in the Commission's directive dated October 12, 2010 (Docket No. M-2009-2082042), the Independent Evaluator will release, within fifteen (15) days of the close of the solicitation, the weighted average price and the percentage of load represented by each tranche for each product procured through this RFP. The Independent Evaluator will issue an announcement on behalf of PECO with this information and the announcement will also be posted to the RFP website.

VII.3.17. Within fifteen (15) days of the full execution of the Uniform SMA, the Independent Evaluator provides to PECO a report on the solicitation. This report is based on the confidential report provided to the Commission, except that no losing bid information specific to a particular RFP Bidder is provided and that any information that an RFP Bidder may consider confidential or proprietary is also redacted.

VII.3.18. As provided in the PaPUC's directive dated October 12, 2010 (Docket No. M-2009-2082042), PECO will continue to provide a default service rate calculation model. The model shows the methodology for translating RFP results into default service rates. This calculation model is posted to the PECO website:

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

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

VII.4.1. Any information provided by an RFP Bidder in its Part 1 Proposal is provided on a confidential basis to the Independent Evaluator and may be provided on a confidential basis to the Commission Staff. PECO representatives will review the information provided to fulfill the requirements of Section IV.2, Section IV.3, Section IV.6, and Section IV.7 and will participate in the evaluation of the creditworthiness of each RFP Bidder.

VII.4.2. Any information provided by an RFP Bidder in its Part 2 Proposal is provided on a confidential basis to the Independent Evaluator, and may be provided on a confidential basis to the Commission Staff. PECO representatives will review the Pre-Bid Letter of Credit with the name of the RFP Bidder and the amount redacted and will participate in the evaluation of this Pre-Bid Letter of Credit. PECO representatives will also review the documents provided to fulfill the requirements of Section V.4 and Section V.5.

VII.4.3. The Independent Evaluator and representatives from PECO involved in the evaluation of Proposals will consider all data and information provided by RFP Bidders in response to this RFP to be confidential and will attempt to limit its disclosure to the public in accordance with the provisions of this Section. PECO will also take reasonable action to ensure that its employees, representatives

and agents authorized to consider and evaluate all Proposals protect the confidentiality of such data and information. Each representative of the Independent Evaluator and PECO that has access to any portion of the Proposals is required to sign a Confidentiality Statement in the form of Appendix 11 to these RFP Rules prior to evaluation of any portion of the Proposals. The list of all signatories is available to an RFP Bidder upon request.

VII.4.4. However, absolute protection from public disclosure of the RFP Bidders' data and information filed in response to this RFP cannot be provided and is not intended. By submitting a Proposal in response to this RFP, each RFP Bidder acknowledges and agrees to the limitations of the confidentiality provisions set forth in this Section.

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

## **ARTICLE VIII. Reserved Rights**

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

VIII.1.2. The Independent Evaluator reserves the right to reject Proposals submitted in response to this RFP that are incomplete, or do not conform with the requirements of this RFP, or are submitted beyond

the deadline for submission, or are submitted by an RFP Bidder that tries to unduly influence in any way the evaluation process.

**PECO Energy Company -  
Pennsylvania Default Service Supplier Master  
Agreement**

**SEE EXHIBIT B**

## Guaranty Process

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

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

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

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

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

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

## Appendix 2 to the RFP Rules

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

### Minimum Requirements for the Alternate Guaranty Form

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

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



## Appendix 2 to the RFP Rules

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

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

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

### Timetable

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

The deadline to submit an alternate guaranty form, with all the required documentation including a certification from the guarantor and an enforceability opinion as specified in the Minimum Requirements above, is 6 PM<sup>1</sup> on December 11, 2014. Materials must be submitted electronically by email to the Independent Evaluator at [PECOprocurement@nera.com](mailto:PECOprocurement@nera.com).

By December 15, 2014, the Independent Evaluator will inform each prospective supplier whether its alternate guaranty form is acceptable or whether it must modify its alternate guaranty form for it to be acceptable to PECO. A prospective supplier will have no less than two (2) business days to incorporate any necessary changes identified by PECO and to resubmit the alternate guaranty form. The deadline for resubmitting a revised enforceability opinion is 6 PM on December 17, 2014. The deadline for resubmitting the alternate guaranty form and any other supporting documentation is 6 PM on December 17, 2014. The Independent Evaluator will advise prospective suppliers of the final decision with respect to the alternate guaranty form in writing on or before December 18, 2014.

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

**Appendix 2 to the RFP Rules**

<b>Timetable for Submission of Alternate Guaranty Forms</b>	
Deadline to submit alternate guaranty form and all required documentation	Noon on Thursday, December 11, 2014
Independent Evaluator informs prospective suppliers of any required changes	Monday, December 15, 2014
Deadline to submit required modifications or revisions to the alternate guaranty form or other required documents	6PM on Wednesday, December 17, 2014
Deadline to submit revised enforceability opinion	6PM on Wednesday, December 17, 2014
Independent Evaluator informs prospective suppliers of PECO's decision	Thursday, December 18, 2014

**Sample Language**

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

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

**Section 2. Process to Propose Modifications to the Standard Guaranty**

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

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

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

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

**Timetable**

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

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

The deadline to submit proposed modifications to the Standard Guaranty is 6 PM on December 11, 2014. By December 18, 2014, the Independent Evaluator will inform the prospective supplier whether its proposed modifications are acceptable to PECO.

The document containing all acceptable modifications will be posted to the RFP website by 6 PM on December 18, 2014.

<b>Timetable for Process to Propose Modifications to the Standard Guaranty</b>	
Deadline to submit proposed modifications to the Standard Guaranty	Noon on Thursday, December 11, 2014
Independent Evaluator informs proposing parties of PECO’s decision and posts document containing all acceptable modifications	Thursday, December 18, 2014

Name of RFP Bidder

**APPENDIX 3 – STANDARD PART 1 FORM  
DEFAULT SERVICE PROGRAM  
REQUEST FOR PROPOSALS  
PART 1 DATE: February 24, 2015**

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

This Standard Part 1 Form is the only form that may be used to submit a Part 1 Proposal if you have not previously submitted a successful Part 1 Proposal in a previous solicitation under PECO’s third Default Service Program (“DSP III”).

Before completing this Part 1 Form, please review the RFP, including the PECO Energy Company - Pennsylvania Default Service Supplier Master Agreement (“Uniform SMA”), so that you understand the conditions under which the RFP will be conducted. These documents are posted at [www.PECOprocurement.com](http://www.PECOprocurement.com).

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

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

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

## **INSTRUCTIONS FOR PROPOSAL**

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

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

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

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

An RFP Bidder must:

- Submit **one (1) scanned copy** of the completed Part 1 Form electronically either on a CD via overnight delivery service or by email to [PECOprocurement@nera.com](mailto:PECOprocurement@nera.com);
- Submit **one (1) copy** (one hard copy or one electronic copy on a CD via mail or by email to [PECOprocurement@nera.com](mailto:PECOprocurement@nera.com)) of documents required to support the Part 1 Form as specified in Section 2, Section 3, Section 6, and Section 7; and
- Manually insert the name of the RFP Bidder **on every page** of the Part 1 Form.

The Independent Evaluator may issue additional instructions as an addendum to the RFP Rules.

*The completed Part 1 Proposal MUST be received by the Independent Evaluator no later than 12 PM (noon) EPT<sup>1</sup> on February 24, 2015 (the Part 1 Date) at:*

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

Inquiries may be directed to the Independent Evaluator by:

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

**Facsimiles of completed forms will not be accepted under any circumstances.**

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

*Name of RFP Bidder*

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

### Notifications

The Independent Evaluator sends you notifications by email.

### Confirmation

When your Part 1 Proposal is received, the Independent Evaluator sends an acknowledgment by email. If your Part 1 Proposal is hand-delivered, a confirmation consisting of a photocopy of the first page of the Part 1 Form stamped with the time and the date that it was received will be provided to the deliverer.

### Timing of Part 1 Proposal Review

The Part 1 Window opens at 8 AM on February 18, 2015 and closes at 12 PM (noon) on February 24, 2015. The last day of the Part 1 Window is called the Part 1 Date. The Independent Evaluator performs an initial review of all Part 1 Proposals during the Part 1 Window. Part 1 Proposals received prior to the Part 1 Window are processed at the opening of the Part 1 Window. Part 1 Proposals received during the Part 1 Window are processed on the day they are received. Proposals received after the Part 1 Window has closed are late proposals and are not processed.

### Incomplete Part 1 Proposals

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

### Late Part 1 Proposals

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

### Part 1 Notification

When your Part 1 Proposal is complete, the Independent Evaluator will send a complete notice to your Representative with a copy of the first page of your Part 1 Form stamped “complete”. Each RFP Bidder that submits a Part 1 Proposal will be notified by email whether it met all qualification standards of this RFP no later than 6 PM on February 26, 2015 (the Part 1 Notification Date).

**Appendix 3 to the RFP Rules**

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

**RFP Bidders Under Agency Agreements**

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

**Foreign RFP Bidders and Foreign Entities**

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



Name of RFP Bidder

## PART 1 FORM

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### 1. Contact Information and Representations

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

First Item: Name and Address of the RFP Bidder

*Legal Name of RFP Bidder*

*Street Address*

*City*

*State*

*Zip Code*

Second Item: Officer of the RFP Bidder

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

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

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

*Last Name*

*Given Name(s)*

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

*Title*

*Street Address*

*City*

*State*

*Zip Code*

*Telephone No.*

*Email Address*

**Appendix 3 to the RFP Rules**

*Name of RFP Bidder*

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

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

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

**BELOW, THE REPRESENTATIVE IS DESIGNATED BY THE OFFICER OF THE RFP BIDDER.**

(the Officer of the RFP Bidder named above) hereby designates _____, whose contact information is immediately below, to serve as the Representative of the RFP Bidder.	
_____ Signature of Officer	_____ Date
Printed Name	

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

<i>Last Name</i>	<i>Given Name(s)</i>	<i>Mr/Mrs/Ms/Dr/(other)</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Title</i>		
<input type="text"/>		
<i>Street Address</i>		
<input type="text"/>		
<input type="text"/>		
<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Telephone No.</i>	<i>Alternate Telephone No. (if available)</i>	<i>Email Address</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>

If a notification is sent by overnight delivery service to the RFP Bidder, it will be sent to the address provided for the Representative.

**Appendix 3 to the RFP Rules**

Fourth Item: Nominees

The Independent Evaluator provides notifications to the RFP Bidder by email and provides documents needed for participation by secure file transfer. Any such notification will be deemed received by the RFP Bidder at the time of delivery or transmission, provided that where delivery or transmission occurs after 6 PM on a business day or occurs on a day that is not a business day, receipt will be deemed to occur at 9 AM on the following business day.

The Representative or the Officer of the RFP Bidder may designate up to three (3) authorized individuals to receive communications from the Independent Evaluator in addition to the Representative. Each such authorized individual is a Nominee. The Representative of the RFP Bidder or the Officer of the RFP Bidder may designate such other authorized individuals at any time during the solicitation.

Is the RFP Bidder designating Nominees at this time?

yes

no

**IF THE REPRESENTATIVE OR THE OFFICER OF THE RFP BIDDER IS DESIGNATING NOMINEES AT THIS TIME, THE REPRESENTATIVE OR THE OFFICER OF THE RFP BIDDER MUST COMPLETE THE NOMINATION FORM PROVIDED AS ATTACHMENT 1 TO THE PART 1 FORM FOR THIS PURPOSE.**

Fifth Item: Representations by the Officer of the RFP Bidder

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

I certify that:

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

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

Name of RFP Bidder

2. Financial Requirements

PROVIDE ALL INFORMATION REQUESTED IN THIS SECTION 2 OF THIS PART 1 FORM. ANY DOCUMENT REQUIRED IN THIS SECTION MUST BE PROVIDED ELECTRONICALLY (ON A CD SENT BY OVERNIGHT DELIVERY SERVICE OR BY EMAIL TO THE INDEPENDENT EVALUATOR AT PECOPROUREMENT@NERA.COM) OR IN HARD COPY.

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

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

CHECK ONE OF THE TWO BOXES BELOW:

- (a) the RFP Bidder is relying on its own financial standing
(b) the RFP Bidder is relying on the financial standing of . which is (check one): an RFP Guarantor a Principal

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

Legal Name of Entity

[Empty text box for Legal Name of Entity]

Street Address

[Empty text box for Street Address]

City

State

Zip Code

[Empty text box for City]

[Empty text box for State]

[Empty text box for Zip Code]

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

Second Item: Financial Information

IF PROVIDING HARD COPIES OF FINANCIAL STATEMENTS, ONE (1) COPY IS SUFFICIENT.

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

### Appendix 3 to the RFP Rules

#### *Name of RFP Bidder*

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

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

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

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

#### Third Item: Credit Ratings

The RFP Bidder must submit all available ratings for the entity on whose financial standing it is relying from the following rating agencies: Standard & Poor’s Ratings Services (“S&P”), Moody’s Investors Service, Inc. (“Moody’s”), and Fitch Ratings (“Fitch”).

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

**If yes**, please provide:

- The entity’s rating
- The type of rating

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

**If yes**, please provide:

- The entity’s rating
- The type of rating

3. Is the entity rated by Fitch?  
 yes  no

**If yes**, please provide:

- The entity’s rating
- The type of rating

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

### 3. Letters of Credit and Uniform SMA Documents

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

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

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

yes  no

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

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

**[HTTP://PECOPROUREMENT.COM/INDEX.CFM?S=SUPPLIERINFORMATION&P=DOCUMENTS](http://pecoprocurement.com/index.cfm?s=supplierinformation&p=documents)**

**THE DRAFT PRE-BID LETTER OF CREDIT MUST BE SUBMITTED ELECTRONICALLY, IN MICROSOFT WORD WITH TRACKED CHANGES, AND MAY BE SAVED TO A CD THAT IS SENT BY OVERNIGHT DELIVERY SERVICE, OR IT MAY BE EMAILED TO THE INDEPENDENT EVALUATOR AT [PECOPROUREMENT@NERA.COM](mailto:PECOPROUREMENT@NERA.COM).**

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

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

yes  no

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

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

**[HTTP://PECOPROUREMENT.COM/INDEX.CFM?S=SUPPLIERINFORMATION&P=DOCUMENTS](http://pecoprocurement.com/index.cfm?s=supplierinformation&p=documents)**

**THE DRAFT POST-BID LETTER OF CREDIT MUST BE SUBMITTED ELECTRONICALLY, IN MICROSOFT WORD WITH TRACKED CHANGES, AND MAY BE SAVED TO A CD THAT IS SENT BY OVERNIGHT DELIVERY SERVICE, OR IT MAY BE EMAILED TO THE INDEPENDENT EVALUATOR AT [PECOPROUREMENT@NERA.COM](mailto:PECOPROUREMENT@NERA.COM).**

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

Third Item: Ability to Perform

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

- (1) I certify that the RFP Bidder has no actions at law, suits in equity, proceedings or claims pending or, to the RFP Bidder’s knowledge, threatened against it before any federal, state, foreign or local court, tribunal or governmental agency or authority that might materially delay, prevent or hinder the RFP Bidder’s performance of its obligations under the Uniform SMA.
- (2) I certify that the RFP Bidder is not bankrupt or insolvent and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt or insolvent.

