



800 Cabin Hill Dr.
Greensburg, PA 15601

John L. Munsch
Attorney

724-838-6210
Fax: 724-830-7737

VIA FEDEX NEXT DAY

June 8, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: West Penn Power Company Conservation Service Provider Contract with EnergyConnect, Inc., and Request for Expedited Approval; Docket No. M-2009-2093218

Dear Secretary Chiavetta:

Enclosed for filing please find four copies of a contract between West Penn Power Company and EnergyConnect, Inc., a conservation service provider ("CSP") registered with the Commission.

The contract is for the provision of services with a registered PJM Curtailment Service Provider that will register, recruit, and dispatch customer load resources to contribute to West Penn Power's Act 129 load reduction goals by gathering existing demand response resources and recruiting new demand-response resources for certain PJM load response programs.

The contract was awarded pursuant to a competitive bidding process. The contract documents include verification that EnergyConnect, Inc. is not affiliated with a Pennsylvania electric distribution company ("EDC") and the contract contains a provision that the contract is automatically terminated in the event of Pennsylvania EDC affiliation during the contract term. The contract also provides that the EnergyConnect, Inc. will maintain its CSP registration with the Commission during the term of the contract. For ease of reference the two pages of the contract materials providing the protections described above are attached to this cover letter as well as being contained in the body of the contract documentation.

RECEIVED

JUN - 8 2011

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

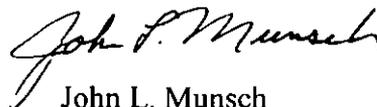
Rosemary Chiavetta, Secretary
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EnergyConnect, Inc. is presently managing West Penn Power customers in various energy and capacity markets as a Curtailment Service Provider with PJM; consequently, background checks of the EnergyConnect, Inc., employees have not been conducted. However, Article III (D) of the contract's General Terms and Conditions provides that West Penn Power may request background checks at any time. In the event that the contract performance grows to include new direct contact with West Penn Power customers, West Penn Power will request background checks at that time.

EnergyConnect's performance under the contract was anticipated to begin July 1, 2011. Therefore, West Penn Power requests that the Commission or Commission Staff process the contract filing in an expedited manner so that performance need not be delayed.

This filing is made by express delivery and is deemed filed today pursuant to 52 Pa. Code § 1.11.

Respectfully submitted,



John L. Munsch
Attorney

JLM:jss

Enclosures

cc: Patty Wiedt, Esq., Law Bureau
Wayne Williams, Bureau CEEP
Darren Gill, Bureau CEEP

Appendix 7

Vendor Name ENERGYCONNECT INC.

Date 1/19/2011

Contact Person JOHN STREMEL

St Address 901 CAMPISI WAY SUITE 260

City, St, Zip CAMPBELL, CA 95008

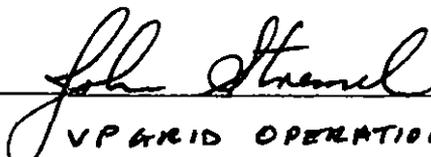
Re: Verification of Non Affiliation with a Pennsylvania Electric Distribution Co. for Allegheny Power Contract # 4600XXXXXX

Act 129 defines a CSP as "an entity that provides information and technical assistance on measures to enable a person to increase energy efficiency or reduce energy consumption and that has no direct or indirect ownership, partnership or other affiliated interest with an electric distribution company." 66 Pa.C.S. § 2806.1(m). As the Commission and EDCs must be able to identify the type of entity a CSP is and confirm that it is not owned, partnered or affiliated with an EDC, the Commission requires all CSP's to provide the following information for contract approval.

Furthermore, CSP must be approved and registered by the Commission and agrees to maintain registration with the Commission throughout the term of the contract. By signing below, CSP confirms that they are not an EDC affiliate. If CSP should merge with a PA EDC during the term of the contract, then the CSP shall immediately notify Allegheny Power and provide for automatic termination of the contract in the event of such a merger.

Please provide the information below and return via e-mail or U.S. mail to Mary Shellhammer at mshellh@alleghenypower.com or Allegheny Power, Suite 1000, 126 Mathews St, Greensburg, PA 15601.

1. Legal name of the applicant ENERGYCONNECT INC.
2. Principal place of business CAMPBELL, CA
3. Names of parent and subsidiary companies and affiliates that are CSPs and EDCs
- NONE -

Signature: 
VP GRID OPERATIONS
1/18/2011

Allegheny Power is exempt from Pennsylvania sales taxes. Direct pay permit applies.

20. Bidders Not Electric Distribution Company (EDC) Affiliates

Each bidder must certify that it is not affiliated with an EDC through ownership, partial ownership or control. Affiliation or merger with an EDC by a PUC Conservation Service Provider (PUC CSP) at any time during the term of the contract will constitute a breach of the contract by the PUC CSP and cause the termination of the contract. The PUC CSP will immediately notify Allegheny Power of a merger and provide for automatic termination of the contract. The PUC CSP is required to maintain registration with the PUC as an approved PUC CSP during the term of the contract. Successful bidder shall attest to its non-affiliation by signing a letter of verification of non-affiliation with a Pennsylvania EDC. (See Appendix 7)

21. Execution of Agreement

Upon execution of the Purchase Order issued by Allegheny Power Service Corporation, agent for Allegheny Power, the terms and conditions of the Request for Proposal, General Terms and Conditions, and Non-Disclosure Agreement, shall constitute the Agreement, with intent to be legally bound, between bidder and Allegheny Power.

Bidders are required to execute the Non-Disclosure Agreement (Appendix 1) post bid and pre-contract award. Contract award is also contingent upon Allegheny Power's EE&C/DR Plan approval by the PUC and/or PUC approval of Allegheny Power's contract with the successful PJM CSP(s).

In accordance with the PUC's Implementation Order entered February 5, 2009, a criminal and background check is required for persons associated with the PUC CSP(s) who will enter the premises of Allegheny Power customers or have personal contact with customers. The scope of the criminal background check is provided in Appendix 5. Contract award is subject to fulfillment of these requirements to Allegheny Power's satisfaction.

22. Monitoring Provisions and Procedures

The seller at times may be monitored for content, quality, and timeliness by Allegheny Power or its Evaluation, Measurement, and Verification Contractor. This may involve an onsite interview of your process for order fulfillment. Allegheny Power is responsible for verifying all aspects of quality, cost control, and related energy savings from the equipment.

23. Scope Of Work

Act 129 Contract

Vendor: Energy Connect, Inc.
Vendor Address: 901 Campisi Way Suite 260
Campbell, CA 95008-2339
Scope of Work: Services to Support the Demand Response Resources Program for Commercial, Industrial, and Government Customers in Pennsylvania

Table of Contents

	<u>Included</u>
Energy Smart Contract Document	X
Valid Insurance Certificates	X
Subcontracting Plan	X
CSP Approval Verification	X
Non Affiliate Letter	X
RFP Document w/all Appendices	X
General Terms and Conditions with Exceptions:	
Article III, D. Background Checks	X
Article III, I. Safety & Health	X
Article III, J. Drug Free Workplace	X
Article XIII. Subcontracting and Assignment	X
Article XVI. Confidentiality Agreement (Non-Disclosure)	X

RECEIVED

JUN - 8 2011

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



Contract

ISSUED BY

Allegheny Energy Service Corporation
now by merger a FirstEnergy Company

AGENT-FOR-PURCHASER
800 Cabin Hill Drive
Attn: Procurement
Greensburg, PA 15601-1650
FAX: (724) 830-7714

Page 1 of 3
Contract#
4600003409

ENERGY CONNECT INC
901 CAMPISI WAY SUITE 260
CAMPBELL CA 95008-2339

Your Vendor Number with us
10031596

Please Deliver to :
Connellsville Distribution Center
West Penn Power Company
311 South Seventh Street
Connellsville PA 15425-3015

Bill and Mail Invoices to :

Buying Company :

West Penn Power Company

Disbursement Accounting
800 Cabin Hill Drive
Greensburg, PA 15601-1650

Contract

Purchasing Document **Date**
4600003409 03-10-2011

Purchasing Buyer **Telephone**
Jennette Sheldon 724-850-0260

Fax number **Our Reference**
724-830-7721 BBLOOM-REL

E-Mail
JSHELDO@alleghenyenergy.com

Validity Start **Validity End**
03-10-2011 12-31-2012

Buyer reserves the right to assign this contract, in whole or in part, to one or more of its affiliates, their successors or assigns at any time.

All Correspondence, Shipping Papers, Invoices, Bills of Lading and Packages must show the Stock Number, Purchase Order Number, and Work Order and Op Step Numbers (if applicable and as identified in the Purchase Order header text or item text).

IncoTerms : SVC Freight Not Applicable N

Currency : USD

Terms of Payment : within 10 days 2 % cash discount within 45 days Due net

Target Value : \$2,340,000.00

This offer to purchase includes all the terms and conditions applicable to this purchase order. Acknowledgement is required for services or exceptions only. Shipment of goods will constitute your acceptance of this purchase order's terms and conditions.

AUTHORIZED BY: _____



Contract

ISSUED BY

Allegheny Energy Service Corporation

now by merger a FirstEnergy Company

AGENT-FOR-PURCHASER

800 Cabin Hill Drive

Attn: Procurement

Greensburg, PA 15601-1650

FAX: (724) 830-7714

Page 2 of 3

Contract#

4600003409

Header text

Allegheny Energy Service Corporation, now by merger a FirstEnergy Company, as authorized agent for the affiliated company [ies] identified by the ship-to address included herein or on any subsequent blanket purchase order release authorization ship-to address as included thereon, as appropriate. If more than one company is identified as the purchaser, the liability of each company named shall be several and not joint and shall be limited to such company's interest as identified therein.

Supplier Contact: Colleen Snee, Business Development Director, O: 610.224.9046, C: 610.945.5512, csnee@energyconnectinc.com

Allegheny Energy Contacts:

Buyer: Jennette Sheldon (724) 850-0260

Technical: Brian Bloom (724) 830-5465

Reference Energy Connect Quotation dated January 21, 2011 and Negotiated Pricing and Performance Terms, as agreed upon via email between Allegheny Energy (Jennette Sheldon and Brian Bloom) and Energy Connect, Inc. (Colleen Snee) dated February 24, 2011.

This contract is issued to EnergyConnect, Inc. to provide services to support the Demand Response Resources Program for Commercial, Industrial, and Government Customers in Pennsylvania.

Contract shall be effective upon issuance through December 31, 2012.

Contract shall include the following commitments by EnergyConnect:

Plan Year 2011: 10 MW Demand Response Resources (Customer-Level Demand Reduction)

20 Hours for Demand Response Resources

At \$575.00 per MWh, plus \$335,000 for program and software setup fee.

Plan Year 2012: 40 MW Demand Response Resources (Customer-Level Demand Reduction)

100 Hours for Demand Response Resources

At \$450.00 per MWh

It is the intent of Allegheny Energy to provide customer interval data for all of its customers participating in the Customer Resources Demand Response Program administered by EnergyConnect. It is the intent of both parties that EnergyConnect retrieve hourly meter data electronically from AP. The data will be transferred or uploaded to EnergyConnect in a common file format for EnergyConnect to electronically process the customer's usage data for the program. Recognizing that the Act 129 Customer Resource DR Program goals for 2012 may increase as a result of measurement and evaluation of other Act 129 programs, Energy Connect will work with Allegheny Power to meet those additional targets.

EnergyConnect will be paid for the actual load reductions that occur from customer's participating in Act 129 load curtailments performed in accordance with the load reduction calculations as specified within the RFP documents.

Incorporated herein by reference and made part hereof are the following documents:

1. Allegheny Energy Request for Quotation Document, titled "Request for Proposal for



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/11/2011

PRODUCER 0726293 1-415-546-9300 Arthur J. Gallagher & Co. Insurance Brokers of California, Inc., License #0726293 One Market Plaza, Spear Tower Suite 200 San Francisco, CA 94105	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.												
INSURED EnergyConnect Group, Inc. 901 Campisi Way, Suite 260 Campbell, CA 95008	<table border="1"> <tr> <th>INSURERS AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: TRAVELERS PROPERTY CAS CO OF AMR</td> <td>25674</td> </tr> <tr> <td>INSURER B: TRAVELERS IND CO OF CT</td> <td>25682</td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> </table>	INSURERS AFFORDING COVERAGE	NAIC #	INSURER A: TRAVELERS PROPERTY CAS CO OF AMR	25674	INSURER B: TRAVELERS IND CO OF CT	25682	INSURER C:		INSURER D:		INSURER E:	
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INSURER C:													
INSURER D:													
INSURER E:													

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	TT09406263	05/01/10	05/01/11	EACH OCCURRENCE	\$ 1,000,000
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
						MED EXP (Any one person)	\$ 10,000
						PERSONAL & ADV INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 2,000,000
						PRODUCTS - COMP/OP AGG	\$ 2,000,000
B		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	BA8874P137	05/01/10	05/01/11	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN AUTO ONLY: EA ACC	\$
						AGG	\$
A		EXCESS / UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 0	TT09406264	05/01/10	05/01/11	EACH OCCURRENCE	\$ 10,000,000
						AGGREGATE	\$ 10,000,000
							\$
							\$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below Y/N <input type="checkbox"/>	HJ0B8883P96910	05/01/10	05/01/11	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
						E.L. EACH ACCIDENT	\$ 1,000,000
						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
						E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 FirstEnergy Corp. and its subsidiaries and affiliates are named Additional Insureds on the General Liability policy per attached endorsement.

CERTIFICATE HOLDER FirstEnergy Corp. and its subsidiaries and affiliates 800 Cabin Hill Drive Greengburg, PA 15601 USA	CANCELLATION 10 Day Notice - Non-Payment of Premium SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE <i>John B. Hughes</i>
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IMPORTANT

If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TECHNOLOGY XTEND ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|---|--|
| <ul style="list-style-type: none"> A. Reasonable Force Property Damage – Exception To Expected Or Intended Injury Exclusion B. Non-Owned Watercraft Less Than 75 Feet C. Aircraft Chartered With Pilot D. Damage To Premises Rented To You E. Increased Supplementary Payments F. Who Is An Insured – Employees And Volunteer Workers – First Aid G. Who Is An Insured – Employees – Supervisory Positions H. Who Is An Insured – Newly Acquired Or Formed Organizations I. Blanket Additional Insured – Owners, Managers Or Lessors Of Premises | <ul style="list-style-type: none"> J. Blanket Additional Insured – Lessors Of Leased Equipment K. Blanket Additional Insured – Persons Or Organizations For Your Ongoing Operations As Required By Written Contract Or Agreement L. Blanket Additional Insured – Broad Form Vendors M. Who Is An Insured – Unnamed Subsidiaries N. Who Is An Insured – Liability For Conduct Of Unnamed Partnerships Or Joint Ventures O. Contractual Liability – Railroads P. Knowledge And Notice Of Occurrence Or Offense Q. Unintentional Omission R. Blanket Waiver Of Subrogation |
|---|--|

PROVISIONS

A. REASONABLE FORCE PROPERTY DAMAGE – EXCEPTION TO EXPECTED OR INTENDED INJURY EXCLUSION

The following replaces Exclusion a., **Expected Or Intended Injury**, in Paragraph 2., of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

a. Expected Or Intended Injury Or Damage

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect any person or property.

B. NON-OWNED WATERCRAFT LESS THAN 75 FEET

The following replaces Paragraph (2) of Exclusion g., **Aircraft, Auto Or Watercraft**, in Paragraph 2.

of SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:

(2) A watercraft you do not own that is:

- (a) Less than 75 feet long; and
- (b) Not being used to carry any person or property for a charge.

C. AIRCRAFT CHARTERED WITH PILOT

The following is added to Exclusion g., **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

This exclusion does not apply to an aircraft that is:

- (a) Chartered with a pilot to any insured;
- (b) Not owned by any insured; and
- (c) Not being used to carry any person or property for a charge.

COMMERCIAL GENERAL LIABILITY

D. DAMAGE TO PREMISES RENTED TO YOU

1. The first paragraph of the exceptions in Exclusion j., **Damage To Property**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** is deleted.
2. The following replaces the last paragraph of Paragraph 2., **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

Exclusions c., g. and h., and Paragraphs (1), (3) and (4) of Exclusion j., do not apply to "premises damage". Exclusion f.(1)(a) does not apply to "premises damage" caused by fire unless Exclusion f. of Section I – Coverage A – Bodily Injury And Property Damage Liability is replaced by another endorsement to this Coverage Part that has Exclusion – All Pollution Injury Or Damage or Total Pollution Exclusion in its title. A separate limit of insurance applies to "premises damage" as described in Paragraph 6. of Section III – Limits Of Insurance.

3. The following replaces Paragraph 6. of **SECTION III – LIMITS OF INSURANCE**:
 6. Subject to 5. above, the **Damage To Premises Rented To You Limit** is the most we will pay under **Coverage A** for damages because of "premises damage" to any one premises.

The **Damage To Premises Rented To You Limit** will be:

- ~~a. The amount shown for the **Damage To Premises Rented To You Limit** on the **Declarations** of this **Coverage Part**; or~~
 - b. \$100,000 if no amount is shown for the **Damage To Premises Rented To You Limit** on the **Declarations** of this **Coverage Part**.
4. The following replaces Paragraph a. of the definition of "insured contract" in the **DEFINITIONS** Section:
 - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for "premises damage" is not an "insured contract";

5. The following is added to the **DEFINITIONS** Section:

"Premises damage" means "property damage" to:

- a. Any premises while rented to you or temporarily occupied by you with permission of the owner; or
 - b. The contents of any premises while such premises is rented to you, if you rent such premises for a period of seven or fewer consecutive days.
6. The following replaces Paragraph 4.b.(1)(b) of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:
 - (b) That is insurance for "premises damage"; or
 7. Paragraph 4.b.(1)(c) of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** is deleted.

E. INCREASED SUPPLEMENTARY PAYMENTS

1. The following replaces Paragraph 1.b. of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** of **SECTION I – COVERAGES**:
 - b. Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the **Bodily Injury Liability Coverage** applies. We do not have to furnish these bonds.

2. The following replaces Paragraph 1.d. of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** of **SECTION I – COVERAGES**:

d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

F. WHO IS AN INSURED – EMPLOYEES AND VOLUNTEER WORKERS – FIRST AID

1. The following is added to the definition of "occurrence" in the **DEFINITIONS** Section:

Unless you are in the business or occupation of providing professional health care services, "occurrence" also means an act or omission committed by any of your "employees" or "volunteer workers", other than an employed

COMMERCIAL GENERAL LIABILITY

or volunteer doctor, in providing or failing to provide first aid or "Good Samaritan services" to a person.

2. The following is added to Paragraph 2.a.(1) of SECTION II – WHO IS AN INSURED:

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any of your "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

3. The following is added to Paragraph 5. of SECTION III – LIMITS OF INSURANCE:

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed by any of your "employees" or "volunteer workers" in providing or failing to provide first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

4. The following is added to the DEFINITIONS Section:

"Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.

or in which you maintain the majority ownership interest, will qualify as a Named Insured if there is no other insurance which provides similar coverage to that organization. However:

a. Coverage under this provision is afforded only:

(1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or

(2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it, and we agree in writing that it will continue to be a Named Insured until the end of the policy period;

b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

c. Coverage B does not apply to "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the organization.

~~G. WHO IS AN INSURED – EMPLOYEES SUPERVISORY POSITIONS~~

~~The following is added to Paragraph 2.a.(1) of SECTION II – WHO IS AN INSURED:~~

~~Paragraphs (1)(a), (b) and (c) above do not apply to "bodily injury" or "personal injury" to a co-"employee" in the course of the co-"employee's" employment by you arising out of work by any of your "employees" who hold a supervisory position.~~

H. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED ORGANIZATIONS

The following replaces Paragraph 4. of SECTION II – WHO IS AN INSURED:

4. Any organization you newly acquire or form, other than a partnership or joint venture, of which you are the sole owner

~~I. BLANKET ADDITIONAL INSURED – OWNERS, MANAGERS OR LESSORS OF PREMISES~~

~~The following is added to SECTION II – WHO IS AN INSURED:~~

~~Any person or organization that is a premises owner, manager or lessor is an insured, but only with respect to liability arising out of the ownership, maintenance or use of that part of any premises leased to you.~~

~~The insurance provided to such premises owner, manager or lessor does not apply to:~~

~~a. Any "bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal injury" or "advertising injury" caused by an offense that is committed, after you cease to be a tenant in that premises; or~~

COMMERCIAL GENERAL LIABILITY

- b. Structural alterations, new construction or demolition operations performed by or on behalf of such premises owner, manager or lessor.

J. BLANKET ADDITIONAL INSURED – LESSORS OF LEASED EQUIPMENT

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is an equipment lessor is an insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" caused, in whole or in part, by your acts or omissions in the maintenance, operation or use by you of equipment leased to you by such equipment lessor.

The insurance provided to such equipment lessor does not apply to any "bodily injury" or "property damage" caused by an "occurrence" that takes place, or "personal injury" or "advertising injury" caused by an offense that is committed, after the equipment lease expires.

K. BLANKET ADDITIONAL INSURED – PERSONS OR ORGANIZATIONS FOR YOUR ONGOING OPERATIONS AS REQUIRED BY WRITTEN CONTRACT OR AGREEMENT

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is not otherwise an insured under this Coverage Part and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury" or "property damage" that:

- a. Is caused by an "occurrence" that takes place after you have signed and executed that contract or agreement; and
- b. Is caused, in whole or in part, by your acts or omissions in the performance of your ongoing operations to which that contract or agreement applies or the acts or omissions of any person or organization performing such operations on your behalf.

The limits of insurance provided to such insured will be the limits which you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.

L. BLANKET ADDITIONAL INSURED – BROAD FORM VENDORS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is a vendor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury" or "property damage" that:

- a. Is caused by an "occurrence" that takes place after you have signed and executed that contract or agreement; and
- b. Arises out of "your products" which are distributed or sold in the regular course of such vendor's business.

The insurance provided to such vendor is subject to the following provisions:

- a. The limits of insurance provided to such vendor will be the limits which you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such vendor does not apply to:
 - (1) Any express warranty not authorized by you;
 - (2) Any change in "your products" made by such vendor;
 - (3) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - (4) Any failure to make such inspections, adjustments, tests or servicing as vendors agree to perform or normally undertake to perform in the regular course of business, in connection with the distribution or sale of "your products";
 - (5) Demonstration, installation, servicing or repair operations, except such operations performed at such vendor's premises in connection with the sale of "your products"; or
 - (6) "Your products" which, after distribution or sale by you, have been labeled or re-labeled or used as a container, part or ingredient of any other thing or substance by or on behalf of such vendor.

Coverage under this provision does not apply to:

- a. Any person or organization from whom you have acquired "your products", or any ingre-

COMMERCIAL GENERAL LIABILITY

(3) Notice to us of such "occurrence" or offense will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation insurer. This applies only if you subsequently give notice to us of the "occurrence" or offense as soon as practicable after any of the persons described in Paragraphs e. (1) or (2) above discovers that the "occurrence" or offense may result in sums to which the insurance provided under this Coverage Part may apply.

However, if this policy includes an endorsement that provides limited coverage for "bodily injury" or "property damage" or pollution costs arising out of a discharge, release or escape of "pollutants" which contains a requirement that the discharge, release or escape of "pollutants" must be reported to us within a specific number of days after its abrupt commencement, this Paragraph e. does not affect that requirement.

Q. UNINTENTIONAL OMISSION

The following is added to Paragraph 6., **Representations**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

R. BLANKET WAIVER OF SUBROGATION

The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" caused by an "occurrence" that takes place; or
- b. "Personal injury" or "advertising injury" caused by an offense that is committed;

subsequent to the execution of the contract or agreement.



NOTE: Contractor is required to keep records of solicitation of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns for each contract greater than \$100,000.

12. Name and description of the duties of the individual responsible for administering the subcontracting program.

Company Name: ENERGYCONNECT INC.

Name: JOHN STREMEL

Title: VP GRID OPERATIONS

Address: 901 CAMPISI WAY SUITE 260
CAMPBELL, CA 95008

Telephone Number: 408-373-3635

Duties: MANAGEMENT OF GRID PROGRAMS
SCHEDULING
SETTLEMENT

Signature & Date: John Stremel 1/19/2011



Pennsylvania Public Utility



- Home
- Electricity
- Natural Gas
- Telecommunications
- Water/Wastewater
- Transportation & Safety

- Electric Price Estimates
- Prepare Now for Winter
- Electric Companies
- PA Power Switch
- Suppliers
- AEPS Web Site
- Alternative Energy
- Act 129 Information
- CSP Registry
- Retail Choice Activity Reports
- Electric Competitive Market Oversight
- Investigation of PA's Retail Electricity Market
- Retail Markets Working Group
- Rates & Tariffs
- Sustainable Energy Fund
- Reliability
- Electric Competition Law
- Issues
- Related Links

CSP Registry

Home \ Electricity \ CSP Registry

This is a registry of Conservation Service Providers (CSP) who meet the Pennsylvania PUC's minimum qualifications to provide consultation, design, administration, management or advisory services to an electric distribution company regarding energy efficiency and conservation plans required under Act 129 of 2008, P.L. 1592. A Conservation Service Provider must be on this registry before it can provide consultation, design, administration, management or advisory services to electric distribution companies.

