

FP AUCTION

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NEW JERSEY STATEWIDE BASIC GENERATION SERVICE ELECTRICITY SUPPLY AUCTION

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A. FP PRICING AND CUSTOMER RATES

A.1. Overview

The BGS-FP Auction is a rolling procurement that each year aims to contract approximately one-third of the needed supply for three years. For the period June 1, 2012 to May 31, 2013, BGS-FP Load would be supplied by the winners of three BGS-FP Auctions. The number of tranches for each BGS-FP Auction (“Auction”) is shown in Table A-1 below using Public Service Electric and Gas (“PSE&G”)¹ as an example.

Table A-1. Example Composition of BGS-FP Supply for PSE&G, 2012/2013

Auction	Product	Number of Tranches	Final Auction Price (¢/kWh)	Seasonal Billing Factors
2012	3-year term	29	(to be determined)	Summer – 1.0000 ² Winter – 1.0000 ²
2011	3-year term (2 years remaining)	28	9.430	Summer – 1.0000 Winter – 1.0000
2010	3-year term (1 year remaining)	28	9.577	Summer – 1.0000 Winter – 1.0000

The EDCs pay BGS-FP Suppliers the final auction price times the seasonal billing factor in the BGS-FP Supplier Master Agreement. For example, BGS-FP Suppliers that won PSE&G tranches in the February 2010 BGS-FP Auction are paid 9.577¢/kWh in summer months (9.577¢/kWh times the summer seasonal billing factor of 1.0000). The derivation of the seasonal billing factors is discussed below.

BGS-FP customers pay rates that are determined on the basis of the weighted average cost of supply for all the component auction products used to serve the BGS-FP Load at the time, and on the basis of conversion factors that are specific to each rate class. The conversion factors translate the weighted average cost of supply into rates that are specific to each class. These conversion factors are based on the cost of a rate class

¹ The other Electric Distribution Companies (“EDCs”) are: Jersey Central Power & Light Company (“JCP&L”), Atlantic City Electric Company (“ACE”), and Rockland Electric Company (“RECO”).

² Seasonal billing factors from the compliance filing. These factors will be updated approximately two weeks prior to the BGS-FP Auction and are subject to change.

relative to the total EDC system cost for BGS. The derivation of customer rates is discussed in greater detail below.

A.2. Supplier Payment

Each EDC pays its BGS-FP Suppliers the final auction price for that EDC times an EDC-specific seasonal billing factor. For each EDC, there is one seasonal billing factor for the summer (June 1 to September 30) and one for the remaining winter months. The rate design methodology and seasonal billing factors that have been developed for 2012 use the same methodology the EDCs have applied historically. The current pattern of market prices results in atypical values where the summer factor is less than one while the winter factor is greater than one for some of the EDCs. The EDCs will set the summer and winter factors to 1.0 for any EDC whose rate design methodology results in atypical values. The EDCs will update, approximately two weeks before the BGS-FP Auction, the calculations under their rate design methodology using the latest available market data and the then current 2012 values for the PJM capacity and transmission obligations.

For each EDC, the seasonal billing factors are calculated by taking the ratio of the projected per-MWh seasonal cost³ to the projected per-MWh annual cost. Using PSE&G as an example (from the compliance filing), the calculation of seasonal factors can be summarized as follows:

Table A-2. Example Calculation of Seasonal Billing Factors for PSE&G

	Total Costs by Season (\$000s)	Average Costs by Season (\$/MWh)	Average Cost (\$/MWh)	Seasonal Billing Factor: Ratio of Seasonal to Average Cost
Summer	\$1,065,706	80.03		1.0000
Winter	\$1,642,762	80.61		1.0000
Total	\$2,708,467		80.38	

³ For purposes of customer rate design and the development of seasonal billing factors only, each EDC makes and uses projections of FP-eligible billing determinants, energy requirements and cost. Cost projections reflect market prices when the projection was made and include no allowance for risk, administration costs, or other relevant factors. These projections are visible in their entirety in each EDC's Company Specific Addendum and are summarized later in this section. The EDCs do not present these cost and volume projections as information for bidders to rely on, or for any purpose other than determining customer rate design and seasonal billing factors.

The derivation is based on estimating the bulk system energy and cost for serving BGS-FP eligible load in order to calculate seasonal billing factors. All inputs to and the calculation of seasonal billing factors are visible in their entirety in the BGS-FP Pricing Factor spreadsheets and the inputs are summarized later in this section. BGS-FP Pricing spreadsheets are also available on the “Additional Data” sub-tab of the BGS Data Room at: <http://www.bgs-auction.com/bgs.dataroom.occ.asp>. Given an all-in price (the weighted average cost of supply), seasonal prices are equal to the all-in price times the seasonal billing factor.

An EDC pays each BGS-FP Supplier for the proportion of the EDC’s BGS-FP Load represented by the number of tranches it has won at the Auction. The EDC issues a statement for each billing month and pays its BGS-FP Suppliers according to a preliminary allocation of BGS-FP energy. The Tranche Fee is assessed on the first invoice of the supply period. A final energy allocation for each month will be produced subsequently and compared to the preliminary allocation. Any differences will be reflected in a billing adjustment on future statements. If there are corrections or adjustments that would have resulted in changes in the PJM settlement, but the deadline for settlement has passed, the EDC will settle the difference directly with the BGS-FP Supplier. BGS-FP Suppliers are paid based on energy volumes that PJM has de-rated for losses as part of marginal loss implementation procedures. The energy volume for which BGS-FP Suppliers will be paid will be equal to the energy volume for which they settle with PJM.

This summary is intended for bidder convenience. For a complete description of billing and payment, consult the BGS-FP Supplier Master Agreement including Article 9 (Billing and Payment) and Section 15.9 (Changes in Transmission Rates for Firm Transmission Service). Please note that the Board approved changes to Section 15.9 this year. The BGS-FP Supplier Master Agreement is included as section D of this FP portion of this information packet and is posted in two locations:

<http://www.bgs-auction.com/bgs.bidinfo.cc.asp> and
<http://www.bgs-auction.com/bgs.auction.regproc.asp>.

A.3. Retail Customer Rates

A.3.a. Weighting of Auction Prices

Customer rates for the period June 1, 2012 to May 31, 2013 will be based on a weighted average cost of supply for all component auction products used to serve the BGS-FP Load for that period, and on the basis of conversion factors that are specific to each rate class.

The weighted average cost for a given EDC would be calculated as follows. (Table A-3 illustrates each step for PSE&G assuming, purely for illustrative purposes, a final auction price in 2012 of 8.038¢/kWh.) For each component auction product and for each season, the clearing price is multiplied by the seasonal billing factor and by the number of tranches. The sum is taken for each season and is divided by the total number of tranches. The result is a price for each season. These prices are weighted by the proportion of BGS-FP energy at the bulk system level⁴ projected to occur in each season to obtain a single value – a seasonally-adjusted weighted price. This seasonally-adjusted weighted price is the weighted average cost of supply for all the component auction products used to serve load for the June 1, 2012 to May 31, 2013 period.

Table A-3. Example Calculation of Seasonally-Adjusted Weighted Price

Summer

<u>Tranches</u>		<u>Seasonal Factor</u>		<u>Final Auction Price</u>		<u>Total</u>
29	x	1.0000	x	8.038	=	233.102
28	x	1.0000	x	9.430	=	264.040
28	x	1.0000	x	9.577	=	268.156
					Total	= 765.298
					Divided by total tranches (85)	= 9.004¢/kWh

Winter

<u>Tranches</u>		<u>Seasonal Factor</u>		<u>Final Auction Price</u>		<u>Total</u>
29	x	1.0000	x	8.038	=	233.102
28	x	1.0000	x	9.430	=	264.040
28	x	1.0000	x	9.577	=	268.156
					Total	= 765.298
					Divided by total tranches (85)	= 9.004¢/kWh

⁴ Energy at the bulk system level is the forecast energy de-rated pursuant to PJM's marginal loss implementation.

Average

	<u>Energy, GWh</u>		<u>Tranche-weighted Price</u>		<u>Total</u>
Summer	13,316	x	9.004	=	119,897
Winter	20,379	x	9.004	=	183,493
Totals	33,695			=	303,390
			Seasonally-adjusted weighted price	=	9.004¢/kWh

A.3.b. Translation to Customer Rates

Rates for each rate class of an EDC for June 1, 2012 through May 31, 2013 will be determined by multiplying the weighted average cost of supply by conversion factors for each rate class. The conversion factors are developed using the EDCs' rate design methodologies as provided in each EDC's Company Specific Addendum. Under this approach, a customer class that is more expensive to serve on average than other customer classes would have a higher rate for electricity. The BGS-FP rate design is approved by the Board for one year and could be subject to change after May 31, 2013.

The methodology for developing the conversion factors to translate the seasonally-adjusted weighted price to customer rates begins by estimating the average cost per unit associated with supplying all customers eligible for BGS-FP. This 'system average cost' is a simple and rough estimate that includes only factors easily determined from market and load data and excludes any estimate of cost uncertainty or risk. This system average cost is then compared to the cost for individual customer classes. This comparison becomes the basis for deriving the conversion factor for each customer class.

All the EDCs estimate system costs using the same approach. Costs including energy, capacity and transmission, are derived using inputs including:

- FP-eligible load by rate class;
- Forward energy market prices;
- Off-peak price ratios by season, based on historical market prices;
- Congestion price ratios by EDC zone and by season, based on historical market price analysis;

- RPM capacity prices;
- Network transmission cost from the PJM OATT; and
- Estimated ancillary services cost.

Inputs used by the EDCs are provided in the following two tables. (RECO used a weighting of PJM Western hub prices with NYISO forward prices, with NYISO prices receiving a 9.6% weighting. Please see RECO's Company Specific Addendum for details.)

Table A-4. PJM Western Hub Prices Based on November 2011 Forwards

Month	On-Peak (\$/MWh)
January	56.39
February	56.39
March	50.01
April	50.01
May	49.14
June	52.16
July	59.62
August	59.62
September	48.54
October	44.40
November	44.70
December	52.85

Table A-5. BGS-FP Pricing Inputs

		PSE&G	JCP&L	ACE	RECO⁵
Off-peak/peak price ratio	Summer	0.6362			
	Winter	0.7834			
Peak zone congestion factor	Summer	1.11	1.11	1.14	1.07
	Winter	1.12	1.10	1.09	1.07
Off-peak zone congestion factor	Summer	1.09	1.08	1.10	1.06
	Winter	1.09	1.08	1.08	1.06
Capacity cost⁶ \$/MW-day	Summer	184.69	135.18	170.28	155.52
	Winter	184.69	135.18	170.28	155.49
Ancillary services cost \$/MWh		3.00	3.00	3.00	2.91
Network Transmission \$/MW-year		22,325.68	** ⁷	25,813	32,114

These costs and factors are used to estimate annual and seasonal bulk system costs based on projected customer usage (grossed up to account for losses adjusted for de-rating factors pursuant to PJM's marginal loss implementation), and transmission and capacity obligations by rate class.

Bulk system level costs are calculated for each rate class and compared to the system average cost. Some customers have a single all-hour energy rate; others have rate components such as time of use rates, demand charge, capacity obligation charge, and block rates by volume of usage.

The conversion factors are derived by comparing the system average cost to the bulk system level costs for each rate class. In general, the conversion factor for a given

⁵ RECO's capacity and ancillary services cost estimates include a 9.6% weighting of corresponding NYISO estimated costs.

⁶ For PSE&G, ACE, and RECO this capacity cost figure represents the 3-year average RPM cost from June 1, 2012 to May 31, 2015, net of Capacity Transfer Rights ("CTRs"). JCP&L accounts for BGS costs on an individual year basis and this capacity cost figure represents the June 1, 2012 to May 31, 2013 RPM cost.

⁷ JCP&L accounts for transmission cost by applying the applicable tariff rates by rate class. The other EDCs apply a constant rate to transmission obligation.

customer class is the ratio of the bulk system level costs for the rate class to the system average cost. If this factor is, for example, 1.2, it indicates that the class is 1.2 times more expensive to serve than the system as a whole. Thus, the retail rate to be paid by the class will be set at 1.2 times the weighted average cost of supply.

Please note that the identical inputs and spreadsheets used to develop the class rate design and contained in the Company Specific Addenda are also used to develop the seasonal billing factors. These spreadsheets are available in Excel format in the “Additional Data” sub-tab of the BGS Data Room at: <http://www.bgs-auction.com/bgs.dataroom.occ.asp>.

The Company Specific Addenda describe the specific rate design methodologies in detail. Additionally, each Company Specific Addendum contains a rate design spreadsheet that includes information on billing determinants by rate class and rate component, and draft tariff sheets. These documents are available at:

<http://www.bgs-auction.com/bgs.auction.regproc.asp> and
<http://www.bgs-auction.com/bgs.dataroom.occ.asp>.

A.3.c. Rate Adjustment Factors

For PSE&G, ACE, and RECO, there are additional factors called Rate Adjustment Factors used to determine the retail rate. The Rate Adjustment Factors are equal to the dollar differences between the anticipated billed revenue and supplier payments in a season, divided by the total anticipated billed BGS-FP energy related charges in that season. (Note that RECO includes demand charges for its SC2 rate class when calculating SC2 anticipated billed revenue.) A difference arises between anticipated revenue and anticipated supplier payments as rate conversion factors for these three EDCs (and the seasonal billing factors for the Auction) are based on one year of cost data while the payments made to suppliers reflect seasonal billing factors from three different Auctions and three years of cost data. The Company Specific Addenda to the compliance filing describe these rate adjustment factors.

A.3.d. JCP&L Variation

The methodology used by JCP&L to derive conversion factors is slightly different from that used by the other EDCs. PSE&G, ACE and RECO derive conversion factors using the cost inputs for the coming supply year only. For these three EDCs, the Rate Adjustment Factor is then added so that seasonal revenue and seasonal supplier payments correspond. JCP&L derives conversion factors by incorporating cost information from component products from all three Auctions used to supply the BGS-FP Load for the

coming year. (See the description of Tables 15 and C7 of the BGS Pricing Spreadsheet in JCP&L's Company Specific Addendum.) As a result, JCP&L does not require a specific Rate Adjustment Factor.

All EDCs use the same approach to calculate seasonal billing factors for deriving supplier payment rates.

A.4. The Retail Margin

The Board eliminated the Retail Margin as of June 1, 2011.

A.5. Retail Rate Comparisons

Draft tariff sheets have been posted to the "regulatory process" sub-tab of the Auction tab of the BGS Auction web site. These were included in the EDCs' compliance filing.

After the BGS Auctions, the EDCs post on their own web sites draft tariff sheets to become effective June 1 upon approval by the Board of Public Utilities. Current tariff sheets are available at the following links:

PSE&G: <http://www.pseg.com/companies/pseandg/schedules/tariffs.jsp>

JCP&L:

http://www.firstenergycorp.com/Residential_and_Business/Customer_Choice/Tariff_Information/New_Jersey_Tariffs.html

ACE: <http://www.atlanticcityelectric.com/tariffs/default.aspx>

RECO:

<http://www.oru.com/aboutoru/tariffsandregulatorydocuments/newjersey/scheduleforelectricservice.html>

B. OVERVIEW OF FP CREDIT REQUIREMENTS

This overview explains the credit requirements for an Applicant to the BGS-FP Auction (“Auction”). It describes the process by which pre-auction security posted by an Applicant is returned after the BGS-FP Auction closes. It also explains the credit requirements for a winner in the auction that becomes a BGS-FP Supplier (“Supplier”).

B.1. Application Process

The application process for the BGS-FP Auction is in two parts. Interested parties submit a Part 1 Application to become Qualified Bidders. Qualified Bidders can then submit a Part 2 Application to become Registered Bidders. For a detailed description of the application process, please refer to section E of the General Information portion of this information packet.

B.2. Pre-Auction Credit Requirements Applicable to All Applicants

All Qualified Bidders submit an indicative offer with their Part 2 Applications, which includes the number of tranches that the Qualified Bidder is willing to serve statewide at the maximum starting price. The maximum starting price is 16.000¢/kWh.

