



April 15, 2024

**VIA ELECTRONIC FILING**

The Honorable Eranda Vero  
The Honorable Arlene Ashton  
Office of Administrative Law Judge  
Pennsylvania Public Utility Commission  
801 Market Street  
Suite 4063  
Philadelphia, PA 19107

*Re: Petition of PECO Energy Company for Approval of Its Default Service Plan for the Period from June 1, 2025 Through May 31, 2029, Docket No. P-2024-3046008*

Dear Judge Vero and Judge Ashton,

Please find enclosed the Motion of the Energy Justice Advocates (“EJA”) to Dismiss PECO’s Objections and to Compel PECO to Answer Question 20 of EJA’s Set III Interrogatories (as modified). Should you have any questions, please do not hesitate to contact me. Thank you.

Respectfully submitted,

*/s/ Devin McDougall*

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*Counsel for the Energy Justice Advocates*

cc:

Certificate of Service (w/ encl.) (via email)

Secretary’s Bureau, Pennsylvania Public Utility Commission (w/ encl.) (via e-filing)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for  
Approval of Its Default Service Plan for the  
Period from June 1, 2025 Through May 31,  
2029

Docket No. P-2024-3046008

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the following document upon the parties of record to this proceeding, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party) in the manner and upon the persons listed below.

Service By Email Only

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**MOTION OF THE ENERGY JUSTICE ADVOCATES  
TO DISMISS PECO'S OBJECTIONS AND COMPEL PECO TO ANSWER  
QUESTION 20 OF ENERGY JUSTICE ADVOCATES' SET III INTERROGATORIES**

## **I. Background**

Pursuant to 66 Pa. C.S. § 333(d) and 52 Pa. Code § 5.342(g), the Energy Justice Advocates (“EJA”) hereby respectfully request that the Administrative Law Judges dismiss the objections of PECO Energy Company (“PECO”), and order PECO to timely reply to Question 20 of EJA’s Set III Interrogatories (as modified) for the reasons discussed below. A copy of EJA’s Set III Interrogatories and PECO’s Written Objection to Set III, Question 20 are attached hereto as Exhibits A and B, respectively.

On March 15, 2024, EJA served its Set III Interrogatories on PECO. On March 18, 2024, PECO communicated oral objections to EJA’s Set III Questions 3, 5, 20, and 21. EJA and PECO then agreed to toll the time for filing written objections in order to discuss potential resolutions of the objections. EJA and PECO were successful in reaching agreement to resolve PECO’s objections to Questions 3, 5, and 21.

As part of an attempt to resolve PECO’s objection to Question 20, EJA agreed to modify it to narrow its scope. The original version of Question 20 reads as follows:

EJA-III-20. Please refer to the Direct Testimony of Katie Orlandi at 13:3-22. Please provide copies of all documents (confidential and non-confidential) prepared by or with the assistance of NERA that were submitted to the Pennsylvania Public Utility Commission in connection with or during the tenure of DSP V.

In the course of discussions with PECO, EJA agreed to modify Question 20 to request that PECO provide copies of only:

- (a) the Market Reports that NERA submitted to the Pennsylvania Public Utility Commission (“Commission”) in advance of the submission of bids during DSP V;<sup>1</sup> and
- (b) the Redacted Final Reports provided by NERA to PECO following each solicitation during DSP V.<sup>2</sup>

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<sup>1</sup> The Market Reports are described in the RFP Protocol for DSP V, attached hereto as Exhibit C.

<sup>2</sup> The Redacted Final Reports are described in the RFP Protocol for DSP V and also in the RFP Rules for DSP V, attached hereto as Exhibit D.

On review of PECO’s Written Objections, it appears there may have been a miscommunication: PECO’s Written Objections characterize EJA as seeking copies of NERA’s Final Reports as submitted to the Commission (see ¶ 2 of PECO’s Written Objections). EJA reached out to PECO and clarified that the modified Question 20 seeks only the Redacted Final Reports, not the unredacted Final Reports. PECO confirmed that it still objects to producing the Redacted Final Reports for the same reasons articulated in its Written Objections for objecting to production of the Final Reports.

In sum, EJA and PECO were not able to reach agreement that PECO would answer Question 20 as modified. On April 10, 2024, PECO filed its Written Objections to Set III, Question 20, which this Motion addresses.

## **II. Argument**

The scope of discovery in formal proceedings before the Commission is broad. Under the Commission’s regulations, parties “may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party.”<sup>3</sup> However, discovery requests made in bad faith,<sup>4</sup> discovery requests that seek privileged material,<sup>5</sup> and discovery requests that impose “unreasonable annoyance, embarrassment, oppression, burden or expense”<sup>6</sup> or require “unreasonable investigation” are not permissible.<sup>7</sup>

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<sup>3</sup> 52 Pa. Code § 5.321(c).

<sup>4</sup> 52 Pa. Code § 5.361(a)(1).

<sup>5</sup> 52 Pa. Code § 5.361(a)(3).

<sup>6</sup> 52 Pa. Code § 5.361(a)(2).

<sup>7</sup> 52 Pa. Code § 5.361(a)(2).

**A. Discovery of the Documents Sought By Question 20 (As Modified) is Proper Because the Documents are Relevant and Not Privileged**

Question 20 seeks two categories of documents from DSP V, Market Reports and Redacted Final Reports, both of which are relevant to the subject matter of this proceeding. PECO does not contest the relevance of these documents in its Written Objections.

With respect to the Market Reports, the RFP Protocol for DSP V characterizes these documents as follows:

“This report would provide visible market prices for components of the full-requirements product and provide the PaPUC with any changes in broad trends in the wholesale markets since the previous solicitation. If appropriate, the market report could also report the results of similar solicitations held in the State or in a comparable region.

- If desired, the IE will prepare a confidential report to the PaPUC detailing current market conditions affecting the products of the RFP.
- This report would be provided one week to ten days in advance of the Bid Date to the PaPUC on a confidential basis.”<sup>8</sup>

Notably, the Market Reports, which are submitted to the Commission 7 to 10 days before bids are due, are not described as containing any bidder-specific information. To the extent that the Market Reports do contain information concerning specific bidders, EJA would agree to the redaction of that information.

However, the information on wholesale market price trends that the Market Reports are described as containing is highly relevant to examining whether PECO’s procurement plan for DSP V was least cost over time for consumers. Since PECO proposes to in large part replicate its DSP V procurement plan for DSP VI,<sup>9</sup> assessing the performance of DSP V is directly relevant to assessing the reasonableness of continuing a similar approach in DSP VI.

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<sup>8</sup> Exh. C, DSP V RFP, 23-24.

<sup>9</sup> Petition of PECO Energy Company for Approval of DSP VI, 2.



With respect to the Redacted Final Reports, the RFP Protocol for DSP V characterizes these documents as follows:

“To assist PECO in assessing whether the products offered could be improved in future procurement plans and to assist it in finalizing its contingency plans should the results of any solicitation be rejected by the Commission, PECO will be provided with certain additional information. Namely, PECO will be provided with a redacted version of the factual report provided to the Commission on the results of the solicitation. The report will be redacted so that PECO will not receive information about bids that is bidder-specific or proposal information that a bidder may consider confidential or proprietary. The report will be provided at the conclusion of the solicitation, namely when all contracts with winning suppliers that are approved by the Commission have been executed.

Any bidder-specific information that is not relevant to PECO’s assessment of the products offered or to its contingency plan will be redacted to the extent that the bidder could reasonably believe such information to be confidential. Analysis of the bidding data that provides an overview of the competition or summary statistics for the entire pool of bidders will not be redacted. The IE expects items that will be redacted to include:

- The identities of losing bidders that submitted bids and the particular products for which losing bidders submitted bids;
- The bid prices of individual tranches won by each bidder;
- Information concerning specific losing bids;
- The identities of bidders that did or did not participate in the bidder training session to practice the online submission of bids; and
- Deficiencies in the Proposals of certain bidders or difficulties with the submission or practice or actual bids, to the extent that such deficiencies were cured and or such difficulties did not materially impact the results of the solicitation.”<sup>10</sup>

The RFP Rules also briefly mention the Redacted Final Reports, characterizing them as follows:

“Within fifteen (15) days of the full execution of the Uniform SMA, the Independent Evaluator provides to PECO a report on the solicitation. This report is based on the confidential report provided to the Commission, except that no losing bid information specific to a particular RFP Bidder is provided and that any information that an RFP Bidder may consider confidential or proprietary is also redacted.”<sup>11</sup>

As can be seen above, the Redacted Final Reports do not contain any bidder-specific information, which NERA redacts prior to providing the reports to PECO.

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<sup>10</sup> Exh. D, DSP V RFP Protocol, 27-28

<sup>11</sup> Exh. C, DSP V RFP Rules, 76.

The Redacted Final Reports are relevant to this proceeding for similar reasons to the Market Reports. The Redacted Final Reports are expressly designed to “[t]o assist PECO in assessing whether the products offered could be improved in future procurement plans.”<sup>12</sup> A central issue in this proceeding is whether PECO’s proposed DSP VI procurement plan could be improved upon—making information relating to assessing possibilities for improvement in PECO’s procurement planning during DSP V directly relevant to that question—since PECO plans to largely replicate its approach from DSP V.<sup>13</sup>

An additional requirement under the Commission’s regulations is that the documents sought by discovery must not be privileged.<sup>14</sup> PECO did not claim in its Written Objections that the documents sought by Question 20 are privileged, and as far as EJA can determine, they are not.

### **B. Discovery of the Documents Sought By Question 20 (As Modified) is Proper Because the Question is Otherwise Permissible**

In addition to seeking documents that are relevant and not privileged, discovery requests must not be made in bad faith,<sup>15</sup> impose “unreasonable annoyance, embarrassment, oppression, burden or expense”<sup>16</sup> or require “unreasonable investigation.”<sup>17</sup> PECO’s Written Objections do not assert that Question 20 falls into any of these categories. Question 20 is issued in good faith to help develop the record concerning the performance of the DSP V procurement plan, which PECO is using as a template for the DSP VI procurement plan. Answering Question 20 will also

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<sup>12</sup> RFP Protocol, 27.

<sup>13</sup> Petition of PECO Energy Company for Approval of DSP VI, 2.

<sup>14</sup> 52 Pa. Code § 5.361(a)(3).

<sup>15</sup> 52 Pa. Code § 5.361(a)(1).

<sup>16</sup> 52 Pa. Code § 5.361(a)(2).

<sup>17</sup> 52 Pa. Code § 5.361(a)(2).

not be unreasonably burdensome or require an unreasonable investigation. Question 20 seeks a discrete and readily-identifiable set of documents that fall within two specific categories of reports discussed in the DSP V RFP Protocol, Market Reports and Redacted Final Reports.

### 1. PECO's Confidentiality Objections

PECO does object that it cannot produce the requested reports due to “the confidential provisions of the RFP Rules and the RFP Protocol[.]”<sup>18</sup> As a starting point, confidentiality is not itself a basis for objection provided in the Commission’s regulations, and the Protective Order issued in this proceeding expressly contemplates that parties will be required to produce both confidential and highly confidential materials.

However, even beyond that, a close reading of the confidentiality provisions cited by PECO in its Written Objections reveals that production of the Market Reports or the Redacted Final Reports would not cause PECO to be in violation of any confidentiality protection provided to RFP Bidders. The Market Reports concern wholesale market price trends, are not described as containing any bidder-specific data, and are submitted to the Commission 7 to 10 days *before* any bids are received for a given solicitation.<sup>19</sup> The Redacted Final Reports, on the other hand, are heavily redacted by NERA before submission to PECO to remove all “information about bids that is bidder-specific or proposal that a bidder may consider confidential or proprietary.”<sup>20</sup>

In its Written Objections, PECO identifies the following confidentiality provisions as applicable:

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<sup>18</sup> PECO Written Objections, ¶ 5.

<sup>19</sup> Exh. C, DSP V RFP, 23-24.

<sup>20</sup> Exh. D, DSP V RFP Protocol, 27-28.

PECO Statement No. 4, PECO Exhibit KO-3	PECO DSP VI Request for Proposals, Redlined from DSP V Version	Article VI, Bid Submission, § VI.1.2	Provides that RFP Bidders may, but are not required to, encrypt their bid submission data to help ensure confidentiality.
PECO Statement No. 4, PECO Exhibit KO-3	PECO DSP VI Request for Proposals, Redlined from DSP V Version	Article VII, Process, § VII.4, Personnel and Confidentiality	Provides that any information submitted by RFP Bidders in response to this RFP will be treated as confidential and steps will be taken to limit its disclosure, though “absolute protection from public disclosure...cannot be provided and is not intended.”
PECO Statement No. 4, PECO Exhibit KO-3	PECO DSP VI Request for Proposals, Redlined from DSP V Version	Appendix 12	Provides a Confidentiality Statement to be executed by PECO representatives reviewing bid data confirming that the data submitted by RFP bidders will be treated as confidential.
PECO Statement No. 4, PECO Exhibit KO-4	PECO DSP VI RFP Protocol, Redlined from DSP V Version	Article II, General Principles	Provides that information of a sensitive nature, such as bidder-specific information, shall be considered confidential and not released to the public
PECO Statement No. 4, PECO Exhibit KO-4	PECO DSP VI RFP Protocol, Redlined from DSP V Version	Article III, Confidentiality	<p>Provides that NERA will only communicate designated information to PECO, and that all other information will be treated as confidential.</p> <p>Provides that PECO personnel with access to bidder-specific data from NERA will sign the Confidentiality Statement attached as Appendix 12 to the RFP.</p> <p>Provides that PECO will receive a Redacted Final</p>

			Report following each solicitation which is redacted in accordance with the RFP's confidentiality provisions.
PECO Statement No. 4, PECO Exhibit KO-4	PECO DSP VI RFP Protocol, Redlined from DSP V Version	Article XI, Transmitting Confidential Information	Provides technological protocols for transmitting highly confidential bidder-specific information.
PECO Statement No. 4, PECO Exhibit KO-4	PECO DSP VI RFP Protocol, Redlined from DSP V Version	Article XIII, Market Report	Provides that NERA will provide the Commission with a confidential Market Report on wholesale market price trends 7–10 days before a Bid Date.
PECO Statement No. 4, PECO Exhibit KO-4	PECO DSP VI RFP Protocol, Redlined from DSP V Version	Article XIV, Bid Processing	Provides that NERA will provide a confidential report to the Commission on the lowest-priced bids by 3pm on a Bid Date.
PECO Statement No. 4, PECO Exhibit KO-4	PECO DSP VI RFP Protocol, Redlined from DSP V Version	Article XV, Post-Bid Procedures	Provides that after the Bid Date, NERA will provide certain bidder-specific data to PECO employees who have signed the Confidentiality Statement, to facilitate contract execution.  Provides that NERA will provide to PECO a Redacted Final Report on each solicitation, that is redacted in accordance with the RFP's confidentiality provisions.

## 2. PECO's Confidentiality Objections to Producing the Market Reports are Misplaced

PECO's confidentiality objections to producing the Market Reports are misplaced, because the Market Reports do not appear to contain any bidder-specific data (and, as noted above, EJA would agree to the redaction of any bidder-specific data). The confidentiality provisions that PECO cites center around the protection of bidder-specific data, and include a Confidentiality Statement that PECO employees must execute to gain access to bidder-specific data which commits them to keeping that bidder-specific data confidential. The Market Reports, which address wholesale market price trends, are not subject to the bidder-specific data confidentiality protections that PECO cites.

The Market Reports are described in the RFP Protocol as being provided to the Commission "on a confidential basis."<sup>21</sup> However, the Market Reports are not subjected to the heightened confidentiality requirements that are applied to bidder-specific data in the RFP, RFP Protocol, and the Confidentiality Statement. As such, they should be considered confidential materials that are properly produced subject to the confidentiality protections in this proceeding's Protective Order. Doing so will help develop the record on how DSP V performed as compared to wholesale market price trends at the time, which will help support parties to this proceeding in preparing testimony that will be of the greatest use to Commission in evaluating the merits of PECO's DSP VI proposal.

## 3. PECO's Confidentiality Objections to Producing the Redacted Final Reports are Misplaced

PECO's confidentiality objections to producing the Redacted Final Reports are also misplaced, because the Redacted Final Reports are redacted so as to not contain any bidder-

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<sup>21</sup> Exh. C, DSP V RFP, 23-24.

specific data. As noted above, the confidentiality provisions that PECO cites center around the protection of bidder-specific data. The Redacted Final Reports are not themselves described as confidential anywhere in the RFP or the RFP Protocol (as noted above, they are specifically redacted by NERA to remove any confidential bidder information). As such, PECO's objection to producing them on the basis of confidentiality is misplaced. More broadly, it would raise serious due process and fairness concerns if PECO were permitted to possess and use these documents (which PECO has not contested the relevance of) but other parties to this proceeding were denied access to them.

### **III. Conclusion**

For the reasons discussed above, the Energy Justice Advocates respectfully request that the Administrative Law Judges dismiss PECO's objections and compel PECO to provide a complete and timely answer to Set III, Question 20 (as modified).

Dated: April 15, 2024

Respectfully submitted,

/s/ Devin McDougall

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*Counsel for the Energy Justice Advocates*



March 15, 2024

VIA ELECTRONIC MAIL

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*Re: Petition of PECO Energy Company for Approval of Its Default Service Plan for the Period from June 1, 2025 Through May 31, 2029, Docket No. P-2024-3046008*

Dear Counsel,

Please find enclosed the Interrogatories of the Energy Justice Advocates, Set III, in the above-referenced proceeding. Pursuant to the Commission's Rules of Practice and Procedure as modified during the March 8, 2024 Prehearing Conference, we request that PECO provide verified answers to these inquiries within ten (10) calendar days of service. Should you have any questions, please do not hesitate to contact me. Thank you.

Sincerely,

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*Counsel for the Energy Justice Advocates*

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I hereby certify that I have this day served a true copy of the following document upon the parties of record to this proceeding, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party) in the manner and upon the persons listed below.

Service By Email Only

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Dated: March 15, 2024

/s/ Devin McDougall

PA Attorney ID No. 329855

Supervising Senior Attorney

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*Counsel for the Energy Justice Advocates*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for  
Approval of Its Default Service Plan for the  
Period from June 1, 2025 Through May 31,  
2029

Docket No. P-2024-3046008

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**INTERROGATORIES OF THE ENERGY JUSTICE ADVOCATES  
TO PECO ENERGY COMPANY**

**SET III**

Pursuant to 52 Pa. Code § 5.341, the Energy Justice Advocates (“EJA”) respectfully submit the following Interrogatories to PECO Energy Company (“PECO”), to be answered by those officers, employees, agents, or contractors who have knowledge of the requested facts and who are authorized to answer on behalf of PECO. To the extent possible, EJA requests that verified answers be forwarded as answers are completed, rather than waiting for the set to be complete. Please provide all data in Excel spreadsheet format with cells unlocked and formulas intact, and with references to Schedules and Exhibits included.

### **Instructions**

1. These interrogatories shall be construed as a continuing request. PECO is obliged to change, supplement, and correct all answers to interrogatories to conform to available information, including any information that first becomes available after PECO files its responses to these interrogatories.
2. Restate the interrogatory immediately preceding each response.
3. Identify the name, title, and business address of each person(s) providing each response.
4. Provide the date on which the response was created.
5. Divulge all information that is within the knowledge, possession, control, or custody of PECO or may be reasonably ascertained by PECO. The terms “PECO” or “Company” as used herein include PECO and its attorneys, agents, employees, contractors, or other representatives.
6. As used herein, the words “document,” “documentation,” or “workpaper” include, but are not limited to, the original and all copies in whatever form, stored or contained in or on whatever media or medium, including but not limited to computerized memory, magnetic, electronic, or optical media, regardless of origin and whether or not including additional writing thereon or attached thereto, and may consist of:
  - a. notations of any sort concerning conversations, telephone calls, meetings, or other communications;
  - b. bulletins, transcripts, diaries, emails, memoranda, analyses, summaries, correspondence and enclosures, circulars, opinions, studies, investigations, questionnaires and surveys; and
  - c. worksheets, and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments, and written comments concerning the foregoing.
7. Provide a verification by the responsible witness that all facts contained in the response are true and correct to the best of the witness’s knowledge, information, and belief.

- EJA-III-1. For each month of DSP II, III, IV, and V, please provide the following data:
- a. Residential default service load
  - b. Percentage of Residential customers taking default service
  - c. Small Commercial default service load
  - d. Percentage of Small Commercial customers taking default service
  - e. Consolidated Large Commercial and Industrial default service load
  - f. Percentage of Consolidated Large Commercial and Industrial customers taking default service
- EJA-III-2. Please provide all worksheets used or generated in the course of preparing the statements PECO filed in support of its Petition for Approval in this Proceeding. Please provide the information in Excel format with cells unlocked and formulae and formulae references intact.
- EJA-III-3. With reference to all bids accepted by PECO and/or approved by the Pennsylvania Public Utility Commission in connection with DSP V:
- a. Please provide copies of all bid and bid-related documents.
  - b. Please provide copies of any contracts or agreements associated with such bids.
- EJA-III-4. Please refer to the Direct Testimony of Sulma Dalessio at 8:7-9:11: PECO proposes to double the number of Solar Alternative Energy Credits (SAECs) that it procures under long-term contracts.
- a. Please explain why PECO is making this proposal and provide copies of all documents containing any evaluations performed by PECO or on its behalf relating to the proposal.
  - b. Please provide a listing and explanation of the factors supporting the specific decision to seek 32,000 SAECs annually under DSP VI.
  - c. Please explain how the proposal to seek 32,000 SAECs annually under long-term contracts will impact contracting with energy and capacity suppliers under DSP VI. If fewer SAECs are to be procured under fixed price-full requirements contracts with energy and capacity suppliers, how will those reductions be allocated among energy suppliers?
  - d. Please clarify whether PECO proposes to secure SAECs from in-state solar resources or from facilities located outside the Commonwealth.
  - e. Please explain whether and why PECO takes the position that procurement of 32,000 SAECs annually under long-term contracts conforms with PECO meeting its least-cost obligations.
  - f. Please detail whether PECO has performed any evaluation of the relative costs and merits of procuring SAECs in conjunction with energy contracts versus on a stand-alone basis, and with long-term contracts versus spot market procurements.
  - g. Please explain and provide documents reflecting PECO's overall AEPS compliance strategy. Please explain whether and how PECO's AEC compliance strategy seeks to minimize compliance costs, maximize in-state

energy-related benefits, and/or increase the amount of renewable energy generated in Pennsylvania and in PECO's service territory.

- h. Please detail any requirements or preferences PECO applies to the procurement of AECs and SAECs.
- i. Please detail and provide the information requested from suppliers by PECO regarding ultimate generation sources for AECs and SAECs.

EJA-III-5. Please provide copies of all contracts through which PECO received SAECs that were used to demonstrate AEPS compliance during DSP V.

EJA-III-6. Please confirm how many SAECs that PECO has already procured or committed to procure via already-executed contracts that PECO intends to use to demonstrate AEPS compliance during DSP VI.

EJA-III-7. Please explain in detail how PECO allocated each SAEC it procured itself during DSP V, including but limited to to which customer classes PECO allocated each SAEC and how such allocation affected PECO's fixed price full requirements ("FPFR") procurement process. Please provide all documents reflecting this allocation process and how it affected PECO's FPFR procurement process.

EJA-III-8. Please explain in detail how PECO proposes to allocate each SAEC it will procure itself during DSP VI, including but not limited to which customer classes PECO proposes to allocate each SAEC and how such allocation would affect PECO's fixed price full requirements ("FPFR") procurement process. Please provide all documents reflecting this allocation process and how it will affect PECO's FPFR procurement process.

EJA-III-9. PA PUC Opinion and Order P-2020-3019522, in Petition of Duquesne Light Company for Approval of its Default Service Plan, dated January 14, 2021 (Duquesne DSP 2021 Order) approves Duquesne's request for pre-approval to seek to enter into a long-term Solar PPA for more than four but less than twenty years in order to support a utility-scale solar project of up to seven MW in Pennsylvania, representing approximately 50% of Duquesne's required solar AECs.

- a. Has PECO or anyone on PECO's behalf ever evaluated, analyzed, or reviewed the Duquesne solar PPA approach?
  - i. If yes, please provide all documents demonstrating, reflecting, or associated with any such evaluation, analysis, or review.
  - ii. If no, please explain why not.
- b. Did PECO or anyone on PECO's behalf ever evaluated, analyzed, or reviewed the Duquesne solar PPA approach in connection with preparing PECO's procurement approach for DSP VI, preparing its Petition for Approval and its attachments, or preparing any other filings in this proceeding?
  - i. If yes, please provide all documents demonstrating, reflecting, or associated with any such evaluation, analysis, or review.

- ii. If no, please explain why not.
- c. Does PECO have a view on whether the Duquesne approach would have merit if pursued by PECO? If so, what is that view?

- EJA-III-10. The Joint Petition for Partial Settlement in Docket Nos. P-2021-3030012, -3030013, -3030014, and -3030021, in Petition of Metropolitan Edison, et al., for Approval of Default Service Programs, which was approved by the PA PUC on August 4, 2022, included plans for the First Energy utilities to procure energy and solar alternative energy credits generated by one or more new in-state solar photovoltaic projects under multi-year fixed-price power purchase agreements.
- a. Has PECO or anyone on PECO's behalf ever evaluated, analyzed, or reviewed the First Energy solar PPA approach?
    - i. If yes, please provide all documents demonstrating, reflecting, or associated with any such evaluation, analysis, or review.
    - ii. If no, please explain why not.
  - b. Did PECO or anyone on PECO's behalf ever evaluated, analyzed, or reviewed the First Energy solar PPA approach in connection with preparing PECO's procurement approach for DSP VI, preparing its Petition for Approval and its attachments, or preparing any other filings in this proceeding?
    - i. If yes, please provide all documents demonstrating, reflecting, or associated with any such evaluation, analysis, or review.
    - ii. If no, please explain why not.
  - c. Does PECO have a view on whether the First Energy solar PPA approach would have merit if pursued by PECO? If so, what is that view?

- EJA-III-11. Please refer to the Direct Testimony of Sulma Dalessio at 14:19-15:5.
- a. Please provide a copy of the referenced multi-state agreement.
  - b. Please identify when PECO began to receive an allocation of hydropower under the agreement, how the hydropower is priced, how much PECO has paid for the hydropower on a monthly basis during DSP V, and how PECO determined that the hydropower is "low cost."
  - c. Please explain in detail how PECO allocated or used the hydropower it received pursuant to this agreement during DSP V, and how such allocation or use affected PECO's fixed price full requirements ("FPFR") procurement process. Please provide all documents reflecting this allocation or use process and how it affected PECO's FPFR procurement process.
  - d. For each month of DSP V, please identify how much electricity supply PECO received from this hydropower allocation and how that electricity supply was allocated among customer classes.
  - e. For each month of DSP V, please explain how PECO met the capacity, ancillary services, and AEC requirements associated with the electricity supply sourced from the hydropower allocation.
  - f. Please explain how the hydropower allocation impacts the costs of supply for residential default service load.



- g. Has PECO estimated how the costs of supply for residential default service load would change if the hydropower allocation were not available? If so, please provide those estimates. If not, please explain why not.

EJA-III-12. Please refer to the Direct Testimony of Sulma Dalessio at 14:8-15:13:

- a. Please list all contracts (including but not limited to electricity supply contracts) to which PECO is a party which relate to the referenced multi-state agreement, including the title of each contract and its execution date
- b. Please provide a copy of each contract listed in response to subquestion (a) above.

EJA-III-13. Please refer to the Direct Testimony of Sulma Dalessio at 15:3-15:5, which states: “Under DSP VI, PECO will continue to use the NYPA allocation to offset the amount of Residential default service supply provided by wholesale suppliers.”

- a. Please explain what PECO means by “offset,” and please explain in detail how the offset process will work, including the specific amounts of Residential default service supply that will be offset.
- b. Please confirm whether the NYPA allocation will only be used to offset residential load during DSP VI. If this is not the case, please explain which customers classes the NYPA allocation will be used to offset and the proportions for each class.
- c. Does PECO have in its possession or access to any documents relating to how specifically how the offset will function?
  - i. If yes, please provide copies of any such documents.
  - ii. If no, please explain why not.
- d. Please explain in detail how PECO proposes to allocate or use the hydropower it will received pursuant to this agreement during DSP VI, and how such allocation or use will affect PECO’s fixed price full requirements (“FPFR”) procurement process. Please provide all documents reflecting this allocation or use process and how it will affect PECO’s FPFR procurement process.

EJA-III-14. In conjunction with the release of Governor Shapiro’s 2024-2025 Budget, the Shapiro administration has proposed a “Pennsylvania Reliable Energy Sustainability Standard (PRESS)” that would require the Commonwealth to get 35% of its electricity from clean energy sources by 2035.

- a. Please explain how and whether PECO’s DSP VI proposal aligns with this proposal for a Commonwealth-wide clean energy target.
- b. Please explain how PECO will adapt and modify its DSP efforts if the PRESS becomes law.
- c. Please indicate whether PECO or its parent corporation is taking or plans to take any positions in public or with Commonwealth officials regarding the PRESS and what those positions are. Please provide copies of any statements provided by PECO to the media regarding PRESS.

- EJA-III-15. Did PECO or anyone on its behalf consider the obligations of the Pennsylvania Public Utility Commission as a trustee under the Environmental Rights Amendment to the Pennsylvania Constitution in connection with preparing its procurement approach for DSP VI, preparing its Petition for Approval and its attachments, or preparing any other filings in this proceeding?
- a. If yes, please provide all documents demonstrating, reflecting, or associated with any such consideration.
  - b. If no, please explain why not.
- EJA-III-16. Please refer to Part III of the Direct Testimony of Scott G. Fisher, which is entitled, "Evaluation of PECO's Proposed DSP VI."
- a. Has PECO or anyone on its behalf created any estimates, modelling, or projections of the costs of default service supply or any component of default service supply for all customers if PECO's proposal for DSP VI is implemented?
    - i. If yes, please provide copies of all documents, analyses, or data associated with or containing, in whole or in part, any such estimates, modelling, or projections.
    - ii. If not, please explain why not.
  - b. Has PECO or anyone on its behalf created any estimates, modelling, or projections of the costs of default service supply or any component of default service supply for the Consolidated Large Commercial and Industrial customer class if PECO's proposal for DSP VI is implemented?
    - i. If yes, please provide copies of all documents, analyses, or data associated with or containing, in whole or in part, any such estimates, modelling, or projections.
    - ii. If not, please explain why not.
  - c. Has PECO or anyone on its behalf created any estimates, modelling, or projections of the costs of default service supply or any component of default service supply for the Small Commercial customer class if PECO's proposal for DSP VI is implemented?
    - i. If yes, please provide copies of all documents, analyses, or data associated with or containing, in whole or in part, any such estimates, modelling, or projections.
    - ii. If not, please explain why not.
  - d. Has PECO or anyone on its behalf created any estimates, modelling, or projections of the costs of default service supply or any component of default service supply for the Residential customer class if PECO's proposal for DSP VI is implemented?
    - i. If yes, please provide copies of all documents, analyses, or data associated with or containing, in whole or in part, any such estimates, modelling, or projections.
    - ii. If not, please explain why not.
- EJA-III-17. Please refer to Part III of the Direct Testimony of Scott G. Fisher, which is entitled, "Evaluation of PECO's Proposed DSP VI."

- a. Has PECO or anyone on its behalf created any estimates, modelling, or projections of the costs of default service supply or any component of default service supply either for all customers or for any specific customer class or classes if any different procurement approach than what PECO has proposed in this proceeding were to be implemented following the expiration of DSP V?
  - i. If yes, please provide copies of all documents, analyses, or data associated with or containing, in whole or in part, any such estimates, modelling, or projections.
  - ii. If no, please explain why not.

EJA-III-18. Please refer to Part III of the Direct Testimony of Scott G. Fisher, which is entitled, "Evaluation of PECO's Proposed DSP VI."

- a. Has PECO or anyone on its behalf created, obtained, or reviewed any estimates, modelling, or projections, including sensitivity analyses, of what the prices or costs of the following would be at any point during the tenure of DSP VI:
  - i. PJM wholesale electricity supply
  - ii. PJM capacity
  - iii. PJM ancillary services
  - iv. Long-term electricity supply contracts (longer than two years)
  - v. AEPS Tier I AECs
  - vi. AEPS Tier II AECs
  - vii. AEPS SAECs
- b. For each of subquestion (a)(i)-(vii) for which the answer is yes, please provide copies of all documents, analyses, or data associated with or containing, in whole or in part, any such estimates, modelling, or projections.
- c. For each of subquestion (a)(i)-(vii) for which the answer is no, please explain why not.

EJA-III-19. Please refer to Part III of the Direct Testimony of Scott G. Fisher, which is entitled, "Evaluation of PECO's Proposed DSP VI."

- a. Has PECO or anyone on its behalf created, obtained, or reviewed any estimates, modelling, or projections, including sensitivity analyses, of what the prices or costs of the following would be at any point during the ten-year period beginning from the expiration of DSP V:
  - i. PJM wholesale electricity supply
  - ii. PJM capacity
  - iii. PJM ancillary services
  - iv. Long-term electricity supply contracts (longer than two years)
  - v. AEPS Tier I AECs
  - vi. AEPS Tier II AECs
  - vii. AEPS SAECs
- b. For each of subquestion (a)(i)-(vii) for which the answer is yes, please provide copies of all documents, analyses, or data associated with or

containing, in whole or in part, any such estimates, modelling, or projections.

- c. For each of subquestion (a)(i)-(vii) for which the answer is no, please explain why not.

EJA-III-20. Please refer to the Direct Testimony of Katie Orlandi at 13:3-22. Please provide copies of all documents (confidential and non-confidential) prepared by or with the assistance of NERA that were submitted to the Pennsylvania Public Utility Commission in connection with or during the tenure of DSP V.

EJA-III-21. Please refer to the Previous Results section of PECO's Procurement for Default Supply website (<https://pecoprocurement.com/index.cfm?s=background&p=previousResults>). For the March 2021, September 2021, March 2022, September 2022, March 2023, and September 2023 "Solicitation Results Release" documents, please provide all underlying data used to prepare those documents (including but not limited to the price data used to calculate the averages therein). Please provide any available data for the upcoming March 2024 Solicitation Results document, and please provide both that document and all data underlying it (including but not limited to the price data used to calculate the averages therein) when available. Please provide the information in Excel format with cells unlocked and formulae and formulae references intact.

EJA-III-22. Please refer to PECO Exhibit MAM-6, page 1.

- a. Please identify the "Independent Consultant for Procurement of Solar Alternative Energy Credits."
- b. Please provide a copy of the contract pursuant to which PECO estimates paying the consultant \$0.14 million.
- c. Please provide copies of all documents produced by the consultant which PECO reviewed or relied upon in developing its proposals for DSP VI.

EJA-III-23. Please refer to PECO Exhibit MAM-7, page 1, wherein when instructed by 52 Pa. Code Section 53.52(a)(9) to provide a statement addressing "The effect, whether direct or indirect, of the proposed change on the utility's revenue and expenses," PECO stated:

"The effects of the proposed tariff changes on PECO's revenues and expenses cannot be determined at this time and will depend upon the implementation of PECO's procurement plan that is approved as part of this filing and the market prices in effect when generation supply service is procured."

- a. Has PECO or anyone on its behalf performed any estimates, modelling or projections to estimate the effects of the proposed tariff changes on PECO's revenues and expenses?
- b. If yes, please provide copies of all documents associated with any such estimates.

c. If not, please explain why not.

EJA-III-24. Please refer to PECO Exhibit MAM-7, page 2, wherein when instructed by 52 Pa. Code Section 53.52(a)(8) to provide a statement addressing “Studies undertaken by the utility in order to draft its proposed change,” PECO stated “No specific studies were undertaken.”

- a. Please explain what PECO intended by inserting the qualifier “specific” when asked to list all studies undertaken.
- b. Please explain whether PECO undertook any studies, specific or not, in order to draft its proposed tariff language, and please provide a copy of all studies undertaken.
- c. Please explain why PECO did not undertake any specific studies in order to draft its proposed changes.
- d. If PECO did not undertake any studies of any kind in order to draft its proposed changes, please explain why not.

EJA-III-25. Please refer to PECO Exhibit MAM-7, page 2, wherein when instructed by 52 Pa. Code Section 53.52(a)(9) to provide a statement addressing “Customer polls taken and other documents which indicate customer acceptance and desire for the proposed change,” PECO stated “No customer polls were taken.”

- a. Please confirm that no customer polls were taken as part of the development of PECO’s proposals for DSP VI.
- b. Please explain why no customer polls were taken as part of the development of PECO’s proposals for DSP VI.
- c. Please explain whether PECO used any means other than polling to evaluate customer preferences in connection with the development of DSP VI, and please provide all documents associated with any such evaluation.
- d. Does PECO have in its possession or access to any documents that “indicate customer acceptance and desire” for PECO’s proposals for DSP VI? If yes, please provide copies of the documents.
- e. 52 Pa. Code Section 53.52(a)(9) also provides that “If the poll or other documents reveal discernible public opposition, an explanation of why the change is in the public interest shall be provided.” Does PECO have in its possession or access to any documents that reveal discernible public opposition to PECO’s proposals for DSP VI? If yes, please provide copies of the documents.

EJA-III-26. Please refer to the Direct Testimony of of Sulma Dalessio at 12:15-21. Please define “any other services” as used on line 19, please explain what PECO means by this term and why it included it here, and please describe all instances of such “any other services” procured by PECO during the tenure of DSP V, including the nature of the service and the pricing. Please explain what “any other services” PECO anticipates procuring during DSP VI, including the nature of the service and pricing.

# Morgan Lewis

**Kenneth M. Kulak**

Partner

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April 10, 2024

**VIA eFILING**

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

**Re: Petition of PECO Energy Company for Approval of Its Default Service Program for the Period from June 1, 2025 through May 31, 2029**  
**Docket No. P-2024-3046008**

Dear Secretary Chiavetta:

Enclosed for filing in the above-captioned proceeding is the **Certificate of Service** evidencing service of **PECO Energy Company's Objections to the following Interrogatories:**

- 1. Energy Justice Advocates, Set III, Question No. 20**
- 2. Office of Consumer Advocate, Set II, Question Nos. 23(c), (e), and 38**

As indicated on the enclosed Certificate of Service, copies have been served upon all parties of record.

If you have any questions, please call me directly at 215.963.5384.

Very truly yours,



Kenneth M. Kulak

KMK/tp  
Enclosure

c: Per Certificate of Service (w/encls.)

**Morgan, Lewis & Bockius LLP**

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# Morgan Lewis

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April 10, 2024

**VIA ELECTRONIC MAIL**

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Philadelphia, PA 19103

**Re: Petition of PECO Energy Company for Approval of Its Default Service Program for the Period from June 1, 2025 through May 31, 2029**  
**Docket No. P-2024-3046008**

Dear Counsel:

Enclosed please find **PECO Energy Company's Objection to the Interrogatory of the Energy Justice Advocates, Set III, Question No. 20**, in the above-captioned proceeding.

Very truly yours,



Kenneth M. Kulak

KMK/tp  
Enclosures

c: Per Certificate of Service (w/encls.)

**Morgan, Lewis & Bockius LLP**

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PECO ENERGY** :  
**COMPANY FOR APPROVAL OF ITS** :  
**DEFAULT SERVICE PROGRAM FOR** : **Docket No. P-2024-3046008**  
**THE PERIOD FROM JUNE 1, 2025** :  
**THROUGH MAY 31, 2029** :

**CERTIFICATE OF SERVICE**

I hereby certify and affirm that I have this day served a copy of **PECO Energy Company's**  
**Objections to the Interrogatories of: (1) Energy Justice Advocates, Set III, Question No. 20;**  
**and (2) Office of Consumer Advocate, Set II, Question Nos. 23(c), (e), and 38,** on the following  
persons in the manner specified in accordance with the requirements of 52 Pa. Code § 1.54:

**VIA ELECTRONIC MAIL**

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Andrew J. Zerby  
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Philadelphia, PA 17101-1923  
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Dated: April 10, 2024

*Counsel for PECO Energy Company*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF PECO ENERGY COMPANY :  
FOR APPROVAL OF ITS DEFAULT : DOCKET NO. P-2024-3046008  
SERVICE PROGRAM FOR THE PERIOD OF :  
JUNE 1, 2025, THROUGH MAY 31, 2029**

**OBJECTIONS OF PECO ENERGY COMPANY TO THE INTERROGATORIES  
(SET III) OF THE ENERGY JUSTICE ADVOCATES**

Pursuant to 66 Pa. C.S. § 333(d) and 52 Pa. Code § 5.342, PECO Energy Company (“PECO”) hereby objects to Interrogatory No. 20 in the Third Set of Interrogatories (“Set III”) propounded by POWER Interfaith, Vote Solar, Clean Air Council, Sierra Club, Physicians for Social Responsibility Pennsylvania, and PennEnvironment (collectively, the “Energy Justice Advocates”) on March 15, 2024. A copy of the EJA Set III Interrogatories is attached as Appendix A and incorporated herein by reference.

1. EJA Set III Interrogatory No. 20 states as follows:

Please refer to the Direct Testimony of Katie Orlandi at 13:3-22. Please provide copies of all documents (confidential and non-confidential) prepared by or with the assistance of NERA that were submitted to the Pennsylvania Public Utility Commission in connection with or during the tenure of DSP V.

2. Counsel for PECO and EJA have conferred and EJA has limited this Interrogatory to certain reports prepared by National Economic Consulting, Inc. d/b/a NERA Economic Consulting, the Independent Evaluator appointed by the Pennsylvania Public Utility Commission (the “Commission”) for PECO’s current default service procurements under its fifth default service program (“DSP V”).<sup>1</sup> Specifically, Interrogatory No. 20 is limited to (i) the Market

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<sup>1</sup> See *Petition of PECO Energy Co. for Approval of Its Default Serv. Program for the Period from June 1, 2021 through May 31, 2025*, Docket No. P-2020-3019290 (Opinion and Order entered December 3, 2020) (“*PECO DSP V Order*”).

Report prepared by NERA prior to each solicitation for default service supply under PECO's current (and fifth) default service program ("DSP V") and provided solely and confidentially to the Commission, and (ii) the Final Report, which is prepared by NERA after each solicitation and provided confidentially to the Commission to evaluate the solicitation and thereafter only in redacted form to PECO.

3. The Market Report and Final Report are described in the rules and protocol (the "RFP Rules" and the "RFP Protocol") approved by the Commission in the *DSP V Order* for use in PECO's current default supply procurements. A copy of both the RFP Rules and the RFP Protocol is included in PECO's initial filing in this proceeding, with blacklines to the RFP Rules and RFP Protocol approved by the Commission for DSP V. See PECO Statement No. 4 & Exhibits KO-1 through KO-4. The Market Report is described in the RFP Protocol, and the Final Report is described in both the RFP Rules and RFP Protocol. See Exhibits KO-1 and KO-3, § VII.3 and Exhibits KO-2 and KO-4, §§ XIII, XV.B & XV.C.

4. In accordance with the Commission's Policy Statement at 52 Pa. Code § 69.1807(7), the RFP Rules and RFP Protocol developed with and administered by NERA contain extensive confidentiality provisions. See PECO Statement No. 4, PECO Exhibits KO-1 and KO-3, §§ VI.1.2, VII.4 & Appendix 12; PECO Exhibits KO-2 and KO-4, §§ II, III, XI, XIII, XIV, and XV. In accordance with the Commission's Policy Statement at 52 Pa. Code § 69.1807(7), the RFP Rules and RFP Protocol developed with and administered by NERA contain extensive confidentiality provisions that prevent PECO and NERA from releasing information provided by bidders, including the bidder identity and the amount of awarded supply. See PECO Exhibit KO-1, §§ VI.1.2, VII.4 & Appendix 12; PECO Exhibit KO-2, §§ II, III, XI, XIII, XIV, XV. RFP bidders' data and information submitted in response to an RFP may be disclosed only if required by a federal, state, or local agency (including the Commission) or a court of competent jurisdiction. See PECO Exhibit KO-1, § VII.4.5.

5. Given the confidential provisions of the RFP Rules and the RFP Protocol, PECO cannot produce the confidential Market Reports provided only to the Commission and Final Reports provided to the Commission and (in redacted form) to PECO even under the “Confidential Information” or “Highly Confidential Information” provisions of the Protective Order entered in this proceeding.<sup>2</sup>

6. PECO notes that in response to other discovery requests, PECO (with NERA’s assistance) is providing, or has already provided, substantial information about procurement results in a manner that has not compromised the confidentiality of reports the EJA now seeks. In particular, EJA (and all other parties to this proceeding, consistent with the Protective Order) have received the following information:

- The number of suppliers that participated in each residential fixed-price full requirements (“FPFR”) solicitation since DSP I.
- The number of suppliers that won at least one tranche in each residential FPFR solicitation since DSP I.
- The number of suppliers that participated in each small commercial FPFR solicitation since DSP I.
- The number of suppliers that won at least one tranche in each small commercial FPFR solicitation since DSP I.
- The number of tranches awarded to each bidder in each solicitation since DSP IV.
- The number of tranches provided by each supplier for each default service rate period for each customer class since DSP IV.
- The number of winning bids per solicitation in DSP V.
- The number of bidders eligible to submit bids in each DSP V solicitation.
- The average winning bid prices used to establish the average weighted price of each product in DSP V that is published by the Commission.
- Average winning bid price and associated number of tranches per product and supplier with supplier name redacted in DSP V.

7. PECO objects to EJA Set III Interrogatory No. 20 for the reasons set forth in

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<sup>2</sup> Protective Order, *Petition of PECO Energy Co. for Approval of Its Default Serv. Program for the Period from June 1, 2025 through May 31, 2029*, Docket No. P-2024-3046008 (Order entered March 14, 2024) (“Protective Order”)

Paragraph Nos. 2-6 above and the confidentiality of the Market and Final Reports as described in the RFP Rules and RFP Protocol.

Respectfully submitted,



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Dated: April 10, 2024

For PECO Energy Company

# APPENDIX A





March 15, 2024

VIA ELECTRONIC MAIL

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*Re: Petition of PECO Energy Company for Approval of Its Default Service Plan for the Period from June 1, 2025 Through May 31, 2029, Docket No. P-2024-3046008*

Dear Counsel,

Please find enclosed the Interrogatories of the Energy Justice Advocates, Set III, in the above-referenced proceeding. Pursuant to the Commission's Rules of Practice and Procedure as modified during the March 8, 2024 Prehearing Conference, we request that PECO provide verified answers to these inquiries within ten (10) calendar days of service. Should you have any questions, please do not hesitate to contact me. Thank you.

Sincerely,

/s/ Devin McDougall

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*Counsel for the Energy Justice Advocates*

cc:

Certificate of Service (w/ encl.) (via email)

Secretary's Bureau, Pennsylvania Public Utility Commission (w/o encl.) (via e-filing)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for  
Approval of Its Default Service Plan for the  
Period from June 1, 2025 Through May 31,  
2029

Docket No. P-2024-3046008

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the following document upon the parties of record to this proceeding, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party) in the manner and upon the persons listed below.

Service By Email Only

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Dated: March 15, 2024

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of PECO Energy Company for  
Approval of Its Default Service Plan for the  
Period from June 1, 2025 Through May 31,  
2029

Docket No. P-2024-3046008

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**INTERROGATORIES OF THE ENERGY JUSTICE ADVOCATES  
TO PECO ENERGY COMPANY**

**SET III**

Pursuant to 52 Pa. Code § 5.341, the Energy Justice Advocates (“EJA”) respectfully submit the following Interrogatories to PECO Energy Company (“PECO”), to be answered by those officers, employees, agents, or contractors who have knowledge of the requested facts and who are authorized to answer on behalf of PECO. To the extent possible, EJA requests that verified answers be forwarded as answers are completed, rather than waiting for the set to be complete. Please provide all data in Excel spreadsheet format with cells unlocked and formulas intact, and with references to Schedules and Exhibits included.

### **Instructions**

1. These interrogatories shall be construed as a continuing request. PECO is obliged to change, supplement, and correct all answers to interrogatories to conform to available information, including any information that first becomes available after PECO files its responses to these interrogatories.
2. Restate the interrogatory immediately preceding each response.
3. Identify the name, title, and business address of each person(s) providing each response.
4. Provide the date on which the response was created.
5. Divulge all information that is within the knowledge, possession, control, or custody of PECO or may be reasonably ascertained by PECO. The terms “PECO” or “Company” as used herein include PECO and its attorneys, agents, employees, contractors, or other representatives.
6. As used herein, the words “document,” “documentation,” or “workpaper” include, but are not limited to, the original and all copies in whatever form, stored or contained in or on whatever media or medium, including but not limited to computerized memory, magnetic, electronic, or optical media, regardless of origin and whether or not including additional writing thereon or attached thereto, and may consist of:
  - a. notations of any sort concerning conversations, telephone calls, meetings, or other communications;
  - b. bulletins, transcripts, diaries, emails, memoranda, analyses, summaries, correspondence and enclosures, circulars, opinions, studies, investigations, questionnaires and surveys; and
  - c. worksheets, and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments, and written comments concerning the foregoing.
7. Provide a verification by the responsible witness that all facts contained in the response are true and correct to the best of the witness’s knowledge, information, and belief.