This registry is not meant to constitute a license, certification or warranty of any kind by the Pennsylvania PUC.

The minimum qualifications a Conservation Service Provider must meet to be included in this registry can be found in the Pennsylvania PUC's February 5, 2009, [Final Order](#) at Docket No. M-2008-2074154.

The Conservation Service Providers (CSP) Registry Application is available in [PDF](#) and [WORD](#).

[CSP Registry as a PDF](#) - Updated on May 25, 2011.
For updates to the CSP Registry, please contact Christina Platzer at (717) 783-5242 or at cplatzer@state.pa.us.

CSP Registry

Company Name	Docket Number	Expiration Date	Contact Name	Contact Address	Contact Telephone	Contact Email
Lockheed Martin Services Inc.	A-2009-2091297	3/10/2011	Dennis W. Nixon	2940 Presidential Drive, Suite 120 Fairborn, OH 45324	(937) 427-9152 x 191	dennis.nixon@lmco.com
EnergyConnect Inc.	A-2009-2091309	3/10/2011	John Stremel	51 East Campbell Ave, Suite 145 Campbell, CA 95008	(888) 422-8674	

Appendix 7

Vendor Name ENERGYCONNECT INC.

Date 1/19/2011

Contact Person JOHN STREMEL

St Address 901 CAMPISI WAY SUITE 260

City, St, Zip CAMPBELL, CA 95008

Re: Verification of Non Affiliation with a Pennsylvania Electric Distribution Co. for Allegheny Power Contract # 4600XXXXXX

Act 129 defines a CSP as "an entity that provides information and technical assistance on measures to enable a person to increase energy efficiency or reduce energy consumption and that has no direct or indirect ownership, partnership or other affiliated interest with an electric distribution company." 66 Pa.C.S. § 2806.1(m). As the Commission and EDCs must be able to identify the type of entity a CSP is and confirm that it is not owned, partnered or affiliated with an EDC, the Commission requires all CSP's to provide the following information for contract approval.

Furthermore, CSP must be approved and registered by the Commission and agrees to maintain registration with the Commission throughout the term of the contract. By signing below, CSP confirms that they are not an EDC affiliate. If CSP should merge with a PA EDC during the term of the contract, then the CSP shall immediately notify Allegheny Power and provide for automatic termination of the contract in the event of such a merger.

Please provide the information below and return via e-mail or U.S. mail to Mary Shellhammer at mshellh@alleghenypower.com or Allegheny Power, Suite 1000, 126 Mathews St, Greensburg, PA 15601.

1. Legal name of the applicant ENERGYCONNECT INC.
2. Principal place of business CAMPBELL, CA
3. Names of parent and subsidiary companies and affiliates that are CSPs and EDCs
- NONE -

Signature: _____

John Stremel
VP GRID OPERATIONS
1/18/2011

**West Penn Power Company
D/B/A Allegheny Power**

Request for Proposal

for

Demand Response Resources

for

**Small and Large Commercial, Industrial, and Government
Customers**

Customer Resources Demand Response Program

January 6, 2011

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1. Introduction

West Penn Power Company d/b/a Allegheny Power (hereinafter referred to as "Allegheny Power" or as "the Company") is seeking a 3rd Party PJM Curtailment Service Provider (CSP) (herein referred to as PJM CSP, vendor, or bidder) to provide load curtailment services during the 100 hours of highest demand for Allegheny Power's commercial, industrial and government customers (herein referred to as Program Participants) for Allegheny Power's Customer Resources Demand Response (CRDR) Program.

Allegheny Power filed a CRDR Program as part of its Energy Efficiency and Conservation & Demand Response Plan ("EE&C/DR Plan") to meet the energy and demand reduction targets of Pennsylvania Act 129 of 2008 ("Act 129") with the Pennsylvania Public Utility Commission ("PUC"). Act 129 requires electric distribution companies to procure select services from entities who are registered with the PUC as Conservation Service Providers. The services being procured under this request for proposal are requested to be provided by current or new registered Conservation Service Providers.

Allegheny Power, headquartered in the City of Greensburg, Pa, is a subsidiary of Allegheny Energy, Inc., an investor-owned electric utility with total annual revenues of over \$3 billion and more than 4,000 employees. Allegheny Power is an electric distribution company that provides electric delivery service in all or parts of 23 counties in western and central Pennsylvania. Allegheny Power provides electric distribution service in all or parts of Adams, Allegheny, Armstrong, Bedford, Butler, Cameron, Centre, Clarion, Clinton, Elk, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Lycoming, McKean, Potter, Somerset, Washington and Westmoreland Counties, Pennsylvania. Allegheny Power provides electric distribution service in Pennsylvania to approximately 714,500 customers, comprised of approximately 620,000 residential customers, approximately 81,000 commercial customers, and approximately 13,500 industrial customers, of the 81,000 commercial customers approximately 13,350 are Government/School/Non-Profit. Allegheny Power is subject to the regulatory jurisdiction of the PUC.

2. Purpose

2.1 General

The purpose of this RFP is to identify and contract with a PJM CSP(s) who will provide all services to register, recruit, dispatch customer load resources to contribute to Allegheny's Act 129 load reduction goal, specifically to meet all or a portion of the goals for the CRDR Program, as described below:

CRDR Program Energy & Demand Savings Goals

<u>Program Year</u>	<u>MW-hrs</u>	<u>MW</u>
2011	2000	40
2012	4000	40

Note: For this RFP the Program year will be considered June 1 – September 30 of each year.

The load resources described within this RFP must be nominated in aggregate by the vendor based on commodity pricing: MW-hr reduced from participant baseline and price per MW-hr). The vendor will be required to deliver the nominated load reduction to the amount of hours nominated during the 100 hours of highest demand as dispatched by Allegheny.

3. Program Details

3.1 Overview

The CRDR Program is designed to “harvest” existing demand response resources and recruit new demand-response resources from the commercial, industrial and government customer segments that are presently being managed by the vendor. These demand response resources will be managed, dispatched and controlled by the vendor so that the Program Participants can participate within the guidelines of the following PJM load response programs:

PJM Emergency and Economic (ILR/ELR) programs - Plan Years 2011/2012

The vendor will enable the Program Participant(s) to participate in Interruptible Load Response (ILR) and Economic Load Response (ELR) economic type curtailment programs that are being offered by PJM.

Allegheny DG Program – Plan Year 2011

The vendor will enable the Program Participant to participate in Allegheny’s CRDR Program that will be dispatched for up to 50 hours of high demand in the 2011 Plan Year.

Allegheny DG Program – Plan Year 2012

The vendor will enable the Program Participant to participate in Allegheny’s CRDR Program that will be dispatched for up to 100 hours of high demand in the 2012 Plan Year.

3.2 Key Program Dates

The key program dates for Program Year 2011 are:

Program Marketing: Starting February, 2011
Program Participant Registration Date: March 1, 2011
Event Dispatch: June 1 – September 30

4. Contract Structure

4.1 Contract Effective Dates

Bidders may submit proposals to commit Demand Resources for an initial period of one year beginning June 1, 2011 and ending September 30, 2011, or for an initial period of two years beginning June 1, 2011 and ending September 30, 2012.

4.2 Ownership and Financials

The vendor will act as a PJM CSP for the Demand Response Resources committed as a result of this RFP. The demand response resources will remain the resources of the PJM CSP in all aspects, including, but not limited to, ownership, operation, maintenance, PJM market participation, performance and customer relationship. In accordance with Section 6.0 (Settlement and Payment), Allegheny will enter into a financial arrangement with the PJM CSP and requires the physical delivery of the committed Demand Response Resources. The financial arrangement will provide for stable compensation for energy only, and will not include energy, capacity or ancillary service payments associated with the committed resources participation in any of the PJM markets. The financial arrangement, however, will not restrict the committed Resources from receiving capacity, energy or ancillary service payments from PJM for participation in the PJM markets.

4.3 Demand Response Resource Quantity

There is no minimum amount or limitation to the amount of Demand Response Resources (MW and Hours) that can be bid. However, the Company will select and contract for the nominated resources from qualified bidders to fulfill the overall program MW-hr commitments, as outlined in Section 2.1 of this RFP for the 2011 Program Year. The Company may select and contract for nominated resources from qualified bidders, at its sole discretion, based on any bids received for the 2012 Program Year.

4.4 Contract Penalty and Reward Structure

The following contract penalties and reward structure will be invoked on this contract:

- a) The vendor will be subject to an under performance penalty for hourly shortfalls relative to their contracted load reduction and will be based on a MW-hr pricing equivalent of 150%. For example: If the vendor nominates 1000 MW-hrs at \$400/MWhr into the program and only delivers 950, the contract penalty will be 50 MW-hrs x \$400/MWhr x 1.5.
- b) The vendor will be compensated for over-performance relative to the contracted load reduction. The maximum contract over-performance will be capped at 5% of the total contracted load reduction.

5. Demand Response Resource Requirements

The Demand Response resources committed as part of this RFP must meet the following requirements

- a) The PJM CSP must register the participants in the "Full Program Option" of PJM's Emergency Load Response Program (the Program) and Supplier will cause the resource to meet the requirements of the Program and to make the load reductions requested by PJM under the Program.
- b) The PJM CSP must register the participants in the "Economic Program Options" of PJM's Economic Load Response Program.
- c) The PJM CSP must respond to the dispatch requirements for Allegheny's CRDR Program as described in Section 22 of this RFP.
- d) The Capacity Resources contracted for by the Company under this RFP shall not include any resources already included in Allegheny's Act 129 Energy Efficiency and Conservation & Demand Response Programs, including residential and small commercial customers who enroll in Allegheny's Critical Peak Rebate or TOU with Critical Peak Pricing rate offerings.
- e) The PJM CSP must keep separate in the PJM eRPM system the Demand Response Resources committed as a result of this RFP from other Resources of the PJM CSP.
- f) The PJM CSP must provide Allegheny read-only access to their PJM eRPM system, Market Settlements Reporting System (MSRS), and Load Response system accounts for the Resources committed as a result of this RFP for the sole purpose of verifying contract performance.
- g) The PJM CSP must provide all data and documentation necessary to verify and quantify any load reducing actions taken to facilitate the evaluation of the overall impact of demand response activities. This data and documentation is to include, without limitation, individual

customer data for all customers enrolled in the CRDR Program by the PJM CSP, to include, but not limited to, the following:

1. All customer participation information including: Customer Name, Allegheny Account Number, Contact Name, Contact Phone Number, Contact Email address available in excel format.
2. All capacity period hourly load data for each enrolled end use customer.
3. Identification of all load control events and notifications of each load control events for each enrolled customer, whether the customer participated in an individual demand response event or not.
4. Both CRDR Program and PJM demand response events must be disclosed separately for each participant and for each hour of the event. A complete list of program participant summary data, including claimed demand response impacts by each participant.

6. Settlement and Payment

The financial arrangement between Allegheny and the PJM CSP(s) will be a based on the actual measured load reduction from the customer baseline for each hour of the load curtailment event, as dispatched by Allegheny. PJM measurement and verification (PJM M&V) protocols for the PJM economic demand response programs, in effect for the applicable PJM delivery and planning year, will be used as a basis for the measurement and verification for load curtailment performance. The PJM M&V protocols include multiple customer baseline protocols, including a custom protocol for customers with highly variable and unpredictable loads. The Company may use different protocols for different participants so long as the use of such protocols is permitted under PJM business rules as set forth in PJM Manual 19 and/or PJM Manual 11.

It should be noted that the PJM M&V protocols for demand response capacity measures are disallowed as a basis for measurement and verification for the CRDR Program, unless the protocols are consistent with energy protocols. The anticipated baseline protocols are as referenced as follows:

PJM Transmission Open Access Transmission Tariff

1. Section 3.3A.2 Customer Baseline Load
 - a. PJM 4/5 methodology
 - b. Symmetric Additive Adjustment Using 4/5 Methodology
2. Section 3.3A.2.01 Alternative Customer Baseline Per Approval of PJM and Allegheny Power

7. Load Curtailment Parameters

7.1 General Event Parameters

The vendor will dispatch load curtailments to program participants, within the following guidelines, as notified by Allegheny:

Program Type(s)	Demand Response for Act 129
Program Delivery Year	June 1 – September 30, 2011 and June 1 – September 30, 2012 (if applicable)
Interruptions per Year	Up to 25
Event Start Time(s)	As early as 11:00 AM
Event Duration	Up to 6 consecutive hours (average) With some ranging 3 and 8 hours.
** Notification Time (from Allegheny)	Day Ahead of Event by 11 AM
Cancellation or adjustment time	Day of event by 11 AM
Load Reduction Amount (per customer)	100 kW, minimum
Metering Requirement	Allegheny Power Interval metering or Metering that adheres to PJM guidelines and approved by Allegheny Power

** Note: Please provide any requirements for notification times and/or strategies as part of your proposal.

7.2 Event Notification Procedure

The vendor shall develop a process to notify Program Participants for all events dispatched by Allegheny. The vendor shall use best practices to notify customers of the events.

The preliminary notification procedure process is as follows:

1. Allegheny forecasts a peak event day (day ahead)
2. Allegheny notifies vendor by 11:00 AM (day ahead) of event start and stop time
3. Vendor notifies Program Participants of the event start and stop time (day ahead)
4. Allegheny reviews forecast of peak event day (Day of event)
5. Allegheny determines if event shall be:

Cancelled

Adjusted start and stop time

No adjustments required

6. Allegheny notifies vendor by 11:00 AM (day of event) of the changes, from Item 5 above.
7. DR Vendor contacts Program Participants with event changes (Day of Event)

8. General Instructions

Bidders are required to follow all the instructions set forth in the RFP. In submitting a proposal, it is imperative that complete documentation be provided, that the forms and agreements provided by the Company be used, that all exhibits and attachments be clearly marked and identified, and that the proposal is organized in the manner prescribed.

8.1 Bidders' Conference Call

A conference call will be held on **Tuesday, January 11, 2011 at 2:00 PM**. The conference call will provide interested firms with an opportunity to seek clarification on the requirements of the RFP. **To participate in the call:**

Dial: 1-866-590-3642

When prompted, enter Passcode: *8139484*

*** Be sure to enter * before and after the passcode number.**

8.2 Intent to Bid

Potential bidders are encouraged but not required to submit an E-mail notification of intent to submit a proposal in response to this RFP. This information helps Allegheny Power plan and administer the RFP. Bidder's notice of intent to bid should be submitted by Monday, January 17, 2011 to Allegheny Power's strategic sourcing web site (Power Advocate see Appendix 10).

8.3 RFP Submittal Format and Due Date

Bidders are required to submit an electronic version of their proposal to Allegheny Power's strategic sourcing website. The submittals must be uploaded by **7 PM, EDT, Friday January 21, 2011**. Late submittals will be rejected.

Bidders are required to submit two documents: their proposal (as an Adobe Acrobat .PDF file) and a Microsoft Excel file with their pricing. See Appendix 10 for details.

Allegheny Power is not liable for any costs incurred by any person or firm responding to this RFP or participating in best and final interviews.

8.3 RFP Schedule

RFP Release	January 7, 2011
Bidder's Conference Call	January 11, 2011 - 2:00 to 3:00 PM (See dial-in information above)
Close of RFP question period	January 19, 2011 at Noon EST
Electronic Proposals Due	January 21, 2011 by 7:00 PM EST
Technical & Comprehensive Review of Bids	Week of January 24, 2011
Contract Negotiations	Week of January 31, 2011
Anticipated contract start date	February 7, 2011

9. Confidential Information and Confidentiality Agreements

The Company will ensure that all bidders have access to the same information from the Company and that no bidder will have selective or otherwise preferential access to market sensitive information from the Company through this RFP.

The PJM CSP and Company will be required to execute the Non Disclosure Agreement prior to contract award. An electronic copy of the Non Disclosure Agreement can be found as attached Appendix 1.

The Company and its agents will treat as confidential all proposals submitted by bidders and communications between bidders and the Company. Bidders are submitting their proposals with the knowledge and understanding that, regardless of confidentiality of any information submitted by them, it is subject to disclosure to the PUC and its Staff, or any other governmental authority or judicial body with jurisdiction relating to these RFP matters, and further may be subject to legal discovery. Such information will be considered confidential between Allegheny Power and the bidders, and Allegheny Power will provide the information to the PUC on a confidential basis. However, Allegheny Power shall not be held responsible should the PUC or its Staff, or any other governmental authority or judicial body with jurisdiction relating to these RFP matters, make such information public.

10. Modification or Cancellation of the RFP

Allegheny Power reserves the right, in its sole judgment and discretion, to modify or cancel this RFP. Allegheny Power will post a notice on the RFP website and make reasonable efforts to notify participants of any such changes, cancellations, or schedule changes. Allegheny Power shall not have any responsibility for making such notification. Allegheny Power shall not have any liability for damages suffered by bidders as a result of modification or cancellation of the RFP.

Also, the bidder understands that this RFP is not intended to and does not constitute a commitment by the Company to consummate any definitive agreement with any bidders. Neither the Company nor any bidder will have any rights or obligations of any kind whatsoever by virtue of the RFP or any other written or oral expression by any party hereto.

11. **Question, Comment and Response Process**

All questions and comments submitted by bidders and stakeholders, as well as Allegheny Power's responses to such questions and comments, will be posted on the RFP website as E-mailed to each bidder. Accordingly, bidders and stakeholders should avoid including information in their questions and comments that they would not want disclosed. The official response to questions is the written response posted to the website. Allegheny Power's objective in posting these questions, comments, and responses is to ensure all bidders have equal access to information that may be relevant to their respective proposals.

Bidder questions related to this RFP should be submitted via e-mail to Jennette Sheldon at jsheldo@alleghenyenergy.com. **Questions will be accepted until Noon EST on January 19, 2011.** Questions submitted after this date will not be addressed. Copies of all questions and answers will be posted on the bid event.

12. **Capability and Experience**

12.1 The contractor must have the capability directly to perform curtailment services for the demand response program which is consistent with accepted curtailment program standards and protocols, and to comply with any PUC and PJM requirements per PJM's Reliability Assurance Agreement (RAA) and Open Access Transmission Tariff (OATT). It is expected that the selected bidder and the Company's personnel will work very closely to ensure the Curtailment Service Provider proposal meets all applicable requirements.

12.2 Each bidder shall discuss their direct experience with contracting with customers for demand response programs. Upon receiving a Purchase Order from Allegheny Power for this RFP, the successful bidder(s) shall provide a copy of a standard agreement or contract that will be used in contracting the curtailment services with a Program Participant.

- 12.3 Each bidder shall discuss their direct experience and with providing Curtailment Services as defined by PJM under the Interruptible Load Response (ILR) and Economic Load Response (ELR) programs. **Per Appendix 11, each bidder will certify that they are presently a registered Curtailment Service Provider with PJM.**
- 12.4 Each bidder must certify that it will meet the experience and technical qualifications required by the PUC regarding the bidder's experience and technical qualifications. Those qualifications are found on Page 8 of the PUC's Order entered February 05, 2009, at Docket No. M-2008-2074154 (Docket can be reviewed at <http://www.puc.state.pa.us//pcdocs/1032442.doc>)
- 12.5 Each bidder must certify that it will meet the financial fitness and insurance standards required by the PUC. Those standards are found on page 12 of the Pennsylvania Commission's Order entered February 05, 2009, at Docket No. M-2008-2074154 (Docket can be reviewed at <http://www.puc.state.pa.us//pcdocs/1032442.doc>)
- 12.6 The requirements outlined in section 12 are contained in the Pennsylvania Public Utility Commission's (PUC) Conservation Service Provider (CSP) application process. If the bidder is presently an approved and registered CSP with the PA PUC, they have met these requirements. If the successful bidder is not an approved and registered CSP with the PA PUC, approval and registration are required in order for Allegheny Power to award the contract resulting from this RFP. CSP Application can be found at:
http://www.puc.state.pa.us/general/onlineforms/doc/CSP_Registry_App.doc

13. **Additional Information**

Allegheny Power may request additional information and materials from any bidder for evaluation of a proposal. Failure to provide such additional information and materials may result in rejection of the proposal for further evaluation.

14. **Warranty on Information**

The information provided in the RFP, or on the Company's RFP website, has been prepared to assist bidders in evaluating the RFP. It does not purport to contain all the information that may be relevant to a bidder in satisfying its due

diligence efforts. The Company makes no representation or warranty expressed or implied, as to the accuracy or completeness of the information, and shall not, individually or as a corporation, be liable for any representation expressed or implied in the RFP or any omissions from the RFP, or any information provided to a bidder by any other source.

A bidder should check the Company's website frequently, to ensure it has the latest documentation and information. Neither the Company nor its representatives shall be liable to a bidder or any of its representatives for any consequences relating to or arising from the bidder's use of outdated information.

15. Hold Harmless

Bidders shall hold the Company harmless of and from all damages and costs, including but not limited to legal costs, in connection with all claims, expenses, losses, proceedings or investigations that arise as a result of the RFP or the award of a bid pursuant to the RFP.

Bidders recognize and hereby agree that Allegheny Power may be subject to significant civil penalties under Act 129 for failure to achieve required reductions in consumption, and each bidder agrees that it will be liable for a proportionate share of such civil penalty should its action or inaction have resulted in or contributed to a failure to achieve energy and efficiency goals set in Act 129, specifically Act 129 electric consumption reduction goals and electric peak demand goals.

Each bidder further recognizes and agrees that poor performance or non-compliance with these terms, or the standards of Act 129 and Orders of the PUC implementing Act 129 will provide the Company a cause of action against bidder for damages resulting from such poor performance or non-compliance.

16. Bidder's Acceptance & Requirements

The submission of a proposal to the Company shall constitute a bidder's acknowledgment and acceptance of all the terms, conditions and requirements of this RFP. The Bidder is **required** to be an approved and registered CSP with the PA PUC.

17. Permits, Licenses and Compliance with the Law

Supplier shall obtain all licenses and permits that may be required by any governmental body or agency necessary to conduct supplier's business or to perform hereunder. Supplier's subcontractors, employees, agents and representatives of each in performance hereunder shall comply with all applicable governmental laws, ordinances, rules, regulations, orders and all other governmental requirements.

18. Proprietary Information

The treatment of proprietary and confidential information of any bidder and of the Company is addressed in the Non Disclosure Agreement (Appendix 1).

19. General Term and Conditions

The agreement will be governed by the Allegheny Energy Service Corporation General Terms and Conditions attached hereto (Appendix 2).

Further clarification of Item 8, Insurance:

Prior to rendering any service hereunder, Seller shall, at its own expense, procure and thereafter keep in effect until service has been performed: (a) Workers' Compensation Insurance for its employees engaged in this work, sufficient to comply fully with requirements and coverage specified by laws of each jurisdiction in which work shall be performed; (b) Commercial General Liability Insurance providing limits of not less than \$3,000,000 combined single limit per occurrence for bodily injury and death and for property damage and including coverage for Contractual Liability, covering all liability of Seller under this purchase order and including Products-Completed Operations; (c) Comprehensive Automobile Liability Insurance (including owned, non-owned and hired vehicles), providing limits of not less than \$1,000,000 combined single limit per occurrence for bodily injury and death and including property damage; (d) such other specific insurances and/or limits determined by Buyer to be appropriate for work to be performed. Seller shall cause Buyer, its present and future owners, co-owners, parents, affiliates and subsidiaries, and the representatives, agents, officers, directors and employees of each of them (the "Indemnified Parties") to be named as Additional Insured parties with respect to the Commercial General Liability, Comprehensive Automobile Liability (including owned, non-owned and hired vehicles) and Excess Liability/Umbrella policies, if applicable under the purchase order. Any insurance coverage is considered primary as respects other insurance carried by the certificate holder. To the extent permitted by applicable law, rights of subrogation are waived against Buyer and other Indemnified Parties for all Workers' Compensation, Employer's Liability, Commercial General Liability, Comprehensive Automobile Liability and Excess Liability/Umbrella policies of insurance required hereunder. Seller shall furnish Buyer (Attention: Event Risk Management, 800 Cabin Hill Dr., Greensburg PA 15601) with certificates of insuring companies showing such insurance to be in effect and the expiration dates and agreeing to give no less than thirty (30) days' written notice to Buyer in advance of any change in or cancellation of such insurances.

Further clarification of Item 15, Taxes:

Allegheny Power is exempt from Pennsylvania sales taxes. Direct pay permit applies.

20. **Bidders Not Electric Distribution Company (EDC) Affiliates**

Each bidder must certify that it is not affiliated with an EDC through ownership, partial ownership or control. Affiliation or merger with an EDC by a PUC Conservation Service Provider (PUC CSP) at any time during the term of the contract will constitute a breach of the contract by the PUC CSP and cause the termination of the contract. The PUC CSP will immediately notify Allegheny Power of a merger and provide for automatic termination of the contract. The PUC CSP is required to maintain registration with the PUC as an approved PUC CSP during the term of the contract. Successful bidder shall attest to its non-affiliation by signing a letter of verification of non-affiliation with a Pennsylvania EDC. (See Appendix 7)

21. **Execution of Agreement**

Upon execution of the Purchase Order issued by Allegheny Power Service Corporation, agent for Allegheny Power, the terms and conditions of the Request for Proposal, General Terms and Conditions, and Non-Disclosure Agreement, shall constitute the Agreement, with intent to be legally bound, between bidder and Allegheny Power.