With their Part 2 Applications, all Qualified Bidders submit a pre-auction letter of credit (or bid bond) in the amount of \$500,000 per tranche of their indicative offer at the maximum starting price. The final pre-auction letter of credit was posted on the BGS Auction web site after the conclusion of a comment process during which the EDCs accepted a number of modifications that Qualified Bidders can use on an optional basis. The pre-auction letter of credit must be for the account of the Qualified Bidder. The Auction Manager will hold the pre-auction letter of credit until the New Jersey Board of Public Utilities (“Board”) has rendered a decision regarding the Auction results and either: 1) the bidder is confirmed not to have won any tranches at the Auction; or: 2) the bidder has won tranches, has signed the BGS-FP Supplier Master Agreement (“Agreement”), and has provided any security required under the Agreement. At that time, the Auction Manager will return the cancelled pre-auction letter of credit with the executed certificate of expiration.

There are additional pre-auction credit requirements that may be applicable to some Applicants. These are detailed in the next section.

B.3. Additional Pre-Auction Credit Requirements Applicable to Some Applicants

Qualified Bidders applying to participate in the BGS-FP Auction may be asked to submit additional financial assurances in the form of a Letter of Reference and/or a Letter of Intent to Provide a Guaranty. Whenever a Qualified Bidder is relying on the financial standing of a Guarantor, the Qualified Bidder will be required to submit a Letter of Intent to Provide a Guaranty from the Guarantor with its Part 2 Application. A Qualified Bidder (whether or not the Qualified Bidder is relying on the financial standing of a Guarantor) may also be required to submit a Letter of Reference from its financial institution. The circumstances where additional pre-auction credit requirements will be imposed are further explained below.

B.3.a. Credit Evaluation Process

A committee of representatives from the Electric Distribution Companies¹ (“EDCs”) will assess each Applicant’s creditworthiness based on information provided with the Part 1 Application. If the Applicant is relying on the financial standing of a Guarantor, the creditworthiness of the Guarantor will be assessed instead. The committee determines, for the Applicant (or the Guarantor), the credit rating and the tangible net worth (“TNW”). The committee also takes into account any on-going BGS-FP obligations held by the Applicant.

The assessment of whether additional financial assurances are needed and the amount of such financial assurances is based on three measures: (1) the Independent Credit Threshold (“ICT”), (2) the Previous Independent Credit Requirement (“PICR”) associated with on-going BGS-FP obligations, and (3) the Independent Credit Requirement associated with the indicative offer (“the Indicative Offer ICR”). These measures and the committee’s assessment are explained below.

B.3.b. Independent Credit Threshold (“ICT”)

The ICT is a measure of the unsecured credit line that the Qualified Bidder could be granted by a single EDC under the terms of the Agreement. The ICT is calculated as a percentage of the Applicant’s (or its Guarantor’s) TNW based on the Applicant’s credit rating. The credit rating is the lower of the two highest ratings from Standard & Poor’s Rating Services (“S&P”), Moody’s Investors Service, Inc (“Moody’s”), Fitch, Inc

¹ New Jersey’s four EDCs are Public Service Electric and Gas Company (“PSE&G”), Jersey Central Power & Light Company (“JCP&L”), Atlantic City Electric Company (“ACE”), and Rockland Electric Company (“RECO”).

(“Fitch”), or A.M. Best Company (“A.M. Best”). If the two highest ratings are the same, this common rating is used. Please see Table B-1 below.

Table B-1. Determination of Independent Credit Threshold

Credit Rating of the Applicant or Guarantor				Max. ICT
S&P	Moody’s	Fitch	A.M. Best	
A- and above	A3 and above	A- and above	aaa	16% of TNW
BBB+	Baa1	BBB+	aa	10% of TNW
BBB	Baa2	BBB	a	8% of TNW
BBB-	Baa3	BBB-	bbb	6% of TNW
Below BBB-	Below Baa3	Below BBB-	Below bbb	0% of TNW

B.3.c. Previous Independent Credit Requirement (“PICR”)

The PICR is a measure of the BGS-FP obligations that the Applicant is currently holding. It is the largest aggregate ICR amount that the Applicant has with an EDC, where the aggregate ICR amount is the sum of current ICRs over all Agreements between a BGS-FP Supplier and the EDC. For example, assume an Applicant has the following ICRs:

Table B-2. Determination of Previous Independent Credit Requirement

	PSE&G	JCP&L	ACE	RECO
2011 Auction	1 tranche (ICR = \$1.9M)	1 tranche (ICR = \$1.9M)		1 tranche (ICR = \$1.9M)
2010 Auction	1 tranche (ICR = \$1.3M)			
Aggregate ICR by EDC	\$3.2M	\$1.9M		\$1.9M
PICR	\$3.2M			

In this case, the Applicant has the greatest ICR with PSE&G. Its PICR will therefore be set at \$3.2 million, the Applicant’s sum of current ICRs for Agreements with PSE&G.

B.3.d. Independent Credit Requirement Associated with the Indicative Offer

The “Indicative Offer ICR” is the number of tranches in the indicative offer at the maximum starting price multiplied by the Independent Credit Requirement per tranche (“ICRT”), which is \$2.4 million. For the purposes of assessing the need for financial assurances at the application stage, the \$500,000 per tranche provided as a pre-auction letter of credit is subtracted from the \$2.4 million contractual ICR. Hence, financial assurances are required for an incremental \$1.9 million per tranche.

B.3.e. Assessment

If an Applicant is relying on a Guarantor’s financial standing, the Applicant will be required to provide a Letter of Intent to Provide a Guaranty. The Applicant will also be required to post a Letter of Reference if the Guarantor’s ICT (the measure of the unsecured credit line) is not sufficient to cover the PICR plus the Indicative Offer ICR.

If an Applicant is relying on its own financials, the Applicant will be required to post a Letter of Reference if the Applicant’s ICT is not sufficient to cover the Applicant’s PICR plus the Indicative Offer ICR.

An Applicant may submit a pre-auction letter of credit (or bid bond) in the amount of \$2.4 million per tranche of the indicative offer at the maximum starting price to cover the entire Indicative Offer ICR instead of submitting a Letter of Intent to Provide a Guaranty and/or Letter of Reference.

An Applicant therefore falls into one of the following five categories.

1. The Applicant only needs to provide a pre-auction letter of credit. This will be the case when the Applicant relies on its own financial standing and the Applicant’s ICT is sufficient to cover the Applicant’s Indicative Offer ICR and PICR.

Example 1.

An Applicant is rated “A” by Fitch and S&P. The Applicant has a rating of “A1” by Moody’s. Looking at the first row of Table B-1, the allowed percentage is 16% of the Applicant’s TNW. The Applicant’s TNW is \$800M, and the Applicant’s indicative offer is 20 tranches at the maximum starting price.

In addition, the Applicant is currently serving two tranches from the 2011 BGS-FP Auction, both with the same EDC.

The Applicant does not need to provide additional financial guarantees since the allowed percentage of the TNW, 16% of \$800M which is \$128M, exceeds \$41.8M, which is the sum of the amount of the indicative offer, 20 times \$1.9M, which is \$38M, plus \$3.8 million, the PICR from the 2011 BGS-FP Auction (i.e., 2 times \$1.9M).

2. The Applicant will be required to provide a Letter of Reference for a portion of the Indicative Offer ICR. This is the case when the Applicant relies on its own financial standing, the Applicant meets the Minimum Rating, but the Applicant’s ICT is not sufficient to cover its Indicative Offer ICR and its PICR.

Example 2.

An Applicant is rated “A” by Fitch, “Baa1” by Moody’s, and “BBB+” by S&P. The rating used is “Baa1” because this is the lower of the two highest ratings. From Table B-1, the allowed percentage of TNW is 10%. The Applicant is not a current BGS-FP Supplier and so has a PICR of zero. The Applicant has a TNW of \$150M and the Applicant submits an indicative offer of 10 tranches. The allowed percentage of the TNW, 10% of \$150M, which is \$15M, falls short of the amount of the indicative offer, 10 times \$1.9M, which is \$19M, by \$4M. The Applicant must submit a Letter of Reference for an amount of at least \$4M.

3. The Applicant will be required to submit a Letter of Reference for the full Indicative Offer ICR (\$1.9M times the number of tranches of the Applicant’s indicative offer). This is the case if the Applicant relies on its own financial standing and the Applicant does not meet the Minimum Rating. The Letter of Reference must be for an amount of at least \$1.9M times the number of tranches of the Applicant’s indicative offer, regardless of the PICR, since the PICR will have been secured with a letter of credit or a cash deposit.

Example 3.

An Applicant has a rating of “C” from both Fitch and S&P. From Table B-1, the allowed percentage is 0% of the Applicant’s TNW. The Applicant’s indicative offer is 10 tranches at the maximum starting price. The Applicant must submit a Letter of Reference in the amount of at least \$19M (10 times \$1.9M).

4. The Applicant will be required to submit a Letter of Intent to Provide a Guaranty for the full Indicative Offer ICR (\$1.9M times the number of tranches of the Applicant’s indicative offer). This is the case when the Applicant has a Guarantor that meets the Minimum Rating and whose ICT (calculated in accordance with Table B-1) is sufficient to cover the Applicant’s Indicative Offer ICR and the PICR currently guaranteed by the same Guarantor.

Example 4.

An Applicant has a Guarantor whose lowest of two senior unsecured debt ratings is “A” by Fitch. From Table B-1, the allowed percentage is 16% of the Guarantor’s TNW. The Guarantor’s TNW is \$800M, and the Applicant’s indicative offer is 20 tranches at the maximum starting price. The Applicant is currently serving five tranches from the 2011 BGS-FP Auction with the same EDC and has a PICR of \$9.5M (5 times \$1.9M). The Guarantor’s TNW is sufficient since 16% of \$800M, which is \$128M, exceeds the \$47.5M combined amount of the indicative offer (20 times \$1.9M, which is \$38M) and the PICR (\$9.5M). The Applicant must submit a Letter of Intent to Provide a Guaranty signed by the Guarantor for the amount of the indicative offer, which is \$38M.

5. The Applicant will be required to submit a Letter of Intent to Provide a Guaranty for a portion of the Indicative Offer ICR and a Letter of Reference from its financial institution for at least the remaining portion of the Indicative Offer ICR. This is the case if the Applicant has a Guarantor that meets the Minimum Rating but whose ICT is not sufficient to cover both the Applicant’s Indicative Offer ICR (\$1.9M times the number of tranches) and the amount of the PICR currently secured by the same Guarantor. These amounts will depend on the Guarantor’s credit rating and TNW, on the Applicant’s indicative offer, and on the PICR secured by the same Guarantor.

Example 5.

An Applicant's Guarantor is rated "BBB+" by both Fitch and S&P, but is rated "Baa2" by Moody's. The rating used is "BBB+" because when an Applicant is rated by three or four rating agencies, and the ratings are split, the lower of the two highest ratings is used.

From Table B-1, the allowed percentage of TNW is 10%. The Guarantor has a TNW of \$350M and the Applicant submits an indicative offer of 20 tranches. The Applicant has a PICR of \$1.9M from serving a single tranche from the 2011 BGS-FP Auction. The allowed percentage of the TNW, 10% of \$350M, which is \$35M, falls short of the \$39.9M combined amount of the indicative offer (20 times \$1.9M, which is \$38M) and the PICR (\$1.9M) by \$4.9M. The Applicant has previously submitted a Guaranty in the amount \$1.9M, and now submits a Letter of Intent to Provide a Guaranty for an amount of \$33.1M (\$35M – \$1.9M). The Applicant must also submit a Letter of Reference for an amount of at least \$4.9M. Alternatively, the Applicant may choose not to submit a Letter of Intent to Provide a Guaranty, and instead submit a Letter of Reference for \$39.9M.

B.4. Credit Information during the BGS-FP Auction

During the BGS-FP Auction, potential initial marks for the Mark-to-Market ("MtM") are emailed each morning to bidders with positive eligibility remaining in the Auction. The marks posted as of the day that the BGS-FP Auction closes become the initial marks.

B.5. Return of Pre-Auction Security for all BGS-FP Bidders

Qualified Bidders will be providing pre-auction letters of credit as part of their Part 2 Applications. The pre-auction letters of credit will be held by the Auction Manager.

In order to facilitate the rapid return and cancellation of the pre-auction letters of credit, the Auction Manager, the EDCs, and the bidders agree to take the following steps:

- Each bidder submits to the Auction Manager any special return instructions with its Part 2 Application in order to expedite the return of collateral.
- Each bidder will work with its bank to ensure that the return of its pre-auction letter of credit is expected and that its bank is able to process the certificate of expiration promptly upon receipt.

- The certificate of expiration for the pre-auction letter of credit must be signed by all the EDCs. The certificates of expiration will be signed by all EDCs in advance of the close of the BGS-FP Auction and held in escrow by the Auction Manager. Each EDC will instruct the Auction Manager to release the pre-auction letter of credit promptly after the bidder signs the Agreement and posts the appropriate security.
- The Auction Manager will forward the certificate of expiration to the bidder's bank as soon as all the EDCs instruct the Auction Manager to release the pre-auction letter of credit.
- The Auction Manager will send to the issuing bank (with a copy to the bidder) the cancelled pre-auction letter of credit and the certificate of expiration by overnight delivery service or according to any special instructions provided by the bidder. A letter from the Auction Manager to the bank clarifying the purpose of the submission will accompany the package.

B.6. Credit Process for BGS-FP Winners upon Signing the BGS-FP Supplier Master Agreement

The Agreement is the governing document in the post-auction period. Article 6 contains the detailed requirements for creditworthiness and financial guarantees for winners at the Auction.

After the Auction closes, if the Board approves the results, a winner at the Auction has three business days to execute the Agreement with each EDC in whose territory it has won tranches and to post any required security.

Upon execution of the Agreement, the Supplier will be responsible for meeting the ICR and the Total Exposure Amount ("TEA"). There are two types of security: security for the ICR and security for the TEA. Separate instruments are typically used to post these two types of security. For example, if the Supplier is using a letter of credit as security, two letters of credit are posted, one for the amount of the ICR and one for the TEA.

B.6.a. ICR

The ICR that will be required of Suppliers will initially be \$2.4 million times the number of tranches won by the Supplier and will decline over the supply term in accordance with the schedule included in Appendix B to the Agreement.

Suppliers post the combined amount of the ICRs for all Agreements between a Supplier and an EDC. This combined amount is called the aggregate ICR amount. The aggregate ICR amount may be posted in the form of a letter of credit, a Guaranty, or a cash deposit. Credit instruments previously posted to cover ICRs under previous Agreements would be returned.

B.6.b. Mark-to-Market and Total Exposure

As defined in the Agreement, the TEA is an amount calculated daily for each Supplier reflecting the total credit exposure to an EDC and consisting of the sum of (i) the MtM Exposure Amount arising under the current Agreement; (ii) any amount(s) designated as the “MtM Exposure Amount” arising under any other BGS Supply agreements providing for “BGS-FP Supply” or similar BGS service; and (iii) the amount designated as the “credit exposure” under any other BGS Supply agreements providing for BGS-CIEP Supply.

The MtM is calculated as follows. The initial “mark” for each Billing Month will be set when the Auction closes, based on the marks posted that day. The differences between the available forward market prices on the valuation date and the initial mark prices for the corresponding months will be used to calculate the daily exposures for the Supplier. The total MtM credit exposure will be equal to 1.1 times the sum of the MtM credit exposures for each Billing Month. The MtM Exposure Amount (“MtMEA”) for a given Agreement is found by deducting the Accounts Payable (“A/P”) from the total MtM credit exposure. The MtMEAs for all BGS Supply agreements providing for “BGS-FP Supply” or similar service that the Supplier currently holds with the EDC are summed and added to the credit exposures under any BGS Supply agreements providing for “BGS-CIEP Supply” or similar BGS service to give the TEA. The contribution to the TEA of the MtMEAs will be deemed to be zero whenever the sum of the MtMEAs yields a number less than zero.

The TEA may exceed the amount of unsecured credit allowed to the Supplier, based on the rating and TNW of the Supplier or its Guarantor, as indicated in Table B-2 below. In this case margin calls may be made upon the Supplier and these margin calls will have to be met by posting cash or a letter of credit.