- EJA-III-1. For each month of DSP II, III, IV, and V, please provide the following data:
- a. Residential default service load
  - b. Percentage of Residential customers taking default service
  - c. Small Commercial default service load
  - d. Percentage of Small Commercial customers taking default service
  - e. Consolidated Large Commercial and Industrial default service load
  - f. Percentage of Consolidated Large Commercial and Industrial customers taking default service
- EJA-III-2. Please provide all worksheets used or generated in the course of preparing the statements PECO filed in support of its Petition for Approval in this Proceeding. Please provide the information in Excel format with cells unlocked and formulae and formulae references intact.
- EJA-III-3. With reference to all bids accepted by PECO and/or approved by the Pennsylvania Public Utility Commission in connection with DSP V:
- a. Please provide copies of all bid and bid-related documents.
  - b. Please provide copies of any contracts or agreements associated with such bids.
- EJA-III-4. Please refer to the Direct Testimony of Sulma Dalessio at 8:7-9:11: PECO proposes to double the number of Solar Alternative Energy Credits (SAECs) that it procures under long-term contracts.
- a. Please explain why PECO is making this proposal and provide copies of all documents containing any evaluations performed by PECO or on its behalf relating to the proposal.
  - b. Please provide a listing and explanation of the factors supporting the specific decision to seek 32,000 SAECs annually under DSP VI.
  - c. Please explain how the proposal to seek 32,000 SAECs annually under long-term contracts will impact contracting with energy and capacity suppliers under DSP VI. If fewer SAECs are to be procured under fixed price-full requirements contracts with energy and capacity suppliers, how will those reductions be allocated among energy suppliers?
  - d. Please clarify whether PECO proposes to secure SAECs from in-state solar resources or from facilities located outside the Commonwealth.
  - e. Please explain whether and why PECO takes the position that procurement of 32,000 SAECs annually under long-term contracts conforms with PECO meeting its least-cost obligations.
  - f. Please detail whether PECO has performed any evaluation of the relative costs and merits of procuring SAECs in conjunction with energy contracts versus on a stand-alone basis, and with long-term contracts versus spot market procurements.
  - g. Please explain and provide documents reflecting PECO's overall AEPS compliance strategy. Please explain whether and how PECO's AEC compliance strategy seeks to minimize compliance costs, maximize in-state

energy-related benefits, and/or increase the amount of renewable energy generated in Pennsylvania and in PECO's service territory.

- h. Please detail any requirements or preferences PECO applies to the procurement of AECs and SAECs.
- i. Please detail and provide the information requested from suppliers by PECO regarding ultimate generation sources for AECs and SAECs.

EJA-III-5. Please provide copies of all contracts through which PECO received SAECs that were used to demonstrate AEPS compliance during DSP V.

EJA-III-6. Please confirm how many SAECs that PECO has already procured or committed to procure via already-executed contracts that PECO intends to use to demonstrate AEPS compliance during DSP VI.

EJA-III-7. Please explain in detail how PECO allocated each SAEC it procured itself during DSP V, including but limited to to which customer classes PECO allocated each SAEC and how such allocation affected PECO's fixed price full requirements ("FPFR") procurement process. Please provide all documents reflecting this allocation process and how it affected PECO's FPFR procurement process.

EJA-III-8. Please explain in detail how PECO proposes to allocate each SAEC it will procure itself during DSP VI, including but not limited to which customer classes PECO proposes to allocate each SAEC and how such allocation would affect PECO's fixed price full requirements ("FPFR") procurement process. Please provide all documents reflecting this allocation process and how it will affect PECO's FPFR procurement process.

EJA-III-9. PA PUC Opinion and Order P-2020-3019522, in Petition of Duquesne Light Company for Approval of its Default Service Plan, dated January 14, 2021 (Duquesne DSP 2021 Order) approves Duquesne's request for pre-approval to seek to enter into a long-term Solar PPA for more than four but less than twenty years in order to support a utility-scale solar project of up to seven MW in Pennsylvania, representing approximately 50% of Duquesne's required solar AECs.

- a. Has PECO or anyone on PECO's behalf ever evaluated, analyzed, or reviewed the Duquesne solar PPA approach?
  - i. If yes, please provide all documents demonstrating, reflecting, or associated with any such evaluation, analysis, or review.
  - ii. If no, please explain why not.
- b. Did PECO or anyone on PECO's behalf ever evaluated, analyzed, or reviewed the Duquesne solar PPA approach in connection with preparing PECO's procurement approach for DSP VI, preparing its Petition for Approval and its attachments, or preparing any other filings in this proceeding?
  - i. If yes, please provide all documents demonstrating, reflecting, or associated with any such evaluation, analysis, or review.



- ii. If no, please explain why not.
- c. Does PECO have a view on whether the Duquesne approach would have merit if pursued by PECO? If so, what is that view?

- EJA-III-10. The Joint Petition for Partial Settlement in Docket Nos. P-2021-3030012, -3030013, -3030014, and -3030021, in Petition of Metropolitan Edison, et al., for Approval of Default Service Programs, which was approved by the PA PUC on August 4, 2022, included plans for the First Energy utilities to procure energy and solar alternative energy credits generated by one or more new in-state solar photovoltaic projects under multi-year fixed-price power purchase agreements.
- a. Has PECO or anyone on PECO's behalf ever evaluated, analyzed, or reviewed the First Energy solar PPA approach?
    - i. If yes, please provide all documents demonstrating, reflecting, or associated with any such evaluation, analysis, or review.
    - ii. If no, please explain why not.
  - b. Did PECO or anyone on PECO's behalf ever evaluated, analyzed, or reviewed the First Energy solar PPA approach in connection with preparing PECO's procurement approach for DSP VI, preparing its Petition for Approval and its attachments, or preparing any other filings in this proceeding?
    - i. If yes, please provide all documents demonstrating, reflecting, or associated with any such evaluation, analysis, or review.
    - ii. If no, please explain why not.
  - c. Does PECO have a view on whether the First Energy solar PPA approach would have merit if pursued by PECO? If so, what is that view?

- EJA-III-11. Please refer to the Direct Testimony of Sulma Dalessio at 14:19-15:5.
- a. Please provide a copy of the referenced multi-state agreement.
  - b. Please identify when PECO began to receive an allocation of hydropower under the agreement, how the hydropower is priced, how much PECO has paid for the hydropower on a monthly basis during DSP V, and how PECO determined that the hydropower is "low cost."
  - c. Please explain in detail how PECO allocated or used the hydropower it received pursuant to this agreement during DSP V, and how such allocation or use affected PECO's fixed price full requirements ("FPFR") procurement process. Please provide all documents reflecting this allocation or use process and how it affected PECO's FPFR procurement process.
  - d. For each month of DSP V, please identify how much electricity supply PECO received from this hydropower allocation and how that electricity supply was allocated among customer classes.
  - e. For each month of DSP V, please explain how PECO met the capacity, ancillary services, and AEC requirements associated with the electricity supply sourced from the hydropower allocation.
  - f. Please explain how the hydropower allocation impacts the costs of supply for residential default service load.

- g. Has PECO estimated how the costs of supply for residential default service load would change if the hydropower allocation were not available? If so, please provide those estimates. If not, please explain why not.

EJA-III-12. Please refer to the Direct Testimony of Sulma Dalessio at 14:8-15:13:

- a. Please list all contracts (including but not limited to electricity supply contracts) to which PECO is a party which relate to the referenced multi-state agreement, including the title of each contract and its execution date
- b. Please provide a copy of each contract listed in response to subquestion (a) above.

EJA-III-13. Please refer to the Direct Testimony of Sulma Dalessio at 15:3-15:5, which states: “Under DSP VI, PECO will continue to use the NYPA allocation to offset the amount of Residential default service supply provided by wholesale suppliers.”

- a. Please explain what PECO means by “offset,” and please explain in detail how the offset process will work, including the specific amounts of Residential default service supply that will be offset.
- b. Please confirm whether the NYPA allocation will only be used to offset residential load during DSP VI. If this is not the case, please explain which customers classes the NYPA allocation will be used to offset and the proportions for each class.
- c. Does PECO have in its possession or access to any documents relating to how specifically how the offset will function?
  - i. If yes, please provide copies of any such documents.
  - ii. If no, please explain why not.
- d. Please explain in detail how PECO proposes to allocate or use the hydropower it will received pursuant to this agreement during DSP VI, and how such allocation or use will affect PECO’s fixed price full requirements (“FPFR”) procurement process. Please provide all documents reflecting this allocation or use process and how it will affect PECO’s FPFR procurement process.

EJA-III-14. In conjunction with the release of Governor Shapiro’s 2024-2025 Budget, the Shapiro administration has proposed a “Pennsylvania Reliable Energy Sustainability Standard (PRESS)” that would require the Commonwealth to get 35% of its electricity from clean energy sources by 2035.

- a. Please explain how and whether PECO’s DSP VI proposal aligns with this proposal for a Commonwealth-wide clean energy target.
- b. Please explain how PECO will adapt and modify its DSP efforts if the PRESS becomes law.
- c. Please indicate whether PECO or its parent corporation is taking or plans to take any positions in public or with Commonwealth officials regarding the PRESS and what those positions are. Please provide copies of any statements provided by PECO to the media regarding PRESS.

- EJA-III-15. Did PECO or anyone on its behalf consider the obligations of the Pennsylvania Public Utility Commission as a trustee under the Environmental Rights Amendment to the Pennsylvania Constitution in connection with preparing its procurement approach for DSP VI, preparing its Petition for Approval and its attachments, or preparing any other filings in this proceeding?
- a. If yes, please provide all documents demonstrating, reflecting, or associated with any such consideration.
  - b. If no, please explain why not.
- EJA-III-16. Please refer to Part III of the Direct Testimony of Scott G. Fisher, which is entitled, "Evaluation of PECO's Proposed DSP VI."
- a. Has PECO or anyone on its behalf created any estimates, modelling, or projections of the costs of default service supply or any component of default service supply for all customers if PECO's proposal for DSP VI is implemented?
    - i. If yes, please provide copies of all documents, analyses, or data associated with or containing, in whole or in part, any such estimates, modelling, or projections.
    - ii. If not, please explain why not.
  - b. Has PECO or anyone on its behalf created any estimates, modelling, or projections of the costs of default service supply or any component of default service supply for the Consolidated Large Commercial and Industrial customer class if PECO's proposal for DSP VI is implemented?
    - i. If yes, please provide copies of all documents, analyses, or data associated with or containing, in whole or in part, any such estimates, modelling, or projections.
    - ii. If not, please explain why not.
  - c. Has PECO or anyone on its behalf created any estimates, modelling, or projections of the costs of default service supply or any component of default service supply for the Small Commercial customer class if PECO's proposal for DSP VI is implemented?
    - i. If yes, please provide copies of all documents, analyses, or data associated with or containing, in whole or in part, any such estimates, modelling, or projections.
    - ii. If not, please explain why not.
  - d. Has PECO or anyone on its behalf created any estimates, modelling, or projections of the costs of default service supply or any component of default service supply for the Residential customer class if PECO's proposal for DSP VI is implemented?
    - i. If yes, please provide copies of all documents, analyses, or data associated with or containing, in whole or in part, any such estimates, modelling, or projections.
    - ii. If not, please explain why not.
- EJA-III-17. Please refer to Part III of the Direct Testimony of Scott G. Fisher, which is entitled, "Evaluation of PECO's Proposed DSP VI."

- a. Has PECO or anyone on its behalf created any estimates, modelling, or projections of the costs of default service supply or any component of default service supply either for all customers or for any specific customer class or classes if any different procurement approach than what PECO has proposed in this proceeding were to be implemented following the expiration of DSP V?
  - i. If yes, please provide copies of all documents, analyses, or data associated with or containing, in whole or in part, any such estimates, modelling, or projections.
  - ii. If no, please explain why not.

EJA-III-18. Please refer to Part III of the Direct Testimony of Scott G. Fisher, which is entitled, "Evaluation of PECO's Proposed DSP VI."

- a. Has PECO or anyone on its behalf created, obtained, or reviewed any estimates, modelling, or projections, including sensitivity analyses, of what the prices or costs of the following would be at any point during the tenure of DSP VI:
  - i. PJM wholesale electricity supply
  - ii. PJM capacity
  - iii. PJM ancillary services
  - iv. Long-term electricity supply contracts (longer than two years)
  - v. AEPS Tier I AECs
  - vi. AEPS Tier II AECs
  - vii. AEPS SAECs
- b. For each of subquestion (a)(i)-(vii) for which the answer is yes, please provide copies of all documents, analyses, or data associated with or containing, in whole or in part, any such estimates, modelling, or projections.
- c. For each of subquestion (a)(i)-(vii) for which the answer is no, please explain why not.

EJA-III-19. Please refer to Part III of the Direct Testimony of Scott G. Fisher, which is entitled, "Evaluation of PECO's Proposed DSP VI."

- a. Has PECO or anyone on its behalf created, obtained, or reviewed any estimates, modelling, or projections, including sensitivity analyses, of what the prices or costs of the following would be at any point during the ten-year period beginning from the expiration of DSP V:
  - i. PJM wholesale electricity supply
  - ii. PJM capacity
  - iii. PJM ancillary services
  - iv. Long-term electricity supply contracts (longer than two years)
  - v. AEPS Tier I AECs
  - vi. AEPS Tier II AECs
  - vii. AEPS SAECs
- b. For each of subquestion (a)(i)-(vii) for which the answer is yes, please provide copies of all documents, analyses, or data associated with or

containing, in whole or in part, any such estimates, modelling, or projections.

- c. For each of subquestion (a)(i)-(vii) for which the answer is no, please explain why not.

EJA-III-20. Please refer to the Direct Testimony of Katie Orlandi at 13:3-22. Please provide copies of all documents (confidential and non-confidential) prepared by or with the assistance of NERA that were submitted to the Pennsylvania Public Utility Commission in connection with or during the tenure of DSP V.

EJA-III-21. Please refer to the Previous Results section of PECO's Procurement for Default Supply website (<https://pecoprocurement.com/index.cfm?s=background&p=previousResults>). For the March 2021, September 2021, March 2022, September 2022, March 2023, and September 2023 "Solicitation Results Release" documents, please provide all underlying data used to prepare those documents (including but not limited to the price data used to calculate the averages therein). Please provide any available data for the upcoming March 2024 Solicitation Results document, and please provide both that document and all data underlying it (including but not limited to the price data used to calculate the averages therein) when available. Please provide the information in Excel format with cells unlocked and formulae and formulae references intact.

EJA-III-22. Please refer to PECO Exhibit MAM-6, page 1.

- a. Please identify the "Independent Consultant for Procurement of Solar Alternative Energy Credits."
- b. Please provide a copy of the contract pursuant to which PECO estimates paying the consultant \$0.14 million.
- c. Please provide copies of all documents produced by the consultant which PECO reviewed or relied upon in developing its proposals for DSP VI.

EJA-III-23. Please refer to PECO Exhibit MAM-7, page 1, wherein when instructed by 52 Pa. Code Section 53.52(a)(9) to provide a statement addressing "The effect, whether direct or indirect, of the proposed change on the utility's revenue and expenses," PECO stated:

"The effects of the proposed tariff changes on PECO's revenues and expenses cannot be determined at this time and will depend upon the implementation of PECO's procurement plan that is approved as part of this filing and the market prices in effect when generation supply service is procured."

- a. Has PECO or anyone on its behalf performed any estimates, modelling or projections to estimate the effects of the proposed tariff changes on PECO's revenues and expenses?
- b. If yes, please provide copies of all documents associated with any such estimates.

c. If not, please explain why not.

EJA-III-24. Please refer to PECO Exhibit MAM-7, page 2, wherein when instructed by 52 Pa. Code Section 53.52(a)(8) to provide a statement addressing “Studies undertaken by the utility in order to draft its proposed change,” PECO stated “No specific studies were undertaken.”

- a. Please explain what PECO intended by inserting the qualifier “specific” when asked to list all studies undertaken.
- b. Please explain whether PECO undertook any studies, specific or not, in order to draft its proposed tariff language, and please provide a copy of all studies undertaken.
- c. Please explain why PECO did not undertake any specific studies in order to draft its proposed changes.
- d. If PECO did not undertake any studies of any kind in order to draft its proposed changes, please explain why not.

EJA-III-25. Please refer to PECO Exhibit MAM-7, page 2, wherein when instructed by 52 Pa. Code Section 53.52(a)(9) to provide a statement addressing “Customer polls taken and other documents which indicate customer acceptance and desire for the proposed change,” PECO stated “No customer polls were taken.”

- a. Please confirm that no customer polls were taken as part of the development of PECO’s proposals for DSP VI.
- b. Please explain why no customer polls were taken as part of the development of PECO’s proposals for DSP VI.
- c. Please explain whether PECO used any means other than polling to evaluate customer preferences in connection with the development of DSP VI, and please provide all documents associated with any such evaluation.
- d. Does PECO have in its possession or access to any documents that “indicate customer acceptance and desire” for PECO’s proposals for DSP VI? If yes, please provide copies of the documents.
- e. 52 Pa. Code Section 53.52(a)(9) also provides that “If the poll or other documents reveal discernible public opposition, an explanation of why the change is in the public interest shall be provided.” Does PECO have in its possession or access to any documents that reveal discernible public opposition to PECO’s proposals for DSP VI? If yes, please provide copies of the documents.

EJA-III-26. Please refer to the Direct Testimony of of Sulma Dalessio at 12:15-21. Please define “any other services” as used on line 19, please explain what PECO means by this term and why it included it here, and please describe all instances of such “any other services” procured by PECO during the tenure of DSP V, including the nature of the service and the pricing. Please explain what “any other services” PECO anticipates procuring during DSP VI, including the nature of the service and pricing.

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

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## ARTICLE I. INTRODUCTION

### I.1. Overview

- I.1.1. Capitalized terms in this document, which are not defined explicitly herein, are defined in the PECO Energy Company - Pennsylvania Default Service Supplier Master Agreement (“Uniform SMA” or “SMA”). The Uniform SMA is attached as Appendix 1 to this document.
- I.1.2. As part of its fifth Default Service Plan (“DSP V”), PECO Energy Company (“Company” or “PECO”) is proposing a competitive bidding process to obtain full requirements supply for the Company to meet a portion of its obligations as Default Service Provider pursuant to Chapter 28 of the Pennsylvania Public Utility Code, 66 Pa. C. S. §§ 2801-2812. This competitive bidding process is consistent with Chapter 28, with P.L. 1592 No. 129 (“Act 129”), with the Pennsylvania Public Utility Commission’s (“Commission” or “PaPUC”) Default Service regulations in its Final Rulemaking Order in Docket No. L-2009-2095604, and the Commission’s Final Policy Statement on Default Service in Docket No. M-2009-2140580.
- I.1.3. PECO currently provides electric generation service to all customers within its service territory who do not select an electric generation supplier (“EGS”). Such customers are “Default Service customers” or “DS Customers”. The competitive bidding process would procure supply for the period beginning June 1, 2021 when PECO’s fourth Default Service Plan (“DSP IV”) expires.
- I.1.4. The competitive bidding process will be conducted through a series of Requests for Proposals (“RFPs”) issued twice yearly. The RFP consists of a total of fourteen (14) documents. This main document is called the “RFP Rules” and it describes generally how the RFP will be conducted. Prior to each solicitation, an “Addendum to the RFP Rules” will be issued and it will provide information relevant to that solicitation such as the schedule and products to be procured. The following documents are appended to, and shall be considered an integral part of, the RFP Rules:

Appendix 0: Addendum to the RFP Rules

Appendix 1: Uniform SMA

Appendix 2: Alternate Guaranty Process

Appendix 3: Illustrative Standard Part 1 Form

Appendix 4: Illustrative Short Part 1 Form

Appendix 5: Chief Financial Officer Attestation

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

Appendix 7: Illustrative Standard Part 2 Form  
 Appendix 8: Illustrative Short Part 2 Form  
 Appendix 9: Standard Pre-Bid Letter of Credit  
 Appendix 10: Sample Bid Form  
 Appendix 11: Tentative Schedule for Future Solicitations  
 Appendix 12: Confidentiality Statement

- I.1.5. DSP V plans for the procurement of full requirements supply for three (3) “Classes” of Default Service customers: the Residential (“RES”) Class, the Small Commercial (“SC”) Class, and the Consolidated Large Commercial and Industrial (“CCI”) Class. Each such Class (or “DS Customer Group”) is a group of specific rate schedules as provided in the following table:

**Table I-1. Customer Classes.**

Class	Customers Included	Rate Schedule	Description
Residential	All residential customers	R	Residence Service
		RH	Residential Heating Service
Small Commercial	Non-residential customers with Peak Load Contribution up to and including 100kW and lighting customers	GS	General Service
		HT	High-Tension Power
		PD	Primary – Distribution Power
		AL	Alley Lighting in City of Philadelphia
		TLCL	Traffic Lighting Constant Load Service
		POL	Private Outdoor Lighting
		SL-C	Smart Lighting Control Lighting Customer Owned Facilities
		SL-E	Street Lighting Customer-Owned Facilities
Consolidated Large Commercial and Industrial	Non-residential customers with Peak Load Contribution greater than 100kW	GS	General Service
		HT	High-Tension Power
		PD	Primary –Distribution Power
		EP	Electric Propulsion

- I.1.6. For the RES and SC Classes, the Company will solicit bids for the procurement of full requirements service on a fixed-price basis. For the CCI Class, the Company will solicit bids for the procurement of full requirements service with energy priced to the PJM day-ahead spot market. The Default Service supply (“Default Supply” or “DS Supply”) for a Class is the full requirements electricity supply based on the load of the retail customers in that Class measured and recorded by the Company and settled by PJM. The load of the Default Service customers in a Class is the “Default Load” or “DS Load” of that Class. A supplier selected through the competitive bidding process under DSP V to provide Default

Supply for a particular Class and approved by the Commission becomes a “Default Supplier” or “DS Supplier” for that Class.

- I.1.7. A Default Service customer may choose to begin receiving service from an EGS on the customer’s meter reading date in accordance with the Company’s standard switching requirements as described in the Company’s Electric Generation Supplier Coordination Tariff including, without limitation, prior advance notice to the Company. A customer served by an EGS may return to Default Service on the customer’s meter reading date in accordance with the Company’s standard switching requirements as described in the Company’s Electric Generation Supplier Coordination Tariff including, without limitation, prior advance notice to the Company.
- I.1.8. There are eight (8) “solicitations” or “DS Solicitations” under DSP V that will select electricity suppliers to provide Default Supply for the period June 1, 2021 through May 31, 2025 and for a portion of the Company’s requirements for the RES Class and SC Class for the period beyond June 1, 2025. Each solicitation will be identified by the month and year in which the Bid Date occurs. Solicitations will be held in March and September of each year, starting with a solicitation in March 2021 and ending with a solicitation in September 2024. A typical schedule for a solicitation is provided in Paragraph II.2.1. For each solicitation, the Addendum to the RFP Rules will be updated to include the dates for that solicitation and to refer to the particular products to be procured in that solicitation. The Independent Evaluator and the Company may advise the Commission to postpone or modify the schedule of a solicitation when market conditions are impacted by extraordinary events, such as the advent of war, terrorism, or an act of God.
- I.1.9. Standard rates of Default Service customers for a Class are determined on the basis of the prices determined through this RFP for that Class. As provided in the Commission’s directive dated October 12, 2010 (Docket No. M-2009-2082042), PECO provides a Default Service rate calculation model that translates the prices determined through this RFP into Default Service rates. This calculation model is posted to the PECO website:

<https://www.peco.com/MyAccount/MyService/Pages/ElectricPricetoCompare.aspx>

- I.1.10. Except for customers who participate in PECO's Customer Assistance Program, default service customers in the Residential and Small Commercial Classes can elect a time of use ("TOU") default service rate. Under this option, a customer: 1) pays a higher rate for peak usage (2 PM through 6 PM each week day) compared to the standard default service rate; 2) receives a discount off the standard default service rate during super off-peak hours (12 AM to 6 AM each day); and 3) receives a smaller discount in all other hours.
- I.1.11. The rates for the Residential Class are also determined on the basis of the cost to PECO to acquire the necessary supply through PJM-administered markets to serve 0.8% of the Default Load of the RES Class. For this portion of the RES Class, PECO acquires sufficient Alternative Energy Credits ("AECs") at market prices to satisfy any near-term obligations under the AEPS Act. PECO also receives an annual allocation of capacity and associated energy from the New York Power Authority and uses this allocation to offset the amount of supply needed for the RES Class.
- I.1.12. These RFP Rules may be updated to reflect additional decisions by the Commission, relevant changes in law, or non-material modifications to the processing of Proposals expected to improve potential participation by suppliers. Additionally, the Independent Evaluator and the Company may amend the RFP Rules if necessary to correct typographical errors, cure inconsistencies in the provisions of this RFP, or clarify the intent of the provisions of this RFP.

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

- I.2.1. Default Load for each Class is divided into tranches. A tranche for a Class represents a fixed percentage of the Default Load for that Class. A Default Supplier serving a tranche in a particular Class provides full requirements service for the percentage of that Class' Default Load represented by that one (1) tranche for a specified period.
- I.2.2. The total number of tranches of Default Load is based on that Class' annual Peak Load Contribution ("PLC") on the PECO system in accordance with PJM. The MW-Measure is calculated as the annual PLC for the Default Load of the Class divided by the total number of tranches. This figure is calculated for reference purposes only.

I.2.3. Each Class has “Load Caps”, which are limits on the number of tranches of Default Supply that an RFP Bidder can bid and serve for that Class. The Load Caps ensure that there will be a diversified pool of Default Suppliers for each Class. The Load Caps for a Class are set so that the Default Service customers of that Class have no more than a 50% exposure to any one Default Supplier at any given time. If two or more Default Suppliers are affiliated, the Load Caps will apply jointly to such group of Default Suppliers.

I.2.4. The total number of tranches, Load Caps, and the percentage size of each tranche to be procured under DSP V are shown in the table below. The Total Peak (MW), Default Peak (MW), and MW-Measure of each tranche are updated for each solicitation and will be provided in the Addendum to the RFP Rules.

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

Class	Total Tranches	Load Cap	% Size of a Tranche
RES	62	31	1.60%
SC	24	12	4.17%
CCI	8	4	12.50%

I.2.5. The total number of tranches and the tranche size for the SC and CCI Classes are subject to change. The Independent Evaluator and PECO may revise the total number of tranches for a Class if doing so is expected to increase supplier interest. The Independent Evaluator informs Commission Staff of such a revision and announces the revision to suppliers in advance of suppliers presenting their qualifications.

I.2.6. The actual Default Load for the RES, SC, or CCI Class will depend upon many factors including, but not limited to, customer migration to EGSs and weather conditions. The maximum peak load of a Class may be higher or lower than the PLC utilized to determine the MW-Measure of tranches for that Class. Each participant is responsible for evaluating the uncertainties associated with Default Service Load for a particular Class and supply period.

I.2.7. A product for purposes of this RFP is defined by three characteristics: a) the Class to which it contributes Default Supply; b) the length of the supply period; and c) the date at which the supply period begins. For example, the RES-12-Jun21 product represents Default Supply for the RES Class

for the supply period from June 1, 2021 through May 31, 2022. A product name may be abbreviated when the context is clear; for example, RES-12 refers to all products for the Residential Class that are twelve (12) months in duration, regardless of the start date of the supply period.

I.2.8. A Proposal is a response to this RFP for a solicitation pursuant to these RFP Rules. An entity that submits any part of a response to this RFP for a solicitation is an “RFP Bidder”. A Bid for a tranche for any product is a price in dollars per MWh rounded to the nearest cent. An RFP Bidder may submit different Bids for different tranches of a given product.

I.2.9. The table below provides the products that will be procured for each solicitation under DSP V.

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

Product	Solicitation							
	March 2021	September 2021	March 2022	September 2022	March 2023	September 2023	March 2024	September 2024
RES-12-Jun21	12	0	0	0	0	0	0	0
RES-24-Jun21	11	0	0	0	0	0	0	0
RES-12-Dec21	0	12	0	0	0	0	0	0
RES-24-Dec21	0	9	0	0	0	0	0	0
RES-12-Jun22	0	0	12	0	0	0	0	0
RES-24-Jun22	0	0	9	0	0	0	0	0
RES-12-Dec22	0	0	0	12	0	0	0	0
RES-24-Dec22	0	0	0	9	0	0	0	0
RES-12-Jun23	0	0	0	0	12	0	0	0
RES-24-Jun23	0	0	0	0	11	0	0	0
RES-12-Dec23	0	0	0	0	0	12	0	0
RES-24-Dec23	0	0	0	0	0	9	0	0
RES-12-Jun24	0	0	0	0	0	0	12	0
RES-24-Jun24	0	0	0	0	0	0	9	0
RES-12-Dec24	0	0	0	0	0	0	0	12
RES-24-Dec24	0	0	0	0	0	0	0	9

Product	Solicitation							
	March 2021	September 2021	March 2022	September 2022	March 2023	September 2023	March 2024	September 2024
SC-12-Jun21	6	0	0	0	0	0	0	0
SC-24-Jun21	3	0	0	0	0	0	0	0
SC-12-Dec21	0	6	0	0	0	0	0	0
SC-24-Dec21	0	3	0	0	0	0	0	0
SC-12-Jun22	0	0	6	0	0	0	0	0
SC-24-Jun22	0	0	3	0	0	0	0	0
SC-12-Dec22	0	0	0	6	0	0	0	0
SC-24-Dec22	0	0	0	3	0	0	0	0
SC-12-Jun23	0	0	0	0	6	0	0	0
SC-24-Jun23	0	0	0	0	3	0	0	0
SC-12-Dec23	0	0	0	0	0	6	0	0
SC-24-Dec23	0	0	0	0	0	3	0	0
SC-12-Jun24	0	0	0	0	0	0	6	0
SC-24-Jun24	0	0	0	0	0	0	3	0
SC-12-Dec24	0	0	0	0	0	0	0	6
SC-24-Dec24	0	0	0	0	0	0	0	3
CCI-12-Jun21	8	0	0	0	0	0	0	0
CCI-12-Jun22	0	0	8	0	0	0	0	0
CCI-12-Jun23	0	0	0	0	8	0	0	0
CCI-12-Jun24	0	0	0	0	0	0	8	0

I.2.10. The Load Caps apply to all products that contribute to Default Supply for a Class at a given point in time. The table below provides the products procured under DSP IV and products to be procured under DSP V that contribute to Default Supply for that Class during that time period and that should be considered in determining whether Load Caps apply to a particular Default Supplier. The products procured under DSP IV are italicized. For example, at any given point in time in the period from June

1, 2022 to November 30, 2022, the Default Supply for the RES Class includes the following products: RES-24-Dec20 and RES-24-Jun21 and RES-12-Dec21 and RES-24-Dec21 and RES-12-Jun22 and RES- 24-Jun22.



Table I-4. Load Caps.

Class	Time Period	Products that contribute to Default Supply during time period	
		From DSP IV	From DSP V
RES	Jun-Nov21	RES-24-Dec19 RES-24-Jun20 RES-12-Dec20 RES-24-Dec20	RES-12-Jun21 RES-24-Jun21
	Dec21-May22	RES-24-Jun20 RES-24-Dec20	RES-12-Jun21 RES-24-Jun21 RES-12-Dec21 RES-24-Dec21
	Jun-Nov22	RES-24-Dec20	RES-24-Jun21 RES-12-Dec21 RES-24-Dec21 RES-12-Jun22 RES-24-Jun22
	Dec22-May23		RES-24-Jun21 RES-24-Dec21 RES-12-Jun22 RES-24-Jun22 RES-12-Dec22 RES-24-Dec22
	Jun-Nov23		RES-24-Dec21 RES-24-Jun22 RES-12-Dec22 RES-24-Dec22 RES-12-Jun23 RES-24-Jun23
	Dec23-May24		RES-24-Jun22 RES-24-Dec22 RES-12-Jun23 RES-24-Jun23 RES-12-Dec23 RES-24-Dec23
	Jun-Nov24		RES-24-Dec22 RES-24-Jun23 RES-12-Dec23 RES-24-Dec23 RES-12-Jun24 RES-24-Jun24
	Dec24-May25		RES-24-Jun23 RES-24-Dec23 RES-12-Jun24 RES-24-Jun24 RES-12-Dec24 RES-24-Dec24
SC	Jun-Nov21	SC-24-Dec19 SC-24-Jun20 SC-12-Dec20 SC-24-Dec20	SC-12-Jun21 SC-24-Jun21

Class	Time Period	Products that contribute to Default Supply during time period	
		From DSP IV	From DSP V
	Dec21-May22	<i>SC-24-Jun20</i> <i>SC-24-Dec20</i>	SC-12-Jun21 SC-24-Jun21 SC-12-Dec21 SC-24-Dec21
	Jun-Nov22	<i>SC-24-Dec20</i>	SC-24-Jun21 SC-12-Dec21 SC-24-Dec21 SC-12-Jun22 SC-24-Jun22
	Dec22-May23		SC-24-Jun21 SC-24-Dec21 SC-12-Jun22 SC-24-Jun22 SC-12-Dec22 SC-24-Dec22
	Jun-Nov23		SC-24-Dec21 SC-24-Jun22 SC-12-Dec22 SC-24-Dec22 SC-12-Jun23 SC-24-Jun23
	Dec23-May24		SC-24-Jun22 SC-24-Dec22 SC-12-Jun23 SC-24-Jun23 SC-12-Dec23 SC-24-Dec23
	Jun-Nov24		SC-24-Dec22 SC-24-Jun23 SC-12-Dec23 SC-24-Dec23 SC-12-Jun24 SC-24-Jun24
	Dec24-May25		SC-24-Jun23 SC-24-Dec23 SC-12-Jun24 SC-24-Jun24 SC-12-Dec24 SC-24-Dec24
CCI	Any		CCI-12

I.2.11. The Addendum to the RFP Rules for each solicitation will contain a table with the available tranches and Load Caps for that solicitation specifically as well as an explanation of the Load Caps for that solicitation.

I.2.12. A supplier participating in this RFP bids to provide Default Supply for one or more of the RES, SC, and CCI Classes, and for one or more supply periods. The obligations of the Default Supplier are described

in the “Uniform SMA”. The term Uniform SMA is an abbreviation for PECO Energy Company Pennsylvania Default Service Supplier Master Agreement, which may also be abbreviated by “SMA”, “DS Supplier Master Agreement” or “Supplier Master Agreement”. The main provisions of the Uniform SMA are summarized in Section I.4.

- I.2.13. The contingency plan in the event that PECO is unable to obtain Default Supply for all tranches of a product in a solicitation is as follows. If the product is more than six (6) months in duration, PECO will assume responsibility for the unfilled tranches as a PJM LSE for the first six (6) months of the supply period, acquiring the necessary supply through PJM-administered markets and obtaining sufficient AECs at market prices to satisfy any near-term obligations under the AEPS Act. The unfilled tranches, with a supply period that starts six (6) months later than tranches that were unfilled, will be placed for re-bid in the next solicitation. For products that are six (6) months or shorter, PECO will assume responsibility for the unfilled tranches as an LSE and will acquire the necessary supply through PJM-administered markets for the entire supply period. PECO reserves the right to file an alternate plan with the Commission.
- I.2.14. Any prospective supplier that meets the qualification standards established in these RFP Rules and that is willing to provide prices at which to serve tranches of Default Service Load can respond to this RFP, including any PECO affiliates.

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

- I.3.1. Prior to a typical solicitation, a supplier unable to use the Guaranty provided as Appendix G to the Uniform SMA (the “Standard Guaranty”) can request consideration by PECO of an alternate form of guaranty that the supplier uses in its normal course of business. Such request must be received no later than fifteen (15) business days prior to the opening of the Part 1 Window. Within three (3) business days of receipt of such a request, the Independent Evaluator will issue a timetable for receipt of the materials from the supplier and for consideration of these materials by PECO. This timetable will be such that a final decision on whether to accept the supplier’s alternate form of guaranty will be communicated to the supplier prior to the Part 1 Window.

- I.3.2. To qualify for a typical solicitation, suppliers provide materials to respond to the qualification standards described in Article IV. RFP Bidders that did not qualify in a previous solicitation under DSP V use the Standard Part 1 Form available online through the Proposal submission website to respond to these qualification standards. Previously qualified RFP Bidders under DSP V may participate in an abbreviated qualification process by using the Short Part 1 Form available online through the Proposal submission website to respond to these qualification standards. An Illustrative Standard Part 1 Form and an Illustrative Short Part 1 Form are available as Appendix 3 and Appendix 4 respectively to these RFP Rules and are also available electronically on the RFP website: [www.PECOProcurement.com](http://www.PECOProcurement.com). The generic term “Part 1 Form” refers either to the Standard Part 1 Form or the Short Part 1 Form. Part 1 Proposals are submitted during the “Part 1 Window”.
- I.3.3. To become eligible to bid for a solicitation, RFP Bidders that have met the qualification standards of Article IV must respond to the Part 2 Proposal requirements described in Article V of these RFP Rules. RFP Bidders use the Part 2 Form available online through the Proposal submission website to respond to these requirements. RFP Bidders that became eligible to submit Bids in a previous solicitation held under DSP V may participate in an abbreviated process by using the Short Part 2 Form available online through the Proposal submission website to respond to these requirements. The generic term “Part 2 Form” refers either to the Standard Part 2 Form or the Short Part 2 Form. Part 2 Proposals are submitted during the “Part 2 Window”.
- I.3.4. RFP Bidders use the Bid Form provided by the Independent Evaluator to submit their Bids. A sample Bid Form is provided for illustrative purposes as Appendix 10 of these RFP Rules. Each RFP Bidder’s Bids must be received between 10 AM and 12 PM (noon) on the “Bid Date” or “Bid Proposal Due Date”.
- I.3.5. On the first business day after the Bid Date, the Independent Evaluator presents to the Commission the results of the solicitation in a confidential report. The Commission has one (1) business day to consider the report of the Independent Evaluator and to approve or reject each of the winning Bids. If the PaPUC does not act within one (1) business day, the winning Bids are deemed to be approved.
- I.3.6. PECO and each RFP Bidder with Bids that are approved by the Commission proceed to the execution of the Uniform SMA and the Transaction Confirmations within one (1) business day of the

Commission decision. PECO and each such RFP Bidder execute a single Uniform SMA during the course of DSP V. Each solicitation, PECO and each such RFP Bidder execute one (1) Transaction Confirmation for each product for which such RFP Bidder has Bids that are approved by the Commission. Appendix E to the Uniform SMA specifies the AEPS percentage obligations in effect on the Bid Date for the period covered by each Transaction Confirmation.

- I.3.7. Within fifteen (15) days of the close of the solicitation, the Independent Evaluator releases the weighted average price for each product procured as well as the percentage of load represented by each tranche.

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

- I.4.1. A supplier selected through this RFP to provide Default Supply for a particular Class and approved by the Commission becomes a "Default Supplier" for that Class. A Default Supplier may be providing Default Supply for one or more of the RES, SC, and CCI Classes.
- I.4.2. This Section describes in general terms several provisions of the Uniform SMA. This is a summary only and is subject to and qualified in its entirety by the Uniform SMA provided as Appendix 1 to the RFP Rules. Each RFP Bidder accepts the obligations and associated rights to provide Default Supply as defined in the Uniform SMA as part of its Proposal.
- I.4.3. Default Suppliers for a Class will serve the Company's Default Load for that Class. Default Service for one of these Classes is the Company's full requirements service including, without limitation, energy, capacity, transmission (excluding Network Integration Transmission Service), ancillary services, AECs for compliance with the AEPS Act, transmission and distribution losses, congestion management costs, and such other services or products that are required to serve the specified percentage of Default Load for that Class (except for distribution service). Default Load for the RES Class is reduced by a fractional percentage of committed energy and capacity obtained under contract with Allegheny Electric Cooperative, Inc. for supply from the New York Power Authority.
- I.4.4. Default Suppliers are also responsible for providing AECs during the term of the Uniform SMA necessary for PECO to meet its obligations under the AEPS Act, as well as other Orders, regulations and rules that may be promulgated by the PaPUC with respect to the AEPS. Default Suppliers will be

required to participate in the PJM Generation Attribute Tracking System (“PJM-EIS GATS”) to transfer AECs to PECO. The Company will provide an estimate of the Default Supplier’s AEPS obligation following the second quarter of the AEPS Reporting Period and the Default Supplier will be required to transfer AECs to PECO in the amount of the estimate within forty-five (45) calendar days of the date of that estimate. The Company will provide a final statement to the Default Supplier within thirty (30) calendar days of the end of AEPS Reporting Period and the Default Supplier will be required to transfer AECs in the amount of the final statement within forty-five (45) calendar days after the date of the final statement.

- I.4.5. A Default Supplier that fails to provide sufficient AECs for a tranche will be required to pay any AEPS penalties, costs, charges, etc. assessed against the Default Supplier and/or the Company associated with the Default Supplier’s non-performance with AEPS requirements.
- I.4.6. PECO has obtained AECs from separate AEPS procurement(s) approved by the Commission and PECO will reduce the amount of AECs that Default Suppliers must provide. Prior to each solicitation, PECO will inform RFP Bidders of the amounts of AECs allocated for this purpose for each tranche of each product for which Default Supply is procured in that solicitation.
- I.4.7. A Default Supplier for a product will be paid a supplier-specific price for each MWh of electric load served as specified in the Transaction Confirmation for that product. The supplier-specific price for a Default Supplier for a product will be the average of approved Bids for that Default Supplier and for that product. The PJM day-ahead price for energy and the Reliability Pricing Model (“RPM”) price for capacity are also paid to a Default Supplier providing full requirements service on a spot-price basis.
- I.4.8. The Default Supplier will specify in the Transaction Confirmation the price of each type of AECs included in its supplier-specific price.
- I.4.9. PECO will transfer or assign Auction Revenue Rights (“ARRs”) to each Default Supplier in proportion to the percentage of Default Load that it serves. A Default Supplier will participate in the PJM process for the nominations of ARR to the extent that the supply period under the Transaction Confirmation is inclusive of the PJM Planning Period for which the ARR are nominated; otherwise, PECO will participate in the PJM ARR nomination process.

## ARTICLE II. Information and Schedule

### II.1. RFP Website

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

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

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

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

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

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

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

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

## II.2. RFP Schedule

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

**Table II-1. General Schedule.**

<b>Event</b>	<b>Timing</b>
Deadline to request consideration of an alternate form of guaranty	Day -15
Bidder Information Webcast	Day -7
Decision on alternate guaranty forms (if any)	Day -2
Part 1 Window Opens	Day 0
Part 1 Date (Part 1 Window Closes)	Day 4
Part 1 Notification Date	Day 6
Approved modifications to Standard Guaranty posted	Day 7
Part 2 Proposal Window Opens	Day 7
Bid Submission training	Day 10
Part 2 Date (Part 2 Window Closes)	Day 11
Part 2 Notification Date	Day 13
Bid Date (Bids are Due)	Day 14
IE provides its report to the PaPUC	Day 15
PaPUC Decision (close of business)	No later than Day 16
<i>If Bids are approved by the PaPUC:</i>	
PECO and each winning RFP Bidder proceed to execution of the Uniform SMA and each Transaction Confirmation	Within three business days of the Bid Date

II.2.2. A total of eight (8) solicitations are planned under DSP V. The Bid Dates for each of the solicitations are provided below.

**Table II-2. Bid Dates.**

<b>Solicitation</b>	<b>Bid Dates</b>
March 2021	Tuesday, March 9, 2021
September 2021	Tuesday, September 28, 2021
March 2022	Tuesday, March 15, 2022
September 2022	Tuesday, September 27, 2022
March 2023	Tuesday, March 14, 2023
September 2023	Tuesday, September 26, 2023
March 2024	Tuesday, March 12, 2024
September 2024	Tuesday, September 24, 2024

II.2.3. The date for each event in each future solicitation is provided in the Tentative Schedule for Future Solicitations attached as Appendix 11 to these RFP Rules. The dates for each event in the current solicitation is provided in the Addendum to the RFP Rules. The dates follow the order of events and the number of days between events in the general schedule above except as needed to accommodate



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

- II.2.4. Specific times for submission of materials for the Part 1 Proposals, the Part 2 Proposals, and the Bids are provided elsewhere in this RFP. All such times are Eastern Prevailing Time (“EPT”) unless specifically noted.

### ARTICLE III. General Requirements for Proposals

- III.1.1. An entity that submits any part of a response to this RFP for a solicitation is an “RFP Bidder”. An RFP Bidder can submit at most one Part 1 Proposal and one Part 2 Proposal for each solicitation. An RFP Bidder that qualifies for a solicitation by submitting a Part 1 Proposal that fulfills all requirements described in Article IV and that submits a Part 2 Proposal that fulfills all the requirements described in Article V is eligible to submit Bids in that solicitation. Aside from submission of financial guarantees to support its Bids, all materials for the Part 1 Proposals and all Part 2 Proposals are submitted to the Independent Evaluator online through the online Proposal submission website or by email at [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com) in accordance with the instructions provided in Article VII.
- III.1.2. The submission of a Part 1 Proposal or a Part 2 Proposal to the Independent Evaluator constitutes the RFP Bidder’s acknowledgement and acceptance of all the terms and conditions of this RFP, regardless of the outcome of the solicitation or the outcome of such Proposal.
- III.1.3. Each solicitation will have a Part 1 Window during which Part 1 Proposals may be submitted. The last day of the Part 1 Window is the “Part 1 Date”. The requirements of the Part 1 Proposal are described in Article IV. “Previously qualified RFP Bidder” means an RFP Bidder that met the qualification standards in a previous solicitation under DSP V by submitting a Part 1 Proposal that fulfilled all the requirements of Article IV. A previously qualified RFP Bidder may participate in an abbreviated Part 1 Proposal process. A supplier selected through the competitive bidding process under DSP V to provide Default Supply for a particular Class and approved by the Commission becomes a Default Supplier for that Class.
- III.1.4. The exclusive method for an RFP Bidder to complete the Part 1 Proposal is to submit the online Part 1 Form as well as provide Inserts to the Part 1 Form available as separate Word Forms on the Proposal submission website or from the Independent Evaluator. Documents (supporting documents, draft Letter of Credit or draft Standard Guaranty, and Inserts) may be uploaded to the Proposal submission website or sent to the Independent Evaluator by email at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com).

- III.1.5. Each RFP Bidder must comply with all Part 1 Proposal requirements described in Article IV. Section IV.1 describes the contact information and representations required. Section IV.2 describes financial requirements including requirements that apply to RFP Bidders relying on the financial standing of an RFP Guarantor and additional requirements applicable only to RFP Bidders submitting a Proposal under an Agency Agreement. Section IV.3 describes the process by which RFP Bidders may propose modifications to the credit instruments (the Standard Pre-Bid Letter of Credit, the Standard Post-Bid Letter of Credit, and the Standard Guaranty) and describes the information that an RFP Bidder is asked to provide for the Independent Evaluator to prepare the Uniform SMA documents should the Independent Evaluator identify one or more of the RFP Bidder's Bids to the Commission as winning Bids. Section IV.4 describes the representations required. Section IV.5 lists additional requirements applicable only to RFP Bidders that have not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia ("Foreign RFP Bidders"), or to RFP Bidders that rely on the financial standing of an entity that has not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia ("Foreign Entity"). Each of the Sections of Article IV explains the abbreviated Part 1 Proposal process in which previously qualified RFP Bidders may participate.
- III.1.6. The Independent Evaluator informs each RFP Bidder of whether it has met all qualification standards of Article IV through a Part 1 Notification that the Independent Evaluator sends to the RFP Bidder by the Part 1 Notification Date. The Independent Evaluator transmits within two (2) business days of the Part 1 Notification Date to each RFP Bidder that has a successful Part 1 Proposal a number of documents and instructions, called the "Part 1 Materials".
- III.1.7. All information provided and certifications made in the Part 1 Proposal must remain valid and remain in full force and effect until six (6) business days after the Bid Date. Regardless of the reason, if any information provided in the Part 1 Proposal changes or any previous certification fails to remain valid, it is the sole responsibility of the RFP Bidder to notify the Independent Evaluator as soon as practicable. Failing to do so may result in disqualification of the RFP Bidder and of its Proposal. The Independent Evaluator reserves the right to change the assessment of an RFP Bidder's qualifications based on any revised information provided by the RFP Bidder.