Bidders are required to execute the Non-Disclosure Agreement (Appendix 1) post bid and pre-contract award. Contract award is also contingent upon Allegheny Power's EE&C/DR Plan approval by the PUC and/or PUC approval of Allegheny Power's contract with the successful PJM CSP(s).

In accordance with the PUC's Implementation Order entered February 5, 2009, a criminal and background check is required for persons associated with the PUC CSP(s) who will enter the premises of Allegheny Power customers or have personal contact with customers. The scope of the criminal background check is provided in Appendix 5. Contract award is subject to fulfillment of these requirements to Allegheny Power's satisfaction.

22. **Monitoring Provisions and Procedures**

The seller at times may be monitored for content, quality, and timeliness by Allegheny Power or its Evaluation, Measurement, and Verification Contractor. This may involve an onsite interview of your process for order fulfillment. Allegheny Power is responsible for verifying all aspects of quality, cost control, and related energy savings from the equipment.

23. **Scope Of Work**

23.1 Purpose

The purpose of this Request for Proposal (“RFP”) is to identify and contract with an experienced 3rd Party PJM CSP capable of providing cost-effective, turnkey services. As described herein, Allegheny Power is requesting the following services to be directly supplied by the vendor to support the program:

- a. Provide all administration and marketing services to successfully market the CRDR Program to small and large commercial, industrial and governmental customers.
- b. Interface with Allegheny Customer Management personnel on the development of all marketing materials that will be used to market the CRDR Program to the Program Participants. Allegheny will have sole approval of all marketing materials developed by the vendor for the CRDR Program.
- c. Provide on-site consulting of the CRDR Program with all potential Program Participants that need assistance with applying for the CRDR Program, and provide follow-up consultation as needed.
- d. Contract individually with all Program Participants.
- e. Provide all necessary forms and/or contracts to enroll customers into the program. Contractual documents will be made available to Allegheny for review and approval, prior to program start. All sensitive pricing and related information can be removed from the customer contract. .
- f. The vendor will provide all necessary infrastructures to implement, monitor, dispatch, notify, measure and verify the demand response activities, as per Section 5 of this RFP.
- g. The vendor will perform all services to act as a PJM Curtailment Service Provider per PJM’s requirements.
- h. The vendor will perform all resource testing, reconciliation, and compliance activities related to participating as a PJM Curtailment Service Provider per PJM’s requirements.

24. Selection Process and Evaluation Criteria

Allegheny Power’s business principles include selecting Sellers using a fair, transparent, well defined, clear and unbiased process based on explicit selection criteria. Using these principles, a quick and straightforward selection and contracting process is planned with work scheduled to begin **February 7, 2011**. This Section describes the selection process and evaluation criteria.

Selection Process

All proposals will be evaluated using the following process:

Step 1: Threshold Review

The threshold review ensures that proposals contain all required elements and that the bidders demonstrate that there are no legal claims/judgments or conflicts of interest that would make it difficult for them to perform. The threshold review, and ongoing reviews, will also include consideration of omissions, inaccuracies or misstatements. Allegheny Power can remove proposals that do not pass the threshold review from further consideration.

Step 2: Evaluation Criteria

Proposals passing the threshold review are evaluated using a formal review. Price (\$/MW-hr), load resources (MW) and duration (Hrs) will be the factors used in the evaluation of qualified proposals. Each bid will be ranked according to the price, load resources and duration submitted

Allegheny will select and contract resources from accepted bidders to fulfill the program MW-hr goals, as outlined in Section 2.1 of this RFP for 2011 Program Year, based on the price, nominated amount of MW and hours.

Step 3: Interviews

Top-ranked bidders may be invited to an interview. Presentations and answers to reviewer questions will be scored. Criteria will include:

- Quality of presentation
- Interaction and cohesiveness of the team, if applicable
- Responses to questions

Note that Allegheny Power reserves the right to forego this step should proposals be ranked in the technical review as clearly superior to others.

Step 4: Selection and Contract Negotiation

Allegheny Power will initially notify only the selected bidder(s) for the evaluation of the proposal via E-mail. This notification will initiate the Agreement negotiation process. Should Allegheny Power and the selected bidder(s) be unable to quickly enter into an Agreement, Allegheny Power may terminate negotiations and initiate negotiations with the next ranked bidder(s).

Appendix I

ALLEGHENY ENERGY SERVICE CORPORATION

NONDISCLOSURE AGREEMENT

THIS AGREEMENT is made this ____ day of _____, 2011, by and between **Allegheny Energy Service Corporation**, a Maryland corporation with offices at 800 Cabin Hill Drive, Greensburg, PA 15601, for itself and as agent for its parent and affiliates as set forth in Exhibit "A" attached hereto (the "AE Companies") and _____, a (Insert State) corporation, represented herein by its _____ Division ("_____").

WHEREAS, _____ has in its possession certain technical information, know-how and data of a confidential and proprietary nature (hereinafter referred to as "CONFIDENTIAL INFORMATION"), and

WHEREAS, COMPANY has in its possession certain confidential information, know-how and data of a confidential and proprietary nature, (hereinafter referred to as "CONFIDENTIAL INFORMATION"), and

WHEREAS, both _____ and COMPANY are prepared to disclose certain of this CONFIDENTIAL INFORMATION to the other party under the following conditions.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which hereby are expressly acknowledged, the parties intending to be bound hereby agree as follows:

1. "Confidential Information" includes any and all information disclosed by one party to the other pursuant to this Agreement in a writing marked "Confidential" or "Proprietary" or by any electronic or digitally based information including, without limitation, customer information, electronic (.wav) files of customer calls, or if communicated either verbally or visually, identified as "Confidential" or "Proprietary" at the time of communication. It is understood that the obligations imposed upon the parties by this Agreement shall not apply to information that at the time of disclosure or thereafter (i) was generally available to and known by the public, other than as a result of a disclosure by the receiving party or its representatives; or (ii) was generally available to the receiving party on a non confidential basis from a source other than the disclosing party or its representatives, provided that such source was not bound by a confidentiality agreement with the disclosing party; or (iii) the information was already known to the receiving party as evidenced by its written records and the disclosing party is promptly notified after receipt of the information; or (iv) the information is independently developed by or on behalf of the receiving party by individuals who did not directly or indirectly receive relevant Confidential Information of the disclosing party; or (v) is

disclosed by the recipient party with the disclosing party's prior written approval; or (vi) pursuant to legal requirements as provided in paragraph 3.

2. For a period of five (5) years from the date first written above, each party shall maintain the confidentiality and prevent accidental or other loss of any Confidential Information of the other party with at least the same degree of care as it uses to protect its own Confidential Information but in no event with less than reasonable care to maintain the other party's Confidential Information in confidence and shall not itself use, except for the benefit of the disclosing party, or disclose the same to others without the prior written consent of the disclosing party. Each party shall immediately notify the other in the event of any loss or unauthorized disclosure of the Confidential Information of the other party.

3. Each party agrees that it will make available the other party's Confidential Information only on a "need to know" basis and that all contractors, consultants, agents or employees to whom such Confidential Information is made available will be made aware of the strictly confidential nature of such Confidential Information and shall have entered into a written confidentiality agreement with the party making such re-disclosure. Without the prior written consent of the disclosing party, neither the receiving party, nor its representatives, will disclose Confidential Information to any third party, except as provided herein and as may be required by law, subpoena or other legal process. If either party shall be required to disclose any Confidential Information, it is agreed that, to the extent legally permitted, such party will provide the other party with prompt written notice of such request, so that the other party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. In the event that such protective order or other remedy is not obtained, or that either party waives compliance with the provisions of this Agreement, each party agrees that it will furnish only that portion of Confidential Information and other information that is legally required and that it will cooperate with any efforts by the other party to obtain reliable assurance that confidential treatment will be accorded to that portion of Confidential Information that is being disclosed.

4. Each party agrees that it will not use in advertising, publicity or otherwise any trade name or trademark or any product, contraction, abbreviation or simulation thereof that is owned, to such party's knowledge by the other party or any subsidiary or affiliate of such other party without the owner's prior written consent.

5. By written demand, each party may require the other to cease using the Confidential Information, and at the party's option, either return the Confidential Information and all copies, notes or extracts thereof, to the party within seven (7) days of the demand or certify its destruction to the party.

6. No provisions of this Agreement shall be amended except by written consent of both parties, which consent shall specifically refer to this Agreement and explicitly make such amendment. Any consent or waiver of compliance with any provision of this Agreement shall be effective only if in writing and signed by the Party

purported to be bound thereby, and then such consent or waiver shall be effective only in the specific instance and for the specific purpose for which given. No failure or delay by either Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial waiver thereof preclude any other exercise of any other right, power or privilege hereunder. Each party shall be entitled to seek equitable relief, including injunction and specific performance, in the event of any breach of the provisions of this Agreement.

7. This Agreement constitutes the entire agreement and understanding between the parties as to Confidential Information concerning its subject matter. No representations have been made by either of the parties except as are specifically set forth herein. No rights or obligations other than those expressly recited herein are to be inferred from this Agreement.

8. If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

9. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns, as the case may be. This Agreement shall survive and shall not be affected by any termination of any commercial relationship between the parties.

10. This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument.

11. This Agreement shall be governed by the laws of the state where the service is performed with respect to conflicts of law and the provisions of the United Nations Convention on Contracts for the International Sale of Goods.

12. Each party agrees that the Confidential Information is and shall remain the sole property of the disclosing party. Nothing in this Agreement shall be construed to grant either party any right, interest or license in or under any patent, trademark, copyright, trade secret or other proprietary right or material owned by the other party, whether or not it is part of the Confidential Information.

13. All notices, requests, consents, demands and other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be (a) personally delivered (including by local or overnight courier), (b) sent by postage prepaid registered first-class mail or (c) transmitted by facsimile or other electronic means, and shall be deemed to have been duly given when received if received prior to 5:00 p.m. on a business day or on the next business day (if delivered after 5:00 p.m. or on a non-business day). Notice to either party shall be sent to its address as set forth above, or to such other address as a party hereto shall have given notice pursuant to this Section.

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Appendix 2

GENERAL TERMS AND CONDITIONS

1. **BUYER:** Each company for which materials ordered herein are to be used or for which services ordered herein are to be performed shall be the Buyer of those materials or services. No Buyer shall be liable to Seller for any obligation of any other Buyer hereunder.
2. **OFFER, ACCEPTANCE AND AMENDMENTS:** This purchase order is an offer by Buyer to Seller, is not an acceptance of the terms and conditions of any offer made by Seller to Buyer, and any such offer is expressly rejected. Acceptance of this offer is expressly limited to its terms. Upon acceptance by Seller, this purchase order becomes the final agreement between Seller and Buyer, constituting the entire contract and superseding all previous communications either oral or written. This purchase order may be modified only by a writing signed by Buyer.
3. **RESPONSIBILITY:** Seller in its performance hereunder shall at all times be an independent contractor and responsible for all acts or omissions (negligent or otherwise) of its agents, employees and subcontractors. Personnel employed by or representing Seller on Buyer's premises shall be subject to the continuing approval of Buyer and any worker who is unsatisfactory shall be removed at the request of Buyer. Furthermore, all subcontractors employed by Seller shall be subject to Buyer's continuing approval. Seller alone shall be and remain liable and responsible for the manner and methods by which work is performed and for materials, working force and equipment, irrespective of whether or not any changes are made as a result of any comments received from Buyer.
4. **EMPLOYMENT STANDARDS:** Seller agrees, unless exempt, to comply with the Federal Acquisition Regulations System (FAR) including, but not limited to, solicitation provisions and contract clauses in the following implementation provisions which are hereby incorporated by reference: Equal Employment Opportunity (48 C.F.R. § 22.8), Special Disabled and Vietnam Era Veterans (48 C.F.R. § 22.13, 41 C.F.R. 60-250.4(m)), Employment of the Handicapped (48 C.F.R. § 22.14, 41 C.F.R. 60-741.4(f)), Small Business and Small Disadvantaged Business Concerns (48 C.F.R. § 19.000-19.902), Pollution Control and Clean Air and Water (48 C.F.R. § 23.1). Seller further agrees by its acceptance of this purchase order to make certifications and periodic reports required by the FAR, and the laws and Executive Orders implemented by those regulations.
5. **SMALL BUSINESS STANDARDS:** Pursuant to the Small Business Act as amended (15 U.S.C. § 631 et seq.) and Utilization of Small Business Concerns (48 C.F.R. § 19.000-19.902, and § 52.219-8), Seller agrees to use its best efforts to carry out the policy stated in the said Act as amended so that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals as defined in the Act have the maximum practicable opportunity to compete for subcontracts to the fullest extent consistent with the efficient performance of the contract.
6. **SAFETY AND HEALTH:** Seller shall take all precautions necessary and shall be solely responsible for the safety of the work and the safety and adequacy of the manner and methods it employs in performing the work and shall not require any employee or representative performing hereunder to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to health or safety. Seller shall conduct the work in conformance with all applicable safety and health laws, ordinances, rules, regulations, orders and all other requirements including those promulgated pursuant to OSHA and by Buyer when on Buyer's premises.
7. **PERMITS, LICENSES AND COMPLIANCE WITH THE LAW:** Seller shall obtain all licenses and permits that may be required by any governmental body or agency necessary to conduct Seller's business or to perform hereunder. Seller, Seller's subcontractors, and employees, agents and representatives of each in performance of work hereunder shall comply with all applicable governmental laws, ordinances, rules, regulations, orders and all other governmental requirements.
8. **INSURANCE:** Prior to rendering any service hereunder, Seller shall, at its own expense, procure and thereafter keep in effect until service has been performed: (a) Workers' Compensation Insurance for its employees engaged in this work, sufficient to comply fully with requirements and coverages specified by laws of each jurisdiction in which work shall be performed; (b) Commercial General Liability Insurance providing limits of not less than \$3,000,000 combined single limit per occurrence for bodily injury and death and for property damage and including coverage for Contractual Liability, covering all liability of Seller under this purchase order and including Products-Completed Operations; (c) Comprehensive Automobile Liability Insurance (including owned, nonowned and hired vehicles), providing limits of not less than \$1,000,000 combined single limit per occurrence for bodily injury and death and including property damage; (d) such other specific insurances and/or limits determined by Buyer to be appropriate for work to be performed. Seller shall cause Buyer to be added as an additional insured on the policies of insurance and furnish Buyer (Attention: Event Risk Manager) with certificates of insuring companies showing such insurance to be in effect and the expiration dates and agreeing to give thirty (30) days written notice to Buyer in advance of any change in or cancellation of such insurances.
9. **PROPRIETARY RIGHTS:** Seller shall defend, at its own expense, indemnify and hold harmless Buyer, Buyer's Agent and Buyer's Representative, and employees, agents and representatives of each against all costs and damages, including attorneys' fees, arising out of any action in which it is alleged that the materials or any use thereof constitutes a misappropriation or infringement of any patent, copyright, trade secret or any other proprietary rights. If Buyer, Buyer's Agent or Buyer's Representative is found to misappropriate or infringe in any use of the materials specified in this purchase order, Seller shall, at its own expense, either procure for Buyer, Buyer's Agent or Buyer's Representative the right to use the materials or alter or replace said materials with functionally equivalent materials that are acceptable to Buyer and pay all expenses sustained as a result of such alteration or replacement.
10. **PERFORMANCE:** Except as provided in Paragraph 11, if delivery of materials or rendering of services is not completed by the time specified in this purchase order, Buyer reserves the right, without liability and in addition to its other rights and remedies at law or in equity, to cancel all or any part of this purchase order by notice effective when received by Seller as to materials not yet shipped or services not yet rendered.
11. **DELAY:** If, by reason of uncontrollable forces as defined herein, Buyer or Seller shall be unable to perform any of its obligations in whole or in part, and if within ten days after the occurrence thereof the party affected gives written notice to the other, then the obligations of both parties shall be suspended to the extent made necessary by such occurrence. The term "uncontrollable force" as used herein, includes, but is not limited to, acts of God, fires, floods, explosions, strikes and other labor disputes, governmental regulations, acts or omissions of governmental authority, unusually severe weather, inability to obtain necessary permits and licenses, inability of Buyer to obtain adequate financing or other economic impracticability.
12. **SUSPENSION:** Seller, upon written notice from Buyer, shall suspend or stop temporarily performance hereunder.

Appendix 2

GENERAL TERMS AND CONDITIONS

13. **TERMINATION WITHOUT CAUSE:** Buyer may terminate this purchase order without cause at any time in whole or in part by written notification to Seller. Upon receipt of notice of termination, Seller shall, unless notified otherwise, immediately discontinue the work terminated, cease delivery and ordering of materials, and make reasonable efforts to cancel existing orders, contracts and subcontracts relating thereto upon terms satisfactory to Buyer. After receipt of notice of termination, Seller shall continue to perform such work as necessary to preserve and protect material and work in progress or in transit until relinquishing possession and control of same as provided in the notice of termination. Upon compliance with a notice of termination, Seller shall be entitled to be compensated for actual costs incurred and a reasonable, prorata profit rate for the actual costs incurred. Such termination shall be without prejudice to any claims which Buyer may have against Seller and this paragraph shall not apply if Buyer terminates for cause.
14. **TITLE AND RISK OF LOSS:** Title and risk of loss shall transfer from Seller to Buyer upon delivery of all materials ordered hereunder at the destination specified on the face of this purchase order. Every shipment and invoice shall be marked to show Buyer, Buyer's purchase order number and carrier by which the materials are to be shipped. Materials shipped C.O.D. without Buyer's written consent will not be accepted and will be at Seller's risk.
15. **TAXES:** Unless otherwise specified in this purchase order, the price of goods and services ordered herein shall not include any taxes and charges now or hereinafter imposed upon Seller by any federal, state or local government or any governmental agency of the United States or the government of any other country or subdivision thereof by reason of the agreement or performance by Seller hereunder. Buyer will execute and furnish to Seller Certificates of Exemption from state sales taxes upon request.
16. **PRICE INFORMATION:** Upon request, Seller shall provide Buyer with sufficient information relating to prices of materials and services to enable Buyer to comply with accounting regulations of the Federal Energy Regulatory Commission.
17. **PAYMENT:** Buyer shall make payment to Seller in accordance with the terms of this purchase order. Buyer reserves the right to retain 10% of the payments made on purchase orders for services as such payments are made hereunder. The 10% retained shall be paid to Seller when Buyer is satisfied that the interests of Buyer in the completed work have been protected. Such payment shall not be unreasonably withheld. No payment shall be evidence of satisfactory performance of this purchase order or shall be construed to be an acceptance of defective or nonconforming materials or services.
18. **RELEASES:** Seller shall give Buyer written notice of any claims, liens or encumbrances of any nature affecting or relating to the work to be performed hereunder. Buyer shall have the right prior to making final payment to Seller to require Seller to certify that no lien, claim or encumbrance related to the work is outstanding and to furnish releases from Seller's employees, subcontractors, suppliers and any other claimants in support thereof. If any lien is filed or Buyer receives any notice of a lien filed or to be filed to secure any claim arising out of any performance or omission in connection with the performance hereof, Seller shall, upon written demand by Buyer, promptly obtain and record a full release and discharge of such lien. If Seller fails to do so, Buyer may pay such claim from monies due or payable to Seller and obtain and record such release and discharge at Seller's expense.
19. **RIGHT TO AUDIT:** If the price stated in this purchase order is other than a firm price, Buyer shall have the right to inspect and audit all the books, records, correspondence, receipts, vouchers, and memoranda, etc., of Seller, Seller's subcontractors and other entity used by Seller in performing this purchase order. Seller, Seller's subcontractors and any other entity used by Seller in the performance of this purchase order shall preserve all such records for a period of two years after final payment hereunder. Seller shall provide for such right to audit by Buyer in all contracts with subcontractors and other entities relating to this purchase order.
20. **INSPECTION:** Buyer shall have the right from time to time to inspect the work in progress or completed at Seller's premises upon reasonable notice and on Buyer's premises without such notice. Any such inspection shall in no way relieve Seller of any of its obligations under this purchase order. Any such work disclosed by any such inspection not to be in conformity with the requirements of this purchase order shall, immediately following notification thereof, be corrected by Seller at Seller's expense. Seller shall provide safe access to such work and where necessary for such inspections shall provide scaffolds and ladders in place and such other equipment normal to conduct such inspections.
21. **ACCESS:** Personnel of Seller and subcontractors employed by Seller shall enter and exit Buyer's premises only by the special entrances designated from time to time by Buyer.
22. **WARRANTY:** In addition to, and not in limitation of, any other remedies provided herein or by law or in equity, Seller expressly warrants that the goods and/or services supplied hereunder will conform to Buyer's specifications in all respects and will be of good workmanship and quality, free from all defects (including defects in design and title) and fit for the purposes intended by Buyer. Upon failure of any of the materials and/or services supplied hereunder to conform to the above warranties, Seller shall, at Buyer's option and at no cost to Buyer, promptly repair or replace any item of material or correct or reperform any services so that they conform to the above warranties. The costs of transporting, repairing, replacing, removing or installing material to make materials and services comply with the above warranty shall be borne by Seller.
23. **INDEMNIFICATION:** To the fullest extent permitted by law and regardless of whether or not caused by the negligence of a party indemnified herein, Seller shall indemnify, save harmless and defend ("Indemnity Obligation") Buyer, Buyer's Agent, Buyer's Representative and employees, agents, directors, officers and representatives of each, from all claims, losses, liabilities and expenses, including attorneys' fees, growing out of personal injury, death or damage to property (including property of Buyer, Buyer's Agent or Buyer's Representative) arising out of or in any way connected with Seller or Seller's subcontractors, and employees, agents and representatives of each, performance or nonperformance hereunder (negligent or otherwise) suffered or claimed to have been suffered by any person (including anyone directly or indirectly employed by Seller or Seller's subcontractors), corporation or entity (including Buyer, Buyer's Agent, Buyer's Representative and employees, agents and representatives of each), unless due to the sole negligence of Buyer, Buyer's Agent, Buyer's Representative or employees, agents and representatives of each. Seller intends that its Indemnity Obligation to each party indemnified herein for claims related to or brought by anyone directly or indirectly employed by Seller or Seller's subcontractors shall not be limited in any way by any provision of any workers' compensation act, disability benefits act or other employee benefit act, and Seller hereby waives immunity under such acts to the extent such acts would bar recovery under, or full enforcement of, Seller's Indemnity Obligation.
24. **ASSIGNMENT:** No right or interest in this purchase order shall be assigned by Seller, and no delegation or subcontracting of any obligation of Seller hereunder shall be made without written permission of Buyer. Any attempted assignment, delegation or subcontracting without such approval shall be void.
25. **WAIVER:** Buyer's failure to insist on any right shall not operate as a waiver unless agreed to in writing by Buyer.
26. **CONFLICTS:** In the event of any conflict among the documents incorporated into this purchase order, Buyer's specifications and special terms shall prevail over Seller's proposal.

Appendix 2

GENERAL TERMS AND CONDITIONS

27. **VALIDITY:** In the event that any paragraph(s) or any part of these General Terms and Conditions shall be found to be contrary to law and invalid, all other paragraphs and the remaining part of any partially invalid paragraph shall be and remain in full force and effect and shall be binding upon the parties hereto.
28. **APPLICABLE LAW:** The validity, interpretation and performance of this purchase order shall be governed by the laws of the Commonwealth of Pennsylvania.

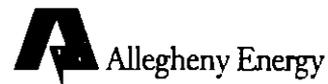
VENDOR INSTRUCTIONS All vendors interested in being considered for placement on Allegheny Energy's vendor list must complete and return Vendor Information Form to Allegheny Energy with signed W-9. Vendor failing to return completed form will not be included on Allegheny Energy's vendor list, and thereby, will not receive Request for Quotation OR Purchase Order.