Table B-3. Credit Limits for TEA

Credit Rating of the Supplier or Guarantor				Max. Credit Limit (lesser of the % of TNW or credit limit cap)	
S&P	Moody's	Fitch	A.M. Best	%	Credit Limit Cap
A- and above	A3 and above	A- and above	aaa	16% of TNW	\$60,000,000
BBB+	Baa1	BBB+	aa	10% of TNW	\$40,000,000
BBB	Baa2	BBB	a	8% of TNW	\$30,000,000
BBB-	Baa3	BBB-	bbb	6% of TNW	\$15,000,000
Below BBB-	Below Baa3	Below BBB-	Below bbb	0% of TNW	0

The MtM and TEA are calculated daily through the term of the Agreement. Margin calls will be made whenever the amount of the TEA exceeds the sum of the Supplier's Credit Limit and the amount of security posted to cover the TEA. If a margin call is made, the Supplier will have two business days to post the security required to meet the margin call.

Note that for Suppliers that rely on a Guarantor, the Guaranty may be in the form of a specific valued Guaranty (option 1) or of a Guaranty up to the lesser of the credit limit amount or the amount of the current TEA (option 2). If the Supplier elects option 1, the TEA exceeds the amount of the Guaranty posted but not the amount of the unsecured credit available to the Guarantor under the Credit Limit, and a margin call is made on the Supplier, the Supplier will have to post cash or a letter of credit to cover the margin call, and will only be allowed to increase the amount of the Guaranty once the cash or letter of credit has been posted.

B.6.c. MtM and TEA Examples

In all of the following examples, the Supplier is assumed to have no BGS-CIEP Supplier Master Agreements in place with the EDC.

Example 1.

Consider a Supplier that has one tranche won in the 2011 Auction with a given EDC (Agreement A). If the total MtM credit exposure for Agreement A is \$1.125M, and the A/P for Agreement A is \$4M, the MtMEA is -\$2.875M and the TEA would be deemed zero.			
	MtM Credit Exposure	A/P	MtMEA
Agreement A	\$1.125M	\$4M	-\$2.875M
			TEA = \$0
Suppose now that in addition to Agreement A, the Supplier also has one tranche won in the 2012 Auction with the same EDC (Agreement B). Agreement B has a total MtM credit exposure of \$1.5M, and no A/P (delivery has not yet begun), thus the MtMEA is \$1.5M. The TEA is -\$1.375M and would be deemed to be zero.			
	MtM Credit Exposure	A/P	MtMEA
Agreement A	\$1.125M	\$4M	-\$2.875M
Agreement B	\$1.5	\$0	\$1.5M
			TEA = -\$1.375 TEA = \$0

Example 2.

Consider a Supplier that has one tranche won in the 2011 Auction (Agreement A). If the total MtM credit exposure of Agreement A is \$5M, and the A/P for Agreement A is \$4M, the MtMEA is \$1M and TEA is \$1M.			
	MtM Credit Exposure	A/P	MtMEA
Agreement A	\$5M	\$4M	\$1M
			TEA = \$1M
Suppose that in addition to Agreement A, the Supplier has also one tranche won from the 2012 Auction (Agreement B). Agreement B has a total MtM credit exposure of -\$1.5M, and no A/P (delivery has not yet begun). Agreement B therefore has an MtMEA of -\$1.5M. The TEA is therefore deemed to be \$0, as shown in the table below.			

	MtM Credit Exposure	A/P	MtMEA
Agreement A	\$5M	\$4M	\$1M
Agreement B	-\$1.5M	\$0	-\$1.5M
			TEA = -\$0.5M
			TEA = \$0

C. FINAL BGS-FP AUCTION RULES

Note: This is a courtesy copy of the Final BGS-FP Auction Rules. The official version is provided on the BGS Auction web site (<http://www.bgs-auction.com/bgs.bidinfo.ar.asp>). Section references provided in the official version of the Final BGS-FP Auction Rules have been preserved herein to maintain consistency between the Final BGS-FP Auction Rules posted on the web site and this courtesy copy.

IX.A. Introduction

IX.A.1. Overview

The four New Jersey Electric Distribution Companies (“EDCs”) are Atlantic City Electric Company (“ACE”), Jersey Central Power & Light Company (“JCP&L”), Public Service Electric and Gas Company (“PSE&G”), and Rockland Electric Company (“RECO”). Approximately one-third of each EDC’s Basic Generation Service Fixed-Price (“BGS-FP”) Load was procured in an Auction held in February 2011 and is under contract until May 31, 2014. Approximately one-third of each EDC’s BGS-FP Load was procured through an Auction held a year earlier in February 2010 and is under contract until May 31, 2013. The remainder of each EDC’s BGS-FP Load was procured through an Auction held in February 2009 and these contracts will expire on May 31, 2012. The EDCs will procure full-requirements service for the period June 1, 2012 to May 31, 2015, through a single, statewide Auction to be held in February 2012. Each EDC’s BGS-FP Load includes the load of all BGS customers except large customers in rate classes excluded from BGS-FP Load as described in Table IX-1 below.

An EDC’s BGS-FP Load is divided into a number of tranches, each representing the same percentage of that EDC’s BGS-FP Load. The MW-measure of each tranche is announced prior to the Auction, and is close to 100 MW of FP Peak Load Share. Table IX-2 provides, for each EDC, the number of tranches that were procured in the 2010 BGS-FP Auction, the number of tranches that were procured in the 2011 BGS-FP Auction, and the number of tranches to be procured in the 2012 BGS-FP Auction.

Suppliers will be bidding for the right to serve a portion of BGS-FP Load for one or more EDCs over the three-year period from June 1, 2012 to May 31, 2015. The EDCs will procure their BGS-FP Loads through a Simultaneous Descending Clock Auction (“Clock Auction”). The Clock Auction proceeds in a series of rounds. During the bidding phase of each round, each bidder must indicate how many tranches of each EDC’s BGS-FP Load the bidder wishes to serve given the prices announced by the Auction Manager. The prices will be in cents per kilowatt-hour. A *bid* is the number of tranches of each EDC’s BGS-FP Load that a bidder wants to serve. After the bidding

phase of a round, the Auction Manager reduces the price for the tranches of an EDC by a decrement if the number of tranches bid by all bidders is greater than the number of tranches that are needed for that EDC. The Auction Manager then announces new prices for each EDC before bidding in the next round opens. The Auction continues and the prices tick down until, for each EDC, the total number of tranches subscribed falls to the point where it equals the number of tranches needed. When the Auction ends, the bidders holding tranches in the final round are the winners. All winners for an EDC's tranches receive the same price, as explained in section IX.C.11.

The payment to suppliers for an EDC are shaped using seasonal factors. Payments from June 1 through September 30 are shaped by the use of a multiplicative summer factor on the Auction price, and payments for the remaining months are shaped by the use of a winter multiplicative factor on the Auction price. The factors by which the Auction prices will be multiplied to obtain the summer and winter payments are specific to each EDC. Provisional seasonal factors updated for these Final Auction Rules are provided in section IX.A.3. To the extent that the transmission rates change and that the Board of Public Utilities ("Board") approves a corresponding change to the BGS-FP customers' rates: (1) if such a change results in an increase in BGS-FP customers' rates, then any additional revenues collected as a result of such an increase, once approved by the FERC in a final order¹ and no longer subject to refund, would be to the benefit of BGS-FP suppliers; or (2) if such a change results in a decrease in BGS-FP customers' rates, then any decrease in revenues would result in a reduction of payments to BGS-FP suppliers. The parameters of what constitutes a change in transmission rates are specified in section 15.9 of the BGS-FP Supplier Master Agreement.

At a given point in time, BGS-FP Load is served by suppliers that have won the right to supply BGS-FP for rolling three-year terms. On June 1, 2012, one-third of the BGS-FP Load will be served by suppliers with a three-year contract ending on May 31, 2013, one third of the BGS-FP Load will be served by suppliers with a three-year contract ending May 31, 2014, and the remaining third will be served by suppliers with a three-year contract ending May 31, 2015. The rates paid by BGS-FP customers are a function of the tranche-weighted average of the Auction prices obtained for the various contract terms adjusted for the seasonal payment factors. BGS-FP is not an hourly service. BGS-FP rates will be established at the time of the Auction and filed with the Board within 60 days² of a Board decision to approve the Auction results. BGS-FP rates will thus be communicated to customers well in advance of the supply period. Each EDC describes, in its Company Specific Addendum, the rate design methodology that it

¹ In its Order dated November 9, 2011, the Board approved changes to the definition of final order from the FERC and to section 15.9 of the BGS-FP Supplier Master Agreement to provide greater certainty regarding payments for changes in transmission rates, including revised formula transmission rates.

² Unless otherwise specified, "days" refers to business days.

applies to its particular rate classes and rate structure. The EDCs will provide to potential bidders all necessary information concerning how Auction prices are translated into customer rates, including a calculating tool that displays the rate structure for each EDC that would result from given prices in the 2012 BGS-FP Auction. The rate design will apply from June 1, 2012 to May 31, 2013. The rate design may be revised for the supply period starting June 1, 2013.

The Board has approved the Auction Process and will be overseeing the Auction. Following the end of the Auction, the Board will decide whether to approve the Auction results and if it does, winners will become authorized BGS-FP suppliers.

IX.A.2. Basic Generation Service and Load to Be Procured

Basic Generation Service, or BGS, is the electric supply for those retail customers who are not served by a third party supplier. *BGS Load* is the load associated with these customers, and it is obtained by subtracting the load of third party suppliers from the retail load in an EDC zone. For each EDC, BGS Load is divided into two portions, *BGS Commercial and Industrial Energy Pricing Load* (“*BGS-CIEP Load*”) and *BGS Fixed-Price Load* (“*BGS-FP Load*”). The Board lowered the CIEP line from 1,000 kW to 750 kW for the period starting June 1, 2011. An EDC’s BGS-CIEP Load is defined to include the sum of the hourly load of all BGS-CIEP customers, adjusted for losses. An EDC’s BGS-FP Load is obtained by subtracting BGS-CIEP Load from BGS Load. Table IX-1 provides the list of rate classes for which either all customers, or only customers with a peak load contribution of 750 kW or greater, must currently take BGS on a CIEP tariff or rate and that are thus excluded from each EDC’s BGS-FP Load. All remaining customers are *FP customers* and such customers may, if they choose BGS, take this service on an FP (rather than a CIEP) tariff or rate. On any meter reading date and with requisite prior notice, a customer taking BGS-FP may switch to a third party supplier, and an FP customer taking service from a third party supplier may switch to BGS-FP.

Table IX-1. Customers That Must Take BGS on a CIEP Tariff (Excluded from BGS-FP)

EDC	Rate Class	Customers Included	Description	Voltage Level
PSE&G	High Tension Service (“HTS-HV”)	All	General purposes at high voltages	138,000V to 230,000V
	High Tension Service (“HTS-Sub”)	All	General purposes at subtransmission voltages	26,400V to 69,000V
	Large Power and Lighting, Primary Service (“LPL-P”)	All	General purposes at primary distribution voltages	2,400V to 13,200V
	Large Power and Lighting, Secondary Service (“LPL-S”)	750 kW or greater	General purposes at secondary distribution voltages	208V to 480V
JCP&L	General Service Primary (“GP”)	All	General purposes at primary distribution voltages	2,400V to 34,500 YV
	General Service Transmission (“GT”)	All	General purposes at transmission voltages	34,500ΔV
		All	High Tension Service	230,000V
	General Service Secondary (“GS”)	750 kW or greater	General purposes at secondary distribution voltages	120 – 480V
General Service Secondary Time-of-Day (“GST”)	750 kW or greater	General purposes at secondary distribution voltages	120 – 480V	
ACE	Transmission General Service (“TGS”)	All	General purposes at high voltages	23,000V or higher
	Annual General Service – Primary (“AGS-Primary”)	750 kW or greater	General purposes at primary distribution voltages	4,000 & 12,000V
	Annual General Service – Secondary (“AGS-Secondary”)	750 kW or greater	General purposes at secondary distribution voltages	120 – 480V
	Monthly General Service Primary (“MGS – Primary”)	750 kW or greater	General purposes at primary distribution voltages	4,000 & 12,000V
	Monthly General Service Secondary (“MGS – Secondary”)	750 kW or greater	General purposes at secondary distribution voltages	120 – 480V

	Service Classification No. 7 – Primary TOU Service and Separately Metered Space Heating Service	All	Primary service customers with demands exceeding 750 kW	2,400V or higher
RECO	Service Classification No. 2 – General Service	750 kW or greater	General primary and secondary service	All primary and secondary voltages

For purposes of the Auction, the BGS-FP Load for an EDC is called a *product in the Auction*: the BGS-FP Load for PSE&G for a three-year supply period is a product in the Auction, and the BGS-FP Load for RECO for a three-year supply period is another product in the Auction, etc. Each product in the Auction is divided into units called *tranches*, each representing the same percentage of that EDC’s BGS-FP load in this Auction. The number of tranches that each EDC will procure in this Auction and the size of each tranche (i.e., the percentage of the BGS-FP Load that each tranche represents for an EDC) are provided below in Table IX-2. Table IX-2 also provides a MW-measure for each of an EDC’s tranches. The MW-measure of each tranche is determined on the basis of the obligation attributable to all FP customers (those who receive BGS and those who do not) during 2011 (called the *FP Peak Load Share*). Table IX-2 incorporates the October 2011 update of this obligation by PJM.

Table IX-2. Number of Tranches and MW-Measures of Tranches per EDC

EDC	FP Peak Load Share (MW)	Total number of tranches	Tranches already procured		Tranches to be procured in 2012 for a three-year term		
			2010 (one year remaining)	2011 (two years remaining)	Number of tranches	Size of tranche (%)	MW-Measure
PSE&G	8,479.26	85	28	28	29	1.18%	99.76
JCP&L ^{3, 4}	5,001.60	53	18	15	20	1.93%	96.62
ACE	2,095.50	22	7	8	7	4.55%	95.25
RECO	398.20	4	1	2	1	25.00%	99.55
Total	15,974.56	164	54	53	57		

The EDCs do not represent that each tranche will have the loads shown above or any particular value. The actual BGS-FP Load will depend upon many factors including customer migration to third party suppliers and weather conditions. Bidders are responsible for evaluating the uncertainties associated with BGS-FP Load.

IX.A.3. Payment to BGS-FP Suppliers

Winners at the Auction are authorized to become BGS-FP suppliers by the Board. A BGS-FP supplier provides *full-requirements service* for the percentage of the EDC's BGS-FP Load for a given supply period corresponding to the number of tranches won by the BGS-FP supplier for that supply period. Full-requirements service means that the BGS-FP supplier is responsible for fulfilling all the requirements of a PJM Load Serving Entity ("LSE") including capacity, energy, ancillary services and transmission, and any other service as PJM may require. A winning supplier may win one or more tranches for one or more EDCs.

³ The Board has directed that JCP&L continue to serve 10 MW of its residential load, using the St. Lawrence Project Power and, as necessary, purchases from PJM-administered markets. JCP&L will serve 10 MW in every hour. The FP Peak Load Share in the table above has been reduced by 10 MW.

⁴ With the 2010 Auction, JCP&L began transitioning to procuring more tranches so that the MW-measure of a tranche is closer to approximately 100 MW. At the end of the transition, after the 2012 Auction, JCP&L will be procuring 53 tranches.

To the extent that the transmission rates change and that the Board approves a corresponding change to the BGS-FP customers' rates: (1) if such a change results in an increase in BGS-FP customers' rates, then any additional revenues collected as a result of such an increase, once approved by the FERC in a final order⁵ and no longer subject to refund, would be to the benefit of BGS-FP suppliers; or (2) if such a change results in a decrease in BGS-FP customers' rates, then any decrease in revenues would result in a reduction of payments to BGS-FP suppliers. The parameters of what constitutes a change in transmission rates are specified in section 15.9 of the BGS-FP Supplier Master Agreement.

In the summer, each BGS-FP supplier for an EDC receives the Auction price for that EDC times an *EDC-specific summer factor* for every kWh of load served. In the winter, each BGS-FP supplier for an EDC receives the Auction price for that EDC times an *EDC-specific winter factor* for every kWh of load served. The load served by a BGS-FP supplier is equal to the BGS-FP supplier's share (the number of tranches won times the size of the tranche) times the EDC's BGS-FP Load.

Table IX-3 provides provisional EDC-specific seasonal factors updated for these Final Auction Rules. The final EDC-specific seasonal factors will be determined no later than 6 days before the Auction and, once determined, will apply for the entire three years of the supply period. The Auction Manager will announce any revisions to the EDC-specific seasonal factors.