- III.1.8. Each solicitation will have a Part 2 Window during which Part 2 Proposals may be submitted. The last day of the Part 2 Window is the “Part 2 Date”. RFP Bidders also have the option to submit the representations and certifications required by the online Part 2 Form during the Part 1 Window for early processing. The requirements of the Part 2 Proposal are described in Article V. “Previously eligible RFP Bidder” means an RFP Bidder that became eligible to submit Bids in a previous solicitation held under DSP V by submitting a Part 1 Proposal that fulfilled all the requirements of Article IV and a Part 2 Proposal that fulfilled all the requirements of Article V. A previously eligible RFP Bidder may participate in an abbreviated Part 2 Proposal process.
- III.1.9. The exclusive method for an RFP Bidder to complete the Part 2 Proposal is to submit the online Part 2 Form as well as provide an executed Pre-Bid Letter of Credit. Any documents required by the Part 2 Proposal may be uploaded to the Proposal submission website or sent to the Independent Evaluator by email at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com).
- III.1.10. Each RFP Bidder must comply with all Part 2 Proposal requirements described in Article V. Section V.1 describes the contact information and representations required by the Part 2 Proposal. Section V.2 describes the Pre-Bid Letter of Credit required to support the RFP Bidder’s Bids. Section V.3 lists additional requirements for RFP Bidders relying on the financial standing of an RFP Guarantor. Section V.4 lists additional requirements applicable only to RFP Bidders submitting a Proposal under an Agency Agreement. Section V.5 lists additional requirements applicable only to Foreign RFP Bidders or to RFP Bidders that rely on the financial standing of a Foreign Entity. Each of the Sections of Article V explains the abbreviated Part 2 Proposal process in which previously eligible RFP Bidders may participate.
- III.1.11. The Independent Evaluator informs each RFP Bidder of whether it has met all qualification standards of Article IV and all requirements of Article V so that it is eligible to submit Bids through a Part 2 Notification. The Independent Evaluator sends the Part 2 Notification to the RFP Bidder by the Part 2 Notification Date.
- III.1.12. All information provided and certifications made in the Part 2 Proposal must remain valid and remain in full force and effect until six (6) business days after the Bid Date. Regardless of the reason, if any information provided in the Part 2 Proposal changes or any previous certification fails to remain

valid, it is the sole responsibility of the RFP Bidder to notify the Independent Evaluator as soon as practicable. Failing to do so may result in disqualification of the RFP Bidder and of its Proposal. The Independent Evaluator reserves the right to change the assessment of an RFP Bidder's eligibility to submit Bids based on any revised information provided by the RFP Bidder.

- III.1.13. For a given solicitation, all representations and certifications required by this RFP must be made by a single individual who serves as Officer of the RFP Bidder. An Officer of the RFP Bidder is an individual authorized to undertake contracts (including the Uniform SMA) and bind that RFP Bidder. As a requirement of the Part 1 Proposal, the RFP Bidder must name an individual who serves as Officer of the RFP Bidder and must provide full contact information for this individual. The Officer of the RFP Bidder may sign all representations and certifications of the Part 1 Form and Part 2 Form at one time and RFP Bidders have the option to submit certifications required by the online Part 2 Form during the Part 1 Window for early processing.
- III.1.14. The Officer of the RFP Bidder named in the Part 1 Proposal will sign, or will nominate another authorized individual to execute the Uniform SMA as well as any Transaction Confirmations if any of the RFP Bidder's Bids are approved by the Commission.
- III.1.15. Each RFP Bidder must comply with the instructions for the submission of Bids provided with its Part 1 Notification. Article VI describes in general terms the requirements for the submission of Bids.
- III.1.16. Proposals that do not adhere to the terms and conditions of this RFP, or that do not fulfill all requirements of Article IV, Article V, and Article VI of this RFP, or that are not submitted in accordance with the process of Article VII or in accordance with the instructions provided by the Independent Evaluator in an addendum to these RFP Rules, will not be considered.
- III.1.17. The Independent Evaluator will send to each RFP Bidder that submitted a successful Part 1 Proposal in a previous solicitation under DSP V an email confirming its status as a previously qualified RFP Bidder. Such RFP Bidder may participate in an abbreviated Part 1 Proposal process. The Independent Evaluator will send to each RFP Bidder that submitted a successful Part 1 Proposal and a successful Part 2 Proposal in a previous solicitation under DSP V an email confirming its status as a previously eligible RFP Bidder. Such RFP Bidder may participate in an abbreviated Part 1 Proposal process and an abbreviated Part 2 Proposal process.

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

## ARTICLE IV. Part 1 Proposal Requirements

Previously qualified RFP Bidders under DSP V may participate in an abbreviated qualification process by using the Short Part 1 Form available online through the Proposal submission website to respond to these qualification standards.

### IV.1. Contact Information and Representations

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

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

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

- If an RFP Bidder has not previously qualified under DSP V, or if the individual who served as Officer of the RFP Bidder for a previously qualified RFP Bidder is not available in this solicitation, then the RFP Bidder must provide the name, title, and full contact information

(address, phone number, email address) of the individual who will serve as Officer of the RFP Bidder.

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

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

- If an RFP Bidder has not previously qualified, the Officer of the RFP Bidder must designate an individual to serve as Representative of the RFP Bidder by completing the Representative Insert prepared for this purpose and available on the Proposal submission website. The RFP Bidder provides the Representative Insert by upload to the online Part 1 Form or by email at pecoprocedurement@nera.com. The RFP Bidder must provide the name, title, and full contact information (address, phone number, email address) of the individual named by the Officer of the RFP Bidder who will serve as Representative of the RFP Bidder.
- A previously qualified RFP Bidder either must confirm that the previously submitted contact information for the Representative of the RFP Bidder remains valid or must update this information. The Officer of the RFP Bidder may, at his or her option, name another individual to serve as Representative of the RFP Bidder by completing the Representative Insert. The RFP Bidder provides the Representative Insert by upload to the online Part 1 Form or by email at pecoprocedurement@nera.com.

IV.1.4. Nominees. The Independent Evaluator provides notifications to the RFP Bidder by email and provides documents needed for participation by secure file transfer. Whether or not an RFP Bidder has previously qualified, the RFP Bidder may designate up to three (3) authorized individuals to



receive communications from the Independent Evaluator in addition to the Representative of the RFP Bidder. Each such authorized individual is a Nominee. Either the Representative of the RFP Bidder or the Officer of the RFP Bidder may complete the Nominee Insert prepared for this purpose. The Nominee Insert requires that the following be provided for each authorized individual who will serve as Nominee: the individual's name and title, phone number, and email address. The RFP Bidder provides the Nominee Insert by upload to the online Part 1 Form or by email at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com). The Representative of the RFP Bidder or the Officer of the RFP Bidder may designate such other authorized individuals at any time during the solicitation using the Nominee Insert. The RFP Bidder is not required to do so in the Part 1 Proposal provided, however, that the total number of Nominees not exceed three (3) individuals at any one time.

- IV.1.5. All information required by this Section IV.1 must be provided exclusively by completing Section 1 of the online Part 1 Form and the Inserts prepared for this purpose, as further explained in Article VII. Inserts and documents must be submitted by upload to the online Part 1 Form or by email to the Independent Evaluator at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com).

## **IV.2. Financial Requirements and Agency Agreements**

- IV.2.1. Agency Agreement. The RFP Bidder must state whether it is submitting a Proposal under an agency authorization ("Agency Agreement"). If an RFP Bidder is submitting a Proposal under an Agency Agreement, the RFP Bidder must identify a Principal as the entity on whose financial standing the RFP Bidder relies, as further explained in the next paragraph.

- IV.2.2. Election of Entity on Whose Financial Standing the RFP Bidder is relying. For purposes of submitting to the requirements of this section, each RFP Bidder elects: (a) to rely on its own financial standing; or: (b) to rely on the financial standing of an "RFP Guarantor"; or: (c) to rely on the financial standing of a Principal. An RFP Bidder submitting a Proposal under an Agency Agreement must select option (c) and option (c) may only be selected by an RFP Bidder submitting a Proposal under an Agency Agreement.

- An RFP Bidder that has not previously qualified must clearly select one of these options.

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

IV.2.3. Information Required from RFP Bidders Relying on Their Own Financial Standing. The requirements of this paragraph only apply to an RFP Bidder that selects option (a) in response to Paragraph IV.2.2.

- Whether or not the RFP Bidder has previously qualified, an RFP Bidder must submit available financial information for the RFP Bidder by upload to the online Part 1 Form or by email at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com). If available, the RFP Bidder must submit its most recent quarterly financial information, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules. If available, the most recent Securities and Exchange Commission ("SEC") Form 10-Q or 10-K (whichever is more recent) must be submitted to fulfill this requirement. If the SEC Form 10-Q/10-K is unavailable, the RFP Bidder must submit its most recent quarterly, monthly or bi-annual financial information accompanied by an attestation by the RFP Bidder's Chief Financial Officer (or similar position) that the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of the RFP Bidder. The requirements for this attestation are provided more specifically in Appendix 5 of these RFP

Rules. If such financial information is unavailable for the RFP Bidder, the RFP Bidder must clearly state this fact.

- An RFP Bidder that has not previously qualified must submit all available credit ratings for the RFP Bidder from the following rating agencies: S&P Global Ratings (“S&P”), Moody’s Investors Service, Inc. (“Moody’s”), and Fitch Ratings (“Fitch”). If no ratings are available for the entity, the RFP Bidder must clearly state this fact. A previously qualified RFP Bidder must either confirm that the previously provided credit ratings remain valid or the RFP Bidder must update this information.

IV.2.4. Information Required from RFP Bidders Relying on the Financial Standing of an RFP Guarantor. The requirements of this paragraph only apply to an RFP Bidder that selects option (b) in response to Paragraph IV.2.2.

- Financial information must be available for the RFP Guarantor.
- If not previously qualified, the RFP Bidder must provide the RFP Guarantor’s legal name and address. A previously qualified RFP Bidder must either confirm that the previously provided legal name and address of the RFP Guarantor remain valid or the RFP Bidder must update this information. If the RFP Bidder updates the RFP Guarantor’s legal name, the RFP Bidder must provide evidence of the change of name. If there was a change in the corporate structure of the RFP Guarantor, through a merger for example, the RFP Bidder must use the Standard Part 1 Form to present its Part 1 Proposal.
- An RFP Bidder must submit by upload to the online Part 1 Form or by email at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com), if available, the RFP Guarantor’s most recent quarterly financial information, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules. If available, the most recent SEC Form 10-Q or 10-K (whichever is more recent) must be submitted to fulfill this requirement. If the SEC Form 10-Q/10-K is unavailable, the RFP Bidder must submit the RFP Guarantor’s most recent quarterly, monthly, or bi-annual financial information accompanied by an attestation by the entity’s Chief Financial Officer (or similar position) that the information contained in the financial

statements fairly presents in all material respects the financial condition and results of the operations of the entity. The requirements for this attestation are provided more specifically in Appendix 5 of these RFP Rules.

- An RFP Bidder that has not previously qualified must submit all available credit ratings for the RFP Guarantor from the following rating agencies: S&P, Moody's, and Fitch. Such ratings must be available for the RFP Guarantor. A previously qualified RFP Bidder must confirm that the credit ratings last submitted for the RFP Guarantor remain valid or the RFP Bidder must update this information with respect to any or all of the credit ratings. The Independent Evaluator uses the information submitted by such RFP Bidder in the most recent solicitation under this RFP for which the RFP Bidder submitted a successful Part 1 Proposal. If the RFP Bidder updates the information, the RFP Bidder must state the name of the rating agency that has updated its credit rating, the updated credit rating, and the type of rating. The Independent Evaluator may also inquire specifically about one or more credit ratings on file for the entity on whose financial standing the RFP Bidder and ask the RFP Bidder to confirm that no updates have been issued.

IV.2.5. Information Required from RFP Bidders Relying on the Financial Standing of an RFP Principal. The requirements of this paragraph only apply to an RFP Bidder submitting a Proposal under an Agency Agreement that selects option (c) in response to Paragraph IV.2.2.

- If not previously qualified, the RFP Bidder must provide each Principal's legal name and address. A previously qualified RFP Bidder must either confirm that the previously provided legal name and address of each Principal remain valid or the RFP Bidder must update this information.
- If not previously qualified, the RFP Bidder must provide a copy of the Agency Agreement by upload to the online Part 1 Form or by email at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com). If previously qualified, the RFP Bidder must either confirm that the previously provided document remains valid or the RFP Bidder must update this information.

- If the RFP Bidder is acting as an agent for multiple Principals, the RFP Bidder must identify the Principal with the lowest credit rating as the entity on whose financial standing the RFP Bidder relies. If several Principals have the same lowest credit rating, the RFP Bidder must identify the Principal that also has the lowest tangible net worth as the entity on whose financial standing the RFP Bidder relies. This Principal is referred to as the “RFP Principal”. If there is a single Principal, the single Principal is the “RFP Principal”. Financial information must be available for the RFP Principal.
- An RFP Bidder must submit by upload to the online Part 1 Form or by email at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com), if available, the RFP Principal’s most recent quarterly financial information, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules. If available, the most recent SEC Form 10-Q or 10-K (whichever is more recent) must be submitted to fulfill this requirement. If the SEC Form 10-Q/10-K is unavailable, the RFP Bidder must submit the RFP Principal’s most recent quarterly, monthly, or bi-annual financial information accompanied by an attestation by the entity’s Chief Financial Officer (or similar position) that the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of the RFP Principal. The requirements for this attestation are provided more specifically in Appendix 5 of these RFP Rules.
- An RFP Bidder that has not previously qualified must submit all available credit ratings for the RFP Principal from the following rating agencies: S&P, Moody’s, and Fitch. Such ratings must be available from at least two rating agencies for the RFP Principal. A previously qualified RFP Bidder must confirm that the credit ratings last submitted for the RFP Principal remain valid or the RFP Bidder must update this information with respect to any or all of the credit ratings. The Independent Evaluator uses the information submitted by such RFP Bidder in the most recent solicitation under this RFP for which the RFP Bidder submitted a successful Part 1 Proposal. If the RFP Bidder updates the information, the RFP Bidder must state the name of the rating agency that has updated its credit rating, the updated credit rating, and the type of

rating. The Independent Evaluator may also inquire specifically about one or more credit ratings on file for the RFP Principal and ask the RFP Bidder to confirm that no updates have been issued.

- Whether or not an RFP Bidder has previously qualified, the Officer of the RFP Bidder must: (i) certify that the Officer of the RFP Bidder has the authority to bind the Principal(s); and (ii) acknowledge that an Officers' Certificate, signed by an officer of each Principal and substantially in the form of Appendix 6 to these RFP Rules, must be provided with the Part 2 Proposal. The Officer of the RFP Bidder makes this certification and this acknowledgment by completing the P1 Agency Certifications Insert.
- Whether or not the RFP Bidder has previously qualified, the RFP Bidder may, but is not required to, submit a draft Officers' Certificate for evaluation. If an RFP Bidder submits a draft Officers' Certificate for evaluation, the Independent Evaluator will provide this evaluation to the RFP Bidder, including notice of any changes required to the Officers' Certificate, along with the Part 1 Notification. This Officers' Certificate will state that: (i) the Agency Agreement submitted in response to this RFP is a true and complete copy of the Agency Agreement as currently in effect; (ii) the Agency Agreement is in full force and effect and shall remain in full force and effect for a period extending to six (6) business days following the Bid Date; (iii) there are no proceedings pending for the amendment or termination of the Agency Agreement, contemplated by the RFP Bidder, or contemplated by the Principal(s) to the RFP Bidder's knowledge; (iv) each individual who has executed the Officers' Certificate and the Agency Agreement is (or was at the time of the execution of such documents) authorized to execute and deliver such documents on behalf of the Principal(s); and (v) the Officer of the RFP Bidder is authorized to execute the Uniform SMA as well as any Transaction Confirmation(s) pursuant to the Uniform SMA on behalf of the Principal(s).

IV.2.6. All information required by this Section IV.2 must be provided exclusively by completing Section 2 of the online Part 1 Form and the Inserts prepared for this purpose, as further explained in Article VII.

Inserts and documents must be submitted by upload to the online Part 1 Form or by email to the Independent Evaluator at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com).

### IV.3. Credit Instruments and Uniform SMA

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

- Whether or not the RFP Bidder has previously qualified, an RFP Bidder must, in its Part 2 Proposal, submit a Pre-Bid Letter of Credit in an amount of at least: \$250,000 per tranche bid on products of the RES and SC Classes; and \$125,000 per tranche bid on a CCI product (if applicable). This Pre-Bid Letter of Credit must be in the form of the Standard Pre-Bid Letter of Credit provided as Appendix 9 to these RFP Rules or must incorporate only modifications that have been approved by PECO and provided to RFP Bidders by the Independent Evaluator.
- As part of the Part 1 Proposal, an RFP Bidder may request modifications to the Standard Pre-Bid Letter of Credit that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder. An RFP Bidder requests modifications to the Standard Pre-Bid Letter of Credit by submitting a Draft Pre-Bid Letter of Credit substantially in the form of the Standard Pre-Bid Letter of Credit indicating clearly any and all modifications to the Standard Pre-Bid Letter of Credit. The Draft Pre-Bid Letter of Credit must be submitted in Microsoft Word with tracked changes by upload to the online Part 1 Form or by email at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com). A Draft Pre-Bid Letter of Credit that is not substantially in the form of the Standard Pre-Bid Letter of Credit will not be considered or evaluated.
- An RFP Bidder must confirm whether the Draft Pre-Bid Letter of Credit submitted as part of the Part 1 Proposal contains the same requested modifications as a Draft Pre-Bid Letter of Credit submitted in a prior solicitation. If the Draft Pre-Bid Letter of Credit submitted does contain the same requested modifications as a prior submittal, the Independent Evaluator will provide the RFP Bidder with PECO's assessment of the prior submittal upon request and the Draft Pre-Bid Letter of Credit will not be reviewed again.

- All approved modifications to the Standard Pre-Bid Letter of Credit will be posted to the RFP website. Each RFP Bidder may use any of the approved modifications, regardless of whether the RFP Bidder itself or another RFP Bidder proposed the modification.
- An RFP Bidder that chooses not to propose modifications to the Standard Pre-Bid Letter of Credit must clearly state that fact.

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

- The Uniform SMA includes, as Appendix F, Letter of Credit Documentation that may be used to post security under the terms of the Uniform SMA. This Paragraph refers to this letter of credit as the “Standard Post-Bid Letter of Credit”.
- Whether or not the RFP Bidder has previously qualified, an RFP Bidder may, in its Part 1 Proposal, request modifications to the Standard Post-Bid Letter of Credit that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder. An RFP Bidder requests modifications to the Standard Post-Bid Letter of Credit by submitting a Draft Post-Bid Letter of Credit substantially in the form of the Standard Post-Bid Letter of Credit indicating clearly any and all modifications to the Standard Post-Bid Letter of Credit. The Draft Post-Bid Letter of Credit must be submitted in Microsoft Word by upload to the online Part 1 Form or by email at pecoprocurement@nera.com. A Draft Post-Bid Letter of Credit that is not substantially in the form of the Standard Post-Bid Letter of Credit will not be considered or evaluated.
- An RFP Bidder must confirm whether the Draft Post-Bid Letter of Credit submitted as part of the Part 1 Proposal contains the same requested modifications as a Draft Post-Bid Letter of Credit submitted in a prior solicitation. If the Draft Post-Bid Letter of Credit submitted does contain the same requested modifications as a prior submittal, the Independent Evaluator will provide the RFP Bidder with PECO’s assessment of the prior submittal upon request and the Draft Post-Bid Letter of Credit will not be reviewed again.



- All approved modifications to the Standard Post-Bid Letter of Credit will be posted to the RFP website. Each RFP Bidder may use any of the approved modifications, regardless of whether the RFP Bidder itself or another RFP Bidder proposed the modification.
- An RFP Bidder that chooses not to propose modifications to the Standard Pre-Bid Letter of Credit must clearly indicate that fact.

IV.3.3. Standard Guaranty. RFP Bidders have an opportunity, in the Part 1 Proposal, to propose modifications to the Standard Guaranty.

- The Uniform SMA includes, as Appendix G, Guaranty Documentation that may be used to provide a financial guaranty under the terms of the Uniform SMA. This Paragraph refers to this financial guaranty as the “Standard Guaranty”.
- Whether or not the RFP Bidder has previously qualified, an RFP Bidder may, in its Part 1 Proposal, request modifications to the Standard Guaranty that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder. An RFP Bidder requests modifications to the Standard Guaranty by submitting a Draft Guaranty substantially in the form of the Standard Guaranty indicating clearly any and all modifications to the Standard Guaranty. The Draft Guaranty must be submitted in Microsoft Word by upload to the online Part 1 Form or by email at pecoprocurement@nera.com. A Draft Guaranty that is not substantially in the form of the Standard Guaranty will not be considered or evaluated.
- An RFP Bidder must confirm whether the Draft Guaranty submitted as part of the Part 1 Proposal contains the same requested modifications as a Draft Guaranty submitted in a prior solicitation. If the Draft Guaranty submitted does contain the same requested modifications as a prior submittal, the Independent Evaluator will provide the RFP Bidder with PECO’s assessment of the prior submittal upon request and the Draft Guaranty will not be reviewed again.
- All approved modifications to the Standard Guaranty will be posted to the RFP website. Each RFP Bidder may use any of the approved modifications, regardless of whether the RFP Bidder itself or another RFP Bidder proposed the modification.

- An RFP Bidder that chooses not to propose modifications to the Standard Pre-Bid Letter of Credit must clearly indicate that fact.

IV.3.4. Information to Prepare the Uniform SMA. This paragraph applies only to RFP Bidders that are not Default Suppliers. Such RFP Bidder is asked, in its Part 1 Proposal, to provide all information needed by the Independent Evaluator to prepare for execution the Uniform SMA and its Exhibits by completing the Uniform SMA Insert prepared for this purpose and available on the Proposal submission website. The RFP Bidder provides the Uniform SMA Insert by upload to the online Part 1 Form or by email at pecoprocedurement@nera.com. If the Independent Evaluator identifies one or more of such RFP Bidder's Bids to the Commission as winning Bids, the Independent Evaluator will use this information to prepare the Uniform SMA and its Exhibits for execution.

- Such RFP Bidder is asked: (i) to specify any elections to be made in the Uniform SMA; and (ii) to provide the contact information required to prepare the Form of Notice, which is included as Exhibit 2 to the Uniform SMA; and (iii) to provide any additional information required to prepare the Uniform SMA and its Exhibits.
- If such RFP Bidder fails to submit these elections and information with the Part 1 Proposal, the Officer of the RFP Bidder must acknowledge that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder's Bids to the Commission as winning Bids, the RFP Bidder will be required to provide: (i) any elections to be made in the Uniform SMA; and (ii) the contact information to prepare the Form of Notice; and (iii) any additional information required to prepare the Uniform SMA and its Exhibits; by 12 PM (noon) EPT on the day after such notification is received. The Officer of the RFP Bidder provides the required acknowledgement by completing the Delay (SMA) Insert prepared for this purpose and available on the Proposal submission website. The RFP Bidder provides the Delay (SMA) Insert by upload to the online Part 1 Form or by email at pecoprocedurement@nera.com.

IV.3.5. All information required by this Section IV.3 must be provided exclusively by completing Section 3 of the online Part 1 Form and the Inserts prepared for this purpose, as further explained in Article VII.

Inserts and documents must be submitted by upload to the online Part 1 Form or by email to the Independent Evaluator at pecoprocedurement@nera.com.

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

IV.4.1. Representations by the Officer of the RFP Bidder. Whether or not an RFP Bidder has previously qualified, the Officer of the RFP must certify that:

- he/she is an officer, a director, or an individual otherwise authorized to undertake contracts (including the Uniform SMA) and bind the RFP Bidder;
- all information provided in the Part 1 Proposal is true and accurate to the best of the knowledge and belief of the Officer of the RFP Bidder;
- if, for any reason or due to any circumstance, any information provided in the Part 1 Proposal changes or any previous certification fails to remain valid before the sixth business day after the Bid Date, the Officer of the RFP Bidder or the Representative will notify the Independent Evaluator of such changes as soon as practicable but in no event later than one (1) day before the Bid Date;
- the Part 1 Proposal will remain valid and remain in full force and effect until six (6) business days after the Bid Date; and
- the RFP Bidder is not part of a bidding agreement, a joint venture for purposes of participating in any solicitation for this RFP, a bidding consortium, or any other type of agreement related to bidding in any solicitation of this RFP. An RFP Bidder found to be acting in concert with another RFP Bidder may be disqualified by the Independent Evaluator.

The Officer of the RFP Bidder presents such certifications by completing the P1 Certifications (A) Insert prepared for this purpose. The RFP Bidder provides the required Insert by upload to the online Part 1 Form or by email at pecoprocedurement@nera.com.

IV.4.2. Additional Representations for RFP Bidders that have not previously qualified. If an RFP Bidder has not previously qualified, the Officer of the RFP Bidder must certify that:

- he/she understands the terms of the Uniform SMA, that the RFP Bidder accepts all of the terms of the Uniform SMA without modifications, and that the RFP Bidder will execute the Uniform SMA and the Transaction Confirmation(s) for all Bids approved by the Commission;
- the submission of the Part 1 Proposal constitutes the RFP Bidder's acknowledgement and acceptance of all the terms and conditions of the RFP, regardless of the outcome of the solicitation or the outcome of such Proposal;
- the RFP Bidder has no actions at law, suits in equity, proceedings or claims pending or, to the RFP Bidder's knowledge, threatened against it before any federal, state, foreign or local court, tribunal or governmental agency or authority that might materially delay, prevent or hinder the RFP Bidder's performance of its obligations under the Uniform SMA;
- the RFP Bidder is not bankrupt or insolvent and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt or insolvent; and
- if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder's Bids to the Commission as winning Bids, all information required for the preparation of the Uniform SMA and its Exhibits must be submitted and complete by 12 PM (noon) EPT on the day after such notification is received;

The Officer of the RFP Bidder presents such certifications by completing the P1 Certifications (B) Insert prepared for this purpose. The RFP Bidder provides the required Insert by upload to the online Part 1 Form or by email at [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com).

IV.4.3. Additional Representations for RFP Bidders have previously qualified but that are not Default Suppliers. If an RFP Bidder has previously qualified but is not a Default Supplier, the Officer of the RFP Bidder must certify that:

- The RFP Bidder has no actions at law, suits in equity, proceedings or claims pending or, to the RFP Bidder's knowledge, threatened against it before any federal, state, foreign or local court, tribunal or governmental agency or authority that might materially delay, prevent or hinder the RFP Bidder's performance of its obligations under the Uniform SMA;

- The RFP Bidder is not bankrupt or insolvent and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt or insolvent; and
- if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder's Bids to the Commission as winning Bids, all information required for the preparation of the Uniform SMA and its Exhibits must be submitted and complete by 12 PM (noon) EPT on the day after such notification is received.

The Officer of the RFP Bidder presents such certifications by completing the P1 Certifications (C) Insert prepared for this purpose. The RFP Bidder provides the required Insert by upload to the online Part 1 Form or by email at pecoprocurement@nera.com.

IV.4.4. PJM Load Serving Entity. The requirements of this paragraph apply only to RFP Bidders that are not previously qualified RFP Bidders. A Default Supplier must be an LSE by the start of the supply period.

- An RFP Bidder that has not previously qualified must, in its Part 1 Proposal, either: (i) demonstrate that the RFP Bidder is an LSE in PJM by providing the signature page of the Reliability Assurance Agreement ("RAA"); or (ii) certify that the RFP Bidder has investigated the requirements to become an LSE in PJM and that there exist no impediments for the RFP Bidder to become an LSE by the start of the supply period and to remain an LSE for the duration of the supply period.
- An RFP Bidder that provides the signature page of the RAA does so by upload to the online Part 1 Form or by email at pecoprocurement@nera.com.
- An RFP Bidder that submits the certification above does so by completing the LSE Representation Insert prepared for this purpose and available on the Proposal submission website. The RFP Bidder provides the LSE Representation Insert by upload to the online Part 1 Form or by email at pecoprocurement@nera.com.

IV.4.5. All information required by this Section IV.4 must be provided exclusively by completing Section 4 of the online Part 1 Form and the Inserts prepared for this purpose, as further explained in Article VII.

Inserts and documents must be submitted by upload to the online Part 1 Form or sent by email to the Independent Evaluator at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com).

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

IV.5.1. The requirements of this Section apply only to: (1) Foreign RFP Bidders; or (2) RFP Bidders that rely on the financial standing of a Foreign Entity as RFP Guarantor; or RFP Bidders submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal. Other RFP Bidders are not subject to the requirements of this Section.

IV.5.2. Additional requirements for Foreign RFP Bidders. The requirements of this Paragraph apply only to Foreign RFP Bidders; other RFP Bidders are not subject to the requirements of this Paragraph.

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

- Whether or not such RFP Bidder has previously qualified, such RFP Bidder may, but is not required to, submit a draft of the following documents for evaluation: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Foreign RFP Bidder is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the Foreign RFP Bidder in the jurisdiction in which it has been incorporated or otherwise formed; (ii) the sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the person executing the Uniform SMA on behalf of the Foreign RFP Bidder has the authority to execute the Uniform SMA and that the governing board of such Foreign RFP Bidder has approved the execution of the Uniform SMA; and (iii) the sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the Foreign RFP Bidder has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA. The Independent Evaluator will make available to RFP Bidders a sample of the legal opinion of outside counsel that is sufficient for a Foreign Entity as Principal. If such RFP Bidder submits a draft of these documents for evaluation, the Independent Evaluator will provide this evaluation to such RFP Bidder, including notice of any changes required to the documents, along with the Part 1 Notification.
- The RFP Bidder presents this information by completing the P1 Foreign Bidder Insert prepared for this purpose and provides associated documents. This Insert is available on the Proposal submission website.

IV.5.3. Additional requirements for RFP Bidders relying on the financial standing of a Foreign Guarantor.

The requirements of this Paragraph apply only to RFP Bidders that rely on the financial standing of a Foreign Entity as RFP Guarantor; other RFP Bidders are not subject to the requirements of this Paragraph.

- Whether or not such RFP Bidder has previously qualified, an RFP Bidder relying on the financial standing of a Foreign Entity as RFP Guarantor may provide, in addition to supplying all required information and documents under Section IV.2, any additional evidence of

creditworthiness for the RFP Guarantor so as to provide PECO with comparable assurances of creditworthiness as is applicable for an entity that has been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia.

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



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

- The RFP Bidder presents this information by completing the P1 Foreign Guarantor Insert prepared for this purpose and provides associated documents. This Insert is available on the Proposal submission website.

IV.5.4. Additional Requirements for RFP Bidders submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal. The requirements of this Paragraph apply only to RFP Bidders that are submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal; other RFP Bidders are not subject to the requirements of this Paragraph.

- Whether or not such RFP Bidder has previously qualified, if the RFP Principal is a Foreign Entity, an RFP Bidder submitting a Proposal under an Agency Agreement with a Foreign Entity as RFP Principal may, in addition to supplying all required information and documents under Section IV.2, provide any additional evidence of creditworthiness for the Principal so as to provide PECO with comparable assurances of creditworthiness as is applicable for an entity that has been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia.
- Whether or not such RFP Bidder has previously qualified, the Officer of such RFP Bidder must acknowledge that the following additional documents are required with the Part 2 Proposal: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which

the Principal is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the Principal in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of the corporate secretary (or similar officer) of such Principal that the Principal has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA.

- Whether or not such RFP Bidder has previously qualified, such RFP Bidder may, but is not required to, submit with its Part 1 Proposal a draft of the following additional documents: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Principal is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the Principal in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of the corporate secretary (or similar officer) of such Principal that the Principal has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA. The Independent Evaluator will make available to RFP Bidders a sample of the legal opinion of outside counsel that is sufficient for a Foreign Entity as Principal. If an RFP Bidder submits a draft of the documents for evaluation, the Independent Evaluator will provide this evaluation to the RFP Bidder, including notice of any changes required to the documents, along with the Part 1 Notification.
- The RFP Bidder presents this information by completing the P1 Foreign Principal Insert prepared for this purpose and provides associated documents. This Insert is available on the Proposal submission website.

IV.5.5. All information required by this Section IV.5 must be provided exclusively by completing Section 5 of the online Part 1 Form and the Inserts prepared for this purpose, as further explained in Article VII. Inserts and documents must be submitted by upload to the online Part 1 Form or sent by email to the Independent Evaluator at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com).

## ARTICLE V. Part 2 Proposal Requirements

RFP Bidders that became eligible to submit Bids in a previous solicitation held under DSP V may participate in an abbreviated process by using the Short Part 2 Form available online through the Proposal submission website to respond to these requirements.

### V.1. Contact Information and Representations

V.1.1. Contact Information for the RFP Bidder. The RFP Bidder has an opportunity to update contact information provided in the Part 1 Proposal for the RFP Bidder or any individual. Whether or not the RFP Bidder is previously eligible, the RFP Bidder either must confirm that the contact information for the RFP Bidder, the Officer of the RFP Bidder and Representative of the RFP Bidder remains valid or must update this information in the online Part 2 Form. The RFP Bidder may, at any point during the solicitation, provide contact information for Nominees or update this information by submission of the Nominee Insert.

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

- the Part 2 Proposal will remain valid and remain in full force and effect until six (6) business days after the Bid Date and if any information provided in the Part 2 Proposal changes or any

previous certification fails to remain valid during that time, the RFP Bidder will notify the Independent Evaluator as soon as practicable;

- the RFP Bidder is bidding independently and that it has no knowledge of any information concerning a Proposal by another RFP Bidder in response to this solicitation or any future solicitation under this RFP. Such information includes, but is not limited to: the fact that another RFP Bidder is submitting a Proposal in response to this solicitation or a subsequent solicitation under this RFP; the Bids by another RFP Bidder in this or in a subsequent solicitation under this RFP; the number of tranches bid by another RFP Bidder for any product in this or in a subsequent solicitation under this RFP; the estimation by another RFP Bidder of the value of a tranche of a product; the estimation by another RFP Bidder of the risks associated with providing supply under the Uniform SMA; the preference of another RFP Bidder for bidding on specific products in this or in a subsequent solicitation under the RFP; and the contractual arrangements for power of another RFP Bidder to serve tranches of Default Service Load were that RFP Bidder to become a Default Supplier. This certification must be binding and in effect until the Commission has either approved or rejected each of the winning Bids for this solicitation;
- although the RFP Bidder may disclose aspects of its Proposal in communicating with its financial institution for the purpose of preparing the Pre-Bid Letter of Credit or in communicating with advisors (if any), any such communication is made in a manner that can reasonably be expected to maintain the confidentiality of its Proposal;
- with only the exceptions noted in the immediately previous certification, the RFP Bidder has not disclosed, and will not otherwise disclose, publicly or to any other party any information relating to its Proposal, which could have an effect on whether another party submits a Proposal in any solicitation under the RFP, or on the contents of the Proposal that another RFP Bidder would be willing to submit in response to the RFP. Such information includes, but is not limited to: the fact that the RFP Bidder is submitting a Proposal in response to this RFP; the RFP Bidder's Bids in this or in a subsequent solicitation under this RFP; the RFP Bidder's

number of tranches bid for any product in this or in a subsequent solicitation under this RFP; the RFP Bidder's estimation of the value of a tranche of a product; the RFP Bidder's estimation of the risks associated with providing supply under the Uniform SMA; and the RFP Bidder's preference for bidding on specific products in this or in a subsequent solicitation under this RFP. This certification must be binding and in effect until the Commission has either approved or rejected each of the winning Bids for this solicitation;

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

The RFP Bidder submits such certifications by completing the P2 Certifications Insert prepared for this purpose and available on the Proposal submission website. The RFP Bidder provides the P2 Certifications Insert by upload to the online Part 2 Form or by email at [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com).

- V.1.3. All information required by this Section V.1 must be provided exclusively by completing Section 1 of the online Part 2 Form and the Inserts prepared for this purpose, as further explained in Article VII. Inserts and documents must be submitted by upload to the online Part 1 Form or sent by email to the Independent Evaluator at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com).

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

- V.2.1. Whether or not an RFP Bidder is previously eligible, the RFP Bidder must provide an executed Pre-Bid Letter of Credit, drawn for the account of the RFP Bidder and acceptable to PECO, in an amount of at least: \$250,000 per tranche bid on products for the RES and SC Classes, plus \$125,000 per tranche bid on a product for the CCI Class (if applicable) in accordance with the requirements of this Section V.2. A single Pre-Bid Letter of Credit is submitted even if the RFP Bidder bids on more than one product or if the RFP Bidder bids to supply both full requirements on a fixed-price basis and full requirements on a spot-price basis.
- V.2.2. The RFP Bidder must state whether the Pre-Bid Letter of Credit has already been sent to the Independent Evaluator. The hardcopy executed Pre-Bid Letter of Credit must be sent by overnight delivery service to the Independent Evaluator at the address indicated in the Part 2 Form. RFP Bidders may, but are not required to, provide an electronic executed version of the Pre-Bid Letter of Credit for evaluation.
- V.2.3. The RFP Bidder must either use the Standard Pre-Bid Letter of Credit provided in Appendix 9 to these RFP Rules, or the RFP Bidder must submit a Pre-Bid Letter of Credit that incorporates only those modifications to the Standard Pre-Bid Letter of Credit accepted as a result of the evaluation of the Part 1 Proposals. All approved modifications will be posted to the RFP website. An RFP Bidder may use any of the approved modifications, regardless of whether the RFP Bidder itself or another RFP Bidder proposed the modification. The RFP Bidder cannot, in its Part 2 Proposal, propose or incorporate any modification to its Pre-Bid Letter of Credit other than the modifications approved and posted as such on the RFP website.
- V.2.4. Generally, PECO and the Independent Evaluator will release the Pre-Bid Letter of Credit no later than six (6) business days after the Bid Date. An RFP Bidder may, in Section 2 of the Part 2 Form, provide special instructions for the return of the Pre-Bid Letter of Credit. If the Commission does not approve any of the RFP Bidder's Bids, PECO and the Independent Evaluator will release that RFP Bidder's Pre-Bid Letter of Credit within three (3) business days of the Bid Date. The prompt release of the Pre-Bid Letter of Credit will be conditioned upon the RFP Bidder not having violated any undertakings agreed to as part of the RFP.

- V.2.5. Payment under the Pre-Bid Letter of Credit can be demanded by PECO if: (i) the RFP Bidder has made a material omission or misrepresentation in its Part 1 Proposal or in its Part 2 Proposal; (ii) the RFP Bidder discloses information relating to its Proposal publicly or to any other party before the Commission has rendered its decision on the results of this solicitation; or (iii) the RFP Bidder has one or more Bids approved by the Commission and the RFP Bidder fails to execute the Uniform SMA and its Exhibits or fails to meet the creditworthiness requirements within the timeframe required.
- V.2.6. All information required by this Section V.2 must be provided exclusively by completing Section 2 of the online Part 2 Form, as further explained in Article VII. Any documents or special instructions for the return of the Pre-Bid Letter of Credit may be submitted by upload to the online Part 2 Form or sent by email to the Independent Evaluator at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com). The executed Pre-Bid Letter of Credit must be sent to the Independent Evaluator at the address provided in the Part 2 Form.

### **V.3. RFP Bidders Relying on the Financial Standing of an RFP Guarantor**

- V.3.1. The requirements of this Section V.3 apply only to RFP Bidders relying on the financial standing of an RFP Guarantor; other RFP Bidders are not subject to the requirements of this Section V.3.
- V.3.2. Intent to Provide a Guaranty. The requirements of this paragraph only apply to RFP Bidders that are not Default Suppliers.
- Such RFP Bidder must provide in its Part 2 Proposal a statement from a representative of the RFP Guarantor acknowledging that the RFP Guarantor: (i) has been asked to provide a financial guaranty on behalf of the RFP Bidder should the RFP Bidder become a Default Supplier pursuant to its response under this RFP for procuring supply under the terms of the Uniform SMA; (ii) has a senior unsecured debt rating that meets the Minimum Rating as defined in the Uniform SMA; and (iii) would consider providing a financial guaranty on behalf of the RFP Bidder should there be no material change in affairs for at least the Indicative Amount. This RFP Guarantor may add that this statement should not and cannot be taken as an indication of financing commitment of any kind whatsoever, or an absolute commitment to provide a financial guaranty.

- The Indicative Amount must meet or exceed the sum of: (i) \$600,000 times the number of tranches bid on products for the RES and SC Classes for full requirements on a fixed-price basis; and (ii) \$300,000 times the number of tranches bid for the CCI Class for full requirements on a spot-price basis (if applicable).
- The individual signing the intent to provide a guaranty must be a representative of the RFP Guarantor authorized to undertake contracts (including the Guaranty) and bind that RFP Guarantor.

The RFP Bidder provides this statement by completing the Guaranty Intent Insert prepared for this purpose and available on the Proposal submission website. The RFP Bidder provides the Guaranty Intent Insert by upload to the online Part 2 Form or by email at [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com).

V.3.3. Information to Prepare the Guaranty. This paragraph applies to RFP Bidders whether or not they are previously eligible.

- The RFP Bidder is asked: (i) to specify the governing laws under which the RFP Guarantor is organized; (ii) to provide the name and title of the signatory to the guaranty as well as contact information for an individual who will receive notice under the guaranty; and (iii) to make elections to incorporate any or all of the approved modifications to the Standard Guaranty.
- An RFP Bidder that is a Default Supplier with a Guaranty in force may indicate that all information regarding the guaranty remains current and that the RFP Bidder does not wish to modify or supplement any of the elections regarding approved modifications to the Standard Guaranty.
- If an RFP Bidder that is not a Default Supplier with a Guaranty in force fails to submit information required for preparation of the Guaranty with the Part 1 Proposal, the Officer of the RFP Bidder must acknowledge that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder's Bids to the Commission as winning Bids, the RFP Bidder must provide all required information by 12 PM (noon) EPT on the day after such notification is received.



The RFP Bidder either provides information needed to prepare the guaranty for execution by completing the Guaranty Insert prepared for this purpose or the RFP Bidder provides an acknowledgement from the Officer of the RFP Bidder that such information will be required if one or more of the RFP Bidder's Bids to the Commission as winning Bids by completing the Delay (Guaranty) Insert prepared for this purpose.

- V.3.4. Enforceability Opinion for an Alternate Guaranty. The requirements of this Paragraph only apply to RFP Bidders that have obtained approval from PECO to use an alternate guaranty form under the Alternate Guaranty Process and that are not previously eligible. The Alternate Guaranty Process allows a supplier unable to use the Standard Guaranty provided as Appendix G to the Uniform SMA to submit for consideration by PECO the guaranty that the supplier uses in its normal course of business. Such a guaranty is called an "alternate guaranty form" and the process by which suppliers may obtain approval to use an alternate guaranty is described in Appendix 2. Such RFP Bidder must provide, with its Part 2 Proposal, an executed enforceability opinion for its approved alternate guaranty form on the letterhead of a law firm of national standing by upload to the online Part 2 Form or by email at [pecoprocedurement@nera.com](mailto:pecoprocedurement@nera.com).
- V.3.5. All information required by this Section V.1 must be provided exclusively by completing Section 3 of the online Part 2 Form and the Inserts prepared for this purpose, as further explained in Article VII. Inserts and documents must be submitted by upload to the online Part 1 Form or sent by email to the Independent Evaluator at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com).

#### **V.4. RFP Bidders Relying on the Financial Standing of an RFP Principal**

- V.4.1. The requirements of this Section V.4 apply only to RFP Bidders relying on the financial standing of an RFP Principal; other RFP Bidders are not subject to the requirements of this Section V.3.
- V.4.2. Officers' Certificate. Whether or not the RFP Bidder is previously eligible, an RFP Bidder submitting a Proposal under an Agency Agreement must submit an Officers' Certificate substantially in the form of Appendix 6 to these RFP Rules. The Officers' Certificate must be provided by upload to the online Part 2 Form or by email at [pecoprocedurement@nera.com](mailto:pecoprocedurement@nera.com).
- The Officers' Certificate must be signed by an officer of each Principal.

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

The RFP Bidder submits the document by upload to the online Part 2 Form or by email at pecoprocedurement@nera.com.

- V.4.3. Signatory to the Uniform SMA. If an RFP Bidder submitting a Proposal under an Agency Agreement and the Principal does not authorize the RFP Bidder to sign the Uniform SMA or to execute a Transaction Confirmation, such RFP Bidder must name a representative of the Principal who will be authorized to sign the Uniform SMA and all necessary exhibits should such RFP Bidder have winning Bids that are approved by the Commission as required by Section VII.3. The RFP Bidder must provide contact information for this individual (address, phone number, and email address). If such RFP Bidder is not previously eligible, the RFP Bidder provides the information in the online Part 2 Form or by email at pecoprocedurement@nera.com. If such RFP Bidder is previously eligible, the RFP Bidder either: (i) must confirm that the representative of the Principal remains authorized to sign the Uniform SMA (if applicable because the RFP Bidder is not a Default Supplier) and any Transaction Confirmation and that the previously submitted contact information remains valid in the online Part

2 Form; or: (ii) must update this information in the online Part 2 Form or by email at [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com).

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

V.4.5. All information required by this Section V.1 must be provided exclusively by completing Section 4 of the online Part 2 Form and the Inserts prepared for this purpose, as further explained in Article VII. Inserts and documents must be submitted by upload to the online Part 1 Form or sent by email to the Independent Evaluator at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com).

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

V.5.1. The requirements of this Section V.5 apply only to Foreign RFP Bidders, or to RFP Bidders that rely on the financial standing of a Foreign Entity as RFP Guarantor, or to RFP Bidders that submit a Proposal under an Agency Agreement with a Foreign Entity as Principal. Other RFP Bidders are not subject to the requirements of this Section V.5. An RFP Bidder fulfills the requirements by completing the P2 Foreign Entity Insert prepared for this purpose and available on the Proposal submission website. The RFP Bidder provides the P2 Foreign Entity Insert by upload to the online Part 2 Form or by email at [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com).

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

RFP Bidder has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA. The Independent Evaluator will make available to RFP Bidders a sample of the legal opinion of outside counsel that is sufficient.

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

V.5.3. Required Documents for RFP Bidders with a Foreign Entity as RFP Guarantor. An RFP Bidder that relies on the financial standing of a Foreign Entity as RFP Guarantor receives, with its Part 1 Notification, a provisional creditworthiness assessment for its RFP Guarantor that presumes the receipt of the following fully executed additional documents in a form acceptable to PECO: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the RFP Guarantor is incorporated or otherwise formed that the guaranty pursuant to the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the RFP Guarantor in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of

the corporate secretary (or similar officer) of such RFP Guarantor that the person executing the guaranty pursuant to the Uniform SMA on behalf of the RFP Guarantor has the authority to execute the guaranty pursuant to the Uniform SMA and that the governing board of such RFP Guarantor has approved the execution of the guaranty pursuant to the Uniform SMA; and (iii) the sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the RFP Guarantor has been authorized by its governing board to enter into agreements of the same type as the guaranty pursuant to the Uniform SMA. The Independent Evaluator will make available to RFP Bidders a sample of the legal opinion of outside counsel that is sufficient for a Foreign Entity as RFP Guarantor.

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

Bidder may not rely on the financial standing of the RFP Guarantor. The Independent Evaluator may request additional information regarding the RFP Bidder under Section IV.2.

V.5.4. Required Documents for RFP Bidders submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal. An RFP Bidder submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal receives, with its Part 1 Notification, a provisional assessment that presumes the receipt of the following documents fully executed and acceptable to PECO: (i) a legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Principal is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the Principal in the jurisdiction in which it has been incorporated or otherwise formed; and (ii) the sworn certificate of the corporate secretary (or similar officer) of such Principal that the Principal has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA. The Independent Evaluator will make available to RFP Bidders a sample of the legal opinion of outside counsel that is sufficient for a Foreign Entity as Principal.

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

RFP Bidder all required documents are submitted and are acceptable to PECO. Otherwise, the Independent Evaluator provides with the Part 2 Notification a revised assessment that states either that the RFP Bidder and the Foreign Entity as RFP Principal are not granted unsecured credit or that the RFP Bidder is not eligible to continue further in the RFP.

V.5.5. The information required by this Section V.5 must be provided exclusively by completing Section 5 of the online Part 2 Form, as further explained in Article VII. Documents must be submitted by upload to the online Part 2 Form or sent by email to the Independent Evaluator at [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com).

## ARTICLE VI. Bid Submission

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



- phone and must at that time provide authenticating information. The Independent Evaluator will provide additional instructions for such a contingency that will be included with the Part 1 Materials.
- VI.1.4. All Bid Forms must be received between 10 AM and 12 PM (noon) on the Bid Date. No late Bid Forms will be accepted regardless of the method used by the RFP Bidder to submit its Bid Form.
- VI.1.5. A Bid for a tranche for any product is a price in U.S. Dollars per MWh, and must be displayed in the format \$xx.xx or \$xxx.xx, rounded to the nearest cent. The number of tranches bid on a product is the number of tranches of that product for which a Bid is provided.
- VI.1.6. A Bid that is not expressed in dollars per MWh will automatically be rejected. A Bid that has more than two (2) decimals will be automatically rounded to the nearest cent.
- VI.1.7. The RFP Bidder may not bid on less than a full tranche for a product. The RFP Bidder may not bid on fractions, portions, or parts of tranches.
- VI.1.8. The RFP Bidder may not submit any additional instructions, contingencies, or conditions on its Bids. Any such additional instructions, contingencies, or conditions will be ignored.
- VI.1.9. An RFP Bidder may not submit Bids that exceed the Load Caps and the Bid Form will include guidance for the RFP Bidder so that the RFP Bidder submits Bids that conform with the Load Caps. The Load Caps are described in Paragraph I.2.11.
- VI.1.10. The number of tranches bid for an RFP Bidder may not exceed the number of tranches supported by the Pre-Bid Letter of Credit. The amount of the Pre-Bid Letter of Credit is described in Paragraph V.2.1. The procedure used by the Independent Evaluator to modify the Bid Form is described in Paragraph VII.2.10.
- VI.1.11. Bids are evaluated on a price-only basis, in accordance with the process described in Section VII.2.