MAIL OR FAX COMPLETED FORM TO Allegheny Energy Service Corporation; Supply Chain, Support; 800 Cabin Hill Drive; Greensburg, PA 15601-1689; Fax No.: 724-830-7715

COMPLETED BY REQUESTER	VENDOR <input type="checkbox"/> Add <input type="checkbox"/> Change <input type="checkbox"/> Delete	VENDOR NO.	REQUESTED BY	DATE	TELEPHONE NO.
	COMMENTS				

COMPLETED BY VENDOR	SEND REQUEST FOR QUOTATION/PURCHASE ORDER TO						
	LEGAL BUSINESS NAME AND DBA NAME (if applicable)		ADDRESS		CITY, STATE & ZIP+4		
	CONTACT NAME		TELEPHONE NO.	FAX NO.	EMAIL ADDRESS		
	REMIT TO/PAYMENT ADDRESS AS IT APPEARS ON INVOICE						
	NAME		ADDRESS		CITY, STATE & ZIP+4		
	CONTACT NAME		TELEPHONE NO.	FAX NO.	EMAIL ADDRESS		
	TAX ID NO. (TIN)	SSN/EMPLOYEE IDENTIFICATION NO. (include signed W-9)		ELECTRONIC DATA INTERCHANGE (EDI) ▶	Are you EDI capable? <input type="checkbox"/> Yes <input type="checkbox"/> No		
	PAYMENT METHOD	<input type="checkbox"/> Automated Clearing House (ACH - Direct deposit)—preferred method (complete bank information below)			<input type="checkbox"/> Check (bank information below not required)		
	BANK INFORMATION (Required for ACH)	FINANCIAL INSTITUTION		CONTACT NAME		TELEPHONE NUMBER () ()	FAX NUMBER () ()
		BANK ACCOUNT NAME		BANK TRANSIT (ROUTING) NUMBER (9 digits)	ACCOUNT NUMBER		ACCOUNT TYPE <input type="checkbox"/> Checking <input type="checkbox"/> Savings
I hereby authorize Allegheny Energy to pay Vendor electronically to bank account indicated above, and authorize the financial institution named above to credit such entries directly to the Customer's account.							
AUTHORIZED BY NAME (Please type or print)		TITLE		SIGNATURE (Required)		DATE	
PRODUCTS OR SERVICES PROVIDED							
BUSINESS SELF CERTIFICATION	BUSINESS INFORMATION ▶		CHECK ONE <input type="checkbox"/> Small Business <input type="checkbox"/> Large Business <input type="checkbox"/> Other: _____		DUNS NO.	PRIMARY NAICS CODE (www.naics.com)	
	DIVERSITY (Check all that apply)						
	<input type="checkbox"/> Third Party Certified (certificate attached)		<input type="checkbox"/> Asian Pacific American (A)		<input type="checkbox"/> Black American (B)		
	<input type="checkbox"/> Hispanic American (S)		<input type="checkbox"/> HUBZone SB certified		<input type="checkbox"/> Native American (N)		
<input type="checkbox"/> Veteran (V)		<input type="checkbox"/> Disabled Veteran (D)		<input type="checkbox"/> Filipino American (F)			
<input type="checkbox"/> Woman-Owned (WO)		<input type="checkbox"/> Other: _____		<input type="checkbox"/> Handicapped (H)			
You may wish to review the definitions for the above categories in the Federal Acquisition Regulation 19.7 or 52.219-8 (www.arnet.gov/far). If you have difficulty ascertaining your size status, please refer to SBA's website at www.sba.gov/size or contact your local SBA office. Under 15 U.S.C. 645(d), any person who misrepresents its size status shall (1) be punished by a fine, imprisonment, or both; (2) be subject to administrative remedies; and (3) be ineligible for participation in programs conducted under the authority of the Small Business Act.							
SELF-CERTIFIED BY NAME (Please type or print)		TITLE		SIGNATURE (Required)		DATE	

COMPLETED BY SUPPLY CHAIN	VENDOR NO.	DATE UPDATED/NO. ASSIGNED	SDB and/or HUBZone Status verified in the Central Contractor Registration (CCR) Dynamic Small Business Search Database as of ____ / ____ / ____ . For SDB, the expiration date is ____ / ____ / ____ .
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Pursuant to Public Law 95-507, Small Business Investment Act Section 8 (d), this Plan is submitted for the consideration of:

Allegheny Energy Service Corporation – Procurement Contracting Activity

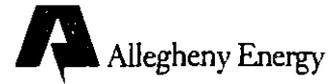
The Subcontracting Plan will be in effect for the period: _____ and covers the contractor’s planned subcontracting of all contracts on a company-wide or division-wide basis (contractor to indicate which).

1. Total Procurement Dollars Planned To Be Subcontracted: \$ _____
2. Subcontracting Goals: The following goals for the utilization of small business and small business concerns owned and controlled by socially and economically disadvantaged individuals are expressed in terms of percentages of the total planned subcontracting dollars stated in #1 above.

	Goals	
	Percent	Dollars
HUBZone Small Business	_____	_____
Service-Disabled Veteran-Owned Small Business	_____	_____
Small Business	_____	_____
Small Disadvantaged Business	_____	_____
Veteran-Owned Small Business	_____	_____
Women-Owned Small Business	_____	_____

3. Contractor plans or does not plan to subcontract supplies and services. If the Contractor plans to subcontract supplies and services, the types of supplies and services planned for subcontracting and, specifically, those planned for subcontracting to (i) Small business concerns; (ii) Veteran-owned small business concerns; (iii) Service-disabled veteran-owned small business concerns; (iv) HUBZone small business concerns; (v) Small disadvantaged business concerns; and (vi) Women-owned small business concerns are as follows:

4. The method used to develop the subcontracting goals in paragraph 2 is as follows:



5. The method used to identify potential sources for solicitation purposes (e.g., existing company sources lists, the Procurement Marketing and Access Network (PRO-Net) of the Small Business Administration (SBA), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations) is as follows:

NOTE: A firm may rely on the information contained in PRO-Net as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of PRO-Net as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

6. Contractor included or did not include indirect costs in establishing subcontracting goals. If the Contractor included indirect costs, a description of the method used to determine the proportionate share of indirect costs to be incurred with (i) Small business concerns; (ii) Veteran-owned small business concerns; (iii) Service-disabled veteran-owned small business concerns; (iv) HUBZone small business concerns; (v) Small disadvantaged business concerns; and (vi) Women-owned small business concerns is as follows:

7. The efforts made to ensure that Veteran-Owned Small Business, Service-Disabled Veteran-Owned Small Business, HUBZone Small Business, Small Disadvantaged Business and Women-Owned Small Business will have an equitable opportunity to compete for subcontracts are as follows:

8. By signing the Plan, the contractor agrees that assurance clauses titled "Utilization of Small Business Concerns" [48 CFR §52.219-8] as stated below, will be included in all subcontracts that offer further subcontracting opportunities, and all solicitations and subcontractors (except small business concerns) who receive subcontracts in excess of \$550,000 (\$1,000,000 for construction of any public facility) will be required to adopt a Plan similar to this Plan.

"Utilization of Small Business Concerns" [48 CFR §52.219-8]. The following clause must be included in contracts greater than \$100,000, unless (1) a personal services contract is contemplated or (2) the contract, together with all its subcontracts, will be performed entirely outside of the United States and its outlying areas.

- A. It is the policy of the United States that small business concerns, veteran-owned small business concerns; service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.
- B. The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.
- C. Definitions. As used in this contract—

"HUBZone small business concern" means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

"Service-disabled veteran-owned small business concern"—

1. Means a small business concern—

- i. Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
- ii. The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

2. Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"Small disadvantaged business concern" means a small business concern that represents, as part of its offer, that—

1. It has received certification as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B;
2. No material change in disadvantaged ownership and control has occurred since its certification;



3. Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and
4. It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net).

"Veteran-owned small business concern" means a small business concern—

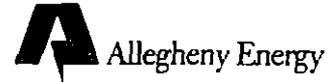
1. Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
2. The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern" means a small business concern—

1. That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
2. Whose management and daily business operations are controlled by one or more women.

D. Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a HUBZone small business concern, a small disadvantaged business concern, or a women-owned small business concern.

9. The contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act.
10. By signing the Plan the contractor assures (i) submission of periodic reports; (ii) cooperation in any studies or surveys required by the Federal Agency or Administration to determine the extent of compliance to the Subcontracting Plan; (iii) submission of Standard Form (SF) 294, subcontracting Report for individual Contracts, and/or SF 295, Summary subcontract Report. The reports shall provide information on subcontract awards to small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with the instructions on the forms or as provided in agency regulations.
11. List the types of records maintained to demonstrate procedures that have been adopted to comply with the requirements and goals of the Plan, including established source lists and a description of efforts to locate small HUBZone, small disadvantaged, women-owned small business sources and veterans service organizations and subcontracts awarded (e.g., source lists, guides, organizations contacted, outreach efforts, internal guidance, workshops, training, seminars, monitoring performance, etc.).



NOTE: Contractor is required to keep records of solicitation of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns for each contract greater than \$100,000.

12. Name and description of the duties of the individual responsible for administering the subcontracting program.

Company Name: _____

Name: _____

Title: _____

Address: _____

Telephone Number: _____

Duties: _____

Signature & Date: _____

1.0 SUBCONTRACTOR PLAN POLICY & REQUIREMENTS

In an effort to increase Contract opportunities with small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUB-Zone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals and small business concerns owned and controlled by women, the operating companies of Allegheny Energy, Inc. in compliance with Public Law 95-507, Small Business Investment Act, are under certain conditions, requiring contractors to file a Subcontracting Plan.

In compliance with Public Law 95-507, Small Business Investment Act, 15 U.S.C. 637(d), contractors under certain conditions, are required to file a copy of their Subcontracting Plan with the operating companies of Allegheny Energy, Inc. If the contractor does not have such a Plan, or has a Plan, which does not meet or exceed Plan requirements, the contractor has the option of adopting the format of the Allegheny Energy, Inc. Subcontracting Plan and administering such a Plan (Reference Form 37-216, Allegheny Energy Service Corporation Subcontracting Plan).

Bidder must submit a Subcontracting Plan when all of the following conditions apply:

- When a contractor is not a small business; and
- When a Contract exceeds \$550,000; and
- When a contractor will be subcontracting any portion of the Contract.

Buyer will review, accept, or reject a Contractor's Subcontracting Plan. At a minimum the plan must meet the requirements mandated by the Small Business Investment Act. If a successful Contractor fails to submit a Subcontracting Plan when required to do so, or if the individual plan fails to comply with the Small Business Investment Act, Bidder will be deemed ineligible to be awarded the Contract.

Contractor shall be solely responsible for the implementation and administration of their Subcontracting Plan.

2.0 FILING A SUBCONTRACTOR PLAN

A Subcontracting Plan must be filed with the operating companies of Allegheny Energy, Inc. either each time a Contract is bid or on a yearly basis. Each plan filed yearly will remain in effect unless updated by the contractor. The Subcontracting Plan will be kept on file for Allegheny Energy reporting purposes. Any contractor wishing to adopt the format of the Allegheny Energy, Inc. Subcontracting Plan and administer such a program is permitted to do so by completing and returning Form 37-216, Allegheny Energy Service Corporation Subcontracting Plan. All subcontracting correspondence shall be sent to:

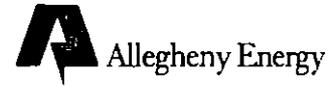
Allegheny Energy
Supply Chain, Supplier Diversity
800 Cabin Hill Drive
Greensburg, Pa 15601

Any contractor who submits their own format of a Subcontracting Plan must incorporate the information prescribed in the Small Business Investment Act, 15 U.S.C. 637(d) 6. Review of the Subcontracting Plan will become part of the purchasing review. Failure to submit a Subcontracting Plan or failure to comply with requirements of the Act will disqualify a contractor from eligibility of Contract award.

3.0 FILING PLAN WITH ALLEGHENY ENERGY

When filing a Subcontracting Plan with Allegheny Energy, Inc. the Plan must at a minimum include the following requirements of the Small Business Investment Act, 15 U.S.C. 637(d) 6:

1. Percentage goals for the utilization as subcontractors of small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women.
2. Name and description of the duties of the individual responsible for administering the subcontracting program.



3. A description of the efforts the offeror or bidder will take to assure that small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women will have an equitable opportunity to compete for subcontracts.
4. Assurances the contractor will include clauses titled "Utilization of Small Business Concerns [48 CFR §52.219-8] as stated below, in all subcontracts that offer further subcontracting opportunities, and all solicitations and subcontractors (except small business concerns) who receive subcontracts in excess of \$550,000 (\$1,000,000 for construction of any public facility) will be required to adopt a similar Plan.

"Utilization of Small Business Concerns" [48 CFR §52.219-8]. The following clause must be included in contracts greater than \$100,000, unless (1) a personal services contract is contemplated or (2) the contract, together with all its subcontracts, will be performed entirely outside of the United States and its outlying areas.

- A. It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.
- B. The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.
- C. Definitions. As used in this contract—

"HUBZone small business concern" means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

"Service-disabled veteran-owned small business concern"—

1. Means a small business concern—
 - i. Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
 - ii. The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.
2. Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"Small disadvantaged business concern" means a small business concern that represents, as part of its offer, that—

1. It has received certification as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B;

2. No material change in disadvantaged ownership and control has occurred since its certification;
3. Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and
4. It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net).

"Veteran-owned small business concern" means a small business concern—

1. Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
2. The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern" means a small business concern—

1. That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
2. Whose management and daily business operations are controlled by one or more women.

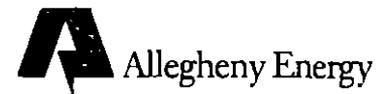
D. Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a HUBZone small business concern, a small disadvantaged business concern, or a women-owned small business concern.

5. The contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act.
6. Assurances that the contractor will submit periodic reports and cooperate in studies and surveys required by the Federal Agency or Administration to determine the extent of compliance by Bidder with the Subcontracting Plan.
7. A list of the types of records the successful contractor will maintain, to demonstrate adopted procedures in compliance with the requirements and established goals set forth in this Plan, including source lists of such businesses, and efforts to identify and award subcontracts to such concerns.

4.0 FAILURE TO COMPLY

Failure of any contractor or subcontractor to comply in good faith with the requirement of the policy or Plan shall be a material breach of Contract or subcontracts.

**BACKGROUND INVESTIGATION
REQUIREMENTS FOR NONEMPLOYEES**



FORM 35-159 REV. 2

Appendix 5

NOTE: IF SELLER AND/OR ANY SELLER'S EMPLOYEES, INCLUDING ANY SUBCONTRACTORS, HAVE ACCESS TO BUYER'S PHYSICAL PROPERTY, COMPUTER NETWORK, OR OTHER PROPERTY OWNED OR LEASED BY BUYER BY USE OF CARD ACCESS, LAN ACCESS, OR KEY, THE FOLLOWING ATTACHMENT TITLED, "BACKGROUND INVESTIGATION REQUIREMENTS FOR NONEMPLOYEES," SHALL APPLY:

Background Investigation of Leased Employees – (Exception: Power Station contractors who supply workers during outages.) The Seller hereby agrees to conduct a thorough background investigation upon any employee, contractor and/or agent of the Seller whose services may be leased to Allegheny Energy. The aforesaid investigation shall determine any and all information of concern within the background of the prospective leased employee, contractor and/or agent, whether or not the information is available in public records. Additionally, the aforesaid background check shall investigate the prospective leased employee's, contractor's and/or agent's criminal records for the past seven (7) years using the social security number/address verification, a search of the federal district courts, and federal wants and warrants, National Criminal Database Search (which includes criminal records for 41 states, a sex offender search for all 50 states, and an OFAC report), as well as a county criminal search. If driving is required as a part of the job duties, drivers' licenses and motor vehicle records will be investigated for the previous seven (7) years. The Seller shall not refer any prospective leased employee, contractor and/or agent to Allegheny Energy who has either failed or refused to submit to a background investigation. The Seller may employ the services of the investigative agency/credit agency or bureau of its choice, subject to Allegheny Energy's approval, so long as the agency(ies) selected is/are reputable and investigations comply with the Fair Credit Reporting Act. Background investigations are valid for 60 days from the date of investigation. Seller must submit to Allegheny Energy: (1) its procedures for background investigations; and (2) criteria that determine whether a worker has passed a background investigation.

Pursuant to the requirements of NERC Cyber Security Standard CIP-004 – Personnel and Training, Requirement 3 – Personnel Risk Assessment, any leased worker granted unescorted physical access into an identified NERC physical security perimeter or cyber access through an identified NERC electronic security perimeter shall also require a seven (7) year updated background investigation that includes, at minimum, identity verification (Social Security Number verification in the U.S.) and seven year criminal check. Written certification, as described below, shall be provided to Allegheny Energy for the updated background check.

Supplier must complete and submit the Agency Verification of Background Check Completion form to the manager who has requested the leased worker for review and retention.

Appendix 5

Drug Testing of Leased Employees – The Seller hereby agrees to conduct substance abuse testing on any employee, contractor and/or agent of the Seller whose services may be leased to Allegheny Energy using the chain-of-custody procedure specified by the U.S. Department of Health and Human Services. The sample is to be tested at a DHHS certified laboratory which uses #3545N SAP 10 #12 GC/MS substance abuse test. Forensic Drug Testing Custody and Control (10 Panel/TCH50) is completed at the collection site for substance abuse testing. Workers entering a position covered by Department of Transportation FHWA regulations 49CFR 40 are required to take a controlled substance test (NIDA5). A urine drug test resulting in a "Dilute" negative report will require the candidate to repeat the drug test. A second "Dilute" negative result in which there is no physiological or medical explanation for the dilute urine sample, will result in the candidate not being referred to Allegheny Energy for assignment. Substance abuse tests are not valid for more than 45 days after the date of testing.

Release From Liability – The Seller shall prepare a Release, and shall obtain a signature on the Release from every leased employee, contractor and/or agent. The Release shall contain language releasing Allegheny Energy, the Seller, the leased employee's, contractor's and/or agent's former employers, and any other persons from all liability for any damages or claims related to the background investigation and drug test, including but not limited to furnishing of the background information. Each such Release shall be retained by the Seller for a period of three years. If the investigation is performed by a consumer reporting agency, notices and disclosures must comply with the Fair Credit Reporting Act.

Costs – The costs associated with conducting the aforesaid background checks shall be borne by the Seller.

Certification/Penalties/Audits – The Seller shall provide Allegheny Energy with written certification that must include: Name of leased worker, Seller name, and statements that (1) the leased employee, contractor and/or agent has undergone a background check and drug test as provided above; (2) the background investigation has not revealed any negative results or areas of concern; and (3) the drug test has not yielded a positive result for illegal drugs. The Seller's failure to submit the above-described certification for *any* leased employee, contractor and/or agent, shall, at Buyer's option, result in immediate termination of this Agreement, and further, the Seller may be *permanently* removed from Allegheny Energy's approved vendor lists. Any issues arising from background investigations shall be referred to Allegheny Energy's Human Resources office. Allegheny Energy reserves the right to conduct random audits to assure that the Seller has completed a background investigation and drug test on all leased employees, contractors and/or agents and that these background investigations and drug tests have resulted in favorable determinations.

**BACKGROUND INVESTIGATION
REQUIREMENTS FOR NONEMPLOYEES**



FORM 35-159 REV. 2

Appendix 5

Retroactivity – The provisions listed hereinabove shall be retroactive, and shall be applicable to all employees, contractors and/or agents of the Seller being leased to Allegheny Energy, even if they have *already been assigned and are currently working on Allegheny Energy's premises*, and regardless of whether or not they have *previously performed services for Allegheny Energy*. Sellers with existing contracts shall have up to 90 days to perform background investigations and drug tests and provide a statement certifying that they were satisfactorily completed for the workers currently assigned to Allegheny Energy.

Standards of Practice – Seller agrees that the services provided shall be in conformity with industry and professional standards of practice.

Training and Discipline – Seller agrees to be responsible for training and discipline of its employees and agrees that its employees, agents or subsidiaries shall adhere to Buyer's Code of Ethics and Standards of Business Conduct Rules. Seller is solely responsible for training its employees regarding Buyer's workplace policies including, but not limited to, sexual and workplace harassment, drug-free workplace, workplace violence and all applicable safety rules.

Appendix 6

ALLEGHENY ENERGY CELL PHONE SAFETY POLICY **What Employees/Contractors Need to Know**

Effective July 1, 2010

Highlights of Allegheny's new Cell Phone Safety Policy are listed below:

- Using a cellular device (cell phone, BlackBerry®, pager, etc.) is prohibited while operating motorized equipment (bulldozers, forklifts, aerial baskets, etc.). This includes sending and/or reading received text messages.
- Cellular devices can be used while operating a motor vehicle **only** if they are used in conjunction with a hands-free device (i.e., Bluetooth® or other type of headset) or in "speaker" mode. Employees with a company-issued cell phone may order a hands-free device with prior approval from their supervisor.
- The use of two-way radios and GPS navigation systems is permitted.
- Using a computer (laptop, Toughbook®, hand-held unit, etc.) is prohibited while operating a motor vehicle or motorized equipment. Toughbook computers can be operated when used as a GPS navigation system.
- The policy applies to both company-issued and personally-owned equipment while used on company business.
- The use of cellular devices and computers is limited on active job sites. These devices are permitted if they are required to complete the work activity. In situations where they are not a requirement, employees are expected to stop working and to physically separate themselves from the work being performed before using a mobile device. The amount of physical separation necessary to maintain safety will vary depending on the circumstances of each job site.

Appendix 7

Vendor Name _____ Date _____

Contact Person _____

St Address _____

City, St, Zip _____

Re: Verification of Non Affiliation with a Pennsylvania Electric Distribution Co. for Allegheny Power Contract # 4600xxxxxx

Act 129 defines a CSP as “an entity that provides information and technical assistance on measures to enable a person to increase energy efficiency or reduce energy consumption and that has no direct or indirect ownership, partnership or other affiliated interest with an electric distribution company.” 66 Pa.C.S. § 2806.1(m). As the Commission and EDCs must be able to identify the type of entity a CSP is and confirm that it is not owned, partnered or affiliated with an EDC, the Commission requires all CSP’s to provide the following information for contract approval.

Furthermore, CSP must be approved and registered by the Commission and agrees to maintain registration with the Commission throughout the term of the contract. By signing below, CSP confirms that they are not an EDC affiliate. If CSP should merge with a PA EDC during the term of the contract, then the CSP shall immediately notify Allegheny Power and provide for automatic termination of the contract in the event of such a merger.

Please provide the information below and return via e-mail or U.S. mail to Mary Shellhammer at mshellh@alleghenypower.com or Allegheny Power, Suite 1000, 126 Mathews St, Greensburg, PA 15601.

1. Legal name of the applicant _____

2. Principal place of business _____

3. Names of parent and subsidiary companies and affiliates that are CSPs and EDCs

Signature: _____

Appendix 8

CONTRACT SUBMITTAL

SAFETY AND HEALTH COMMITMENT (In addition to the General Terms/Conditions)

Allegheny Power believes that the commitment and involvement of all employees to safety is essential. This includes the employees of Contractors working on Allegheny's sites or on non-company owned sites. To insure this commitment, Contractor shall require that its employees perform all work safely and in full compliance with all applicable safety and health laws, applicable federal and state laws, local ordinances, OSHA requirements and all safety rules, regulations and instructions set forth by Allegheny as part of the job assignment.

Contractor shall designate one individual to be responsible for Contractor's compliance with safety requirements outlined in this contract. Contractor shall promptly notify appropriate Allegheny Power personnel of any safety violations and incidents, which may have an adverse impact upon health and safety of Contractor's personnel or Allegheny's employees. All incidents, which may require first aid or medical treatment, must be reported to Allegheny promptly and in no case later than 24 hours. All recordable OSHA 300A log incidents must be reported promptly to Allegheny.

Working safely is a condition of employment. Allegheny's representatives will notify Contractor of apparent violation or non-compliance with safety provisions. Contractor shall immediately make reasonable efforts to correct any violation. If Contractor does not do so within 48 hours, Allegheny may cause work to be stopped until such time as Contractor has taken corrective action to Allegheny's satisfaction. Work stoppage by Allegheny shall not be subject to claims by Contractor for damages.

Contractor-provided tools and equipment, including personal protective equipment, must meet OSHA requirements and be properly maintained for safe accomplishment of the work assignment. All tools and equipment, which may be used to perform work for Allegheny, shall be under the exclusive direction and control of the Contractor. All tools and equipment shall be in safe and operable condition. Allegheny has the right to refuse or restrict the use of tools or equipment if, in Allegheny's opinion, safety may be compromised or jeopardized.

Submitted by: Signature: _____

Company: _____

Date: _____

Appendix 9

Allegheny Power, Substance Abuse Policy

1.0 PURPOSE

Buyer is firmly committed to providing a safe workplace and to promoting high standards of Employee health and safety. The objective is to establish and maintain a work environment that is free from the effects of alcohol and drug abuse. A work environment free from drugs and alcohol is especially important in the electric utility industry because of our basic responsibility to serve the public safely and without interruption.

2.0 POLICY

- a. Buyer has established a system policy, **Drug and Alcohol Abuse**, and a **Substance Abuse Testing Program** for its Employees. In a like manner, every Seller having a Purchase Order with Buyer, whereby work will be performed for Buyer, shall be required to administer a mandatory substance abuse program. A Bidder may submit a program in lieu of this **Substance Abuse Program – Retail Operations’ Contracts (Program)** if said program equals or exceeds all provisions and requirements of this Program. In such case, the program shall be submitted with the Proposal. A Bidder that does not have a program or has a program that is not acceptable to Buyer shall abide by the criteria stipulated in this Program.
- b. The illegal manufacture, distribution, dispensation, possession, or use of controlled substances when working for a Seller under a Purchase Order with Buyer is prohibited and will result in disciplinary action (see Discipline).
- c. The unauthorized possession or use of alcohol when working for a Seller under a Purchase Order with Buyer is prohibited and will result in disciplinary action (see Discipline).
- d. It shall be the sole responsibility of the Seller to have their Employees, manual and non-manual (Employees), report to work in condition to perform their duties. The off-duty use of controlled substances or alcohol, which adversely affects an Employee’s job performance, is prohibited and will result in disciplinary action (see Discipline).
- e. The Seller shall implement a substance abuse testing program under which Employees may be required to take a substance abuse test (see Testing for Drugs or Alcohol).