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

\_\_\_\_\_  
Date

Fourth Item: Information to Prepare the Uniform SMA and Its Exhibits

Are you a Default Service Supplier?

yes

no

**If yes**, please proceed to the next item in this section, “Information to Prepare the Guaranty”

**If no**, you are asked to specify any elections to be made in the Uniform SMA, to provide contact information required to prepare the Form of Notice, which is included as Exhibit 2 to the Uniform SMA, and to provide any additional information required to prepare the Uniform SMA and its Exhibits. If the Independent Evaluator identifies one or more of your Bids to the Commission as winning Bids, the Independent Evaluator will use this information to prepare the Uniform SMA and its Exhibits for execution.

**IF YOU ARE PROVIDING THESE ELECTIONS AND INFORMATION AT THIS TIME, YOU MUST DO SO USING THE UNIFORM SMA INFORMATION FORM PROVIDED AS ATTACHMENT 2 TO THE PART 1 FORM FOR THIS PURPOSE.**

**IF YOU FAIL TO SUBMIT THESE ELECTIONS AND INFORMATION AT THIS TIME, THE OFFICER OF THE RFP BIDDER MUST SIGN THE CERTIFICATION BELOW.**

I certify that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder’s Bids to the Commission as winning Bids, the RFP Bidder will be required to provide: (i) any elections to be made in the Uniform SMA; and (ii) the contact information to prepare the Form of Notice; and (iii) any additional information required to prepare the Uniform SMA and its Exhibits; by 12 PM (noon) EPT on the day after such notification is received.

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

\_\_\_\_\_  
Date

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

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

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

yes

no

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

**If yes**, you are asked: (i) to specify the governing laws under which the RFP Guarantor is organized; (ii) to provide contact information for the RFP Guarantor, including the name and title of the signatory of the guaranty for notices under the guaranty; (iii) to make its elections to incorporate any or all of the approved modifications to the Standard Guaranty.

**IF YOU ARE PROVIDING THESE ELECTIONS AND INFORMATION AT THIS TIME, YOU MUST DO SO USING THE GUARANTY INFORMATION FORM PROVIDED AS ATTACHMENT 3 TO THE PART 1 FORM FOR THIS PURPOSE.**

**IF YOU FAIL TO SUBMIT THESE ELECTIONS AND INFORMATION AT THIS TIME, THE OFFICER OF THE RFP BIDDER MUST SIGN THE CERTIFICATION BELOW.**

I certify that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder’s Bids to the Commission as winning Bids, the RFP Bidder: (i) will specify the governing laws under which the RFP Guarantor is organized; (ii) will provide contact information for the RFP Guarantor, including the name and title of the signatory of the guaranty for notices under the guaranty; (iii) will make its elections to incorporate any or all of the approved modifications to the Standard Guaranty; by 12 PM (noon) EPT on the day after such notification is received.

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

\_\_\_\_\_  
Date



#### 4. Regulatory Representations

By the time service begins, a Default Supplier must be a Load Serving Entity (“LSE”) in good standing in PJM, and must be a signatory of all applicable PJM Agreements, including the Reliability Assurance Agreement (“RAA”).

Is the RFP Bidder an LSE in PJM?

yes

no

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

If, **no**, the Officer of the RFP Bidder make the following certification.

I certify that the RFP Bidder has investigated the requirements to become an LSE in PJM and that there exist no impediments for the RFP Bidder to become an LSE by the start of the supply period and to remain an LSE for the duration of the supply period. The RFP Bidder undertakes to be qualified as a PJM LSE by the start of the supply period should the RFP Bidder become a Default Supplier.

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

\_\_\_\_\_  
Date

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

## 5. Additional Representations

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

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

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

\_\_\_\_\_  
Date

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

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

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

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

yes

no

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

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

First Item: Certifications

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

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

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

\_\_\_\_\_  
Date

Second Item: Principals and Agency Agreement

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

*Name of Principal or Principals*

Agency Agreement

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

Financial Information

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

**Appendix 3 to the RFP Rules**

*Name of RFP Bidder*

*Third Item: Draft Officers' Certificate*

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

Is the RFP Bidder submitting a draft Officers' Certificate?

yes

no

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

## 7. Foreign RFP Bidders and Foreign Entities

Is the RFP Bidder a Foreign RFP Bidder?

yes  no

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

yes  no

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

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

### First Item: Evidence of Creditworthiness

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

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

yes  no

### Second Item: Representations

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

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

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

\_\_\_\_\_  
Date

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

**THE OFFICER OF AN RFP BIDDER RELYING ON THE FINANCIAL STANDING OF AN RFP GUARANTOR THAT IS A FOREIGN ENTITY MUST MAKE THE FOLLOWING CERTIFICATION:**

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

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

\_\_\_\_\_  
Date

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

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

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

\_\_\_\_\_  
Date

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

Third Item: Draft Documents

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

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

yes  no

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

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

**FOR FOREIGN RFP BIDDERS:**

Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the Uniform SMA is binding.

Draft sworn certificate of the corporate secretary (or similar officer) of the Foreign RFP Bidder that the person executing the Uniform SMA is so authorized and that its governing board has approved the execution of the Uniform SMA.

Draft sworn certificate of the corporate secretary (or similar officer) of the Foreign RFP Bidder that its governing board has authorized the execution of agreements of the same type as the Uniform SMA in the past.

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

Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the guaranty pursuant to the Uniform SMA is binding.

Draft sworn certificate of the corporate secretary (or similar officer) of the RFP Guarantor that the person executing the guaranty is so authorized and that its governing board has approved the execution of the guaranty pursuant to the Uniform SMA.

Draft sworn certificate of the corporate secretary (or similar officer) of the RFP Guarantor that its governing board has authorized the execution of a guaranty of the same type as the guaranty pursuant to the Uniform SMA in the past.

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

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


- Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the Uniform SMA is binding.
- Draft sworn certificate of the corporate secretary (or similar officer) of the Principal that its governing board has authorized the execution of agreements of the same type as the Uniform SMA in the past.



*Name of RFP Bidder*

**8. Justification of Omissions**

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

A large, empty rectangular box with a thin black border, intended for the bidder to provide a justification for any omissions in their bid. The box is currently blank.

Name of RFP Bidder

## ATTACHMENT 1 – NOMINATION FORM

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

(the Officer of the RFP Bidder or Representative of the RFP Bidder) authorizes the individuals whose contact details are immediately below to receive notifications and documents.

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

\_\_\_\_\_  
Date

Printed Name

### Contact Information for Nominee #1

Last Name

GivenName(s)

Mr/Mrs/Ms/Dr/(other)

Title

Telephone No.

Alternate Telephone No. (if available)

Email Address

### Contact Information for Nominee #2

Last Name

GivenName(s)

Mr/Mrs/Ms/Dr/(other)

Title

Telephone No.

Alternate Telephone No. (if available)

Email Address

**Appendix 3 to the RFP Rules**

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

**Contact Information for Nominee #3**

*Last Name*

*GivenName(s)*

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

*Title*

*Telephone No.*

*Alternate Telephone No. (if available)*

*Email Address*

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

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

## ATTACHMENT 2 – UNIFORM SMA INFORMATION

1. Under Section 5.4(a)(i) of the Uniform SMA, the DS Supplier may, in its sole discretion, add the following subsection 5.4(a)(i) by indicating yes or no below.

5.4(a)(i) For the purposes of such determination, the DS Supply provided for under this Agreement for the period following the Early Termination Date through the remainder of the term of this Agreement shall be deemed to be those quantity amounts that would have been delivered on an hourly basis, had this Agreement been in effect during the previous calendar year adjusted for such DS Load changes as may have occurred since the previous calendar year.

Do you intend for subsection 5.4(a)(i) to be included as part of the Uniform SMA?

yes                       no

2. The information that you provide below will be used to complete Exhibit 2 (Form of Notice) to the Uniform SMA. If any of the information requested below is unavailable, please enter N/A in the corresponding fields.

(a) All Notices:

<i>Last Name</i>	<i>Given Name(s)</i>	<i>Mr/Mrs/Ms/Dr/(other)</i>
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
<i>Street Address</i>		
<input style="width: 99%;" type="text"/>		
<input style="width: 99%;" type="text"/>		
<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
<i>Telephone No.</i>	<i>Fax No.</i>	
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	
<i>DUNS</i>	<i>Federal Tax I.D. Number</i>	
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	

(b) Invoices:

<i>ATTN:</i>		
<i>Last Name</i>	<i>Given Name(s)</i>	<i>Mr/Mrs/Ms/Dr/(other)</i>
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
<i>Telephone No.</i>	<i>Fax No.</i>	
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	

**Appendix 3 to the RFP Rules**

            
*Name of RFP Bidder*

(c) **Scheduling:**

*ATTN:*

*Last Name*

*Given Name(s)*

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

*Telephone No.*

*Fax No.*

(d) **Payments:**

*ATTN:*

*Last Name*

*Given Name(s)*

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

*Telephone No.*

*Fax No.*

(e) **Wire Transfer:**

*Bank*

*ABA*

*ACCT*

(f) **Credit and Collections:**

*ATTN:*

*Last Name*

*Given Name(s)*

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

*Telephone No.*

*Fax No.*

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

*ATTN:*

*Last Name*

*Given Name(s)*

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

*Telephone No.*

*Fax No.*

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

## ATTACHMENT 3 – GUARANTY INFORMATION

### 1. Contact Information

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

*Name of RFP Guarantor*

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

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

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

- (b) The following information regarding the RFP Bidder:

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

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

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

*Last Name*

*Given Name(s)*

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

*Title*

*Company*

*Street Address*

*City*

*State*

*Zip Code*

*Phone Number*

*Fax*

Name of RFP Bidder

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

<i>Last Name</i>	<i>Given Name(s)</i>	<i>Mr/Mrs/Ms/Dr/(other)</i>
<i>Title</i>		

**2. Elections of Optional Modifications to the Guaranty**

ALL OPTIONAL CHANGES THAT THE RFP BIDDER MAY ADOPT FOR THE FORM OF GUARANTY ARE PROVIDED BELOW. YOU MUST INDICATE THE CHANGES THAT YOU ARE ELECTING IN THE TABLE provided at the end of this Appendix 2.

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

THIS GUARANTY (this “Guaranty”), dated as of \_\_\_\_\_, 201\_, 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 PECO Energy Company - Pennsylvania Default Service Supplier Master Agreement dated \_\_\_\_\_, 201\_ and the \_\_\_\_\_ dated \_\_\_\_\_, 201\_ [insert name(s) and date(s) of prior Agreement(s) with PECO that remain in effect with the effective dates of such Agreement(s)] (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 “DS Supplier”). 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 DS Supplier. 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 DS Supplier to the Guaranteed Party arising out of the Agreement(s). Without limiting the generality of the foregoing, Guarantor further agrees as follows:

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

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

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

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

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the DS Supplier as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). †Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \$\_\_\_\_, less the value of other liquid securities posted by the DS Supplier 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.

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

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

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

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

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

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



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

**(Optional Change #7) Paragraph 1:**

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

**(Optional Change #8) Paragraph 2:**

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

**(Optional Change #9) Paragraph 4:**

4. Subject to the terms and conditions hereof, the obligations of the Guarantor under this Guaranty are absolute, irrevocable and unconditional and, shall not be released, discharged or otherwise affected by: (a) any extension, renewal, settlement, compromise, waiver, consent, discharge or release by the DS Supplier concerning any provision of the Agreement(s) governing any of the Guaranteed Obligations of the DS Supplier; (b) the rendering of any judgment against the DS Supplier 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 DS Supplier and the Guaranteed Party; (e) any change in the corporate existence (including its constitution, laws, rules, regulations or powers), structure or ownership of the DS Supplier or the Guarantor, or any insolvency, bankruptcy, reorganization or other similar proceedings affecting the DS Supplier, 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 DS Supplier, or the Guaranteed Party, whether in connection herewith or in connection with any unrelated transaction; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim; and (g) the invalidity, irregularity or unenforceability in whole or in part of the Agreement(s) or any Guaranteed Obligations or any instrument evidencing any Guaranteed Obligations or the absence of any action to enforce the same.

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Name of RFP Bidder

**(Optional Change #10) Paragraph 5:**

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

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

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 DS Supplier 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.

**(Optional Change #12) Paragraph 11:**

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

**(Optional Change #13) Paragraph 11:**

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

## Appendix 3 to the RFP Rules

Name of RFP Bidder

### **(Optional Change #14) Paragraph 12:**

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

### **(Optional Change #15) Paragraph 13:**

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

### **(Optional Change #16) Paragraph 14:**

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

### **(Optional Change #17) Paragraph 14:**

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

**Appendix 3 to the RFP Rules**

*Name of RFP Bidder*

**(Optional Change #18) Paragraph 17:**

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

**(Optional Change #19) Closing Paragraph and Signature Block:**

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

Accepted and Agreed to:

[GUARANTOR]

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

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

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

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

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

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

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

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

PECO ENERGY COMPANY

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

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

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

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

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

**(Optional Changes #20, #21 & #22): If the RFP Bidder wishes to add an Additional Guarantor to the Standard Form of Guaranty, all three changes below must be made.**

**(Optional Change #20) Preamble:**

THIS GUARANTY (this “Guaranty”), dated as of \_\_\_\_\_, 20\_\_, is made by \_\_\_\_\_ (the “Guarantor”), a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ [a state of the United States or of the District of Columbia] and \_\_\_\_\_ (the “Additional Guarantor”), a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ [a state of the United States or of the District of Columbia], in favor of PECO Energy Company (the “Guaranteed Party”), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania. Terms not defined herein shall have the meanings given to them in the PECO Energy Company - Pennsylvania Default Service Supplier 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 “DS Supplier”). 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 DS Supplier. 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 DS Supplier to the Guaranteed Party arising out of the Agreement(s). Without limiting the generality of the foregoing, Guarantor further agrees as follows:

**(Optional Change #21) Additional Paragraph:**

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

**(Optional Change #22) Closing Paragraph and Signature Block:**

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

Accepted and Agreed to:

[GUARANTOR]

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

[ADDITIONAL GUARANTOR]

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

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

**Appendix 3 to the RFP Rules**

PECO ENERGY COMPANY

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

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

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

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

**Appendix 3 to the RFP Rules**

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

**PLEASE INDICATE IN THE TABLE BELOW WHICH OF THE OPTIONAL MODIFICATIONS YOU WISH TO MAKE TO THE FORM OF GUARANTY:**

Optional Change	Paragraph	RFP Bidder adopts change
1	Preamble	<input type="checkbox"/> yes <input type="checkbox"/> no
2	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
3	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
4	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
5	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
6	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
<b>7</b>	<b>Paragraph 1</b>	<input type="checkbox"/> <b>yes (*)</b> <input type="checkbox"/> no <b>Provide the information below under (*)</b>
8	Paragraph 2	<input type="checkbox"/> yes <input type="checkbox"/> no
9	Paragraph 4	<input type="checkbox"/> yes <input type="checkbox"/> no
10	Paragraph 5	<input type="checkbox"/> yes <input type="checkbox"/> no
11	Paragraph 10	<input type="checkbox"/> yes <input type="checkbox"/> no
12	Paragraph 11	<input type="checkbox"/> yes <input type="checkbox"/> no
13	Paragraph 11	<input type="checkbox"/> yes <input type="checkbox"/> no
14	Paragraph 12	<input type="checkbox"/> yes <input type="checkbox"/> no
15	Paragraph 13	<input type="checkbox"/> yes <input type="checkbox"/> no
16	Paragraph 14	<input type="checkbox"/> yes <input type="checkbox"/> no
17	Paragraph 14	<input type="checkbox"/> yes <input type="checkbox"/> no
<b>18</b>	<b>Paragraph 17</b>	<input type="checkbox"/> <b>yes (**)</b> <input type="checkbox"/> no <b>Provide the information below under (**)</b>
19	Closing Paragraph and Signature Block	<input type="checkbox"/> yes <input type="checkbox"/> no
<b>20</b>	<b>Additional Guarantor</b>	<input type="checkbox"/> <b>yes (***)</b> <input type="checkbox"/> no <b>Provide the information below under (***)</b>
<b>21</b>		
<b>22</b>		

**(\*) PLEASE NOTE** that optional change #7 is only available to an RFP Bidder that has an outstanding guaranty with PECO.