Table IX-3. Provisional EDC-Specific Summer Factors and Winter Factors

EDC	PSE&G	JCP&L	ACE	RECO
Summer Factor	1.0000	1.0000	1.0000	1.0000
Winter Factor	1.0000	1.0000	1.0000	1.0000

EDC-specific summer factors have historically been greater than 1 while EDC-specific winter factors have historically been less than 1. As was the case in the 2011 BGS-FP Auction, for some of the EDCs, the current pattern of market prices results in atypical values where the summer payment factor is less than one while the winter factor is higher than one. The EDCs will set the summer and winter factors to 1.0 for any EDC whose rate design methodology results in atypical values. When both the summer and winter factors are set to 1.0, BGS-FP suppliers are paid the Auction price for that EDC

⁵ In its Order dated November 9, 2011, the Board approved changes to the definition of final order from the FERC and to section 15.9 of the BGS-FP Supplier Master Agreement to provide greater certainty regarding payments for changes in transmission rates, including revised formula transmission rates.

for every kWh of load served in all months of the three-year supply period. The EDCs will update these EDC-specific seasonal factors one final time before the BGS-FP Auction. The final EDC-specific seasonal factors will be determined no later than 6 days before the Auction and, once determined, will apply for the entire three years of the supply period. The Auction Manager will announce any revisions to the EDC-specific seasonal factors.

Example 1.⁶

The seasonal factors used in this example are for purposes of illustrating the payment to the supplier and do not correspond to the seasonal factors in the previous table.

There are 7 ACE tranches in the Auction. Suppose ACE's summer factor is 1.0153 and its winter factor is 0.9903.

A bidder at the Auction wins 2 ACE tranches at a price of 10.000¢/kWh. The size of each tranche is 4.55% of the BGS-FP Load. Thus, the bidder will serve approximately 9.1% of ACE's BGS-FP Load between June 1, 2012 and May 31, 2015. The bidder receives 10.153¢ (10.000¢ x 1.0153) for each kWh of load served in the summer and 9.903¢ (10.000¢ x 0.9903) for each kWh of load served in the winter.

IX.A.4. Reliance on Product Definition, Payment Information, Rates, and Customer Switching in These Rules

Information regarding the definition of a product in the Auction and information regarding the payment bases given in these Auction Rules are solely for the convenience of bidders and are not to be relied upon by bidders. The BGS-FP Supplier Master Agreement posted on the BGS Auction web site is the document that provides the official definitions of products in the Auction and payment terms. Information regarding rates paid by customers and information on rules regarding the ability of customers to switch from or back to BGS-FP given in these Auction Rules are solely for the convenience of bidders and are not to be relied upon by bidders. Board Orders as well as the tariffs of each EDC are the documents that provide official information in this regard.

⁶ All examples are for illustrative purposes. Prices and bids are illustrative only.

IX.B. Before the Auction

IX.B.1. Information Provided to Bidders

The EDCs will have made data relating to BGS, BGS-FP, and BGS-CIEP available to potential bidders in advance of qualification. The data will be posted on the BGS Auction web site, <http://www.bgs-auction.com/bgs.dataroom.asp>.

The EDCs will provide historical zonal data, consisting of hourly load and daily capacity and transmission peak load allocations, for the following load categories: BGS, total retail, CIEP, BGS-CIEP, FP and BGS-FP. Data for BGS-FP and FP Loads will be derived as residuals: for example, FP Load is equal to total retail load less CIEP Load, and BGS-FP Load is equal to the BGS Load less BGS-CIEP Load. The data include associated zonal losses.

The EDCs will provide data for a historical period that starts August 1, 2001 for PSE&G, JCP&L, and ACE, and that starts on March 1, 2002 for RECO. From the start of the historical period until May 31, 2004, the historical BGS-CIEP zonal data represent customers taking BGS on the CIEP tariff in force during the June 1, 2003 to May 31, 2004 supply period. Similarly, the historical CIEP data represent customers taking BGS-CIEP as well as customers served by a third party supplier that were eligible to take BGS on the CIEP tariff in force during the June 1, 2003 to May 31, 2004 supply period. The historical FP and BGS-FP zonal data are then derived as residuals.

Starting with historical zonal data from June 1, 2004, the BGS-CIEP data for a given month will represent customers who take BGS on the CIEP tariff in force in that month. Similarly, the CIEP data will represent customers taking BGS-CIEP, as well as customers served by a third party supplier that are eligible to take BGS on the CIEP tariff in force at that time. For example, from June 1, 2007 to May 31, 2008, the historical BGS-CIEP zonal data represent customers taking BGS on the CIEP tariff in force during the June 1, 2007 to May 31, 2008 period, while starting on June 1, 2012, the BGS-CIEP zonal data will represent customers taking BGS on the CIEP tariff in force during the June 1, 2012 to May 31, 2013 supply period. The FP and BGS-FP zonal data are then derived as residuals. Historical zonal data will be extended each month as new data become available.

The EDCs will also provide supplemental data to assist bidders. The EDCs will provide historical hourly load and/or load profiles for their customer classes and/or load profile groups as well as historical customer counts by customer class and/or load profile group. The EDCs will provide size distribution information consisting of one-time

customer counts and historical aggregate energy usage for several groupings of customers who in the past were eligible to take BGS on an FP tariff but who are or will be required to take BGS on a CIEP tariff. These groupings may include: customers 750 to 999 kW, 1,000 to 1,249 kW, 1,250 to 1,500 kW, and 1,500 kW or greater. The EDCs will provide data as available on large customers that the Board may decide will no longer be eligible to take BGS on an FP tariff in the future. The EDCs will provide monthly customer switching data (number of customers and estimated load) as currently provided to the Board, as well as additional historical customer switching data by customer class. The EDCs will also provide information on renewable energy portfolio standards as well as data on renewable energy from committed supply.

No later than 10 days before interested parties first apply to participate in the Auction, the Auction Manager will announce the *EDC load caps*, a *statewide load cap*, a statewide *maximum starting price*, and a statewide *minimum starting price*. At the same time, the Auction Manager will provide the MW-measure of each tranche for each EDC, based on the percentage of the FP Peak Load Share that a tranche represents. An EDC load cap is a maximum number of tranches of BGS-FP Load that any one bidder can bid and serve for that EDC. The statewide load cap is a maximum number of tranches of BGS-FP Load that any one bidder can bid in the Auction and serve statewide. The statewide load cap cannot exceed the sum of the EDC load caps. An EDC load cap cannot exceed the statewide load cap. The statewide load cap limits the impact that any one bidder may have on the Auction; an EDC load cap limits an EDC's exposure to default by any single supplier in a given supply period. The minimum and maximum starting prices establish the range of possible starting prices for the Auction: each EDC will choose a starting level for its price for round 1 of the Auction that is between the minimum and the maximum starting prices. The EDCs will agree on the statewide load cap, and on the statewide minimum and maximum starting prices. Each EDC will set its EDC load cap. Board Staff and the Board Consultant will review these decisions.

IX.B.2. Qualification Process

The application process is in two parts. All interested parties that have no impediments to meeting the PJM LSE requirements can submit a *Part 1 Application*. There is no state licensing requirement. Interested parties will be asked to submit financial information so that the EDCs can assess their creditworthiness. In addition, each interested party will be asked to comply with other qualification criteria that will have been agreed upon by all EDCs, including agreeing to comply with the BGS-FP Auction Rules and agreeing to the terms of the BGS-FP Supplier Master Agreement. Each interested party will also be asked to agree that if the interested party is successful in its Part 1 Application it will keep confidential the list of other successful applicants

and it will not assign its rights or substitute another entity in its place. This is to ensure that the entity that agrees to the BGS-FP Auction Rules in the Part 1 Application is also the entity submitting bids in the BGS-FP Auction, and to ensure that the entity that agrees to the terms of the BGS-FP Supplier Master Agreement is the entity that will execute the BGS-FP Supplier Master Agreement should the interested party become an Auction winner. In accordance with these Auction Rules, execution of the BGS-FP Supplier Master Agreement must occur within three days of Board certification of the Auction results and within that period the Auction winner will demonstrate compliance with the creditworthiness requirements set forth in the BGS-FP Supplier Master Agreement. Such creditworthiness requirements will take into consideration all BGS obligations held by the Auction winner, including those from past BGS Auctions.

Applications must be submitted no later than noon⁷ on the *Part 1 Application Date*, which will be no earlier than 10 days after the maximum and minimum starting prices have been announced. Interested parties will be notified as to whether they succeeded in qualifying to participate in the Auction no later than three days after the Part 1 Application Date. An interested party that has qualified becomes a *qualified bidder*. The Auction Manager will send simultaneously to each qualified bidder a list of all qualified bidders, but the list of qualified bidders will not be publicly disclosed. Interested parties, in their Part 1 Applications, will have undertaken to maintain the confidentiality of the list of qualified bidders, and to destroy documents with this information provided by the Auction Manager within five days of the Board deciding whether to approve the Auction results, as explained further in this document in section IX.E.4 in the “Association and Confidential Information Rules”.

Qualified bidders that wish to participate in the Auction must submit a *Part 2 Application* to the Auction Manager. Only qualified bidders may submit Part 2 Applications. Part 2 Applications must be submitted no later than noon on the *Part 2 Application Date*, which will be no later than 10 days before the start of the Auction. In the Part 2 Application, qualified bidders will make a number of certifications to ensure compliance with the association and confidential information portion of these rules. These certifications, provided in section IX.E.4 below, ensure that each qualified bidder is bidding independently of other qualified bidders and ensure the confidentiality of information regarding the Auction. Each qualified bidder is also asked to agree to keep confidential the list of other successful applicants; to agree that the submission of any bid creates a binding and irrevocable offer to provide service under the terms of the BGS-FP Supplier Master Agreement; and not to assign its rights or substitute another entity in its

⁷ Unless otherwise specified, all times are Eastern Time Zone times.

place. This is to ensure that the entity that agrees to comply with the Association and Confidential Information Rules is also the entity submitting bids in the BGS-FP Auction, and to ensure that the entity that agrees that its bids create a binding and irrevocable offer to provide service under the terms of the BGS-FP Supplier Master Agreement is also the entity that will execute the BGS-FP Supplier Master Agreement should the qualified bidder become an Auction winner. With their Part 2 Application, qualified bidders will also be required to submit an *indicative offer* and to submit a *financial guarantee* in proportion to their indicative offer.

A qualified bidder is *associated with* another qualified bidder if the two bidders have ties that could allow them to act in concert or that could prevent them from competing actively against each other in the Auction. The competitiveness of the Auction and the ability of the Auction Process to deliver competitive prices may be harmed by the coordinated or collusive behavior that associations facilitate. The Auction Manager, who may rely, among other factors, on the number of independent competitors to set the *Auction volume*, would be using inaccurate information unless associations are duly disclosed in the Part 2 Application. The Auction volume is the number of tranches that the EDCs plan to purchase through the Auction. Associations may be considered in setting the Auction volume and may be used in the application of load caps. See section IX.E “Association and Confidential Information Rules” later in this document for precise criteria.

Sanctions can be imposed on a bidder for failing to disclose information relevant to determining associations, for coordinating with another bidder, or for failing to abide by any of the certifications that the bidder will have made in its Part 1 and Part 2 Applications. Such sanctions can include, but are not limited to, loss of all rights to serve any BGS-FP Load won in the Auction by such bidder, forfeiture of financial guarantees and other fees posted or paid, prosecution under applicable state and federal laws, debarment from participation in future BGS Auctions, and other sanctions that the Board may consider appropriate. For any failure to disclose information or any violation of the certifications, the Auction Manager will make a recommendation to the Board on a possible sanction and the Board will make the final determination.

An indicative offer specifies two numbers of tranches. The first number represents the amount that the qualified bidder is willing to serve at the maximum starting price on a statewide basis (i.e., for all EDCs combined). The second number represents the amount that the qualified bidder is willing to supply at the minimum starting price on a statewide basis. At each of the maximum and the minimum starting prices, the number of tranches indicated by the qualified bidder cannot exceed the statewide load cap.

Indicative offers are important in two respects. First, the EDCs may use the indicative offers to inform their decision in setting the round 1 prices. Second, the number of tranches indicated by the qualified bidder at the maximum starting price determines the qualified bidder's *initial eligibility*. As explained in the bidding rules in section IX.C.3, a bidder will never be able to bid in the Auction on a number of tranches greater than the bidder's initial eligibility. Thus, the qualified bidder is encouraged to state the maximum possible number of tranches that it would be willing to serve.

All qualified bidders will also be required to provide their preliminary interest in each EDC. The number of tranches for an EDC cannot exceed the EDC load cap. However, the sum of the qualified bidder's preliminary interest in each EDC at a given price *can* exceed the statewide number of tranches that the qualified bidder is willing to serve at that price, and it can also exceed the statewide load cap. Information that a qualified bidder provides regarding its interest in any particular EDC has no effect on initial eligibility or subsequent bidding in the Auction.

Example 2.

The EDC load caps are: 14 tranches for PSE&G; 9 tranches for JCP&L; 3 tranches for ACE; and 1 tranche for RECO (i.e., RECO has no EDC load cap). The statewide load cap is 21 tranches.

A qualified bidder submits an indicative offer of 9 tranches at the maximum starting price. The qualified bidder's initial eligibility is 9 tranches, and the qualified bidder will never be able to bid on more than a total of 9 tranches during the Auction.

At the maximum starting price, the qualified bidder may indicate a preliminary maximum interest in as many as 9 tranches for PSE&G, 9 tranches for JCP&L, 3 tranches for ACE, and 1 tranche for RECO.

At the maximum starting price, the qualified bidder actually submits, as its preliminary maximum interest in each EDC:

- 9 tranches for PSE&G,
- 4 tranches for JCP&L, and
- 2 tranches for ACE.

The bidder does not have a preliminary interest for RECO.

This means that of the 9 tranches that the qualified bidder is willing to serve statewide, the qualified bidder is willing to serve at most 9 of them for PSE&G, 4 for JCP&L, and 2 for ACE.

The sum of the bidder's preliminary maximum interest in each EDC at the maximum starting price, 15 (9 + 4 + 2), exceeds the amount of the indicative offer at the maximum starting price (9).

Each qualified bidder must post a financial guarantee, in the form of a letter of credit (or bid bond), proportional to its initial eligibility. A financial guarantee of \$500,000 per tranche is required. Letters of credit (or bid bonds) must be in a form acceptable to the EDCs. Sample letters of credit and sample bid bonds that are acceptable to the EDCs will be posted to the Auction web site. Depending upon the creditworthiness assessment made at the time of the Part 1 Application, additional security may be required. Any such additional security must be submitted in a form acceptable to the EDCs. Sample credit instruments for this additional security will be posted to the Auction web site.

Example 3.

The maximum starting price is 16.000¢/kWh and that the statewide load cap is 21 tranches. A qualified bidder submits an indicative offer of 3 tranches at the maximum starting price. The qualified bidder is advised at the time of qualification that it is required to submit a financial guarantee of \$500,000 per tranche but that no additional security is required.

The qualified bidder posts a financial guarantee of \$1,500,000, in the form of a letter of credit (or bid bond). The letter of credit is in the standard form provided on the web site and is thus acceptable to all EDCs. The number of tranches of the indicative offer does not exceed the maximum of the statewide load cap of 21 tranches.

For a Part 2 Application to be accepted, it must be complete, including its indicative offer, preliminary interest in each EDC, financial guarantees and additional security (if necessary). The financial guarantees and additional security must be provided in a form acceptable to all EDCs and must be sufficient to cover the indicative offer at the maximum starting price. If its Part 2 Application is accepted, a qualified bidder becomes a **registered bidder**. The Auction Manager will send simultaneously to each registered bidder a list of all registered bidders and the total initial eligibility in the Auction. Neither the list of registered bidders nor the total initial eligibility in the Auction will be released publicly. Qualified bidders, in their Part 2 Applications, will have undertaken to maintain the confidentiality of the list of registered bidders and the total initial eligibility in the Auction, and to destroy documents with this information provided by the Auction Manager within five days of the Board deciding whether to approve the Auction results, as explained further in this document in section IX.E.

Financial guarantees and additional security (if required) will remain in full force until the Board has decided whether to approve the Auction results and the bidder has won no tranches, or until the Board has decided whether to approve the Auction results and the bidder has won tranches, has signed the BGS-FP Supplier Master Agreement, and

has complied with all creditworthiness requirements of that agreement. The EDCs can collect the financial guarantees if bidders fail to comply with their obligations.