- f. Employees undergoing prescribed medical treatment with a drug or controlled substance, which has potential for affecting performance, must report this treatment to the Seller. The use of such substances as part of a prescribed medical treatment program is not grounds for disciplinary action. Seller shall be responsible for the safety of Employees and others who may be affected by Employee's performance.
- g. Controlled substances and paraphernalia discovered through site security procedures may be turned over to law enforcement authorities. Seller is responsible for notifying Employees that security inspections may include, but not be limited to, any vehicle, toolbox, or lunch box inspection.
- h. Each Employee will notify their employer of any criminal drug statute conviction for a violation occurring while on the job or on Buyer's property no later than five days after such conviction.
- i. As a condition of employment, each Employee when initially starting work shall be issued the Program and will be required to abide by its terms.
- j. Each Seller must have his or her on-site supervision knowledgeable of and fully capable of enforcing the Program and must notify each applicant and Employee of the Program.

3.0 TESTING FOR CONTROLLED SUBSTANCES AND/OR ALCOHOL

- a. Any Seller's Employee will be required to be tested for illegal use of controlled substances and/or alcohol under the following conditions:
 - 1) All Seller's Employees shall show evidence of being drug-free prior to starting work on Buyer's property but by no later than the third day after starting work when working for a Seller working under a Purchase Order with Buyer. This would require the Employee either to be tested prior to beginning work or show evidence satisfactory to Buyer that he/she has tested negatively through an annual screening program.
 - 2) There is reasonable cause based on information, observed Employee behavior, or physical appearance suggesting the Employee may be under the influence of alcohol, using illegal drugs, or abusing drugs. Determination of reasonable cause and proper documentation is the sole responsibility of the Seller.

- 3) The Employee is involved in a work-related accident or commits a safety violation, which may be the result of impairment and which could reasonably lead to, or has resulted in, property damage, injury, or death. Post-accident alcohol testing shall be conducted *no later than two hours following accident and drug testing no later than 24 hours.*
- 4) The Employee has tested positive for the presence of drugs or alcohol within the prior 24-month period.
- 5) Employees who perform safety-sensitive functions and carry a commercial driver's license (CDL) shall be required to be randomly tested per DOT Federal Regulations.
 - a. Substance Abuse Custody & Control is completed at the collection site.

4.0 TESTING PROCEDURE

- a. The following substance abuse tests and programs are permitted for pre-employment screening:

Non-DOT 10 panel
NIDA 5 (DOT)

Any other tests that are determined to be equivalent to these may be used upon approval of Buyer.

Attachment **Exhibit A-1** is a listing of approved collection sites in Buyer's territory.

- b. Testing for reasonable cause or work-related accidents shall be either a Non-DOT 5 panel or a NIDA 5 (DOT) and will include testing for alcohol.
- c. Samples produced for substance abuse testing will follow the chain-of-custody procedure specified by the National Institute on Drug Abuse (NIDA) to insure the integrity and identity of the sample. Any screening test indicating a positive result shall be tested by a NIDA-certified laboratory and be verified by a Gas Chromatography/Mass Spectrometry (GC/MS) or an equally accurate confirmation test.

- d. Blood samples for alcohol testing must be taken at NIDA-approved collection sites and sent to NIDA-certified laboratory under the chain-of-custody procedure specified by NIDA to assure the integrity and identity of the samples. Blood alcohol samples in excess of .02 percent will be considered evidence of impairment for DOT covered employees whereas applicable state alcohol testing levels will apply for non-DOT covered employees.

Evidential Breath Testing (EBT) apparatus may be used provided it meets Federal guidelines and is operated by a certified breath alcohol technician.

5.0 DISCIPLINE

- a. It shall be the Seller's sole responsibility to monitor their Employees' performance, to administer any disciplinary action, and to inform Employee in cases where he/she may not, temporarily or permanently, perform work for Buyer.
- b. Any Employee illegally manufacturing, distributing, dispensing, possessing, or using a controlled substance while on Buyer's property shall be removed from the job site immediately and be prohibited from working for a Seller under Purchase Order with Buyer for a period of one year.
- c. Any Employee having unauthorized possession or use of alcohol while on Buyer's property shall be removed immediately from the job site and be prohibited from working for a Seller under Purchase Order with Buyer, for a period of one year, unless such Employee shows evidence of having satisfactorily completed an approved rehabilitation program.
- d. Any Employee having positive drug/alcohol test results shall be removed immediately from the job site and be prohibited from working for a Seller under Purchase Order with Buyer, for a period of one year, unless such Employee shows evidence of having satisfactorily completed an approved rehabilitation program.
- e. Any Employee who refuses to take a substance abuse test shall be removed from the job site immediately.
- f. It is the Seller's responsibility to notify any Employee removed from the job site, for any of the reasons listed above, that they are prohibited from employment on Buyer's property for a period of one year. In addition, it is the Seller's responsibility to notify the Employee's union representative of any disciplinary action taken due to substance abuse.

6.0 ADMINISTRATION

- a. Responsible Buyer Employee and Responsible Seller Employee are those individuals who shall be designated to receive, in a confidential manner, all information relative to positive test results.
- b. Seller will submit their substance abuse testing program with their Proposal. Buyer will review the program and, if acceptable, it will become part of the Purchase Order. If unacceptable or the Seller has no program, this Program shall become part of the Purchase Order.
- c. Pre-employment Screening:
 - 1) Each Seller shall be responsible for verifying that all their Employees brought on site are drug-free. No personnel with positive results will be allowed to work for a Seller under Purchase Order with Buyer. A three-day grace period is permitted to allow for turnaround of the test results.
 - 2) Each Seller shall properly notify the Buyer's Technical Representative in writing that all of the Employees brought on site are drug-free. The Seller shall maintain a file on all test results, which may be audited by Buyer.
 - 3) The Seller shall notify the Responsible Buyer Employee of any positive test results (by Social Security Number only) in a confidential manner.
- d. Reasonable Cause or Accident/Safety Violation:
 - 1) Any Employee may be tested for controlled substances and/or alcohol upon a showing of reasonable cause. If the Employee tests positive for drugs and/or alcohol, the Employee shall be removed from the job site immediately. The Seller is solely responsible for the administration and cost of all testing.
 - 2) Any Employee who causes or is involved in a workplace accident/safety violation, which causes property damage, injury, or death, shall be tested for controlled substances and/or alcohol. If the Employee tests positive for drugs and/or alcohol, the Employee shall be removed from Buyer's job site immediately. The Seller is solely responsible for the administration and cost of all testing.
 - 3) The following suggested form is attached for your use:

AP Form 23-177 Contractor Substance Abuse Reasonable Cause Documentation

e. Previous Positive Test Results:

- 1) The Responsible Buyer Employee shall retain for five years all test results when the tests proved positive, to be maintained in a secure, confidential file.
- 2) Seller shall furnish the Social Security Numbers of all personnel as they are brought onto the job site to Buyer's Technical Representative, to be forwarded to the Responsible Buyer Employee for verification that there have been no positive test results at any Allegheny Power facility within the previous 12-month period. The Responsible Buyer Employee will notify the Responsible Seller Employee of any variances in a timely manner. It is the contractor's/vendor's responsibility to remove any Employee with a variance.
- 3) An Employee who has tested positive for controlled substance and/or alcohol within the 12-month period prior to working for a contractor/vendor under contract to Buyer may only perform work for Buyer upon a showing of evidence of satisfactory completion of an approved rehabilitation program and proof of a negative testing result.

f. Documentation:

- 1) Contractor Substance Abuse Program - Each Bidder should submit a copy of their program with their Proposal. In addition, the Responsible Seller Employee should be identified. As used herein, a Responsible Seller Employee shall be an Employee who will be responsible for receiving and maintaining test results in a confidential manner.
- 2) The Buyer's Representative and Responsible Buyer Employee will be identified at the bid clarification meeting.
- 3) Pre-employment Screening:
 - a) The Seller shall provide Buyer with a written notification that all Employees performing work for Buyer have been subject to a program approved by Buyer and are substance free (Attachment **Exhibit A-2**).
 - b) The Responsible Seller Employee shall notify the Responsible Buyer Employee in a confidential manner of any positive results.

- c) The Seller shall furnish a listing of Social Security Numbers for all personnel brought on site immediately to the Buyer's Representative to be forwarded to the Responsible Buyer Employee for verification (against the list of current positives) that there have been no previous positive results within the last 12-month period. If any previous positive results are identified from any project at Buyer's facility, the Responsible Buyer Employee notifies the Responsible Seller Employee in a confidential matter. It is the Seller's responsibility to notify the Employee's union representative.

- 4) Reasonable Cause or Accident/Safety Violation:
 - a) The Seller shall maintain a record of all test results in accordance with all applicable laws, rules, and regulations. Such results shall be made available to Buyer only on a need-to-know basis.

 - b) The Seller shall notify union representation of any disciplinary action taken due to substance abuse, and a record of any positive test results and a copy of documentation are available only on a need-to-know basis.

February, 23, 2004 Revision Date by Debra West, HR and Janet Reid, Nurse

Exhibit A

Collection & Examination Sites	DOT and Non-Dot Drug & Breath Alcohol	DOT Pre-Employment Corp. Health Examinations
Aestique Executive Healthcare or Medical Center One Aesthetic Way Greensburg, PA 15601 Contact: Michelle Sloan 724-832-7555 / Fax 724-832-7568		Corporate Health Exams Only
A.D.S. Occupational Health Alcohol & Drug Screening, Inc. 110 Feather Bed Lane Winchester, VA 22601 Contact: Jeanette H. Dooley/Judy White 540-667-7236 / Fax 540-667-7238	X	
Allegheny Valley Hospital Occupational Health 1301 Carlisle Street Natrona Heights, PA 15065 Contact: Karen Madoni, RN COHN 724-226-7045 / Fax 724-226-7416	X	X No Corporate Health
Antietam Health Link, Inc. 5000 Letterkenny Road Building 500, Suite #120 Chambersburg, PA 17201 717-267-0162 (Office Open Tues. and Thurs.-Daytime)	X No Breath Alcohol	X No Corporate Health
Antietam Health Link, Inc. 5 Roadside Avenue Waynesboro, PA 17268 Contact: Michael J. Brown, D.O./Kay Brown 717-765-8138 / Fax 717-765-8159	X	X No Corporate Health
Antietam Occ. Medicine 11110 Medical Campus Road, Suite 107 Hagerstown, MD 21742 Contact: Evie Baer, Office Manager 301-714-4420 / Fax 301-714-4415	X	X
Armstrong Occupational Health Medical Arts 600 Suite 650 One Nolte Drive Kittanning, PA 16201 Contact: Linda Wylie, R.N. 724-543-8116 (M-F 8:30 a.m.-5:00 p.m.) Fax 724-543-8534	X	X No Corporate Health

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Collection & Examination Sites	DOT and Non-Dot Drug & Breath Alcohol	DOT Pre-Employment Corp. Health Examinations
<p>Braxton County Memorial Hospital 100 Hoylman Drive Gassaway, WV 26224 Contact: Linda Knapp 304-364-1037 / Fax 304-364-5809</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>Brownsville General Hospital 125 Simpson Road Brownsville, PA 15417 Contact: Lisa Orris 724-785-1753</p>	<p>X No Breath Alcohol</p>	
<p>Business Health Services (City Hosp.) Dorothy A. McCormack Cancer Treatment and Rehabilitation Center 2000 Foundation Way, Suite 2200 Martinsburg, WV 25401 Contact: Kenda Rogers, RN (Hours 7:00 a.m.-5:00 p.m.) 304-264-1247 / Fax 304-264-1320</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>Business Plus Healthcare (South Hills Medical Bldg. Suite 502) Jefferson Hospital P. O. Box 18119 Pittsburgh, PA 15236 Contact: Regis Noroski 412-469-5983 Scheduling 7:00 a.m. – 4:00 p.m. M-F / Fax 412-469-5946</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>Butler Medical Associates 20421 Route 19 Cranberry Township, PA 16066 Contact: Dianne Scalamogna/Judy Frederick 724-776-3080 / Fax 724-776-1340</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>Butler Medical Associates (Butler Main Office) 1022B North Main Street Butler, PA 16001 (Main Office) Contact: Lisa Weckerly/Jean Bianco 724-282-7910 / Fax 724-282-2616 724-282-1010 Scheduling</p>	<p>X</p>	<p>X No Corporate Health</p>

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Collection & Examination Sites	DOT and Non-Dot Drug & Breath Alcohol	DOT Pre-Employment Corp. Health Examinations
<p>Centre Community Hospital 1800 East Park Avenue State College, PA 16803 Contact: Emma Smith 814-231-7094 Occupational Health 814-234-6106 Scheduling appts.</p>	<p>X</p>	<p>X</p>
<p>Clarion Hospital Occupational Health Service (Health Works One Hospital Drive Clarion, PA 16214 Contact: Leigh Ann Hewitt, Occ. Mgr. 814-226-1396 (7:30 a.m.-4:00 p.m. M-F) Fax 814-226-1497</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>Davis Memorial Hospital, Inc. P. O. Box 1484 Elkins, WV 26241 Contact: Robin Rowan, Dr. John Vetch 304-637-3265 / Beeper 304-362-7501 Fax 304-637-3779</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>Dubois Hospital Occ. Health Ctr. West Side, 100 Hospital Avenue P. O. Box 447 Dubois, PA 15801 Contact: Connie Mowrey 814-375-3000 Fax 814-375-3346</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>Elk Regional Health System 99 Hospital Street Ridgway, PA 15853 Contacts: Lab Mgr. Carol Yankovich Jane Eagen, LPN 814-788-5600 Fax 814-788-5690</p>	<p>Drug and Alcohol— No Breath Alcohol</p>	<p>X</p>
<p>Fairmont Clinic Fairmont Medical Group P. O. Box 1112 Fairmont, WV 26554 Contact: Peg Toothman 304-366-0700 Fax 304-366-9529</p>	<p>X</p>	<p>X</p>

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Collection & Examination Sites	DOT and Non-Dot Drug & Breath Alcohol	DOT Pre-Employment Corp. Health Examinations
Fairmont General Hospital 1325 Locust Avenue Fairmont, WV 26554 Contact: Brian Pulice 304-367-7544 / Beeper 304-362-6221 Fax 304-367-7149	X	X No Corporate Health
Fairmont Physicians, Inc. Rife Medical Arts Building 811 Pike Street Shinston, WV 26431 Contact: Heather Bailey 304-592-0992 Fax 304-592-0993		Corporate Health Only
Fay West Occ. Health Services (Pamela Gianni, M.D., M.P.H.) R. D. #6, Box 2854 Rt. 819S Mt. Pleasant, PA 15666 (Hours 9:00 a.m.-5:00 p.m. M & Th 7:00 a.m. – 3:00 p.m. T, W, & F) Contact: Brandy Mayhle/Dawn Miller 724-547-4957 / Fax 724-547-4959	X No Breath Alcohol	X
Frederick Occ. Health Service 1560 Opossumtown Pike Frederick, MD 21702 Contact: Carolyn Cable 301-698-3000 / Fax 301-698-3003	X	X No Corporate Health
Frick Hospital & Community Health Center 508 South Church Street Mt. Pleasant, PA 15666 Contact: Dick Frey 724-547-1050 / Fax 724-547-1666 Call Lab after hours (724-547-1255)	X (24 hours)	
Frostburg Health Center 10701 New George's Creek Road Frostburg, MD 21532 Contact: Susie Thrasher 301-689-3229 / Fax 301-689-1129	X	X No Corporate Health

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Collection & Examination Sites	DOT and Non-Dot Drug & Breath Alcohol	DOT Pre-Employment Corp. Health Examinations
<p>Hagerstown Medical Lab 747 Northern Avenue Hagerstown, MD 21740 Contact: No contact needed – whoever answers 301-790-8670 Fax 301-790-3707</p>	<p>X</p>	
<p>Hampshire Memorial Hosp., Inc. 549 Center Avenue Romney, WV 26757-1199 Contact: Jeanette McCauley-Saville 304-822-5817 Fax 304-822-7809</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>HEALTHSOUTH Nittany Valley Rehabilitation Hospital 550 W. College Avenue Pleasant Gap, PA 16823 Contact: Cindy Parks 814-234-1986 M-W / 814- 359-3421 Ext. 752 T-Th-F Stephanie Wesolowski 814-359-3421 Fax 814-359-5898</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>Hempfield Medical Park 870 Weatherwood Lane Mt. Pleasant Road Greensburg, PA 15601 Contact: Kathy Dobrosky, Diagnostic Associates 724-853-1610 Fax 724-853-1614</p>		<p>X Corporate Health Only (diagnostic testing and physical exam) Sigmoid at Latrobe Hospital.</p>
<p>Institute of Occupational & Environmental Health 3801 Health Sciences South P. O. Box 9190 Morgantown, WV 26506 Contact: Carolyn Bolyard/Chris Garbart 304-293-3693 / Fax 304-293-2629 Reference <u>must</u> be made when scheduling appts: UHA Med. Records #52509320</p>	<p>No Reasonable Cause or Random Drug Testing— Pre-Employment Only</p>	<p>X No Corporate Health</p>
<p>Marietta Memorial Hospital 401 Matthew Street Marietta, OH 45750 Contact: Bonnie McGowan/Janet Campbell 740-374-4915 Fax 740-374-4977</p>	<p>X Drug tests may be scheduled after hours for random testing.</p>	<p>X No Corporate Health</p>

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Collection & Examination Sites	DOT and Non-Dot Drug & Breath Alcohol	DOT Pre-Employment Corp. Health Examinations
MedBrook Medical Center 1370 Johnson Avenue Bridgeport, WV 26330 Contact: Beth Belcastro/Cassandra Boyles 304-842-7495 / Emergency 304-842-7186 Fax 304-842-7578	X	X
WPHC At Delmont Westmoreland Primary Health Center 421 Route 22 Delmont, PA 15626 Contact: Sue O'Nam 724-468-8764 / Fax 724-468-8785	X	X No Corporate Health
WPHC at Irwin Westmoreland Primary Health Center 9337 Lincoln Way West Irwin, PA 15642 Contact: Marcy Cindric 724-864-7720 Fax 724-864-4614	X	X No Corporate Health
WPHC at Mt. View Westmoreland Primary Health Center R. D. #8, Box 130M Greensburg, PA 15601 Contact: Melanie Russell 724-834-2525 Fax 724-834-6171	X	X No Corporate Health
WPHC At Youngwood Westmoreland primary Health Center 505 N. Fourth Street Youngwood, PA 15697 Contact: Regina Kintz 724-925-3300 Fax 724-925-1690	X	X No Corporate Health
Mid-Ohio Valley Medical Assoc. 604 Ann Street Parkersburg, WV 26101 Contact: Lisa Null/Robin Lyons 304-485-3300 Fax 304-485-3317	X No Breath Alcohol	X Must schedule appointment
Monongahela Valley Hospital, Inc Country Club Road Monongahela, PA 15063 Contact: Janet Kuhn, RN 724-258-1224 Fax 724-258-5075	X	X No Corporate Health

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Collection & Examination Sites	DOT and Non-Dot Drug & Breath Alcohol	DOT Pre-Employment Corp. Health Examinations
<p>Monongalia Hospital 1200 J.D. Anderson Drive Morgantown, WV 26505 Contact: Lavora Price/Bonnie McMillan 304-598-1251 Fax 304-598-1256</p>	<p>X Drug Collection Only (24 hrs.)</p>	
<p>Mt. Top Medical Center P. O. Box 77 Mt. Storm, WV 26739 Contact: Dixie Collette 304-693-7616 Fax same as telephone</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>Page Health Care 125 Memorial Drive Luray, VA 22835 Contact: Clara Layman 540-743-1532 / Fax 540-743-1288</p>	<p>X</p>	<p>X</p>
<p>Page Memorial Hospital 200 Memorial Drive Luray, VA 22835 Contact: Bonnie J. Frye, RN (Marketing) 540-743-4561 Ext. 222 / Fax 540-743-9560</p>	<p>X</p>	
<p>Potomac Valley Hospital 167 South Mineral Street Keyser, WV 26726 Contact: Cindy Wilson, RN 304-788-3141 / Fax 304-788-0141</p>	<p>X</p>	<p>X No Audiograms No Corporate Health</p>
<p>Preston Memorial Hospital 300 South Price Street Kingwood, WV 26537 Contact: Jolinda Stemple or Kelly Jeffries 304-329-4702 (Kelly - Ext. 305) / Fax 304-329-1175</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>St. Joseph Occupational Health P. O. Box 327 Parkersburg, WV 26102 Contact: Robert Spencer 304-424-4229 / Pager 304-420-5390</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>St. Joseph Medical Plaza 10 Amalia Drive Buchannon, WV 26201 Contact: Linda Lantz 304-473-2208 Lab: Michael Walton 304-473-2042</p>	<p>X (24 hrs.)</p>	<p>X No Corporate Health</p>

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Collection & Examination Sites	DOT and Non-Dot Drug & Breath Alcohol	DOT Pre-Employment Corp. Health Examinations
<p>Elk Regional Health Center 763 Johnsonburg Road St. Marys, PA 15857 Contact: Sharon K. Woge, BAT, Occ. Health 814-788-8565 / Fax 814-788-8046</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>Summit Health/Waynesboro Hospital 501 E. Main Street Waynesboro, PA 17268 Contact: Jerrin Shanholtz, Sales Rep. 717-267-4874 / Pager 301-293-3845 Cellular 301-667-9210 / Fax 717-267-6368 Lab Mgr. David Meeder 717-765-4000 Ext. 5313</p>	<p>X</p>	<p>Use Antietam Health Link for Pre-Employment DOT exams. No Corporate Health</p>
<p>Trinity Workcare 3203 Johnson Road Steubenville, OH 43952 Contact: Pam Vukelich 740-264-4250 / Fax 740-264-0148</p>	<p>X Drug screening M-F 8-4. After hours, 740-284-2154. After the beeper tone, you must dial number where you can be reached; otherwise call hospital operator at 740-264-8000</p>	<p>X No Corporate Health</p>
<p>Urgent Care Center 607 East Jubal Early Drive Winchester, VA 22601 Contact: Kelly Macher 540-722-0691 Diane M. Hearne, RN 540-722-4525 Fax 540-722-0693</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>Warren Memorial Hospital 1000 Shenandoah Avenue Front Royal, VA 22630 Contact: Denise Eastham 540-636-0259 / Drug Screen Only 540-636-0280 Fax 540-636-0124</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>Washington Hospital Occupational Medical Center 95 Leonard Avenue Washington, PA 15301 Contact: Denise Garvey, RN 724-223-3528 / Fax 724-229-2401</p>	<p>X</p>	<p>X No Corporate Health</p>
<p>Waynesboro Hospital - See Summit Health</p>		
<p>Weirton Medical Center 601 S. Colliers Way Weirton, WV 26062 Contact: John Kopcha 304-797-6110</p>	<p>X</p>	

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Collection & Examination Sites	DOT and Non-Dot Drug & Breath Alcohol	DOT Pre-Employment Corp. Health Examinations
Linda Hoge 304-797-6028		
Westmoreland Regional Hospital 532 W. Pittsburgh Street Greensburg, PA 15601 Lab: 724-832-4365 (D&A) Contact: Donna Barkey Supv. 724-832-4896	X Reasonable Cause and Post Accident Only (24 hrs.)	
WorkWell Wellness Center St. Francis Central Hospital 1200 Centre Avenue Ninth Floor, Suite 970 Pittsburgh, PA 15219 Fax 412-471-3799		Corporate Health Only

***** In case of emergency, if unable to reach one of the above sites near you, call:
SPECTRUM MEDICAL SERVICES, INC.**

1-800-253-5077

4/26/00

Appendix 10

GUIDELINES FOR BIDDING VIA POWERADVOCATE

Bidding is performed via the internet using an electronic sealed bid format. PowerAdvocate, a third party sourcing consultant contracted by Allegheny Energy, will serve as the Host for bidding. This will not be a reverse auction type bid; instead the PowerAdvocate Platform will provide the means to transfer and communicate your questions and proposal to Allegheny Energy personnel.

All questions, comments, clarification requests, etc. shall be directed to the following.

PowerAdvocate Website	www.poweradvocate.com
PowerAdvocate Contact:	support@poweradvocate.com (Website questions ONLY)
Allegheny Energy Contacts:	Jennette Sheldon (General RFQ questions) jsheldo@alleghenyenergy.com
	Doug Stone (Technical questions) dstone@alleghenyenergy.com

All responses must be received by January 21, 2011 by 7:00 PM EDT.

Proposals will not be considered unless they are completed and presented via the PowerAdvocate web site. All Commercial and Pricing Datasheets must be submitted. If a bidder would like to enter additional bids, or chooses to expound upon any of their bids, they may upload documents on tab #2 (upload proposals).

Allegheny Energy reserves the right to reject any proposal as incomplete which does not include the required submittals.