**(\*) PLEASE PROVIDE THE FOLLOWING ADDITIONAL INFORMATION IF YOU ELECT OPTIONAL CHANGE #7:**

Date of Existing Guaranty

Amount of Existing Guaranty

**Appendix 3 to the RFP Rules**

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

**(\*\*) THE REPRESENTATIVE OF THE RFP BIDDER OR THE OFFICER OF THE RFP BIDDER MUST MAKE THE FOLLOWING REPRESENTATION IF YOU ELECT OPTIONAL CHANGE #18:**

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

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

\_\_\_\_\_  
Date

**(\*\*\*) PLEASE PROVIDE THE FOLLOWING ADDITIONAL INFORMATION IF YOU ELECT OPTIONAL CHANGES #20, 21, AND 22:**

*Name of Additional Guarantor*

*Place of Incorporation of Additional Guarantor*

***End of Part 1 Form***

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Name of RFP Bidder

**APPENDIX 4 – SHORT PART 1 FORM  
DEFAULT SERVICE PROGRAM  
REQUEST FOR PROPOSALS  
PART 1 DATE: February 24, 2015**

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

This Short Part 1 Form may only be used by an entity that has submitted a successful Part 1 Proposal in a previous solicitation under PECO’s third Default Service Program (“DSP III”).

Before completing this Part 1 Form, please review the RFP, including the PECO Energy Company - Pennsylvania Default Service Supplier Master Agreement (“Uniform SMA”), so that you understand the conditions under which the RFP will be conducted. These documents are posted at [www.pecoprocurement.com](http://www.pecoprocurement.com).

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

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

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

## **INSTRUCTIONS FOR PROPOSAL**

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

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

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

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

An RFP Bidder must:

- Submit **one (1) scanned copy** of the completed Part 1 Form electronically either on a CD via overnight delivery service or by email to [PECOprocurement@nera.com](mailto:PECOprocurement@nera.com);
- Submit **one (1) copy** (one hard copy or one electronic copy on a CD via mail or by email to [PECOprocurement@nera.com](mailto:PECOprocurement@nera.com)) of documents required to support the Part 1 Form as specified in Section 2, Section 3, Section 5, and Section 7; and
- Manually insert the name of the RFP Bidder **on every page** of the Part 1 Form.

The Independent Evaluator may issue additional instructions as an addendum to the RFP Rules.

*The completed Part 1 Proposal MUST be received by the Independent Evaluator no later than 12 PM (noon) EPT<sup>1</sup> on February 24, 2015 (the Part 1 Date) at:*

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

Inquiries may be directed to the Independent Evaluator by:

- telephone (215) 568-0200
- through the “Ask a Question” page on the RFP website at [www.PECOprocurement.com](http://www.PECOprocurement.com)

**Facsimiles of completed forms will not be accepted under any circumstances.**

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

*Name of RFP Bidder*

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

### Notifications

The Independent Evaluator sends you notifications by email.

### Confirmation

When your Part 1 Proposal is received, the Independent Evaluator sends an acknowledgment by email. If your Part 1 Proposal is hand-delivered, a confirmation consisting of a photocopy of the first page of the Part 1 Form stamped with the time and the date that it was received will be provided to the deliverer.

### Timing of Part 1 Proposal Review

The Part 1 Window opens at 8 AM on February 18, 2015 and closes at 12 PM (noon) on February 24, 2015. The last day of the Part 1 Window is called the Part 1 Date. The Independent Evaluator performs an initial review of all Part 1 Proposals during the Part 1 Window. Part 1 Proposals received prior to the Part 1 Window are processed at the opening of the Part 1 Window. Part 1 Proposals received during the Part 1 Window are processed on the day they are received. Proposals received after the Part 1 Window has closed are late proposals and are not processed.

### Incomplete Part 1 Proposals

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

### Late Part 1 Proposals

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

### Part 1 Notification

When your Part 1 Proposal is complete, the Independent Evaluator will send a complete notice to your Representative with a copy of the first page of your Part 1 Form stamped “complete”. Each RFP Bidder that submits a Part 1 Proposal will be notified by email whether it met all qualification standards of this RFP no later than 6 PM on February 26, 2015 (the Part 1 Notification Date).

## Appendix 4 to the RFP Rules

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

### RFP Bidders Under Agency Agreements

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

### Foreign RFP Bidders and Foreign Entities

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

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

## PART 1 FORM

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

yes

no

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

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

### 1. Contact Information and Representations

First Item: Name and Address of the RFP Bidder

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

yes

no

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

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

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

*Legal Name of RFP Bidder*

*Street Address*

*City*

*State*

*Zip Code*

**Appendix 4 to the RFP Rules**

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

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

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

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

yes  no

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

yes  no

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

**If you answered NO to one of the questions above**, please provide below the name and contact information for the Officer of the RFP Bidder. The individual named as Officer of the RFP Bidder must be an officer, a director, or an individual otherwise authorized to undertake contracts (including the Uniform SMA) and bind the RFP Bidder.

*Last Name*

*Given Name(s)*

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

*Title*

*Street Address*

*City*

*State*

*Zip Code*

*Telephone No.*

*Email Address*

Name of RFP Bidder

Third Item: Representative of the RFP Bidder

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

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

yes

no

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

**If NO**, the Officer of the RFP Bidder must name a new Representative of the RFP Bidder. The Officer of the RFP Bidder may name himself or herself as the Representative.

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

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

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

\_\_\_\_\_  
Date

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

**PLEASE USE THE BOXES BELOW TO ENTER THE CONTACT INFORMATION FOR A NEW REPRESENTATIVE OR TO MAKE ALL NECESSARY CORRECTIONS TO THE CONTACT INFORMATION FOR THE PREVIOUSLY NAMED REPRESENTATIVE.**

Last Name

\_\_\_\_\_

Given Name(s)

\_\_\_\_\_

Mr/Mrs/Ms/Dr/(other)

\_\_\_\_\_

Title

\_\_\_\_\_

Street Address

\_\_\_\_\_

\_\_\_\_\_

City

\_\_\_\_\_

State

\_\_\_\_\_

Zip Code

\_\_\_\_\_

Telephone No.

\_\_\_\_\_

Alternate Telephone No. (if available)

\_\_\_\_\_

Email Address

\_\_\_\_\_

**Appendix 4 to the RFP Rules**

*Name of RFP Bidder*

*Fourth Item: Nominees*

The Independent Evaluator provides notifications to the RFP Bidder by email and provides documents needed for participation by secure file transfer. Any such notification will be deemed received by the RFP Bidder at the time of delivery or transmission, provided that where delivery or transmission occurs after 6 PM on a business day or occurs on a day that is not a business day, receipt will be deemed to occur at 9 AM on the following business day.

The Representative or the Officer of the RFP Bidder may designate up to three (3) authorized individuals to receive communications from the Independent Evaluator in addition to the Representative. Each such authorized individual is a Nominee. The Representative of the RFP Bidder or the Officer of the RFP Bidder may designate such other authorized individuals at any time during the solicitation.

Is the RFP Bidder designating Nominees at this time?

yes

no

**IF THE REPRESENTATIVE OR THE OFFICER OF THE RFP BIDDER IS DESIGNATING NOMINEES AT THIS TIME, THE REPRESENTATIVE OR THE OFFICER OF THE RFP BIDDER MUST COMPLETE THE NOMINATION FORM PROVIDED AS ATTACHMENT 1 TO THE PART 1 FORM FOR THIS PURPOSE.**

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

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

I certify that:

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

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date



Name of RFP Bidder

## 2. Financial Requirements

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

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

yes  no

**If yes, please use the Standard Part 1 Form** to submit your Part 1 Proposal.

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

Has the legal name of the entity on whose financial standing the RFP Bidder last relied changed since it was last submitted?

yes  no

**If yes**, please make all necessary corrections and provide evidence as described below. If there was a change in the corporate structure of the entity, through a merger for example, **please use the Standard Part 1 Form**.

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

Has the address of the entity on whose financial standing the RFP Bidder last relied changed since it was previously submitted?

yes  no

**If no**, please proceed to the next item below in this section, "Financial Information".

**If yes**, please make any needed correction to contact information below.

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

Legal Name of Entity

Street Address

City

State

Zip Code

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

**Appendix 4 to the RFP Rules**

*Name of RFP Bidder*

Second Item: Financial Information

**IF PROVIDING HARD COPIES OF FINANCIAL STATEMENTS, ONE (1) COPY IS SUFFICIENT.**

**IF THE RFP BIDDER IS RELYING ON ITS OWN FINANCIAL STANDING, AND IF FINANCIAL INFORMATION IS UNAVAILABLE FOR THE RFP BIDDER, THE RFP BIDDER MUST CLEARLY STATE THIS FACT IN SECTION 7 OF THIS PART 1 FORM. IF THE RFP BIDDER IS RELYING ON THE FINANCIAL STANDING OF ANOTHER ENTITY, FINANCIAL INFORMATION MUST BE AVAILABLE FOR THAT ENTITY.**

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

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

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

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

**Appendix 4 to the RFP Rules**

*Name of RFP Bidder*

**Third Item: Credit Ratings**

Are the credit ratings last submitted for the entity on whose financial standing the RFP Bidder relies still valid?

yes

no

**If yes**, please proceed to Section 3, “Letters of Credit and Uniform SMA Documents”.

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

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

yes

no

**If yes**, please provide:

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

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

yes

no

**If yes**, please provide:

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

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

yes

no

**If yes**, please provide:

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

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

### 3. Letters of Credit and Uniform SMA Documents

**AN ELECTRIC SUPPLIER SELECTED THROUGH THE DSP III COMPETITIVE BIDDING PROCESS TO PROVIDE DEFAULT SUPPLY FOR A PARTICULAR CLASS AND APPROVED BY THE COMMISSION BECOMES A DEFAULT SUPPLIER FOR THAT CLASS.**

Is the RFP Bidder a Default Supplier?

yes  no

**If yes**, please proceed to Sub-Section 3B.

**If no**, please proceed to Sub-Section 3A.

#### **3A. This sub-section applies to RFP Bidders that are NOT Default Suppliers**

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

First Item: Standard Pre-Bid Letter of Credit

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

yes  no

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

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

**[HTTP://PECOPROUREMENT.COM/INDEX.CFM?S=SUPPLIERINFORMATION&P=DOCUMENTS](http://pecoprocurement.com/index.cfm?s=supplierinformation&p=documents)**

**THE DRAFT PRE-BID LETTER OF CREDIT MUST BE SUBMITTED ELECTRONICALLY, IN MICROSOFT WORD WITH TRACKED CHANGES, AND MAY BE SAVED TO A CD THAT IS SENT BY OVERNIGHT DELIVERY SERVICE, OR IT MAY BE EMAILED TO THE INDEPENDENT EVALUATOR AT [PECOPROUREMENT@NERA.COM](mailto:PECOPROUREMENT@NERA.COM).**

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

Second Item: Post-Bid Letter of Credit

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

yes

no

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

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

**[HTTP://PECOPROUREMENT.COM/INDEX.CFM?S=SUPPLIERINFORMATION&P=DOCUMENTS](http://pecoprocurement.com/index.cfm?s=supplierinformation&p=documents)**

**THE DRAFT POST-BID LETTER OF CREDIT MUST BE SUBMITTED ELECTRONICALLY, IN MICROSOFT WORD WITH TRACKED CHANGES, AND MAY BE SAVED TO A CD SENT BY OVERNIGHT DELIVERY SERVICE, OR IT MAY BE EMAILED TO THE INDEPENDENT EVALUATOR AT [PECOPROUREMENT@NERA.COM](mailto:pecoprocurement@nera.com).**

Third Item: Ability to Perform

**THE OFFICER OF THE RFP BIDDER MUST SIGN THE FOLLOWING CERTIFICATIONS.**

- (1) I certify that the RFP Bidder has no actions at law, suits in equity, proceedings or claims pending or, to the RFP Bidder's knowledge, threatened against it before any federal, state, foreign or local court, tribunal or governmental agency or authority that might materially delay, prevent or hinder the RFP Bidder's performance of its obligations under the Uniform SMA.
- (2) I certify that the RFP Bidder is not bankrupt or insolvent and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt or insolvent.

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

\_\_\_\_\_  
Date

**Appendix 4 to the RFP Rules**

*Name of RFP Bidder*

**Fourth Item: Information to Prepare the Uniform SMA and Its Exhibits**

You are asked to specify any elections to be made in the Uniform SMA, to provide contact information required to prepare the Form of Notice, which is included as Exhibit 2 to the Uniform SMA, and to provide any additional information required to prepare the Uniform SMA and its Exhibits. If the Independent Evaluator identifies one or more of your Bids to the Commission as winning Bids, the Independent Evaluator will use this information to prepare the Uniform SMA and its Exhibits for execution.

**IF YOU ARE PROVIDING THESE ELECTIONS AND INFORMATION AT THIS TIME, YOU MUST DO SO USING THE UNIFORM SMA INFORMATION FORM PROVIDED AS ATTACHMENT 2 TO THE PART 1 FORM FOR THIS PURPOSE.**

**IF YOU FAIL TO SUBMIT THESE ELECTIONS AND INFORMATION AT THIS TIME, THE OFFICER OF THE RFP BIDDER MUST SIGN THE CERTIFICATION BELOW.**

I certify that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder's Bids to the Commission as winning Bids, the RFP Bidder will be required to provide: (i) any elections to be made in the Uniform SMA; and (ii) the contact information to prepare the Form of Notice; and (iii) any additional information required to prepare the Uniform SMA and its Exhibits; by 12 PM (noon) EPT on the day after such notification is received.