## ARTICLE VII. Process

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

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

completing Section 4 of the online Part 1 Form. A Foreign RFP Bidder that seeks to be granted unsecured credit under the terms of the Uniform SMA, or an RFP Bidder relying on the financial standing of a Foreign Entity, either an RFP Guarantor or a Principal, must provide any additional information required by Section IV.5, exclusively by completing Section 5 of the Part 1 Form.

- VII.1.5. The Part 1 Proposal for an RFP Bidder includes the completed Part 1 Form as well Inserts to the Part 1 Form available as separate Word Forms on the Proposal submission website or from the Independent Evaluator. Documents (supporting documents, draft Letter of Credit or draft Standard Guaranty, and Inserts) may be uploaded to the Proposal submission website or sent to the Independent Evaluator by email at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com). Responses to the qualification standards of Article IV that do not use the online Part 1 Form and the Inserts prepared for this purpose will not be considered and the part 1 Proposal will be considered deficient. No late Part 1 Proposals will be accepted under any circumstances.
- VII.1.6. The Independent Evaluator considers and processes the Part 1 Proposals during the Part 1 Window. When a Part 1 Proposal is received, the Independent Evaluator sends an acknowledgment to the RFP Bidder by email. The Independent Evaluator only processes Part 1 Proposals during the Part 1 Window and, if the Part 1 Proposal is received before the Part 1 Window opens, the Independent Evaluator confirms receipt no later than on the first day of the Part 1 Window.
- VII.1.7. If the Part 1 Proposal is received before 12 PM (noon) on any business day during the Part 1 Window, the Independent Evaluator sends the acknowledgment confirming receipt on the day the Part 1 Proposal is received with the results of an initial review. The initial review states either that the Part 1 Proposal is complete and is being considered, or the initial review lists items of the Part 1 Proposal that are deficient or require clarification. If a Part 1 Proposal is received after 12 PM (noon) on any business day during the Part 1 Window prior to the Part 1 Date, the Independent Evaluator sends the acknowledgment along with the initial review by 12 PM (noon) of the next business day. The Independent Evaluator sends such acknowledgments to the RFP Bidder by email.
- VII.1.8. An RFP Bidder that submits a Draft Pre-Bid Letter of Credit will receive a review of any proposed modifications within two (2) business days. The Independent Evaluator sends such review by email. The RFP Bidder can only submit one (1) Draft Pre-Bid Letter of Credit. Any review communicated to

the RFP Bidder of the Draft Pre-Bid Letter of Credit is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this review. All modifications accepted to the Standard Pre-Bid Letter of Credit for the benefit of a single RFP Bidder will be made available to all RFP Bidders on an optional basis. All such modifications will be posted in a single document on the RFP website that will be updated daily during the Part 1 Window. By 12 PM (noon) on the day the Part 2 Window opens, the final document containing all accepted modifications will be posted.

VII.1.9. An RFP Bidder that submits a Draft Post-Bid Letter of Credit will receive a review of any proposed modifications within seven (7) business days. The Independent Evaluator sends such review by email. The RFP Bidder can only submit one (1) Draft Post-Bid Letter of Credit. Any review communicated to the RFP Bidder of the Draft Post-Bid Letter of Credit is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this review. All modifications accepted to the Standard Post-Bid Letter of Credit for the benefit of a single RFP Bidder will be made available to all RFP Bidders on an optional basis. All such modifications will be posted in a single document on the RFP website that will be posted no later than 6 PM on the Part 2 Date.

VII.1.10. An RFP Bidder that submits a Draft Standard Guaranty will receive a review of any proposed modifications within two (2) business days. The Independent Evaluator sends such review by email. The RFP Bidder can only submit one (1) Draft Standard Guaranty. Any review communicated to the RFP Bidder of the Draft Standard Guaranty is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this review. All modifications accepted to the Standard Guaranty for the benefit of a single RFP Bidder will be made available to all RFP Bidders on an optional basis. All such modifications will be posted in a single document on the RFP website that will be updated daily during the Part 1 Window. By 12 PM (noon) on the day the Part 2 Window opens, the final document containing all accepted modifications will be posted.

VII.1.11. An RFP Bidder submitting a Proposal under an Agency Agreement that submits a Draft Officers' Certificate will receive an evaluation of this document by the Part 1 Notification Date. The Independent Evaluator sends such review by email. Any evaluation communicated to the RFP Bidder of the Draft Officers' Certificate is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this evaluation.

- VII.1.12. A Foreign RFP Bidder that submits a draft of any of the documents described in Paragraph IV.5.2 will receive an evaluation of these documents by the Part 1 Notification Date. The Independent Evaluator sends such review by email. Any evaluation communicated to the RFP Bidder of such draft documents is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this evaluation.
- VII.1.13. An RFP Bidder that relies on the financial standing of a Foreign Entity as RFP Guarantor and that submits a draft of any of the documents described in Paragraph IV.5.3 will receive an evaluation of these documents by the Part 1 Notification Date. The Independent Evaluator sends such review by email. Any evaluation communicated to the RFP Bidder of such draft documents is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this evaluation.
- VII.1.14. An RFP Bidder submitting a Proposal under an Agency Agreement that relies on the financial standing of a Foreign Entity as Principal and that submits a draft of any of the documents described in Paragraph IV.5.4 will receive an evaluation of these documents by the Part 1 Notification Date. The Independent Evaluator sends such review by email. Any evaluation communicated to the RFP Bidder of such draft documents is final. The RFP Bidder cannot submit a subsequent request for changes on the basis of this evaluation.
- VII.1.15. The RFP Bidder includes, in its Part 1 Proposal, a certification from the Officer of the RFP Bidder that the RFP Bidder is bidding independently and is not acting in concert with another RFP Bidder. The Independent Evaluator may request additional information to ascertain that the RFP Bidder is bidding independently of other RFP Bidders. An RFP Bidder that is not bidding independently of another RFP Bidder may fail to qualify.
- VII.1.16. If an RFP Bidder receives any notice from the Independent Evaluator that any item of the Part 1 Proposal is deficient or requires clarification, the RFP Bidder has until 12 PM (noon) on the Part 1 Date, or until 6 PM on the business day following the business day during which the Independent Evaluator transmits such notice, whichever comes later, to respond. If the RFP Bidder does not correct or adequately explain the deficiency within the time allowed, the Part 1 Proposal may be rejected. The Independent Evaluator sends such notice to the RFP Bidder by email.

- VII.1.17. An RFP Bidder meets the qualification standards of this RFP if its Part 1 Proposal is received on or before 12 PM (noon) on the Part 1 Date, if its Part 1 Proposal is complete, and if its Part 1 Proposal fully complies with all requirements of Article IV.
- VII.1.18. The Independent Evaluator informs each RFP Bidder of whether it has met all qualification standards of Article IV through a Part 1 Notification that the Independent Evaluators sends no later than 6 PM on the Part 1 Notification Date.
- VII.1.19. If the RFP Bidder has a successful Part 1 Proposal, within two (2) business days of the Part 1 Notification Date, the Independent Evaluator transmits to the RFP Bidder a number of documents and instructions, called the Part 1 Materials. The Part 1 Materials include: (i) the Bid Form; (ii) instructions for filling out and optionally encrypting the Bid Form; (iii) instructions for the submission of the completed Bid Form from the RFP Bidder to the Independent Evaluator by secure file transfer system; (iv) instructions for an alternate method for submission of the Bids in case of technical difficulties with the secure file transfer system; (v) an invitation to a training session on the Bid submission process; and (vi) a username, a password, and security codes to be used for Bid submission uniquely by that RFP Bidder. The Part 1 Materials may also include other training materials or important notifications to RFP Bidders. The Independent Evaluator transmits the Part 1 Materials by secure file transfer. However, if special circumstances warrant, the Independent Evaluator may transmit by email a particular document needed for participation in a solicitation upon agreement by the RFP Bidder.
- VII.1.20. The Independent Evaluator requires an acknowledgment from the RFP Bidder that the RFP Bidder has received intact the information necessary to submit Bids and that no one but authorized personnel of the RFP Bidder has had access to this information. The RFP Bidder may make this acknowledgment by email. The RFP Bidder's Bids are only evaluated if this acknowledgment is received.
- VII.1.21. The exclusive method of responding to the requirements for Part 2 Proposals listed in Article V of these RFP Rules is the use of the online Part 2 Form. Responses to the requirements of Article V that do not use the online Part 2 Form will not be considered and the Part 2 Proposal will be considered deficient.

- VII.1.22. An RFP Bidder must confirm its contact information and make any general representations required by Section V.1 exclusively by completing Section 1 of the online Part 2 Form. An RFP Bidder must submit the Pre-Bid Letter of Credit as required by Section V.2 and as instructed in Section 2 of the online Part 2 Form. An RFP Bidder relying on the financial standing of an RFP Guarantor will provide intent to provide a guaranty from its RFP Guarantor and an RFP Bidder submitting a Proposal under an Agency Agreement must submit additional documents as required by Section V.3 exclusively by completing Section 3 of the online Part 2 Form. A Foreign RFP Bidder that seeks to be granted unsecured credit under the terms of the Uniform SMA, or an RFP Bidder that seeks to rely on the financial standing of a Foreign Entity (either an RFP Guarantor or a Principal), must submit any additional documents as required by Section V.4 and as instructed by Section 4 of the online Part 2 Form.
- VII.1.23. The Part 2 Proposal consists of the completed online Part 2 Form, the Pre-Bid Letter of Credit, as well as Inserts to the Part 1 Form available as separate Word Forms on the Proposal submission website or from the Independent Evaluator. Documents may be uploaded to the Proposal submission website or sent to the Independent Evaluator by email at [PECOProcurement@nera.com](mailto:PECOProcurement@nera.com). In particular:
- For an RFP Bidder relying on the financial standing of an RFP Guarantor and that is not a Default Supplier, the Part 2 Proposal also includes an acknowledgment from a representative of the RFP Guarantor.
  - For an RFP Bidder submitting a Proposal under an Agency Agreement, the Part 2 Proposal also includes an executed Officers' Certificate.
  - For an RFP Bidder that: (i) is submitting a Proposal under an Agency Agreement and relying on the financial standing of a Foreign Entity as Principal; or (ii) is a Foreign RFP Bidder; or (iii) relies on the financial standing of a Foreign Entity as RFP Guarantor; the Part 2 proposal also includes any documents required by Section V.4 as a condition of being granted unsecured credit. These documents may include an executed legal opinion of outside counsel and a sworn certificate of the corporate secretary.

- VII.1.24. The Independent Evaluator considers and processes the Part 2 Proposals during the Part 2 Window. No late Part 2 Proposals will be accepted under any circumstances. RFP Bidders also have the option to submit the certifications required by the online Part 2 Form during the Part 1 Window for early processing. When a Part 2 Proposal is received, the Independent Evaluator sends an acknowledgment to the RFP Bidder by email. The Independent Evaluator confirms receipt as long as the Part 2 Proposal is received after the opening of the Part 1 Window. However, Part 2 Proposals are only processed during the Part 2 Window (with the exception of certifications, which may be processed during the Part 1 Window).
- VII.1.25. If the Part 2 Proposal is received before 12 PM (noon) on any business day after the opening of the Part 1 Window, the Independent Evaluator sends the acknowledgment confirming receipt on the day the Part 2 Proposal is received with the results of an initial review. The initial review states either that the Part 2 Proposal is complete and is being considered, or the initial review lists items of the Part 2 Proposal that are deficient or require clarification. If a Part 2 Proposal is received after 12 PM (noon) on any business day during the Part 2 Window prior to the Part 2 Date, the Independent Evaluator sends the acknowledgment along with the initial review by 12 PM (noon) of the next business day. The Independent Evaluator sends such acknowledgments by email.
- VII.1.26. An RFP Bidder's Part 2 Proposal is automatically deficient if the Pre-Bid Letter of Credit proposes or includes modifications to the Standard Pre-Bid Letter of Credit included as Appendix 9 of these RFP Rules other than those accepted modifications posted in a single document on the RFP website. If an RFP Bidder receives notice from the Independent Evaluator that its Pre-Bid Letter of Credit is deficient, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. The Independent Evaluator sends such notices by email.
- VII.1.27. The amount of the Pre-Bid Letter of Credit must be at least \$250,000 per tranche bid on products for full requirements service on a fixed-price basis, plus \$125,000 per tranche bid on the CCI product for full requirements service on a spot-price basis (if applicable). The Indicative Amount for RFP Bidders that rely on the financial standing of an RFP Guarantor and that do not hold a current Uniform SMA with PECO must be equal or exceed \$600,000 per tranche bid on products for full requirements



service on a fixed-price basis, plus \$300,000 per tranche bid on a CCI product for full requirements service on a spot-price basis (if applicable). An RFP Bidder's Part 2 Proposal is automatically deficient if the amount of the Pre-Bid Letter of Credit is not consistent with the Indicative Amount of the Guaranty provided in the Part 2 Form. If an RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. The Independent Evaluator provides such notice to the RFP Bidder by email.

VII.1.28. For an RFP Bidder that received approval from PECO to use an alternate guaranty form through the Alternate Guaranty Process, PECO and the Independent Evaluator will determine whether the enforceability opinion required under Paragraph V.3.3 is acceptable to PECO, without any liability or obligation to the RFP Bidder or the RFP Guarantor. If the document is not acceptable to PECO and the RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the document remains insufficient, the RFP Bidder's Part 2 Proposal may be rejected. The Independent Evaluator provides such notice to the RFP Bidder by email.

VII.1.29. For an RFP Bidder submitting a Proposal under an Agency Agreement that provides the documents required under Section V.4, PECO and the Independent Evaluator will determine whether the documents provided are sufficient, without any liability or obligation to the RFP Bidder or its Principal(s). If the documents are insufficient and the RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the documents remain insufficient, the RFP Bidder's Part 2 Proposal may be rejected. The Independent Evaluator provides such notice to the RFP Bidder by email.

- VII.1.30. For a Foreign RFP Bidder that submits the documents required under Paragraph V.5.2, PECO and the Independent Evaluator will determine whether the documents provided are acceptable to PECO, without any liability or obligation to the Foreign RFP Bidder. If the documents are not acceptable to PECO and the RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the deficiency remains, the Independent Evaluator provides with the Part 2 Notification a revised assessment that states either that the Foreign RFP Bidder is not granted unsecured credit or that the Foreign RFP Bidder is not eligible to continue further in the RFP. If the Foreign RFP Bidder had submitted these documents with its Part 1 Proposal for evaluation and if the Foreign RFP Bidder conforms the documents submitted with the Part 2 Proposal to the evaluation provided with its Part 1 Notification, then these documents will automatically be considered acceptable to PECO. The Independent Evaluator provides such notices to the RFP Bidder by email.
- VII.1.31. For an RFP Bidder relying on the financial standing of a Foreign Entity as RFP Guarantor and that submits the documents required under Paragraph V.5.3, PECO and the Independent Evaluator will determine whether the documents provided are acceptable to PECO, without any liability or obligation to the RFP Bidder or the RFP Guarantor. If the documents are acceptable to PECO and the RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the deficiency remains, the RFP Bidder the Independent Evaluator provides with the Part 2 Notification a revised creditworthiness assessment that states that the RFP Guarantor is not granted unsecured credit. The RFP Bidder may not rely on the financial standing of the RFP Guarantor and the Independent Evaluator may request additional information regarding the RFP Bidder under Section IV.2. If the RFP Bidder had submitted these documents with its Part 1 Proposal for evaluation and if the RFP Bidder conforms the documents submitted with the Part 2 Proposal to the evaluation provided with its Part 1 Notification, then these documents will automatically be

considered acceptable to PECO. The Independent Evaluator provides such notices to the RFP Bidder by email.

- VII.1.32. For an RFP Bidder relying on a Foreign Entity as Principal that provides the documents required under Paragraph V.5.4, PECO and the Independent Evaluator will determine whether the documents provided are acceptable to PECO, without any liability or obligation to the RFP Bidder or its Principal(s). If the documents are not acceptable to PECO and the RFP Bidder receives notice from the Independent Evaluator that its Part 2 Proposal is deficient in this regard, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the second business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the deficiency remains, the Independent Evaluator provides with the Part 2 Notification a revised creditworthiness assessment that states that the RFP Bidder and its Principal are not granted unsecured credit. If the RFP Bidder had submitted these documents with its Part 1 Proposal for evaluation and if the RFP Bidder conforms the documents submitted with the Part 2 Proposal to the evaluation provided with its Part 1 Notification, then these documents will automatically be considered acceptable to PECO. The Independent Evaluator provides such notices to the RFP Bidder by email.
- VII.1.33. With the exceptions noted in the Paragraphs of this Section, if an RFP Bidder receives any notice from the Independent Evaluator that an item of the Part 2 Proposal is deficient or requires clarification, the RFP Bidder has until 12 PM (noon) on the Part 2 Date, or until 6 PM on the business day following the business day during which such a notice is sent to the RFP Bidder, whichever comes later, to respond. If the RFP Bidder does not correct or adequately explain the deficiency within the time allowed, the Part 2 Proposal may be rejected. The Independent Evaluator sends such notice to the RFP Bidder by email.
- VII.1.34. An RFP Bidder's Part 2 Proposal is successful if its Part 2 Proposal is received on or before 12 PM (noon) on the Part 2 Date, if its Part 2 Proposal is complete, and if its Part 2 Proposal fully complies with the requirements of Article V of these RFP Rules.

VII.1.35. An RFP Bidder that submits a Part 2 Proposal will be notified whether it is eligible to submit Bids no later than 6 PM on the Part 2 Notification Date. The Independent Evaluator provides such notification to the RFP Bidder by email.

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

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

VII.2.2. The Bid Form, as provided to each RFP Bidder with the Part 1 Notification, is the exclusive method for the submission of Bids. A sample of the Bid Form is provided for illustrative purposes as Appendix 10 of these RFP Rules. The Bid Form is prepared specifically for each RFP Bidder. The Bid Form must be filled out completely and transferred according to the instructions provided by the Independent Evaluator in the Part 1 Materials. The RFP Bidder may encrypt the Bid Form using the instructions provided by the Independent Evaluator. Bids on any Bid Form that is incompletely or inconsistently filled out will be considered deficient and will not be evaluated.

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

VII.2.4. An RFP Bidder that must resort to an alternate method for submitting its Bid Form by email because of technical difficulties with the secure file transfer system must follow the instructions provided by the Independent Evaluator for this contingency. These instructions will include a representative of the RFP Bidder phoning the Independent Evaluator to advise the Independent Evaluator of the use of an alternate method for the submission of the Bid Form and to provide authenticating information. The Independent Evaluator will recommend that the Bid Form in this case be encrypted and the Independent Evaluator will note for the RFP Bidder that such transmission may not be secure.

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

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

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

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

VII.2.13. If two or more RFP Bidders submit Bids that are identical for a product, these Bids will be considered "Tied Bids" at that price. The Independent Evaluator will use the tie-breaking procedure described in the next Paragraph if: i) in total, more Bids must be ranked for a product than there are tranches available for that product; ii) the tie among two or more Tied Bids must be broken in order to determine the RFP Bidders that have submitted the lowest Bids on that product.

VII.2.14. The tie-breaking procedure will award tranches in the following order: (1) to the RFP Bidder which, if awarded the tranche, would hold the fewest tranches for the product for any one month during the product term; (2) to the RFP Bidder which, if awarded the tranche, would hold the fewest tranches

for the Class in question for any one month during the product term; and then (3) to the RFP Bidder which, if awarded the tranche, would hold the fewest tranches in aggregate for any one month during the product term. If a tie were to remain, it would be broken by random selection.

- VII.2.15. An RFP Bidder acting in concert with another RFP Bidder may be disqualified by the Independent Evaluator on behalf of the Company in its sole and exclusive discretion. The RFP Bidder will be considered to have made a material misrepresentation in its Part 2 Proposal and payment under the Pre-Bid Letter of Credit can be demanded by PECO.
- VII.2.16. For each product in this solicitation, a Default Supplier will be paid a supplier-specific price for each MWh of electric load served as specified in the Transaction Confirmation for that product. The supplier-specific price will be the average of approved Bids for that product.

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

- VII.3.1. The winning RFP Bidders and PECO must execute the Uniform SMAs and Transaction Confirmations within three (3) days of acceptance of the results by the Commission.
- VII.3.2. PECO can collect on the Pre-Bid Letter of Credit if a winning RFP Bidder does not execute the Uniform SMA and all Transaction Confirmations, or if the winning RFP Bidder does not fulfill the creditworthiness requirements in the required timeframe.
- VII.3.3. The Independent Evaluator phones each RFP Bidder that has submitted Bids by 6 PM on the Bid Date and identifies the RFP Bidder's Bids that are provided to the Commission as winning Bids. The Independent Evaluator also provides a notification to the RFP Bidder by email.
- VII.3.4. An RFP Bidder that: (i) is not a Default Supplier; and (ii) has Bids that are identified to the Commission as winning Bids; and (iii) did not provide the necessary information to prepare the Uniform SMA with the Part 1 Proposal, will receive a notification from the Independent Evaluator on the Bid Date. This notification will require that such RFP Bidder provide all information needed to prepare the Uniform SMA by 12 PM (noon) on the next day. The Independent Evaluator uses this information to prepare the Uniform SMA for each such RFP Bidder.
- VII.3.5. An RFP Bidder that: (i) relies on the financial standing of an RFP Guarantor; (ii) has Bids that are identified to the Commission as winning Bids; and (iii) did not provide the information necessary to

prepare the guaranty with the Part 1 Proposal will receive a notification from the Independent Evaluator on the Bid Date. This notification will require that such RFP Bidder provide all information needed to prepare the guaranty by 12 PM (noon) on the next day. The Independent Evaluator uses this information to prepare the guaranty for each such RFP Bidder.

- VII.3.6. The Independent Evaluator presents the results of the solicitation to the Commission on the business day after the Bid Date in a confidential report. This confidential report will include the winning Bids identified during the evaluation. The Commission will have one (1) business day to consider the report of the Independent Evaluator and to approve or reject each of the winning Bids. If the Commission does not act within one (1) business day, the winning Bids are deemed to be approved.
- VII.3.7. On the day that the Commission approves some or all of the winning Bids, the Independent Evaluator notifies all RFP Bidders that have approved Bids. Such RFP Bidders are called Default Suppliers. When referring specifically to RFP Bidders that are not already Default Suppliers, the term New Default Suppliers will be used. When referring specifically to RFP Bidders that are already Default Suppliers, the term Existing Default Suppliers will be used.
- VII.3.8. On the day the Commission approves some or all of the winning Bids, the Independent Evaluator provides to PECO the name of each Default Supplier, the number of tranches won by each Default Supplier, and the Default Supplier's price for each product. The price for each such Default Supplier and for a given product is the average of the Default Supplier's approved Bids for that product in this solicitation.
- VII.3.9. On the day the Commission approves some or all of the winning Bids, the Independent Evaluator sends to PECO by secure file transfer the Uniform SMA, including all Exhibits, for each New Default Supplier. On the same day, the Independent Evaluator sends to PECO by secure file transfer the guaranty for each New Default Supplier relying on the financial standing of an RFP Guarantor. The Independent Evaluator also sends to PECO by secure file transfer the most current contact information that the Independent Evaluator has for each Default Supplier.
- VII.3.10. On the business day following the Commission approval of some or all of the winning Bids, PECO prepares one (1) Transaction Confirmation (Exhibit 1 of the Uniform SMA) for each product and Default Supplier. PECO partially executes two (2) originals of each Transaction Confirmation for each



Default Supplier and each product. PECO also partially executes two (2) originals of the Uniform SMA with each New Default Supplier.

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

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

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

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

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

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

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

- VII.3.14. By close of the third business day following Commission approval of some or all of the winning Bids:
- Each New Default Supplier returns by overnight delivery service to PECO one (1) original of the Uniform SMA, including all Exhibits;
  - Each Default Supplier returns by overnight delivery service to PECO one (1) original of the Transaction Confirmation; and
  - Each Default Supplier complies with all instructions from PECO to fulfill the creditworthiness requirements under the Uniform SMA.
- VII.3.15. Following receipt of originals by PECO:
- PECO and each New Default Supplier have one (1) fully executed original of the Uniform SMA and of Exhibit 3, the PJM Declaration of Authority, as well as all other Exhibits;
  - PECO and each Default Supplier have one (1) fully executed original of a Transaction Confirmation for each product for which the Default Supplier has approved Bids;
- VII.3.16. As provided in the Commission's directive dated October 12, 2010 (Docket No. M-2009-2082042), the Independent Evaluator will release, within fifteen (15) days of the close of the solicitation, the weighted average price and the percentage of load represented by each tranche for each product procured through this RFP. The Independent Evaluator will issue an announcement on behalf of PECO with this information and the announcement will also be posted to the RFP website.
- VII.3.17. Within fifteen (15) days of the full execution of the Uniform SMA, the Independent Evaluator provides to PECO a report on the solicitation. This report is based on the confidential report provided to the Commission, except that no losing bid information specific to a particular RFP Bidder is provided and that any information that an RFP Bidder may consider confidential or proprietary is also redacted.
- VII.3.18. As provided in the PaPUC's directive dated October 12, 2010 (Docket No. M-2009-2082042), PECO will continue to provide a default service rate calculation model. The model shows the methodology for translating RFP results into default service rates. A separate tool or illustrative example will be provided for determination of TOU rates. The calculation model is posted to the PECO website:
- <https://www.peco.com/MyAccount/MyService/Pages/ElectricPricetoCompare.aspx>

**VII.4. Personnel and Confidentiality**

- VII.4.1. Any information provided by an RFP Bidder in its Part 1 Proposal is provided on a confidential basis to the Independent Evaluator and may be provided on a confidential basis to the Commission Staff. PECO representatives will review the information provided to fulfill the requirements of Section IV.2, Section IV.3, and Section IV.5 and will participate in the evaluation of the creditworthiness of each RFP Bidder.
- VII.4.2. Any information provided by an RFP Bidder in its Part 2 Proposal is provided on a confidential basis to the Independent Evaluator, and may be provided on a confidential basis to the Commission Staff. PECO representatives will review the Pre-Bid Letter of Credit with the name of the RFP Bidder and the amount redacted and will participate in the evaluation of this Pre-Bid Letter of Credit. PECO representatives will also review the documents provided to fulfill the requirements of Section V.4 and Section V.5.
- VII.4.3. The Independent Evaluator and representatives from PECO involved in the evaluation of Proposals will consider all data and information provided by RFP Bidders in response to this RFP to be confidential and will attempt to limit its disclosure to the public in accordance with the provisions of this Section. PECO will also take reasonable action to ensure that its employees, representatives and agents authorized to consider and evaluate all Proposals protect the confidentiality of such data and information. Each representative of the Independent Evaluator and PECO that has access to any portion of the Proposals is required to sign a Confidentiality Statement in the form of Appendix 12 to these RFP Rules prior to evaluation of any portion of the Proposals. The list of all signatories is available to an RFP Bidder upon request.
- VII.4.4. However, absolute protection from public disclosure of the RFP Bidders' data and information filed in response to this RFP cannot be provided and is not intended. By submitting a Proposal in response to this RFP, each RFP Bidder acknowledges and agrees to the limitations of the confidentiality provisions set forth in this Section.
- VII.4.5. In addition, the RFP Bidders' data and information filed in response to the RFP will be disclosed if required by any federal, state or local agency (including, without limitation, the Commission) or by a court of competent jurisdiction. PECO or the Independent Evaluator will notify the RFP Bidder in

advance of such disclosure and cooperate with such RFP Bidder, to the extent deemed reasonable by PECO, and at the expense of the RFP Bidder, to prevent the disclosure of such materials. In any event, PECO, its employees, and agents including the Independent Evaluator will not be responsible to the RFP Bidders or any other party or liable for any disclosure of such designated materials before, during or subsequent to this RFP.

## **ARTICLE VIII. Reserved Rights**

- VIII.1.1. PECO will not be liable to any RFP Bidder or any other party for failure to execute a Uniform SMA or any Transaction Confirmation. Nothing herein may be construed to bind PECO unless and until the Commission has approved winning Bids, and the Uniform SMA and each Transaction Confirmation with an approved Default Supplier has been executed and is effective. Once effective, it is the Uniform SMA and not the RFP Rules or any documents relating thereto that will govern the relationship between and the responsibilities of the parties.
- VIII.1.2. The Independent Evaluator reserves the right to reject Proposals submitted in response to this RFP that are incomplete, or do not conform with the requirements of this RFP, or are submitted beyond the deadline for submission, or are submitted by an RFP Bidder that tries to unduly influence in any way the evaluation process.

# ADDENDUM to the RFP Rules

## MARCH 2021 Solicitation

### I.1 Auction Schedule

The schedule for this solicitation is below. All times in this schedule are Eastern Prevailing Time (“EPT”) unless specifically noted.

**Table 1. Schedule**

Event	Timing
Deadline to request consideration of an alternate form of guaranty	Tuesday, January 26, 2021
Bidder Information Webcast	Friday, February 5, 2021
Decision on alternate guaranty forms (if any)	Friday, February 12, 2021
Part 1 Window Opens	Wednesday, February 17, 2021
Part 1 Date (Part 1 Window Closes)	Tuesday, February 23, 2021
Part 1 Notification Date	Thursday, February 25, 2021
Approved modifications to Standard Guaranty posted	Friday, February 26, 2021
Part 2 Proposal Window Opens	Friday, February 26, 2021
Bid Submission training	Monday, March 1, 2021
Part 2 Date (Part 2 Window Closes)	Thursday, March 4, 2021
Part 2 Notification Date	Monday, March 8, 2021
Bid Date (Bids are Due)	Tuesday, March 9, 2021
IE provides its report to the PaPUC	Wednesday, March 10 2021
PaPUC Decision (close of business)	Thursday, March 11, 2021
<i>If Bids are approved by the PaPUC:</i>	
PECO sends partially executed Uniform SMA and Transaction Confirmation(s) by overnight delivery service (by close of business on the fourth business day after the Bid Date)	Monday, March 15, 2021
Uniform SMA and Transaction Confirmation(s) fully executed (by 2PM on the fifth business day after the Bid Date)	Tuesday, March 16, 2021
Default Service Supplier meets the creditworthiness requirements (by close of the fifth business day after the Bid Date)	Tuesday, March 16, 2021

## I.2 Updated Size of a Tranche for Default Load and Products Available

The total number of tranches, Load Caps, and the percentage size of each tranche to be procured under DSP V are shown in the table below. The Total Peak (MW), Default Peak (MW), and MW-

Measure of each tranche have been updated for this solicitation and are also provided in Table 2.

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

DSP V				Updated for March 2021 Solicitation		
Class	Total Tranches	Load Cap	% Size of a Tranche	Total Peak (MW)	Default Peak (MW)	MW-Measure of a Tranche
RES	62	31	1.60%	3,777.68	2,641.22	42.17
SC	24	12	4.17%	1,086.36	482.47	20.10
CCI	8	4	12.50%	3,162.98	190.54	23.82

The products and number of tranches available in this solicitation are provided in Table 3. A product for purposes of this RFP is defined by three characteristics: a) the Class to which it contributes Default Supply; b) the length of the supply period; and c) the date at which the supply period begins. For example, the RES-12-Jun21 product represents Default Supply for the RES Class for the supply period from June 1, 2021 through May 31, 2022.

**Table 3. Products and Number of Tranches Available.**

Product	Tranches Available
RES-12-Jun21	12
RES-24-Jun21	11
SC-12-Jun21	6
SC-24-Jun21	3
CCI-12-Jun21	8

## I.2 Load Caps for Products Available

Each Class has "Load Caps", which are limits on the number of tranches of Default Supply that an RFP Bidder can bid and serve for that Class. The Load Caps ensure that there will be a diversified pool of

Default Suppliers for each Class. The Load Caps for a Class are set so that the Default Service customers of that Class have no more than a 50% exposure to any one Default Supplier at any given time. The Load Caps in this solicitation are provided here:

**Table 4. Available Tranches and Load Caps (March 2021 Solicitation; RES Class).**

<b>Products</b>	<b>Available Tranches</b>	<b>Load Caps Apply to an RFP Bidder When an RFP Bidder Has:</b>	<b>Load Caps for RES Class</b>
RES-12-Jun21	12	Won more than 19 RES-24-Dec19, RES-24-Jun20, RES-12-Dec20, and RES-24-Dec20 tranches under DSP IV	31 less RES-24-Dec19, RES-24-Jun20, RES-12-Dec20, and RES-24-Dec20 tranches won under DSP IV
RES-24-Jun21	11	Won more than 20 RES-24-Dec19, RES-24-Jun20, RES-12-Dec20, and RES-24-Dec20 tranches under DSP IV	

**Table 5. Available Tranches and Load Caps (March 2021 Solicitation; SC and CCI Classes).**

<b>Products</b>	<b>Available Tranches</b>	<b>Load Caps Apply to an RFP Bidder When an RFP Bidder Has:</b>	<b>Load Caps</b>
SC-12-Jun21	6	Won more than 6 tranches of SC-24-Dec19, SC-24-Jun20, SC-12-Dec20, and SC-24-Dec20 under DSP IV	12 less SC-24-Dec19, SC-24-Jun20, SC-12-Dec20, and SC-24-Dec20 tranches won under DSP IV
SC-24-Jun21	3	Won more than 9 tranches of SC-24-Dec19, SC-24-Jun20, SC-12-Dec20, and SC-24-Dec20 under DSP IV	
CCI-12-Jun21	8	Load Caps apply always	4

- The Load Cap for the RES Class will apply as follows. An RFP Bidder is limited to 31 tranches of the RES-24-Dec19, RES-24-Jun20, RES-12-Dec20, and RES-24-Dec20 products combined, including tranches bid for RES-12-Jun21 and RES-24-Jun21 in this solicitation.
- The Load Cap for the SC Class will apply as follows. An RFP Bidder is limited to 12 tranches for the SC-12-Dec19, SC-24-Jun20, SC-12-Dec20, SC-24-Dec20 products combined, including tranches bid for SC-12-Jun21 and SC-24-Jun21 in this solicitation.
- The Load Cap for the CCI Class will apply as follows. In this solicitation, an RFP Bidder is limited to 4 tranches for the CCI-12-Jun21 product.



**Appendix 1**  
**PECO Energy Company**  
**Pennsylvania Default Service Supplier Master Agreement**

**See PECO Exhibit JJM-4**

## Appendix 2 – Alternate Guaranty Process

The Alternate Guaranty Process allows a prospective supplier unable to use the standard format of the guaranty provided as Appendix G to the PECO Energy Company Pennsylvania Default Service Supplier Master Agreement (“Uniform SMA”) to submit for consideration by PECO Energy Company (“PECO”) an alternate guaranty form that the prospective supplier uses in its normal course of business.

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

### Process and Ground Rules

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

1. A prospective supplier wishing to have PECO evaluate an alternate guaranty form must initiate the process by making a request for such consideration to the Independent Evaluator no later than fifteen (15) business days prior to the opening of the Part 1 Window. Within three (3) business days of receipt of such a request, the Independent Evaluator will issue a timetable for receipt of the materials from the prospective supplier and for consideration of these materials by PECO.
2. PECO will consider alternate guaranty forms only if the guaranty is for unlimited liability. (A prospective supplier can utilize the safe harbor provided by the Standard Guaranty, which has a liability limit.)
3. PECO has specified a list of minimum requirements that any alternate guaranty form must satisfy. This list is under the heading: “Minimum Requirements for the Alternate Guaranty Form” below.
4. The Independent Evaluator will receive the alternate guaranty form, remove any information identifying the prospective supplier, and forward it to PECO and to outside counsel retained on behalf of PECO. PECO will determine, with the consultation of outside counsel and the Independent Evaluator as necessary, whether the alternate guaranty form provides sufficient assurances of payment, taking into account the following general considerations:
  - a. whether the alternate guaranty form conforms to the minimum requirements identified by PECO;
  - b. whether the alternate guaranty form, which is not subject to a monetary limit, provides credit protections comparable to the credit protections provided to PECO by the Standard Guaranty; and
  - c. whether the alternate guaranty form includes defenses in favor of the guarantor not found in the Standard Guaranty.

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

The Independent Evaluator will inform the prospective supplier of PECO's decision. The Independent Evaluator will inform the prospective supplier of any specific changes that may be required for the proposed alternate guaranty form to be acceptable to PECO. Prospective suppliers will be given an opportunity to resubmit the alternate guaranty form if changes are identified by PECO. Alternate guaranty forms that have been resubmitted may be rejected if they do not include the changes identified by PECO.

5. An alternate guaranty form approved through this Guaranty Process will be acceptable to PECO. This alternate guaranty form may be used by the prospective supplier through the end of DSP V barring changes in the applicable law or changes to the RFP as may be ordered by the Pennsylvania Public Utility Commission.

### **Minimum Requirements for the Alternate Guaranty Form**

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

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

The enforceability opinion must not be qualified by or conditioned on any of the following:

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

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

**Sample Language**

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

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

## **APPENDIX 3 – ILLUSTRATIVE STANDARD PART 1 FORM DEFAULT SERVICE PROGRAM REQUEST FOR PROPOSALS**

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

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

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

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

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**STANDARD PART 1  
FORM**

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**1. Contact Information and Representations**

First Item: Name and Address of the RFP Bidder

**PLEASE PROVIDE THE RFP BIDDER’S LEGAL NAME AND ADDRESS.**

*Legal Name of RFP Bidder*

*Street Address*



*City*

*State*

*Zip Code*

Second Item: Officer of the RFP Bidder

The Officer of the RFP Bidder must be an officer, a director, or an individual otherwise authorized to undertake contracts (including the Uniform SMA) and bind the RFP Bidder. The Officer of the RFP Bidder whose contact information is provided in this online Part 1 Form must:

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

**PLEASE PROVIDE THE NAME AND CONTACT INFORMATION FOR THE OFFICER OF THE RFP BIDDER.**

*First Name*

*Last Name*

*Title*

*Street Address*



*City*

*State*

*Zip Code*

*Phone No.*

*Email Address*

Third Item: Representative of the RFP Bidder


The Independent Evaluator uses the Representative as the main point of contact for the RFP Bidder.

**PLEASE PROVIDE THE NAME AND CONTACT INFORMATION FOR THE REPRESENTATIVE OF THE RFP BIDDER.**  
The Officer of the RFP Bidder may also serve as the Representative.

<i>First Name</i>	<i>Last Name</i>		
<input type="text"/>	<input type="text"/>		
<i>Title</i>			
<input type="text"/>			
<i>Street Address</i>			
<input type="text"/>			
<input type="text"/>			
<i>City</i>	<i>State</i>	<i>Zip Code</i>	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
<i>Phone No.</i>	<i>Cell Phone No. (optional)</i>	<i>Email Address</i>	
<input type="text"/>	<input type="text"/>	<input type="text"/>	

**THE OFFICER OF THE RFP BIDDER MUST DESIGNATE THE INDIVIDUAL NAMED ABOVE TO SERVE AS THE REPRESENTATIVE OF THE RFP BIDDER BY COMPLETING THE REPRESENTATIVE INSERT.** The Representative Insert is also labelled INSERT #P1-1.

*Name of RFP Bidder*

 **REPRESENTATIVE INSERT (#P1-1)**

**THE OFFICER OF THE RFP BIDDER MUST DESIGNATE THE INDIVIDUAL WHOSE CONTACT INFORMATION IS PROVIDED IN THE ONLINE PART 1 FORM AS THE REPRESENTATIVE.**

I, \_\_\_\_\_ (the Officer of the RFP Bidder), hereby designate \_\_\_\_\_ (name of the Representative) to serve as the Representative of the RFP Bidder.

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

Fourth Item: Nominees

The Independent Evaluator provides notifications to the RFP Bidder by email and provides documents needed for participation by secure file transfer. Any such notification will be deemed received by the RFP Bidder at the time of delivery or transmission, provided that where delivery or transmission occurs after 6 PM on a

business day or occurs on a day that is not a business day, receipt will be deemed to occur at 9 AM on the following business day.

The RFP Bidder may designate up to three (3) authorized individuals (each called a “Nominee”) to receive communications from the Independent Evaluator in addition to the Representative. The RFP Bidder may make such a designation at any time during the solicitation.

*Is the RFP Bidder designating Nominees at this time?*

Yes  No

**THE REPRESENTATIVE OF THE RFP BIDDER OR THE OFFICER OF THE RFP BIDDER DESIGNATES NOMINEES BY COMPLETING THE NOMINEE INSERT. The Nominee Insert is also labelled INSERT #P1-2.**

*Name of RFP Bidder*

**NOMINEE INSERT (#P1-2)**

**Please note! This insert is optional.**

I, \_\_\_\_\_ (the Officer of the RFP Bidder or the Representative of the RFP Bidder), authorize the individuals whose contact details are immediately below to receive communications from the Independent Evaluator and to act on behalf of the RFP Bidder during the Proposal submission process.

\_\_\_\_\_  
Signature Date

**Contact Information for Nominee #1**

*First Name*  *Last Name*

*Title*

*Phone No.*  *Cell Phone No. (optional)*  *Email Address*

**Contact Information for Nominee #2**

*First Name*  *Last Name*

*Title*

*Phone No.*  *Cell Phone No. (optional)*  *Email Address*



**Contact Information for Nominee #3**

*First Name*  *Last Name*

*Title*

*Phone No.*  *Cell Phone No. (optional)*  *Email Address*

Notes (optional)

The RFP Bidder may provide additional information here, such as the period during which a particular individual will act as Nominee or the individual that a Nominee is replacing.

**2. Financial Requirements and Agency Agreements**

First Item: Agency Agreement

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

- Yes  No

**If Yes**, the RFP Bidder must elect a Principal as the entity on whose financial standing it is relying in responding to the next item.

Second Item: Election of Entity on Whose Financial Standing the RFP Bidder Is Relying

**PLEASE SELECT THE ENTITY UPON WHOSE FINANCIAL STANDING THE RFP BIDDER IS RELYING AS REQUIRED BY PARAGRAPH IV.2.2 OF THE RFP RULES:**

- (a) the RFP Bidder is relying on its own financial standing.
- (b) the RFP Bidder is relying on the financial standing of a guarantor.
- (c) the RFP Bidder is submitting a Proposal under an Agency Agreement and the RFP Bidder is relying on the financial standing of a Principal.



## 2.a. Financial and Credit Requirements

The RFP Bidder is the entity on whose financial standing the RFP Bidder is relying.

### First Item: Financial Information

**IF AVAILABLE, PLEASE PROVIDE THE MOST RECENT QUARTERLY FINANCIAL INFORMATION FOR THE RFP BIDDER**, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules:

- **IF AVAILABLE, YOU MUST PROVIDE THE MOST RECENT SECURITIES AND EXCHANGE COMMISSION (“SEC”) FORM 10-Q OR 10-K (WHICHEVER IS MORE RECENT) TO FULFILL THIS REQUIREMENT;**
- **IF THE SEC FORM 10-Q OR 10-K IS UNAVAILABLE, PLEASE PROVIDE, IF AVAILABLE, THE RFP BIDDER’S MOST RECENT QUARTERLY, MONTHLY, OR BI-ANNUAL FINANCIAL INFORMATION** accompanied by an attestation by the Chief Financial Officer (or similar position) that the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of the RFP Bidder. The requirements for this attestation are provided more specifically in Appendix 5 of the RFP Rules.

	<p><i>Most recent quarterly financial information (or, if unavailable, most recent monthly or bi-annual financial information accompanied by an attestation by the Chief Financial Officer)</i></p> <p><b>IF THE INFORMATION IS UNAVAILABLE, PLEASE SO STATE IN THE JUSTIFICATION OF OMISSIONS SECTION.</b></p>
	<p><i>Attestation from Chief Financial Officer if necessary.</i></p>

### Second Item: Credit Ratings

**PLEASE PROVIDE ALL AVAILABLE CREDIT RATINGS FOR THE RFP BIDDER.**

***Is the RFP Bidder rated by S&P Global Ratings (“S&P”)?***

**Yes**                       **No**

RFP Bidder’s rating: _____		
Type of rating ( <b>check one</b> ):	<input type="checkbox"/> Senior unsecured debt rating	<input type="checkbox"/> Corporate issuer rating

***Is the RFP Bidder rated by Moody’s Investors Service, Inc. (“Moody’s”)?***

**Yes**                       **No**

RFP Bidder’s rating: _____		
Type of rating ( <b>check one</b> ):	<input type="checkbox"/> Senior unsecured debt rating	<input type="checkbox"/> Corporate issuer rating

***Is the RFP Bidder rated by Fitch, Inc. (“Fitch”)?***

**Yes**                       **No**

RFP Bidder’s rating: _____		
Type of rating ( <b>check one</b> ):	<input type="checkbox"/> Senior unsecured debt rating	<input type="checkbox"/> Corporate issuer rating

**2.b. Financial and Credit Requirements**

The RFP Bidder is relying on financial standing of an RFP Guarantor.

First Item: Name and Address of RFP Guarantor

**PLEASE PROVIDE THE LEGAL NAME AND ADDRESS OF THE RFP GUARANTOR.**

*Legal Name of RFP Guarantor*

*Street Address*


*City*

*State*



*Zip Code*

Second Item: Financial Information

**Financial information must be available for the RFP Guarantor.**

**PLEASE PROVIDE THE MOST RECENT QUARTERLY FINANCIAL INFORMATION FOR THE RFP GUARANTOR, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules:**

- **IF AVAILABLE, YOU MUST PROVIDE THE MOST RECENT SECURITIES AND EXCHANGE COMMISSION (“SEC”) FORM 10-Q OR 10-K (WHICHEVER IS MORE RECENT) TO FULFILL THIS REQUIREMENT;**
- **IF THE SEC FORM 10-Q OR 10-K IS UNAVAILABLE, YOU MUST PROVIDE THE RFP GUARANTOR’S MOST RECENT QUARTERLY, MONTHLY, OR BI-ANNUAL FINANCIAL INFORMATION accompanied by an attestation by the Chief Financial Officer (or similar position) that the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of the RFP Bidder. The requirements for this attestation are provided more specifically in Appendix 5 of the RFP Rules.**

	<i>Most recent quarterly financial information (or, if unavailable, most recent monthly or bi-annual financial information accompanied by an attestation by the Chief Financial Officer)</i>
	<i>Attestation from Chief Financial Officer (if necessary)</i>

Third Item: Credit Ratings

**PLEASE PROVIDE THE CREDIT RATINGS FOR THE RFP GUARANTOR.**

**Is the RFP Guarantor rated by S&P Global Ratings (“S&P”)?**

**Yes**

**No**

RFP Guarantor's rating: _____ Type of rating ( <b>check one</b> ): <input type="checkbox"/> Senior unsecured debt rating <input type="checkbox"/> Corporate issuer rating
--

**Is the RFP Guarantor rated by Moody's Investors Service, Inc. ("Moody's")?**

**Yes**  **No**

RFP Guarantor's rating: _____ Type of rating ( <b>check one</b> ): <input type="checkbox"/> Senior unsecured debt rating <input type="checkbox"/> Corporate issuer rating
--

**Is the RFP Guarantor rated by Fitch, Inc. ("Fitch")?**

**Yes**  **No**

RFP Guarantor's rating: _____ Type of rating ( <b>check one</b> ): <input type="checkbox"/> Senior unsecured debt rating <input type="checkbox"/> Corporate issuer rating
--

**2.c. Financial and Credit Requirements**

The RFP Bidder is submitting a Proposal under an Agency Agreement and is relying on financial standing of a Principal.

First Item: Principals to the Agency Agreement

**PLEASE PROVIDE THE LEGAL NAME OF ALL PRINCIPALS UNDER THE AGENCY AGREEMENT.**

*Legal Name of Principal(s)*

--

Second Item: Agency Agreement

A copy of the Agency Agreement is required. **PLEASE SUBMIT ONE (1) COPY OF THE AGENCY AGREEMENT.**

	Agency Agreement
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Third Item: Principal on Whose Financial Standing the RFP Bidder is Relying

**PLEASE IDENTIFY THE RFP PRINCIPAL ON WHOSE FINANCIAL STANDING THE RFP BIDDER IS RELYING.**

- If there are several Principals in the Agency Agreement, you must identify the Principal with the lowest credit rating.
- If several Principals have the same lowest credit rating, you must identify the Principal among these that also has the lowest tangible net worth.

The Principal on whose financial standing the RFP Bidder is relying is referred to as the “RFP Principal”.