Clarifications and questions may be sent via email to Jennette Sheldon (jsheldo@alleghenyenergy.com) before the bid closes. The information will then be distributed to the correct personnel. Once a response has been developed, it will then be posted to the website as Questions and Answers for all participating vendors review. Once posted, a notification email will be distributed.

It is the vendor's responsibility to maintain diligence in monitoring the posting of Questions and Answers to the web site as well as any additional information uploaded as modifications made to the platform. PowerAdvocate strongly recommends that the vendor registers all personnel associated with the successful bid of this RFQ.

Please have anyone you believe is critical to your team register with www.poweradvocate.com. If you are a Representative of a company, please register under your corporate name. When registering, please include the product you will be representing in this RFQ. Any additional personnel that register from your organization (administrative assistants, engineers, manufactures, sales personnel etc.) are required to include the following information:

1. The Company (AE) and the Product (Current Transformer and Voltage Transformers) they would like to have access to.
2. The Company or Team with whom they are associated (include the name of the lead person for this RFQ)
3. Their Role on the team

Please carefully review the following guidelines and terms that apply to this RFQ. Submission of the Intent to Respond Field will be interpreted as an understanding and acceptance of these guidelines and terms:

1. Disclaimer - This is not a contract offer by Allegheny Energy; a bidder's response to this RFQ is not binding in any way. For bidder's right to withdraw its response, see section entitled "Right of Withdrawal." Any costs incurred in responding to this RFQ are the responsibility of the bidder.
2. Right of Rejection / Acceptance - AE team reserves the right to reject any or all responses, to accept any response or to select any combination of responses. AE reserves the right to waive any irregularity contained in any response. No response will be accepted unless the AE project team specifically invited the Bidder to respond.
3. Right of Withdrawal - Response may be withdrawn at any time prior to the RFQ Proposal Due Date. A response may not be withdrawn on the RFQ Due Date or within 60 days following such date.
4. Award Of Contract - To the extent that a contract is awarded, it will be awarded to the company deemed best suited for the project, in its sole discretion, to meet the project's needs. AE reserves the right to either place the entire order with one supplier, or to split it among several suppliers.
5. Volumes and Business Profile - All volumes and business profiles are projections only. Both volumes and business profiles may change due to changes in the AE's business strategy or external business conditions.
6. Legal Authority - The proposals sent in response to this RFQ must be signed by a person having legal authority to bind the bidder.
7. Bidder Selection and Presentations - Following our analysis of all RFQ responses received, finalists may be asked to give a capability presentation to the sourcing team.
8. AESC General Terms and Conditions - AESC General Terms and Conditions shall apply unless specific exceptions are taken to them.

PowerAdvocate Collaborative Sourcing enables Suppliers to submit proposals in response to Buyers RFPs over a web-based sourcing platform.

Logging in to PowerAdvocate Collaborative Sourcing

Existing users do not need to re-register on PowerAdvocate Collaborative Sourcing. Simply log in to access the platform. Please note that the Bid Event Coordinator must designate you as a participant for each bid before the event appears on your Dashboard. If you cannot access a particular bid, please notify the Bid Event Coordinator.

> Direct your browser to <http://www.poweradvocate.com/>. > Click on the orange "LOGIN" button. > Enter your user name and password and click "Login" (usernames and passwords are case-sensitive) > Your browser will take you to the PowerAdvocate Sourcing Dashboard

Forgot User Name or Password?

If you have forgotten your user name and/or password, click on the "Forgot User Name or Password?" link, enter your e-mail address and click "Request Password".

Bid Event Dashboard

The Bid Event Dashboard lists all of your bids, segmented by "Open", which are above the line, and all others ("Pending", "Post Bid", and "Complete") which are below the line.

Dashboard	Company Filter: All Companies	Open	Close	Download RFP	Upload Proposal	Commercial	Technical	Pricing
Distribution Transformer: Round 2 Poweradvocate		04/19/07 8:00 AM EDT	04/27/07 4:00 AM EDT	1	2	3	4	5
Distribution Transformer: Poweradvocate		11/17/06 8:00 AM EST	12/01/06 4:00 PM EST	1	2	3	4	5

> To view details of a specific bid, click on the Tab 1, 2, 3, 4 or 5. Your browser will take you to the appropriate page.

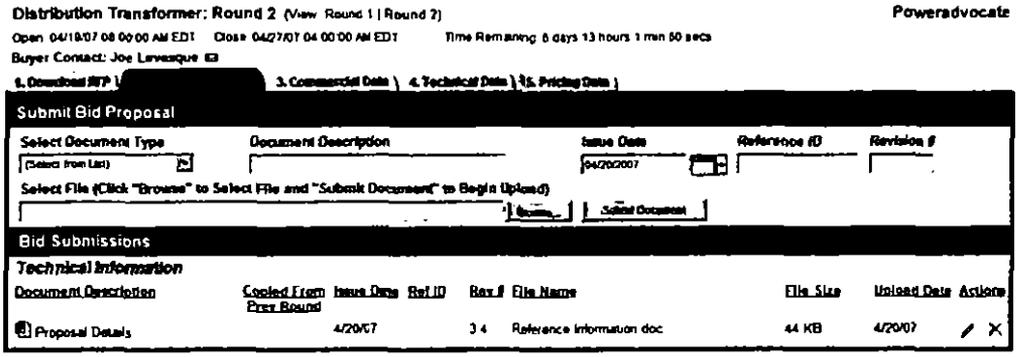
Tab 1: Download RFP

All bid documents, including commercial and technical specifications, and engineering drawings, are centrally stored on the platform. To view bid documents, click on Tab 1 for the event.

- > To download multiple documents, select the box next to the file names. Click "Download Selected Files", and a small window will appear that states: Click "Start" to begin the download process. A zip file will then be created with the selected files. Click "Start", and you will be prompted to open or save the zip file. Click "Save".
- > To download all documents, click "Select All". Click "Download Selected Files" and follow instructions above.

Tab 2: Upload Proposals

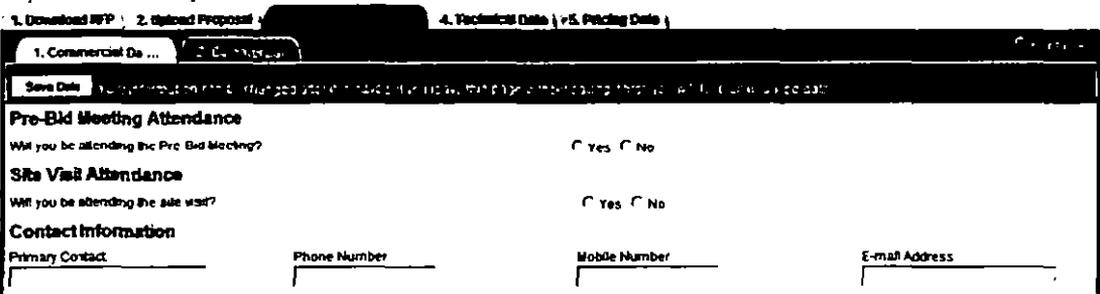
To upload your proposal documents, click on Tab 2.



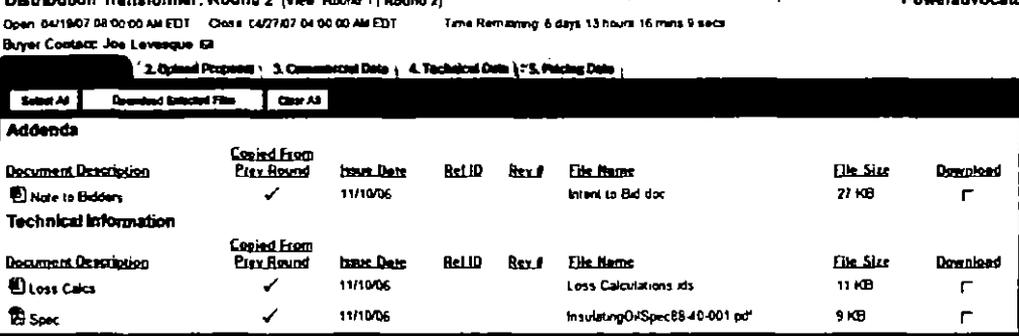
- > To upload a document, specify a document type, document description, and reference and/or revision numbers, if applicable. Click "Browse", locate the document on your computer, and click "Open". Click "Submit Document".
- > Depending on the size of the file and the speed of your internet connection, the document may take some time to upload.

Tabs 3, 4 and 5: Commercial, Technical and Pricing Datasheets

To view the Commercial, Technical or Pricing datasheet, click on the "Commercial", "Technical", or "Pricing" tab.



- > Suppliers should upload enter/save data over the course of the Bid Open period. Once the Bid Close time passes, supplier data is automatically submitted. There is no "Submit" button.
- > Once the bid closes, suppliers are normally unable to submit additional data within the datasheets. However, supplier may submit additional documents, which appear in red text.
- > Some events may not have certain tabs, if the Buyer did not create them. For example, there may not be a Technical tab (Tab 4) for certain events.
- > To view a printer-friendly version of a datasheet, click on the printer icon, located in the upper right corner.



- > Once the bid open time has passed, suppliers will be able to access the RFX Documents.
- > To view or download a document, click on the file name link. You will be prompted to open or save the file.

Send Email to Bid Event Coordinator

To send an email to the Bid Event Coordinator, click on the envelope icon to the right of "Buyer Contact".

Distribution Transformer: Round 2 (View: Round 1 | Round 2)

Poweradvocate

Open: 04/19/07 08:00:00 AM EDT Close: 04/27/07 04:00:00 AM EDT Time Remaining: 6 days 12 hours 32 mins 12 secs

Buyer Contact: Joe Levesque

1. Download RFP | 2. Upload Proposal | 3. Commercial Data | 4. Technical Data | 5. Pricing Data

Save Data: Your information can be changed after it is saved. If you leave this page without clicking Save, you will lose all unsaved data.

Manufacturer's Data Sheet

General Information

1a Manufacturer:	<input type="text"/>
2 Warranty:	<input type="text"/>
3 Manufacturer Website:	<input type="text"/>

> Messages are saved within the users default email program (Outlook, etc.). >
> Replies will be received directly to your email address.

Additional Help

For additional help, access the Help System by clicking the Help link in the Navigation Bar



> The user guide and training materials can be downloaded from the help system. > Call PowerAdvocate support at 857-453-5800 or email support@poweradvocate.com > PowerAdvocate support is available from Mon-Fri, during regular business hours (EST)

Appendix 11

PJM Membership and Curtailment Service Provider Certification Form

I, _____ (“Agent”) am an authorized signatory for
_____ (“Company”) and hereby certify that Company is a member of
Pennsylvania-New Jersey-Maryland Interconnection, LLC (“PJM”) and is qualified as a
Curtailment Service Provider in good standing and able to comply with all applicable
requirements of PJM to fulfill the obligations of this RFP.

Signed:

Type or Print Name:

Title:

Company:

Date:

Appendix 12

Pricing Proposal

(Also Included as a Separate Excel File Attachment in PowerAdvocate)

Allegheny Power Customer Resources DR Program - Volume and Price Bid Template

	2011 PY	2012 PY	
Committed MW of Demand Response Resources (Customer Level Demand Reduction)			(Note: Minimum increments of 1 MW)
Committed HOURS for Demand Response Resources			(Note: Minimum increments of 10 hours)
Contract Price - \$\$ per MW-Hour			

Note: Fill out only fields highlighted in yellow.
PY - Program Year for this RFP is from June 1 to September 30, 2011 - June 1 to September 30, 2012.
Refer to Section 4.0 of RFP for terms of contract.

Vendor Conditions. Vendors, please state any conditions to the bids made above.

Shellhammer, Mary A.

From: Stremel, John [JStremel@energyconnectinc.com]
Sent: Thursday, March 10, 2011 1:16 PM
To: Sheldon, Jennette M.
Cc: Bloom, Brian A.; Shellhammer, Mary A.; Snee, Colleen; Evans, Kevin
Subject: FW: EnergyConnect, Inc. - Demand Response Resources - HITTS REV 25 T's&C's Exceptions (FE Response 3-10-11)
Attachments: ECI HITSS REV 25 (FE Response 3-10-11).doc

Jannette:

I accept the three changes described below on behalf of EnergyConnect.

John.

From: Evans, Kevin
Sent: Thursday, March 10, 2011 9:49 AM
To: Stremel, John; Snee, Colleen
Subject: FW: EnergyConnect, Inc. - Demand Response Resources - HITTS REV 25 T's&C's Exceptions (FE Response 3-10-11)

I'm ok what about you John?



CONFIDENTIALITY NOTICE: This e-mail transmission, and any documents, files or previous e-mail messages attached to it, may contain confidential information. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this message is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify us by reply e-mail at kevans@energyconnectinc.com or by telephone at (408) 898-4677, and destroy the original transmission and its attachments without reading them or saving them to disk. Thank you.

From: Snee, Colleen
Sent: Thursday, March 10, 2011 9:42 AM
To: Evans, Kevin
Subject: Fwd: EnergyConnect, Inc. - Demand Response Resources - HITTS REV 25 T's&C's Exceptions (FE Response 3-10-11)

Sent from my Verizon Wireless Phone

----- Forwarded message -----

From: "Sheldon, Jennette M." <jsheldo@alleghenypower.com>
Date: Thu, Mar 10, 2011 11:21 am
Subject: EnergyConnect, Inc. - Demand Response Resources - HITTS REV 25 T's&C's Exceptions (FE Response 3-10-11)

5/31/2011

To: "Snee, Colleen" <CSnee@energyconnectinc.com>
Cc: "Bloom, Brian A." <BBLOOM@allegHENypower.com>, "Shellhammer, Mary A." <MSHELLH@allegHENypower.com>

Colleen,

I have received a response to your exceptions from our legal department. It turns out that there is a different set of T&C's that we should be using than what I had previously sent you – very similar to the master T&C's that you found on the PUC website. They are attached, along with the following comments:

- 1) ARTICLE VII (A) INTELLECTUAL PROPERTY RIGHTS - Ownership of Work & Data: FE **modified** ECI's proposal deleting this entire section and substituting their own language. FE should retain all IP rights to the Work and Data, and ECI should retain all IP rights pertaining to GridConnect, as it now exists. However, FE should not give up IP rights to any new or innovative energy efficiency processes that may be developed by ECI on FE's behalf as part of the Work;
- 2) ARTICLE X (A) (2) INSURANCE - Automobile Liability Insurance: FE **rejected** ECI's proposal deleting its obligation to secure and maintain automobile liability insurance as required. Although ECI does not issue company owned vehicles, ECI employees driving their personal vehicles to FE's site to perform the Work may cause an accident on FE's site, which must be covered by automobile insurance coverage; and
- 3) ARTICLE XI (C) (7) COMPLIANCE WITH LAWS, REGULATION & PERMITS: FE **rejected** ECI proposal deleting this section as being "not applicable as no service will be subcontracted." FE is a federal contractor and, as such, is required to include this language in its agreements. Furthermore, Article XI (C) states that ECI must incorporate this language only if the applicable criteria specified is met.

This all assumes that EC will not require access to FirstEnergy's network. Should that change, there would be additional provisions that would need to be negotiated before you would be given access.

Please review and advise if this is acceptable to Energy Connect.

Please call if you have any questions! Thanks for your patience as we work through this – hopefully this will be acceptable to EC and we can move forward!

Thanks,
Jennette

Jennette Sheldon
Consultant, Strategic Alliances
First Energy
724-850-0260 - Phone
724-830-7721 - Fax
jsheldo@firstenergycorp.com

**FIRSTENERGY SERVICE COMPANY AND ENERGYCONNECT, INC. – GENERAL TERMS AND CONDITIONS
FOR PURCHASE OF HARDWARE, INFORMATION TECHNOLOGY SERVICES AND SOFTWARE DATED 3-10-2011**

ARTICLE I – DEFINITIONS

The following capitalized terms, when used in the Agreement (defined below), shall have the meanings given below unless in any particular instance the context clearly indicates otherwise:

A. "Agreement". The terms and conditions set forth in this document, together with the Statement of Work, Purchase Order and all attachments, exhibits, revisions, and supplements thereof, shall constitute the complete and entire agreement between Purchaser and Supplier (the "Agreement").

B. "Purchaser" means FirstEnergy Service Company for itself and/or as an authorized agent of the affiliate company or companies set forth on the face of the Agreement for which the software, hardware or information technology services are procured hereunder. If more than one company is identified as the Purchaser, the liability of each company named shall be several and not joint and shall be limited to such company's interest in the Agreement.

C. "Purchaser's Site" includes generating stations, steam plants, substations, transmission and distribution lines, towers, poles, buildings, or other locations owned or leased by Purchaser, for which the Work is intended to benefit, to which the Work is to be delivered or where the Work is to be performed.

D. "Specifications" means the portion of the SOW that describes the software, hardware or information technology services to be delivered by Supplier under the Agreement, including, without limitation, dimensions, components, attachments, technical and non-technical requirements and characteristics, standards, performance requirements, and tolerances.

E. "Statement of Work" (SOW) describes the Work to be performed, the dates for completion of the Work, both Supplier's and Purchaser's obligations and other requirements necessary for completion of the Work, the identifiable work product to be delivered by Supplier, the fixed price or time and material rates for the Work and any other terms that apply to that specific SOW.

F. "Supplier" means the organization, individual or entity which is furnishing the Work.

G. "Work" means all software, hardware, services, labor, materials, equipment, goods, parts, data, and other obligations covered by, contemplated or intended for Supplier to perform or supply under the Agreement, as specified in the Agreement, together with miscellaneous expendable job supplies, installation related equipment and/or tools, transportation, facilities and/or services for the complete execution of the Agreement.

ARTICLE II - INTEGRATION AND MODIFICATION

A. **Sole Agreement.** The parties intend the Agreement to constitute the complete, exclusive and fully integrated statement of their agreement concerning the subject matter hereof. As such, the Agreement is the sole repository of their agreement and the parties are not bound by any other agreements of whatsoever kind or nature. The parties further intend that this complete, exclusive and fully integrated statement of their agreement may not be supplemented or interpreted by any evidence of trade usage or course of dealing. No amendment, modification, or rescission of the Agreement shall be enforceable unless the same is in writing and signed by the party against whom the terms of such amendment, modification, or rescission are sought to be enforced. In case of any error, inconsistency or omission in the various documents and/or provisions comprising the Agreement, the matter will be submitted immediately to Purchaser, without whose decision said discrepancy shall not be adjusted by Supplier. If any conflict arises between a term defined in this document and a term (defined or otherwise) contained in another document comprising a part of the Agreement, the conflict shall be resolved in favor of the more specific defined term unless the context clearly indicates otherwise or such a resolution would deny or dilute Purchaser's rights or benefits under the Agreement.

B. **Modifications.** The Agreement or any SOW may only be modified by a written document signed by authorized representatives of Supplier and Purchaser ("Change Order"). If Purchaser requests or Supplier recommends changes during performance of a SOW, Supplier will provide Purchaser with a change order proposal setting forth the impact on the Work, Schedule, Dependencies, Deliverables and/or Fee. Purchaser may accept or reject the change order proposal at its sole discretion. If accepted, Supplier will prepare a Change Order for execution by both parties that reflects the agreed upon changes. A change order proposal will be considered rejected if Purchaser does not respond to the proposal within ten (10) business days.

C. **Non-Exclusivity.** The Agreement is not exclusive, and Purchaser may at its sole discretion contract with others to perform such work as is herein contemplated, or may perform such work with its own forces.

ARTICLE III - ASSIGNED EMPLOYEES

A. During assignments, "Assigned Employees" shall be employees of Supplier. Supplier is an independent contractor and, except for sales and use taxes, Supplier shall be responsible for all taxes, fines and penalties attributable to the Work. Supplier hereby indemnifies and holds Purchaser harmless from any liability, costs, damages or expenses in connection with benefits, taxes, fines or penalties associated with, assessed upon or measured by the employment relationship of the Supplier and its employees. Purchaser shall not be responsible for any payments due to Assigned Employees on account of, or in connection with, the Agreement. It being understood between the parties hereto that Assigned Employees are to act as an independent contractor and are not authorized to make any contract, agreement, warranty, or representation on behalf of Purchaser. Further, the Agreement does not constitute Supplier, as an agent, partner, or legal representative of Purchaser for any purpose whatsoever.

B. Supplier represents that it will employ for the Work only Assigned Employees known by Supplier to be experienced, qualified, reliable and trustworthy. At Purchaser's request, the credentials and qualifications of any Assigned Employee to perform the Work shall be submitted to Purchaser in advance of such assignment. During the performance of the Work, Purchaser may object to any Assigned

Employee who, in Purchaser's opinion, does not meet these criteria. In such case, Supplier shall, at its expense and risk, immediately replace or remove such Assigned Employee. Notwithstanding the foregoing, Supplier shall be responsible for all acts or omissions (negligent or otherwise) of its Assigned Employees, agents, employees and subcontractors.

C. During the term of the Agreement, the Assigned Employees whose names have been specified as "Key Personnel", and listed on a SOW, are deemed necessary for the successful performance of the Agreement. Supplier shall assign such persons to the performance of the Work under each SOW and shall not reassign or remove them without the prior written consent of Purchaser. Whenever, for any reason, one or more of the Assigned Employees specified is unavailable for the Work, Supplier shall, with the prior written approval of Purchaser, replace such person with a person of equal abilities and qualifications.

D. Background Checks. Supplier shall make commercial best efforts to ensure that Assigned Employees do not have criminal records and are not involved in criminal activity which could create a risk to Purchaser's Site, customers, and/or employees. Upon actual knowledge of a criminal record or involvement in criminal activity, Supplier shall immediately remove said Assigned Employee or Assigned Employees from the Work. Purchaser, at any time, may request Supplier to verify that an Assigned Employee does not possess a criminal record. Prior to the start of Work, the Supplier shall provide certification pursuant to a North American Electric Reliability Corporation (NERC) Critical Infrastructure Protection (CIP) compliant documented personnel risk assessment and training program that each Assigned Employee, who is authorized as part of the Work to have electronic or unescorted physical access to Critical Cyber Assets (as the same are identified by Purchaser from time to time): (i) has submitted to a background check consisting of at a minimum an identity verification (e.g., Social Security Number verification in the U.S.) and a seven (7) year criminal check within the past seven (7) years whereby no evidence of a criminal record or criminal activity was discovered; or (ii) has been subject to a seven-year cycle re-check of the background check; and (iii) has received the Purchaser-sponsored Security Awareness training or will receive such training prior to accessing Critical Cyber Assets. These requirements are subject to audit and certification by Supplier upon request by Purchaser. Supplier shall inform Purchaser immediately, but no greater than within thirty (30) minutes, via email and phone call, if an Assigned Employee having authorized cyber or authorized unescorted physical access to Critical Cyber Assets is terminated for cause. Further, Supplier shall inform Purchaser within forty-eight (48) hours, via email and phone call, if an Assigned Employee having authorized cyber or authorized unescorted physical access to Critical Cyber Assets is voluntarily terminated; is transferred to a position where they no longer require access to the Purchaser's CIP assets; or when the access rights of an Assigned Employee to Critical Cyber Assets needs to be changed or removed.

E. If Supplier seeks to assign any person on any Purchaser IT initiative who is not a United States citizen or a person lawfully admitted for permanent residence in the United States, Supplier must provide the Purchaser with at least thirty (30) days advance notice of such assignment. Such notice must also include a written certification that such person is not on the Denied Persons List, the Entity List, the List of Debarred Persons, or the Specifically Designated Nationals and Blocked Persons List, as maintained from time to time by the United States Department of Commerce and/or Department of State.

F. Only persons who are United States citizens or have been lawfully admitted for permanent residence in the United States shall be permitted to work on Purchaser IT initiatives when such work may result, in any way, with exposure or access to information, drawings, technology, databases, or other materials subject to United States export licensing restrictions (collectively, "Technology") relating to the Purchaser's nuclear or transmission systems, or any other systems on which such Technology is present and for which the Purchaser does not have a valid export license. In any cases where it is deemed necessary or acceptable to employ a person on a Purchaser IT initiative who is not a United States citizen or a person lawfully admitted for permanent residence in the United States, all reasonable precautions must be taken to ensure that such person does not have access to any Technology in any way. Such precautions include, but are not limited to, denying such persons direct log-in access to any Purchaser systems on which such Technology may be accessed; denying direct or indirect internet or e-mail access; denying unescorted access of the premises of the Purchaser where such Technology could otherwise be viewed or accessed; and ensuring that such person is not assigned to work with or for any other person who is permitted to have access to Technology.

G. Access to Purchaser's Site. For Work performed on Purchaser's Site, Purchaser will provide at no cost to Supplier, safe and adequate working space and facilities for Assigned Employees. Assigned Employees shall enter and exit Purchaser's Site only by the entrances designated from time to time by Purchaser. Assigned Employees shall comply with all of Purchaser's protection and safety rules for any Purchaser Site at which the Work is performed, and with all instructions and directives from Purchaser's Site manager or their designees. In the event that an Assigned Employee is working at Purchaser's Site, the Assigned Employee may be one of several vendors working at such Site, and shall cooperate fully with Purchaser and other vendors, and shall plan and perform the Work in such a manner so as not to interfere with the activities or operations of Purchaser or other vendors. Purchaser will establish priorities and, at the request of other vendors, resolve interferences.