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

\_\_\_\_\_  
Date

**Appendix 4 to the RFP Rules**

*Name of RFP Bidder*

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

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

yes

no

**If no**, please proceed to Section 4, “Additional Representations”.

**If yes**, you are asked: (i) to specify the governing laws under which the RFP Guarantor is organized; (ii) to provide contact information for the RFP Guarantor, including the name and title of the signatory of the guaranty for notices under the guaranty; (iii) to make its elections to incorporate any or all of the approved modifications to the Standard Guaranty.

**IF YOU ARE PROVIDING THESE ELECTIONS AND INFORMATION AT THIS TIME, YOU MUST DO SO USING THE GUARANTY INFORMATION FORM PROVIDED AS ATTACHMENT 3 TO THE PART 1 FORM FOR THIS PURPOSE.**

**IF YOU FAIL TO SUBMIT THESE ELECTIONS AND INFORMATION AT THIS TIME, THE OFFICER OF THE RFP BIDDER MUST SIGN THE CERTIFICATION BELOW.**

I certify that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder’s Bids to the Commission as winning Bids, the RFP Bidder: (i) will specify the governing laws under which the RFP Guarantor is organized; (ii) will provide contact information for the RFP Guarantor, including the name and title of the signatory of the guaranty for notices under the guaranty; (iii) will make its elections to incorporate any or all of the approved modifications to the Standard Guaranty; by 12 PM (noon) EPT on the day after such notification is received.

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

\_\_\_\_\_  
Date

Name of RFP Bidder

**3B. This sub-section applies to RFP Bidders that are Default Suppliers**

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

First Item: Pre-Bid Letter of Credit

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

yes

no

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

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

[HTTP://PECOPROUREMENT.COM/INDEX.CFM?S=SUPPLIERINFORMATION&P=DOCUMENTS](http://pecoprocurement.com/index.cfm?s=supplierinformation&p=documents)

**THE DRAFT PRE-BID LETTER OF CREDIT MUST BE SUBMITTED ELECTRONICALLY, IN MICROSOFT WORD WITH TRACKED CHANGES, AND MAY BE SAVED TO A CD THAT IS SENT BY OVERNIGHT DELIVERY SERVICE, OR IT MAY BE EMAILED TO THE INDEPENDENT EVALUATOR AT [PECOPROUREMENT@NERA.COM](mailto:PECOPROUREMENT@NERA.COM).**

Second Item: Post-Bid Letter of Credit

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

yes

no

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

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

[HTTP://PECOPROUREMENT.COM/INDEX.CFM?S=SUPPLIERINFORMATION&P=DOCUMENTS](http://pecoprocurement.com/index.cfm?s=supplierinformation&p=documents)

**THE DRAFT POST-BID LETTER OF CREDIT MUST BE SUBMITTED ELECTRONICALLY, IN MICROSOFT WORD WITH TRACKED CHANGES, AND MAY BE SAVED TO A CD THAT IS SENT BY OVERNIGHT DELIVERY SERVICE, OR IT MAY BE EMAILED TO THE INDEPENDENT EVALUATOR AT [PECOPROUREMENT@NERA.COM](mailto:PECOPROUREMENT@NERA.COM).**



**Appendix 4 to the RFP Rules**

*Name of RFP Bidder*

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

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

yes

no

**If no**, please proceed to Section 4, “Additional Representations”.

**If yes**, you are asked: (i) to specify the governing laws under which the RFP Guarantor is organized; (ii) to provide contact information for the RFP Guarantor, including the name and title of the signatory of the guaranty for notices under the guaranty; (iii) to make its elections to incorporate any or all of the approved modifications to the Standard Guaranty.

**IF YOU ARE PROVIDING THESE ELECTIONS AND INFORMATION AT THIS TIME, YOU MUST DO SO USING THE GUARANTY INFORMATION FORM PROVIDED AS ATTACHMENT 3 TO THE PART 1 FORM FOR THIS PURPOSE.**

**IF YOU FAIL TO SUBMIT THESE ELECTIONS AND INFORMATION AT THIS TIME, THE OFFICER OF THE RFP BIDDER MUST SIGN THE CERTIFICATION BELOW.**

I certify that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder’s Bids to the Commission as winning Bids, the RFP Bidder: (i) will specify the governing laws under which the RFP Guarantor is organized; (ii) will provide contact information for the RFP Guarantor, including the name and title of the signatory of the guaranty for notices under the guaranty; (iii) will make its elections to incorporate any or all of the approved modifications to the Standard Guaranty; by 12 PM (noon) EPT on the day after such notification is received.

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

\_\_\_\_\_  
Date

*Name of RFP Bidder*

#### **4. Additional Representations**

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

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

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

\_\_\_\_\_  
Date

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

Name of RFP Bidder

## 5. RFP Bidders Under an Agency Agreement

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

yes

no

**If no**, please proceed to Section 6, “Foreign RFP Bidders and Foreign Entities”.

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

### First Item: Certification

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

I certify that I have the authority to bind the Principal(s).

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

\_\_\_\_\_  
Date

### Second Item: Principals and Agency Agreement

1) Does the information that you previously submitted regarding the Principal(s) remain valid?

yes

no

2) Can you confirm that there have been no changes to the Agency Agreement?

yes

no

**If yes to BOTH questions**, please proceed to the next item below in this section, “Draft Officers’ Certificate”.

**If no to question 1), or if you are unsure whether the previously submitted information remains valid,**

**PLEASE FILL IN THE RELEVANT FIELDS BELOW.**

**If no to question 2), PLEASE PROVIDE ONE COPY OF THE AGENCY AGREEMENT (EITHER IN HARD COPY OR ELECTRONICALLY ON A CD VIA MAIL OR BY EMAIL) WITH THIS PART 1 PROPOSAL.**

Name of Principal or Principals

--

**Please note that in Section 2**, you must name the Principal with the lowest credit rating as the entity on whose financial standing you are relying. If several Principals have the same lowest credit rating, please identify the Principal that also has the lowest tangible net worth as the entity on whose financial standing the RFP Bidder relies.

**Appendix 4 to the RFP Rules**

*Name of RFP Bidder*

*Third Item: Draft Officers' Certificate*

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

Is the RFP Bidder submitting a draft Officers' Certificate?

yes

no

Name of RFP Bidder

## 6. Foreign RFP Bidders and Foreign Entities

Is the RFP Bidder a Foreign RFP Bidder?

yes  no

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

yes  no

**If no to both questions**, please proceed to Section 7, “Justification of Omissions”.

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

### First Item: Evidence of Creditworthiness

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

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

yes  no

### Second Item: Draft Documents

The Officer of the RFP Bidder has previously acknowledged additional documents are required with the Part 2 Proposal for unsecured credit to be granted under the terms of the Uniform SMA. The RFP Bidder may, but is not required to, submit a draft of these documents, in hard copy or electronically on a CD via mail or by email, with its Part 1 Proposal.

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

yes  no

**If no**, please proceed to Section 7, “Justification of Omissions”.

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

Name of RFP Bidder

**FOR FOREIGN RFP BIDDERS:**

Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the Uniform SMA is binding. Exhibit G to the Uniform SMA includes a sample of this legal opinion.

Draft sworn certificate of the corporate secretary (or similar officer) of the Foreign RFP Bidder that the person executing the Uniform SMA is so authorized and that its governing board has approved the execution of the Uniform SMA.

Draft sworn certificate of the corporate secretary (or similar officer) of the Foreign RFP Bidder that its governing board has authorized the execution of agreements of the same type as the Uniform SMA in the past.

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

Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the guaranty pursuant to the Uniform SMA is binding. Exhibit G to the Uniform SMA includes a sample of this legal opinion.

Draft sworn certificate of the corporate secretary (or similar officer) of the RFP Guarantor that the person executing the guaranty is so authorized and that its governing board has approved the execution of the guaranty pursuant to the Uniform SMA.

Draft sworn certificate of the corporate secretary (or similar officer) of the RFP Guarantor that its governing board has authorized the execution of a guaranty of the same type as the guaranty pursuant to the Uniform SMA in the past.

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

Draft legal opinion of outside counsel qualified to practice in the foreign jurisdiction that the Uniform SMA is binding. Exhibit G to the Uniform SMA includes a sample of this legal opinion.

Draft sworn certificate of the corporate secretary (or similar officer) of the Principal that its governing board has authorized the execution of agreements of the same type as the Uniform SMA in the past.

*Name of RFP Bidder*

**7. Justification of Omissions**

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

A large, empty rectangular box with a thin black border, intended for the bidder to provide a justification for any omissions in their bid. The box is currently blank.

Name of RFP Bidder

## ATTACHMENT 1 – NOMINATION FORM

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

(the Officer of the RFP Bidder or Representative of the RFP Bidder) authorizes the individuals whose contact details are immediately below to receive notifications and documents.

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

\_\_\_\_\_  
Date

Printed Name

### Contact Information for Nominee #1

Last Name

GivenName(s)

Mr/Mrs/Ms/Dr/(other)

Title

Telephone No.

Alternate Telephone No. (if available)

Email Address

### Contact Information for Nominee #2

Last Name

GivenName(s)

Mr/Mrs/Ms/Dr/(other)

Title

Telephone No.

Alternate Telephone No. (if available)

Email Address



**Appendix 4 to the RFP Rules**

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

**Contact Information for Nominee #3**

*Last Name*

*GivenName(s)*

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

*Title*

*Telephone No.*

*Alternate Telephone No. (if available)*

*Email Address*

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

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

## ATTACHMENT 2 – UNIFORM SMA INFORMATION

1. Under Section 5.4(a)(i) of the Uniform SMA, the DS Supplier may, in its sole discretion, add the following subsection 5.4(a)(i) by indicating yes or no below.

5.4(a)(i) For the purposes of such determination, the DS Supply provided for under this Agreement for the period following the Early Termination Date through the remainder of the term of this Agreement shall be deemed to be those quantity amounts that would have been delivered on an hourly basis, had this Agreement been in effect during the previous calendar year adjusted for such DS Load changes as may have occurred since the previous calendar year.

Do you intend for subsection 5.4(a)(i) to be included as part of the Uniform SMA?

yes                       no

2. The information that you provide below will be used to complete Exhibit 2 (Form of Notice) to the Uniform SMA. If any of the information requested below is unavailable, please enter N/A in the corresponding fields.

- (a) All Notices:

<i>Last Name</i>	<i>Given Name(s)</i>	<i>Mr/Mrs/Ms/Dr/(other)</i>
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
<i>Street Address</i>		
<input style="width: 99%;" type="text"/>		
<input style="width: 99%;" type="text"/>		
<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
<i>Telephone No.</i>	<i>Fax No.</i>	
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	
<i>DUNS</i>	<i>Federal Tax I.D. Number</i>	
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	

- (b) Invoices:

<i>ATTN:</i>		
<i>Last Name</i>	<i>Given Name(s)</i>	<i>Mr/Mrs/Ms/Dr/(other)</i>
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
<i>Telephone No.</i>	<i>Fax No.</i>	
<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>	

**Appendix 4 to the RFP Rules**

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

(c) **Scheduling:**

*ATTN:*

*Last Name*

*Given Name(s)*

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

*Telephone No.*

*Fax No.*

(d) **Payments:**

*ATTN:*

*Last Name*

*Given Name(s)*

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

*Telephone No.*

*Fax No.*

(e) **Wire Transfer:**

*Bank*

*ABA*

*ACCT*

(f) **Credit and Collections:**

*ATTN:*

*Last Name*

*Given Name(s)*

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

*Telephone No.*

*Fax No.*

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

*ATTN:*

*Last Name*

*Given Name(s)*

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

*Telephone No.*

*Fax No.*

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

## ATTACHMENT 3 – GUARANTY INFORMATION

### 1. Contact Information

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

*Name of RFP Guarantor*

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

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

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

- (b) The following information regarding the RFP Bidder:

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

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

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

*Last Name*

*Given Name(s)*

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

*Title*

*Company*

*Street Address*

*City*

*State*

*Zip Code*

*Phone Number*

*Fax*

Name of RFP Bidder

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

<i>Last Name</i>	<i>Given Name(s)</i>	<i>Mr/Mrs/Ms/Dr/(other)</i>
<i>Title</i>		

**2. Elections of Optional Modifications to the Guaranty**

ALL OPTIONAL CHANGES THAT THE RFP BIDDER MAY ADOPT FOR THE FORM OF GUARANTY ARE PROVIDED BELOW. YOU MUST INDICATE THE CHANGES THAT YOU ARE ELECTING IN THE TABLE provided at the end of this Appendix 2.

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

THIS GUARANTY (this “Guaranty”), dated as of \_\_\_\_\_, 201\_, 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 PECO Energy Company - Pennsylvania Default Service Supplier Master Agreement dated \_\_\_\_\_, 201\_ and the \_\_\_\_\_ dated \_\_\_\_\_, 201\_ [insert name(s) and date(s) of prior Agreement(s) with PECO that remain in effect with the effective dates of such Agreement(s)] (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 “DS Supplier”). 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 DS Supplier. 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 DS Supplier to the Guaranteed Party arising out of the Agreement(s). Without limiting the generality of the foregoing, Guarantor further agrees as follows:

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

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

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

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

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the DS Supplier as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). †Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \$\_\_\_\_, less the value of other liquid securities posted by the DS Supplier 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.

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

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

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

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

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

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

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

**(Optional Change #7) Paragraph 1:**

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

**(Optional Change #8) Paragraph 2:**

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

**(Optional Change #9) Paragraph 4:**

4. Subject to the terms and conditions hereof, the obligations of the Guarantor under this Guaranty are absolute, irrevocable and unconditional and, shall not be released, discharged or otherwise affected by: (a) any extension, renewal, settlement, compromise, waiver, consent, discharge or release by the DS Supplier concerning any provision of the Agreement(s) governing any of the Guaranteed Obligations of the DS Supplier; (b) the rendering of any judgment against the DS Supplier 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 DS Supplier and the Guaranteed Party; (e) any change in the corporate existence (including its constitution, laws, rules, regulations or powers), structure or ownership of the DS Supplier or the Guarantor, or any insolvency, bankruptcy, reorganization or other similar proceedings affecting the DS Supplier, 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 DS Supplier; or the Guaranteed Party, whether in connection herewith or in connection with any unrelated transaction; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim; and (g) the invalidity, irregularity or unenforceability in whole or in part of the Agreement(s) or any Guaranteed Obligations or any instrument evidencing any Guaranteed Obligations or the absence of any action to enforce the same.

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Name of RFP Bidder

**(Optional Change #10) Paragraph 5:**

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

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

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 DS Supplier 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.