Name of RFP Principal

<i>Street Address</i>		
<i>City</i>	<i>State</i>	<i>Zip Code</i>

Fourth Item: Financial Information

**PLEASE PROVIDE THE MOST RECENT QUARTERLY FINANCIAL INFORMATION FOR THE RFP PRINCIPAL, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules:**

- **IF AVAILABLE, YOU MUST PROVIDE THE MOST RECENT SECURITIES AND EXCHANGE COMMISSION (“SEC”) FORM 10-Q OR 10-K (WHICHEVER IS MORE RECENT) TO FULFILL THIS REQUIREMENT;**
- **IF THE SEC FORM 10-Q OR 10-K IS UNAVAILABLE, YOU MUST PROVIDE THE RFP PRINCIPAL’S MOST RECENT QUARTERLY, MONTHLY, OR BI-ANNUAL FINANCIAL INFORMATION** accompanied by an attestation by the Chief Financial Officer (or similar position) that the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of the RFP Bidder. The requirements for this attestation are provided more specifically in Appendix 5 of the RFP Rules.

	<i>Most recent quarterly financial information (or, if unavailable, most recent monthly or bi-annual financial information accompanied by an attestation by the Chief Financial Officer)</i>
	<i>Attestation from Chief Financial Officer (if necessary)</i>

Fifth Item: Credit Ratings

**PLEASE PROVIDE THE CREDIT RATINGS FOR THE RFP PRINCIPAL.**

**Is the RFP Principal rated by S&P Global Ratings (“S&P”)?**

**Yes**                       **No**

RFP Principal’s rating: \_\_\_\_\_

Type of rating (**check one**):     Senior unsecured debt rating                       Corporate issuer rating

**Is the RFP Principal rated by Moody’s Investors Service, Inc. (“Moody’s”)?**

**Yes**                       **No**

RFP Principal's rating: \_\_\_\_\_  
 Type of rating (**check one**):  Senior unsecured debt rating  Corporate issuer rating

*Is the RFP Principal rated by Fitch, Inc. ("Fitch")?*


Yes  No

RFP Principal's rating: \_\_\_\_\_  
 Type of rating (**check one**):  Senior unsecured debt rating  Corporate issuer rating

Sixth Item: Agency Certifications

**THE OFFICER OF THE RFP BIDDER MUST CERTIFY TO HAVING AUTHORITY TO BIND THE PRINCIPAL(S) AND ACKNOWLEDGE THAT AN OFFICERS' CERTIFICATE MUST BE SIGNED BY COMPLETING THE AGENCY CERTIFICATIONS INSERT.** The Agency Certifications Insert is also labelled INSERT #P1-3.

*Name of RFP Bidder*

 **P1 AGENCY CERTIFICATIONS INSERT (#P1-3)**

**Please note! Only RFP Bidders submitting a Proposal under an Agency Agreement are required to submit this Insert.**

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

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

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

\_\_\_\_\_  
 Date


Seventh Item: Draft Officers' Certificate

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

*Is the RFP Bidder submitting a draft Officers' Certificate?*

Yes  No

**PLEASE PROVIDE THE RFP BIDDER'S DRAFT OFFICERS' CERTIFICATE.**

	<i>Draft Officers' Certificate</i>
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### 3. Credit Instruments and Uniform SMA

First Item: Standard Pre-Bid Letter of Credit

An RFP Bidder may request modifications to the Standard Pre-Bid Letter of Credit that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder.

**AN RFP BIDDER REQUESTS MODIFICATIONS TO THE STANDARD PRE-BID LETTER OF CREDIT BY SUBMITTING A DRAFT PRE-BID LETTER OF CREDIT SUBSTANTIALLY IN THE FORM OF THE STANDARD PRE-BID LETTER OF CREDIT INDICATING CLEARLY ANY AND ALL MODIFICATIONS TO THE STANDARD PRE-BID LETTER OF CREDIT USING TRACKED CHANGES IN MICROSOFT WORD.**

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

*Is the RFP Bidder submitting a Draft Pre-Bid Letter of Credit?*


Yes  No

*Does the Draft Pre-Bid Letter of Credit contain the same requested modifications as a Draft Pre-Bid Letter of Credit submitted in a prior solicitation?*

Yes  No

No

A Draft Pre-Bid Letter of Credit that is not substantially in the form of the Standard Pre-Bid Letter of Credit will not be considered or evaluated. **PLEASE PROVIDE THE DRAFT PRE-BID LETTER OF CREDIT.**

	<i>Draft Pre-Bid Letter of Credit</i>
---	---------------------------------------

**Yes**

A Draft Pre-Bid Letter of Credit that contains the same requested modifications as a prior submittal will not be reviewed again by PECO. To request the Independent Evaluator to email to you PECO’s assessment of the prior submittal, please email such request to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com).

Second Item: Standard Post-Bid Letter of Credit

An RFP Bidder may request modifications to the Standard Post-Bid Letter of Credit that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder.

**AN RFP BIDDER REQUESTS MODIFICATIONS TO THE STANDARD POST-BID LETTER OF CREDIT BY SUBMITTING A DRAFT POST-BID LETTER OF CREDIT SUBSTANTIALLY IN THE FORM OF THE STANDARD POST-BID LETTER OF CREDIT INDICATING CLEARLY ANY AND ALL MODIFICATIONS TO THE STANDARD POST-BID LETTER OF CREDIT USING TRACKED CHANGES IN MICROSOFT WORD.**

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

*Is the RFP Bidder submitting a Draft Post-Bid Letter of Credit?*

**Yes**  **No**

*Does the Draft Post-Bid Letter of Credit contain the same requested modifications as a Draft Post-Bid Letter of Credit submitted in a prior solicitation?*

**Yes**  **No**

**No**

A Draft Post-Bid Letter of Credit that is not substantially in the form of the Standard Post-Bid Letter of Credit will not be considered or evaluated. **PLEASE PROVIDE THE DRAFT POST-BID LETTER OF CREDIT.**



*Draft Post-Bid Letter of Credit*

**Yes**

A Draft Post-Bid Letter of Credit that contains the same requested modifications as a prior submittal will not be reviewed again by PECO. To request the Independent Evaluator to email to you PECO’s assessment of the prior submittal, please email such request to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com).

Third Item: Standard Guaranty

An RFP Bidder may request modifications to the Standard Guaranty that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder.



**AN RFP BIDDER REQUESTS MODIFICATIONS TO THE STANDARD GUARANTY BY SUBMITTING A DRAFT GUARANTY SUBSTANTIALLY IN THE FORM OF THE STANDARD GUARANTY INDICATING CLEARLY ANY AND ALL MODIFICATIONS TO THE STANDARD GUARANTY USING TRACKED CHANGES IN MICROSOFT WORD.**

All approved modifications to the Standard Guaranty are posted to the RFP website. Each RFP Bidder may use any of the approved modifications, regardless of whether the RFP Bidder itself or another RFP Bidder proposed the modification.

*Is the RFP Bidder submitting a Draft Guaranty?*


Yes  No

*Does the Draft Guaranty contain the same requested modifications as a Draft Guaranty submitted in a prior solicitation?*

Yes  No

No

A Draft Guaranty that is not substantially in the form of the Standard Guaranty will not be considered or evaluated. **PLEASE PROVIDE THE DRAFT GUARANTY.**

	Draft Guaranty
---	----------------

Yes

A Draft Guaranty that contains the same requested modifications as a prior submittal will not be reviewed again by PECO. To request the Independent Evaluator to email to you PECO's assessment of the prior submittal, please email such request to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com).

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

In accordance with Paragraph IV.3.4 of the RFP Rules, **THE RFP BIDDER IS ASKED TO PROVIDE THE FOLLOWING INFORMATION TO PREPARE THE UNIFORM SMA:**

- any elections to be made in the Uniform SMA;
- contact information required to prepare the Form of Notice, which is included as Exhibit 2 to the Uniform SMA; and
- any additional information required to prepare the Uniform SMA and its Exhibits.

**The RFP Bidder must either:** (i) provide the requested information to prepare the Uniform SMA at this time; **or:** (ii) submit an acknowledgment signed by the Officer of the RFP Bidder that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder's Bids to the Commission as winning Bids, the RFP Bidder must provide all required information by 12 PM (noon) EPT on the day after such notification is received.

*Is the RFP Bidder providing information to prepare the Uniform SMA at this time?*

Yes  No

Yes

**THE RFP BIDDER PROVIDES THE INFORMATION TO PREPARE THE UNIFORM SMA BY COMPLETING THE UNIFORM SMA INSERT.** The Uniform SMA Insert is also labelled INSERT #P1-4.

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



**UNIFORM SMA INSERT (#P1-4)**

**Please note! RFP Bidders must submit one (but ONLY one) of Insert #P1-4 and Insert #P1-5.**

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

5.4(a)(1) For the purposes of such determination, the DS Supply provided for under this Agreement for the period following the Early Termination Date through the remainder of the term of this Agreement shall be deemed to be those quantity amounts that would have been delivered on an hourly basis, had this Agreement been in effect during the previous calendar year adjusted for such DS Load changes as may have occurred since the previous calendar year.

***Do you intend for subsection 5.4(a)(1) to be included as part of the Uniform SMA?***

Yes                       No

- The information that you provide below will be used to complete Exhibit 2 (Form of Notice) to the Uniform SMA. **IF ANY OF THE INFORMATION REQUESTED BELOW IS UNAVAILABLE, PLEASE ENTER N/A IN THE CORRESPONDING FIELDS.**

(a) All Notices:

First Name

Last Name

Street Address



City

State

Zip Code

Phone No.

Email Address

DUNS

Federal Tax I.D. Number

(b) Invoices:

ATTN:

*First Name*

*Last Name*

*Phone No.*

*Email Address*

(c) Schedule:

ATTN:

*First Name*

*Last Name*

*Phone No.*

*Email Address*

(d) Payments:

ATTN:

*First Name*

*Last Name*

*Phone No.*

*Email Address*

(e) Wire Transfer:

*Bank*

*ABA*

*ACCT*

(f) Credit and Collections:

ATTN:

*First Name*

*Last Name*

*Phone No.*

*Email Address*

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

ATTN:

*First Name*

*Last Name*


*Phone No.*

*Email Address*

No

**THE OFFICER OF THE RFP BIDDER PROVIDES THE REQUIRED ACKNOWLEDGMENT BY COMPLETING THE DELAY (SMA) INSERT.** The Delay (SMA) Insert is also labelled INSERT #P1-5.

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

 **DELAY (SMA) INSERT (#P1-5)**

**Please note! RFP Bidders must submit one (but ONLY one) of Insert #P1-4 and Insert #P1-5.**

I, \_\_\_\_\_ (the Officer of the RFP Bidder), acknowledge that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder's Bids to the Commission as winning Bids, the RFP Bidder must provide all information required by the Uniform SMA Insert (#P1-4) by 12 PM (noon) EPT on the day after such notification is received.

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

\_\_\_\_\_  
Date

#### 4. Regulatory Representations

First Item: Representations by the Officer of the RFP Bidder

The Officer of the RFP Bidder must make a number of certifications as detailed in the RFP Rules. **THE OFFICER OF THE RFP BIDDER MAKES SUCH CERTIFICATIONS BY COMPLETING THE P1 CERTIFICATIONS A INSERT. THE SIGNATURE OF THE OFFICER OF THE RFP BIDDER MUST BE NOTARIZED.** The P1 Certifications A Insert is also labelled INSERT #P1-6.

*Name of RFP Bidder*

 **P1 CERTIFICATIONS (A) INSERT (#P1-6)**

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

I certify that:

- (1) I am an officer, a director, or an individual otherwise authorized to undertake contracts (including the PECO Energy Company - Pennsylvania Default Service Supplier Master Agreement) and bind the RFP Bidder.
- (2) All information provided in this Part 1 Proposal is true and accurate to the best of my knowledge and belief.
- (3) If, for any reason or due to any circumstance, any information provided in this Part 1 Proposal changes or any previous certification fails to remain valid before the sixth business day after the Bid Date, I or the Representative will notify the Independent Evaluator of such changes as soon as practicable but in no event later than one (1) day before the Bid Date.
- (4) This Part 1 Proposal will remain valid and remain in full force and effect until six (6) business days after the Bid Date.
- (5) The RFP Bidder is not part of a bidding agreement, a joint venture for purposes of participating in any solicitation for this RFP, a bidding consortium, or any other type of agreement related to bidding in any solicitation of this RFP.

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

Second Item: Additional Representations for RFP Bidders that have not previously qualified

The Officer of the RFP Bidder must make a number of certifications as detailed in the RFP Rules. **THE OFFICER OF THE RFP BIDDER MAKES SUCH CERTIFICATIONS BY COMPLETING THE P1 CERTIFICATIONS B INSERT. THE SIGNATURE OF THE OFFICER OF THE RFP BIDDER MUST BE NOTARIZED.** The P1 Certifications B Insert is also labelled INSERT #P1-7.

*Name of RFP Bidder*

**P1 CERTIFICATIONS (B) INSERT (#P1-7)**

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

I certify that:

- (1) I understand the terms of the Uniform SMA. The RFP Bidder accepts all of the terms of the Uniform SMA without modifications, and the RFP Bidder will execute the Uniform SMA and the Transaction Confirmation(s) for all Bids approved by the Commission.
- (2) The submission of this Part 1 Proposal constitutes the RFP Bidder’s acknowledgement and acceptance of all the terms and conditions of the RFP, regardless of the outcome of the solicitation or the outcome of such Proposal.
- (3) The RFP Bidder has no actions at law, suits in equity, proceedings or claims pending or, to the RFP Bidder’s knowledge, threatened against it before any federal, state, foreign or local court, tribunal or governmental agency or authority that might materially delay, prevent or hinder the RFP Bidder’s performance of its obligations under the Uniform SMA.
- (4) The RFP Bidder is not bankrupt or insolvent and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt or insolvent.

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

Third Item: Load Serving Entity


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

**Is the RFP Bidder an LSE in PJM?**


Yes  No

**Yes**

**THE RFP BIDDER MUST PROVIDE A COPY OF THE SIGNATURE PAGE OF THE RELIABILITY ASSURANCE AGREEMENT (“RAA”).**

	Signature Page of RAA
---	-----------------------

If the name of the signatory is not the same as the RFP Bidder, please provide evidence of a name change.


	Evidence of name change (if necessary)
---	--

**No**

**THE OFFICER OF THE RFP BIDDER MUST MAKE THE CERTIFICATIONS DETAILED IN THE RFP RULES BY COMPLETING THE LSE REPRESENTATION INSERT.** The LSE Representation Insert is also labelled INSERT #P1-9.

\_\_\_\_\_

*Name of RFP Bidder*

 **LSE REPRESENTATION INSERT (#P1-9)**

**Please note! ONLY RFP Bidders that are NOT PJM LSEs are required to submit this Insert.**

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

\_\_\_\_\_

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

### 5. Foreign RFP Bidders and Foreign Entities







*Is the RFP Bidder a Foreign Entity, or is the RFP Bidder relying on the financial standing of a Foreign Entity as RFP Guarantor, or is the RFP Bidding submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal?*

Yes

No

Yes

**AN RFP BIDDER THAT IS A FOREIGN RFP BIDDER, OR THAT IS RELYING ON THE FINANCIAL STANDING OF A FOREIGN ENTITY AS RFP GUARANTOR, OR RFP BIDDERS SUBMITTING A PROPOSAL UNDER AN AGENCY AGREEMENT WITH A FOREIGN ENTITY AS PRINCIPAL IS REQUIRED TO PROVIDE ADDITIONAL INFORMATION AS SPECIFIED IN THE SECTION IV.5 OF THE RFP RULES BY COMPLETING THE APPLICABLE INSERT AND PROVIDING ASSOCIATED DOCUMENTS.** An RFP Bidder that is a Foreign RFP Bidder is required to complete the P1 Foreign Bidder Insert, also labelled INSERT #P1-10. An RFP Bidder relying on the financial standing of a Foreign RFP Guarantor is required to complete the P1 Foreign Guarantor Insert, also labelled INSERT #P1-11. An RFP Bidder submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal is required to complete the P1 Foreign Principal Insert, also labelled INSERT #P1-12.

	<i>Insert (P1 Foreign Bidder Insert #P1-10, P1 Foreign Guarantor Insert #P1-11, OR P1 Foreign Principal Insert #P1-12)</i>
	<i>Additional Evidence of Creditworthiness</i>
	<i>Additional Evidence of Creditworthiness</i>
	<i>Draft legal opinion</i>
	<i>Draft sworn certificate</i>
	<i>Draft sworn certificate</i>

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

 **P1 FOREIGN BIDDER INSERT (#P1-10)**

**Please note! ONLY Foreign RFP Bidders are required to submit this Insert.**

First Item: Evidence of Creditworthiness

In addition to supplying all required information and documents elsewhere in the online Part 1 Form, a Foreign RFP Bidder may provide any additional evidence of creditworthiness for the Foreign RFP Bidder so as to provide PECO with comparable assurances of creditworthiness as



is applicable for an entity that has been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia.

*Are you submitting additional evidence of creditworthiness for the Foreign RFP Bidder?*

Yes  No

**PLEASE PROVIDE SUCH ADDITIONAL EVIDENCE OF CREDITWORTHINESS IN THE SPACES RESERVED FOR THAT PURPOSE IN THE ONLINE PART 1 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.**

Second Item: Acknowledgment

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

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

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

\_\_\_\_\_  
Date

Third Item: Draft Documents

The Officer of the RFP Bidder has acknowledged in the immediately preceding certifications that additional documents are required with the Part 2 Proposal. **THE RFP BIDDER MAY, BUT IS NOT REQUIRED TO, SUBMIT A DRAFT OF THESE DOCUMENTS.**

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

Yes  No

**PLEASE PROVIDE ANY SUCH DOCUMENTS IN THE SPACES RESERVED FOR THAT PURPOSE IN THE ONLINE PART 1 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.**

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

 **P1 FOREIGN GUARANTOR INSERT (#P1-11)**

**Please note! ONLY RFP Bidders relying on a Foreign RFP Guarantor are required to submit this Insert.**

First Item: Evidence of Creditworthiness

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

*Are you submitting additional evidence of creditworthiness for the Foreign RFP Guarantor?*

Yes

No

**PLEASE PROVIDE SUCH ADDITIONAL EVIDENCE OF CREDITWORTHINESS IN THE SPACES RESERVED FOR THAT PURPOSE IN THE ONLINE PART 1 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.**

Second Item: Acknowledgment

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

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

Signature of Officer

Date

Third Item: Draft Documents

The Officer of the RFP Bidder has acknowledged in the immediately preceding certifications that additional documents are required with the Part 2 Proposal for unsecured credit to be granted under the terms of the Uniform SMA. **THE RFP BIDDER MAY, BUT IS NOT REQUIRED TO, SUBMIT A DRAFT OF THESE DOCUMENTS.**

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

 Yes

 No

**PLEASE PROVIDE ANY SUCH DOCUMENTS IN THE SPACES RESERVED FOR THAT PURPOSE IN THE ONLINE PART 1 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.**

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

 **P1 FOREIGN PRINCIPAL INSERT (#P1-12)**

**Please note! ONLY RFP Bidders submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal are required to submit this Insert.**

First Item: Evidence of Creditworthiness

In addition to supplying all required information and documents elsewhere in the online Part 1 Form, an RFP Bidder submitting a Proposal under an Agency Agreement with a Foreign Entity as RFP Principal may provide any additional evidence of creditworthiness for the RFP Principal so as to provide PECO with comparable assurances of creditworthiness as is applicable for an entity that has been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia.

*Are you submitting additional evidence of creditworthiness for the Foreign Principal?*

 Yes

 No

**PLEASE PROVIDE SUCH ADDITIONAL EVIDENCE OF CREDITWORTHINESS IN THE SPACES RESERVED FOR THAT PURPOSE IN THE ONLINE PART 1 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.**

Second Item: Acknowledgment

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

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

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

\_\_\_\_\_  
Date

Third Item: Draft Documents

The Officer of the RFP Bidder has acknowledged in the immediately preceding certifications that additional documents are required with the Part 2 Proposal. **THE RFP BIDDER MAY, BUT IS NOT REQUIRED TO, SUBMIT A DRAFT OF THESE DOCUMENTS.**

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

Yes

No

**PLEASE PROVIDE ANY SUCH DOCUMENTS IN THE SPACES RESERVED FOR THAT PURPOSE IN THE ONLINE PART 1 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.**

No

The requirements of this section do not apply to you.

## 6. Justification of Omissions

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

If you are providing additional documents, such as providing the Part 2 Form certifications for early processing, please use the spaces below to upload these documents.

	<i>File upload</i>
	<i>File upload</i>
	<i>File upload</i>

# APPENDIX 4 – ILLUSTRATIVE SHORT PART 1 FORM DEFAULT SERVICE PROGRAM REQUEST FOR PROPOSALS

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

This Short Part 1 Form may only be used by an entity that has submitted a successful Part 1 Proposal in a previous solicitation under PECO’s current Default Service Program (“DSP V”). However, if there was a change in the corporate structure of the RFP Bidder, or if the identity of the entity on whose financial standing the RFP Bidder relies has changed, the RFP Bidder must use the Standard Part 1 Form.

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

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

---

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

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## SHORT PART 1 FORM

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### **GENERAL INSTRUCTIONS on the RFP Bidders that can use this form:**

- This Short Part 1 Form is for the exclusive use of RFP Bidders that successfully submitted a Part 1 Proposal in a previous solicitation under DSP V. If you are not eligible under this criterion, **please use the Standard Part 1 Form.**
- If there is a change in the corporate structure of the RFP Bidder (through a merger for example) since you last submitted a successful Part 1 Proposal in a previous solicitation under DSP V, **please use the Standard Part 1 Form.**
- If the entity on whose financial standing the RFP Bidder relies changed since you last submitted a successful Part 1 Proposal in a previous solicitation under DSP V, **please use the Standard Part 1 Form.**

# 1. Contact Information and Representations

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

Below is the information that you previously provided. **PLEASE MAKE ANY NECESSARY UPDATES TO THE RFP BIDDER’S LEGAL NAME AND ADDRESS.** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.

*Legal Name of RFP Bidder*

*Street Address*




*City*

*State*

*Zip Code*

**IF THE LEGAL NAME OF THE RFP BIDDER HAS CHANGED, PLEASE PROVIDE EVIDENCE OF THE CHANGE.**

	Evidence of name change (if necessary)
---	--

## Second Item: Officer of the RFP Bidder

The Officer of the RFP Bidder must be an officer, a director, or an individual otherwise authorized to undertake contracts (including the Uniform SMA) and bind the RFP Bidder. The Officer of the RFP Bidder whose contact information is provided in this online Part 1 Form must:

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

Below is the information that you previously provided. **PLEASE MAKE ANY UPDATES TO THE NAME AND CONTACT INFORMATION FOR THE OFFICER OF THE RFP BIDDER.** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.

*First Name*

*Last Name*

*Title*

*Street Address*



*City*

*State*

*Zip Code*

*Phone No.*

*Email Address*



Third Item: Representative of the RFP Bidder

The Independent Evaluator uses the Representative as the main point of contact for the RFP Bidder.

Below is the information that you previously provided. **PLEASE MAKE ANY UPDATES TO THE NAME AND CONTACT INFORMATION FOR THE REPRESENTATIVE OF THE RFP BIDDER.** The Officer of the RFP Bidder may also serve as the Representative. By submitting this form without making updates, you will be confirming that the previously provided information remains valid.

<i>First Name</i>	<i>Last Name</i>	
<input type="text" value="[pre-populated]"/>	<input type="text" value="[pre-populated]"/>	
<i>Title</i>		
<input type="text" value="[pre-populated]"/>		
<i>Street Address</i>		
<input type="text" value="[pre-populated]"/>		
<input type="text" value="[pre-populated]"/>		
<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input type="text" value="[pre-populated]"/>	<input type="text" value="[pre-populated]"/>	<input type="text" value="[pre-populated]"/>
<i>Phone No.</i>	<i>Cell Phone No. (optional)</i>	<i>Email Address</i>
<input type="text" value="[pre-populated]"/>	<input type="text" value="[pre-populated]"/>	<input type="text" value="[pre-populated]"/>

**Has the individual who will serve as Representative changed?**

Yes                       No

If the individual who will serve as Representative has changed since you last submitted a successful Part 1 Proposal under DSP V, **THE OFFICER OF THE RFP BIDDER MUST DESIGNATE THE INDIVIDUAL NAMED IN THE ONLINE PART 1 FORM TO SERVE AS THE REPRESENTATIVE OF THE RFP BIDDER BY COMPLETING THE REPRESENTATIVE INSERT.** The Representative Insert is also labelled INSERT #P1-1.

*Name of RFP Bidder*

**REPRESENTATIVE INSERT (#P1-1)**

**THE OFFICER OF THE RFP BIDDER MUST DESIGNATE THE INDIVIDUAL WHOSE CONTACT INFORMATION IS PROVIDED IN THE ONLINE PART 1 FORM AS THE REPRESENTATIVE.**

I, \_\_\_\_\_ (the Officer of the RFP Bidder) hereby designate \_\_\_\_\_ (name of the Representative) to serve as the Representative of the RFP Bidder.

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

\_\_\_\_\_  
Date

Fourth Item: Nominees

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

The RFP Bidder may designate up to three (3) authorized individuals (each called a “Nominee”) to receive communications from the Independent Evaluator in addition to the Representative. The RFP Bidder may make such a designation at any time during the solicitation.

Nominees are designated for a single solicitation and previously submitted designations are not saved for use in subsequent solicitations.

***Is the RFP Bidder designating Nominees at this time?***

**Yes**                       **No**

**THE REPRESENTATIVE OF THE RFP BIDDER OR THE OFFICER OF THE RFP BIDDER DESIGNATES NOMINEES BY COMPLETING THE NOMINEE INSERT. The Nominee Insert is also labelled INSERT #P1-2.**

*Name of RFP Bidder*

 **NOMINEE INSERT (#P1-2)**

**Please note! This insert is optional.**

I, \_\_\_\_\_ (the Officer of the RFP Bidder or the Representative of the RFP Bidder) authorize the individuals whose contact details are immediately below to receive communications from the Independent Evaluator and to act on behalf of the RFP Bidder during the Proposal submission process.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Contact Information for Nominee #1

*First Name*

*Last Name*

*Title*

*Phone No.*

*Cell Phone No. (optional)*

*Email Address*

Contact Information for Nominee #2

*First Name*

*Last Name*

*Title*

*Phone No.*

*Cell Phone No. (optional)*

*Email Address*

Contact Information for Nominee #3

*First Name*

*Last Name*

*Title*

*Phone No.*

*Cell Phone No. (optional)*

*Email Address*

Notes (optional)

The RFP Bidder may provide additional information here, such as the period during which a particular individual will act as Nominee or the individual that a Nominee is replacing.



**2.a. Information Required for RFP Bidders Relying on Their Own Financial Standing.**

**IF THE ENTITY UPON WHOSE FINANCIAL STANDING THE RFP BIDDER IS RELYING HAS CHANGED, YOU MUST USE THE STANDARD PART 1 FORM. PLEASE CONTACT THE INDEPENDENT EVALUATOR AT [PECOPROUREMENT@NERA.COM](mailto:PECOPROUREMENT@NERA.COM) TO RECEIVE INSTRUCTIONS ON THE FORM THAT YOU SHOULD USE.**

*First Item: Financial Information*

**IF AVAILABLE, PLEASE PROVIDE THE MOST RECENT QUARTERLY FINANCIAL INFORMATION FOR THE RFP BIDDER, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules:**

- **IF AVAILABLE, YOU MUST PROVIDE THE MOST RECENT SECURITIES AND EXCHANGE COMMISSION (“SEC”) FORM 10-Q OR 10-K (WHICHEVER IS MORE RECENT) TO FULFILL THIS REQUIREMENT;**
- **IF THE SEC FORM 10-Q OR 10-K IS UNAVAILABLE, PLEASE PROVIDE, IF AVAILABLE, THE RFP BIDDER’S MOST RECENT QUARTERLY, MONTHLY, OR BI-ANNUAL FINANCIAL INFORMATION accompanied by an attestation by the Chief Financial Officer (or similar position) that the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of the RFP Bidder. The requirements for this attestation are provided more specifically in Appendix 5 of the RFP Rules.**

	<i>Most recent quarterly financial information (or, if unavailable, most recent monthly or bi-annual financial information accompanied by an attestation by the Chief Financial Officer)</i> <b>IF THE INFORMATION IS UNAVAILABLE, PLEASE SO STATE IN THE JUSTIFICATION OF OMISSIONS SECTION.</b>
	<i>Attestation from Chief Financial Officer if necessary.</i>

*Second Item: Credit Ratings*

Below is the information that you previously provided. **PLEASE MAKE ANY UPDATES TO THE CREDIT RATINGS FOR THE RFP BIDDER.** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.

**Is the RFP Bidder rated by S&P Global Ratings (“S&P”)?**

**Yes**                       **No**

RFP Bidder’s rating: _____
Type of rating ( <b>check one</b> ): <input type="checkbox"/> Senior unsecured debt rating <input type="checkbox"/> Corporate issuer rating

**Is the RFP Bidder rated by Moody’s Investors Service, Inc. (“Moody’s”)?**

**Yes**                       **No**

RFP Bidder’s rating: _____
Type of rating ( <b>check one</b> ): <input type="checkbox"/> Senior unsecured debt rating <input type="checkbox"/> Corporate issuer rating

**Is the RFP Bidder rated by Fitch, Inc. (“Fitch”)?**

**Yes**                       **No**

RFP Bidder's rating: Type of rating ( <b>check one</b> ):	<input type="checkbox"/> Senior unsecured debt rating	<input type="checkbox"/> Corporate issuer rating
--	---	--

**2.b. Information Required from RFP Bidders Relying on the Financial Standing of an RFP Guarantor**

You previously elected the RFP Guarantor whose information is below as the entity on whose financial standing the RFP Bidder is relying. **IF THE ENTITY UPON WHOSE FINANCIAL STANDING THE RFP BIDDER IS RELYING HAS CHANGED, YOU MUST USE THE STANDARD PART 1 FORM. IF THERE WAS A CHANGE IN THE CORPORATE STRUCTURE OF THE RFP GUARANTOR, THROUGH A MERGER FOR EXAMPLE, YOU MUST USE THE STANDARD PART 1 FORM. PLEASE CONTACT THE INDEPENDENT EVALUATOR AT [PECOPROCUREMENT@NERA.COM](mailto:PECOPROCUREMENT@NERA.COM) TO RECEIVE INSTRUCTIONS ON THE FORM THAT YOU SHOULD USE.**

First Item: Name and Address of RFP Guarantor

Below is the information that you previously provided. **PLEASE MAKE ANY UPDATES TO THE ADDRESS FOR THE RFP GUARANTOR.** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.

*Legal Name of RFP Guarantor*

*Street Address*


  


*City*

*State*

*Zip Code*

**IF THE LEGAL NAME OF THE RFP GUARANTOR HAS CHANGED, PLEASE PROVIDE EVIDENCE OF THE CHANGE.**

	Evidence of name change (if necessary)
---	--



Second Item: Financial Information

**Financial information must be available for the RFP Guarantor.**

**PLEASE PROVIDE THE MOST RECENT QUARTERLY FINANCIAL INFORMATION FOR THE RFP GUARANTOR, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules:**

- **IF AVAILABLE, YOU MUST PROVIDE THE MOST RECENT SECURITIES AND EXCHANGE COMMISSION (“SEC”) FORM 10-Q OR 10-K (WHICHEVER IS MORE RECENT) TO FULFILL THIS REQUIREMENT;**
- **IF THE SEC FORM 10-Q OR 10-K IS UNAVAILABLE, YOU MUST PROVIDE THE RFP GUARANTOR’S MOST RECENT QUARTERLY, MONTHLY, OR BI-ANNUAL FINANCIAL INFORMATION accompanied by an**

attestation by the Chief Financial Officer (or similar position) that the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of the RFP Bidder. The requirements for this attestation are provided more specifically in Appendix 5 of the RFP Rules.

	Most recent quarterly financial information (or, if unavailable, most recent monthly or bi-annual financial information accompanied by an attestation by the Chief Financial Officer)
	Attestation from Chief Financial Officer (if necessary)

Third Item: Credit Ratings

Below is the information that you previously provided. **PLEASE MAKE ANY UPDATES TO CREDIT RATINGS FOR THE RFP GUARANTOR.** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.

**Is the RFP Guarantor rated by S&P Global Ratings (“S&P”)?**

Yes                       No

RFP Guarantor’s rating: _____ Type of rating ( <b>check one</b> ): <input type="checkbox"/> Senior unsecured debt rating <input type="checkbox"/> Corporate issuer rating
--

**Is the RFP Guarantor rated by Moody’s Investors Service, Inc. (“Moody’s”)?**

Yes                       No

RFP Guarantor’s rating: _____ Type of rating ( <b>check one</b> ): <input type="checkbox"/> Senior unsecured debt rating <input type="checkbox"/> Corporate issuer rating
--

**Is the RFP Guarantor rated by Fitch, Inc. (“Fitch”)?**

Yes                       No

RFP Guarantor’s rating: _____ Type of rating ( <b>check one</b> ): <input type="checkbox"/> Senior unsecured debt rating <input type="checkbox"/> Corporate issuer rating
--

**2.c. Information Required from RFP Bidders Relying on the Financial Standing of an RFP Principal**

You previously elected a Principal as the entity on whose financial standing the RFP Bidder is relying; the RFP Bidder is submitting a Proposal under an Agency Agreement. **IF THE ENTITY UPON WHOSE FINANCIAL STANDING THE RFP BIDDER IS RELYING HAS CHANGED YOU MUST USE THE STANDARD PART 1 FORM. PLEASE CONTACT THE INDEPENDENT EVALUATOR AT [PECOPROUREMENT@NERA.COM](mailto:PECOPROUREMENT@NERA.COM) TO RECEIVE INSTRUCTIONS ON THE FORM THAT YOU SHOULD USE.**

**AN RFP BIDDER SUBMITTING A PROPOSAL UNDER AN AGENCY AGREEMENT IS REQUIRED TO PROVIDE FINANCIAL INFORMATION REGARDING THE PRINCIPAL AS WELL AS OTHER INFORMATION REGARDING THE AGENCY AGREEMENT AS SPECIFIED IN THE RFP RULES.** The Independent Evaluator provided to you, along

with your login credentials, the P1 Agency Certifications Insert (#P1-3) and the Agency Agreement that you submitted previously (if any).

First Item: Principals to the Agency Agreement

Below is the information that you previously provided. **PLEASE MAKE ANY UPDATES TO THE NAME(S) OF THE PRINCIPAL(S).** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.

Legal Name of Principal(s)


[pre-populated]

Second Item: Agency Agreement

**Has the Agency Agreement changed since the RFP Bidder last submitted a successful Part 1 Proposal?**

Yes  No

A copy of the Agency Agreement is required. **PLEASE PROVIDE ONE (1) COPY OF THE AGENCY AGREEMENT.**

	Agency Agreement
--	------------------

Third Item: Principal on Whose Financial Standing the RFP Bidder is Relying

Below is the information that you previously provided regarding the Principal on whose financial standing the RFP Bidder is relying.

- If there are several Principals in the Agency Agreement, you must identify the Principal with the lowest credit rating.
- If several Principals have the same lowest credit rating, you must identify the Principal among these that also has the lowest tangible net worth.

**PLEASE MAKE ANY NECESSARY UPDATES.** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.

Legal Name of RFP Principal

[pre-populated]

Street Address

[pre-populated]

[pre-populated]

City

[pre-populated]

State

[pre-populated]

Zip Code

[pre-populated]



**IF THE LEGAL NAME OF THE PRINCIPAL HAS CHANGED, MORE INFORMATION MAY BE REQUIRED.**

Fourth Item: Financial Information

**Financial information must be available for the Principal on whose financial standing the RFP Bidder is relying.**

**PLEASE PROVIDE THE MOST RECENT QUARTERLY FINANCIAL INFORMATION FOR THE PRINCIPAL ON WHOSE FINANCIAL STANDING THE RFP BIDDER IS RELYING, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules:**

- **IF AVAILABLE, YOU MUST PROVIDE THE MOST RECENT SECURITIES AND EXCHANGE COMMISSION (“SEC”) FORM 10-Q OR 10-K (WHICHEVER IS MORE RECENT) TO FULFILL THIS REQUIREMENT;**
- **IF THE SEC FORM 10-Q OR 10-K IS UNAVAILABLE, YOU MUST PROVIDE THE RFP PRINCIPAL’S MOST RECENT QUARTERLY, MONTHLY, OR BI-ANNUAL FINANCIAL INFORMATION** accompanied by an attestation by the Chief Financial Officer (or similar position) that the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of the RFP Bidder. The requirements for this attestation are provided more specifically in Appendix 5 of the RFP Rules.

	<i>Most recent quarterly financial information (or, if unavailable, most recent monthly or bi-annual financial information accompanied by an attestation by the Chief Financial Officer)</i>
	<i>Attestation from Chief Financial Officer (if necessary)</i>

Fifth Item: Credit Ratings

Below is the information that you previously provided. **PLEASE MAKE ANY UPDATES TO CREDIT RATINGS FOR THE RFP PRINCIPAL.** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.

**Is the Principal rated by S&P Global Ratings (“S&P”)?**

**Yes**                       **No**

Principal’s rating: \_\_\_\_\_  
 Type of rating (**check one**):       Senior unsecured debt rating       Corporate issuer rating

**Is the Principal rated by Moody’s Investors Service, Inc. (“Moody’s”)?**

**Yes**                       **No**

Principal’s rating: \_\_\_\_\_  
 Type of rating (**check one**):       Senior unsecured debt rating       Corporate issuer rating

**Is the Principal rated by Fitch, Inc. (“Fitch”)?**

**Yes**                       **No**

Principal’s rating: \_\_\_\_\_  
 Type of rating (**check one**):       Senior unsecured debt rating       Corporate issuer rating



Sixth Item: Certification

**THE OFFICER OF THE RFP BIDDER SUBMITTING A PROPOSAL UNDER AN AGENCY AGREEMENT IS REQUIRED TO MAKE A CERTAIN REPRESENTATION BY COMPLETING THE P1 AGENCY CERTIFICATIONS (#P1-3).** The P1 Agency Certifications Insert is also labelled INSERT #P1-3.

*Name of RFP Bidder*

 **P1 AGENCY CERTIFICATIONS (PREV QUAL) INSERT (#P1-3)**

**Please note! Only RFP Bidders submitting a Proposal under an Agency Agreement are required to complete this Insert.**

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

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

\_\_\_\_\_  
Date

RFP Bidders that have submitted a successful Part 1 Proposal for a prior solicitation under DSP V previously acknowledged that, with the Part 2 Proposal, the RFP Bidder will be required to submit an Officers' Certificate signed by an officer of each Principal and substantially in the form of Appendix 6 to the RFP Rules.

Seventh Item: Draft Officers' Certificate


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

***Is the RFP Bidder submitting a draft Officers' Certificate?***

**Yes**

**No**

**PLEASE PROVIDE THE RFP BIDDER'S DRAFT OFFICERS' CERTIFICATE.**

	<i>Draft Officers' Certificate</i>
---	------------------------------------

### 3. Credit Instruments and Uniform SMA

First Item: Standard Pre-Bid Letter of Credit

An RFP Bidder may request modifications to the Standard Pre-Bid Letter of Credit that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder.

**AN RFP BIDDER REQUESTS MODIFICATIONS TO THE STANDARD PRE-BID LETTER OF CREDIT BY SUBMITTING A DRAFT PRE-BID LETTER OF CREDIT SUBSTANTIALLY IN THE FORM OF THE STANDARD PRE-BID LETTER OF CREDIT INDICATING CLEARLY ANY AND ALL MODIFICATIONS TO THE STANDARD PRE-BID LETTER OF CREDIT USING TRACKED CHANGES IN MICROSOFT WORD.**

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

*Is the RFP Bidder submitting a Draft Pre-Bid Letter of Credit?*

Yes  No

*Does the Draft Pre-Bid Letter of Credit contain the same requested modifications as a Draft Pre-Bid Letter of Credit submitted in a prior solicitation?*

Yes  No

No

A Draft Pre-Bid Letter of Credit that is not substantially in the form of the Standard Pre-Bid Letter of Credit will not be considered or evaluated. **PLEASE PROVIDE THE DRAFT PRE-BID LETTER OF CREDIT.**



*Draft Pre-Bid Letter of Credit*

Yes

A Draft Pre-Bid Letter of Credit that contains the same requested modifications as a prior submittal will not be reviewed again by PECO. To request the Independent Evaluator to email to you PECO's assessment of the prior submittal, please email such request to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com).

Second Item: Standard Post-Bid Letter of Credit

An RFP Bidder may request modifications to the Standard Post-Bid Letter of Credit that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder.

**AN RFP BIDDER REQUESTS MODIFICATIONS TO THE STANDARD POST-BID LETTER OF CREDIT BY SUBMITTING A DRAFT POST-BID LETTER OF CREDIT SUBSTANTIALLY IN THE FORM OF THE STANDARD POST-BID LETTER OF CREDIT INDICATING CLEARLY ANY AND ALL MODIFICATIONS TO THE STANDARD POST-BID LETTER OF CREDIT USING TRACKED CHANGES IN MICROSOFT WORD.**

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

*Is the RFP Bidder submitting a Draft Post-Bid Letter of Credit?*

Yes  No

*Does the Draft Post-Bid Letter of Credit contain the same requested modifications as a Draft Post-Bid Letter of Credit submitted in a prior solicitation?*

Yes  No

No

A Draft Post-Bid Letter of Credit that is not substantially in the form of the Standard Post-Bid Letter of Credit will not be considered or evaluated. **PLEASE PROVIDE THE DRAFT POST-BID LETTER OF CREDIT.**



*Draft Post-Bid Letter of Credit*

Yes

A Draft Post-Bid Letter of Credit that contains the same requested modifications as a prior submittal will not be reviewed again by PECO. To request the Independent Evaluator to email to you PECO's assessment of the prior submittal, please email such request to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com).

*Third Item: Standard Guaranty*

An RFP Bidder may request modifications to the Standard Guaranty that are non-material in nature, or that are advantageous to both PECO and the RFP Bidder.

**AN RFP BIDDER REQUESTS MODIFICATIONS TO THE STANDARD GUARANTY BY SUBMITTING A DRAFT GUARANTY SUBSTANTIALLY IN THE FORM OF THE STANDARD GUARANTY INDICATING CLEARLY ANY AND ALL MODIFICATIONS TO THE STANDARD GUARANTY USING TRACKED CHANGES IN MICROSOFT WORD.**

All approved modifications to the Standard Guaranty are posted to the RFP website. Each RFP Bidder may use any of the approved modifications, regardless of whether the RFP Bidder itself or another RFP Bidder proposed the modification.

*Is the RFP Bidder submitting a Draft Guaranty?*

Yes  No

*Does the Draft Guaranty contain the same requested modifications as a Draft Guaranty submitted in a prior solicitation?*

Yes  No

No

A Draft Guaranty that is not substantially in the form of the Standard Guaranty will not be considered or evaluated. **PLEASE PROVIDE THE DRAFT GUARANTY.**



*Draft Guaranty*

**Yes**

A Draft Guaranty that contains the same requested modifications as a prior submittal will not be reviewed again by PECO. To request the Independent Evaluator to email to you PECO's assessment of the prior submittal, please email such request to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com).

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

*Is the RFP Bidder a Default Supplier serving tranches won in a solicitation under DSP V?*

**Yes**                                       **No**

If **Yes**, please proceed to the Section 4.

If **No**, please provide the information required by this section.

**RFP BIDDERS ARE ASKED TO PROVIDE ALL INFORMATION NEEDED TO PREPARE THE UNIFORM SMA AND ITS EXHIBITS. AN RFP BIDDER THAT DOES NOT PROVIDE THIS INFORMATION MUST INSTEAD SUBMIT AN ACKNOWLEDGMENT SIGNED BY THE OFFICER OF THE RFP BIDDER.**

*Is the RFP Bidder providing information to prepare the Uniform SMA at this time?*

**Yes**                                       **No**

 **Yes**

**THE RFP BIDDER PROVIDES THE INFORMATION TO PREPARE THE UNIFORM SMA AND ITS EXHIBITS BY COMPLETING THE UNIFORM SMA INSERT.** The Uniform SMA Insert is also labelled INSERT #P1-4.

The Independent Evaluator provided to you, along with your login credentials, the Uniform SMA Insert that you submitted previously. You may make any updates to this document. By submitting this form of the Uniform SMA Insert (#P1-4) without making updates, you will be confirming that the previously provided information remains valid.

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

 **UNIFORM SMA INSERT (#P1-4)**

**Please note! RFP Bidders must submit one (but ONLY one) of Insert #P1-4 and Insert #P1-5.**

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

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

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

**Yes**                       **No**

2. The information that you provide below will be used to complete Exhibit 2 (Form of Notice) to the Uniform SMA. **IF ANY OF THE INFORMATION REQUESTED BELOW IS UNAVAILABLE, PLEASE ENTER N/A IN THE CORRESPONDING FIELDS.**

(a) All Notices:

<i>First Name</i>	<i>Last Name</i>	
<input type="text"/>	<input type="text"/>	
<i>Street Address</i>		
<input type="text"/>		
<input type="text"/>		
<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<i>Phone No.</i>	<i>Email Address</i>	
<input type="text"/>	<input type="text"/>	
<i>DUNS</i>	<i>Federal Tax I.D. Number</i>	
<input type="text"/>	<input type="text"/>	

(b) Invoices:

<i>ATTN:</i>	
<i>First Name</i>	<i>Last Name</i>
<input type="text"/>	<input type="text"/>
<i>Phone No.</i>	<i>Email Address</i>
<input type="text"/>	<input type="text"/>

(c) Schedule:

<i>First Name</i>	<i>Last Name</i>
<input type="text"/>	<input type="text"/>
<i>Phone No.</i>	<i>Email Address</i>
<input type="text"/>	<input type="text"/>

(d) Payments:

<i>ATTN:</i>	
<i>First Name</i>	<i>Last Name</i>
<input type="text"/>	<input type="text"/>
<i>Phone No.</i>	<i>Email Address</i>
<input type="text"/>	<input type="text"/>

(e) Wire Transfer:

*Bank*

*ABA*

*ACCT*

(f) Credit and Collections:

*ATTN:*

*First Name*

*Last Name*

*Phone No.*

*Email Address*

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

*ATTN:*

*First Name*

*Last Name*

*Phone No.*

*Email Address*

No

**THE OFFICER OF THE RFP BIDDER PROVIDES THE REQUIRED ACKNOWLEDGMENT BY COMPLETING THE DELAY (SMA) INSERT.** The Delay (SMA) Insert is also labelled INSERT #P1-5.

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

 **DELAY (SMA) INSERT (#P1-5)**

**Please note! RFP Bidders must submit one (but ONLY one) of Insert #P1-4 and Insert #P1-5.**

I, \_\_\_\_\_ (the Officer of the RFP Bidder), acknowledge that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder's Bids to the Commission as winning Bids, the RFP Bidder must provide all information required by the Uniform SMA Insert (#P1-4) by 12 PM (noon) EPT on the day after such notification is received.

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

\_\_\_\_\_  
Date

**4. Representations**

The Officer of the RFP Bidder must make a number of representations and certifications, which may include any or all of those detailed in Paragraphs IV.4.1, IV.4.2, and IV.4.3 of the RFP Rules.

*Is the RFP Bidder a Default Supplier serving tranches won in a solicitation under DSP V?*

Yes  No

Yes

**THE OFFICER OF THE RFP BIDDER MAKES SUCH CERTIFICATIONS BY COMPLETING THE P1 CERTIFICATIONS (A) INSERT.** The P1 Certifications (Default Supplier) Insert is also labelled INSERT #P16.

**THE SIGNATURE OF THE OFFICER OF THE RFP BIDDER MUST BE NOTARIZED.**

*Name of RFP Bidder*

**P1 CERTIFICATIONS (A) INSERT (#P1-6)**

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

I certify that:

- (1) I am an officer, a director, or an individual otherwise authorized to undertake contracts (including the PECO Energy Company - Pennsylvania Default Service Supplier Master Agreement) and bind the RFP Bidder.
- (2) All information provided in this Part 1 Proposal is true and accurate to the best of my knowledge and belief.
- (3) If, for any reason or due to any circumstance, any information provided in this Part 1 Proposal changes or any previous certification fails to remain valid before the sixth business day after the Bid Date, I or the Representative will notify the Independent Evaluator of such changes as soon as practicable but in no event later than one (1) day before the Bid Date.
- (4) This Part 1 Proposal will remain valid and remain in full force and effect until six (6) business days after the Bid Date.
- (5) The RFP Bidder is not part of a bidding agreement, a joint venture for purposes of participating in any solicitation for this RFP, a bidding consortium, or any other type of agreement related to bidding in any solicitation of this RFP.