BGS-FP suppliers must meet PJM LSE requirements by the start of the supply period.

IX.B.3. Starting Prices

Three days before the Auction starts, the Auction Manager informs all registered bidders of each EDC's starting price, which will be the price in round 1 of the Auction. Each EDC's starting price will be no higher than the statewide maximum starting price and no lower than the statewide minimum starting price. Each EDC will set its own starting price in consultation with the Auction Manager, Board Staff and the Board Consultant.

IX.B.4. Extraordinary Events

The EDCs, in consultation with the Auction Manager, Board Staff and the Board Consultant, may determine that, due to extraordinary events, the statewide maximum starting price and the statewide minimum starting price require revision. In this event, the schedule may also be revised. If the indicative offers have already been received, the Auction Manager would request that the registered bidders (or the qualified bidders if registration had not been completed) revise their indicative offers on the basis of the revised statewide maximum starting price and the revised statewide minimum starting price.

For such a revision to be necessary, an extraordinary event must occur between the time at which the statewide maximum starting price and the statewide minimum starting price are announced (no later than 10 days before the Part 1 Application is due) and the day on which the Auction starts. The EDCs, in consultation with the Auction Manager, Board Staff and the Board Consultant, will agree that an event constitutes an extraordinary event. Such events could include, for instance, the advent of war.

If an extraordinary event occurs during that time, the EDCs will determine a revised statewide maximum starting price and a revised statewide minimum starting price, and may also determine a revised schedule. Board Staff and the Board Consultant will review these decisions. New indicative offers will be required from bidders. The determination of new maximum and minimum starting prices, the submission of new indicative offers, and if necessary the announcement of new starting prices, will be carried out so as to afford bidders sufficient time.

The EDCs, in consultation with the Auction Manager, Board Staff, and the Board Consultant, may determine that, due to extraordinary events, one or more of the EDC-specific winter and summer factors require revision. In this event, the schedule may also be revised.

For a revision of one or more of the EDC-specific summer and winter factors to be necessary, an extraordinary event must occur after the final EDC-specific summer and winter factors have been announced but before the Auction starts. The Auction Manager would provide the opportunity for new indicative offers to be submitted on the basis of this revision. The Auction Manager will provide bidders sufficient time to revise their indicative offers.

IX.C. Bidding Rules

We first present an overview of the Auction format. We then proceed to explain the bidding and other rules in detail.

IX.C.1. Overview of Auction Format

The Auction is a simultaneous, multiple round, descending clock auction. We can explain this format's features by simply "unpacking" this terminology.

The Auction is called simultaneous because tranches for all the EDCs are put on offer through the same auction. The Auction proceeds in rounds. In a round, the Auction Manager announces a price for each EDC. Bidders bid by providing the number of tranches that they are willing to serve for each EDC at the prices announced by the Auction Manager. If the number of tranches bid is greater than number of tranches needed for an EDC, the price for that EDC is reduced for the next round. In the next round, bidders are given an opportunity to bid again.

The Auction is called a descending clock auction because prices "tick down" throughout the Auction, starting high and being reduced gradually until the supply bid is just sufficient to meet the load to be procured. Prices that tick down in a round decrease by a **decrement**; a decrement is a given percentage of the previous price. Bidders holding the final bids when the Auction closes are the winners.

Example 4.

There are 21 bidders in the Auction. The EDC load caps are: 14 tranches for PSE&G, 9 tranches for JCP&L, 3 tranches for ACE, and 1 tranche for RECO (i.e., RECO has no EDC load cap). Consider the following sample round.

ROUND 1

<i>EDC</i>	<i>Price(¢/kWh)</i>	<i># Tranches bid</i>	<i># Tranches desired</i>	<i>Excess supply</i>	<i>Oversupply ratio</i>
PSE&G	16.000	79	29	50	0.714
JCP&L	16.000	37	20	17	0.243
ACE	16.000	9	7	2	0.036
RECO	16.000	1	1	0	0.000

The Auction Manager reduces the price for an EDC if the number of tranches bid is greater than the number of tranches desired. The amount of the price reduction depends on the oversupply ratio, which is the ratio of the excess supply on that EDC to an estimate of the *maximum possible* excess supply on that EDC, taking into account the total excess supply in the Auction. Roughly speaking, the larger the oversupply ratio for an EDC, the larger is the portion of maximum excess supply that is actually on that EDC, and the larger is the price decrease. A formula for the oversupply ratio is provided in section IX.G.2.

In round 1, all bidders combined stand ready to supply 79 tranches of PSE&G at a price of 16.000¢/kWh. The number of tranches bid (79) exceeds the number of tranches desired (29) by 50 tranches. The price for PSE&G will tick down.

The actual excess supply on PSE&G is 50 tranches. The maximum possible excess supply is the total excess supply for all the EDCs in the Auction, or 69 (50 + 17 + 2 + 0). If all the excess bids in the Auction had been bid on PSE&G, PSE&G would have 69 tranches of excess supply. The estimate of the maximum excess supply used to calculate the oversupply ratio is the upper bound of the range of total excess supply at the Auction reported to bidders, which is 70. Thus, the oversupply ratio for PSE&G is 0.714 (50 / 70). Roughly speaking, 71% of the excess supply in the Auction is bid on PSE&G.

The calculation for ACE is similar. In round 1, all bidders combined stand ready to supply 9 tranches of ACE at a price of 16.000¢/kWh. The number of tranches bid (9) exceeds the number of tranches desired (7) by 2 tranches. The price for ACE will tick down.

The actual excess supply on ACE is 2 tranches. For ACE, the maximum possible excess supply is not the total excess supply for all the EDCs in the Auction (69 calculated above). Indeed, with only twenty-one bidders in the Auction and a load cap of 3 tranches on ACE, the maximum possible number of tranches bid on ACE is 63 (3 x 21). The maximum possible excess supply on ACE is 56 (63 – 7 = 56). For ACE, the oversupply ratio is 0.036 (2 / 56).

The oversupply ratio is calculated in the same way for all other EDCs.

The Auction Manager will lower the price in round 2 for every EDC except RECO, since for every EDC except RECO the number of tranches bid exceeds the number of tranches needed.

The largest decrement will be for PSE&G, which has the largest oversupply ratio, and the smallest decrement will be for ACE, which has the smallest oversupply ratio.

In round 2 below, prices have fallen from round 1 for all but RECO. The price for PSE&G, which had the largest decrement from round 1, fell the most; the price for ACE, which had the smallest decrement from round 1, fell the least. Bidders submit new bids at these prices. The total excess supply range reported to bidders is 56-60 (so that 60 is used as the measure of total excess supply in calculating the oversupply ratio).

ROUND 2

<i>EDC</i>	<i>Price (¢/kWh)</i>	<i># Tranches bid</i>	<i># Tranches desired</i>	<i>Excess supply</i>	<i>Oversupply ratio</i>
PSE&G	15.342	61	29	32	0.533
JCP&L	15.839	40	20	20	0.333
ACE	15.920	9	7	2	0.036
RECO	16.000	5	1	4	0.200

Each EDC has more tranches bid than tranches desired. The Auction Manager will calculate the decrement for each EDC from that EDC's oversupply ratio and lower the price of each EDC for the next round accordingly.

Although we describe the main points of the Auction Rules in more detail below, four aspects should be briefly highlighted at the outset. These are as follows:

1. Winners for each EDC are not determined until the bidding has closed for all EDCs. When the number of tranches bid in a round for an EDC does not exceed the number of tranches desired, the price for that EDC will not tick down for the next round. However, as the Auction progresses and the prices for the other EDCs tick down, some bidders may re-assign tranches and increase the number of tranches bid on that EDC, which may cause the price for the EDC to tick down again. Hence, the winners cannot be determined for any one EDC until bidding stops for all EDCs. There is no matching of suppliers to customers during the course of the Auction or selection of winners by the Auction Manager. It is only at the end of the Auction that suppliers reveal themselves to be winners by not withdrawing from the Auction.

2. If a bidder bid on an EDC in the preceding round and the price for the EDC's tranches did not tick down for the current round, the bidder cannot reduce the number of tranches bid for that EDC in the current round, either through a withdrawal or a switch (these terms are defined in sections IX.C.4.b and IX.C.4.c). Any bid is a binding obligation to accept the BGS-FP supply responsibility at the price at which the bid was made for the three-year supply period. The bidder may be able to reduce the number of tranches bid on that EDC later in the Auction. If other bidders increase their number of tranches bid on the EDC (because its price has remained high relative to the prices for other EDCs) and cause the price for that EDC to tick down, the bidder will once again be able to reduce the number of tranches bid on that EDC.
3. Bidders can never increase the total number of tranches they bid during the Auction. If a bidder does not bid a tranche in the first round, that tranche cannot be bid later on. Once a tranche is withdrawn, it can never be bid again.
4. All bidders that win tranches for a particular EDC and are authorized as suppliers by the Board receive the same price per kWh of load served for that EDC during the supply period.

IX.C.2. Round Phases and Bidding Day

Each round of the Auction is divided into three phases: a *bidding phase*, a *calculating phase*, and a *reporting phase*.

In the bidding phase of the round, bidders place bids. To be valid, a bid must be submitted and verified in the bidding phase and processed by the Auction software. Bidders should allow time within the bidding phase of the round for submission, verification, and confirmation of the bid by the Auction software. The time-stamp of a bid is the time at which the bid is confirmed. A bidder that submits a bid in a round may change this bid as long as the bidding phase of the round is still open. The last valid bid by the bidder in the round becomes a firm offer to supply that cannot be rescinded.

In the calculating phase of the round, the Auction Manager tabulates the results of that round's bidding phase and calculates the prices for the next round. During this phase, bidders cannot submit bids and bidders do not yet have access to the results from that round's bidding phase.

In the reporting phase of the round, the Auction Manager informs bidders that are still in a position to win at the Auction of the results of that round's bidding phase. All

Auction results are confidential as explained below in section IX.E.3. Bidders are informed of the *going prices* for the next round's bidding phase and are provided with a range of total excess supply left in the Auction. The going prices in a round are the prices at which the Auction Manager solicits bids in the bidding phase of that round. (Total excess supply is defined more precisely in section IX.C.5 and information provided concerning total excess supply is specified in more detail in section IX.C.7 below.) A bidder receives no information regarding another bidder's bid. Each bidder privately receives the results of its own bid from that round, indicating to each bidder its obligation at this point in the Auction.

A typical schedule for a bidding day will have a number of rounds in a morning session, a lunch break, and then a similar number of rounds scheduled in an afternoon session. The round times will speed up over the course of the Auction as bidders become more familiar with the process and bidding becomes more routine.

IX.C.3. Round 1 of the Auction

IX.C.3.a. Definition of a Bid

A bidder selects how many tranches it wants to serve for each EDC at the round 1 prices. In round 1, a *bid* then consists of four numbers:

- a number of tranches that the bidder wants to supply for PSE&G at the PSE&G round 1 price;
- a number of tranches that the bidder wants to supply for JCP&L at the JCP&L round 1 price;
- a number of tranches that the bidder wants to supply for ACE at the ACE round 1 price; and
- a number of tranches that the bidder wants to supply for RECO at the RECO round 1 price.

The EDCs are always ranked in decreasing order of the *tranche targets*; a tranche target is the number of tranches needed for a given EDC.

The number of tranches that a bidder chooses for one EDC may or may not be the same as the number of tranches that the bidder chooses for another EDC. A number of tranches is an integer (0,1,2,...). A number of 0 (zero) for one EDC means that at the round 1 price for the EDC the bidder does not want to supply any of the BGS-FP Load for that EDC.

Example 5.

Suppose that the round 1 prices are:				
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>	<i>ACE</i>	<i>RECO</i>
Price (¢/kWh)	14.750	15.000	15.000	15.000
Then (10, 0, 3, 1) is a round 1 bid and it indicates that the bidder stands ready to supply 10 PSE&G tranches, no JCP&L tranches, 3 ACE tranches, and 1 RECO tranche at the round 1 prices.				
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>	<i>ACE</i>	<i>RECO</i>
Price (¢/kWh)	14.750	15.000	15.000	15.000
Bid (tranches)	10	0	3	1

IX.C.3.b. Bidding Phase

The Auction Manager informs bidders of the starting prices for each EDC three days prior to the Auction; these starting prices are the prices in force, or the going prices, for round 1 of the Auction. The going prices in a round are the prices at which the Auction Manager solicits bids in the bidding phase of that round.

Any bid submitted in round 1 must satisfy two conditions; the first condition relates to the total number of tranches bid while the second relates to the number of tranches bid for any one EDC. First, the total number of tranches bid cannot exceed the bidder's initial eligibility. As explained in section IX.B.2, the bidder's initial eligibility is equal to the number of tranches in the bidder's indicative offer at the maximum starting price. As the bidder's indicative offer cannot exceed the statewide load cap, the bidder's bid automatically satisfies the statewide load cap. Second, the number of tranches bid for any one EDC cannot exceed the EDC load cap.

Example 6.

The EDC load caps are: 14 tranches for PSE&G, 9 tranches for JCP&L, 3 tranches for ACE, and 1 tranche for RECO (i.e., RECO has no EDC load cap). The statewide load cap is 21 tranches.

Bidder A submitted an indicative offer of 20 tranches at the maximum starting price. Bidder A's initial eligibility is 20 tranches.

Bidder A's bid in round 1 is (10, 3, 3, 1). This bid satisfies all requirements:

- In total, Bidder A is bidding on 17 tranches, which does not exceed Bidder A's initial eligibility of 20 tranches.
- For each EDC, Bidder A is bidding on a number of tranches that does not exceed that EDC load cap. For example, Bidder A is bidding 3 tranches for ACE, which does not exceed the EDC load cap of 3.

As explained further in section IX.C.9, the bidding phase in round 1 is automatically extended for the convenience of bidders. If a bidder requests an extension in round 1, it will run concurrently with the automatic extension.

IX.C.3.c. Calculating Phase, Reporting Phase and Potential Volume Cutback

The calculating phase of round 1 immediately follows the extended bidding phase. In the ordinary course of events, the Auction Manager reviews the results and sets the prices that will be in force in round 2 of the Auction. Round 1 moves to the reporting phase and the Auction Manager reports to bidders the results of bidding in round 1 as well as the round 2 prices. The price for an EDC is the same as the round 1 price when the number of tranches bid in round 1 is insufficient to fill the tranche target for the EDC, or when the number of tranches bid for the EDC is just equal to the tranche target for the EDC. The price for an EDC ticks down when the number of tranches bid on that EDC exceeds its tranche target. Details on the amount by which the price in each round is reduced are given in section IX.G.2. The Auction Manager also provides to bidders an indication of the total excess supply in the Auction in round 1, as explained in section IX.C.7. A bidder is not provided any information regarding any other individual bidder's bids.

The Auction Manager may call a pause in the Auction during the calculating phase of round 1. This pause is called a *time-out* (see section IX.C.9 for additional details on time-outs). The Auction Manager will call this time-out if the Auction Manager needs to consider whether to cut back the Auction volume to ensure the competitiveness of the Auction. It is not expected that the Auction Manager would revise EDC load caps at that time except if the new tranche target would fall below the EDC

load cap, but the Auction Manager retains the discretion to make revisions to the EDC load caps based on the revised Auction volume. It is not expected that the Auction Manager would revise the statewide load cap, but the Auction Manager retains the discretion to make such a revision based on the revised Auction volume, and will do so when the reduced Auction volume falls below the statewide load cap.

As soon as practicable during the time-out, the Auction Manager will either announce that the Auction volume will not change, or will announce the revised Auction volume, the revised tranche target for each EDC, the revised statewide load cap (if applicable), and the EDC load caps (if applicable).

As soon as practicable during the time-out, the Auction Manager will start the reporting phase of round 1. The Auction Manager will report to the bidders the prices in force for round 2 as well as an indication of the total excess supply in the Auction in round 1. (Total excess supply is defined in section IX.C.5.) The manner in which the tranche targets for the EDCs will be changed on the basis of the revised Auction volume will be announced no later than 10 days before the Part 2 Application is due.