**(Optional Change #12) Paragraph 11:**

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

**(Optional Change #13) Paragraph 11:**

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



## Appendix 4 to the RFP Rules

Name of RFP Bidder

### (Optional Change #14) Paragraph 12:

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

### (Optional Change #15) Paragraph 13:

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

### (Optional Change #16) Paragraph 14:

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

### (Optional Change #17) Paragraph 14:

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

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Name of RFP Bidder

SHORT Part 1 Form

**(Optional Change #18) Paragraph 17:**

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

**(Optional Change #19) Closing Paragraph and Signature Block:**

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

Accepted and Agreed to:

[GUARANTOR]

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

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

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

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

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

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

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

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

PECO ENERGY COMPANY

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

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

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

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

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

**(Optional Changes #20, #21 & #22): If the RFP Bidder wishes to add an Additional Guarantor to the Standard Form of Guaranty, all three changes below must be made.**

**(Optional Change #20) Preamble:**

THIS GUARANTY (this “Guaranty”), dated as of \_\_\_\_\_, 20\_\_, is made by \_\_\_\_\_ (the “Guarantor”), a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ [a state of the United States or of the District of Columbia] and \_\_\_\_\_ (the “Additional Guarantor”), a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ [a state of the United States or of the District of Columbia], in favor of PECO Energy Company (the “Guaranteed Party”), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania. Terms not defined herein shall have the meanings given to them in the PECO Energy Company - Pennsylvania Default Service Supplier 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 “DS Supplier”). 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 DS Supplier. 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 DS Supplier to the Guaranteed Party arising out of the Agreement(s). Without limiting the generality of the foregoing, Guarantor further agrees as follows:

**(Optional Change #21) Additional Paragraph:**

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

**(Optional Change #22) Closing Paragraph and Signature Block:**

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

Accepted and Agreed to:

[GUARANTOR]  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

[ADDITIONAL GUARANTOR]  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

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

**Appendix 4 to the RFP Rules**

PECO ENERGY COMPANY

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

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

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

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

**Appendix 4 to the RFP Rules**

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

**PLEASE INDICATE IN THE TABLE BELOW WHICH OF THE OPTIONAL MODIFICATIONS YOU WISH TO MAKE TO THE FORM OF GUARANTY:**

Optional Change	Paragraph	RFP Bidder adopts change
1	Preamble	<input type="checkbox"/> yes <input type="checkbox"/> no
2	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
3	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
4	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
5	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
6	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
<b>7</b>	<b>Paragraph 1</b>	<input type="checkbox"/> <b>yes (*)</b> <input type="checkbox"/> no <b>Provide the information below under (*)</b>
8	Paragraph 2	<input type="checkbox"/> yes <input type="checkbox"/> no
9	Paragraph 4	<input type="checkbox"/> yes <input type="checkbox"/> no
10	Paragraph 5	<input type="checkbox"/> yes <input type="checkbox"/> no
11	Paragraph 10	<input type="checkbox"/> yes <input type="checkbox"/> no
12	Paragraph 11	<input type="checkbox"/> yes <input type="checkbox"/> no
13	Paragraph 11	<input type="checkbox"/> yes <input type="checkbox"/> no
14	Paragraph 12	<input type="checkbox"/> yes <input type="checkbox"/> no
15	Paragraph 13	<input type="checkbox"/> yes <input type="checkbox"/> no
16	Paragraph 14	<input type="checkbox"/> yes <input type="checkbox"/> no
17	Paragraph 14	<input type="checkbox"/> yes <input type="checkbox"/> no
<b>18</b>	<b>Paragraph 17</b>	<input type="checkbox"/> <b>yes (**)</b> <input type="checkbox"/> no <b>Provide the information below under (**)</b>
19	Closing Paragraph and Signature Block	<input type="checkbox"/> yes <input type="checkbox"/> no
<b>20</b>	<b>Additional Guarantor</b>	<input type="checkbox"/> <b>yes (***)</b> <input type="checkbox"/> no <b>Provide the information below under (***)</b>
<b>21</b>		
<b>22</b>		

**(\*) PLEASE NOTE that optional change #7 is only available to an RFP Bidder that has an outstanding guaranty with PECO.**

**(\*) PLEASE PROVIDE THE FOLLOWING ADDITIONAL INFORMATION IF YOU ELECT OPTIONAL CHANGE #7:**

*Date of Existing Guaranty*

*Amount of Existing Guaranty*

**Appendix 4 to the RFP Rules**

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

**(\*\*) THE REPRESENTATIVE OF THE RFP BIDDER OR THE OFFICER OF THE RFP BIDDER MUST MAKE THE FOLLOWING REPRESENTATION IF YOU ELECT OPTIONAL CHANGE #18:**

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

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

\_\_\_\_\_  
Date

**(\*\*\*) PLEASE PROVIDE THE FOLLOWING ADDITIONAL INFORMATION IF YOU ELECT OPTIONAL CHANGES #20, 21, AND 22:**

*Name of Additional Guarantor*

*Place of Incorporation of Additional Guarantor*

***End of Part 1 Form***

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Name of RFP Bidder

## APPENDIX 1 – NOMINATION FORM

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

(the Officer of the RFP Bidder or Representative of the RFP Bidder) authorizes the individuals whose contact details are immediately below to receive notifications and documents.

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

\_\_\_\_\_  
Date

Printed Name

### Contact Information for Nominee #1

Last Name

GivenName(s)

Mr/Mrs/Ms/Dr/(other)

Title

Telephone No.

Alternate Telephone No. (if available)

Email Address

### Contact Information for Nominee #2

Last Name

GivenName(s)

Mr/Mrs/Ms/Dr/(other)

Title

Telephone No.

Alternate Telephone No. (if available)

Email Address

**Appendix 4 to the RFP Rules**

*Name of RFP Bidder*

Contact Information for Nominee #3

*Last Name*

*GivenName(s)*

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

*Title*

*Telephone No.*

*Alternate Telephone No. (if available)*

*Email Address*

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



## Requirements for Chief Financial Officer Attestation

The attestation by the Chief Financial Officer, (or equivalent position), if required by Article IV, must fulfill the following requirements:

1. the attestation is a notarized affidavit attached to the financial information provided by the entity;
2. the attestation identifies the person making the affidavit as the Chief Financial Officer (or equivalent position);
3. the Chief Financial Officer (or equivalent position) attests that "the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of \_\_\_\_\_[name of entity]".

**Officers' Certificate  
(RFP Bidders Under an Agency Agreement)**

**Sample**

The undersigned hereby certify that they are duly elected, qualified and acting officers holding the offices set forth below their respective names of \_\_\_\_\_ [name of Principal(s)], the "Principal" or together the "Principals". As such, they are familiar with the affairs of the Principal(s) and the Proposal submitted in response to PECO Energy Company's Default Service Program RFP under DSP III, including the agency authorization submitted with the Proposal (the "Agency Agreement"). They are authorized to execute and deliver this certificate on behalf of the Principal(s).

They further certify that:

- (i) the copy of the Agency Agreement submitted with the Proposal is a true and complete copy of the Agency Agreement as currently in effect;
- (ii) the Agency Agreement is in full force and effect and shall remain in full force and effect for a period extending to six (6) business days following the Bid Date;
- (iii) there are no proceedings pending for the amendment or termination of the Agency Agreement, contemplated by the RFP Bidder, or contemplated by the Principal(s) to the RFP Bidder's knowledge;
- (iv) each individual who has executed this officers' certificate and the Agency Agreement is (or was at the time of the execution of such documents) authorized to execute and deliver such documents on behalf of the Principal(s); and
- (v) \_\_\_\_\_ [insert name], the Officer of the RFP Bidder named in the Part 1 Proposal, is authorized to execute the Uniform SMA as well as any Transaction Confirmation(s) pursuant to the Uniform SMA on behalf of the Principal(s).

Capitalized terms used in this officers' certificate without definition have the meanings assigned to such terms in the RFP Rules.

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

**APPENDIX 7 – PART 2 FORM  
DEFAULT SERVICE PROGRAM  
REQUEST FOR PROPOSALS  
PART 2 DATE: Thursday, March 05, 2015**

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

This Part 2 Form is the only form that may be used to submit a Part 2 Proposal. Before completing this Part 2 Form, please review the RFP, including the PECO Energy Company - Pennsylvania Default Service Supplier Master Agreement (“Uniform SMA”), so that you understand the conditions under which the RFP will be conducted. These documents are posted at [www.pecoprocurement.com](http://www.pecoprocurement.com). **RFP Bidders have the option to submit the Part 2 Form during the Part 1 Window for early processing, which allows the Officer of the RFP Bidder to make all representations and certifications of the Part 1 Form and the Part 2 Form at one time.** A “previously eligible RFP Bidder” means an RFP Bidder that became eligible to submit Bids in a previous solicitation held under DSP III by submitting a successful Part 1 Proposal and a successful Part 2 Proposal. This Part 2 Form provides an abbreviated Part 2 Proposal process for previously eligible RFP Bidders.

By having submitted a Part 1 Proposal in response to this RFP, you agreed to all terms and conditions of this RFP.

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*Any information provided by an RFP Bidder in this Part 2 Proposal is provided on a confidential basis to the Independent Evaluator, and may be provided on a confidential basis to the Staff of the Pennsylvania Public Utility Commission (“Commission”). PECO representatives will review the information provided to fulfill the requirements of Section 4 and Section 5, and will participate in the evaluation of the Pre-Bid Letter of Credit with the name of the RFP Bidder and the amount redacted.*

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

## **INSTRUCTIONS FOR PROPOSAL**

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RFP Bidders use the Part 2 Form to submit a Part 2 Proposal in the RFP.

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

#### **I. Part 2 Proposal Submission**

An RFP Bidder must:

- Submit **one (1) scanned copy** of the completed Part 2 Form either on a CD via overnight delivery or by email to [PECOprocurement@nera.com](mailto:PECOprocurement@nera.com));
- Submit an executed Pre-Bid Letter of Credit as specified in Section 2;
- Submit **one (1) copy** (one hard copy or one electronic copy on a CD via mail or by email to [PECOprocurement@nera.com](mailto:PECOprocurement@nera.com)) of documents required to support the Part 2 Form as specified in Section 3, Section 4 and Section 5
- Manually insert the name of the RFP Bidder **on every page** of the Part 2 Form.

*The completed Part 2 Proposal MUST be received by the Independent Evaluator no later than 12 PM (noon) EPT<sup>1</sup> on March 05, 2015 (the Part 2 Date) at:*

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

Inquiries may be directed to the Independent Evaluator by:

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

**Facsimiles of completed forms will not be accepted under any circumstances.**

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<sup>1</sup> Unless noted otherwise, all times refer to the Eastern Prevailing Time (EPT) zone.

Name of RFP Bidder

## **II. Part 2 Proposal Submission**

### Notifications

The Independent Evaluator sends you notifications by email.

### Acknowledgment

When your Part 2 Proposal is received, the Independent Evaluator sends an acknowledgment by email. If your Part 2 Proposal is hand-delivered, a confirmation consisting of a photocopy of the first page of the Part 2 Form stamped with the time and the date that it was received will be provided to the deliverer.

### Timing of Part 2 Proposal Review

The Part 2 Window opens at 8 AM on February 27, 2015 and closes at 12 PM (noon) on March 05, 2015. You have the option to submit the Part 2 Form during the Part 1 Window for early processing. If your Part 2 Proposal is received before 12 PM (noon) on any business day after the opening of the Part 1 Window, the Independent Evaluator sends you the acknowledgment confirming receipt on the day the Part 2 Proposal is received with the results of an initial review. The initial review states either that the Part 2 Proposal is complete and is being considered, or the initial review lists items of the Part 2 Proposal that are deficient or require clarification (see below). If your Part 2 Proposal arrives after 12 PM (noon) on any business day during the Part 2 Window prior to the Part 2 Date, the Independent Evaluator sends you the acknowledgment along with the initial review by 12 PM (noon) of the next business day.

### Incomplete Part 2 Proposals

If your Part 2 Proposal is incomplete or requires clarification, the Independent Evaluator will send a deficiency notice to you. If the deficiency or request for clarification concerns your Pre-Bid Letter of Credit, or documents required to fulfill the requirements of Section 3, Section 4, or Section 5 of this Part 2 Form, you will have until noon on the Part 2 Date, or until 6 PM of the second business day following the business day during which you are notified, whichever comes later, to respond. For any other deficiencies or requests for clarification you will have until 12 PM (noon) on the Part 2 Date, or until 6 PM on the business day following the business day during which a deficiency notice is sent to you, whichever comes later, to respond. If you do not correct or adequately explain the deficiency within the time allowed, your Part 2 Proposal may be rejected and you may be unable to participate in the RFP. One (1) copy of the Part 2 Form and all documents except for the Pre-Bid Letter of Credit will be returned to you.

### Late Part 2 Proposals

No late Part 2 Proposals will be accepted under any circumstances.

## Appendix 7 to the RFP Rules

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

### Part 2 Notification

When your Part 2 Proposal is complete, the Independent Evaluator will send a complete notice to your Representative with a copy of the first page of your Part 2 Form stamped “complete”. Each RFP Bidder that submits a Part 2 Proposal will be notified whether it is eligible to submit Bids no later than 6 PM on March 09, 2015 (the Part 2 Notification Date).

### RFP Bidders with Special Circumstances

An RFP Bidder that received approval from PECO to use an alternate guaranty form through the Guaranty Process is required to submit an additional document as specified in Section 3. An RFP Bidder submitting a Proposal under an Agency Agreement is required to submit additional documents as specified in Section 4. An RFP Bidder that has not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia (“Foreign RFP Bidder”), or an RFP Bidder that is relying on the financial standing of an entity (an RFP Guarantor or a Principal) that has not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia (a “Foreign Entity”), is required to provide additional information in Section 5 of this Part 2 Form.

*Name of RFP Bidder*

## **PART 2 FORM**

---

### **1. Contact Information and Representations**

First Item: Name and Address of the RFP Bidder

Have the name or address of the RFP Bidder changed since you provided the Part 1 Proposal?

yes                   no

**If no**, please proceed to the next item in this Section 1, “Officer of the RFP Bidder”.

**If yes**, please make all necessary updates in the fields below.

**IF THE LEGAL NAME OF THE RFP BIDDER HAS CHANGED, PLEASE PROVIDE EVIDENCE OF THE CHANGE OF NAME IN HARD COPY OR ELECTRONICALLY (SAVED TO A CD SENT BY OVERNIGHT DELIVERY SERVICE OR EMAILED TO [PECOPROUREMENT@NERA.COM](mailto:PECOPROUREMENT@NERA.COM)).**

*Legal Name of RFP Bidder*

*Street Address*

*City*

*State*

*Zip Code*

First Item (continued): Officer of the RFP Bidder

Please note that the Officer of the RFP Bidder named in the Part 1 Proposal must make all representations and certifications in this Part 2 Proposal.

Does the individual who was named Officer of the RFP Bidder in the Part 1 Form and who made the representations and certifications in the Part 1 Proposal remain available to make all representations and certifications in the Part 2 Proposal?

yes                   no

**If yes**, please proceed to the next item below in this section, “Contact Information for Officer”.

**If no**, THAT IS, THE RFP BIDDER MUST CHANGE THE INDIVIDUAL WHO SERVES AS OFFICER OF THE RFP BIDDER, THEN THE RFP BIDDER MUST:

- RE-SUBMIT THE PART 1 FORM IN ITS ENTIRETY NAMING A NEW INDIVIDUAL AS OFFICER OF THE RFP BIDDER;
- HAVE THE NEW OFFICER OF THE RFP BIDDER MAKE ALL REPRESENTATIONS AND CERTIFICATIONS REQUIRED BY THE PART 1 FORM; AND
- HAVE THE NEW OFFICER OF THE RFP BIDDER MAKE ALL REPRESENTATIONS AND CERTIFICATIONS REQUIRED BY THE PART 2 FORM.