H. Gifts and Gratuities/Conflicts of Interest. Purchaser's parent company ("FirstEnergy") enforces policies governing the conduct of Purchaser's employees in carrying out its business activities, including contact with third-party business partners. The conflicts of interest and gifts and gratuities policies generally prohibit the employees of all FirstEnergy subsidiaries and/or their family members from giving or receiving gifts, favors, services, or privileges (including travel or entertainment) from existing or potential customers, suppliers, or contractors that are more than a nominal value, or that exceed the level of standard business courtesies, and the acceptance of cash, gift certificates, or loans in any amount. The conflicts of interest policy generally prohibits employees of all FirstEnergy subsidiaries and/or their family members from serving as an officer, director, employee, consultant, agent, or buyer of a beneficial interest in an organization which has a business relationship with FirstEnergy as a supplier or contractor, if the employee is in a position to influence decisions concerning the relationship. The entire text of these policies may be found within the Supply Chain Section at www.firstenergycorp.com. Suppliers and prospective suppliers to Purchaser are expected to be aware of and comply with these policies in their dealings with FirstEnergy employees and their family members. Any suspected or actual violations of these

policies should be reported; and, may be reported anonymously and confidentially by a customer, supplier, contractor, or employee by calling the Employee Concerns Line (1-800-683-3625), 24 hours a day, 7 days a week.

I. **Safety and Health.** Assigned Employees shall conduct their operations in a manner to avoid risk of bodily harm to persons or damage to property. Supplier shall take all precautions necessary and shall be solely responsible for the safety of the Work and the safety and adequacy of the manner and methods the Assigned Employees employ in performing the Work and shall not require any Assigned Employee performing hereunder to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to health or safety. Further, Supplier shall continuously inspect its Work, materials and equipment to identify any unsafe conditions, and shall promptly take action to correct any condition which presents such a risk. Supplier shall ensure that while any Assigned Employees, agents, employees, subcontractors or invitees of Supplier are on Purchaser's Site, they will conform to and comply with all applicable safety and health laws, ordinances, rules, regulations, orders and all other requirements (including, without limitation, standards under the Occupational Safety and Health Act and Purchaser's safety requirements).

J. **Drug Free Workplace.** Supplier agrees to assist Purchaser in complying with the Drug Free Workplace Act required of all utilities in order to provide a drug-free workplace. Supplier acknowledges Purchaser's position on the use and possession of alcohol and drugs, and Supplier is hereby informed that the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances in the workplace is prohibited. Violation by an Assigned Employee of any of the conditions listed below may be cause for immediate termination of the Agreement and/or any SOW. These conditions include, but are not strictly limited to, the following:

1. The illegal use, sale, or possession of narcotics, drugs or controlled substances while on the job or on Purchaser's Site is a dischargeable offense.
2. Off-the-job illegal drug use which could adversely affect job performance, or jeopardize the safety of other employees, the public, or Purchaser's equipment, is proper cause for disciplinary action and termination of the Agreement and/or any SOW.
3. Assigned Employees arrested in off-the-job drug activity shall be in violation of this policy.
4. Assigned Employees undergoing prescribed medical treatment with a controlled substance are solely responsible to report their treatment to their supervisor. The use of prescribed controlled substances while undergoing medical treatment is not a violation of this policy. However, use of drugs that may alter an individual's physical or mental ability may make it necessary to change an Assigned Employee's job assignment while the employee is undergoing treatment.
5. Use or possession of alcoholic beverages while on the Purchaser's Site is prohibited. Assigned Employees in violation of this rule shall be subject to disciplinary action and possible termination of the Agreement and/or any SOW.
6. An Assigned Employee whose job performance indicates that he or she is unfit for duty shall not be permitted to work until investigation into the cause has been completed. Purchaser reserves the right at its discretion to require a medical examination by its doctor, including recognized diagnostic tests as part of the investigation. If use of unauthorized drugs or alcohol is substantiated, disciplinary action will be imposed and possible termination of the Agreement and/or any SOW.

K. **Education and Training.** It is understood that from time to time an Assigned Employee may require training in order to perform their assigned tasks for Purchaser. It is agreed that for this training period, Purchaser will not be billed for that Assigned Employee's time. It is also agreed that charges to Supplier for training by Purchaser, will be agreed upon in writing before any training takes place.

L. **Solicitation of Employment.** Neither party will solicit, hire, contract with, or engage the employment or services of any employee of the other with whom their personnel have had contact in the course of performance of the Work and for a period of one (1) year thereafter.

ARTICLE IV - STATEMENT OF WORK

A. Supplier agrees to put forth its best effort to provide Purchaser with the hardware, software and professional services of its staff to perform the Work as defined in each Statement of Work ("SOW") incorporated into the Agreement by reference.

B. Each individual work engagement performed under the Agreement will be defined by a SOW. The SOW will describe the Work to be performed, the dates for completion of the Work ("Schedule"), both Supplier's and Purchaser's obligations and other requirements necessary for completion of the Work ("Dependencies"), the identifiable work product to be delivered by Supplier ("Deliverables"), the fixed price or time and material rates for the Work ("Fee") and any other terms that apply to that specific SOW. Each SOW together with the terms of the Agreement constitutes a separate contract. Should any conflict occur between the SOW and any other provision of the Agreement, the SOW shall take precedence only when and to the extent that such does not result in any way in the dilution or diminution of the rights or benefits of the Purchaser under the Agreement.

C. **Delays.** For fixed price SOW's, Purchaser will not be responsible for payment of additional Fees resulting from circumstances within Supplier's control. If any phase of a fixed price SOW is delayed or if additional Supplier resources are required because a Dependency is not met, such event will constitute a change and Purchaser will compensate Supplier for the additional Supplier resources and/or time with a signed approval by both parties. The calculation for such additional compensation will be based on a prorated portion of the current fixed price.

D. **Acceptance.** Supplier's proposal shall include detailed acceptance criteria. The acceptance procedure will be established jointly by Supplier and Purchaser. The purpose of acceptance is to confirm that the Deliverables conform to the Specifications. The Deliverables will be deemed to have been accepted by Purchaser upon successful completion of acceptance. Except for any items that survive the termination of the Agreement, Supplier's obligations to Purchaser will be complete when the Deliverables achieve acceptance in accordance with this Article IV (D) and the applicable SOW.

ARTICLE V – PAYMENT

A. Payment terms shall be as specified in each SOW. For Work performed under the Agreement, Purchaser shall pay the Supplier in accordance to the payment schedule defined in each SOW, provided, however, that payment shall not constitute acceptance of any Work, Deliverable or other product by Purchaser.

B. Actual and reasonable travel expenses shall be reimbursed by Purchaser only if set forth in a SOW. Supplier shall either utilize local hotels with Purchaser direct billing accounts and travel services that offer Purchaser initiated travel discounts or Supplier initiated travel

arrangements, whichever option results in the least expensive travel. The Supplier shall contact the Purchaser's Designated Representative identified in each SOW for specific details on Purchaser initiated travel.

C. Supplier is deemed to be a self-employed independent contractor; and accordingly, no sums are contemplated to be withheld from Supplier's compensation to cover the payment of income taxes, FICA (social security), FUTA (unemployment compensation) or other taxes. Supplier agrees to file all required federal, state and local income tax and other tax returns (including, without limitation, all required declarations of estimated tax) covering Supplier's compensation hereunder. Supplier agrees to pay all such taxes and contributions when due; and Supplier hereby indemnifies Purchaser and holds it harmless from and against any and all loss, cost and liability whatsoever incurred by or claimed against Purchaser for any failure of Supplier to comply herewith.

ARTICLE VI - STANDARD OF CARE AND PERFORMANCE

A. Standard of Care. Supplier expressly warrants that all Work performed hereunder shall be: (i) conducted in a manner consistent with the highest generally accepted level of care and skill ordinarily exercised by professionals and other persons performing work of a nature similar to that which Supplier is performing; (ii) performed safely, lawfully, efficiently and properly, and otherwise in a good and workmanlike manner; (iii) in strict conformity with the requirements of the Agreement, including, without limitation, all specific design standards and the specific Specifications and drawings incorporated into said Agreement; and (iv) of good workmanship and quality, free from defects (including, without limitation, defects in design, material, workmanship and title), and fit for the purposes intended by Purchaser as set forth in the Agreement. Supplier further warrants that all equipment used in connection with performance of the Work shall be in safe and proper working order. Supplier acknowledges and agrees that Purchaser is relying upon Supplier's special and unique abilities and the accuracy, competence and completeness of Supplier's Work.

B. Performance. Supplier represents and warrants that it is technically, physically, financially and legally ready, willing, competent and able to perform, and capable of performing, the Work. Supplier represents, warrants and covenants that it has, and will have throughout the term of the Agreement, the requisite personnel, competence, skill and physical resources to perform the Work, and that it has, and shall maintain, the capability, experience, registrations, and permits required to perform the Work. Supplier shall cure any breach of the foregoing warranties at no cost to Purchaser and shall reimburse Purchaser for any damages that may be incurred by Purchaser as a result of reliance by Purchaser, its employees, agents, other suppliers or subcontractors on such Work or anticipated performance by Supplier. The costs of transporting, repairing, replacing, removing or installing material to make the Work comply with the above performance standards, warranties and requirements shall be borne by Supplier. If Supplier should fail to cure such breach or if Purchaser determines that Supplier will be unable to cure such breach before the scheduled time of completion, Purchaser may correct such breach itself or through a third party and charge Supplier for the costs incurred therefor.

C. Supplier acknowledges Purchaser's intention to seek to transfer to Purchaser as much knowledge and technology as possible as a result of the SOW. Supplier shall use reasonable efforts to ensure that Purchaser is capable of maintaining any Deliverables provided to it by Supplier. Accordingly, Supplier hereby warrants to use only development platforms, tools, utilities or other software in the creation of Work, Deliverables or other products for Purchaser that are commercially available to Purchaser, do not infringe on the rights of any other person or entity, and have been approved by Purchaser in writing.

ARTICLE VII - INTELLECTUAL PROPERTY RIGHTS

A. Ownership of Work and Data. ~~The Work and all Data associated with the Work, whether or not patentable, registrable as a copyrightable work, or registrable as a trademark or service mark, shall become the property of Purchaser. The Agreement constitutes a license for Purchaser to utilize the operating platform, GridConnect, that may be private labeled for the implementation of the Commercial Industrial Load drop program for Purchaser. All new discoveries, inventions, improvements, processes, formulae, designs, drawings, training materials, original works of authorship, technical data and documentation, referred to herein as "Intellectual Property," that may be developed, conceived or made by Supplier, alone or jointly with others in connection with its Work for Purchaser, whether or not patentable, registrable as a copyrightable work, or registrable as a trademark or service mark, shall become the exclusive property of Purchaser and Purchaser shall own all intellectual property rights therein (including the rights to any patent, trademark or service mark, trade secret, and copyright therein). Under no circumstances does the Supplier assign rights of ownership to intellectual property of the GridConnect platform and system. Supplier retains all intellectual property rights pertaining to said platform and service it uses in the delivery of the contracted mega-watt hours (MWh). The Work and all new discoveries, inventions, improvements, processes, formulae, designs, drawings, training materials, original works of authorship, technical data and documentation, referred to herein as "Intellectual Property," that may be developed, conceived or made by Supplier, alone or jointly with others in connection with its Work for Purchaser, whether or not patentable, registrable as a copyrightable work, or registrable as a trademark or service mark, shall become the exclusive property of Purchaser and Purchaser shall own all intellectual property rights therein (including the rights to any patent, trademark or service mark, trade secret, and copyright therein). Supplier hereby agrees that any materials and works of authorship conceived or written by Supplier during the term of the Agreement that pertain in any material respect to the Work shall be done as "work made for hire" as defined and used in the Copyright Act of 1976, 17 USC §1 et seq., and that Purchaser, as the entity for which the work is prepared, shall own all right, title and interest in and to such materials, including the entire copyright therein. To the extent that any such materials are not deemed to be a "work made for hire," Supplier will assign to Purchaser ownership of all right, title, and interest in and to such materials, including ownership of the entire copyright therein. Supplier hereby assigns and agrees to assign all Supplier's rights in any Intellectual Property to Purchaser. Supplier hereby grants to Purchaser limited power of attorney for the sole purpose of assigning all Supplier's rights in Intellectual Property to Purchaser for the purposes of filings, registrations and other formalities deemed necessary by Purchaser to prosecute, protect, perfect or exploit its ownership and interests in Intellectual Property. Supplier further agrees to execute, acknowledge and deliver any documentation, instruments, specifications or disclosures necessary to assign, prosecute, protect, perfect or exploit Purchaser's ownership of Intellectual Property.~~

B. Infringement. Supplier warrants that the Work provided by Supplier hereunder is and will be original, does not and will not infringe on or misappropriate any United States or foreign patent, copyright, trademark, or other intellectual property rights of any third party, and

has not previously been and will not be assigned, licensed or otherwise encumbered. Supplier, for itself, its successors and assigns, agrees to defend, indemnify and hold harmless Purchaser against a claim or alleged claim that any Work or Deliverable provided to Purchaser hereunder infringes a copyright, trademark, patent or other intellectual property right, provided that Purchaser notifies Supplier and reasonably assists Supplier in the performance of its obligations under this Article VII. Supplier shall have no liability for any claim of infringement based on the continued use of a superseded or altered release of a Deliverable for which Supplier has notified Purchaser in writing to cease using, and provided an appropriate cure or remedy to Purchaser. Further, the indemnity provided under this Article VII shall not apply to the extent that any claim of infringement arising from Purchaser's modification of the Deliverable and such modification has caused or given rise to the infringement. If the Work, Deliverable or any portion thereof is held to constitute an infringement or misappropriation of the intellectual property rights of a third party, Supplier shall, at its expense and within a reasonable time, either (1) secure for Purchaser the right to use the Work, Deliverable or any portion thereof which is said to be infringing by procuring for Purchaser a license or otherwise, or (2) replace the Work or such portion thereof with non-infringing Work or Deliverable that meets the requirements of the Agreement, or (3) remove such infringing Work, Deliverable or such portion thereof, as Purchaser may elect, and refund the sums paid therefor by Purchaser, together with any out-of-pocket costs incurred by Purchaser in connection with its purchase and use of the infringing Work or Deliverable, all without damage or injury to Purchaser's other property.

C. Data Furnished by Purchaser. All data furnished by Purchaser in connection with the Work shall remain Purchaser's exclusive property. Supplier shall not use Purchaser-furnished data for any purpose other than for the Work. Supplier shall: (1) sign and deliver a written itemized receipt for all Purchaser-furnished data and shall be responsible for its safekeeping, and (2) return such Purchaser-furnished data and all copies thereof to Purchaser upon completing the Work. No SOW, contract amendment, letter agreement, proposal of the Supplier, addendum or any other document or agreement shall modify this Article VII. Notwithstanding the foregoing, Supplier will retain all rights in any preexisting materials owned by Supplier, including but not limited to any descriptions of its methodologies, project tools, document templates and any preexisting Supplier owned software components. The provisions of this Article VII shall survive the expiration or termination of the Agreement.

ARTICLE VIII - INDEMNITY

A. Supplier's Indemnity. Supplier, for itself, its successors and assigns shall indemnify, defend, and hold harmless Purchaser, its parent, subsidiaries and affiliates, and each of their respective agents, officers, employees, successors, assigns, and indemnitees (the "Indemnified Parties"), from and against any and all losses, costs, damages, claims, liabilities, fines, penalties, and expenses (including, without limitation, attorneys' and other professional fees and expenses, and court costs, incurred in connection with the investigation, defense, and settlement of any claim asserted against any Indemnified Party or the enforcement of Supplier's obligations under this Article VIII) (collectively, "Losses"), which any of the Indemnified Parties may suffer or incur, in whole or in part, arising out of or in any way related to the Work performed or to be performed, the presence of Supplier and/or its subcontractors at Purchaser's Site, and/or the actions or omissions of Supplier and/or its subcontractors, including, without limitation, Losses relating to: (1) actual or alleged bodily or mental injury to or death of any person, including, without limitation, any person employed by Purchaser, by Supplier, or by any subcontractor; (2) damage to or loss of use of property of Purchaser, Supplier, any subcontractor, or any third party; (3) any contractual liability owed by Purchaser to a third party; (4) any breach of or inaccuracy in the covenants, representations, and warranties made by Supplier under the Agreement; and/or (5) any violation by Supplier or any subcontractor of any ordinance, regulation, rule, or law of the United States or any political subdivision or duly constituted public authority; subject, however, to the limitations provided in Article VIII(B) (for Work performed in Pennsylvania), or Article VIII(C) (for Work performed in states other than Pennsylvania). Purchaser shall be entitled to control the defense of any action indemnified hereunder, with legal counsel of its own choosing.

B. WITH RESPECT TO WORK PERFORMED OR TO BE PERFORMED WITHIN THE COMMONWEALTH OF PENNSYLVANIA, Supplier's indemnity obligations under Article VIII(A) shall apply in each case whether or not caused or contributed to by the fault or negligence of any or all of the Indemnified Parties, and Supplier expressly agrees that Supplier will indemnify, defend, and hold harmless the Indemnified Parties in connection with Article VIII(A) even if any such Losses are caused in whole or in part by the sole or concurrent negligence of one or more of the Indemnified Parties. Supplier agrees to waive and release any rights of contribution, indemnity, or subrogation it may have against any of the Indemnified Parties as a result of an indemnity claim asserted by another Indemnified Party under Article VIII(A). Article VIII(A) is intended to be an express written contract to indemnify as contemplated under Section 303(b) of the Pennsylvania Workers' Compensation Act (or any successor to such provision).

C. WITH RESPECT TO WORK PERFORMED OR TO BE PERFORMED AT ANY LOCATION WHICH IS NOT WITHIN THE COMMONWEALTH OF PENNSYLVANIA, Supplier's indemnity obligations under Article VIII(A) shall not apply to any Losses to the extent such Losses are found to have been initiated or proximately caused by or resulting from the negligence or willful misconduct of any of the Indemnified Parties.

D. Waiver of Immunities. If an employee of Supplier or its subcontractor, or such employee's heirs, assigns, or anyone otherwise entitled to receive damages by reason of injury or death to such employee, brings an action at law against any Indemnified Party, then Supplier, for itself, its successors, assigns, and subcontractors, hereby expressly waives any provision of any workers' compensation act or other similar law whereby Supplier could preclude its joinder by such Indemnified Party as an additional defendant, or avoid liability for damages, contribution, defense, or indemnity in any action at law, or otherwise. Supplier's obligation to Purchaser herein shall not be limited by any limitation on the amount or type of damages, benefits or compensation payable by or for Supplier under any worker's compensation acts, disability benefit acts, or other employee benefit acts on account of claims against Purchaser by an employee of Supplier or anyone employed directly or indirectly by Supplier or anyone for whose acts Supplier may be liable. This section shall survive termination of the Agreement or any SOW for any reason.

E. No Impairments. Supplier's obligations under this Article VIII shall not be limited to the extent of any insurance available to or provided by Supplier. Supplier's obligations to defend Purchaser shall survive any judicial determination invalidating, in whole or in part, the indemnity provision of the Agreement.

ARTICLE IX - INSURANCE

A. Supplier's Insurance. Supplier agrees to secure and maintain in force minimum policies of insurance of the types listed below and shall furnish to Purchaser, prior to starting Work and throughout the duration of the Work, certificates of insurance evidencing current coverage listed below. These certificates shall be endorsed with substantially the following language:

"This policy will not be canceled or allowed to lapse, and no change shall be made in this policy which alters, restricts or reduces the insurance provided or changes the name of the insured without first giving at least thirty (30) days' notice in writing to FirstEnergy Service Company, Insurance Risk Management, 76 South Main Street, Akron, Ohio 44308, with receipt of notice acknowledged."

1. Commercial General Liability (CGL) insurance including products-completed operations, independent contractors, and contractual liability coverages. Coverage under this policy shall have limits of liability of not less than \$5,000,000 per occurrence, combined single limit for bodily injury (including disease or death), personal injury, and property damage (including loss of use) liability.

2. ~~Automobile Liability insurance, including non-ownership and hired car endorsement, with minimum limits of \$1,000,000 per occurrence, combined single limit. Automobile Liability insurance, including non-ownership and hired car endorsement, with minimum limits of \$1,000,000 per occurrence, combined single limit.~~

3. Worker's Compensation coverage in the statutory amounts under the worker's compensation act(s) of the location(s) in which the Work is to be performed, for the current period.

4. Employer's Liability with a minimum limit of \$1,000,000 for each accident or illness.

Any of the above per-occurrence limits may be satisfied by a combination of primary and excess liability coverage.

B. Additional Insured. FirstEnergy Corp. and its subsidiaries and affiliates shall be included by Supplier as an additional insured to Supplier's CGL and Automobile Liability policies ("Policies"), identified in the preceding paragraph, for any losses resulting from, or related to, the Supplier's sole or concurrent negligence. Said Policies shall provide primary and non-contributory coverage to the additional insured in relation to any insurance carried by Purchaser for the same losses, and shall contain a cross-liability clause providing severability of interests so that coverage will respond as if separate policies were in force for each insured. A signed copy of the endorsement adding FirstEnergy Corp. and its subsidiaries and its affiliates as an additional insured shall be attached to the certificate of insurance providing general liability coverage.

C. Lapse of Coverage. In the event of cancellation or lapse of or prohibited change in any policy for which a certificate is required to be furnished under the Agreement, Purchaser shall have the right to suspend the Work until the policy and certificates in evidence thereof are reinstated or arrangements acceptable to Purchaser are made pending issuance of new policies and certificates. If any such insurance shall be about to lapse or be canceled, Supplier shall, at least thirty (30) days before coverage thereunder ceases, obtain a new policy with like coverage, and if Supplier fails to do so, Purchaser may obtain insurance protecting it from the hazards covered by such lapsed or cancelled policy, and all premiums and expenses of such insurance shall be charged against Supplier and shall be a legitimate deduction from any sum due it from Purchaser.

D. Waiver of Subrogation. Supplier and any of its subcontractors shall waive and hereby waives any rights of subrogation which they or any of their insurers may have against Purchaser, its affiliates, and each non-affiliated company disclosed in the Agreement, their respective agents or employees.

E. Performance Bond. Purchaser may, at any time, require Supplier to secure a performance bond with such conditions and limits as may be prescribed by Purchaser. Purchaser shall reimburse Supplier for the cost of such bond.

ARTICLE X - TERM AND TERMINATION OF AGREEMENT

Purchaser may terminate the Agreement, or suspend Supplier's performance of the Work, in whole or in part, at any time without cause and for its own convenience, by giving Supplier ten (10) days written notice, and with no further recourse to Supplier, other than payment for Work completed and all reimbursable expenses incurred through and including the effective date of termination. After receiving a notice of termination or suspension and except as otherwise directed by Purchaser, Supplier shall: (1) stop the Work on the date and to the extent specified therein; (2) place no further orders or subcontracts except as may be necessary for completing such portions of the Work as have not been terminated or suspended; (3) terminate all orders and subcontracts to the extent that they relate to the portions of the Work terminated (or suspend all orders and subcontracts to the extent that they relate to the portions of the Work suspended); (4) take such action as may be necessary or as directed by Purchaser to protect and preserve all property related to the Work which is in Supplier's possession and any other items in which Purchaser has or may acquire an interest; and (5) Supplier and/or Assigned Employee shall return all equipment, supplies, identification cards, etc. to Purchaser upon termination.

ARTICLE XI - COMPLIANCE WITH LAWS, REGULATIONS AND PERMITS

A. During the performance of the Agreement, Supplier shall strictly comply with all federal, state and local laws, rules or regulations and executive orders applicable to the Work.

B. Without limiting the foregoing, and unless exempted under the rules, regulations and relevant orders (41 CFR Chapter 60) of the Secretary of Labor, in connection with the Work, Supplier agrees as follows:

1. Supplier shall not discriminate against any employee or applicant for employment because of race, color, religion, gender, national origin, age or disability. Supplier shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, gender, national origin, age or disability. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Supplier shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the U.S. Department of Labor setting forth the provisions of this nondiscrimination clause.

2. Supplier shall state, in all solicitations or advertisements for employees placed by or on its behalf, that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, national origin, age or disability.

3. Supplier shall send to each labor union or representative of workers with which it has a collective bargaining agreement, contract or understanding, a notice to be provided by the U.S. Department of Labor, advising the labor union or workers' representative of Supplier's commitments under the following provisions, as amended from time to time:

- a. Section 202 of Executive Order 11246 (Equal Opportunity);
- b. Executive Order 11701 (Employment of Veterans);
- c. Executive Order 11758 (Employment of the Handicapped);
- d. Executive Order 11141 (Employment Discrimination Because of Age);
- e. Executive Order 11625 and Public Law 95-507 (Utilization of Disadvantaged Business Enterprises); and
- f. Executive Order 13496 (Employee Rights Under the National Labor Relations Act),

and shall post copies thereof in conspicuous places available to employees and applicants for employment.