If an EDC load cap is reduced, and if a bidder's number of tranches bid on that EDC is greater than the reduced EDC load cap, then the Auction Manager reports that the bidder has a number of tranches bid on the EDC just equal to the reduced EDC load cap. The Auction Manager also reports that the tranches that the bidder had bid on that EDC in excess of the reduced EDC load cap can be freely bid on any EDC in round 2. From round 1 to round 2, the bidder does not lose the eligibility associated with the tranches that were bid in excess of the reduced EDC load cap. If the statewide load cap is reduced because it exceeds the reduced Auction volume, the Auction Manager reports to a bidder whose eligibility is greater than the reduced statewide load cap that the bidder's bid has been adjusted to conform to the reduced statewide load cap. The bidder withdraws any excess eligibility in round 2.

If the Auction volume is cut back, each EDC will implement a *Contingency Plan* for its tranches that have been removed from the Auction. Under their Contingency Plans, the EDCs will purchase necessary services to serve BGS-FP Load for one year, including installed capacity, energy, transmission, and ancillary services through PJM-administered markets. Pursuant to these Contingency Plans, which are described in more detail in the Company Specific Addenda, the EDCs will not negotiate contracts with suppliers for BGS-FP Load after the Auction.

The Auction Manager will use a confidential set of guidelines approved by the Board to decide whether to cut back the Auction volume and to determine the magnitude

of any necessary cutback. If the Auction volume is cut back, it will be cut back to the number of tranches bid in round 1 divided by a parameter called the *target eligibility ratio* (a desired ratio of tranches bid to the Auction volume). The precise value of this parameter depends on various factors, such as the number of bidders and characteristics of individual bids.

Example 7.

In the bidding phase of round 1, the Auction volume is 57 tranches (this is the sum of the tranche targets for all EDCs in the Auction: $29 + 20 + 7 + 1 = 57$). Suppose that a total of 72 tranches are bid. Further, suppose that given the number of bidders and the characteristics of the bids, the Auction Manager sets the target eligibility ratio at 1.5.

The actual eligibility ratio is approximately 1.26 ($72 / 57$). The Auction Manager reduces the Auction volume to attain the target eligibility ratio of 1.5 by cutting back the volume by 9 tranches to 48 tranches ($72 / 1.5 = 48$).

After the volume cutback, there will be 1.5 tranches bid for every tranche to be purchased through the Auction ($72 / 48 = 1.5$).

The Auction Manager may further cut back the Auction volume on the basis of the bids as the Auction progresses, in accordance with the confidential guidelines approved by the Board. If such a revision is necessary to ensure a competitive bidding environment, the Auction Manager will call a time-out during the calculating phase of a round. As soon as practicable during the time-out, the Auction Manager will advise the bidders of the revised Auction volume, the revised tranche target for each EDC, the revised statewide load cap (if applicable), and the revised EDC load caps (if applicable).

No later than three days before the start of the Auction, the Auction Manager may release further information regarding the possible values of the target eligibility ratio and the circumstances under which a second volume cutback may be undertaken.

IX.C.4. Bidding in Round 2**IX.C.4.a. Bid and Eligibility**

A bidder selects how many tranches to serve from each EDC at the round 2 prices.

As stated in the introduction to the Auction format in section IX.C.1, a bidder cannot increase its total number of tranches bid at the round 2 prices from its total number of tranches bid in round 1. This is more generally expressed by saying that the

bidder cannot exceed its *eligibility*. A bidder's eligibility in round 2 is the bidder's total number of tranches bid⁸ in round 1. As in round 1, the number of tranches bid on any one EDC cannot exceed the EDC load cap for the EDC.

A bidder can always select the same number of tranches for each EDC in round 2 as in round 1. A bidder that wishes to change the number of tranches bid on a given EDC can reduce the number of tranches bid as long as the price for that EDC has ticked down. Such *reductions* in the number of tranches bid on an EDC for which the price has ticked down can be in the form of a *withdrawal* or a *switch*. A bidder reduces the number of tranches bid on an EDC through a withdrawal when the bidder is reducing the number of tranches bid on an EDC, not increasing the number of tranches bid on other EDCs, and thus reducing the number of tranches bid in total. A bidder reduces the number of tranches bid on an EDC through a switch when the bidder is re-assigning the total number of tranches bid so that the number of tranches bid on one or several EDCs is reduced, but the number of tranches bid on other EDCs is increased by the same amount. If a bidder re-assigns tranches, the total number of tranches that the bidder bids on at least one EDC will increase, but the total number of tranches bid on all EDCs cannot increase. This is explained in more detail below in sections IX.C.4.b and IX.C.4.c.

In addition to specifying the number of tranches that a bidder is prepared to serve for each EDC, fully specifying a bid in round 2 may require the bidder to provide *switching priorities* or *exit prices* (defined below). A bidder is required to provide switching priorities when increasing the total number of tranches bid on two or more EDCs, as explained in section IX.C.4.c. A bidder is required to provide exit prices if a bidder is reducing the number of tranches bid on an EDC through a withdrawal, as explained in section IX.C.4.b.

In reporting to the bidder the result of its bid in the reporting phase, the Auction Manager will always report that it accepts a bid that is unchanged. The Auction Manager may disallow reductions that a bidder wants to make from an EDC. The Auction Manager retains withdrawn tranches if, by accepting all reductions from withdrawals and switches, the tranche target for that EDC would no longer be filled. The Auction Manager denies reductions from switches if, after retaining all withdrawn tranches from that EDC, accepting all reductions from switches would prevent the tranche target for that EDC from being filled. To fill the tranche target of an EDC, the Auction Manager first takes tranches that are bid at the round 2 price, then retains tranches that bidders want to withdraw, and finally denies reductions from switches that bidders have requested, as

⁸ Given that the bidder's round 1 bid satisfied the statewide load cap, and given that the bidder cannot increase its total number of tranches bid, the bidder's bid will satisfy the statewide load cap in all subsequent rounds.

necessary. As explained in more detail below, the Auction Manager retains tranches that a bidder has withdrawn at the exit price named by the bidder and keeps switches that must be denied at the last price at which the bidder freely bid these tranches.

IX.C.4.b. Reductions through Withdrawals

A bidder can withdraw tranches from an EDC only if the price for that EDC has decreased from round 1 to round 2. If, instead, the price for an EDC has not changed from round 1 to round 2, then the bidder's offer in round 1 at that price is still standing, and the bidder cannot bid on fewer tranches for that EDC at the (unchanged) going price. As explained below, a bidder can always bid more tranches for an EDC whose price has not changed from round 1 by reducing the number of tranches from other EDCs whose prices have ticked down and switching them to the EDC whose price has not ticked down.

A bidder that withdraws one or more tranches from an EDC must name an exit price for those tranches. A bidder names an exit price when it bid one or more tranches at the previous going price but is unwilling to bid these tranches at the current going price. A bidder that withdraws several tranches previously bid at the round 1 price for a given EDC must specify the same exit price for all tranches from that EDC. An exit price must be less than or equal to the last price at which the tranches were freely bid (in round 2, this is the price in round 1) and must be higher than the EDC's going price (in round 2, this is the round 2 price, a price at which the bidder is no longer willing to bid the tranches being withdrawn). A bidder that withdraws tranches from more than one EDC can specify a different exit price for each EDC.

An exit price enables the Auction Manager to determine which bidder would have remained ready to serve an EDC had the price ticked down continuously rather than in lumpy, discrete decrements. The Auction Manager relies on exit prices when tranches are withdrawn from an EDC and when the number of tranches bid on that EDC at the round 2 price falls short of that EDC's tranche target due to reductions from withdrawals and possibly also due to reductions from switches. The tranches with lower exit prices are retained first, and they are retained at the exit price that the bidder has named.

If, to fill the last tranches of the tranche target of an EDC, the Auction Manager must retain some but not all the tranches from two or more bidders that named the same exit price, then the Auction Manager, for each tranche to be retained, will choose at random the bidder whose tranche is retained. Thus, for the first tranche needed at the tied exit price, the probability that a particular bidder is chosen is the number of tranches that the bidder has bid at the exit price divided by the total number of tranches bid at the exit

price. If a second tranche is needed at the exit price, the Auction Manager again will choose at random a bidder whose tranche will be retained. The probability that any one bidder is chosen is the number of tranches that the bidder has bid at the exit price and that have not yet been retained divided by the total number of tranches bid at the exit price and that have not yet been retained. The Auction Manager repeats this procedure until the tranche target for the EDC is filled.

A bidder that withdraws tranches from an EDC loses the eligibility associated with these tranches, and forfeits the right to bid these tranches for the remainder of the Auction on any EDC. Eligibility is lost even if the withdrawn tranches are retained. Eligibility is always lost as a result of withdrawing tranches.

Example 8.

The round 1 prices and the round 1 bid for Bidder A are:				
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>	<i>ACE</i>	<i>RECO</i>
Round 1 Price (¢/kWh)	16.000	16.000	15.750	16.000
Bid (tranches)	10	1	3	1
The round 2 prices are:				
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>	<i>ACE</i>	<i>RECO</i>
Round 2 Price (¢/kWh)	16.000	15.680	15.120	16.000
Bidder A cannot bid fewer tranches for PSE&G or RECO in round 2 because the prices for these two EDCs have not fallen from round 1.				
Bidder A reduces the number of tranches bid for ACE from 3 to 2. The bidder enters an exit price of 15.566¢/kWh, which is between 15.750¢/kWh and 15.120¢/kWh. (The exit price could have been equal to 15.750¢/kWh but not equal to 15.120¢/kWh.)				

IX.C.4.c. Reductions through Switches

When a bidder is switching and not withdrawing, a bidder is simultaneously decreasing the number of tranches bid for one or more EDCs and increasing the number of tranches for one or more EDCs while leaving the total number of tranches bid the same. As in the case when the bidder is reducing the number of tranches bid on an EDC because the bidder is withdrawing tranches, the bidder can reduce the number of tranches bid on an EDC by switching only if the price for that EDC has decreased in round 2. Again, if instead the price for an EDC has not ticked down, then the bidder cannot bid fewer tranches on that EDC (i.e., the bidder cannot withdraw tranches or switch tranches from that EDC).

Example 9.

The EDC load caps are: 14 tranches for PSE&G; 9 tranches for JCP&L; 3 tranches for ACE; and 1 tranche for RECO (i.e., RECO has no EDC load cap). The following are the round 1 and round 2 prices and the bids for Bidder A:

<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>	<i>ACE</i>	<i>RECO</i>
Round 1 Price (¢/kWh)	16.000	16.000	15.750	16.000
Bid Round 1 (tranches)	7	4	3	1
Round 2 Price (¢/kWh)	16.000	15.680	15.120	16.000
Bid Round 2 (tranches)	9	4	1	1

In round 2, Bidder A is increasing by 2 the number of tranches bid on PSE&G. Also, Bidder A is reducing by 2 the number of tranches bid on ACE. Since the total number of tranches bid is the same (15), the bidder is switching. Bidder A can reduce the number of tranches bid on ACE since its price has decreased in round 2. Bidder A can bid for more tranches of PSE&G (the number of tranches bid for PSE&G in round 1 is less than the EDC load cap). If the price for an EDC does not change, a bidder cannot bid *fewer* tranches but can bid *more* tranches for that EDC.

When (and only when) a bidder is increasing the number of tranches bid at the going price on more than one EDC, the bidder must specify a *switching priority*. A switching priority is a rank assigned to each of the EDCs on which the bidder is increasing the number of tranches bid. The Auction Manager will use this switching priority only when accepting some, but not all, reductions involved in a switch that the bidder has requested. The Auction Manager will use this switching priority only when, to keep an EDC's tranche target filled, the Auction Manager must retain all tranches that were withdrawn out of that EDC and must deny some, but not all, reductions from that EDC that come from a bidder's switch. The Auction Manager first increases the number of tranches bid of the EDC to which the bidder has assigned the highest priority (1 is the highest priority). The switches that the Auction Manager denies to fill the tranche target of an EDC are retained at the price at which they were last freely bid (in round 2, this is the round 1 price).

If a bidder intended to reduce the number of tranches bid on an EDC through a switch, some or all of these reductions may be denied. The Auction Manager will deny reductions from switches if the number of tranches bid at the going price, and the number of tranches that can be retained from withdrawals, are not together sufficient to fill the tranche target of an EDC. If the Auction Manager must deny one or several reductions from switches from two or more bidders, the Auction Manager chooses at random the bidder whose switch will be denied.

For each tranche of the target that must be filled by denying a reduction from a switch, the Auction Manager chooses at random the bidder whose switch is denied. Thus, for the first switch that must be denied, the probability that the Auction Manager chooses a tranche bid by a particular bidder requesting a switch is the number of tranches by which the bidder's bid on the EDC is reduced by the switch and that could be denied, divided by the total number of tranches by which the number of tranches bid on the EDC is reduced by switches from all bidders and that could be denied. If a second switch must be denied, the Auction Manager again chooses at random the bidder whose switch will be denied. The probability that the Auction Manager chooses a tranche bid by a bidder requesting a switch is the number of tranches by which the bidder's bid on the EDC is reduced by the switch and that could have, but have not yet been denied, divided by the total number of tranches by which the number of tranches bid on the EDC is reduced by all switches from bidders and that could have, but have not yet been denied. The Auction Manager repeats this procedure until the tranche target for the EDC is filled. The Auction Manager continues to report that some or all of these switches are being denied in subsequent rounds as long as they are still needed to fill the EDC's tranche target.

Example 10.

Bidder B submits the following bid in round 2 after this history in round 1:				
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>	<i>ACE</i>	<i>RECO</i>
Round 1 Price (¢/kWh)	16.000	16.000	15.750	16.000
Round 1 Bid (tranches)	7	4	2	1
Round 2 Price (¢/kWh)	16.000	15.680	15.120	16.000
Round 2 Bid (tranches)	8	2	3	1
<p>In round 2, Bidder B is increasing the number of tranches bid on ACE and PSE&G while reducing the number of tranches bid on JCP&L. Since the total number of tranches bid is the same (14) in both rounds, the bidder is switching. Bidder B gives the switching priority to the increase on ACE.</p> <p>If the Auction Manager will allow one of Bidder B's reductions but needs to deny the other, then the increase for ACE will be allowed and the increase for PSE&G will not be allowed. The denied switch will remain a JCP&L tranche with a price of 16.000¢/kWh, which is the last price at which the tranche was freely bid.</p>				

IX.C.4.d. Withdrawing and Switching Tranches Simultaneously

If a bidder is both switching and withdrawing, a bidder can reduce tranches from a particular EDC only if the price for that EDC has decreased in round 2. Additionally, if the bidder is switching and withdrawing, the bidder may be asked to specify which tranches are being withdrawn and which tranches are being switched. The bidder would

be asked for this additional information, for instance, when the bidder is switching and withdrawing, and the bidder is reducing the number of tranches bid for more than one EDC. The tranche or tranches that the bidder specifies to be withdrawn are the tranche(s) for which the bidder will name an exit price.

Example 11.

Bidder C submits the following bid in round 2 after this history in round 1:				
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>	<i>ACE</i>	<i>RECO</i>
Round 1 Price (¢/kWh)	16.000	16.000	15.750	16.000
Round 1 Bid (tranches)	10	3	3	0
Round 2 Price (¢/kWh)	15.760	16.000	15.120	16.000
Round 2 Bid (tranches)	9	4	1	1

Bidder C bids a total of 16 tranches in round 1 and 15 tranches in round 2. Bidder C is withdrawing 1 tranche and will name an exit price for that tranche.

Since Bidder C reduces the number of tranches bid for both PSE&G and ACE, Bidder C's intentions are not clear unless the Auction Manager asks Bidder C for additional information. Indeed, it could be that Bidder C is withdrawing 1 tranche from PSE&G and switching the remaining tranches. Or it could be that Bidder C is withdrawing 1 tranche from ACE and switching the remaining tranches.

Bidder C is asked to select whether it is withdrawing a tranche from PSE&G or ACE. Bidder C selects that it is withdrawing a tranche from PSE&G, and is asked to name an exit price for this tranche. Since Bidder C is increasing the number of tranches bid for more than one EDC (JCP&L and RECO), Bidder C is also asked for switching priorities. Bidder C assigns the first priority to RECO.