**Appendix 7 to the RFP Rules**

*Name of RFP Bidder*

**First Item (continued): Contact Information for the Officer of the RFP Bidder**

Does the contact information for the Officer of the RFP Bidder submitted in the Part 1 Form remain valid?

yes       no

**If yes**, please proceed to the next item below in this section, “Representative”.

**If no**, please make all necessary updates in the fields below.

*Last Name of Officer of the RFP Bidder*

*Given Name(s)*

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

*Title of Officer of the RFP Bidder*

*Street Address*

*City*

*State*

*Zip Code*

*Telephone No.*

*Email Address*

**First Item (continued): Representative**

Does the contact information for the Representative submitted in the Part 1 Proposal remain valid?

yes       no

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

**If no**, please make all necessary updates in the fields below.

*Last Name of Representative*

*Given Name(s)*

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

*Title*

*Street Address*

*City*

*State*

*Zip Code*

*Telephone No. of Representative*

*Alternate Telephone No. (Optional)*

*Email Address of Representative*



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

Second Item: Representations of the Officer of the RFP Bidder

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

- (1) I certify that this Part 2 Proposal will remain valid and remain in full force and effect until six (6) business days after the Bid Date and if any information provided in the Part 2 Proposal changes or any previous certification fails to remain valid during that time, the RFP Bidder will notify the Independent Evaluator as soon as practicable.
- (2) I certify that the RFP Bidder is bidding independently and that it has no knowledge of any information concerning a Proposal by another RFP Bidder in response to this solicitation or any future solicitation under this RFP. Such information includes, but is not limited to: the fact that another RFP Bidder is submitting a Proposal in response to this solicitation or a subsequent solicitation under this RFP; the Bids by another RFP Bidder in this or in a subsequent solicitation under this RFP; the number of tranches bid by another RFP Bidder for any product in this or in a subsequent solicitation under this RFP; the estimation by another RFP Bidder of the value of a tranche of a product; the estimation by another RFP Bidder of the risks associated with providing supply under the Uniform SMA; the preference of another RFP Bidder for bidding on specific products in this or in a subsequent solicitation under the RFP; and the contractual arrangements for power of another RFP Bidder to serve tranches of Default Service Load were that RFP Bidder to become a Default Supplier. This certification must be binding and in effect until the Commission has either approved or rejected each of the winning Bids for this solicitation.
- (3) I certify that although the RFP Bidder may disclose aspects of its Proposal in communicating with its financial institution for the purpose of preparing the Pre-Bid Letter of Credit or in communicating with advisors (if any), any such communication is made in a manner that can reasonably be expected to maintain the confidentiality of the RFP Bidder's Proposal.
- (4) I certify that, with only the exceptions noted in (3) above, the RFP Bidder has not disclosed, and will not otherwise disclose, publicly or to any other party any information relating to its Proposal, which could have an effect on whether another party submits a Proposal in any solicitation under the RFP, or on the contents of the Proposal that another RFP Bidder would be willing to submit in response to the RFP. Such information includes, but is not limited to: the fact that the RFP Bidder is submitting a Proposal in response to this RFP; the RFP Bidder's Bids in this or in a subsequent solicitation under this RFP; the RFP Bidder's number of tranches bid for any product in this or in a subsequent solicitation under this RFP; the RFP Bidder's estimation of the value of a tranche of a product; the RFP Bidder's estimation of the risks associated with providing supply under the Uniform SMA; and the RFP Bidder's preference for bidding on specific products in this or in a subsequent solicitation under this RFP. This certification must be binding and in effect until the Commission has either approved or rejected each of the winning Bids for this solicitation.
- (5) I certify that any Bid on any product submitted in response to this RFP for this solicitation is binding until six (6) business days after the Bid Date and constitutes a binding and irrevocable offer to provide service under the terms of the Uniform SMA at the price specified in the Bid.

**Appendix 7 to the RFP Rules**

*Name of RFP Bidder*

- (6) I certify that I will execute (or I will nominate another authorized individual to execute) the Uniform SMA and all Transaction Confirmation(s) for the RFP Bidder's Bids that are approved by the Commission no later than 2PM on the third business day after the Commission has accepted such Bids.
  
- (7) I certify that in each Transaction Confirmation, the RFP Bidder will specify a price for each type of AECs (Tier I, Tier I Solar, and Tier II) that is included in the RFP Bidder's winning Bids and each such price must be greater than \$0/AEC.

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

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

## 2. Pre-Bid Letter of Credit

### First Item: Instructions regarding the Pre-Bid Letter of Credit

**INSTRUCTIONS:** THE RFP BIDDER MUST PROVIDE AN EXECUTED PRE-BID LETTER OF CREDIT, DRAWN FOR THE ACCOUNT OF THE RFP BIDDER AND ACCEPTABLE TO PECO, IN AN AMOUNT OF AT LEAST: \$250,000 PER TRANCHE BID ON PRODUCTS FOR THE RES, SC, AND MC CLASSES, PLUS \$125,000 PER TRANCHE BID ON PRODUCTS FOR THE LC&I CLASS. A SINGLE PRE-BID LETTER OF CREDIT IS SUBMITTED EVEN IF THE RFP BIDDER BIDS ON MORE THAN ONE PRODUCT OR MORE THAN ONE CLASS.

Are you submitting this Part 2 Form during the Part 1 Window for early processing?

yes                       no

**If yes**, the Officer of the RFP Bidder must make the acknowledgement below.

**If no**, please proceed to the next item in this Section 2, “Acceptable Pre-Bid Letter of Credit”.

### Acknowledgement of Documents Required

I acknowledge that with the Part 2 Proposal, the RFP Bidder will be required to submit an executed Pre-Bid Letter of Credit.

\_\_\_\_\_  
Signature of Officer of the RFP Bidder  
submitting the Part 2 Form during the  
Part 1 Window for early processing

\_\_\_\_\_  
Date

### Second Item: Acceptable Pre-Bid Letter of Credit

**INSTRUCTION:** THE RFP BIDDER MUST EITHER USE THE STANDARD PRE-BID LETTER OF CREDIT, PROVIDED ON [WWW.PECOPROUREMENT.COM](http://WWW.PECOPROUREMENT.COM), OR THE RFP BIDDER MUST SUBMIT A PRE-BID LETTER OF CREDIT THAT INCORPORATES ONLY THOSE MODIFICATIONS TO THE STANDARD PRE-BID LETTER OF CREDIT ACCEPTED AS A RESULT OF THE EVALUATION OF THE PART 1 PROPOSALS.

**PLEASE CHECK ONE BOX.** The RFP Bidder is submitting an executed Pre-Bid Letter of Credit:

- using the Standard Pre-Bid Letter of Credit; or  
 incorporating only approved modifications.

**Appendix 7 to the RFP Rules**

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

*Third Item: Instructions for Release of the Pre-Bid Letter of Credit*

PECO and the Independent Evaluator will release the Pre-Bid Letter of Credit no later than six (6) business days after the Bid Date. If the Commission does not approve any of the RFP Bidder's Bids, PECO and the Independent Evaluator will release that RFP Bidder's Pre-Bid Letter of Credit within three (3) business days of the Bid Date. **PLEASE PROVIDE ANY SPECIAL INSTRUCTIONS FOR RETURNING THE PRE-BID LETTER OF CREDIT BELOW.**

**Appendix 7 to the RFP Rules**

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

**3. Guaranty Documents**

Are you relying on the financial standing of an RFP Guarantor?

yes                       no

**If no**, please proceed to Section 4, “RFP Bidders Under Agency Agreements”.

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

*First Item: Intent to Provide a Guaranty*

Is the RFP Bidder a Default Supplier?

yes                       no

**If yes**, please proceed to the next item in this Section, “Alternate Guaranty Form”.

**If no**, please continue and fill in all required information in this item.

**INSTRUCTION: THE FOLLOWING CERTIFICATION MUST BE SIGNED BY A REPRESENTATIVE OF THE RFP GUARANTOR WHO IS AUTHORIZED TO UNDERTAKE CONTRACTS (INCLUDING THE GUARANTY) AND BIND THAT RFP GUARANTOR. PLEASE PROVIDE THE INDICATIVE AMOUNT OF THE GUARANTY IN THE SPACE PROVIDED BELOW. THE INDICATIVE AMOUNT MUST MEET OR EXCEED THE SUM OF: (I) \$600,000 TIMES THE NUMBER OF TRANCHES BID ON PRODUCTS FOR THE REC, SC, AND MC CLASSES; AND (II) \$300,000 TIMES THE NUMBER OF TRANCHES BID ON PRODUCTS FOR THE LC&I CLASS.**

I acknowledge that \_\_\_\_\_ (“RFP Guarantor”) has been asked to provide a financial guaranty on behalf of \_\_\_\_\_ (“RFP Bidder”) should the RFP Bidder become a Default Supplier pursuant to its response under this RFP for procuring supply under the terms of the Uniform SMA. Our senior unsecured debt rating meets the Minimum Rating as defined in the Uniform SMA.

We would consider providing a financial guaranty on behalf of the RFP Bidder should there be no material change in affairs of at least \$ \_\_\_\_\_ (Indicative Amount). This statement should not and cannot be taken as an indication of financing commitment of any kind whatsoever, or an absolute commitment to provide a financial guaranty.

\_\_\_\_\_  
Signature of a Representative of the RFP  
Guarantor

\_\_\_\_\_  
Date

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

**Appendix 7 to the RFP Rules**

**Second Item: Alternate Guaranty Form**

Did you receive approval from PECO to use an alternate guaranty form through the Guaranty Process?

yes                       no

**If no**, please proceed to Section 4, “RFP Bidders Under Agency Agreements”.

**If yes**, please proceed to the next question.

Is the RFP Bidder previously eligible? (A “previously eligible RFP Bidder” means an RFP Bidder that became eligible to submit Bids in a previous solicitation held under DSP III by submitting a successful Part 1 Proposal and a successful Part 2 Proposal.)

yes                       no

**If yes**, please proceed to Section 4, “RFP Bidders Under Agency Agreements”.

**If no**, please provide the information required by this item.

**INSTRUCTION: EACH RFP BIDDER THAT RELIES ON THE FINANCIAL STANDING OF AN RFP GUARANTOR AND THAT HAS OBTAINED APPROVAL FOR USE OF AN ALTERNATE GUARANTY FORM MUST PROVIDE AN EXECUTED ENFORCEABILITY OPINION FOR ITS APPROVED ALTERNATE GUARANTY FORM ON THE LETTERHEAD OF A LAW FIRM OF NATIONAL STANDING.**

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

#### 4. RFP Bidders Under Agency Agreements

Are you submitting a Proposal under an Agency Agreement?

yes                       no

**If no**, please proceed to Section 5, “Foreign RFP Bidders and Foreign Entities”.

**If yes**, please provide all information required in this Section 4 of the Part 2 Form.

*First Item: Officer’s Certificate*

**INSTRUCTION: PLEASE PROVIDE THE REQUIRED OFFICERS’ CERTIFICATE, SIGNED BY AN OFFICER OF EACH PRINCIPAL, WITH THIS PART 2 FORM.** The Independent Evaluator and PECO will determine whether the document provided is sufficient, without any liability or obligation to the RFP Bidder or its Principal(s).

The form of an Officers’ Certificate submitted by a previously eligible RFP Bidder and that was previously acceptable to PECO will remain acceptable to PECO unless there has been a change in the circumstances of the RFP Bidder submitting a Proposal under an Agency Agreement. A “previously eligible RFP Bidder” means an RFP Bidder that became eligible to submit Bids in a previous solicitation held under DSP III by submitting a successful Part 1 Proposal and a successful Part 2 Proposal.

*Second Item: Signatory to the Uniform SMA*

Is a representative of the RFP Bidder authorized to sign the Uniform SMA and to execute the Transaction Confirmation(s)?

yes                       no

**If yes**, please proceed to Section 5, “Foreign RFP Bidders and Foreign Entities”.

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

Is the RFP Bidder previously eligible and does the information regarding the representative of the Principal authorized to sign the Uniform SMA and to execute the Transaction Confirmations remain valid?

yes                       no

**If yes**, please proceed to Section 5, “Foreign RFP Bidders and Foreign Entities”.

**If no**, please update or provide the information of the representative of the Principal who will sign the Uniform SMA and any Transaction Confirmation on the next page.

**Appendix 7 to the RFP Rules**

*Name of RFP Bidder*

*Last Name of Representative*

*Given Name(s)*

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

*Title*

*Company*

*Street Address*

*City*

*State*

*Zip Code*

*Telephone No. of Representative*

*Alternate Telephone No.*

*Email Address of Representative*



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

## 5. Foreign RFP Bidders and Foreign Entities

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

yes                       no

**If no**, please proceed to Section 6, “Justification of Omissions”.

**If yes**, please provide all information required in this Section 5 of this Part 2 Form.

### First Item: Foreign RFP Bidder

Are you a Foreign RFP Bidder?

yes                       no

**If no**, please proceed to the next item in this Section 5, “Foreign RFP Guarantor”.

**If yes**, please read the instructions below and proceed to the next question.

**A FOREIGN RFP BIDDER MUST PROVIDE THE ADDITIONAL DOCUMENTS LISTED BELOW FOR THE FOREIGN RFP BIDDER TO BE GRANTED UNSECURED CREDIT UNDER THE TERMS OF THE UNIFORM SMA.**

- (1) **one (1) executed original** legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Foreign RFP Bidder is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the Foreign RFP Bidder in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit 4 to the Uniform SMA includes a sample of a sufficient legal opinion.
- (2) **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the person executing the Uniform SMA on behalf of the Foreign RFP Bidder has the authority to execute the Uniform SMA and that the governing board of such Foreign RFP Bidder has approved the execution of the Uniform SMA.
- (3) **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the Foreign RFP Bidder has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA.

Is the RFP Bidder previously eligible and do the previously submitted documents (1)-(3) listed above remain valid? (A “previously eligible RFP Bidder” means an RFP Bidder that became eligible to submit Bids in a previous solicitation held under DSP III by submitting a successful Part 1 Proposal and a successful Part 2 Proposal.)

yes                       no

**If yes**, please proceed to the next item in this Section 5, “Foreign RFP Guarantor”.

**If no**, please read the instructions below and proceed to the next question.

Appendix 7 to the RFP Rules

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

**INSTRUCTIONS:**

- **IF THE RFP BIDDER IS PREVIOUSLY ELIGIBLE, THE RFP BIDDER MUST SUBMIT ANY AND ALL UPDATES TO THE DOCUMENTS (1)-(3) LISTED ABOVE.**
- **IF THE RFP BIDDER IS NOT PREVIOUSLY ELIGIBLE, THE RFP BIDDER MUST SUBMIT ALL DOCUMENTS (1)-(3) LISTED ABOVE.**

If the Foreign RFP Bidder does not submit these documents, or if these documents are not sufficient, the Foreign RFP Bidder is not granted unsecured credit under the terms of the Uniform SMA.