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

\_\_\_\_\_  
Date



Printed Name	Date
<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Signature and Seal from Notary Public	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Date

**No**

**THE OFFICER OF THE RFP BIDDER MAKES SUCH CERTIFICATIONS BY COMPLETING THE P1 CERTIFICATIONS (A) INSERT AND P1 CERTIFICATIONS (C) INSERT.** These inserts are also labelled INSERT #P1-6 and INSERT #P1-8, respectively.

**THE SIGNATURE OF THE OFFICER OF THE RFP BIDDER MUST BE NOTARIZED.**

*Name of RFP Bidder*

**P1 CERTIFICATIONS (A) INSERT (#P1-6)**

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

I certify that:

- (6) I am an officer, a director, or an individual otherwise authorized to undertake contracts (including the PECO Energy Company - Pennsylvania Default Service Supplier Master Agreement) and bind the RFP Bidder.
- (7) All information provided in this Part 1 Proposal is true and accurate to the best of my knowledge and belief.
- (8) If, for any reason or due to any circumstance, any information provided in this Part 1 Proposal changes or any previous certification fails to remain valid before the sixth business day after the Bid Date, I or the Representative will notify the Independent Evaluator of such changes as soon as practicable but in no event later than one (1) day before the Bid Date.
- (9) This Part 1 Proposal will remain valid and remain in full force and effect until six (6) business days after the Bid Date.
- (10) The RFP Bidder is not part of a bidding agreement, a joint venture for purposes of participating in any solicitation for this RFP, a bidding consortium, or any other type of agreement related to bidding in any solicitation of this RFP.

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

\_\_\_\_\_  
Date

Printed Name

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

*Name of RFP Bidder*

 **P1 CERTIFICATIONS (C) INSERT (#P1-8)**

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

I certify that:

- (1) The RFP Bidder has no actions at law, suits in equity, proceedings or claims pending or, to the RFP Bidder’s knowledge, threatened against it before any federal, state, foreign or local court, tribunal or governmental agency or authority that might materially delay, prevent or hinder the RFP Bidder’s performance of its obligations under the Uniform SMA.
- (2) The RFP Bidder is not bankrupt or insolvent and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt or insolvent.
- (3) If the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder’s Bids to the Commission as winning Bids, all information required for the preparation of the Uniform SMA and its Exhibits must be submitted and complete by 12 PM (noon) EPT on the day after such notification is received.

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date







5. Foreign RFP Bidders and Foreign Entities

*Is the RFP Bidder a Foreign Entity, or is the RFP Bidder relying on the financial standing of a Foreign Entity as RFP Guarantor, or is the RFP Bidding submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal?*

Yes  No

Yes

**AN RFP BIDDER THAT IS A FOREIGN RFP BIDDER, OR THAT IS RELYING ON THE FINANCIAL STANDING OF A FOREIGN ENTITY AS RFP GUARANTOR, OR RFP BIDDERS SUBMITTING A PROPOSAL UNDER AN AGENCY AGREEMENT WITH A FOREIGN ENTITY AS PRINCIPAL IS REQUIRED TO PROVIDE ADDITIONAL INFORMATION AS SPECIFIED IN THE SECTION IV.5 OF THE RFP RULES BY COMPLETING THE APPLICABLE INSERT AND PROVIDING ASSOCIATED DOCUMENTS.** An RFP Bidder that is a Foreign RFP Bidder is required to complete the P1 Foreign Bidder Insert, also labelled INSERT #P1-10. An RFP Bidder relying on the financial standing of a Foreign RFP Guarantor is required to complete the P1 Foreign Guarantor Insert, also labelled INSERT #P1-11. An RFP Bidder submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal is required to complete the P1 Foreign Principal Insert, also labelled INSERT #P1-12.

	<i>Insert (P1 Foreign Bidder Insert #P1-10, P1 Foreign Guarantor Insert #P1-11, OR P1 Foreign Principal Insert #P1-12)</i>
	<i>Additional Evidence of Creditworthiness</i>
	<i>Additional Evidence of Creditworthiness</i>
	<i>Draft legal opinion</i>
	<i>Draft sworn certificate</i>
	<i>Draft sworn certificate</i>

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

 **P1 FOREIGN BIDDER INSERT (#P1-10)**

**Please note! ONLY Foreign RFP Bidders are required to submit this Insert.**

First Item: Evidence of Creditworthiness

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

*Are you submitting additional evidence of creditworthiness for the Foreign RFP Bidder?*

Yes

No

**PLEASE PROVIDE SUCH ADDITIONAL EVIDENCE OF CREDITWORTHINESS IN THE SPACES RESERVED FOR THAT PURPOSE IN THE ONLINE PART 1 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.**

Second Item: Draft Documents

The Officer of the RFP Bidder has acknowledged in the immediately preceding certifications that additional documents are required with the Part 2 Proposal. **THE RFP BIDDER MAY, BUT IS NOT REQUIRED TO, SUBMIT A DRAFT OF THESE DOCUMENTS.**

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

Yes

No

**PLEASE PROVIDE ANY SUCH DOCUMENTS IN THE SPACES RESERVED FOR THAT PURPOSE IN THE ONLINE PART 1 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.**

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

 **P1 FOREIGN GUARANTOR INSERT (#P1-11)**

**Please note! ONLY RFP Bidders relying on a Foreign RFP Guarantor are required to submit this Insert.**

First Item: Evidence of Creditworthiness

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

*Are you submitting additional evidence of creditworthiness for the Foreign RFP Guarantor?*

Yes

No

**PLEASE PROVIDE SUCH ADDITIONAL EVIDENCE OF CREDITWORTHINESS IN THE SPACES RESERVED FOR THAT PURPOSE IN THE ONLINE PART 1 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.**

Second Item: Draft Documents

The Officer of the RFP Bidder has acknowledged in the immediately preceding certifications that additional documents are required with the Part 2 Proposal for unsecured credit to be granted under the

terms of the Uniform SMA. **THE RFP BIDDER MAY, BUT IS NOT REQUIRED TO, SUBMIT A DRAFT OF THESE DOCUMENTS.**

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

Yes

No

**PLEASE PROVIDE ANY SUCH DOCUMENTS IN THE SPACES RESERVED FOR THAT PURPOSE IN THE ONLINE PART 1 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.**

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

 **P1 FOREIGN PRINCIPAL INSERT (#P1-12)**

**Please note! ONLY RFP Bidders submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal are required to submit this Insert.**

First Item: Evidence of Creditworthiness

In addition to supplying all required information and documents elsewhere in the online Part 1 Form, an RFP Bidder submitting a Proposal under an Agency Agreement with a Foreign Entity as RFP Principal may provide any additional evidence of creditworthiness for the RFP Principal so as to provide PECO with comparable assurances of creditworthiness as is applicable for an entity that has been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia.

*Are you submitting additional evidence of creditworthiness for the Foreign Principal?*

Yes

No

**PLEASE PROVIDE SUCH ADDITIONAL EVIDENCE OF CREDITWORTHINESS IN THE SPACES RESERVED FOR THAT PURPOSE IN THE ONLINE PART 1 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.**

Second Item: Draft Documents

The Officer of the RFP Bidder has acknowledged in the immediately preceding certifications that additional documents are required with the Part 2 Proposal. **THE RFP BIDDER MAY, BUT IS NOT REQUIRED TO, SUBMIT A DRAFT OF THESE DOCUMENTS.**

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

Yes

No

**PLEASE PROVIDE ANY SUCH DOCUMENTS IN THE SPACES RESERVED FOR THAT PURPOSE IN THE ONLINE PART 1 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.**




No

The requirements of this section do not apply to you.

### 6. Justification of Omissions

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

If you are providing additional documents, such as providing the Part 2 Form certifications for early processing, please use the spaces below to upload these documents.

	<i>File upload</i>
	<i>File upload</i>
	<i>File upload</i>

## **Appendix 5 - Requirements for Chief Financial Officer Attestation**

The attestation by the Chief Financial Officer, (or similar position), if required by Article IV, must fulfill the following requirements:

1. the attestation is a notarized affidavit attached to the financial information provided by the entity;
2. the attestation identifies the person making the affidavit as the Chief Financial Officer (or similar position);
3. the Chief Financial Officer (or similar position) attests that "the information contained in the financial statements fairly presents in all material respects the financial condition and results of the operations of \_\_\_\_\_[name of entity]".



## **Appendix 6 - Officers' Certificate (RFP Bidders Under an Agency Agreement)**

### **Sample**

The undersigned hereby certify that they are duly elected, qualified and acting officers holding the offices set forth below their respective names of \_\_\_\_\_ [name of Principal(s)], the "Principal" or together the "Principals". As such, they are familiar with the affairs of the Principal(s) and the Proposal submitted in response to PECO Energy Company's Default Service Program RFP under DSP IV, including the agency authorization submitted with the Proposal (the "Agency Agreement"). They are authorized to execute and deliver this certificate on behalf of the Principal(s).

They further certify that:

- (i) the copy of the Agency Agreement submitted with the Proposal is a true and complete copy of the Agency Agreement as currently in effect;
- (ii) the Agency Agreement is in full force and effect and shall remain in full force and effect for a period extending to six (6) business days following the Bid Date;
- (iii) there are no proceedings pending for the amendment or termination of the Agency Agreement, contemplated by the RFP Bidder, or contemplated by the Principal(s) to the RFP Bidder's knowledge;
- (iv) each individual who has executed this officers' certificate and the Agency Agreement is (or was at the time of the execution of such documents) authorized to execute and deliver such documents on behalf of the Principal(s); and
- (v) \_\_\_\_\_ [insert name], the Officer of the RFP Bidder named in the Part 1 Proposal, is authorized to execute the Uniform SMA as well as any Transaction Confirmation(s) pursuant to the Uniform SMA on behalf of the Principal(s).

Capitalized terms used in this officers' certificate without definition have the meanings assigned to such terms in the RFP Rules.

# APPENDIX 7 – ILLUSTRATIVE PART 2 FORM DEFAULT SERVICE PROGRAM REQUEST FOR PROPOSALS

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## STANDARD FORM

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

Before completing this online Part 2 Form, please review the RFP, including the PECO Energy Company Pennsylvania Default Service Supplier Master Agreement (“Uniform SMA”), so that you understand the conditions under which the RFP will be conducted. These documents are posted at [www.pecoprocurement.com](http://www.pecoprocurement.com).

By having submitted a Part 1 Proposal in response to this RFP, you agreed to all terms and conditions of this RFP.

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*Any information provided by an RFP Bidder in the Part 2 Proposal is provided on a confidential basis to the Independent Evaluator, and may be provided on a confidential basis to the Staff of the Pennsylvania Public Utility Commission (“Commission”). PECO representatives will review financial information and legal documents provided to fulfill the requirements of the Part 2 Proposal, and will participate in the evaluation of the Pre-Bid Letter of Credit with the name of the RFP Bidder and the amount redacted.*

---

**1. Contact Information and Representations**

First Item: Name and Address of the RFP Bidder

Below is the information that you previously provided. **PLEASE MAKE ANY NECESSARY UPDATES TO THE RFP BIDDER’S LEGAL NAME AND ADDRESS.** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.

*Legal Name of RFP Bidder*

[pre-populated]

*Street Address*

[pre-populated]

[pre-populated]

*City*

[pre-populated]


*State*

[pre-populated]

*Zip Code*

[pre-populated]

**IF THE LEGAL NAME OF THE RFP BIDDER HAS CHANGED, PLEASE PROVIDE EVIDENCE OF THE CHANGE.**

 Evidence of name change (if necessary)

Second Item: Contact Information for the Officer of the RFP Bidder

Below is the information that you previously provided. **PLEASE MAKE ANY UPDATES TO THE NAME AND CONTACT INFORMATION FOR THE OFFICER OF THE RFP BIDDER.** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.

Please note that the Officer of the RFP Bidder named in the Part 1 Proposal must make all representations and certifications in this Part 2 Proposal. If the individual serving as Officer of the RFP Bidder has changed, the RFP Bidder will be required to resubmit via email all certifications required by the Part 1 Proposal.

*First Name*

[pre-populated]

*Last Name*

[pre-populated]

*Title*

[pre-populated]

*Street Address*

[pre-populated]

[pre-populated]

*City*

[pre-populated]

*State*

[pre-populated]

*Zip Code*

[pre-populated]

*Phone No.*

[pre-populated]

*Cell Phone No. (Optional)*

[pre-populated]

*Email Address*

[pre-populated]

Third Item: Contact Information for the Representative

Below is the information that you previously provided. **PLEASE MAKE ANY UPDATES TO THE NAME AND CONTACT INFORMATION FOR THE REPRESENTATIVE OF THE RFP BIDDER.** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.


<i>First Name</i>	<i>Last Name</i>		
<input type="text" value="[pre-populated]"/>	<input type="text" value="[pre-populated]"/>		
<i>Title</i>			
<input type="text" value="[pre-populated]"/>			
<i>Street Address</i>			
<input type="text" value="[pre-populated]"/>			
<input type="text" value="[pre-populated]"/>			
<i>City</i>	<i>State</i>	<i>Zip Code</i>	
<input type="text" value="[pre-populated]"/>	<input type="text" value="[pre-populated]"/>	<input type="text" value="[pre-populated]"/>	
<i>Phone No.</i>	<i>Cell Phone No. (Optional)</i>	<i>Email Address</i>	
<input type="text" value="[pre-populated]"/>	<input type="text" value="[pre-populated]"/>	<input type="text" value="[pre-populated]"/>	

Fourth Item: Representations of the Officer of the RFP Bidder

**THE OFFICER OF THE RFP BIDDER MUST MAKE A NUMBER OF CERTIFICATIONS TO FULFILL THE REQUIREMENTS OF THE PART 2 PROPOSAL.** If the Officer of the RFP Bidder who made the representations and certifications of the Part 1 Form is unavailable to make the representations of the Part 2 Form, the RFP Bidder must name a new individual to serve as Officer of the RFP Bidder and must, in addition to making the representations required in the Part 2 Proposal, re-submit via email the certifications of the Part 1 Form by the Part 2 Date.

**THE OFFICER OF THE RFP BIDDER MUST MAKE A NUMBER OF CERTIFICATIONS BY COMPLETING THE P2 CERTIFICATIONS INSERT. THE SIGNATURE MUST BE NOTARIZED OR ATTESTED WITH THE CORPORATE SEAL.** The P2 Certifications Insert is also labelled INSERT #P2-1.

*Name of RFP Bidder*

 **P2 CERTIFICATIONS INSERT (#P2-1)**

**THE OFFICER OF THE RFP BIDDER MUST MAKE THE FOLLOWING CERTIFICATIONS. THE SIGNATURE MUST BE NOTARIZED OR ATTESTED WITH THE CORPORATE SEAL.**

- (1) I certify that this Part 2 Proposal will remain valid and remain in full force and effect until six (6) business days after the Bid Date and if any information provided in the Part 2 Proposal changes or any previous certification fails to remain valid during that time, the RFP Bidder will notify the Independent Evaluator as soon as practicable.
- (2) I certify that the RFP Bidder is bidding independently and that it has no knowledge of any information concerning a Proposal by another RFP Bidder in response to this solicitation or any

future solicitation under this RFP. Such information includes, but is not limited to: the fact that another RFP Bidder is submitting a Proposal in response to this solicitation or a subsequent solicitation under this RFP; the Bids by another RFP Bidder in this or in a subsequent solicitation under this RFP; the number of tranches bid by another RFP Bidder for any product in this or in a subsequent solicitation under this RFP; the estimation by another RFP Bidder of the value of a tranche of a product; the estimation by another RFP Bidder of the risks associated with providing supply under the Uniform SMA; the preference of another RFP Bidder for bidding on specific products in this or in a subsequent solicitation under the RFP; and the contractual arrangements for power of another RFP Bidder to serve tranches of Default Service Load were that RFP Bidder to become a Default Supplier. This certification must be binding and in effect until the Commission has either approved or rejected each of the winning Bids for this solicitation.

- (3) I certify that although the RFP Bidder may disclose aspects of its Proposal in communicating with its financial institution for the purpose of preparing the Pre-Bid Letter of Credit or in communicating with advisors (if any), any such communication is made in a manner that can reasonably be expected to maintain the confidentiality of the RFP Bidder’s Proposal.
- (4) I certify that, with only the exceptions noted in (3) above, the RFP Bidder has not disclosed, and will not otherwise disclose, publicly or to any other party any information relating to its Proposal, which could have an effect on whether another party submits a Proposal in any solicitation under the RFP, or on the contents of the Proposal that another RFP Bidder would be willing to submit in response to the RFP. Such information includes, but is not limited to: the fact that the RFP Bidder is submitting a Proposal in response to this RFP; the RFP Bidder’s Bids in this or in a subsequent solicitation under this RFP; the RFP Bidder’s number of tranches bid for any product in this or in a subsequent solicitation under this RFP; the RFP Bidder’s estimation of the value of a tranche of a product; the RFP Bidder’s estimation of the risks associated with providing supply under the Uniform SMA; and the RFP Bidder’s preference for bidding on specific products in this or in a subsequent solicitation under this RFP. This certification must be binding and in effect until the Commission has either approved or rejected each of the winning Bids for this solicitation.
- (5) I certify that any Bid on any product submitted in response to this RFP for this solicitation is binding until six (6) business days after the Bid Date and constitutes a binding and irrevocable offer to provide service under the terms of the Uniform SMA at the price specified in the Bid.
- (6) I certify that I will execute (or I will nominate another authorized individual to execute) the Uniform SMA and all Transaction Confirmation(s) for the RFP Bidder’s Bids that are approved by the Commission no later than 2PM on the third business day after the Commission has accepted such Bids.
- (7) I certify that in each Transaction Confirmation, the RFP Bidder will specify a price for each type of AECs (Tier I, Tier I Solar, and Tier II) that is included in the RFP Bidder’s winning Bids and each such price must be greater than \$0/AEC.

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

## 2. Pre-Bid Letter of Credit

**THE RFP BIDDER MUST PROVIDE AN EXECUTED PRE-BID LETTER OF CREDIT**, drawn for the account of the RFP Bidder and acceptable to PECO, **IN AN AMOUNT OF AT LEAST: \$250,000 PER TRANCHE BID ON PRODUCTS OF THE RES AND SC CLASSES FOR FULL REQUIREMENTS ON A FIXED-PRICE BASIS, PLUS, IF APPLICABLE, \$125,000 PER TRANCHE BID ON A PRODUCT FOR THE CCI CLASS FOR FULL REQUIREMENTS ON A SPOT-PRICE BASIS.** A single Pre-Bid Letter of Credit is submitted even if the RFP Bidder bids on more than one product or, if applicable, the RFP Bidder bids to supply both full requirements on a fixed-price basis and full requirements on a spot-price basis.

The RFP Bidder must either use the Standard Pre-Bid Letter of Credit, provided on [www.pecoprocedure.com](http://www.pecoprocedure.com), or submit a Pre-Bid Letter of Credit that incorporates only those modifications to the Standard Pre-Bid Letter of Credit accepted as a result of the evaluation of the Part 1 Proposals.


**THE HARDCOPY EXECUTED PRE-BID LETTER OF CREDIT MUST BE SENT BY OVERNIGHT DELIVERY SERVICE** to the Independent Evaluator at the address provided to RFP Bidders for this purpose.

*At the time this form is submitted, has the Pre-Bid Letter of Credit already been sent to the Independent Evaluator?*

Yes

No

RFP Bidders may, but are not required to, upload or email to [pecoprocedure@nera.com](mailto:pecoprocedure@nera.com) an electronic executed version of the Pre-Bid Letter of Credit for evaluation.

	<i>Electronic version of Executed Pre-Bid Letter of Credit</i>
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PECO and the Independent Evaluator will release the Pre-Bid Letter of Credit no later than six (6) business days after the Bid Date. If the Commission does not approve any of the RFP Bidder's Bids, PECO and the Independent Evaluator will release that RFP Bidder's Pre-Bid Letter of Credit within three (3) business days of the Bid Date.

*Would you like to provide special instructions for returning the Pre-Bid Letter of Credit?*

Yes

No

**PLEASE PROVIDE ANY SPECIAL INSTRUCTIONS FOR RETURNING THE PRE-BID LETTER OF CREDIT BELOW.**

### 3. Additional Requirements

#### 3a. Requirements for RFP Bidders Relying on Their Own Financial Standing

You previously elected the RFP Bidder as the entity on whose financial standing the RFP Bidder is relying. **YOU HAVE NO ADDITIONAL REQUIREMENTS** under this section and you may proceed to the next section.

#### 3b. Requirements for RFP Bidders Relying on the Financial Standing of an RFP Guarantor

You previously elected to rely on the financial standing of an RFP Guarantor. **THE RFP BIDDER MUST PROVIDE THE GUARANTY DOCUMENTS REQUIRED BY THIS SECTION.**

First Item: Intent to Provide a Guaranty

**A REPRESENTATIVE OF THE RFP GUARANTOR WHO IS AUTHORIZED TO UNDERTAKE CONTRACTS (INCLUDING THE GUARANTY) AND BIND THAT RFP GUARANTOR MUST MAKE THE CERTIFICATIONS PROVIDED IN THE GUARANTY INTENT INSERT.** The Guaranty Intent Insert is also labelled INSERT #P2-2.

*Name of RFP Bidder*

 **GUARANTY INTENT INSERT (#P2-2)**

**PLEASE PROVIDE THE INDICATIVE AMOUNT OF THE GUARANTY IN THE SPACE PROVIDED. THE INDICATIVE AMOUNT MUST MEET OR EXCEED THE SUM OF: (I) \$600,000 TIMES THE NUMBER OF TRANCHES BID ON PRODUCTS FOR THE RES AND SC CLASSES FOR FULL REQUIREMENTS ON A FIXED-PRICE BASIS; AND, IF APPLICABLE, (II) \$300,000 TIMES THE NUMBER OF TRANCHES BID ON THE CCI CLASS FOR FULL REQUIREMENTS ON A SPOT-PRICE BASIS.**

I acknowledge that \_\_\_\_\_ (“RFP Guarantor”) has been asked to provide a financial guaranty on behalf of \_\_\_\_\_ (“RFP Bidder”) should the RFP Bidder become a Default Supplier pursuant to its response under this RFP for procuring supply under the terms of the Uniform SMA. Our senior unsecured debt rating meets the Minimum Rating as defined in the Uniform SMA.

We would consider providing a financial guaranty on behalf of the RFP Bidder should there be no material change in affairs of at least \$ \_\_\_\_\_ (Indicative Amount). This statement should not and cannot be taken as an indication of financing commitment of any kind whatsoever, or an absolute commitment to provide a financial guaranty.

\_\_\_\_\_  
Signature of a Representative of the RFP Guarantor

\_\_\_\_\_  
Date

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

Second Item: Information to Prepare the Guaranty

In accordance with Paragraph V.3.3 of the RFP Rules, **THE RFP BIDDER IS ASKED TO PROVIDE THE FOLLOWING INFORMATION TO PREPARE THE GUARANTY:**

- the governing laws under which the RFP Guarantor is organized;
- contact information for the RFP Guarantor, including the name and title of the signatory of the guaranty for notices under the guaranty;
- elections to incorporate any or all of the approved modifications to the Standard Guaranty.

**THE RFP BIDDER MUST EITHER:** (i) provide the requested information to prepare the guaranty at this time; or: (ii) submit an acknowledgment signed by the Officer of the RFP Bidder that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder’s Bids to the Commission as winning Bids, the RFP Bidder must provide all required information by 12 PM (noon) EPT on the day after such notification is received.

*Is the RFP Bidder providing information to prepare the guaranty at this time?*

Yes  No

Yes

**THE RFP BIDDER PROVIDES THE INFORMATION TO PREPARE THE GUARANTY BY COMPLETING THE GUARANTY INSERT.** The Guaranty Insert is also labelled INSERT #P2-3.

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

 **GUARANTY INSERT (#P2-3)**

**Please note! RFP Bidders relying on the financial standing of an RFP Guarantor must submit one (but ONLY one) of Insert #P2-3 or Insert #P2-4.**

1. Governing Laws under which the RFP Guarantor is Organized

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

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

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

2. Governing Laws under which the RFP Bidder is Organized

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



Title

Company

Street Address

City

State

Zip Code

Phone Number

Fax

Please provide the name and title of the person who will be signing the guaran

First Name

Last Name

Title

4. Elections of Optional Modifications to the Guaranty

Optional changes that the RFP Bidder may adopt for the Form of Guaranty are document entitled "Optional Modifications to the Guaranty" available on PLEASE INDICATE THE CHANGES THAT YOU ARE ELECTING IN THE TABLE BEL

Optional Change	Paragraph	RFP Bidder adopts change
1	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
2	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
3	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
4	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
5	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
6	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
<b>7</b>	<b>Paragraph 1</b>	<input type="checkbox"/> <b>yes (*a*)</b> <input type="checkbox"/> <b>no</b>
<b>Provide the information below under (*a*)</b>		
8	Paragraph 2	<input type="checkbox"/> yes <input type="checkbox"/> no
9	Paragraph 4	<input type="checkbox"/> yes <input type="checkbox"/> no
10	Paragraph 5	<input type="checkbox"/> yes <input type="checkbox"/> no

Illustrative Part 2 Form

11	Paragraph 10	<input type="checkbox"/> yes <input type="checkbox"/> no
12	Paragraph 11	<input type="checkbox"/> yes <input type="checkbox"/> no
13	Paragraph 11	<input type="checkbox"/> yes <input type="checkbox"/> no
14	Paragraph 12	<input type="checkbox"/> yes <input type="checkbox"/> no
15	Paragraph 13	<input type="checkbox"/> yes <input type="checkbox"/> no
16	Paragraph 14	<input type="checkbox"/> yes <input type="checkbox"/> no
17	Paragraph 14	<input type="checkbox"/> yes <input type="checkbox"/> no
18	Paragraph 14	<input type="checkbox"/> yes <input type="checkbox"/> no
19	Paragraph 14	<input type="checkbox"/> yes <input type="checkbox"/> no
<b>20</b>	<b>Paragraph 17</b>	<input type="checkbox"/> <b>yes (*b*)</b> <input type="checkbox"/> no <b>Provide the information below under (*b*)</b>
<b>21</b>	<b>Closing Paragraph and Signature Block</b>	<input type="checkbox"/> <b>yes (*c*)</b> <input type="checkbox"/> no <b>Provide the information below under (*c*)</b>
<b>22</b>	<b>Additional Guarantor</b>	<input type="checkbox"/> <b>yes (*d*)</b> <input type="checkbox"/> no <b>Provide the information below under (*d*)</b>
<b>23</b>	<b>Additional Guarantor</b>	<input type="checkbox"/> <b>yes (*e*)</b> <input type="checkbox"/> no <b>Provide the information below under (*e*)</b>
24	Paragraph 9	<input type="checkbox"/> yes <input type="checkbox"/> no

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

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

*Date of Existing Guaranty*

*Amount of Existing Guaranty*

**(\*b\*) THE REPRESENTATIVE OF THE RFP BIDDER OR THE OFFICER OF THE RFP BIDDER MUST MAKE THE FOLLOWING REPRESENTATION IF YOU ELECT OPTIONAL CHANGE #20:**

I, \_\_\_\_\_ (the Officer of the RFP Bidder or the Representative of the RFP Bidder), certify that the RFP Guarantor, on whose financial standing the RFP Bidder will be relying, is not a trust.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**(\*c\*) PLEASE PROVIDE THE NAME AND TITLE OF THE ADDITIONAL PERSON WHO WILL BE SIGNING THE GUARANTY IF YOU ELECT OPTIONAL CHANGE #21:**

*First Name*

*Last Name*

*Title*

**(\*d\*) PLEASE PROVIDE THE FOLLOWING ADDITIONAL INFORMATION IF YOU ELECT OPTIONAL CHANGE #22:**

*Name of Additional Guarantor*

[Empty box]

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

[Empty box]

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

[Empty box]

(\*e\*) PLEASE PROVIDE THE FOLLOWING ADDITIONAL INFORMATION IF YOU ELECT OPTIONAL CHANGE #23:

Name of Additional Guarantor

[Empty box]

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

[Empty box]

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

[Empty box]

NO

THE OFFICER OF THE RFP BIDDER PROVIDES THE REQUIRED ACKNOWLEDGMENT BY COMPLETING THE DELAY (GUARANTY) INSERT. The Delay (Guaranty) Insert is also labelled INSERT #P2-4.

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

 DELAY (GUARANTY) INSERT (#P2-4)

**Please note!** RFP Bidders relying on the financial standing of an RFP Guarantor must submit one (but ONLY one) of Insert #P2-3 or Insert #P2-4.

I, \_\_\_\_\_ (the Officer of the RFP Bidder), acknowledge that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder's Bids to the Commission as winning Bids, the RFP Bidder must provide all information required by the Guaranty Insert (#P2-3) by 12 PM (noon) EPT on the day after such notification is received.

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

\_\_\_\_\_  
Date

*Did you receive approval from PECO to use an alternate guaranty form through the Guaranty Process?*


Yes

No

Yes

**EACH RFP BIDDER THAT RELIES ON THE FINANCIAL STANDING OF AN RFP GUARANTOR AND THAT HAS OBTAINED APPROVAL FOR USE OF AN ALTERNATE GUARANTY FORM MUST PROVIDE AN EXECUTED ENFORCEABILITY OPINION** for its approved alternate guaranty form on the letterhead of a law firm of national standing.

**PLEASE PROVIDE THE ENFORCEABILITY OPINION IN THE SPACE PROVIDED BELOW OR BY EMAIL TO PECOPROUREMENT@NERA.COM.**

	<i>Enforceability Opinion</i>
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



**4. Foreign RFP Bidders and Foreign Entities**

*Is the RFP Bidder a Foreign RFP Bidder, or is the RFP Bidder relying on the financial standing of a Foreign Entity as RFP Guarantor or is the RFP Bidder submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal?*

**Yes** [pre-populated]       **No** [pre-populated]

**AN RFP BIDDER THAT IS A FOREIGN RFP BIDDER, OR THAT IS RELYING ON THE FINANCIAL STANDING OF A FOREIGN ENTITY AS RFP GUARANTOR, OR THAT IS SUBMITTING A PROPOSAL UNDER AN AGENCY AGREEMENT WITH A FOREIGN ENTITY AS PRINCIPAL IS REQUIRED TO PROVIDE ADDITIONAL INFORMATION AS SPECIFIED IN SECTION V.5 OF THE RFP RULES** by completing the P2 Foreign Entity Insert and providing associated documents. The P2 Foreign Entity Insert is also labelled INSERT #P2-5.

	<i>Insert #P2-5</i>
	<i>Additional Evidence of Creditworthiness</i>
	<i>Additional Evidence of Creditworthiness</i>
	<i>Legal opinion</i>
	<i>Sworn certificate</i>
	<i>Sworn certificate</i>

*Name of RFP Bidder*

 **P2 FOREIGN ENTITY INSERT (#P2-5)**

**Please note! Only RFP Bidders that are Foreign Entities, or that rely on the financial standing of a Foreign Entity as RFP Guarantor, or that submit a Proposal under an Agency Agreement with a Foreign Entity as Principal, are required to complete this Insert. The requirements are provided in Section V.5 of the RFP Rules.**

Are you a previously eligible RFP Bidder (i.e., did you successfully complete the Part 2 Proposal on a prior solicitation under DSP V)?

**Yes**       **No**

**If no,** please complete Section A below.  
**If yes,** please complete Section B below.

## **SECTION A. RFP BIDDERS THAT HAVE NOT PREVIOUSLY COMPLETED THE PART 2 PROPOSAL**

**PLEASE COMPLETE ONLY THE ITEM THAT APPLIES TO YOU:**

<b>Circumstances</b>	<b>Item to Complete</b>
The RFP Bidder is a Foreign Entity	First Item
The RFP Bidder relies on the financial standing of a Foreign Entity as RFP Guarantor	Second Item
The RFP Bidder is submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal	Third Item

### First Item: Required Documents for Foreign RFP Bidders

**A FOREIGN RFP BIDDER MUST PROVIDE THE ADDITIONAL DOCUMENTS LISTED BELOW TO THE ONLINE PART 2 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM FOR THE FOREIGN RFP BIDDER.**

- (1) **one (1) executed original** legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the RFP Bidder is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the RFP Bidder in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit 4 to the Uniform SMA includes a sample of a sufficient legal opinion.
- (2) **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such RFP Bidder that the person executing the Uniform SMA on behalf of the RFP Bidder has the authority to execute the Uniform SMA and that the governing board of such RFP Bidder has approved the execution of the Uniform SMA.
- (3) **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such RFP Bidder that the RFP Bidder has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA.

PECO will determine whether such documents are sufficient. **If the documents are not sufficient, the RFP Bidder may not be eligible to continue its participation in the RFP.**

### Second Item: Required Documents for RFP Bidders with a Foreign Entity as RFP Guarantor

**AN RFP BIDDER RELYING ON THE FINANCIAL STANDING OF A FOREIGN ENTITY AS RFP GUARANTOR MUST PROVIDE THE ADDITIONAL DOCUMENTS LISTED BELOW TO THE ONLINE PART 2 FORM OR BY**

**EMAIL TO PECOPROUREMENT@NERA.COM FOR THE RFP GUARANTOR TO BE GRANTED UNSECURED CREDIT UNDER THE TERMS OF THE UNIFORM SMA.**

- (1) **one (1) executed original** legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the RFP Guarantor is incorporated or otherwise formed that the guaranty pursuant to the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the RFP Guarantor in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit 4 to the Uniform SMA includes a sample of a sufficient legal opinion.
- (2) **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the person executing the guaranty pursuant to the Uniform SMA on behalf of the RFP Guarantor has the authority to execute the guaranty pursuant to the Uniform SMA and that the governing board of such RFP Guarantor has approved the execution of the guaranty pursuant to the Uniform SMA;
- (3) **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the RFP Guarantor has been authorized by its governing board to enter into agreements of the same type as the guaranty pursuant to the Uniform SMA.

If the RFP Bidder does not submit these documents, or if these documents are not sufficient, the Foreign Entity as RFP Guarantor is not granted unsecured credit under the terms of the Uniform SMA. In that case, the RFP Bidder may not rely on the financial standing of the RFP Guarantor. The Independent Evaluator may request additional financial or credit information regarding the RFP Bidder.

Third Item: Required Documents for RFP Bidders with a Foreign Entity as Principal

**AN RFP BIDDER SUBMITTING A PROPOSAL UNDER AN AGENCY AGREEMENT WITH A FOREIGN ENTITY AS PRINCIPAL MUST PROVIDE THE ADDITIONAL DOCUMENTS LISTED BELOW TO THE ONLINE PART 2 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.**

- (1) **one (1) executed original** legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Principal is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the Principal in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit 4 to the Uniform SMA includes a sample of a sufficient legal opinion.
- (2) **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such Principal that the Principal has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA.

PECO will determine whether such documents are sufficient. If the documents are not sufficient, the RFP Bidder may not be eligible to continue its participation in the RFP.

**SECTION B. PREVIOUSLY ELIGIBLE RFP BIDDERS (THAT HAVE SUCCESSFULLY COMPLETED THE PART 2 PROPOSAL IN A PRIOR SOLICITATION)**



**PLEASE COMPLETE ONLY THE ITEM THAT APPLIES TO YOU:**

Circumstances	Item to Complete
The RFP Bidder is a Foreign Entity	First Item
The RFP Bidder relies on the financial standing of a Foreign Entity as RFP Guarantor	Second Item
The RFP Bidder is submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal	Third Item

First Item: Required Documents for Foreign RFP Bidders

For each document required of Foreign RFP Bidders, a Foreign RFP Bidder that is previously eligible must either: (i) confirm that the document and submitted in a previous solicitation under DSP V remains valid; or: (ii) provide the document by upload to the online Part 2 form or email to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com) if it has changed.

**PLEASE USE THE TABLE BELOW TO SELECT, FOR EACH DOCUMENT, WHETHER (I) THE DOCUMENT REMAINS VALID OR (II) THE DOCUMENT HAS CHANGED AND IS BEING RESUBMITTED.** By clicking the box that a document remains valid, you are confirming that such document continues to meet the requirements of Section V.5 of the RFP Rules.

<b>REQUIRED DOCUMENTS</b>	<b>Remains valid (not submitted)</b>	<b>Has changed (submitted this solicitation)</b>
<p><b>one (1) executed original</b> legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Foreign RFP Bidder is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the Foreign RFP Bidder in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit 4 to the Uniform SMA includes a sample of a sufficient legal opinion.</p>	<input type="checkbox"/>	<input type="checkbox"/>

**one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the person executing the Uniform SMA on behalf of the Foreign RFP Bidder has the authority to execute the Uniform SMA and that the governing board of such Foreign RFP Bidder has approved the execution of the Uniform SMA.



**one (1) executed original sworn** certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the Foreign RFP Bidder has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA.



PECO will determine whether such documents are sufficient. If the documents are not sufficient, the RFP Bidder may not be eligible to continue its participation in the RFP.

Second Item: Required Documents for RFP Bidders with a Foreign Entity as RFP Guarantor

For each document required of an RFP Bidder relying on the financial standing of a Foreign Entity as RFP Guarantor, an RFP Bidder that is previously eligible must either: (i) confirm that the document and submitted in a previous solicitation under DSP V remains valid; or (ii) provide the document by upload to the online Part 2 form or email to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com) if it has changed.

**PLEASE USE THE TABLE BELOW TO SELECT, FOR EACH DOCUMENT, WHETHER (I) THE DOCUMENT REMAINS VALID OR (II) THE DOCUMENT HAS CHANGED AND IS BEING RESUBMITTED.** By clicking the box that a document remains valid, you are confirming that such document continues to meet the requirements of Section V.5 of the RFP Rules.

**REQUIRED DOCUMENTS**

**Remains valid  
(not submitted)**

**Has changed this  
(submitted this  
solicitation)**

**one (1) executed original** legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the RFP Guarantor is incorporated or otherwise formed that the guaranty pursuant to the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the RFP Guarantor in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit 4 to the Uniform SMA includes a sample of a sufficient legal opinion.

**one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the person executing the guaranty pursuant to the Uniform SMA on behalf of the RFP Guarantor has the authority to execute the guaranty pursuant to the Uniform SMA and that the governing board of such RFP Guarantor has approved the execution of the guaranty pursuant to the Uniform SMA



**one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the RFP Guarantor has been authorized by its governing board to enter into agreements of the same type as the guaranty pursuant to the Uniform SMA.



If these documents are not sufficient, the Foreign Entity as RFP Guarantor is not granted unsecured credit under the terms of the Uniform SMA. In that case, the RFP Bidder may not rely on the financial standing of the RFP Guarantor. The Independent Evaluator may request additional financial or credit information regarding the RFP Bidder.

Third Item: Required Documents for RFP Bidders with a Foreign Entity as Principal

For each document required of an RFP Bidder submitting a Proposal under an Agency Agreement with a Principal that is a foreign entity, an RFP Bidder that is previously eligible must either: (i) confirm that the document and submitted in a previous solicitation under DSP V remains valid; or: (ii) provide the document by upload to the online Part 2 form or email to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com) if it has changed.

**PLEASE USE THE TABLE BELOW TO SELECT, FOR EACH DOCUMENT, WHETHER (I) THE DOCUMENT REMAINS VALID OR (II) THE DOCUMENT HAS CHANGED AND IS BEING RESUBMITTED.** By clicking the box that a document remains valid, you are confirming that such document continues to meet the requirements of Section V.5 of the RFP Rules.

<b>REQUIRED DOCUMENTS</b>	<b>Remains valid (not submitted)</b>	<b>Has changed this (submitted this solicitation)</b>
<p><b>one (1) executed original</b> legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Principal is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the Principal in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit 4 to the Uniform SMA includes a sample of a sufficient legal opinion.</p>	<input type="checkbox"/>	<input type="checkbox"/>

**one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such Principal that the Principal has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA.

PECO will determine whether such documents are sufficient. If the documents are not sufficient, the RFP Bidder may not be eligible to continue its participation in the RFP.

## 5. Bids

**Reminder:** Each RFP Bidder submits its Bids electronically, by transferring its Bid Form through a secure file transfer system. The Independent Evaluator provides electronically to each RFP Bidder qualified pursuant to a successful Part 1 Proposal the Bid Form as well as a set of instructions. These instructions guide the RFP Bidder for completion of the Bid Form, for optional encryption of the Bid Form, for submission of the completed Bid Form to the Independent Evaluator via secure file transfer interface, as well as instructions for backup methods for the submission of Bids in case of technical difficulties with the electronic transfer.

**Important!** The Independent Evaluator provides electronically to each RFP Bidder that qualifies pursuant to a successful Part 1 Proposal information required for the submission of Bids, including a username, password, and security code. This information is unique to each RFP Bidder and allows the Independent Evaluator to authenticate the Bids received. The RFP Bidder must acknowledge that the RFP Bidder has received intact the information necessary to submit Bids and that no one but authorized personnel of the RFP Bidder has had access to this information.


Please provide this confirmation below.

- I confirm receipt of the Bid Form, instructions, and information necessary to submit Bids. No one but authorized personnel of the RFP Bidder has had access to this information.
- I request that such information and documents be re-issued.

### 6. Justification of Omissions Section

If you are unable to provide all documents or information with this Part 2 Form, please justify fully any omissions in the space provided below.

If you are providing additional documents, such as providing the Part 1 Form certifications if the individual who is serving as Officer of the RFP Bidder has changed, please use the spaces below to upload these documents.

	<i>File upload</i>
	<i>File upload</i>
	<i>File upload</i>

# APPENDIX 8 – ILLUSTRATIVE PART 2 FORM DEFAULT SERVICE PROGRAM REQUEST FOR PROPOSALS

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## SHORT FORM

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

Before completing this online Part 2 Form, please review the RFP, including the PECO Energy Company Pennsylvania Default Service Supplier Master Agreement (“Uniform SMA”), so that you understand the conditions under which the RFP will be conducted. These documents are posted at [www.pecoprocurement.com](http://www.pecoprocurement.com).

By having submitted a Part 1 Proposal in response to this RFP, you agreed to all terms and conditions of this RFP.

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*Any information provided by an RFP Bidder in the Part 2 Proposal is provided on a confidential basis to the Independent Evaluator, and may be provided on a confidential basis to the Staff of the Pennsylvania Public Utility Commission (“Commission”). PECO representatives will review financial information and legal documents provided to fulfill the requirements of the Part 2 Proposal, and will participate in the evaluation of the Pre-Bid Letter of Credit with the name of the RFP Bidder and the amount redacted.*

---

**1. Contact Information and Representations**

First Item: Name and Address of the RFP Bidder

Below is the information that you previously provided. **PLEASE MAKE ANY NECESSARY UPDATES TO THE RFP BIDDER’S LEGAL NAME AND ADDRESS.** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.

*Legal Name of RFP Bidder*

[pre-populated]

*Street Address*

[pre-populated]

[pre-populated]

*City*

[pre-populated]


*State*

[pre-populated]

*Zip Code*

[pre-populated]

**IF THE LEGAL NAME OF THE RFP BIDDER HAS CHANGED, PLEASE PROVIDE EVIDENCE OF THE CHANGE.**

 Evidence of name change (if necessary)

Second Item: Contact Information for the Officer of the RFP Bidder

Below is the information that you previously provided. **PLEASE MAKE ANY UPDATES TO THE NAME AND CONTACT INFORMATION FOR THE OFFICER OF THE RFP BIDDER.** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.

Please note that the Officer of the RFP Bidder named in the Part 1 Proposal must make all representations and certifications in this Part 2 Proposal. If the individual serving as Officer of the RFP Bidder has changed, the RFP Bidder will be required to resubmit via email all certifications required by the Part 1 Proposal.

*First Name*

[pre-populated]

*Last Name*

[pre-populated]

*Title*

[pre-populated]

*Street Address*

[pre-populated]

[pre-populated]

*City*

[pre-populated]

*State*

[pre-populated]

*Zip Code*

[pre-populated]

*Phone No.*

[pre-populated]

*Cell Phone No. (Optional)*

[pre-populated]

*Email Address*

[pre-populated]



Third Item: Contact Information for the Representative

Below is the information that you previously provided. **PLEASE MAKE ANY UPDATES TO THE NAME AND CONTACT INFORMATION FOR THE REPRESENTATIVE OF THE RFP BIDDER.** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.


<i>First Name</i>	<i>Last Name</i>	
<input type="text" value="[pre-populated]"/>	<input type="text" value="[pre-populated]"/>	
<i>Title</i>		
<input type="text" value="[pre-populated]"/>		
<i>Street Address</i>		
<input type="text" value="[pre-populated]"/>		
<input type="text" value="[pre-populated]"/>		
<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input type="text" value="[pre-populated]"/>	<input type="text" value="[pre-populated]"/>	<input type="text" value="[pre-populated]"/>
<i>Phone No.</i>	<i>Cell Phone No. (Optional)</i>	<i>Email Address</i>
<input type="text" value="[pre-populated]"/>	<input type="text" value="[pre-populated]"/>	<input type="text" value="[pre-populated]"/>

Fourth Item: Representations of the Officer of the RFP Bidder

**THE OFFICER OF THE RFP BIDDER MUST MAKE A NUMBER OF CERTIFICATIONS TO FULFILL THE REQUIREMENTS OF THE PART 2 PROPOSAL.** If the Officer of the RFP Bidder who made the representations and certifications of the Part 1 Form is unavailable to make the representations of the Part 2 Form, the RFP Bidder must name a new individual to serve as Officer of the RFP Bidder and must, in addition to making the representations required in the Part 2 Proposal, re-submit via email the certifications of the Part 1 Form by the Part 2 Date.

**THE OFFICER OF THE RFP BIDDER MUST MAKE A NUMBER OF CERTIFICATIONS BY COMPLETING THE P2 CERTIFICATIONS INSERT. THE SIGNATURE MUST BE NOTARIZED OR ATTESTED WITH THE CORPORATE SEAL.** The P2 Certifications Insert is also labelled INSERT #P2-1.

*Name of RFP Bidder*

 **P2 CERTIFICATIONS INSERT (#P2-1)**

**THE OFFICER OF THE RFP BIDDER MUST MAKE THE FOLLOWING CERTIFICATIONS. THE SIGNATURE MUST BE NOTARIZED OR ATTESTED WITH THE CORPORATE SEAL.**

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

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

- (3) I certify that although the RFP Bidder may disclose aspects of its Proposal in communicating with its financial institution for the purpose of preparing the Pre-Bid Letter of Credit or in communicating with advisors (if any), any such communication is made in a manner that can reasonably be expected to maintain the confidentiality of the RFP Bidder’s Proposal.
- (4) I certify that, with only the exceptions noted in (3) above, the RFP Bidder has not disclosed, and will not otherwise disclose, publicly or to any other party any information relating to its Proposal, which could have an effect on whether another party submits a Proposal in any solicitation under the RFP, or on the contents of the Proposal that another RFP Bidder would be willing to submit in response to the RFP. Such information includes, but is not limited to: the fact that the RFP Bidder is submitting a Proposal in response to this RFP; the RFP Bidder’s Bids in this or in a subsequent solicitation under this RFP; the RFP Bidder’s number of tranches bid for any product in this or in a subsequent solicitation under this RFP; the RFP Bidder’s estimation of the value of a tranche of a product; the RFP Bidder’s estimation of the risks associated with providing supply under the Uniform SMA; and the RFP Bidder’s preference for bidding on specific products in this or in a subsequent solicitation under this RFP. This certification must be binding and in effect until the Commission has either approved or rejected each of the winning Bids for this solicitation.
- (5) I certify that any Bid on any product submitted in response to this RFP for this solicitation is binding until six (6) business days after the Bid Date and constitutes a binding and irrevocable offer to provide service under the terms of the Uniform SMA at the price specified in the Bid.
- (6) I certify that I will execute (or I will nominate another authorized individual to execute) the Uniform SMA and all Transaction Confirmation(s) for the RFP Bidder’s Bids that are approved by the Commission no later than 2PM on the third business day after the Commission has accepted such Bids.
- (7) I certify that in each Transaction Confirmation, the RFP Bidder will specify a price for each type of AECs (Tier I, Tier I Solar, and Tier II) that is included in the RFP Bidder’s winning Bids and each such price must be greater than \$0/AEC.

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

## 2. Pre-Bid Letter of Credit

**THE RFP BIDDER MUST PROVIDE AN EXECUTED PRE-BID LETTER OF CREDIT**, drawn for the account of the RFP Bidder and acceptable to PECO, **IN AN AMOUNT OF AT LEAST \$250,000 PER TRANCHE BID ON PRODUCTS OF THE RES AND SC CLASSES FOR FULL REQUIREMENTS ON A FIXED-PRICE BASIS, PLUS, IF APPLICABLE, \$125,000 PER TRANCHE BID ON A PRODUCT FOR THE CCI CLASS FOR FULL REQUIREMENTS ON A SPOT-PRICE BASIS.** A single Pre-Bid Letter of Credit is submitted even if the RFP Bidder bids on more than one product or, if applicable, the RFP Bidder bids to supply both full requirements on a fixed-price basis and full requirements on a spot-price basis.