IX.C.5. Calculating and Reporting Phases in Round 2

The calculating phase starts immediately after the bidding phase. Once the Auction Manager has tabulated and reviewed the results, the reporting phase begins. The Auction Manager informs all bidders of the round 3 price for each EDC. The Auction Manager provides to all bidders a range for the *total excess supply* in the Auction for round 2. The total excess supply in the Auction is the sum, over all EDCs for which the number of tranches bid exceeds the tranche target, of the excess supplies for the individual EDCs, plus free eligibility, which is defined below in section IX.C.6. The range of total excess supply reported to bidders will change as the Auction progresses. When total excess supply is high, this range will count as few as 5 integers; as total excess supply decreases, the range will become wider and count 10 or more integers. The exact ranges of total excess supply provided as the Auction progresses are specified in detail in section IX.C.7.

In addition to what the Auction Manager tells all bidders about the general progress of the Auction, the Auction Manager reports privately to each bidder the outcome of its own bid. (The Auction Manager never reports the bid of one bidder to another bidder.)

If the round 2 bid is unchanged from round 1, or if requested reductions (from switches or withdrawals) all have been granted, the Auction Manager reports the bid made in round 2.

If the bidder intended to reduce the number of tranches bid on an EDC by withdrawing tranches and some or all of these tranches are retained, the Auction Manager informs the bidder of the number of withdrawn tranches that are being retained and the price at which these tranches are retained. This can occur only if the EDC's number of tranches bid in round 1 exceeded its tranche target while the number of tranches bid at the round 2 price is not sufficient to fill its tranche target. The price at which the withdrawn tranches are retained is the exit price. The Auction Manager will continue to report that some or all of these tranches are being retained in subsequent rounds as long as they are needed to fill the EDC's tranche target.

If a bidder intended to reduce the number of tranches bid on an EDC through a switch, but if some or all of these reductions are denied, the Auction Manager informs the bidder of the number of tranches for which the switch is denied. The price at which a switch is denied is the last price at which the tranche was freely bid. In round 2, this price is the round 1 price. A switch can be denied only if, for the EDC from which the number of tranches bid is reduced, the number of tranches bid in round 1 exceeded its tranche target, and the number of tranches bid at the round 2 price plus the retention of all the withdrawals from the EDC are not sufficient to fill the tranche target.

Example 12.

Bidders A, B and C are the only bidders bidding for tranches of PSE&G, for which the tranche target is 29. None of these bidders are bidding on RECO. Their bids in rounds 1 and 2 are given below:			
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>	<i>ACE</i>
Tranche Target	29	20	7
Round 1 Price (¢/kWh)	16.000	16.000	15.750
Bidder A Bid (tranches)	10	0	0
Bidder B Bid (tranches)	10	0	0
Bidder C Bid (tranches)	10	0	0
Round 2 Price (¢/kWh)	15.920	15.680	15.750
Bidder A Bid (tranches)	9	1	0
Bidder B Bid (tranches)	8	1	1
Bidder C Bid (tranches)	10	0	0
<p>Bidder A switches, increasing the number of tranches bid on JCP&L to 1 and reducing the number of tranches bid on PSE&G. Bidder B is also switching. Bidder C's bid remains the same. In total, 3 fewer tranches are bid on PSE&G. The number of tranches bid on JCP&L and ACE are both increased. Bidder B gives ACE the switching priority.</p> <p>No other bidders bid on tranches for PSE&G in round 1 or in round 2. In round 1, PSE&G's tranche target is more than filled with 30 tranches bid at the round 1 price. In round 2, the 27 tranches bid at the round 2 price are insufficient to fill the tranche target. The Auction Manager must deny 2 of the intended switches.</p> <p>Two of the three reductions from PSE&G must be denied. For the first tranche that must be filled by denying a switch, the probability that each bidder is chosen is 1/3 for Bidder A and 2/3 for Bidder B. Bidder B is chosen at random. The Auction Manager repeats the procedure for the second tranche that must be filled by denying a switch. The probability that each bidder is chosen is 1/2 for Bidder A and 1/2 for Bidder B. Bidder A is chosen at random. This means that the Auction Manager denies Bidder A its intended switch and that Bidder B is allowed to switch 1 of the 2 tranches requested. Bidder B gave ACE the switching priority. Adding the 2 denied switches to the 27 tranches bid at the round 2 price fills PSE&G's tranche target.</p>			
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>	<i>ACE</i>
Round 1 Price (¢/kWh)	16.000	16.000	15.750
Round 2 Price (¢/kWh)	15.920	15.680	15.750
Report to Bidder A	9 @ 15.920¢ 1 denied switch @ 16.000¢	0	0
Report to Bidder B	8 @ 15.920¢ 1 denied switch @ 16.000¢	0	1 @ 15.750¢
Report to Bidder C	10 @ 15.920¢	0	0

The Auction Manager reports to Bidder A that its switch was denied. The Auction Manager also reports to Bidder A that it has 9 PSE&G tranches bid at the round 2 price of 15.920¢/kWh and 1 denied switch, a PSE&G tranche at the round 1 price of 16.000¢/kWh. The Auction Manager reports to Bidder B that Bidder B has 8 tranches of PSE&G bid at the round 2 price of 15.920¢/kWh and 1 denied switch, a PSE&G tranche at the round 1 price of 16.000¢/kWh. The Auction Manager reports to Bidder B that Bidder B has 1 ACE tranche bid at 15.750¢/kWh (because of the switching priority). The Auction Manager also reports to Bidder C that Bidder C has 10 tranches of PSE&G bid at the round 2 price.

IX.C.6. Round 3 and All Subsequent Rounds

Rounds start with a bidding phase. When an EDC's price in a round has ticked down from the previous round, a bidder is free to maintain its number of tranches bid on the EDC or reduce its number of tranches bid on the EDC. Also, the bidder can increase its number of tranches bid on an EDC if the bidder has tranches bid on another EDC for which the price has ticked down. When an EDC's price has not ticked down from the previous round, a bidder must maintain its number of tranches bid on the EDC, or the bidder can increase its number of tranches bid on the EDC (subject to the condition just noted). To fully specify a bid, in certain circumstances the bidder will be required to provide exit prices and switching priorities as explained in sections IX.C.4.b and IX.C.4.c.

At all times, the total number of tranches bid by a bidder cannot exceed the bidder's eligibility. The bidder's eligibility for a round is its eligibility at the start of the previous round minus the number of tranches that the bidder withdrew from the Auction in the bidding phase of the previous round. The total number of tranches bid by a bidder includes tranches bid at the going prices and denied switches that are kept at the last price at which they were freely bid.

At all times, the number of tranches that a bidder could win for an EDC cannot exceed the EDC load cap. In any given round, the number of tranches bid by a bidder at the going price for an EDC, the number of reductions from switches denied from that EDC, and the number of withdrawals retained for that EDC cannot together exceed the EDC load cap. The number of withdrawals retained for an EDC counts toward determining whether a bidder is within the EDC load cap, but a bidder can always choose to replace retained withdrawals with tranches bid at the going price (i.e., the current round price at which the Auction Manager is soliciting bids). If a bidder has retained withdrawals for the EDC and the bidder wishes to switch into the EDC in a manner that would exceed the EDC load cap, then the bidder's tranches bid at the going price will

replace just enough of the bidder's own retained withdrawals to ensure that the bidder does not exceed the EDC load cap.

In the reporting phase that follows the bidding phase and the calculating phase, the Auction Manager reports to all bidders a range for the total excess supply left in the Auction, as described in section IX.C.7. The Auction Manager reports privately to a bidder on its bid. The Auction Manager reports any withdrawn tranches that are retained and any switches that are denied along with their associated prices, as described above in sections IX.C.4.b and IX.C.4.c. If a switch that had been denied in a previous round is freed to be bid once again, then the Auction Manager will report the number of tranches that are being freed.

To fill the tranche target for an EDC, the Auction Manager takes bids in increasing order of price. The Auction Manager first takes tranches bid at the current round price, then the Auction Manager retains withdrawn tranches, and finally the Auction Manager denies switches. Thus, when new tranches are bid at the current round price for an EDC from which switches had been denied, the new tranches replace the denied switches (partially or completely) in filling the EDC's tranche target, and therefore free up some or all of these denied switches. A denied switch that is being replaced by a new tranche at the going price is then said to be *outbid*. If switches from more than one bidder are retained, and if not all denied switches are outbid, the Auction Manager chooses at random, for each denied switch that will be outbid, the bidder whose switch will be outbid. Thus, for the first denied switch that is outbid, the probability that the Auction Manager chooses a particular bidder's denied switch is the bidder's number of denied switches divided by the total number of denied switches for that EDC. If a second denied switch must be outbid, the Auction Manager again will choose at random the bidder whose denied switch will be outbid. The probability that the Auction Manager chooses a bidder's denied switch is the bidder's number of denied switches that have not yet been outbid divided by the total number of denied switches that have not yet been outbid. The Auction Manager repeats this procedure until the required number of denied switches has been outbid.

Once some denied switches are outbid for a bidder, the Auction Manager reports this fact to the bidder, along with the number of tranches that have been outbid. A denied switch that is outbid becomes *free eligibility* for the bidder in the next round. A tranche of free eligibility can be bid on any one of the EDCs in the next round, or it can be withdrawn in the next round, as explained further below.

The Auction Manager reports privately to a bidder if a withdrawn tranche that had been retained is now being released and thereby irrevocably removed from the Auction. Withdrawn tranches that had been retained at the highest exit prices are the first to be

released and removed from the Auction. If withdrawn tranches from more than one bidder had been retained at the same exit price, and if not all retained tranches at that exit price are being released, the Auction Manager chooses at random the bidder or bidders whose tranches are released and thereby irrevocably removed from the Auction. Thus, for the first retained tranche that should be released, the probability that a particular bidder is chosen is the bidder's number of retained tranches at the tied exit price divided by the total number of retained tranches at that exit price. If a second retained tranche needs to be released, the Auction Manager again will choose at random the bidder whose retained tranche will be released, and the probability that a particular bidder is chosen is the bidder's number of retained tranches at the tied exit price that have not yet been released divided by the total number of retained tranches at the tied exit price that have not yet been released. The Auction Manager repeats this procedure until the required number of tranches has been released.

Two additional bidding rules come into play when a bidder has been denied a switch.

First, if a bidder holds tranches for an EDC from a switch that had been denied in a previous round, and if this bidder bids new tranches for this same EDC at the price for the current round, the bidder will be deemed to have bid any tranches from a previously denied switch at the current round price for that EDC. That is, tranches from the denied switch become tranches that are bid at the price for the current round. The Auction Manager, in filling the tranche target for the EDC, will take first tranches bid at the going price; in these tranches at the going price, the Auction Manager will include any denied switches that have become tranches bid at the current round price (because the bidder has bid new tranches for this same EDC at the current round price).

Second, if a bidder's denied switches are partially or totally outbid in a round and become free eligibility, and if the bidder withdraws one or more of these tranches of free eligibility in the very next round, then the bidder does not name an exit price for these tranches. No exit price is needed to withdraw a tranche of free eligibility because such tranches are not associated with any one EDC. The Auction Manager always accepts a withdrawal of tranches of free eligibility, and these tranches are always irrevocably removed from the Auction.

Example 13.

Bidder A's bids in rounds 6 and 7 are given below (Bidder A does not bid for any other EDCs):		
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>
Price Round 6 (¢/kWh)	14.566	15.005
Bidder A Bid (tranches)	4	0
Price Round 7 (¢/kWh)	14.031	14.345
Bidder A Bid (tranches)	0	4
In round 7, Bidder A requests to switch 4 tranches. The Auction Manager denies part of the switch. Bidder A, in the reporting phase of round 7, is informed that its bid consists of 2 tranches of JCP&L at 14.345¢/kWh and 2 denied switches of PSE&G at 14.566¢/kWh (the price at which the tranches of PSE&G were last freely bid).		
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>
Report to Bidder A	2 denied switches @ 14.566¢	2 @ 14.345¢
In round 8, Bidder A reduces its number of tranches bid on JCP&L by 1 and increases its number of tranches bid on PSE&G. At the round 8 prices, Bidder A bids 1 tranche of JCP&L and 1 tranche of PSE&G at the going price. The denied switches are kept on PSE&G and cannot be freely bid.		
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>
Price Round 8 (¢/kWh)	14.031	14.058
Bidder A Bid (tranches)	1	1
Denied Switches	2 denied switches @ 14.566¢	
Bidder A has bid a new tranche of PSE&G at the round 8 price while having switches denied on the same EDC at a higher price. Bidder A is then deemed to have bid all 3 PSE&G tranches at the round 8 price of 14.031¢/kWh, as shown below. All 3 tranches of PSE&G become tranches bid at the round 8 price.		
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>
Price Round 8 (¢/kWh)	14.031	14.058
Report to Bidder A	3 @ 14.031¢	1

IX.C.7. Reporting of Total Excess Supply

In addition to the next round prices, the Auction Manager provides all bidders that could still be winners with a range for total excess supply in the Auction. The actual total excess supply in the Auction lies within the reported range. The total excess supply in the Auction is the sum, over all EDCs for which the number of tranches bid exceeds the tranche target, of the excess supplies for the individual EDCs, plus all tranches of free eligibility.

The manner in which the total excess supply in the Auction is reported changes as the Auction progresses. In general, when total excess supply is high, the Auction Manager announces a range for the total excess supply that includes exactly 5 integers. The largest integer of each such range will be divisible by 5. When the total excess supply falls to 40 or fewer tranches, the Auction Manager announces a range for the total excess supply that includes at least 10 integers. The largest integer of each such range will be divisible by 5. When the total excess supply falls to 20 or fewer tranches, the Auction Manager will report to all bidders only that the total excess supply is between 0 and 20 tranches.

In summary, the ranges are expected to be the following:

Table IX-4. Possible Ranges of Total Excess Supply

Total excess supply falls to 20 tranches or fewer: a single range remains	0 – 20
Total excess supply is between 21 and 40 tranches: ranges count 10 integers	21 – 30
	31 – 40
Total excess supply is 41 tranches or more: ranges count 5 integers	41 – 45
	46 – 50
	51 – 55 (etc.)

The Auction Manager may revise these ranges before the start of the Auction. The Auction Manager will inform the registered bidders no later than 3 days after registration of any changes in the possible ranges of total excess supply.

When the actual total excess supply is zero, the Auction ends, as explained in section IX.C.11.

A bidder that has no remaining obligation loses its access to the Auction software and is no longer provided with the range of total excess supply and the next round prices. A bidder has no remaining obligation when the bidder has zero eligibility and has no retained withdrawals. A bidder that has no remaining obligation can no longer win at the Auction. Such a bidder loses its access to the Auction software and is no longer provided with the range of total excess supply and the next round prices no earlier than the round after the bidder has been first informed that it has no remaining obligation. The bidder

will lose its access as soon as practicable, but in no event later than eight rounds after it has no remaining obligation.

Round results that are reported to all bidders will also be reported to a list of representatives from the EDCs, the Board and the Board Consultant. The bidders, the EDCs, the Auction Manager, the Board and the Board Consultant hold any Auction results to which they have access to be confidential. Before being registered to participate in the Auction, the bidders will agree to keep all Auction results, as well as the list of qualified bidders, the list of registered bidders, and the total initial eligibility in the Auction confidential. The bidders will agree not to disclose any such confidential information about the Auction Process, except for any aspects of the Auction results that the Board releases as part of their decision of whether to approve the results, or that the Board explicitly authorizes can be released (see section IX.E). Bidders will also agree to destroy documents with Auction information provided by the Auction Manager within five days of the Board deciding whether to approve the Auction results.

IX.C.8. Calculation of Next Round Prices

An EDC's price in a round is calculated so that it ticks down more quickly the larger is the excess supply on the EDC. The excess supply on an EDC is measured against an estimate of the maximum possible excess supply for the EDC. This estimate takes into account the total excess supply in the Auction, the EDC load cap, the tranche target of each EDC, and the number of registered bidders. A decrease in price for an EDC that has a number of tranches bid greater than the tranche target is called the decrement; the decrement is a percentage of the previous going price. The decrements are calculated using formulas. The Auction Manager has the discretion to override the calculated decrement for any EDC in any round. The Auction Manager does not expect to use such discretion, but may do so. When the Auction Manager, in the reporting phase of a round, uses discretion to override the decrement formulas and determine the going prices for the next round, the Auction Manager notifies bidders of that fact during the reporting phase of that round.