Are you submitting this Part 2 Form during the Part 1 Window for early processing?

yes                       no

**If yes**, the Officer of the RFP Bidder must make the acknowledgement below.

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

Acknowledgement of Documents Required

I acknowledge that with the Part 2 Proposal, the RFP Bidder will be required to submit additional documents according to the instructions above for the Foreign RFP Bidder to be granted unsecured credit under the terms of the Uniform SMA.

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

\_\_\_\_\_  
Date

Submitting the Part 2 Form during the Part 1 Window for early processing

Second Item: Foreign RFP Guarantor

Are you relying on the financial standing of a Foreign RFP Guarantor?

yes                       no

**If no**, please proceed to the next item in this Section 5, "Foreign Principal".

**If yes**, please read the instructions below and proceed to the next question.

**AN RFP BIDDER RELYING ON THE FINANCIAL STANDING OF AN RFP GUARANTOR THAT IS A FOREIGN ENTITY MUST PROVIDE THE ADDITIONAL DOCUMENTS LISTED BELOW FOR THE RFP GUARANTOR TO BE GRANTED UNSECURED CREDIT UNDER THE TERMS OF THE UNIFORM SMA.**

- (1) **one (1) executed original** legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the RFP Guarantor is incorporated or otherwise formed that the guaranty pursuant to the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the RFP Guarantor in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit 4 to the Uniform SMA includes a sample of a sufficient legal opinion.

**Appendix 7 to the RFP Rules**

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

- (2) **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the person executing the guaranty pursuant to the Uniform SMA on behalf of the RFP Guarantor has the authority to execute the guaranty pursuant to the Uniform SMA and that the governing board of such RFP Guarantor has approved the execution of the guaranty pursuant to the Uniform SMA;
- (3) **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the RFP Guarantor has been authorized by its governing board to enter into agreements of the same type as the guaranty pursuant to the Uniform SMA.

Is the RFP Bidder previously eligible and do the previously submitted documents (1)-(3) listed above remain valid? (A “previously eligible RFP Bidder” means an RFP Bidder that became eligible to submit Bids in a previous solicitation held under DSP III by submitting a successful Part 1 Proposal and a successful Part 2 Proposal.)

yes                       no

**If yes**, please proceed to Section 6, “Justification of Omissions”.

**If no**, please follow the instructions below.

**INSTRUCTIONS:**

- **IF THE RFP BIDDER IS PREVIOUSLY ELIGIBLE, THE RFP BIDDER MUST SUBMIT ANY AND ALL UPDATES TO THE DOCUMENTS (1)-(3) LISTED ABOVE.**
- **IF THE RFP BIDDER IS NOT PREVIOUSLY ELIGIBLE, THE RFP BIDDER MUST SUBMIT ALL DOCUMENTS (1)-(3) LISTED ABOVE.**

If the RFP Bidder does not submit these documents, or if these documents are not sufficient, the Foreign RFP Guarantor is not granted unsecured credit under the terms of the Uniform SMA. In that case, the RFP Bidder may not rely on the financial standing of the RFP Guarantor. Any guaranty submitted with the Part 2 Proposal will be removed from consideration and the Independent Evaluator may request additional financial or credit information regarding the RFP Bidder.

Are you submitting this Part 2 Form during the Part 1 Window for early processing?

yes                       no

**If yes**, the Officer of the RFP Bidder must make the acknowledgement below.

**If no**, please proceed to Section 6, “Justification of Omissions”.

Acknowledgement of Documents Required

I acknowledge that with the Part 2 Proposal, the RFP Bidder will be required to submit additional documents according to the instructions above for the Foreign RFP Guarantor to be granted unsecured credit under the terms of the Uniform SMA.

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

\_\_\_\_\_  
Date

Submitting the Part 2 Form during the Part 1 Window for early processing

**Appendix 7 to the RFP Rules**

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

**Third Item: Foreign Principal**

Are you relying on the financial standing of a Foreign Principal?

yes                       no

**If no**, please proceed to Section 6, “Justification of Omissions”.

**If yes**, please read the instructions below and proceed to the next question.

**AN RFP BIDDER SUBMITTING A PROPOSAL UNDER AN AGENCY AGREEMENT WITH A PRINCIPAL THAT IS A FOREIGN ENTITY MUST PROVIDE THE ADDITIONAL DOCUMENTS LISTED BELOW FOR THE RFP BIDDER AND ITS PRINCIPAL TO BE GRANTED UNSECURED CREDIT UNDER THE TERMS OF THE UNIFORM SMA.**

**(1) one (1) executed original** legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Principal is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the Principal in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit 4 to the Uniform SMA includes a sample of a sufficient legal opinion.

**(2) one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such Principal that the Principal has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA.

Is the RFP Bidder previously eligible and do the previously submitted documents (1)-(2) listed above remain valid? (A “previously eligible RFP Bidder” means an RFP Bidder that became eligible to submit Bids in a previous solicitation held under DSP III by submitting a successful Part 1 Proposal and a successful Part 2 Proposal.)

yes                       no

**If yes**, please proceed to Section 6, “Justification of Omissions”.

**If no**, please read the instructions below and proceed to the next question.

**INSTRUCTIONS:**

- **IF THE RFP BIDDER IS PREVIOUSLY ELIGIBLE, THE RFP BIDDER MUST SUBMIT ANY AND ALL UPDATES TO THE DOCUMENTS (1)-(2) LISTED ABOVE.**
- **IF THE RFP BIDDER IS NOT PREVIOUSLY ELIGIBLE, THE RFP BIDDER MUST SUBMIT ALL DOCUMENTS (1)-(2) LISTED ABOVE.**

If the RFP Bidder does not submit these documents, or if these documents are not sufficient, the RFP Bidder and its Principal(s) are not granted unsecured credit under the terms of the Uniform SMA.

**Appendix 7 to the RFP Rules**

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

Are you submitting this Part 2 Form during the Part 1 Window for early processing?

yes                       no

**If yes**, the Officer of the RFP Bidder must make the acknowledgement below.

**If no**, please proceed to Section 6, "Justification of Omissions".

Acknowledgement of Documents Required

I acknowledge that with the Part 2 Proposal, the RFP Bidder will be required to submit additional documents according to the instructions above for the Foreign Entity as Principal to be granted unsecured credit under the terms of the Uniform SMA.

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

\_\_\_\_\_  
Date

Submitting the Part 2 Form during the Part 1 Window for early processing

**Appendix 7 to the RFP Rules**

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

**6. Justification of Omissions**

If you are unable to provide all documents or information with this Part 2 Form, please justify fully any omissions in the space provided below.

***End of Part 2 Form***

---

## Standard Pre-Bid Letter of Credit

[On Issuing Bank's Letterhead]

### IRREVOCABLE STANDBY LETTER OF CREDIT

\_\_\_\_\_ ("Date of Issuance")

Letter of Credit No. \_\_\_\_\_

**Beneficiary:**

PECO Energy Company ("PECO")  
c/o NERA Economic Consulting, Inc. ("NERA")  
Independent Evaluator  
PECO Default Service Program  
1835 Market Street, Suite 1205  
Philadelphia, PA 19103

**Applicant:**

[Name of RFP Bidder]  
[Address]

1. We, \_\_\_\_\_ (the "Issuing Bank"), hereby establish this Irrevocable Standby Letter of Credit (this "Letter of Credit") in your favor in the amount of USD \$\_\_\_\_\_, effective immediately and available to you at sight upon demand at our counters at \_\_\_\_\_ [designate Issuing Bank's location for presentments] and expiring at 5:00 PM (New York, NY time<sup>1</sup>) on \_\_\_\_\_ [no earlier than fifteen days following the Bid Date] (the "Expiration Date"), unless terminated earlier in accordance with the provisions of Paragraph 9 hereof.
2. This Letter of Credit is issued at the request and for the account of \_\_\_\_\_ (including its successors and assigns, the "Bidder"). This Letter of Credit may be drawn by presenting the documents required by paragraph 3 hereof, including your certificate stating that:
  - a) "the Bidder has made a material omission or misrepresentation in the Part 1 Proposal or the Part 2 Proposal submitted in connection with this solicitation"; or
  - b) "the Bidder has disclosed information relating to its Proposal publicly or to any other party before the PUC has rendered its decision on the results of the solicitation"; or
  - c) "the Bidder has one or more Bids approved by the PUC and the RFP Bidder has failed to execute the Uniform SMA and its Exhibits or has failed to meet the creditworthiness requirements within the timeframe required".

<sup>1</sup> If the issuer of the Letter of Credit is located in an area that is not in the Eastern Time zone, this time and all other times in this Letter of Credit, and the definition of a Business Day should be adjusted accordingly, here and in Paragraphs 5 and 9.

**Appendix 8 to the RFP Rules**

3. We hereby irrevocably authorize you to draw on us, in accordance with the terms and conditions hereof, up to the amount available under this Letter of Credit from time to time, subject to reduction as provided in Paragraph 8. A partial or full drawing hereunder may be presented by you on any Business Day on or prior to the Expiration Date by delivering or transmitting to the Issuing Bank at \_\_\_\_\_, (a) Annex 1 hereto, appropriately completed and duly signed by an Authorized Officer of PECO, which is your notice, and (b) Annex 2 hereto, appropriately completed and duly signed by an Authorized Officer of PECO, which is your draft.
4. Drafts, document(s) and other communications hereunder may be presented or delivered to us by facsimile transmission. Presentation of documents to effect a draw by facsimile must be made to the following facsimile number: \_\_\_\_\_, and confirmed by telephone to us at the following number: \_\_\_\_\_. In the event of a presentation via facsimile transmission, no mail confirmation is necessary and the facsimile transmission will constitute the operative drawing documents.
5. We will honor a drawing hereunder made in compliance with the terms and provisions of this Letter of Credit by transferring in immediately available funds the amount specified in your draft (or so much thereof as is available hereunder) delivered or transmitted to us in connection with such drawing to the account designated as provided below, by 3:00 PM (New York, NY time) on the date of such drawing, if delivery or transmission of the requisite documents pursuant to Paragraph 3 hereof is made prior to 11:00 AM (New York, NY time) on a Business Day, but at the opening of business on the first Business Day next succeeding the date of such drawing if delivery or transmission of the requisite documents pursuant to Paragraph 3 hereof is made on or after 11:00 AM (New York, NY time) on any Business Day.
6. If a demand for payment made by you hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give you notice not later than the time provided in Paragraph 5 above for honor of a drawing presented to us, that the demand for payment was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons why the demand for payment was not so effected, and that we will upon your instructions hold any documents at your disposal or return the same to you. Upon being notified that the demand for payment was not effected in conformity with this Letter of Credit, you may attempt to correct any such non-conforming demand for payment to the extent that you are entitled to do so, provided, however, in such event a conforming demand for payment must be timely made in accordance with the terms of this Letter of Credit.
7. Unless otherwise hereafter designated in writing to us by an Authorized Officer of PECO, all payments made by us under this Letter of Credit shall be transmitted by wire transfer to PECO pursuant to the following instructions:

PECO Energy Company  
Account No.: \_\_\_\_\_  
Bank: \_\_\_\_\_  
Bank's Address: \_\_\_\_\_  
\_\_\_\_\_  
ABA Routing No.: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Telephone No.: \_\_\_\_\_



## Appendix 8 to the RFP Rules

8. Partial drawings are permitted hereunder and multiple drawings are permitted hereunder. The amount available for drawing by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid through us referencing this Letter of Credit. Presentation of demands for drawings in amounts that exceed the amount available to be drawn hereunder shall not be deemed a failure to comply with the requirements of Paragraph 3 hereof, provided that the amounts payable on any such demand shall thus be limited to the amount then available to be drawn under this Letter of Credit.
9. This Letter of Credit shall terminate on the earliest of the date (a) you have made drawings which exhaust the amounts available to be drawn under this Letter of Credit, (b) we receive from you a Certificate of Cancellation in the form of Annex 3 hereto together with the original of this Letter of Credit returned for cancellation, or (c) 5:00 PM (New York, NY time) on the Expiration Date.
10. This Letter of Credit is not transferable, and except as otherwise expressly stated herein, is subject to the Uniform Customs and Practice for Documentary Credits – 2007 revision, ICC Publication No. 600, or any successor publication thereto (the “UCP”). All banking charges are for the account of the Bidder. This Letter of Credit shall, as to matters not governed by the UCP, be governed and construed in accordance with New York law, without regard to principles of conflicts of law.
11. Article 36 of the UCP as it applies to this Letter of Credit is hereby modified to provide as follows:

If on the last Business Day for presentation the place for presentation stated in this Letter of Credit is for any reason closed, then the last day for presentation is automatically extended to the day occurring thirty calendar days after the place for presentation re-opens for business.

Article 36 of the UCP as it applies to this Letter of Credit is hereby further modified by providing that any alternate place for presentation we may designate pursuant to this rule must be in the United States.

12. As used herein:

“Authorized Officer” shall mean President, Treasurer, any Vice President or Senior Vice President or any Assistant Treasurer.

“Bids” shall mean the price offers submitted by the Applicant in response to PECO Energy Company’s Default Service Program RFP.

“Bid Date” shall mean the day on which the Bidder may submit Bids in the solicitation.

“Bidder” shall mean an entity that has successfully completed the Part 1 Proposal, and that submits the Part 2 Proposal.

“Business Day” shall mean any day on which commercial banks are not authorized or required to close in New York, NY and any day on which payments can be effected on the Fedwire system.

“Uniform SMA” shall mean the PECO Energy Company - Pennsylvania Default Service Supplier Master Agreement by which PECO can contract with winners from this solicitation.

“Independent Evaluator” shall mean the administrator of PECO Energy Company’s Default Service Program RFP.

**Appendix 8 to the RFP Rules**

“PUC” shall mean the Pennsylvania Utility Commission.

“Proposal” shall mean a response by the Applicant to PECO Energy Company’s Default Service Program RFP in a solicitation, including the Part 1 Proposal and the Part 2 Proposal.

“Transaction Confirmation” shall mean an agreement pursuant to the Uniform SMA that documents certain terms of a transaction between the Applicant and PECO Energy Company.

13. This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, changed, amplified or limited by reference to any document, instrument or agreement referred to herein, except for Annexes 1 through 3 hereto and the notices referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except as set forth above. Except as otherwise expressly stated herein, this Letter of Credit may not be amended or modified by us without the consent of an Authorized Officer of PECO or an Authorized Officer of the Independent Evaluator on behalf of PECO.
14. We, the Issuing Bank, certify that as of the Date of Issuance our senior unsecured debt is rated “A” or better by Standard & Poor’s, or “A2” or higher from Moody’s Investors Service.
15. This original Letter of Credit has been sent to the Independent Evaluator at 1835 Market Street, Suite 1205, Philadelphia, PA 19103 (as per Bidder’s instructions, the Independent Evaluator holds the Letter of Credit for the benefit of PECO). The aggregate amount paid to PECO during the validity of this Letter of Credit will not exceed the amount of this Letter of Credit. Any demands or communications in the form of the attached Annexes or other communications directed to us under this Letter of Credit must be signed by an Authorized Officer of PECO. Acceptance or rejection of any amendments to this Letter of Credit must be signed by an Authorized Officer of PECO or an Authorized Officer of the Independent Evaluator on behalf of PECO.