The RFP Bidder must either use the Standard Pre-Bid Letter of Credit, provided on [www.pecoprocurement.com](http://www.pecoprocurement.com), or submit a Pre-Bid Letter of Credit that incorporates only those modifications to the Standard Pre-Bid Letter of Credit accepted as a result of the evaluation of the Part 1 Proposals.


**THE HARDCOPY EXECUTED PRE-BID LETTER OF CREDIT MUST BE SENT BY OVERNIGHT DELIVERY SERVICE** to the Independent Evaluator at the address provided to RFP Bidders for this purpose.

*At the time this form is submitted, has the Pre-Bid Letter of Credit already been sent to the Independent Evaluator?*

Yes

No

RFP Bidders may, but are not required to, upload or email to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com) an electronic executed version of the Pre-Bid Letter of Credit for evaluation.

	<i>Electronic version of Executed Pre-Bid Letter of Credit</i>
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PECO and the Independent Evaluator will release the Pre-Bid Letter of Credit no later than six (6) business days after the Bid Date. If the Commission does not approve any of the RFP Bidder's Bids, PECO and the Independent Evaluator will release that RFP Bidder's Pre-Bid Letter of Credit within three (3) business days of the Bid Date.

*Would you like to provide special instructions for returning the Pre-Bid Letter of Credit?*

Yes

No

**PLEASE PROVIDE ANY SPECIAL INSTRUCTIONS FOR RETURNING THE PRE-BID LETTER OF CREDIT BELOW.**

### 3. Additional Requirements

*Is the RFP Bidder a Default Supplier serving tranches won in a solicitation under DSP V?*

Yes

No

Yes

#### 3a. Requirements for RFP Bidders Relying on Their Own Financial Standing

You previously elected the RFP Bidder as the entity on whose financial standing the RFP Bidder is relying. **YOU HAVE NO ADDITIONAL REQUIREMENTS** under this section and you may proceed to the next section.

#### 3b. Requirements for RFP Bidders Relying on the Financial Standing of an RFP Guarantor


You previously elected to rely on the financial standing of an RFP Guarantor. Please proceed to Section 4 below.

#### 3c. Requirements for RFP Bidders Relying on the Financial Standing of an RFP Principal

The RFP Bidder is submitting a Proposal under an Agency Agreement. **AN RFP BIDDER SUBMITTING A PROPOSAL UNDER AN AGENCY AGREEMENT IS REQUIRED TO PROVIDE AN OFFICERS' CERTIFICATE AS WELL AS CONTACT INFORMATION FOR A REPRESENTATIVE OF THE PRINCIPAL** as specified in the RFP Rules.

First Item: Officer's Certificate

**PLEASE SUBMIT ONE (1) COPY OF THE REQUIRED OFFICERS' CERTIFICATE, SIGNED BY AN OFFICER OF EACH PRINCIPAL, BY UPLOAD TO THE ONLINE PART 2 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.** The Independent Evaluator and PECO will determine whether the document provided is sufficient, without any liability or obligation to the RFP Bidder or its Principal(s). The Officers' Certificate should be substantially in the form of Appendix 6 to the RFP Rules.

	<i>Officers' Certificate</i>
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Second Item: Signatory to the Uniform SMA

***Is a representative of the RFP Bidder authorized to execute the Transaction Confirmation(s) and to sign the Uniform SMA (if applicable)?***

yes

no

no

Below is the information that you previously for the representative of the Principal who will sign the Uniform SMA (if applicable) and any Transaction Confirmation. **PLEASE MAKE ANY UPDATES TO THE NAME AND CONTACT INFORMATION.** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.

<i>Last Name</i>		<i>First Name</i>	
[pre-populated]		[pre-populated]	
<i>Title</i>		<i>Company</i>	
[pre-populated]		[pre-populated]	
<i>Street Address</i>			
[pre-populated]			
[pre-populated]			
<i>City</i>		<i>State</i>	<i>Zip Code</i>
[pre-populated]		[pre-populated]	[pre-populated]
<i>Phone No.</i>	<i>Cell Phone No.</i>	<i>Email Address</i>	
[pre-populated]	[pre-populated]	[pre-populated]	

No

**3a. Requirements for RFP Bidders Relying on Their Own Financial Standing**

You previously elected the RFP Bidder as the entity on whose financial standing the RFP Bidder is relying. **YOU HAVE NO ADDITIONAL REQUIREMENTS** under this section and you may proceed to the next section.

**3b. Requirements for RFP Bidders Relying on the Financial Standing of an RFP Guarantor**

You previously elected to rely on the financial standing of an RFP Guarantor. **THE RFP BIDDER MUST PROVIDE THE GUARANTY DOCUMENTS REQUIRED BY THIS SECTION.**

First Item: Intent to Provide a Guaranty

**A REPRESENTATIVE OF THE RFP GUARANTOR WHO IS AUTHORIZED TO UNDERTAKE CONTRACTS (INCLUDING THE GUARANTY) AND BIND THAT RFP GUARANTOR MUST MAKE THE CERTIFICATIONS PROVIDED IN THE GUARANTY INTENT INSERT. The Guaranty Intent Insert is also labelled INSERT #P2-2.**

*Name of RFP Bidder*

 **GUARANTY INTENT INSERT (#P2-2)**

**PLEASE PROVIDE THE INDICATIVE AMOUNT OF THE GUARANTY IN THE SPACE PROVIDED. THE INDICATIVE AMOUNT MUST MEET OR EXCEED THE SUM OF: (I) \$600,000 TIMES THE NUMBER OF TRANCHES BID ON PRODUCTS FOR THE RES AND SC CLASSES FOR FULL REQUIREMENTS SERVICE ON**

**A FIXED-PRICE BASIS; AND, IF APPLICABLE, (II) \$300,000 TIMES THE NUMBER OF TRANCHES BID ON THE CCI CLASS FOR FULL REQUIREMENTS ON A SPOT-PRICE BASIS.**

I acknowledge that \_\_\_\_\_ (“RFP Guarantor”) has been asked to provide a financial guaranty on behalf of \_\_\_\_\_ (“RFP Bidder”) should the RFP Bidder become a Default Supplier pursuant to its response under this RFP for procuring supply under the terms of the Uniform SMA. Our senior unsecured debt rating meets the Minimum Rating as defined in the Uniform SMA.

We would consider providing a financial guaranty on behalf of the RFP Bidder should there be no material change in affairs of at least \$ \_\_\_\_\_ (Indicative Amount). This statement should not and cannot be taken as an indication of financing commitment of any kind whatsoever, or an absolute commitment to provide a financial guaranty.

\_\_\_\_\_  
Signature of a Representative of the RFP  
Guarantor

\_\_\_\_\_  
Date

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

**In accordance with Paragraph IV.3.5 of the RFP Rules, THE RFP BIDDER IS ASKED TO PROVIDE THE FOLLOWING INFORMATION TO PREPARE THE GUARANTY:**

- the governing laws under which the RFP Guarantor is organized;
- contact information for the RFP Guarantor, including the name and title of the signatory of the guaranty for notices under the guaranty;
- elections to incorporate any or all of the approved modifications to the Standard Guaranty.

**THE RFP BIDDER MUST EITHER:** (i) provide the requested information to prepare the guaranty at this time; or: (ii) submit an acknowledgment signed by the Officer of the RFP Bidder that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder’s Bids to the Commission as winning Bids, the RFP Bidder must provide all required information by 12 PM (noon) EPT on the day after such notification is received.

*Is the RFP Bidder providing information to prepare the guaranty at this time?*

Yes

No

Yes

The Independent Evaluator provided to you, along with your login credentials, the Guaranty Insert that you submitted previously (if any). You may make any updates to this document. By submitting this form of the Guaranty Insert (#P2-3) without making updates, you will be confirming that the previously provided information remains valid.

**THE RFP BIDDER PROVIDES THE INFORMATION TO PREPARE THE GUARANTY BY COMPLETING THE GUARANTY INSERT.** The Guaranty Insert is also labelled INSERT #P2-3.

Name of RFP Bidder

**GUARANTY INSERT (#P2-3)**

**Please note! RFP Bidders relying on the financial standing of an RFP Guarantor must submit one (but ONLY one) of Insert #P2-3 or Insert #P2-4.**

1. Governing Laws under which the RFP Guarantor is Organized

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

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

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

2. Governing Laws under which the RFP Bidder is Organized

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

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

3. Contact Information

Please provide the name and contact information for the person to whom notices and other communications will be sent under the guaranty:

*First Name*

*Last Name*

*Title*

*Company*

*Street Address*

*City*

*State*

*Zip Code*

*Phone Number*

*Fax*

provide the name and title of the person who will be signing the guaranty:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*Last Name*  
 \_\_\_\_\_

**Options of Optional Modifications to the Guaranty**

1 changes that the RFP Bidder may adopt for the Form of Guaranty are provided in a document entitled “Optional Modifications to the Guaranty” available on the website. **INDICATE THE CHANGES THAT YOU ARE ELECTING IN THE TABLE BELOW.**

Paragraph	Paragraph	RFP Bidder adopts change
	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
	Paragraph 1	<input type="checkbox"/> yes <input type="checkbox"/> no
	<b>Paragraph 1</b>	<input type="checkbox"/> <b>yes (*a*)</b> <input type="checkbox"/> no <b>Provide the information below under (*a*)</b>
	Paragraph 2	<input type="checkbox"/> yes <input type="checkbox"/> no
	Paragraph 4	<input type="checkbox"/> yes <input type="checkbox"/> no
	Paragraph 5	<input type="checkbox"/> yes <input type="checkbox"/> no
	Paragraph 10	<input type="checkbox"/> yes <input type="checkbox"/> no
	Paragraph 11	<input type="checkbox"/> yes <input type="checkbox"/> no
	Paragraph 11	<input type="checkbox"/> yes <input type="checkbox"/> no
	Paragraph 12	<input type="checkbox"/> yes <input type="checkbox"/> no
	Paragraph 13	<input type="checkbox"/> yes <input type="checkbox"/> no
	Paragraph 14	<input type="checkbox"/> yes <input type="checkbox"/> no
	Paragraph 14	<input type="checkbox"/> yes <input type="checkbox"/> no
	Paragraph 14	<input type="checkbox"/> yes <input type="checkbox"/> no
	<b>Paragraph 17</b>	<input type="checkbox"/> <b>yes (*b*)</b> <input type="checkbox"/> no <b>Provide the information below under (*b*)</b>
	<b>Closing Paragraph and Signature Block</b>	<input type="checkbox"/> <b>yes (*c*)</b> <input type="checkbox"/> no <b>Provide the information below under (*c*)</b>
	<b>Additional</b>	<input type="checkbox"/> <b>yes (*d*)</b> <input type="checkbox"/> no



*Date of Existing Guaranty*

*Amount of Existing Guaranty*

**(\*b\*) THE REPRESENTATIVE OF THE RFP BIDDER OR THE OFFICER OF THE RFP BIDDER MUST MAKE THE FOLLOWING REPRESENTATION IF YOU ELECT OPTIONAL CHANGE #20:**

I, \_\_\_\_\_ (the Officer of the RFP Bidder or the Representative of the RFP Bidder), certify that the RFP Guarantor, on whose financial standing the RFP Bidder will be relying, is not a trust.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**(\*c\*) PLEASE PROVIDE THE NAME AND TITLE OF THE ADDITIONAL PERSON WHO WILL BE SIGNING THE GUARANTY IF YOU ELECT OPTIONAL CHANGE #21:**

*First Name*

*Last Name*

*Title*

**(\*d\*) PLEASE PROVIDE THE FOLLOWING ADDITIONAL INFORMATION IF YOU ELECT OPTIONAL CHANGE #22:**

*Name of Additional Guarantor*

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

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

**(\*e\*) PLEASE PROVIDE THE FOLLOWING ADDITIONAL INFORMATION IF YOU ELECT OPTIONAL CHANGE #23:**

*Name of Additional Guarantor*

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

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

NO

**THE OFFICER OF THE RFP BIDDER PROVIDES THE REQUIRED ACKNOWLEDGMENT BY COMPLETING THE DELAY (GUARANTY) INSERT. The Delay (Guaranty) Insert is also labelled INSERT #P2-4.**

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

**Ⓞ DELAY (GUARANTY) INSERT (#P2-4)**

I, \_\_\_\_\_ (the Officer of the RFP Bidder), acknowledge that, if the Independent Evaluator notifies the RFP Bidder that the Independent Evaluator is identifying one or more of the RFP Bidder's Bids to the Commission as winning Bids, the RFP Bidder must provide all information required by the Guaranty Insert (#P2-3) by 12 PM (noon) EPT on the day after such notification is received.

\_\_\_\_\_  
Signature


\_\_\_\_\_  
Date

**3c. Requirements for RFP Bidders Relying on the Financial Standing of an RFP Principal**

The RFP Bidder is submitting a Proposal under an Agency Agreement. **AN RFP BIDDER SUBMITTING A PROPOSAL UNDER AN AGENCY AGREEMENT IS REQUIRED TO PROVIDE AN OFFICERS' CERTIFICATE AS WELL AS CONTACT INFORMATION FOR A REPRESENTATIVE OF THE PRINCIPAL** as specified in Section V.4 of the RFP Rules.

First Item: Officer's Certificate

**PLEASE SUBMIT ONE (1) COPY OF THE REQUIRED OFFICERS' CERTIFICATE, SIGNED BY AN OFFICER OF EACH PRINCIPAL, BY UPLOAD TO THE ONLINE PART 2 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.** The Independent Evaluator and PECO will determine whether the document provided is sufficient, without any liability or obligation to the RFP Bidder or its Principal(s). The Officers' Certificate should be substantially in the form of Appendix 6 to the RFP Rules.

	<i>Officers' Certificate</i>
---	------------------------------

Second Item: Signatory to the Uniform SMA

**Is a representative of the RFP Bidder authorized to execute the Transaction Confirmation(s) and to sign the Uniform SMA (if applicable)?**

yes       no

no

Below is the information that you previously for the representative of the Principal who will sign the Uniform SMA (if applicable) and any Transaction Confirmation. **PLEASE MAKE ANY UPDATES TO THE NAME AND CONTACT INFORMATION.** By submitting this form without making updates, you will be confirming that the previously provided information remains valid.

Last Name

[pre-populated]

First Name

[pre-populated]

<i>Title</i> [pre-populated]	<i>Company</i> [pre-populated]	
<i>Street Address</i> [pre-populated]		
[pre-populated]		
<i>City</i> [pre-populated]	<i>State</i> [pre-populated]	<i>Zip Code</i> [pre-populated]
<i>Phone No.</i> [pre-populated]	<i>Cell Phone No.</i> [pre-populated]	<i>Email Address</i> [pre-populated]







#### 4. Foreign RFP Bidders and Foreign Entities

*Is the RFP Bidder a Foreign RFP Bidder, or is the RFP Bidder relying on the financial standing of a Foreign Entity as RFP Guarantor or is the RFP Bidder submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal?*

Yes [pre-populated]       No [pre-populated]

**AN RFP BIDDER THAT IS A FOREIGN RFP BIDDER, OR THAT IS RELYING ON THE FINANCIAL STANDING OF A FOREIGN ENTITY AS RFP GUARANTOR, OR THAT SUBMITS A PROPOSAL UNDER AN AGENCY AGREEMENT WITH A FOREIGN ENTITY AS PRINCIPAL, IS REQUIRED TO PROVIDE ADDITIONAL INFORMATION AS SPECIFIED IN SECTION V.5 OF THE RFP RULES** by completing the P2 Foreign Entity Insert and providing associated documents. The P2 Foreign Entity Insert is also labelled INSERT #P2-5.

The Independent Evaluator provided to you, along with your Notification of Qualification, the P2 Foreign Entity Insert, the Additional Evidence of Creditworthiness, the Legal Opinion, and the Sworn Certificate(s) that you submitted previously (if any). You may make any updates to these documents. By submitting the form of these documents without making updates, you will be confirming that the previously provided information remains valid.

	<i>Insert #P2-5</i>
	<i>Additional Evidence of Creditworthiness</i>
	<i>Additional Evidence of Creditworthiness</i>
	<i>Legal opinion</i>
	<i>Sworn certificate</i>
	<i>Sworn certificate</i>

*Name of RFP Bidder*

 **P2 FOREIGN ENTITY INSERT (#P2-5)**

**Please note! Only RFP Bidders that are Foreign Entities, or that rely on the financial standing of a Foreign Entity as RFP Guarantor, or that submits a Proposal under an Agency Agreement with a Foreign Entity as Principal, are required to complete this Insert. The requirements are provided in Section V.5 of the RFP Rules.**

Are you a previously eligible RFP Bidder (i.e., did you successfully complete the Part 2 Proposal on a prior solicitation under DSP V)?

Yes       No

**If no,** please complete Section A below.

**If yes,** please complete Section B below.

## SECTION A. RFP BIDDERS THAT HAVE NOT PREVIOUSLY COMPLETED THE PART 2 PROPOSAL

**PLEASE COMPLETE ONLY THE ITEM THAT APPLIES TO YOU:**

Circumstances	Item to Complete
The RFP Bidder is a Foreign Entity	First Item
The RFP Bidder relies on the financial standing of a Foreign Entity as RFP Guarantor	Second Item
The RFP Bidder is submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal	Third Item

First Item: Required Documents for Foreign RFP Bidders

**A FOREIGN RFP BIDDER MUST PROVIDE THE ADDITIONAL DOCUMENTS LISTED BELOW TO THE ONLINE PART 2 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM FOR THE FOREIGN RFP BIDDER.**

- (1) **one (1) executed original** legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Foreign RFP Bidder is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the Foreign RFP Bidder in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit 4 to the Uniform SMA includes a sample of a sufficient legal opinion.
- (2) **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the person executing the Uniform SMA on behalf of the Foreign RFP Bidder has the authority to execute the Uniform SMA and that the governing board of such Foreign RFP Bidder has approved the execution of the Uniform SMA.
- (3) **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the Foreign RFP Bidder has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA.

PECO will determine whether such documents are sufficient. **If the documents are not sufficient, the RFP Bidder may not be eligible to continue its participation in the RFP.**

Second Item: Required Documents for RFP Bidders with a Foreign Entity as RFP Guarantor

**AN RFP BIDDER RELYING ON THE FINANCIAL STANDING OF A FOREIGN ENTITY AS RFP GUARANTOR MUST PROVIDE THE ADDITIONAL DOCUMENTS LISTED BELOW TO THE ONLINE PART 2 FORM OR BY**

**EMAIL TO PECOPROUREMENT@NERA.COM FOR THE RFP GUARANTOR TO BE GRANTED UNSECURED CREDIT UNDER THE TERMS OF THE UNIFORM SMA.**

- (1) **one (1) executed original** legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the RFP Guarantor is incorporated or otherwise formed that the guaranty pursuant to the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the RFP Guarantor in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit 4 to the Uniform SMA includes a sample of a sufficient legal opinion.
- (2) **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the person executing the guaranty pursuant to the Uniform SMA on behalf of the RFP Guarantor has the authority to execute the guaranty pursuant to the Uniform SMA and that the governing board of such RFP Guarantor has approved the execution of the guaranty pursuant to the Uniform SMA;
- (3) **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the RFP Guarantor has been authorized by its governing board to enter into agreements of the same type as the guaranty pursuant to the Uniform SMA.

If the RFP Bidder does not submit these documents, or if these documents are not sufficient, the Foreign RFP Guarantor is not granted unsecured credit under the terms of the Uniform SMA. In that case, the RFP Bidder may not rely on the financial standing of the RFP Guarantor. The Independent Evaluator may request additional financial or credit information regarding the RFP Bidder.

Third Item: Required Documents for RFP Bidders with a Foreign Entity as Principal

**AN RFP BIDDER SUBMITTING A PROPOSAL UNDER AN AGENCY AGREEMENT WITH A FOREIGN ENTITY AS PRINCIPAL MUST PROVIDE THE ADDITIONAL DOCUMENTS LISTED BELOW TO THE ONLINE PART 2 FORM OR BY EMAIL TO PECOPROUREMENT@NERA.COM.**

- (1) **one (1) executed original** legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Principal is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the Principal in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit 4 to the Uniform SMA includes a sample of a sufficient legal opinion.
- (2) **one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such Principal that the Principal has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA.

PECO will determine whether such documents are sufficient. If the documents are not sufficient, the RFP Bidder may not be eligible to continue its participation in the RFP.

**SECTION B. PREVIOUSLY ELIGIBLE RFP BIDDERS (THAT HAVE SUCCESSFULLY COMPLETED THE PART 2 PROPOSAL IN A PRIOR SOLICITATION)**

**PLEASE COMPLETE ONLY THE ITEM THAT APPLIES TO YOU:**

Circumstances	Item to Complete
The RFP Bidder is a Foreign Entity	First Item
The RFP Bidder relies on the financial standing of a Foreign Entity as RFP Guarantor	Second Item
The RFP Bidder is submitting a Proposal under an Agency Agreement with a Foreign Entity as Principal	Third Item

First Item: Required Documents for Foreign RFP Bidders

For each document required of Foreign RFP Bidders, a Foreign RFP Bidder that is previously eligible must either: (i) confirm that the document and submitted in a previous solicitation under DSP V remains valid; or: (ii) provide the document by upload to the online Part 2 form or by email to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com) if it has changed.

**PLEASE USE THE TABLE BELOW TO SELECT, FOR EACH DOCUMENT, WHETHER (I) THE DOCUMENT REMAINS VALID OR (II) THE DOCUMENT HAS CHANGED AND IS BEING RESUBMITTED.** By clicking the box that a document remains valid, you are confirming that such document continues to meet the requirements of Section V.5 of the RFP Rules.

<b>REQUIRED DOCUMENTS</b>	<b>Remains valid (not submitted)</b>	<b>Has changed (submitted this solicitation)</b>
<b>one (1) executed original</b> legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Foreign RFP Bidder is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the Foreign RFP Bidder in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit 4 to the Uniform SMA includes a sample of a sufficient legal opinion.	<input type="checkbox"/>	<input type="checkbox"/>
<b>one (1) executed original</b> sworn certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the person executing the Uniform SMA on behalf of the Foreign RFP Bidder has the authority to execute the Uniform SMA and that the governing board of such Foreign RFP Bidder has approved the execution of the Uniform SMA.	<input type="checkbox"/>	<input type="checkbox"/>

**one (1) executed original sworn** certificate of the corporate secretary (or similar officer) of such Foreign RFP Bidder that the Foreign RFP Bidder has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA.



PECO will determine whether such documents are sufficient. If the documents are not sufficient, the RFP Bidder may not be eligible to continue its participation in the RFP.

Second Item: Required Documents for RFP Bidders with a Foreign Entity as RFP Guarantor

For each document required of an RFP Bidder relying on the financial standing of a Foreign Entity as RFP Guarantor, an RFP Bidder that is previously eligible must either: (i) confirm that the document and submitted in a previous solicitation under DSP V remains valid; or (ii) provide the document by upload to the online Part 2 form or by email to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com) if it has changed.

**PLEASE USE THE TABLE BELOW TO SELECT, FOR EACH DOCUMENT, WHETHER (I) THE DOCUMENT REMAINS VALID OR (II) THE DOCUMENT HAS CHANGED AND IS BEING RESUBMITTED.** By clicking the box that a document remains valid, you are confirming that such document continues to meet the requirements of Section V.5 of the RFP Rules.

<b>REQUIRED DOCUMENTS</b>	<b>Remains valid (not submitted)</b>	<b>Has changed this (submitted this solicitation)</b>
<p><b>one (1) executed original</b> legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the RFP Guarantor is incorporated or otherwise formed that the guaranty pursuant to the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the RFP Guarantor in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit 4 to the Uniform SMA includes a sample of a sufficient legal opinion.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>one (1) executed original</b> sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the person executing the guaranty pursuant to the Uniform SMA on behalf of the RFP Guarantor has the authority to execute the guaranty pursuant to the Uniform SMA and that the governing board of such RFP Guarantor has approved the execution of the guaranty pursuant to the Uniform SMA</p>	<input type="checkbox"/>	<input type="checkbox"/>



**one (1) executed original** sworn certificate of the corporate secretary (or similar officer) of such RFP Guarantor that the RFP Guarantor has been authorized by its governing board to enter into agreements of the same type as the guaranty pursuant to the Uniform SMA.



If these documents are not sufficient, the Foreign RFP Guarantor is not granted unsecured credit under the terms of the Uniform SMA. In that case, the RFP Bidder may not rely on the financial standing of the RFP Guarantor. The Independent Evaluator may request additional financial or credit information regarding the RFP Bidder.

*Third Item: Required Documents for RFP Bidders with a Foreign Entity as Principal*

For each document required of an RFP Bidder submitting a Proposal under an Agency Agreement with a Principal that is a foreign entity, an RFP Bidder that is previously eligible must either: (i) confirm that the document and submitted in a previous solicitation under DSP V remains valid; or: (ii) provide the document by upload to the online Part 2 form or by email to [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com) if it has changed.

**PLEASE USE THE TABLE BELOW TO SELECT, FOR EACH DOCUMENT, WHETHER (I) THE DOCUMENT REMAINS VALID OR (II) THE DOCUMENT HAS CHANGED AND IS BEING RESUBMITTED.** By clicking the box that a document remains valid, you are confirming that such document continues to meet the requirements of Section V.5 of the RFP Rules.

<b>REQUIRED DOCUMENTS</b>	<b>Remains valid (not submitted)</b>	<b>Has changed (submitted this solicitation)</b>
<p><b>one (1) executed original</b> legal opinion of outside counsel qualified to practice in the foreign jurisdiction in which the Principal is incorporated or otherwise formed that the Uniform SMA is, or upon the completion of execution formalities will become, the binding obligation of the Principal in the jurisdiction in which it has been incorporated or otherwise formed. Exhibit 4 to the Uniform SMA includes a sample of a sufficient legal opinion.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><b>one (1) executed original</b> sworn certificate of the corporate secretary (or similar officer) of such Principal that the Principal has been authorized by its governing board to enter into agreements of the same type as the Uniform SMA.</p>	<input type="checkbox"/>	<input type="checkbox"/>

PECO will determine whether such documents are sufficient. If the documents are not sufficient, the RFP Bidder may not be eligible to continue its participation in the RFP.

## 5. Bids

**Reminder:** Each RFP Bidder submits its Bids electronically, by transferring its Bid Form through a secure file transfer system. The Independent Evaluator provides electronically to each RFP Bidder qualified pursuant to a successful Part 1 Proposal the Bid Form as well as a set of instructions. These instructions guide the RFP Bidder for completion of the Bid Form, for optional encryption of the Bid Form, for submission of the completed Bid Form to the Independent Evaluator via secure file transfer interface, as well as instructions for backup methods for the submission of Bids in case of technical difficulties with the electronic transfer.

**Important!** The Independent Evaluator provides electronically to each RFP Bidder that qualifies pursuant to a successful Part 1 Proposal information required for the submission of Bids, including a username, password, and security code. This information is unique to each RFP Bidder and allows the Independent Evaluator to authenticate the Bids received. The RFP Bidder must acknowledge that the RFP Bidder has received intact the information necessary to submit Bids and that no one but authorized personnel of the RFP Bidder has had access to this information.




Please provide this confirmation below.

- I confirm receipt of the Bid Form, instructions, and information necessary to submit Bids. No one but authorized personnel of the RFP Bidder has had access to this information.
- I request that such information and documents be re-issued.

### 6. Justification of Omissions Section

If you are unable to provide all documents or information with this Part 2 Form, please justify fully any omissions in the space provided below.

If you are providing additional documents, such as providing the Part 1 Form certifications if the individual who is serving as Officer of the RFP Bidder has changed, please use the spaces below to upload these documents.

	<i>File upload</i>
	<i>File upload</i>
	<i>File upload</i>

## Appendix 9 - Standard Pre-Bid Letter of Credit

[On Issuing Bank's Letterhead]

### IRREVOCABLE STANDBY LETTER OF CREDIT

\_\_\_\_\_ (“Date of Issuance”)

Letter of Credit No. \_\_\_\_\_

Beneficiary:

PECO Energy Company (“PECO”)  
c/o NERA Economic Consulting (“NERA”)  
Independent Evaluator  
PECO Default Service Program  
[Independent Evaluator Address]

Applicant:

[Name of Bidder]  
[Address]

1. We, \_\_\_\_\_ (the “Issuing Bank”), hereby establish this Irrevocable Standby Letter of Credit (this “Letter of Credit”) in your favor in the amount of USD \$ \_\_\_\_\_, effective immediately and available to you at sight upon demand at our counters at \_\_\_\_\_ [designate Issuing Bank’s location for presentments] and expiring at 5:00 PM (New York, NY time<sup>1</sup>) on \_\_\_\_\_ [no earlier than fifteen days following the Bid Date] (the “Expiration Date”), unless terminated earlier in accordance with the provisions of Paragraph 9 hereof.
2. This Letter of Credit is issued at the request and for the account of \_\_\_\_\_ (including its successors and assigns, the “Bidder”). This Letter of Credit may be drawn by presenting the documents required by paragraph 3 hereof, including your certificate stating that:
  - a) “the Bidder has made a material omission or misrepresentation in the Part 1 Proposal or the Part 2 Proposal submitted in connection with this solicitation”; or
  - b) “the Bidder has disclosed information relating to its Proposal publicly or to any other party before the PUC has rendered its decision on the results of the solicitation”; or
  - c) “the Bidder has one or more Bids approved by the PUC and the Bidder has failed to execute the Uniform SMA and its Exhibits or has failed to meet the creditworthiness requirements within the timeframe required”.

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<sup>1</sup> If the issuer of the Letter of Credit is located in an area that is not in the Eastern Time zone, this time and all other times in this Letter of Credit, and the definition of a Business Day should be adjusted accordingly, here and in Paragraphs 5 and 9.

3. We hereby irrevocably authorize you to draw on us, in accordance with the terms and conditions hereof, up to the amount available under this Letter of Credit from time to time, subject to reduction as provided in Paragraph 8. A partial or full drawing hereunder may be presented by you on any Business Day on or prior to the Expiration Date by delivering or transmitting to the Issuing Bank at \_\_\_\_\_, (a) Annex 1 hereto, appropriately completed and duly signed by an Authorized Officer of PECO, which is your notice, and (b) Annex 2 hereto, appropriately completed and duly signed by an Authorized Officer of PECO, which is your draft.
4. Drafts, document(s) and other communications hereunder may be presented or delivered to us by facsimile transmission. Presentation of documents to effect a draw by facsimile must be made to the following facsimile number: \_\_\_\_\_, and confirmed by telephone to us at the following number: \_\_\_\_\_. In the event of a presentation via facsimile transmission, no mail confirmation is necessary and the facsimile transmission will constitute the operative drawing documents.
5. We will honor a drawing hereunder made in compliance with the terms and provisions of this Letter of Credit by transferring in immediately available funds the amount specified in your draft (or so much thereof as is available hereunder) delivered or transmitted to us in connection with such drawing to the account designated as provided below, by 3:00 PM (New York, NY time) on the date of such drawing, if delivery or transmission of the requisite documents pursuant to Paragraph 3 hereof is made prior to 11:00 AM (New York, NY time) on a Business Day, but at the opening of business on the first Business Day next succeeding the date of such drawing if delivery or transmission of the requisite documents pursuant to Paragraph 3 hereof is made on or after 11:00 AM (New York, NY time) on any Business Day.
6. If a demand for payment made by you hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give you notice not later than the time provided in Paragraph 5 above for honor of a drawing presented to us, that the demand for payment was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons why the demand for payment was not so effected, and that we will upon your instructions hold any documents at your disposal or return the same to you. Upon being notified that the demand for payment was not effected in conformity with this Letter of Credit, you may attempt to correct any such non-conforming demand for payment to the extent that you are entitled to do so, provided, however, in such event a conforming demand for payment must be timely made in accordance with the terms of this Letter of Credit.
7. Unless otherwise hereafter designated in writing to us by an Authorized Officer of PECO, all payments made by us under this Letter of Credit shall be transmitted by wire transfer to PECO pursuant to the following instructions:

PECO Energy Company  
Account No.: \_\_\_\_\_  
Bank: \_\_\_\_\_  
Bank's Address: \_\_\_\_\_  
\_\_\_\_\_  
ABA Routing No.: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Telephone No.: \_\_\_\_\_

8. Partial drawings are permitted hereunder and multiple drawings are permitted hereunder. The amount available for drawing by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid through us referencing this Letter of Credit. Presentation of demands for drawings in amounts that exceed the amount available to be drawn hereunder shall not

be deemed a failure to comply with the requirements of Paragraph 3 hereof, provided that the amounts payable on any such demand shall thus be limited to the amount then available to be drawn under this Letter of Credit.

9. This Letter of Credit shall terminate on the earliest of the date (a) you have made drawings which exhaust the amounts available to be drawn under this Letter of Credit, (b) we receive from you a Certificate of Cancellation in the form of Annex 3 hereto together with the original of this Letter of Credit returned for cancellation, or (c) 5:00 PM (New York, NY time) on the Expiration Date.
10. This Letter of Credit is not transferable, and except as otherwise expressly stated herein, is subject to the Uniform Customs and Practice for Documentary Credits – 2007 revision, ICC Publication No. 600, or any successor publication thereto (the “UCP”). All banking charges are for the account of the Bidder. This Letter of Credit shall, as to matters not governed by the UCP, be governed and construed in accordance with New York law, without regard to principles of conflicts of law.
11. Article 36 of the UCP as it applies to this Letter of Credit is hereby modified to provide as follows:

If on the last Business Day for presentation the place for presentation stated in this Letter of Credit is for any reason closed, then the last day for presentation is automatically extended to the day occurring thirty calendar days after the place for presentation re-opens for business.

Article 36 of the UCP as it applies to this Letter of Credit is hereby further modified by providing that any alternate place for presentation we may designate pursuant to this rule must be in the United States.

12. As used herein:

“Authorized Officer” shall mean President, Treasurer, any Vice President, any Senior Vice President, any Managing Director, any Director, any Associate Director, or any Assistant Treasurer.

“Bids” shall mean the price offers submitted by the Bidder in response to PECO Energy Company’s Default Service Program RFP.

“Bid Date” shall mean the day on which the Bidder may submit Bids in the solicitation.

“Bidder” shall mean an entity that has successfully completed the Part 1 Proposal, and that submits the Part 2 Proposal.

“Business Day” shall mean any day on which commercial banks are not authorized or required to close in New York, NY and any day on which payments can be effected on the Fedwire system.

“Uniform SMA” shall mean the PECO Energy Company Pennsylvania Default Service Supplier Master Agreement by which PECO can contract with winners from this solicitation.

“Independent Evaluator” shall mean the administrator of PECO Energy Company’s Default Service Program RFP.

“PUC” shall mean the Pennsylvania Utility Commission.

“Proposal” shall mean a response by the Bidder to PECO Energy Company’s Default Service Program RFP in a solicitation, including the Part 1 Proposal and the Part 2 Proposal.

“Transaction Confirmation” shall mean an agreement pursuant to the Uniform SMA that documents certain terms of a transaction between the Bidder and PECO Energy Company.

13. This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, changed, amplified or limited by reference to any document, instrument or agreement referred to herein, except for Annexes 1 through 3 hereto and the notices referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except as set forth above. Except as otherwise expressly stated herein, this Letter of Credit may not be amended or modified by us without the consent of an Authorized Officer of PECO or an Authorized Officer of the Independent Evaluator on behalf of PECO.
14. We, the Issuing Bank, certify that as of the Date of Issuance our senior unsecured debt is rated “A-” or better by S&P Global Ratings, or “A3” or higher from Moody’s Investors Service.
15. This original Letter of Credit has been sent to the Independent Evaluator at [address for Independent Evaluator] (as per Bidder’s instructions, the Independent Evaluator holds the Letter of Credit for the benefit of PECO). The aggregate amount paid to PECO during the validity of this Letter of Credit will not exceed the amount of this Letter of Credit. Any demands or communications in the form of the attached Annexes or other communications directed to us under this Letter of Credit must be signed by an Authorized Officer of PECO. Acceptance or rejection of any amendments to this Letter of Credit must be signed by an Authorized Officer of PECO or an Authorized Officer of the Independent Evaluator on behalf of PECO.

Very truly yours,  
[Issuing Bank]

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

**Annex 1 to Letter of Credit**

DRAWING UNDER LETTER OF CREDIT NO. \_\_\_\_\_

\_\_\_\_\_, 20\_\_

To: [Issuing Bank]  
[Address]

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

The undersigned is making a drawing under Your Letter of Credit No. \_\_\_\_\_ (the "Letter of Credit") in the amount specified below and hereby certifies to you as follows:

1. Capitalized terms used herein that are not defined herein shall have the meanings ascribed thereto in the Letter of Credit.
2. The undersigned is making a drawing under the Letter of Credit. The amount to be received by PECO is (USD) \$\_\_\_\_\_.
3. Pursuant to Paragraph 2 of the Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_, the undersigned is entitled to make a drawing under the Letter of Credit in as much as the Bidder has \_\_\_\_\_ [state a reason from conditions (a) – (c) of Paragraph 2 of the Letter of Credit].
4. The undersigned acknowledges that, upon your honoring the drawing herein requested, the amount of the Letter of Credit available for drawing shall be automatically decreased by the amount of this drawing honored by you.

Very truly yours,

PECO Energy Company  
By \_\_\_\_\_  
Name:  
Title:  
Date:

cc: \_\_\_\_\_ [Bidder]



***Annex 2 to Letter of Credit***

SIGHT DRAFT

Amount: \$ \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

At sight, pay to the order of PECO Energy Company the sum of \_\_\_\_\_ U.S. Dollars.

Drawn under Irrevocable Letter of Credit No. \_\_\_\_\_ of \_\_\_\_\_  
[identify Issuing Bank] dated \_\_\_\_\_, 20\_\_.

To: \_\_\_\_\_ [Issuing Bank]  
\_\_\_\_\_ [Address]  
\_\_\_\_\_

PECO Energy Company

By \_\_\_\_\_  
Name:  
Title:  
Date:

***Annex 3 to Letter of Credit***

CERTIFICATE OF CANCELLATION

\_\_\_\_\_, 20\_\_

To: [Issuing Bank]  
[Address]

Attention: Standby Letter of Credit Unit/Your Letter of Credit No. \_\_\_\_\_

Ladies and Gentlemen:

The undersigned hereby certifies to you that the above-referenced Letter of Credit may be cancelled without further payment. Attached hereto is the original Letter of Credit, marked cancelled.

PECO Energy Company

By \_\_\_\_\_

Name:

Title:

Date:

cc: \_\_\_\_\_ [Bidder]

**PECO Energy Company  
Default Service Program RFP  
March 2021 Solicitation**

**PECO Exhibit JJM-6**

**General Information  
Bid Date: Tuesday, March 9, 2021**

**Template Information:**

In addition to this 'General Information' sheet, this Bid Form contains the 'Bids' sheet.  
The 'Bids' sheet is for entering Bids for all products.

**Bidder Information:**

Company Name:	
Contact Name:	
Phone Number:	

**Bidder Information is incomplete. All fields are mandatory.**

**Class & Product Information:**

A "Class" is a grouping of PECO's retail customers. PECO will procure full requirements service for the Residential ("RES") and Small Commercial ("SC") Classes on a fixed-price basis. PECO will procure full requirements service with energy priced to the PJM day-ahead spot market for the Consolidated Large Commercial and Industrial ("CCI") Class.

Number of tranches available		
Class (Product)	Supply Period	Available Tranches
Residential (RES-12-Jun21)	June 2021 - May 2022	12
Residential (RES-24-Jun21)	June 2021 - May 2023	11
Small Commercial (SC-12-Jun21)	June 2021 - May 2022	6
Small Commercial (SC-24-Jun21)	June 2021 - May 2023	3
Consolidated Large Commercial and Industrial (CCI-12-Jun21)	June 2021 - May 2022	8

The Load Caps for a Class are set so that the customers of that Class have no more than a 50% exposure to any one Default Supplier at any given time. The Load Caps apply to the list of products that contribute to Default Supply for a Class at a given point in time. The Load Cap for an RFP Bidder that is a Default Supplier will take into account tranches won in previous solicitations under DSP IV and DSP V.

**Maximum Number of Tranches Bid in this Solicitation - RES Class.**

Products	Available Tranches	Load Caps Apply to an RFP Bidder When an RFP Bidder Has:	Load Caps for RES Class
RES-12-Jun21	12	Won more than 19 tranches of RES-24-Dec19, RES-24-Jun20, RES-12-Dec20, and RES-24-Dec20 under DSP IV	31 less RES-24-Dec19, RES-24-Jun20, RES-12-Dec20, and RES-24-Dec20 tranches won under DSP IV
RES-24-Jun21	11	Won more than 20 tranches of RES-24-Dec19, RES-24-Jun20, RES-12-Dec20, and RES-24-Dec20 under DSP IV	

**Maximum Number of Tranches Bid in this Solicitation - SC and CCI Classes.**

Products	Available Tranches	Load Caps Apply to an RFP Bidder When an RFP Bidder Has:	Load Cap
SC-12-Jun21	6	Won more than 6 tranches of SC-24-Dec19, SC-24-Jun20, SC-12-Dec20, and SC-24-Dec20 under DSP IV	12 less SC-24-Dec19, SC-24-Jun20, SC-12-Dec20, and SC-24-Dec20 tranches won under DSP IV
SC-24-Jun21	3	Won more than 9 tranches of SC-24-Dec19, SC-24-Jun20, SC-12-Dec20, and SC-24-Dec20 under DSP IV	
CCI-12-Jun21	8	Load Caps apply always	4

**Complete and Sign Certification:**

I, \_\_\_\_\_, certify under penalty of perjury that I am authorized to submit these Bids.

By affixing my electronic signature below I understand and agree with the following: Any Bid on any product submitted in response to this RFP for this solicitation is binding until six (6) business days after the Bid Date and constitutes a binding and irrevocable offer to provide service under the terms of the PECO Energy Company Pennsylvania Default Service Supplier Master Agreement at the price specified in the Bid.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature

**Please enter your Name and Electronic Signature.**

Bids  
 Bid Date: Tuesday, March 9, 2021

**Bids**

- A 'Bid' is a price in \$/MWh for one tranche of a given product.
- A 'Bid' is rounded to the nearest cent.
- An RFP Bidder may submit different Bids for different tranches of a given product.
- Bids should be entered from top to bottom, without skipping rows.

**Section 1. Total Number of Tranches Bid**

Total Tranches Across all Products

**Section 2. Bids for each Tranche of each Product**

Bids (All Bids are in \$/MWh)

Residential	Residential	Small Commercial	Small Commercial	Consolidated Large Commercial and Industrial
RES-12-Jun21	RES-24-Jun21	SC-12-Jun21	SC-24-Jun21	CCI-12-Jun21
June 2021 - May 2022	June 2021 - May 2023	June 2021 - May 2022	June 2021 - May 2023	June 2021 - May 2022
Bid (\$/MWh)	Bid (\$/MWh)	Bid (\$/MWh)	Bid (\$/MWh)	Bid (\$/MWh)
1	1	1	1	1
2	2	2	2	2
3	3	3	3	3
4	4	4		4
5	5	5		
6	6	6		
7	7			
8	8			
9	9			
10	10			
11	11			
12				

**Number of Tranches Bid**

Residential	Residential	Small Commercial	Small Commercial	Consolidated Large Commercial and Industrial
June 2021 - May 2022	June 2021 - May 2023	June 2021 - May 2022	June 2021 - May 2023	June 2021 - May 2022
0	0	0	0	0

**Bidder-Specific Load Caps**

12	11	6	3
23		9	

**Load Cap Status**

OK	OK	OK	OK
OK		OK	

Your bidder-specific load caps for a Class are set so that you serve no more than 50% of the load for a Class at any given time taking into account your tranches won in DSP IV and DSP V.

## Appendix 11 - Future Solicitations

### Tentative Schedule for Future Solicitations

The tentative schedules for future solicitations are provided in this Appendix 11. These schedules may be modified in accordance with Paragraphs I.1.8 and II.2.3 of the RFP Rules.