C. Purchaser is required to include, and Supplier shall comply with, the below listed clauses from the Federal Acquisition Regulations (48 CFR Chapter 1), as amended from time to time ("FAR") incorporated herein by reference, if the applicable criteria specified in the FAR and identified parenthetically below, are met. Additionally, if Supplier's subcontracts meet such criteria, Supplier shall include the terms or substance of the applicable clause in its subcontracts. If the provisions of this paragraph C conflict with the balance of the Agreement, this paragraph C shall prevail.

1. 52.202-1 Definitions (required when the Agreement exceeds \$100,000);
2. 52.203-5 Covenant Against Contingent Fees (required when the Agreement exceeds \$100,000);
3. 52.203-7 Anti-Kickback Procedures (required when the Agreement exceeds \$100,000 and is for other than commercial items);
4. 52.203-13 Contractor Code of Business Ethics and Conduct (required in all subcontracts under the Agreement that exceed \$5,000,000 and the Performance Period is 120 Days or more);
5. 52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (ARRA) (required in the Agreement and in all subcontracts that are funded, in whole or in part, with ARRA funds and are for commercial items or commercial components);
6. 52.219-8 Utilization of Small Business Concerns (required in all subcontracts under the Agreement that exceed \$100,000 and are for commercial items);
7. ~~52.219-9 Small Business Subcontracting Plan (required in all subcontracts that offersubcontracting possibilities, and are required to contain 52.219-8 clause and the Agreement exceeds \$550,000);~~ 52.219-9 Small Business Subcontracting Plan (required in all subcontracts that offersubcontracting possibilities, and are required to contain 52.219-8 clause and the Agreement exceeds \$550,000);
8. 52.219-16 Liquidated Damages - Subcontracting Plan (required in all subcontracts that contain 52.219-9 clause and the Agreement exceeds \$550,000);
9. 52.222-26 Equal Opportunity (required in the Agreement and in all subcontracts for commercial items or commercial components; unless the Agreement is exempt from all requirements of Executive Order 11246 [Equal Employment Opportunity]);
10. 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (required in the Agreement and in all subcontracts for commercial items or commercial components);
11. 52.222-36 Affirmative Action for Workers with Disabilities (required in the Agreement and in all csubcontracts exceeding \$10,000; unless the work and recruitment of workers will occur outside the United States and its territories);
12. 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (required in the Agreement and in all subcontracts for commercial items or commercial components that contain 52.222-35 clause);
13. 52.222-39 Notification of Employee Rights Concerning Payment of Union Dues (required in the Agreement and in all subcontracts exceeding \$100,000);
14. 52.222-50 Combating Trafficking in Persons (required in the Agreement and in all subcontracts for commercial items or commercial components that will be performed outside the United States);
15. 52.222-54 Employment Eligibility Verification (required in the Agreement and in all subcontracts exceeding \$100,000; unless either the work will be performed outside the United States, or the performance period is less than 120 days, or the Agreement is only for commercially available off-the-shelf items or COTS items, or the Agreement is for commercial services that are part of the purchase of the COTS item);
16. 52.225-13 Restrictions on Certain Foreign Purchases;
17. 52.233-3 Protest after Award (required when the Agreement exceeds \$100,000);
18. 52.233-4 Applicable Law after Breach of Contract;
19. 52.241-2 Order of Precedence – Utilities;
20. 52.241-4 Change in Class of Service;
21. 52.241-5 Contractor's Facilities;
22. 52.242-13 Bankruptcy (required when the Agreement exceeds \$100,000);
23. 52.244-6 Subcontracts for Commercial Items (required in the Agreement and in all subcontracts);
24. 52.247-64 Preference for Privately Owned U.S. – Flag Commercial Vessels (required in the Agreement and in all subcontracts for commercial items or commercial components involving ocean transportation of supplies subject to the Cargo Preference Act of 1954);
25. 52.252-2 Clauses Incorporated by Reference. As prescribed in 52.107(b), insert the following clause: "Clauses Incorporated By Reference (Feb 1998) This Agreement incorporates one or more clauses by reference, with the same force and effect as if they were

given in full text. Upon request, the contracting officer will make their full text available. Also, the full text of a clause may be accessed electronically at <https://www.acquisition.gov/far/>;

26. The following clauses have been reproduced verbatim in the Agreement (via a standard message) and each may also be accessed electronically at <https://www.acquisition.gov/far/>: Limitation of Government Liability; 52.216-25 Contract Definition; 52.223-14 Toxic Chemical Release Reporting; 52.233-2 Service of Protest; 52.241-3 Scope and Duration of Contract.

D. Supplier shall comply with the Department of Commerce Export Administration Regulations ("EAR") in 15 CFR Chapter VII, subchapter C, including 15 CFR Section 734.2 which prohibits the export or release of controlled technology and/or software to foreign nationals within the United States who are not lawfully admitted to the United States for permanent residence. Supplier shall confirm that these regulations either do not apply to Supplier's activities under the terms of the Agreement or that Supplier has procedures to ensure compliance. If Supplier is directly or indirectly employing a foreign national not currently lawfully admitted to the United States for permanent residence to perform work under the Agreement, Supplier warrants to Purchaser that such employment does not violate the foregoing regulations.

E. Foreign Corrupt Practices Act ("FCPA"). The following provisions shall apply to Supplier (unless it is a foreign concern) if it performs or obtains any of the Work in a foreign country:

1. All payments to Supplier shall be by check or bank transfer only. No payment shall be in cash or by bearer instrument, and no payment shall be made to any corporation or person other than Supplier. All payments due hereunder shall be made to Supplier at its principal place of business in the United States, even if Supplier performs or obtains the Work in a foreign country.

2. Supplier represents that it is familiar with the FCPA and its purposes; and that, in particular, it is familiar with the prohibition against paying or giving of anything of value, either directly or indirectly, by an American company to an official of a foreign government for the purpose of influencing an act or decision in his official capacity, or inducing him to use his influence with that government, to assist a company in obtaining or retaining business for or with, or directing business to, any person.

3. Supplier represents that none of its partners, purchasers, principals, and staff members are officials, officers, or representatives of any government or political party or candidates for political office. Supplier shall not use any part of its compensation for any purpose, and shall take no action, that would constitute a violation of any law of the United States (including the FCPA) or of any jurisdiction where it performs services or manufactures or sells goods. Purchaser represents that it does not desire and will not knowingly request any Work by Supplier that would or might constitute any such violation.

4. Purchaser may terminate the Agreement for default at any time, without any liability or obligation, if it believes, in good faith, that Supplier has violated this Article. Any action by Supplier which would or might constitute a violation of the FCPA, or a request for such action from Supplier's representative, shall result in immediate termination of the Agreement for default. Should Supplier ever receive, directly or indirectly, from any Purchaser representative a request that Supplier believes will or might violate the FCPA, Supplier shall immediately notify Purchaser's general counsel.

5. Purchaser may disclose the existence and terms of the Agreement, including the compensation provisions, at any time, for any reason and to whomever Purchaser's general counsel determines has a legitimate need to know the same including, without limitation, the United States government, the government of any country where the Work is performed or obtained, and any regulatory agency with jurisdiction over Purchaser.

F. Supplier shall comply with the Occupational Safety and Health Act of 1970 and all rules, regulations, standards, requirements and revisions thereof or adopted pursuant thereto.

G. Unless the Agreement otherwise provides, Supplier shall, at its own expense, obtain from appropriate governmental authorities all permits, inspections and licenses which are required for the Work and comply with all rules and regulations of insurance companies which have insured any of the Work.

H. Any costs, fines, penalties, awards, damages or other liabilities associated with any violations of this Article shall be borne and paid by Supplier.

I. Supplier acknowledges and agrees that its employees, if given access to FirstEnergy's (FirstEnergy Corp., its parent, subsidiaries and affiliates) Information and Control Systems, shall be required to sign a Network/Systems Access Agreement governing Supplier and such employees' use of such systems.

J. Supplier shall comply with all requirements of any governmental regulatory codes of conduct applicable to the Work .

ARTICLE XII - LIMITATION OF LIABILITY/DAMAGES

Under no circumstances shall Purchaser, its parent, subsidiaries and affiliates, be liable for any anticipated profits or for incidental, indirect, punitive or consequential damages.

ARTICLE XIII - SUBCONTRACTING AND ASSIGNMENT

A. The parties acknowledge that the Agreement is personal to the Supplier and Supplier may not assign any rights or claims, or delegate any duties under the Agreement, in whole or in part, without the prior written consent of Purchaser, which may be withheld at Purchaser's sole reasonable discretion. In the event of any assignment or delegation permitted hereunder, Supplier shall continue to be liable for the performance of its obligations hereunder. For purposes of the Agreement, the term "assignment" shall include a transfer of Supplier's rights hereunder, and/or a succession to its obligations hereunder (i) by operation of law, including a merger, consolidation, corporate reorganization, reclassification or liquidation of Supplier or a sale of all or substantially all of Supplier's assets, or (ii) by a change in the control of Supplier. As used herein, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of Supplier's management and policies, whether through ownership of or the right to vote a majority of the voting stock in the case of a corporation, or the comparable interest in the case of any other entity, or by contract, or otherwise.

B. If Supplier proposes to subcontract any of the Work hereunder, it shall submit to Purchaser the name of each proposed subcontractor(s) prior to engaging such subcontractor, with the proposed scope of the Work to be undertaken and such information

about the subcontractor(s) as Purchaser may reasonably request. Purchaser may reject any and all subcontractors at its absolute sole discretion. Supplier shall not be relieved of any responsibility or obligations under the Agreement by subcontracting any portion of the Work, whether or not such proposed subcontract is approved by Purchaser.

ARTICLE XIV - NON-WAIVER

The delay or failure of either party to assert or enforce in any instance strict performance of any of the terms of the Agreement or to exercise any rights hereunder conferred, shall not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights at any later time or on any future occasion.

ARTICLE XV – PROHIBITION OF PUBLICITY

Supplier shall not refer to the Agreement or reference the Purchaser, its parent, subsidiaries and affiliates, directly or indirectly, in any media form, including customer lists, or in its advertising or promotional materials without the prior express written consent of Purchaser.

ARTICLE XVI – CONFIDENTIALITY

A. Supplier acknowledges and agrees that communications for the purpose of proposing to or working for Purchaser has and/or will entail the disclosure, observation and display of Purchaser's information and materials to Supplier that are proprietary, confidential and trade secrets, which include, but are not limited to computer software, screens, user interfaces, systems designs and documentation, processes, methods, fees, charges, know-how and any result from the Work performed, new discoveries, Intellectual Property (as defined above) and improvements to Supplier's products made for or on behalf of Purchaser (singly and collectively) are referred to herein as " Confidential Information".

B. With regard to such Confidential Information, whether or not labeled or specified as confidential, proprietary or trade secret, Supplier agrees: (1) to use the Confidential Information solely for the purpose of making proposals to or working under the Agreement with Purchaser; (2) not to disclose or transfer the Confidential Information to others without Purchaser's prior written permission, except that Supplier will not be prevented from disclosing or transferring such Confidential Information to those employees of Supplier who reasonably require the Confidential Information for the purposes authorized herein and that prior to making any such disclosures or transfers, each employee will be encumbered with the duty and obligation to maintain the Confidential Information in confidence and not to use such Confidential Information for any purpose other than in accordance with the terms and conditions of the Agreement; (3) to ensure that each Assigned Employee performing Work on Purchaser's IT project shall have a signed Non-Disclosure Agreement on file with Supplier and available to Purchaser upon request; and (4) to incorporate the above provisions in all Supplier's agreements with its subcontractors, agents and assigns.

C. Supplier will not be prevented from using or disclosing Confidential Information which Supplier can establish by documentary evidence: (1) is or has become generally known to, or readily ascertainable by, the public without the fault or omission of the Supplier or its employees or agents; or (2) was already known to Supplier prior to the first disclosure of such information to Supplier by Purchaser; or (3) was received by Supplier without restrictions as to its use from a third party who is lawfully in possession and not restricted as to the use thereof; or (4) is required to be disclosed by law or by order of a court of competent jurisdiction; or (5) was independently developed by Supplier through persons who have not had, either directly or indirectly, access to or knowledge of similar information provided by Purchaser. If Supplier is requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, Civil Investigative Demand or similar process, or otherwise in compliance with applicable law) to disclose any Confidential Information supplied to Supplier in its course of dealings with Purchaser, Supplier shall provide Purchaser with prompt notice of such request(s) so that Purchaser may seek an appropriate protective order and shall itself use appropriate efforts to limit the disclosure and maintain confidentiality to the maximum extent possible.

D. Supplier agrees that it will not copy the Confidential Information in whole or in part, or use all or any part of the Confidential Information to reverse engineer, duplicate the function, sequence or organization of the Confidential Information for any purpose other than designing and testing an important interface with the Supplier's software without the prior written permission of Purchaser.

E. All Confidential Information, including any copies thereof, in any media, in the possession or control of Supplier and Confidential Information embodied or included in any software or data files loaded or stored on computers in the possession or control of Supplier, its agents or employees, shall be removed and returned to Purchaser upon demand, but no later than the completion and acceptance of Work for Purchaser.

F. Supplier acknowledges and agrees that Purchaser possesses valuable know-how, proprietary, confidential and trade secret information that has been procured or developed by Purchaser and that its unauthorized disclosure would result in substantial damages to Purchaser that may not be adequately compensated by monetary relief. Accordingly, Supplier hereby consents to the jurisdiction of the Federal and County Courts in Summit County, Ohio and agrees that Purchaser may seek temporary restraining orders against it or other extraordinary relief necessary to protect the Confidential Information.

G. The confidentiality and non-use obligations of Supplier under Article XVI shall survive the expiration or termination of the Agreement.

ARTICLE XVII – SEVERABILITY

If any portion of the Agreement is held invalid, the parties agree that such invalidity shall not affect the validity of the remaining portions of the Agreement, and the parties further agree to substitute for the invalid portion a valid provision that most closely approximates the economic effect and intent of the invalid provision.

ARTICLE XVIII - FORCE MAJEURE

Neither party shall be liable to the other for any expenses, loss or damage resulting from delays, disruption, interferences, hindrances, impacts, or prevention of performance arising from causes beyond its reasonable control including by fire, flood, accident, epidemic, strikes, civil commotion, governmental or military authority, insurrection, riots, embargoes or acts of God or public enemy. In the event of any delay, disruption, interference, hindrance, or impacts arising by reason of any of the foregoing events, the time for performance shall be extended by a period of time equal to the time lost by reason thereof. The affected party will notify the other party in writing as soon as reasonably practical (but no later than within forty-eight (48) hours) of the affected party becoming aware of a force majeure occurrence as defined herein which will or has caused a delay, disruption, interference, hindrance, or impact. Within a reasonable period of time of such occurrence, the affected party will further define the precise cause or causes, the measures taken or to be taken to minimize, the time table by which the measures will be implemented, the duration of the delay, disruption, interference, hindrance, or impact, the extension of time for performance of the Agreement and documented evidence that supports the claim. The non-affected party will review the claim and advise the affected party in writing of the decision regarding the claim for extension of time for performance of the Agreement.

ARTICLE XIX – SALES TAX

Taxes, if any, shall be shown separately on any bids or invoices sent to Purchaser. Direct Payment Permit Numbers authorizing purchase of tangible personal property without payment of the tax at the time of purchase, have been issued to Purchaser. The Permit Numbers are: 98001123 for Ohio Edison Co.; 128 for Pennsylvania Power Co.; 98002722 for FirstEnergy Nuclear Operating Co.; 98000312 for The Cleveland Electric Illuminating Co.; 98001495 for The Toledo Edison Co.; DP-210-485-010 for Jersey Central Power and Light Co.; 127 for Pennsylvania Electric Company Co.; 135 for Metropolitan Edison Co.; 98-002723 for FirstEnergy Generation Corp.; issued but unnumbered for Potomac Edison Co (MD); 290 for West Penn Power Co. (PA); 94-2-002521 for Allegheny Communications Connect Inc. (WV); 94-2-002482 for Allegheny Energy Supply Co. LLC (WV); 91-1-024150 for Monongahela Power Co. (WV); 91-1-086241 for Potomac Edison Co. (WV); L2000193792 for PATH Allegheny Transmission Co. (WV); L1375690752 for Trans-Allegheny Interstate Line Co. (WV); and 91-1-064620 for West Penn Power Co (WV). Upon request a Sales and Use Tax Exemption Certificate is available for Allegheny Energy Supply Company, LLC in Maryland and Pennsylvania and for Trans-Allegheny Interstate Line Co in Pennsylvania. In Michigan, a Michigan Sales and Use Tax Certificate of Exemption shall be made available upon request. Purchaser agrees to maintain adequate records of all purchases and pay tax on the taxable items directly to the Treasurer of each respective State. In Maryland, Sales and Use Tax Regulations 03.06.01.32-2 and 03.06.01.19.C.(3) provide for tax-exempt purchase of materials used in a production activity by contractors performing real property construction, improvements, alterations and repairs. In order to qualify for tax exemption, the property must be used directly and predominantly in the production activity of generating electricity for sale. Contract bids should be submitted accordingly. The successful bidder will be issued a Maryland Sales and Use Tax Exemption Certificate upon request to permit tax-exempt purchase of qualifying materials. In Ohio, Direct Payment Permits do not apply to construction contracts under which the contractor is considered to be the consumer and liable for the tax on materials incorporated into a structure or improvement as provided in Section 5739.01 (B) Ohio Revised Code. Pennsylvania Direct Payment Permits do not apply to construction contracts under which a contractor is considered to be the consumer and liable for the tax on materials incorporated into the property of Pennsylvania companies. Pennsylvania Sales and Use Tax Regulations Sections 31.11 through 31.16 provide for tax-exempt purchase of materials by a contractor for those materials that will be incorporated into and become a part of the property of Pennsylvania companies. In order to qualify, the property must be directly used in the rendition of the Public Utility Service. Contract bids should be submitted accordingly. The successful bidder will be issued a properly executed "Certification" form upon request to permit tax-exempt purchase of qualifying materials. In West Virginia, Direct Payment Permits apply to contractors performing construction contracting services. West Virginia Sales and Use Tax Regulation Section 11-15-9-(b)(2), and Administrative Notice 2007-19, provide for tax exemption for services, machinery, supplies and materials directly used or consumed in the activities of communications (applies to Allegheny Communications Connect Inc. only), generation/production/selling of electric power, provision of a public utility service, operation of a utility service/utility business or transmission of electricity by wires. Contract bids should be submitted accordingly. The successful bidder will be issued a WV Contractor Tax Exemption Instructions form upon request for items qualifying for tax exemption.

Questions concerning Pennsylvania or New Jersey sales taxes should be directed to the FirstEnergy Service Company, at (973) 401-8383. Questions about Ohio sales taxes (and states other than Pennsylvania or New Jersey), should be directed to the FirstEnergy Service Company, at (330) 384-5334.

ARTICLE XX - DISPUTE RESOLUTION

A. Business-Level Performance Review. The appropriate business representative of each party shall meet as often as shall reasonably be required to review the performance of the parties under the Agreement and to resolve any disputes. Written minutes of such meetings shall be kept by the parties. If these representatives are unable to resolve a dispute within five (5) business days after the initial request for a meeting, then the dispute shall be submitted to Senior Executive Review as provided for in Article XX (B).

B. Senior Executive Review. If the Business-Level Performance Review does not result in successful resolution of the dispute, Supplier will appoint a senior executive who is managing the Work provided under the Agreement and the senior executive performing the

functional equivalent at Purchaser shall meet in an effort to resolve the dispute. Written minutes of such meetings shall be kept by the parties.

C. Court Enforcement. Notwithstanding these dispute resolution procedures, either party may apply to any court having jurisdiction as provided in Article XXI for any reason.

D. Dispute Resolution Guidelines. The following guidelines shall apply to any resolution of a dispute reached pursuant to this Article:

1. No party will be required to perform within time frames that are unreasonable; and
2. No party will be required to act, or be prohibited from acting, if such action or failure to act will materially harm Purchaser or Supplier, as the case may be.
3. Continued Performance. Except where clearly prevented by the issue in dispute, the parties shall continue performing their obligations under the Agreement while the dispute is being resolved under this Article XX unless and until the dispute is resolved or until the Agreement is terminated as provided herein.
4. Equitable Relief. Notwithstanding anything contained in the Agreement to the contrary, the parties shall be entitled to seek injunctive or other equitable relief whenever the facts or circumstances would permit a party to seek such equitable relief in a court of competent jurisdiction as provided in Article XXI.

ARTICLE XXI – GOVERNING LAW

Any and all matters of dispute between the parties, whether arising from the Agreement itself, or arising from alleged extra-contractual facts prior to, during or subsequent to formation of the Agreement, shall be governed, construed, and enforced in accordance with the laws of the State of Ohio regardless of the theory upon which such matter is asserted. The parties expressly exclude the applicability of the United Nations Convention on Contracts for the International Sale of Goods, if the same would otherwise apply here. Any legal suit, action, or proceeding to collect payment due hereunder from Purchaser, or otherwise arising out of or relating to the Agreement, may be (and, if against Purchaser, must exclusively be) instituted in a State or Federal Court in the County of Summit, State of Ohio, and Supplier waives any objection which it may have now or hereafter to the laying of the venue of any such suit, action or proceeding and hereby irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding.

ARTICLE XXII – INTERPRETATION

The following principles of interpretation shall apply to the Agreement: (i) paragraph headings and captions are inserted for convenience only and shall not be considered in construing intent; (ii) neither Purchaser nor Supplier shall be considered to be the party responsible for the drafting of any particular provision of the Agreement; (iii) the words "hereof," "herein," "hereunder," and words of similar import shall refer to the Agreement as a whole and not to any particular provision hereof; (iv) the word "including" means "including, but not limited to" and shall be interpreted as broadly as possible; (v) words in the singular include the plural and vice versa; (vi) all references to "days" shall be calendar days (and not merely business days, unless the Agreement so states); (vii) any provision hereof that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction and the provision that is prohibited or unenforceable shall be reformed or modified to reflect the parties' intent to the maximum extent permitted by applicable legal requirements; and (viii) if any conflict arises between a term defined in this document and a term (defined or otherwise) contained in another document comprising a part of the Agreement, the conflict shall be resolved in favor of the more specific defined term unless the context clearly indicates otherwise or such a resolution would deny or dilute Purchaser's rights or benefits under the Agreement.

ARTICLE XXIII - EXECUTION AND COUNTERPARTS

The Agreement may be executed in multiple counterparts, which taken together shall constitute an original without the necessity of all parties signing the same page or the same documents, and may be executed by signatures to electronically or telephonically transmitted counterparts in lieu of original printed or photocopied documents. Signatures transmitted by facsimile shall be considered original signatures.

EXHIBIT A
STATEMENT OF WORK # _____

This Statement of Work (SOW) is issued pursuant to the Agreement dated as of _____, between FirstEnergy Service Company (Purchaser), and _____ (Supplier). This SOW may not be modified except in a writing signed by both parties. Should any conflict occur between the SOW and any other provision of the Agreement, the SOW shall take precedence only when and to the extent that such does not result in any way in the dilution or diminution of the rights or benefits of the Purchaser under the Agreement. This SOW must be executed by Supplier and returned to Purchaser (Attention: _____ - Corporate Services) no later than _____.

1. ASSIGNED EMPLOYEE

The services of _____ will be contracted through _____. Effective _____ the billing rate will be \$ ____/hr through the end of term, _____.

2. STATEMENT OF WORK

The Assigned Employee will be under the supervision of _____ at Purchaser's Site _____ located at _____. Work performed by Assigned Employees at Purchaser's Site will use hardware, software, and facilities provided by Purchaser.

Assigned Employee(s)'s responsibilities shall include, but not be limited to, the following:

✓
✓
✓

3. TERM

The term of this SOW may be extended by written agreement of the parties. Purchaser may terminate or suspend this SOW as provided in the Agreement.

4. PAYMENT SCHEDULE

Supplier will submit weekly detailed invoices to ISD Administrative Support – 12th Floor, FirstEnergy Corp., 76 South Main Street, Akron, Ohio 44308-1890, detailing hours worked by each Assigned Employee, and approved expenses (with receipts); invoices will be paid 2% 10 Net 45 days, disputes will be in writing. In the event of a fee dispute, Purchaser shall notify Supplier in writing, and may withhold payment or setoff payment against future invoices.

5. TRIAL PERIOD

The Assigned Employee's first eighty (80) hours will be considered a trial period. If the Assigned Employee does not meet Purchaser's requirements during the first eighty (80) hours, Purchaser may cancel the assignment and services and owe no fees for those first eighty (80) hours, except for approved expenses.

6. DESIGNATED REPRESENTATIVES

The following Purchaser Representative shall be authorized to administer this SOW on behalf of Purchaser: _____ The following Supplier Representative shall be authorized to administer this SOW on behalf of Supplier:

(NAME AND TITLE)

Accepted by:

FirstEnergy Service Company (Purchaser)

Supplier

Signature: _____ Signature: _____

Name: _____ Name: _____

Title: _____ Title: _____

Date: _____ Date: _____