Very truly yours,  
[Issuing Bank]

\_\_\_\_\_  
Signature: \_\_\_\_\_  
Name:  
Title:  
Date:

***Annex 1 to Letter of Credit***

DRAWING UNDER LETTER OF CREDIT NO. \_\_\_\_\_

\_\_\_\_\_, 20\_\_

To: [Issuing Bank]  
[Address]

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

The undersigned is making a drawing under Your Letter of Credit No. \_\_\_\_\_ (the "Letter of Credit") in the amount specified below and hereby certifies to you as follows:

1. Capitalized terms used herein that are not defined herein shall have the meanings ascribed thereto in the Letter of Credit.
2. The undersigned is making a drawing under the Letter of Credit. The amount to be received by PECO is (USD) \$\_\_\_\_\_.
3. Pursuant to Paragraph 2 of the Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_, the undersigned is entitled to make a drawing under the Letter of Credit in as much as the Bidder has \_\_\_\_\_ [state a reason from conditions (a) – (c) of Paragraph 2 of the Letter of Credit].
4. The undersigned acknowledges that, upon your honoring the drawing herein requested, the amount of the Letter of Credit available for drawing shall be automatically decreased by the amount of this drawing honored by you.

Very truly yours,

PECO Energy Company

By \_\_\_\_\_

Name:

Title:

Date:

cc: \_\_\_\_\_ [Bidder]

***Annex 2 to Letter of Credit***

SIGHT DRAFT

Amount: \$ \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

At sight, pay to the order of PECO Energy Company the sum of \_\_\_\_\_ U.S. Dollars.

Drawn under Irrevocable Letter of Credit No. \_\_\_\_\_ of \_\_\_\_\_  
[identify Issuing Bank] dated \_\_\_\_\_, 20\_\_.

To: \_\_\_\_\_ [Issuing Bank]  
\_\_\_\_\_ [Address]  
\_\_\_\_\_

PECO Energy Company

By \_\_\_\_\_  
Name:  
Title:  
Date:

***Annex 3 to Letter of Credit***

CERTIFICATE OF CANCELLATION

\_\_\_\_\_, 20\_\_

To: [Issuing Bank]  
[Address]

Attention: Standby Letter of Credit Unit/Your Letter of Credit No. \_\_\_\_\_

Ladies and Gentlemen:

The undersigned hereby certifies to you that the above-referenced Letter of Credit may be cancelled without further payment. Attached hereto is the original Letter of Credit, marked cancelled.

PECO Energy Company

By \_\_\_\_\_  
Name:  
Title:  
Date:

cc: \_\_\_\_\_ [Bidder]

**PECO Energy Company  
Default Service Program RFP  
March 2015 Solicitation**

**General Information  
Bid Date: Tuesday, March 10, 2015**

**Template Information:**

In addition to this 'General Information' sheet, this Bid Form contains the 'Bids' sheet.  
The 'Bids' sheet is for entering Bids for all products.

**Bidder Information:**

Company Name:	
Contact Name:	
Phone Number:	

**Bidder Information is incomplete. All fields are mandatory.**

**Class & Product Information:**

A "Class" is a grouping of PECO's retail customers. PECO will procure full requirements service for the Residential ("RES"), Small Commercial ("SC"), and Medium Commercial ("MC") Classes on a fixed-price basis. PECO will procure full requirements service with energy priced to the PJM day-ahead spot market for the Large Commercial and Industrial ("LC&I") Class.

Number of tranches available		
Class (Product)	Supply Period	Available Tranches
Residential (RES-6-Jun15)	June 2015 - November 2015	11
Residential (RES-12-Jun15)	June 2015 - May 2016	14
Residential (RES-18-Jun15)	June 2015 - November 2016	2
Residential (RES-24-Jun15)	June 2015 - May 2017	9
Small Commercial (SC-12-Jun15)	June 2015 - May 2016	12
Medium Commercial (MC-6-Jun15)	June 2015 - November 2015	12
Large Commercial & Industrial (LC&I-12-Jun15)	June 2015 - May 2016	8

The Load Caps for a Class are set so that the customers of that Class have no more than a 50% exposure to any one Default Supplier at any given time. The Load Caps apply to the list of products that contribute to Default Supply for a Class at a given point in time including products procured under DSP II. The Load Cap for an RFP Bidder that is a Default Supplier will take into account tranches won in previous solicitations under DSP II and DSP III.

**Maximum Number of Tranches Bid in this Solicitation - RES Class.**

Products	Available Tranches	Load Caps Apply to an RFP Bidder When an RFP Bidder Has:	Load Cap for RES Class
RES-6-Jun15	11	Won more than 19 RES-24-Jun14, RES-12-Dec14, and RES-24-Dec14 tranches under DSP II	30 less RES-24-Jun14, RES-12-Dec14, and RES-24-Dec14 tranches won under DSP II
RES-12-Jun15	14	Won more than 16 RES-24-Jun14, RES-12-Dec14, and RES-24-Dec14 tranches under DSP II	
RES-18-Jun15	2	Won more than 28 RES-24-Jun14, RES-12-Dec14, and RES-24-Dec14 tranches under DSP II	
RES-24-Jun15	9	Won more than 21 RES-24-Jun14, RES-12-Dec14, and RES-24-Dec14 tranches under DSP II	

**Maximum Number of Tranches Bid in this Solicitation - SC, MC and LC&I Classes.**

Products	Available Tranches	Load Caps Apply to an RFP Bidder When an RFP Bidder Has:	Load Cap
SC-12-Jun15	12	Won SC tranches in the September 2014 Solicitation under DSP II	12 less SC tranches won in the September 2014 Solicitation under DSP II
MC-6-Jun15	12	Load Caps apply always	6
LC&I-12-Jun15	8	Load Caps apply always	4

**Complete and Sign Certification:**

I, \_\_\_\_\_, certify under penalty of perjury that I am authorized to submit these Bids.

By affixing my electronic signature below I understand and agree with the following: Any Bid on any product submitted in response to this RFP for this solicitation is binding until six (6) business days after the Bid Date and constitutes a binding and irrevocable offer to provide service under the terms of the PECO Energy Company - Pennsylvania Default Service Supplier Master Agreement at the price specified in the Bid.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature

**Please enter your Name and Electronic Signature.**

**PECO Energy Company  
Default Service Program RFP  
March 2015 Solicitation**

**Bids**

**Bid Date: Tuesday, March 10, 2015**

**Bids**

- A 'Bid' is a price in \$/MWh for one tranche of a given product.
- A 'Bid' is rounded to the nearest cent.
- An RFP Bidder may submit different Bids for different tranches of a given product.
- Bids should be entered from top to bottom, without skipping rows.

**Bids (All Bids are in \$/MWh)**

Residential	Residential	Residential	Residential	Small Commercial	Medium Commercial	Large Commercial & Industrial
RES-6-Jun15	RES-12-Jun15	RES-18-Jun15	RES-24-Jun15	SC-12-Jun15	MC-6-Jun15	LC&I-12-Jun15
June 2015 - November 2015	June 2015 - May 2016	June 2015 - November 2016	June 2015 - May 2017	June 2015 - May 2016	June 2015 - November 2015	June 2015 - May 2016
Bid (\$/MWh)	Bid (\$/MWh)			Bid (\$/MWh)	Bid (\$/MWh)	Bid (\$/MWh)
1	1	1	1	1	1	1
2	2	2	2	2	2	2
3	3		3	3	3	3
4	4		4	4	4	4
5	5		5	5	5	
6	6		6	6	6	
7	7		7	7		
8	8		8	8		
9	9		9	9		
10	10			10		
11	11			11		
	12			12		
	13					
	14					

**Number of Tranches Bid**

Residential	Residential	Residential	Residential	Small Commercial	Medium Commercial	Large Commercial & Industrial
June 2015 - November 2015	June 2015 - May 2016	June 2015 - November 2016	June 2015 - May 2017	June 2015 - May 2016	June 2015 - November 2015	June 2015 - May 2016
0	0	0	0	0	0	0

**Bidder-Specific Load Caps**

11	14	2	9	12	6	4
30						

**Load Cap Status**

OK	OK	OK	OK	OK	OK	OK
OK						

Your bidder-specific load caps for a Class are set so that you serve no more than 50% of the load for a Class at any given time and take into account the tranches won in previous solicitations.

## Appendix 10 to the RFP Rules

### Future Solicitations

#### Tentative Schedule for Future Solicitations

The tentative schedules for future solicitations are provided in this Appendix 10. These schedules may be modified in accordance with Paragraphs I.1.8 and II.2.3 of the RFP Rules.

<b>Activity</b>	<b>Date</b>
<b>March 2015 Solicitation</b>	
Prospective suppliers participate in the Guaranty Process	Thursday, February 5, 2015
Approved modifications to Form of Guaranty posted	Friday, February 6, 2015
Decision on alternate guaranty forms	Thursday, February 12, 2015
Bidder Information Session	Thursday, February 12, 2015
Part 1 Proposal Window Opens	Wednesday, February 18, 2015
Part 1 Date (Part 1 Proposal Window Closes)	Tuesday, February 24, 2015
Part 1 Notification Date	Thursday, February 26, 2015
Part 2 Proposal Window Opens	Friday February 27, 2015
Bid Submission training	Monday, March 2, 2015
Part 2 Date (Part 2 Proposal Window Closes)	Thursday, March 5, 2015
Part 2 Notification Date	Monday, March 9, 2015
Bid Date (Bids are Due)	Tuesday, March 10, 2015
IE provides its report to the PaPUC	Wednesday, March 11, 2015
PaPUC Decision (close of business)	Thursday, March 12, 2015
<u>If Bids are approved by the PaPUC:</u>	
PECO sends partially executed Uniform SMA and Transaction Confirmation(s) by overnight delivery service	By close of the fourth business day after the Bid Date
Uniform SMA and Transaction Confirmation(s) fully executed	By 2PM of the fifth business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements	By close of fifth business day after the Bid Date



**Appendix 10 to the RFP Rules**

<b>Activity</b>	<b>Date</b>
<b>September 2015 Solicitation</b>	
Prospective suppliers participate in the Guaranty Process	Thursday, August 20, 2015
Bidder Information Session	Friday, August 21, 2015
Approved modifications to Form of Guaranty posted	Thursday, August 27, 2015
Decision on alternate guaranty forms	Thursday, August 27, 2015
Part 1 Proposal Window Opens	Tuesday, September 1, 2015
Part 1 Date (Part 1 Proposal Window Closes)	Tuesday, September 8, 2015
Part 1 Notification Date	Thursday, September 10, 2015
Part 2 Proposal Window Opens	Friday, September 11, 2015
Bid Submission training	Tuesday, September 15, 2015
Part 2 Date (Part 2 Proposal Window Closes)	Thursday, September 17, 2015
Part 2 Notification Date	Monday, September 21, 2015
Bid Date (Bids are Due)	Tuesday, September 22, 2015
IE provides its report to the PaPUC	Wednesday, September 23, 2015
PaPUC Decision (close of business)	Thursday, September 24, 2015
<b><u>If Bids are approved by the PaPUC:</u></b>	
PECO sends partially executed Uniform SMA and Transaction Confirmation(s) by overnight delivery service	By close of the fourth business day after the Bid Date
Uniform SMA and Transaction Confirmation(s) fully executed	By 2PM of the fifth business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements	By close of fifth business day after the Bid Date

**Appendix 10 to the RFP Rules**

<b>Activity</b>	<b>Date</b>
<b>March 2016 Solicitation</b>	
Prospective suppliers participate in the Guaranty Process	Thursday, February 4, 2016
Approved modifications to Form of Guaranty posted	Friday, February 5, 2016
Decision on alternate guaranty forms	Thursday, February 11, 2016
Bidder Information Session	Thursday, February 11, 2016
Part 1 Proposal Window Opens	Wednesday, February 17, 2016
Part 1 Date (Part 1 Proposal Window Closes)	Tuesday, February 23, 2016
Part 1 Notification Date	Thursday, February 25, 2016
Part 2 Proposal Window Opens	Friday February 26, 2016
Bid Submission training	Monday, February 29, 2016
Part 2 Date (Part 2 Proposal Window Closes)	Thursday, March 3, 2016
Part 2 Notification Date	Monday, March 7, 2016
Bid Date (Bids are Due)	Tuesday, March 8, 2016
IE provides its report to the PaPUC	Wednesday, March 9, 2016
PaPUC Decision (close of business)	Thursday, March 10, 2016
<u>If Bids are approved by the PaPUC:</u>	
PECO sends partially executed Uniform SMA and Transaction Confirmation(s) by overnight delivery service	By close of the fourth business day after the Bid Date
Uniform SMA and Transaction Confirmation(s) fully executed	By 2PM of the fifth business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements	By close of fifth business day after the Bid Date

**Appendix 10 to the RFP Rules**

<b>Activity</b>	<b>Date</b>
<b>September 2016 Solicitation</b>	
Prospective suppliers participate in the Guaranty Process	Thursday, August 18, 2016
Bidder Information Session	Friday, August 19, 2016
Approved modifications to Form of Guaranty posted	Thursday, August 25, 2016
Decision on alternate guaranty forms	Thursday, August 25, 2016
Part 1 Proposal Window Opens	Tuesday, August 30, 2016
Part 1 Date (Part 1 Proposal Window Closes)	Tuesday, September 6, 2016
Part 1 Notification Date	Thursday, September 8, 2016
Part 2 Proposal Window Opens	Friday, September 9, 2016
Bid Submission training	Tuesday, September 13, 2016
Part 2 Date (Part 2 Proposal Window Closes)	Thursday, September 15, 2016
Part 2 Notification Date	Monday, September 19, 2016
Bid Date (Bids are Due)	Tuesday, September 20, 2016
IE provides its report to the PaPUC	Wednesday, September 21, 2016
PaPUC Decision (close of business)	Thursday, September 22, 2016
 <u>If Bids are approved by the PaPUC:</u>	
PECO sends partially executed Uniform SMA and Transaction Confirmation(s) by overnight delivery service	By close of the fourth business day after the Bid Date
Uniform SMA and Transaction Confirmation(s) fully executed	By 2PM of the fifth business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements	By close of fifth business day after the Bid Date

## Confidentiality Statement

I, \_\_\_\_\_{name of person}, am employed by \_\_\_\_\_{name of employer}.

I will be considering, reviewing and evaluating responses from RFP Bidders or I will have access to information submitted by RFP Bidders that is not publicly released. In this capacity, I sign below and hereby acknowledge and understand the Confidentiality Provisions of the RFP Rules and, consistent with those rules, agree to take all reasonable precautions to ensure that all data and information supplied by all RFP Bidders are maintained in confidence and not disclosed to individuals other than those that have signed this Confidentiality Statement. My signature is witnessed by the Independent Evaluator.

A list of signatories of this Confidentiality Statement is maintained by the Independent Evaluator and available to all signatories and to RFP Bidders upon request. I undertake to consult this list of signatories before communicating RFP information to another person.

If any data or information supplied by an RFP Bidder is disclosed publicly by that RFP Bidder itself or by the Pennsylvania Public Utility Commission, such information will cease to be Confidential.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date