Activity	Date
<b>March 2021 Solicitation</b>	
Deadline to request consideration of an alternate form of guaranty	Tuesday, January 26, 2021
Bidder Information Webcast	Friday, February 5, 2021
Decision on alternate guaranty forms (if any)	Friday, February 12, 2021
Part 1 Window Opens	Wednesday, February 17, 2021
Part 1 Date (Part 1 Window Closes)	Tuesday, February 23, 2021
Part 1 Notification Date	Thursday, February 25, 2021
Approved modifications to Form of Guaranty posted	Friday, February 26, 2021
Part 2 Window Opens	Friday, February 26, 2021
Bid Submission training	Wednesday, March 3, 2021
Part 2 Date (Part 2 Window Closes)	Thursday, March 4, 2021
Part 2 Notification Date	Monday, March 8, 2021
Bid Date (Bids are Due)	Tuesday, March 9, 2021
IE provides its report to the PaPUC	Wednesday, March 10, 2021
PaPUC Decision (close of business)	Thursday, March 11, 2021
<u>If Bids are approved by the PaPUC:</u>	
PECO sends partially executed Uniform SMA and Transaction Confirmation(s) by overnight delivery service	By close of the fourth business day after the Bid Date
Uniform SMA and Transaction Confirmation(s) fully executed	By 2PM of the fifth business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements	By close of fifth business day after the Bid Date

Activity	Date
<b>September 2021 Solicitation</b>	
Deadline to request consideration of an alternate form of guaranty	Tuesday, August 17, 2024
Bidder Information Webcast	Friday, August 27, 2024
Decision on alternate guaranty forms (if any)	Friday, September 3, 2021
Part 1 Window Opens	Wednesday, September 8, 2021
Part 1 Date (Part 1 Window Closes)	Tuesday, September 14, 2021
Part 1 Notification Date	Thursday, September 16, 2021
Approved modifications to Form of Guaranty posted	Friday, September 17, 2021
Part 2 Window Opens	Friday, September 17, 2021
Bid Submission training	Wednesday, September 22, 2021
Part 2 Date (Part 2 Window Closes)	Thursday, September 23, 2021
Part 2 Notification Date	Monday, September 27, 2021
Bid Date (Bids are Due)	Tuesday, September 28, 2021
IE provides its report to the PaPUC	Wednesday, September 29, 2021
PaPUC Decision (close of business)	Thursday, September 30, 2021
<u>If Bids are approved by the PaPUC:</u>	
PECO sends partially executed Uniform SMA and Transaction Confirmation(s) by overnight delivery service	By close of the fourth business day after the Bid Date
Uniform SMA and Transaction Confirmation(s) fully executed	By 2PM of the fifth business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements	By close of fifth business day after the Bid Date

Activity	Date
<b>March 2022 Solicitation</b>	
Deadline to request consideration of an alternate form of guaranty	Tuesday, February 1, 2022
Bidder Information Webcast	Friday, February 11, 2022
Decision on alternate guaranty forms (if any)	Friday, February 18, 2022
Part 1 Window Opens	Wednesday, February 23, 2022
Part 1 Date (Part 1 Window Closes)	Tuesday, March 1, 2022
Part 1 Notification Date	Thursday, March 3, 2022
Approved modifications to Form of Guaranty posted	Friday, March 4, 2022
Part 2 Window Opens	Friday, March 4, 2022
Bid Submission training	Wednesday, March 9, 2022
Part 2 Date (Part 2 Window Closes)	Thursday, March 10, 2022
Part 2 Notification Date	Monday, March 14, 2022
Bid Date (Bids are Due)	Tuesday, March 15, 2022
IE provides its report to the PaPUC	Wednesday, March 16, 2022
PaPUC Decision (close of business)	Thursday, March 17, 2022
<u>If Bids are approved by the PaPUC:</u>	
PECO sends partially executed Uniform SMA and Transaction Confirmation(s) by overnight delivery service	By close of the fourth business day after the Bid Date
Uniform SMA and Transaction Confirmation(s) fully executed	By 2PM of the fifth business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements	By close of fifth business day after the Bid Date

<b>Activity</b>	<b>Date</b>
<b>September 2022 Solicitation</b>	
Deadline to request consideration of an alternate form of guaranty	Tuesday, August 16, 2022
Bidder Information Webcast	Friday, August 26, 2022
Decision on alternate guaranty forms (if any)	Friday, September 2, 2022
Part 1 Window Opens	Wednesday, September 7, 2022
Part 1 Date (Part 1 Window Closes)	Tuesday, September 13, 2022
Part 1 Notification Date	Thursday, September 15, 2022
Approved modifications to Form of Guaranty posted	Friday, September 16, 2022
Part 2 Window Opens	Friday, September 16, 2022
Bid Submission training	Wednesday, September 21, 2022
Part 2 Date (Part 2 Window Closes)	Thursday, September 22, 2022
Part 2 Notification Date	Monday, September 26, 2022
Bid Date (Bids are Due)	Tuesday, September 27, 2022
IE provides its report to the PaPUC	Wednesday, September 28, 2022
PaPUC Decision (close of business)	Thursday, September 29, 2022
 <u>If Bids are approved by the PaPUC:</u>	
PECO sends partially executed Uniform SMA and Transaction Confirmation(s) by overnight delivery service	By close of the fourth business day after the Bid Date
Uniform SMA and Transaction Confirmation(s) fully executed	By 2PM of the fifth business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements	By close of fifth business day after the Bid Date



Activity	Date
<b>March 2023 Solicitation</b>	
Deadline to request consideration of an alternate form of guaranty	Tuesday, January 31, 2023
Bidder Information Webcast	Friday, February 10, 2023
Decision on alternate guaranty forms (if any)	Friday, February 17, 2023
Part 1 Window Opens	Wednesday, February 22, 2023
Part 1 Date (Part 1 Window Closes)	Tuesday, February 28, 2023
Part 1 Notification Date	Thursday, March 2, 2023
Approved modifications to Form of Guaranty posted	Friday, March 3, 2023
Part 2 Window Opens	Friday, March 3, 2023
Bid Submission training	Wednesday, March 8, 2023
Part 2 Date (Part 2 Window Closes)	Thursday, March 9, 2023
Part 2 Notification Date	Monday, March 13, 2023
Bid Date (Bids are Due)	Tuesday, March 14, 2023
IE provides its report to the PaPUC	Wednesday, March 15, 2023
PaPUC Decision (close of business)	Thursday, March 16, 2023
<u>If Bids are approved by the PaPUC:</u>	
PECO sends partially executed Uniform SMA and Transaction Confirmation(s) by overnight delivery service	By close of the fourth business day after the Bid Date
Uniform SMA and Transaction Confirmation(s) fully executed	By 2PM of the fifth business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements	By close of fifth business day after the Bid Date

<b>Activity</b>	<b>Date</b>
<b>September 2023 Solicitation</b>	
Deadline to request consideration of an alternate form of guaranty	Tuesday, August 15, 2023
Bidder Information Webcast	Friday, August 25, 2023
Decision on alternate guaranty forms (if any)	Friday, September 2, 2023
Part 1 Window Opens	Wednesday, September 6, 2023
Part 1 Date (Part 1 Window Closes)	Tuesday, September 12, 2023
Part 1 Notification Date	Thursday, September 14, 2023
Approved modifications to Form of Guaranty posted	Friday, September 15, 2023
Part 2 Window Opens	Friday, September 15, 2023
Bid Submission training	Wednesday, September 20, 2023
Part 2 Date (Part 2 Window Closes)	Thursday, September 21, 2023
Part 2 Notification Date	Monday, September 25, 2023
Bid Date (Bids are Due)	Tuesday, September 26, 2023
IE provides its report to the PaPUC	Wednesday, September 27, 2023
PaPUC Decision (close of business)	Thursday, September 28, 2023
 <u>If Bids are approved by the PaPUC:</u>	
PECO sends partially executed Uniform SMA and Transaction Confirmation(s) by overnight delivery service	By close of the fourth business day after the Bid Date
Uniform SMA and Transaction Confirmation(s) fully executed	By 2PM of the fifth business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements	By close of fifth business day after the Bid Date

Activity	Date
<b>March 2024 Solicitation</b>	
Deadline to request consideration of an alternate form of guaranty	Tuesday, January 30, 2024
Bidder Information Webcast	Friday, February 9, 2024
Decision on alternate guaranty forms (if any)	Monday, February 19, 2024
Part 1 Window Opens	Wednesday, February 21, 2024
Part 1 Date (Part 1 Window Closes)	Tuesday, February 27, 2024
Part 1 Notification Date	Thursday, February 29, 2024
Approved modifications to Form of Guaranty posted	Friday, March 1, 2024
Part 2 Window Opens	Friday, March 1, 2024
Bid Submission training	Wednesday, March 6, 2024
Part 2 Date (Part 2 Window Closes)	Thursday, March 7, 2024
Part 2 Notification Date	Monday, March 11, 2024
Bid Date (Bids are Due)	Tuesday, March 12, 2024
IE provides its report to the PaPUC	Wednesday, March 13, 2024
PaPUC Decision (close of business)	Thursday, March 14, 2024
<u>If Bids are approved by the PaPUC:</u>	
PECO sends partially executed Uniform SMA and Transaction Confirmation(s) by overnight delivery service	By close of the fourth business day after the Bid Date
Uniform SMA and Transaction Confirmation(s) fully executed	By 2PM of the fifth business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements	By close of fifth business day after the Bid Date

<b>Activity</b>	<b>Date</b>
<b>September 2024 Solicitation</b>	
Deadline to request consideration of an alternate form of guaranty	Tuesday, August 13, 2024
Bidder Information Webcast	Friday, August 23, 2024
Decision on alternate guaranty forms (if any)	Friday, August 30, 2024
Part 1 Window Opens	Wednesday, September 4, 2024
Part 1 Date (Part 1 Window Closes)	Tuesday, September 10, 2024
Part 1 Notification Date	Thursday, September 12, 2024
Approved modifications to Form of Guaranty posted	Friday, September 13, 2024
Part 2 Window Opens	Friday, September 13, 2024
Bid Submission training	Wednesday, September 18, 2024
Part 2 Date (Part 2 Window Closes)	Thursday, September 19, 2024
Part 2 Notification Date	Monday, September 23, 2024
Bid Date (Bids are Due)	Tuesday, September 24, 2024
IE provides its report to the PaPUC	Wednesday, September 25, 2024
PaPUC Decision (close of business)	Thursday, September 26, 2024
 <u>If Bids are approved by the PaPUC:</u>	
PECO sends partially executed Uniform SMA and Transaction Confirmation(s) by overnight delivery service	By close of the fourth business day after the Bid Date
Uniform SMA and Transaction Confirmation(s) fully executed	By 2PM of the fifth business day after the Bid Date
Default Service Supplier meets the creditworthiness requirements	By close of fifth business day after the Bid Date

## Appendix 12 – Confidentiality Statement

I, \_\_\_\_\_ {name of person}, am employed by \_\_\_\_\_ {name of employer}.

I will be considering, reviewing, and evaluating responses from RFP Bidders or I will have access to information submitted by RFP Bidders that is not publicly released. In this capacity, I sign below and hereby acknowledge and understand the Confidentiality Provisions of the RFP Rules and, consistent with those rules, agree to take all reasonable precautions to ensure that all data and information supplied by all RFP Bidders are maintained in confidence and not disclosed to individuals other than those that have signed this Confidentiality Statement. My signature is witnessed by the Independent Evaluator.

A list of signatories of this Confidentiality Statement is maintained by the Independent Evaluator and available to all signatories and to RFP Bidders upon request. I undertake to consult this list of signatories before communicating RFP information to another person.

If any data or information supplied by an RFP Bidder is disclosed publicly by that RFP Bidder itself or by the Pennsylvania Public Utility Commission, such information will cease to be Confidential.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

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## **I. Introduction**

This RFP Protocol describes the process of administering the Requests for Proposals (“RFP”) and specifies how the Independent Evaluator (“IE”) will communicate with bidders, with representatives of PECO Energy Company (“Company” or “PECO”), and with the Staff of the Pennsylvania Public Utility Commission (“Commission” or “PaPUC”). The RFP Protocol is focused on specific procedures that the IE and PECO will follow. The following topics will be covered:

- General Principles
- Confidentiality
- Website and Data Room
- Frequently Asked Questions
- Announcements & Communications to Bidders
- Communications to the Press and the Media
- Bidder Information Webcasts
- Guaranty Process
- Processing of Proposals
- Transmitting Confidential Information
- Bid Submission Training
- Market Report
- Bid Processing
- Post-Bid Procedures

## **II. General Principles**

The main guiding principle of this RFP Protocol is that all bidders will be treated equally. This equality means that no bidder will be provided with information that is not available to all other bidders, and all bidders will be subject to the exact same rules and standards for participation. This not only ensures fairness of the process but it also fosters competition and so favors the best final prices possible. Bidders are more willing to participate in the RFP if they know that no other bidder will be granted an advantage over them.

Furthermore, information that is of a sensitive nature, such as information a bidder provides about itself during the proposal process and information about individual bidders' bids, shall be considered confidential and will not be released to the public. As stated in the PaPUC's Policy Statement at §69.1807(8):

“[t]he public interest would be served by the adoption of uniform rules for the confidentiality of competitive solicitation information. Supplier participation, bid prices, and retail rates may be impacted by protecting certain information, including, the identity of winning and losing bidders, the number of bids submitted, bid prices, the allocation of load among winning bidders, and the like.”

PECO and the IE are committed to upholding these principles, and to that end:

- The IE and PECO will nominate particular individuals who will review RFP information. Each nominated individual signs a Confidentiality Statement. The individual may only discuss the RFP information to which it has access with other nominated individuals. Information will be provided to Staff at critical junctures.
- The IE will serve as the sole interface with bidders.
- The IE will set up a public RFP website to disseminate information and data about this RFP efficiently and to which all stakeholders will have access.

### **III. Confidentiality**

This RFP Protocol describes the extent of the communication between the IE and PECO. Information not specifically designated in this protocol for communication between the IE and PECO shall not be communicated, and shall be treated as confidential. All PECO and NERA personnel involved in the administration of a solicitation will sign the Confidentiality Statement provided as Appendix 11 of the RFP, ensuring that all information submitted by prospective suppliers through this process will be treated as confidential. This RFP Protocol describes what information can be released, to whom and under what circumstances.

PECO and the IE will each designate specific individuals that will take part in the implementation of DSP V.



- These individuals will sign the Confidentiality Statement provided as Appendix 11 of the RFP and will commit to strictly adhere to the RFP Protocol.
- The IE will maintain a master list of individuals who can have access to confidential information and each individual on that list can only discuss confidential information with another individual on that list.
- Each individual, when communicating RFP information, will consult this list of individuals as needed to ascertain that the recipient has signed the Confidentiality Statement.

PECO will have a supporting role during the implementation of each solicitation, consisting primarily of the following:

- Development of data that the IE then posts to the RFP website and updates as necessary;
- Response to bidder inquiries, particularly on data methodology and the PECO Energy Company - Pennsylvania Default Service Supplier Master Agreement “Uniform SMA”, after the IE has redacted the identity of the questioner;
- Review with the IE of financial information provided by bidders with their qualification package to determine the credit line that would prevail under the terms of the Uniform SMA;
- Review additional documents provided by bidders that are qualifying under an agency agreement, or as foreign entities, or relying on the financial standing of a foreign entity;
- Review with the IE of modifications to credit instruments proposed by bidders (once the IE has redacted the identity of the prospective supplier) to determine whether the modifications are non-material in nature;

- Review with the IE of alternate guaranty forms to determine whether the alternate guaranty form provides the same protection as the standard format of the guaranty under the Uniform SMA;
- Review with the IE of bid security (once the IE has redacted the identity of the bidder and the amount) to determine whether the bid security instruments follow the standard formats or only include approved changes;
- Review the Uniform SMA documents and the guaranty (if applicable) prepared for Default Suppliers.

In addition, and assuming the Commission approves the results of a solicitation, the IE will provide PECO with the information necessary to administer the winning contracts, namely the identity of the approved suppliers, the amount that they will supply of each product, and the supplier-specific price for each product (which is the average of the supplier's approved bids for that product).

In addition to the information needed to administer the contracts, PECO will have access to certain additional information to assist in assessing whether the products offered could be improved in future procurement plans and to assist it in finalizing its contingency plans should the results of any solicitation be rejected by the Commission. The IE, at the conclusion of each solicitation, will provide PECO with a redacted version of the report it provides to the Commission. The redaction will ensure that PECO does not have access to information concerning losing bids of specific bidders. This redacted report is discussed in more detail in Section XV.C of this Protocol.

The Commission's regulations at §§54.186(c)(5) specifically provide as follows:

“The bids submitted by a supplier in response to a competitive bid solicitation process shall be treated as confidential pursuant to the confidentiality agreement approved by the Commission pursuant to §§ 54.185(D)(6). The DSP, the Commission, and a third party

involved in the administration, review or monitoring of the bid solicitation process shall be subject to this confidentiality provision.”

#### **IV. Website and Data Room**

A website dedicated specifically to the RFP is the most efficient way for the IE to disseminate information to bidders and other stakeholders. An RFP website ([www.pecoprocurement.com](http://www.pecoprocurement.com)) was developed during DSP I. The RFP website has been maintained since that time and will be maintained during DSP V. The main pages of the RFP website will contain DSP V information. Materials from prior Default Service Programs will be accessible through an “archives” section of the RFP website. The RFP website is public, and anyone can access the site at any time and find any information they require simply by searching the RFP website instead of calling or emailing the IE. No password or login information is required to view the RFP website.

The RFP website contains a section where any visitor may register by submitting information such as name, phone number and email address. Any user who submits an email address will be signed up to receive updates via email from the IE. A registrant who elected to receive email updates during previous Default Service Programs will be sent updates about DSP V unless the registrant opts out, which the registrant can do at any time.

The RFP website allows stakeholders to download all key documents as soon as these become available. Such documents include the RFP Rules, the Uniform SMA, and the qualification materials that bidders will need to submit (e.g., proposal forms and standard templates for pre-bid security). These documents for a given solicitation will continue to be posted well in advance of the qualification deadlines. The RFP website also includes a calendar providing the deadlines for each solicitation. A calendar is provided in the RFP, in Article II of the RFP Rules as well as in Appendix 10 of the RFP.

The RFP website includes a data room to assist bidders in assessing the RFP opportunity. This data room includes data that is useful for providers in assessing the load associated with each product, such as historical load by class, switching statistics, etc. Data series are updated once a month.

In addition to allowing bidders to assess their ability to serve different products, the provision of data via the RFP website also has the effect of leveling the playing field for all bidders; without the provision of data, some bidders may have a better idea of the load associated with PECO's customers, and this would put bidders without such familiarity at a competitive disadvantage. Therefore, providing data on an equal basis to all bidders equalizes knowledge across prospective suppliers, and spurs competition in areas where some bidders might not otherwise have the ability to offer competitive bids. This is in keeping with the guiding principle of equality described at the beginning of this protocol.

It is expected that the same data series that were provided in prior Default Service Programs would continue to be provided during DSP V. The IE did not receive any requests for additional data series that would improve bidders' ability to submit competitive bids. Confidential data can expand the information provided, but at the cost of setting up a password-protected section of the website or of providing data through mailings only to qualified parties, and at the possible cost of monitoring access to the data. At this point in time, PECO does not anticipate the need to provide data on such a confidential basis, but will be able to do so if the need arises.

Data are currently updated on or about the 13<sup>th</sup> day of each month, on an ongoing basis, and PECO will continue this process without interruption between DSP IV and DSP V. Initial data series were first provided on March 27, 2009 including historical data dating back to January 2006. The procedure for the monthly updates of the data series on the RFP website is as follows:

1. PECO provides the updated data to the IE at least three days in advance of the scheduled monthly update;
2. The IE checks the data, ensuring that it is accurate and error-free, contacting PECO if necessary to resolve any issues;
3. The IE posts the updated data series to the RFP website.

The following data are available on the RFP website:

- hourly usage data;
- number of retail customers;

- capacity peak load contribution (“PLC”);
- historical monthly retention figures;
- estimated loss factors;
- customer size distributions.

Data may be archived so that the more recent five years of data are more immediately available to stakeholders.

The material on the RFP website will be updated when new content becomes available that would be of use to stakeholders. The process for updating the RFP website and adding new material is as follows:

1. PECO and the IE together prepare the material for posting, ensuring that it is accurate and error-free;
2. The IE posts the new documents to the RFP website;
3. The IE sends an announcement (via email) to registrants informing them of the newly available content on the RFP website.

## **V. Frequently Asked Questions**

The RFP website also contains a web-based form that stakeholders can use to submit questions, and a section where the IE would post questions received and the associated responses, in order to ensure equal distribution of information. This FAQ form is available for all stakeholders to ask questions and receive answers, although in times of high demand, priority may be given to answering questions from prospective suppliers. There are four major steps to the process.

In the first step, the question is received and the IE sends an acknowledgement to the questioner. The acknowledgement serves as a bidder’s confirmation that its question has been received, and the acknowledgement will also inform the bidder of the expected turnaround time for an answer, expected to be two business days. In the second step, the IE drafts an answer to the question, consulting PECO for expertise as necessary. If PECO is consulted, the identity of

the entity who has asked the question is not revealed, and any information in the question itself that could potentially identify the questioner is removed before sending to PECO.

Once an answer has been finalized by the IE (and PECO if necessary), the IE sends the final response directly to the questioner. If there is any delay in answering the question, such that the answer cannot be sent before the end of the expected turnaround period, the IE will send a delay notice to the questioner informing it of the delay and of a revised expected turnaround time for the answer. In the final step, questions and answers that were received during the previous week are posted to the Frequently Asked Questions (FAQ) section of the RFP website by the IE.

Posting the questions to the RFP website ensures an equal distribution of information among stakeholders – any information that is conveyed to one party via an answer to a question submitted through the RFP website is then conveyed to all stakeholders in a public manner through the FAQ section of the RFP website. This practice ensures that all bidders have the same information and can compete on an equal playing field. Any question received by a party other than the IE must be sent to the IE for processing – no party other than the IE will directly answer a question from a stakeholder. Because all questions received about the RFP must go through the IE, bidders know that all questions receive the same treatment; as specified in the guiding principles of this RFP Protocol, the IE is the sole interface with bidders.

The FAQ section of the RFP website is updated once per week, allowing for more frequent posts at times of high volume or less frequent posts due to holidays.

## **VI. Announcements & Communications to Bidders**

As specified in Section IV, postings of new information to the RFP website will be followed by an announcement made to all registrants to the RFP website. (The only exception will be for data postings that have been scheduled to occur on the same day each month.) The IE and PECO may also issue announcements to a list of registrants to the RFP website from time to time to remind prospective suppliers of deadlines for a given solicitation under the RFP or to make them aware of events that may impact the bids. Announcements will include the following milestones:

- Initial documents posted
- Part 1 Proposal Window opening & closing
- Bidder Information Webcast reminders
- Part 2 Proposal Window opening & closing
- Bids due
- PaPUC decision on RFP results

The goal of these announcements is to ensure that all bidders and stakeholders are aware of the ongoing progress of a solicitation, and to minimize the possibility that a potential bidder is unable to bid due to a missed deadline.

The IE will also engage in direct marketing to promote the RFP opportunity. Members of the IE team will compile a list of prospective suppliers using publicly available information and contact representatives of these entities or contract with a professional marketing service to contact the representatives to inform them of key dates in the RFP, and opportunities for them to gain more information about participation in the RFP, such as bidder information webcasts and the RFP website. All prospective suppliers reached during these marketing calls will receive the same public information.

## **VII. Communications to the Press and the Media**

The IE and PECO may also issue press releases or advertisements in order to promote the RFP opportunity. Information placed in the trade press has the ability to reach prospective suppliers that might not have been contacted otherwise, and might not have registered to the RFP website of their own volition; thus, more parties may be made aware of the RFP website, and more participation may be achieved for the bidder information webcasts. The IE and PECO will work together to draft these communications. If the IE and PECO issue a press release, contact information of a team member of the IE will be included in case additional information is required.

PECO may grant interviews to the press or respond to press inquiries concerning the RFP. The interviews and responses to press inquiries are limited to public information regarding the RFP. PECO may require that the IE, who is to provide support in promotion efforts, participate in interviews and press inquiries. PECO has complete discretion to provide its customers and security analysts with public information regarding the RFP. PECO has complete discretion to provide public information to utilities or regulators from outside Pennsylvania.

The IE will coordinate with PECO's press representatives on all media contacts before the RFP. The IE will coordinate with PECO before granting interviews or commenting on any aspect of the RFP. Notwithstanding this, the IE will answer routine inquiries from the press and will inform PECO of such inquiries (e.g., wanting to know where a document is on the RFP website).

### **VIII. Bidder Information Webcasts**

In addition to the electronic information dissemination methods via the RFP website, email, or through press releases, bidder information webcasts are effective for presenting efficiently and concisely the main elements of the RFP. Such webcasts also have the significant benefit of allowing bidders to ask questions directly of the IE and PECO. The IE and PECO expect that, for each solicitation, there would be a webcast prior to the due date for submission of Part 1 Proposals, and a subsequent training session held for bidders that are qualified to submit a Part 2 Proposal.

Each webcast will be tailored to parties considering participation in the RFP, and will cover a broad range of general topics about the opportunity. The aim is to provide a wealth of information quickly, so that potential bidders can evaluate the opportunity. Subject material will consist of the requirements of the RFP, the rules for the submission of proposals, the general structure of the RFP, the definition of the products available, and a summary of the RFP website and communication channels by which interested parties can obtain further information throughout the process.

The IE will prepare and deliver the presentation at the webcast, with representatives of PECO on hand to answer questions if necessary. The IE will take down all questions asked and



answered at the bidder information webcast and post them to the RFP website as Frequently Asked Questions, so that bidders that are unable to attend the bidder information webcast have access to the same information as bidders able to attend. Similarly, the presentation will be available on the RFP website after the bidder information webcast, both as a pdf and as a recording of both the audio and the slides. No information about the parties in attendance at the bidder information webcast will be made public.

Shortly before the Bid Date, the IE will hold a training session on the mechanics of submitting bids on the Bid Date. This session will be limited to bidders.

## **IX. Alternate Guaranty Process**

PECO will allow any prospective supplier to submit for consideration an alternate guaranty form that the prospective supplier uses in its normal course of business. A separate and more detailed document about the Alternate Guaranty Process is included as Appendix 2 of the RFP. This document provides the specific minimum requirements of any alternate guaranty form.

The protocol for the processing of a submission under the Alternate Guaranty Process will occur in the following steps:

1. Parties submit alternate guaranty forms by emailing the form and all relevant documentation (as specified in the Alternate Guaranty Process document).
2. The IE acknowledges receipt of the package by email. The notice includes an assessment of whether all required materials have been received. If there is time before the deadline, a prospective supplier submitting incomplete documentation will be given an opportunity to complete its submission.
3. The IE redacts all information that could identify the prospective supplier submitting the alternate guaranty form and provides the redacted form and other documentation to PECO electronically.
4. PECO evaluates the alternate guaranty package with the assistance of the IE and of outside counsel as necessary.
  - a. If the package is acceptable, the IE sends a notice to the prospective supplier informing it of the form's acceptability for use under the Uniform SMA.

- b. If the package is unacceptable, the IE sends a notice to the prospective supplier informing it of what must be changed in order for the package to be acceptable for use under the Uniform SMA.
5. Prospective suppliers that submit revised alternate guaranty packages do so via email.
6. The IE redacts all information that could identify the parties submitting the revised packages and provides the redacted material to PECO electronically.
7. PECO evaluates with the assistance of the IE and of outside counsel as necessary.
  - a. If a revised package is acceptable, the IE sends a notice to the prospective supplier informing it of the form's acceptability for use in the RFP.
  - b. If a package is unacceptable, the IE sends a notice to the prospective supplier informing it of the form's final rejection for use in the RFP and the reasons for the rejection.
8. Accepted forms are kept on file by the IE, as they will be acceptable for use in future solicitations under the RFP.
9. A prospective supplier submits the executed alternate guaranty form and the signed enforceability opinion with the Part 2 Proposal.

An alternate guaranty form approved through this process will be acceptable to PECO. This alternate guaranty form may be used for purposes of the solicitation during which it is approved and may be used for the course of DSP V barring changes in the applicable law or changes to the RFP process as may be ordered by the PaPUC. Suppliers that had alternate forms of guaranty approved during a prior Default Service Program will be required to resubmit their materials.

## **X. Processing of Proposals**

A proposal consists of three (3) parts. The Part 1 Proposal is the bidder's response to the qualification standards described in Article IV of the RFP Rules. Bidders that qualify pursuant to a successful Part 1 Proposal may submit the second part, the Part 2 Proposal. The Part 2 Proposal, described in detail in Article V of the RFP Rules, includes financial support for the bidder's offers. Bidders that present a successful Part 1 Proposal and Part 2 Proposal may submit the third part of the Proposal, which consists of the bidder's bids.

Part 1 and Part 2 Proposals are received and processed by the IE, with certain specified decisions and evaluations made by PECO with the assistance of the IE. The IE is the main party responsible for processing the proposals and bids. This section lays out the step-by-step procedures to be followed and time periods for each action to be taken.

Prospective suppliers submit Part 1 proposals during the Part 1 Window. Any information provided by a bidder in its Part 1 Proposal is provided on a confidential basis to the IE, and may be provided on a confidential basis to PaPUC Staff. PECO representatives and the IE will review the information provided to fulfill the financial requirements under the Uniform SMA. PECO representatives and the IE will review draft documents provided to comply with specific requirements for bidders submitting a proposal under an agency agreement, and draft documents provided to comply with specific requirements for foreign bidders or for bidders relying on the financial standing of a foreign entity.

Bidders submit Part 2 proposals during the Part 2 Window. Bidders may also provide the representations and certifications required by the online Part 2 Form during the Part 1 Window for early processing. Any information provided by a bidder in its Part 2 Proposal is provided on a confidential basis to the IE, and may be provided on a confidential basis to the PaPUC Staff. PECO representatives review the pre-bid letter of credit with the name of the bidder and the amount redacted and will participate in the evaluation of this pre-bid letter of credit. PECO representatives and the IE determine the sufficiency of documents provided to comply with specific requirements for bidders applying under an agency agreement, and documents provided to comply with specific requirement for foreign bidders or for bidders relying on the financial standing of a foreign entity.

The IE provides all notifications by email and documents by secure file transfer to the bidder's designated representative and up to three (3) additional individuals. The IE may also communicate with the named officer.

### **X.A. Part 1 Proposals**

In the Part 1 Proposal, applicants submit basic information, such as the name of the prospective supplier and contact information. The officer of the bidder named in the Part 1 Proposal will designate a representative as a point of contact for purposes of the RFP and will make a number of certifications regarding its participation in the RFP as well as provide

information required by the Part 1 Proposal. A bidder may designate up to three (3) additional individuals who are authorized to act on behalf of the bidder and who receive all correspondence from the IE.

#### **X.A.1. Receipt and Processing of Part 1 Proposals**

- All materials for the Part 1 Proposals must be received by 12 PM (noon EPT) on the Part 1 Date.
- The Part 1 Proposal includes the completed Part 1 Form as well as one (1) copy of all documents required by the Part 1 Form. The Part 1 Form will be available online for bidders to complete through an online proposal website. The online proposal website will only be accessible to suppliers that have requested an online account and have been provided login credentials by the IE.
- Any documents required by the Part 1 Proposal other than the Part 1 Form must be submitted electronically either by email to the IE at [pecoprocurement@nera.com](mailto:pecoprocurement@nera.com) or by upload to the online Part 1 Form.
- When a bidder submits the online Part 1 Form, the IE receives an email from the online proposal website that indicates that a submission has been received. The email provides the company name associated with the submission. The IE will lock the bidder out of the form so that no further changes are possible to the submitted information while such information is under review. The IE will access the submission through the administrative interface of the online proposal website. The submission will be downloaded and saved on a secure network accessible only by the IE. The submission will also be saved to a portable medium such as an encrypted USB flash drive and stored off-site for at least four years after the conclusion of the current default service program.
- If the Part 1 Proposal is received by the IE before noon on any business day during the Part 1 Window, the IE will send an acknowledgment confirming receipt on the day the Part 1 Proposal is received with the results of an initial

review. If a Part 1 Proposal arrives after noon on any business day during the Part 1 Window prior to the Part 1 Date, the IE will send the acknowledgment along with the initial review by noon of the next business day.

- The IE's initial review will include a determination of the completeness of the proposal. The initial review will state either that the Part 1 Proposal is complete and is being considered, or the initial review will list items of the Part 1 Proposal that are deficient or require clarification. When a review is sent, the IE will restore access for the bidder to the online Part 1 Form.
- If the proposal is missing information, or requires clarification, a communication listing all information and documents required to complete the proposal will be prepared by the IE and sent to the bidder.
  - The bidder has until noon on the Part 1 Date, or until 6 PM on the business day following the business day during which such a notice is sent to the bidder, whichever comes later, to respond.
  - If the information and documents required to remedy deficiencies are submitted within the time allowed, the IE reconsiders the proposal.
  - If the required information is not submitted within the time allowed, the proposal is incomplete. The Part 1 Proposal will be rejected and the IE will send a rejection notice to the bidder by email.
- The Part 1 Proposal allows the bidder to submit non-material modifications to the credit instruments, namely the standard form of the pre-bid letter of credit, the standard form of the letter of credit appended to the Uniform SMA, and the standard format of the guaranty. If such a submission is received:
  - The IE will redact identifying information from the document and provide the redacted version to PECO for review.
  - PECO and the IE will evaluate the submission.

- The IE will communicate the results of the review to the bidders in the specified timeframe.
- All such modifications related to a particular credit instrument will be posted in a single document on the RFP website.
- To the extent that they remain applicable, modifications that were acceptable in previous Default Service Programs will remain acceptable during DSP V. A document containing all such modifications will be posted to the RFP website in advance of the first solicitation under DSP V.
- Bidders submitting a proposal under a number of specific special circumstances are requested to submit additional documents with their Part 2 Proposals. Any such bidder can submit draft documents with its Part 1 Proposal. These include bidders submitting a proposal under an agency agreement, foreign bidders, and bidders relying on the financial standing of a foreign entity. The IE will take the following steps for the evaluation of any such documents.
  - The IE will redact identifying information from the document and provide the redacted version to PECO for review.
  - PECO will review the document with the assistance of the IE and the IE will communicate the results of the review to the bidder with the Part 1 Notification.
- The financial documents submitted by all bidders that accompany the Part 1 Proposals will be provided to PECO. PECO representatives will be provided with the information they need to make the creditworthiness evaluation on the Part 1 Date. It is expected that the creditworthiness evaluation will take no more than a day. The following steps will occur:
  - The IE will provide to PECO a spreadsheet that contains the names of the applicants and their guarantors;

- PECO will make a determination of the creditworthiness of the applicants and their guarantors, with the IE assistance;
- The credit assessment of the applicants and their guarantors is entered into the spreadsheet.

#### **X.A.2. Notification for Part 1 Results**

- For each prospective supplier that qualifies under the requirements of the Part 1 Proposal, the IE will send a Part 1 Notification regarding their qualification status. This letter also details the creditworthiness assessment.
- With the initial notification, the IE sends by secure file transfer the Part 1 Materials: (i) the Bid Form and instructions for submission of bids; (ii) instructions for filling out and encrypting the Bid Form; (iii) instructions for the electronic transfer of the completed Bid Form from the bidder to the IE; (iv) instructions for submission of the bids in case of technical difficulties with the electronic transfer; (v) invitation to a training session on the bid submission process; and, (vi) a username, a password, and security codes to be used for bid submission uniquely by that bidder.

#### **X.B. Part 2 Proposals**

In the Part 2 Proposal, bidders fulfill the requirements specified in Article V of the RFP Rules, including providing financial support for the bidder's offers.

##### **X.B.1. Receipt and Processing of Part 2 Proposals**

- All materials for the Part 2 Proposals must be received by 12 PM (noon EPT) on the Part 2 Date. Bidders also have the option to submit the certifications required with the Part 2 Proposal during the Part 1 Window for early processing.
- The Part 2 form is submitted online through an online proposal website. The Part 2 Proposal includes the completed Part 2 Form submitted online and an executed Pre-Bid Letter of Credit submitted in hardcopy at the IE's offices.

- Bidders submitting a proposal under an agency agreement, foreign bidders, and bidders relying on the financial standing of a foreign entity submit additional documents as specified in Article V of the RFP Rules. Any additional documents required by the Part 2 Proposal must be submitted electronically either by email or by upload to the online Part 2 Form.
- When a bidder submits the online Part 2 Form, the IE receives an email from the online proposal website that indicates that a submission has been received. The email provides the company name associated with the submission. The IE will lock the bidder out of the form so that no further changes are possible to the submitted information while such information is under review. The IE will access the submission through the administrative interface of the online proposal website. The submission is downloaded and saved on a secure network accessible only by the IE. The submission will also be saved to a portable medium such as an encrypted USB flash drive and stored off-site for at least four years after the conclusion of the current default service program.
- If the Part 2 Proposal is received by the IE before noon on any business day during the Part 2 Window, the IE sends the acknowledgment confirming receipt on the day the Part 2 Proposal is received with the results of an initial review. If a Part 2 Proposal arrives after noon on any business day during the Part 2 Window prior to the Part 2 Date, the IE sends the acknowledgment along with the initial review by noon of the next business day.
- A copy of all security documents is made. Original security documents are stored in a safe in the IE office.
- The IE's initial review of the proposal makes a determination on the completeness of the proposal. The initial review states either that the Part 2 Proposal is complete and is being considered, or the initial review lists items of the Part 2 Proposal that are deficient or require clarification.



- Review of the pre-bid letter of credit as well as documents provided for bidders submitting a proposal under an agency agreement, as foreign bidders, or while relying on the financial standing a guarantor may be part of an initial review or may be provided separately the next business day.
- If the proposal is missing required information, or requires clarification, a communication listing all information and documents required to complete the proposal is prepared by the IE and sent to the bidder:
  - With the exceptions noted below, the bidder has until noon on the Part 2 Date, or until 6 PM on the business day following the business day during which such a notice is sent to the bidder, whichever comes later, to respond.
  - For deficiencies related to the pre-bid letter of credit or documents provided to comply with specific requirements for bidders applying under an agency agreement, and documents provided to comply with specific requirement for foreign bidders or for bidders relying on the financial standing of a foreign entity, the bidder will have until noon on the Part 2 Date, or until 6 PM of the second business day following the business day during which the bidder is notified, whichever comes later, to respond.
  - The IE will restore the bidder's access to the online Part 2 Form to allow the bidder to remedy the deficiencies to the submitted information.
- If the information and documents required to remedy deficiencies are submitted within the time allowed, the IE reconsiders the proposal.
- If the required information and documents are not submitted within the time allowed, the proposal is incomplete. If the Part 2 Proposal is rejected, the IE sends a rejection notice to the bidder by email.

- All bidders submit an executed pre-bid letter of credit with their Part 2 Proposals. PECO review the pre-bid letter of credit to ensure that it either uses the standard form or that it includes only approved modifications. The following steps will occur:
  - IE redacts all information that could identify the applicant and the amount of the LC from the pre-bid letter of credit prior to providing it electronically to PECO for review.
  - PECO will check that the forms of the pre-bid letters of credit are acceptable with the assistance of the IE. The IE and PECO undertake a daily review, and conference call if necessary, during the Part 2 Proposal Window to review the pre-bid letters or credit as they arrive.
  - If the pre-bid letter of credit requires revision, the IE prepares a deficiency notice informing the bidder of how its pre-bid letter of credit is deficient and what it must do to remedy the deficiencies. This notice to the bidder by via email.
  - If a new/amended pre-bid letter of credit is submitted the IE confirms whether the new pre-bid letter of credit follows the instructions of the deficiency notice. The IE consults PECO as needed by conference call. If the new pre-bid letter of credit does not follow the requirements, the bidder will receive an additional deficiency notice as long as time remains for the bidder to remedy the deficiencies. If no time remains, the bidder will not be allowed to submit bids.
- Bidders in special circumstances provide additional documents with the Part 2 Proposal. This is the case for bidders applying under an agency agreement, documents provided to comply with specific requirements for foreign bidders, and for bidders relying on the financial standing of a foreign entity. The sufficiency of these documents is evaluated by PECO and the IE. For each of these documents submitted:

- The IE and PECO meet daily as needed via conference call during the Part 2 Proposal Window to evaluate these documents as they arrive. PECO and IE determine the sufficiency of the documents provided.
- If the document(s) requires revision, the IE prepares a deficiency notice informing the bidder of how its document(s) is deficient and what it must do to remedy the deficiencies. This letter is sent to the bidder.
- If a bidder had submitted a draft of these documents with its Part 1 Proposal for review and if the bidder conforms these documents submitted with the Part 2 Proposal to the review provided during the assessment of the Part 1 Proposal, then these documents will automatically be considered sufficient.
- If a new/amended document(s) is submitted, the IE confirms whether the new document(s) follows the requirements of the deficiency notice. The IE consults PECO as needed by conference call. If the new document(s) does not follow the requirements, the bidder is not allowed to submit bids, or is not be granted unsecured credit under the terms of the Uniform SMA, or is not allowed to rely on the financial standing of the guarantor.

#### **X.B.2. Notification for Part 2 Results**

A bidder that submits a Part 2 Proposal will be notified whether it has qualified to submit bids no later than 6 PM on the Part 2 Notification Date. This Part 2 Notification letter will be sent to the bidder by email.

### **XI. Transmitting Confidential Information**

At various times throughout the RFP process it will be necessary for the IE to communicate certain highly confidential information to RFP Bidders. This section specifies the methods by which such information will be transferred. These protocols are used when designated highly confidential information must be transmitted; they are not used in the course of

standard Proposal-related communication such as deficiency and complete notices. Any communication containing any of the following items is designated as highly confidential:

- Bidding results
- Login information for the secure file transfer system
- Bidder-specific load caps
- Part 1 and Part 2 Notifications

### **XI.A. Email & Secure File Transfer**

When sending highly confidential communications to bidders, the IE will observe the following protocols:

- Communications with information regarding a bidder's participation in the RFP will only be sent to the representatives designated in the Proposal forms.
- Confidential information will be contained in pdf documents, with a note in the text of the communication informing the recipient of the purpose of the email and instructing the recipient to destroy the email and its attachment without reading or retaining them if the email has been received in error.
- Communications with confidential information will be checked by at least two members of the IE Team before being sent to ensure that the recipients' email addresses are correct and that the correct file attachment for that bidder has been attached.

### **XII. Bid Submission Training**

The IE will hold a training session for bidders to practice the bid submission process prior to the submission of bids. The principle of the training is to familiarize all bidders with the step-by-step procedure to submit bids so that they can be sure they understand the process in advance of the actual Bid Date, allowing them to submit their actual bids without being hampered by technical difficulties or procedural questions. The training session is scheduled to occur early during the Part 2 Proposal Window, and will allow only potential bidders that have

submitted successful Part 1 Proposals to familiarize themselves with the process by which they will be allowed to submit bids pursuant to successful Part 2 Proposals.

The IE will conduct the training exactly as it would on the Bid Date, except that bids submitted through the training exercise will not be binding in any way. PaPUC Staff may monitor the training exercise. PECO is not involved in the bidder training, but may participate in a separate mock trial with the IE so as to understand the bid submission process.

The training exercise will occur as follows:

1. Bidders will be provided with information on how to participate in the training with their Part 1 Notifications, including information for the electronic transfer of the Bid Form specific to the training;
2. Bidders will fill out, encrypt<sup>1</sup>, and transfer electronically their Bid Forms to the IE using the system that will be employed on the actual Bid Date, and during a specific timeframe set aside for the training;
3. The IE will receive, decrypt and evaluate the submitted forms for completeness; as it would on the actual Bid Date;
4. The IE will contact the bidders to inform them of the receipt of their practice Bid Forms, and whether or not the forms were filled out properly;
5. Bidders wishing to practice submitting bids using a backup method will be afforded the opportunity to do so.

### **XIII. Market Report**

This report would provide visible market prices for components of the full-requirements product and provide the PaPUC with any changes in broad trends in the wholesale markets since

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<sup>1</sup> Encryption is optional, but bidders will be encouraged to practice the encryption method and to use it on the Bid Date. The Independent Evaluator will verify the identity of bidders that submit unencrypted bid forms using the bidder-specific confidential information provided with the Part 1 Notification.

the previous solicitation. If appropriate, the market report could also report the results of similar solicitations held in the State or in a comparable region.

- If desired, the IE will prepare a confidential report to the PaPUC detailing current market conditions affecting the products of the RFP.
- This report would be provided one week to ten days in advance of the Bid Date to the PaPUC on a confidential basis.

#### **XIV. Bid Processing**

A bidder's bids must be received between 10 AM and noon on the Bid Date. The Bid Form, as provided to each bidder along with its Part 1 Notification, is the exclusive method for the submission of bids. The RFP Rules are the governing document regarding the processing of bids on the Bid Date. The steps of the process are as follows:

- The Bid Form must be filled out completely, encrypted (optional), and transferred according to the instructions provided by the IE.
- A bidder submits its bids electronically, by transferring a Bid Form through a secure file transfer interface. The bidder must use a username and a password provided by the IE to access the secure interface. The bidder must use a security code provided by the IE to encrypt the file, or provide the security code over the phone if the file is not encrypted.
- The primary backup method for submitting the Bid Form is by email. A bidder that submits the Bid Form by email will be informed that the IE recommends that the Bid Form be encrypted. A bidder that must resort to submitting its Bid Form by email because of technical difficulties must follow the instructions provided by the IE for this contingency. These instructions will include a representative of the bidder phoning the IE to advise the IE of the use of an email transmission to submit bids and to provide authenticating information.

- The IE checks the Bid Form received for consistency with the requirements of the RFP, including a verification that the pre-bid letter of credit is sufficient to cover the bids of each bidder. The IE contacts each bidder within 15 minutes of receipt of the Bid Form.
  - If the Bid Form is complete and consistently filled out, the IE acknowledges receipt of the Bid Form and states to the bidder that the Bid Form is complete and consistent with the requirements of the RFP.
  - If the Bid Form received by the IE is incomplete or inconsistent, the IE acknowledges receipt of the Bid Form but advises the bidder of the information that must be added or modified. The bidder may correct and resubmit the Bid Form as long as the Bid Form is received between 10 AM and noon on the Bid Date. Otherwise, the bids are not evaluated.
  - If the pre-bid letter of credit is insufficient to support the bids, the IE states that fact to the bidder. The bidder may correct and resubmit the Bid Form as long as the Bid Form is received between 10 AM and noon on the Bid Date. Otherwise, IE will modify the Bid Form as specified in the RFP Rules.
- Members of the IE communicating with bidders during the submission procedures use a script so as to minimize any disparity of information provided to bidders.
- The bids supported by adequate financial guarantees will be evaluated on a price-only basis. The bids for each product will be ranked from lowest to highest price until all bids are ranked or until the number of bids that are ranked equals the number of tranches available for the product.
- The IE phones each bidder that has submitted bids by 6 PM on the Bid Date and identifies the bidder's bids that are being identified to the PaPUC as winning bids.

- If two or more bidders submit bids that are identical for a product, these bids will be considered “Tied Bids” at that price. The IE will use the tie-breaking procedure described in the RFP Rules.

The IE communicates with PECO and provides the average winning price for each product and whether the solicitation has purchased all available tranches. PECO will not have information regarding any bidder’s specific bids.

## **XV. Post-Bid Procedures**

### **XV.A. Post-Bid Meeting with PECO**

To facilitate the timeline for the execution of contracts, the IE will provide to PECO certain information about the results of bidding prior to the PaPUC decision on a confidential basis. All recipients of this information will have signed the Confidentiality Statement and will treat such information as highly confidential. All recipients of the information will be advised of its confidential nature and that it is preliminary, subject to approval by the PaPUC.

The information provided to PECO will include:

- The number of tranches of each product that were filled;
- The weighted average winning bid price of each product;
- The names of bidders that submitted Part 1 and Part 2 Proposals.

### **XV.B. PaPUC Decision**

The IE will present the results of each solicitation to the PaPUC by 8 AM on the day immediately following the Bid Date in a confidential report. This confidential report will include the winning bids determined during the evaluation. Following the submission of the report by the IE:

- The PaPUC will have one (1) business day to consider the report of the IE and to approve or reject each of the winning bids. If the PaPUC does not act within one (1) business day, the winning bids are deemed to be approved.



- The IE will notify all bidders that have approved bids. The IE provides to PECO the name of each approved supplier, and for each such supplier, the number of tranches won by the supplier and the supplier-specific price for each product. The supplier-specific price for a given product is the average of the supplier's approved bids for that product.
- PECO is not provided with information concerning losing bids.

### **XV.C.Provision of Redacted Final Report to PECO**

To assist PECO in assessing whether the products offered could be improved in future procurement plans and to assist it in finalizing its contingency plans should the results of any solicitation be rejected by the Commission, PECO will be provided with certain additional information. Namely, PECO will be provided with a redacted version of the factual report provided to the Commission on the results of the solicitation. The report will be redacted so that PECO will not receive information about bids that is bidder-specific or proposal information that a bidder may consider confidential or proprietary. The report will be provided at the conclusion of the solicitation, namely when all contracts with winning suppliers that are approved by the Commission have been executed.

Any bidder-specific information that is not relevant to PECO's assessment of the products offered or to its contingency plan will be redacted to the extent that the bidder could reasonably believe such information to be confidential. Analysis of the bidding data that provides an overview of the competition or summary statistics for the entire pool of bidders will not be redacted. The IE expects items that will be redacted to include:

- The identities of losing bidders that submitted bids and the particular products for which losing bidders submitted bids;
- The bid prices of individual tranches won by each bidder;
- Information concerning specific losing bids;
- The identities of bidders that did or did not participate in the bidder training session to practice the online submission of bids; and

- Deficiencies in the Proposals of certain bidders or difficulties with the submission or practice or actual bids, to the extent that such deficiencies were cured and or such difficulties did not materially impact the results of the solicitation.

#### **XV.D. Preparation of Uniform SMA Documents by the IE**

The IE will prepare the Uniform SMA for each New Default Supplier and the guaranty for each Default Supplier that is relying on the financial standing of an RFP Guarantor in accordance to the timeline provided below.

- On the Bid Date the IE will contact RFP Bidders that have Bids that are identified to the PaPUC as winning Bids and did not provide the necessary information to prepare the Uniform SMA with the Part 1 Proposal. These RFP Bidders are instructed to provide the required information by 12PM on the following business day.
- On the day the Commission approves some or all of the winning Bids, the IE sends to PECO by secure file transfer the Uniform SMA, including all exhibits, for each New Default Supplier, the guaranty for each New Default Supplier relying on the financial standing of a Guarantor, transaction confirmations for each product and Default Supplier, and the most current contact information that the IE has for each Default Supplier.

#### **XV.E. Execution of Uniform SMA Documents and Transaction Confirmations**

PECO and each Default Supplier will execute the Uniform SMA documents and transaction confirmations in accordance with the schedule provided below.

- By 12PM on the second business day following the Commission approval of some or all of the winning Bids, PECO:
  - Partially executes two (2) originals of each Transaction Confirmation for each Default Supplier and each product.
  - Partially executes two (2) originals of the Uniform SMA with each New Default Supplier.

- Informs each Default Supplier of its specific creditworthiness requirements.
- By 12PM on the second business day following the Commission approval of some or all of the winning Bids, PECO sends:
  - One (1) copy of the signature page of the Uniform SMA (page 75) by email to each New Default Supplier;
  - One (1) copy of the partially executed Transaction Confirmation by email to each Default Supplier for each product for which the Default Supplier has won tranches; and
  - The guaranty or an amendment to the current guaranty (if necessary) by email for each Default Supplier relying on the financial standing of an RFP Guarantor.
- By close of the second business day following the Commission approval of some or all of the winning Bids, PECO sends by overnight delivery service:
  - The two (2) originals of the partially executed Uniform SMA, including all exhibits, to each New Default Supplier; and
  - The two (2) original partially executed Transaction Confirmations to each Default Supplier.
- By 2PM on the third business day following Commission approval of some or all of the winning Bids:
  - Each New Default Supplier partially executes the two (2) originals of the Uniform SMA and returns one (1) copy of these signature pages to PECO by email. Additionally, each New Default Supplier completes the PJM Declaration of Authority online;

- Each Default Supplier partially executes the two (2) originals of the Transaction Confirmations and returns one (1) copy of the signature page to PECO by email; and
- Each Default Supplier relying on the financial standing of an RFP Guarantor executes the guaranty or any amendment to the guaranty and returns one (1) copy of the signature page of the guaranty to PECO by email.
- By close of the third business day following Commission approval of some or all of the winning Bids:
  - Each New Default Supplier returns by overnight delivery service to PECO one (1) original of the Uniform SMA, including all exhibits;
  - Each Default Supplier returns by overnight delivery service to PECO one (1) original of the Transaction Confirmation.
  - Each Default Supplier complies with all instructions from PECO to fulfill the creditworthiness requirements under the Uniform SMA.

#### **XV.F. Return of Pre-Bid Security**

The IE plans to release the pre-bid letters of credit for all bidders no later than six (6) business days after the Bid Date. To ensure that the signed certificates of cancellation are returned to the bidder's bank as quickly as possible, the certificates of cancellation will be signed by PECO in advance of when the pre-bid letter of credit must be released and held by the IE. The time of release will depend on whether or not the bidder has won any products at the RFP and on the PaPUC's decision:

- If the Commission does not approve any of a particular bidder's bids, the IE will release that bidder's pre-bid letter of credit within three (3) business days after the Bid Date.

- If the Commission approves any of a particular bidder's bids, the IE will release that bidder's pre-bid letter of credit as soon as practical and no later than six (6) business days after the Bid Date.
  - PECO will notify the IE as soon as an approved supplier has returned the executed Uniform SMA and Transaction Confirmation.
  - The prompt return of bid security will also be conditioned upon the bidder not having violated any undertakings agreed to as part of the RFP.