The decrement formulas allow the decrements to be larger at the start of the Auction than in later rounds. At the start of the Auction, when the number of tranches bid on an EDC exceeds the tranche target, the decrement is between 0.5% and 5% of the previous round price. Decrement continue to be between 0.5% and 5% of the previous round price until the going prices for round 4 are calculated. After that time, in the first round in which the total excess supply in the Auction is 30 or fewer tranches, the decrements (for EDCs for which the number of tranches bid is greater than the tranche

target) will be between 0.25% and 2.5% of the previous going price, and will remain so until the end of the Auction.

The excess supply of an EDC is the number of tranches bid at the going price minus the EDC's tranche target, or it is zero, whichever is greater. Prices are rounded off to the nearest thousandth of a cent per kWh.

Provisional decrement formulas are provided in section IX.G.2. The formulas that will be used in the Auction, which depend on the EDC load caps and the number of registered bidders, will be released to all bidders no later than three days after bidder registration.

IX.C.9. Pauses in the Auction

Any one bidder can pause the Auction by requesting an *extension* or a *recess*. A bidder requests an extension during the bidding phase of a round; such a request extends the bidding phase of the round by 15 minutes for all bidders. A bidder requests a recess during the calculating or reporting phase of the round; such a request suspends the Auction for a period of no less than 20 minutes. A recess allows a bidder additional time to consider its bid.

The bidding phase of round 1 is automatically extended. The bidding phase of a round can be extended only once by 15 minutes. Each bidder is allowed two extensions during the Auction. A bidder with positive eligibility is automatically deemed to have requested an extension when – by the scheduled ending time of the bidding phase – the bidder has not submitted a bid and when the bidder has not already used the two allowable extensions. A bidder with positive eligibility that has already used the two allowable extensions and that does not submit a bid during a round will be assigned a default bid as explained in section IX.C.10. Extension requests from all bidders are granted but all extensions run concurrently. All bidders that have requested an extension during the bidding phase of a round will see their available number of extensions reduced. The bidding phase in a round will be extended only once by 15 minutes. The Auction Manager reports to all bidders at the end of the planned bidding phase that the bidding phase has been extended.

A recess must be requested during the calculating phase or during the reporting phase, before the scheduled last half of the reporting phase of a round starts, or before the last five minutes of the reporting phase of a round, whichever is earlier. (That is, if the reporting phase of a round is scheduled to be 8 minutes, then the recess must be requested before the last 5 minutes of the reporting phase; if the reporting phase of a round is

scheduled to be 14 minutes, then the recess must be requested before the last 7 minutes of the reporting phase.) As soon as is feasible after the time at which a recess can be requested has passed, the Auction Manager reports to all bidders that a recess has been called. The Auction Manager retains the discretion to set the length of a recess but the Auction Manager will not set the recess time to be less than 20 minutes.

Each bidder is allowed to request at most one recess during the Auction. A bidder cannot request a recess in the first ten rounds of the Auction. Starting in the eleventh round, a bidder may request a recess in a round only if the total excess supply in the Auction reported in the previous round was 40 or fewer tranches. All recess requests are granted, but all requested recesses run concurrently. All bidders making a request in a given calculating or reporting phase will be deemed to have used a recess request. All bidders that have requested a recess will see their available number of recesses reduced to zero and the recess will last a length of time determined by the Auction Manager for one recess and will be no less than 20 minutes.

Example 14.

The total number of tranches in the Auction is 57.

In round 5, total excess supply is reported to be in the 96-100 range. Bidders are not able to request a recess in round 5 since round 11 has not yet been reached.

In round 12, the total excess supply is reported to be in the 31-40 range for the first time. Bidders can request a recess in round 13, since the total excess supply reported in the previous round (round 12) was at 40 tranches or below, and round 11 had been reached.

The Auction Manager can call a time-out to the Auction at any time during a round. It is intended that a time-out suspend activity in the Auction for a period of no more than four hours; however, the Auction Manager retains the discretion to suspend activity for a longer period, if necessary. Whenever a time-out is called, the Auction Manager reports to all bidders how long the time-out is expected to last.

During any bidding phase, the Auction Manager may call a time-out and extend bidding in case of technical difficulties. Such a time-out would typically last fifteen minutes. The Auction Manager reports to all bidders as soon as practicable that the Auction Manager has extended the bidding phase.

During the calculating phase of round 1, the Auction Manager may call a time-out to the Auction to evaluate whether the Auction volume should be adjusted. The Auction Manager has the discretion to call additional time-outs during the Auction. Such

discretion could be used, for example, in case of an extraordinary event occurring during the Auction. The Auction Manager expects to exercise this discretion rarely.

IX.C.10. Failure to Submit a Bid

A bidder with positive eligibility must submit a bid in every round (even when the bidder's bid does not change or the bidder is bidding only on EDCs whose prices have not ticked down). As explained in section IX.C.9, if a bidder with positive eligibility does not submit a bid during the bidding phase of a round, the bidder is granted an extension whenever possible. If the bidder has previously used both extensions, or if the bidder does not submit a bid during the extension to the bidding phase, then the bidder has failed to submit a bid.

When a bidder with positive eligibility has failed to submit a bid in a round, the bidder is assigned a *default bid*. A default bid is the number of tranches on each EDC equal to the minimum number of tranches that the bidder could have bid on each EDC, as explained below. Any tranches of free eligibility that could have been bid in the round are deemed to be withdrawn and are irrevocably removed from the Auction. Any tranche that was bid on an EDC and that could be withdrawn is deemed to be withdrawn at the highest possible exit price for the round, which is equal to the going price in the previous round. A tranche that is withdrawn as a result of a default bid can be retained only if the number of tranches bid by other bidders at the going price, and the number of withdrawn tranches from bidders that have submitted a bid, together are not sufficient to fill the tranche target. In breaking any ties between tranches withdrawn at the same exit price, default bids will be disadvantaged compared to bids actually submitted by bidders. In general, in any circumstance where a tie must be broken, default bids will be disadvantaged compared to bids actually submitted by bidders, also as explained below.

As a consequence of a bidder being assigned a default bid, a bidder may lose the ability to submit bids for the remainder of the Auction. For example, if the prices of all the EDCs for which a bidder bid tranches tick down, then the default bid is zero on all EDCs. Indeed, the minimum number of tranches that can be bid on an EDC whose price has ticked down is zero. Any tranche that had previously been bid is withdrawn. After such a default bid, the bidder will be assigned zero eligibility in the next round, and the bidder will lose the ability to bid in the next and in all future rounds.

The default bid assigned to a bidder that has not submitted a bid during a round or during its extension, and the treatment of this default bid in any required tie-breaking procedure, are determined during the calculating phase of a round. The default bid for a

bidder in round 1 is 0 tranches on each and every EDC. The default bid for a bidder in round 2 and all subsequent rounds is described in detail as follows.

If the bidder has some tranches of free eligibility in the current round, these tranches are deemed to be withdrawn and are irrevocably removed from the Auction.

If, in the previous round, a bidder did not bid any tranches on an EDC at the going price and in the reporting phase of that round the Auction Manager reported that the bidder did not have any retained withdrawals or denied switches for that EDC, then the bidder is assigned zero tranches for that EDC.

If, as of the reporting phase in the previous round, a bidder had tranches on a particular EDC at the going price for the previous round and if the EDC's price ticked down from the previous round to the current round, then the bidder is deemed to have withdrawn all tranches at the highest exit price, namely the price from the previous round. The bidder loses the eligibility associated with these tranches. Tranches with a lower exit price named by bidders that have submitted a bid in the current round are retained first. If needed, tranches with the same exit price named by bidders that have submitted a bid in the current round are retained next. If all the withdrawn tranches by the bidder and by other bidders that were assigned a default bid are needed to fill the tranche target, these tranches are retained. If some but not all of the tranches submitted by the bidder and other bidders that were assigned a default bid are needed, tranches are chosen at random to fill the tranche target, in a procedure analogous to that used for bidders that submitted a bid, as described in section IX.C.4.

If, as of the reporting phase in the previous round, a bidder had some tranches on a particular EDC at the going price for the previous round, and/or retained withdrawals, and/or denied switches; if the EDC's price did not tick down from the previous round to the current round; and if there is excess supply for the EDC in the current round, so that the price will tick down from the current round to the next round, then:

- all withdrawals that were previously retained are released and the bidder has no remaining obligation from those tranches;
- all switches that had previously been denied are outbid and the bidder is assigned free eligibility for those tranches in the next round; and
- all tranches bid in the previous round at the going price are bid in the current round on the EDC at the going price. The bidder has eligibility associated with these tranches in the next round. If the bidder is assigned a default bid in

the next round these tranches will be withdrawn and assigned the highest possible exit price.

If, as of the reporting phase in the previous round, a bidder had some tranches on a particular EDC bid at the going price, and/or retained withdrawals, and/or denied switches; if the EDC's price did not tick down from the previous round to the current round; and if there is no excess supply on the EDC in the current round so that the price will not tick down in the next round; then:

- any tranches bid at the going price in the previous round are deemed to be bid in the current round at the current going price;
- if any new tranches were bid by other bidders on the EDC at the going price in the current round, the denied switches (if any) of bidders that have been assigned default bids are outbid first, before the denied switches of bidders that have submitted a bid in the current round. If more than one bidder has been assigned a default bid, and if some but not all denied switches from such bidders are outbid, then for each denied switch that must be outbid, the Auction Manager chooses at random among the default bidders the bidder whose switch is outbid, in a procedure analogous to that used for bidders that submitted a bid, as described in section IX.C.6; and
- if any new tranches were bid by other bidders on the EDC at the going price in the current round, and if all denied switches from default bidders and from bidders that submitted a bid are outbid, retained withdrawals are released, starting with the highest named exit price. For a given exit price, tranches from bidders that have been assigned default bids (if any) are released first, before the retained withdrawals of bidders that have submitted a bid in the current round. If more than one bidder has been assigned a default bid, and if some but not all of the retained withdrawals from such bidders must be released at a given exit price, then for each retained withdrawal that must be released, the Auction Manager chooses at random among the default bidders the bidder whose withdrawn tranche is released, in a procedure analogous to that used for bidders that submitted a bid, as described in section IX.C.6.

The bidder can lose its ability to bid in all future rounds by failing to bid during the bidding phase of a round or during its extension. It is the responsibility of the bidder to ensure that bids are submitted on time.

Example 15.

Bidders A's bid in round 5 is given below:				
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>	<i>ACE</i>	<i>RECO</i>
Price Round 5 (¢/kWh)	14.890	15.445	14.950	15.664
Bidder A Bid (tranches)	0	4	2	0
Bidders A's bid in round 6 is given below:				
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>	<i>ACE</i>	<i>RECO</i>
Price Round 6 (¢/kWh)	14.816	15.252	14.688	15.246
Bidder A Bid (tranches)	2	4	0	0
This bid represents a switch, whereby Bidder A has increased the number of tranches on PSE&G while decreasing the number of tranches on ACE.				
The Auction Manager reports the following:				
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>	<i>ACE</i>	<i>RECO</i>
Price Round 7 (¢/kWh)	14.816	15.075	14.688	14.895
Report to Bidder A (tranches)	0	4	2 denied switches @ 14.950¢	0
In round 7, the minimum number of tranches that Bidder A can bid on PSE&G and RECO is zero, because Bidder A did not bid any tranches on these EDCs in round 6. The minimum number of tranches that Bidder A can bid on JCP&L is zero, since the price for JCP&L has ticked down from 15.252¢/kWh to 15.075¢/kWh. The minimum number of tranches that Bidder A can bid on ACE is 2, since the price for ACE has not ticked down and Bidder A has two denied switches on ACE.				
In round 7, Bidder A fails to submit a bid in the bidding phase of the round. Bidder A is granted an extension but does not submit a bid during the extension. Bidder A will be assigned the following bid, which is its default bid. Bidder A is the only bidder that is assigned a default bid.				
<i>EDC</i>	<i>PSE&G</i>	<i>JCP&L</i>	<i>ACE</i>	<i>RECO</i>
Price Round 7 (¢/kWh)	14.816	15.075	14.688	14.895
Default Bid for Bidder A (tranches)	0	0	2 denied switches @ 14.950¢	0
None of Bidder A's withdrawn tranches are retained; tranches from other bidders that actually submitted bids are sufficient to fill the tranche target for JCP&L. Three new tranches are bid on ACE by other bidders. Both of Bidder A's tranches become outbid denied switches. Bidder A's eligibility in round 8 is 2. Should Bidder A again fail to bid in round 8, this free eligibility will be lost. Bidder A would be assigned eligibility of zero in round 9 and would lose the ability to bid for the remainder of the Auction.				

IX.C.11. End of Auction

The Auction ends for all EDCs at the same time. The Auction ends in the reporting phase before the first round in which no bidder could change its bid from the previous round. For the Auction to end, the total excess supply in the Auction must be equal to zero and it must be that no price can tick down. At the end of the Auction, tranches are allocated to the winners and all winners for an EDC's tranches, should the Board authorize them as suppliers, will receive the same price for that EDC. The price given to the winners is determined as follows.

If, to fill the tranche target for an EDC in the final round, only tranches bid at the price from the final round are used, the winners are those that submitted bids at the price from the final round. The final price given to all winners is the price from the final round.

If, to fill the tranche target for an EDC in the last round, withdrawn tranches must be retained, then the winners are the bidders that submitted bids at the price from the last round and the bidders that submitted the lowest of the exit prices. If, to fill the last tranches of the tranche target of an EDC in the last round, the Auction Manager must use some but not all the tranches from two or more bidders tied at the same exit price, then the Auction Manager, for each tranche, will choose at random the bidder whose tranche is retained. For the first tranche needed at the tied exit price, the probability that a bidder is chosen is the number of tranches that the bidder has bid at the exit price divided by the total number of tranches bid at the tied exit price. If a second tranche is needed at the exit price, the Auction Manager again will choose at random the bidder whose tranche will be retained. The probability that any one bidder is chosen is the number of tranches that the bidder has bid at the exit price and that have not yet been retained divided by the total number of tranches bid at the exit price and that have not yet been retained. The Auction Manager repeats this procedure until the tranche target for the EDC is filled. The final price given to all winners is the last accepted price.

If, to fill the tranche target for an EDC in the last round the Auction Manager must disallow reductions from both withdrawals and switches, then the winners are the bidders that submitted bids at the last round price, the bidders that withdrew their tranches, and the bidders with reductions for that EDC from switches that were denied. The final price received by all winners is the price at which the denied switches were last freely bid.

Example 16.

The tranche target for PSE&G is 29.

In round 74, 30 tranches for PSE&G are bid at a price of 11.500¢/kWh. In round 75, 25 tranches for PSE&G are bid at a price of 11.471¢/kWh.

Bidder A bids 8 tranches for PSE&G in round 74 and 5 tranches in round 75. Bidder A enters an exit price equal to the last round going price of 11.500¢/kWh for the 3 tranches it is withdrawing.

Bidder B bids 5 tranches for PSE&G in round 74 and 3 tranches in round 75. Bidder B enters an exit price of 11.493¢/kWh for the 2 tranches it is withdrawing.

No other bidder changes its number of tranches bid on PSE&G. All other bidders collectively bid 17 tranches for PSE&G in both rounds 74 and 75. The total excess supply in round 75 is zero and the Auction ends in round 75. Twenty-five tranches for PSE&G are allocated to the bidders that bid at the going price of 11.471¢/kWh. Two additional tranches are allocated to Bidder B since it submitted a lower exit price. Finally, Bidder A wins 2 additional tranches so that the tranche target is filled. All winning bidders will receive a price of 11.500¢/kWh, which is the lowest price at which the tranche target is filled.

IX.D. Post Auction

The Board will decide whether or not to approve the results of this Auction (the BGS-FP Auction) by the end of the second business day following the calendar day on which the BGS-FP or BGS-CIEP Auction closes, whichever comes later.

If the Board approves the Auction results and authorizes the winners to become BGS-FP suppliers, the Auction Manager will notify each winner of the tranches it has won and the final prices. The Auction Manager will notify each EDC of the following for its territory: the identity of the winners, the number of tranches won, and the final price.

Each winner and each EDC will have three days from the time at which the Board approves the Auction results to execute the BGS-FP Supplier Master Agreement. Each winner will have these three days to demonstrate compliance with the creditworthiness requirements set forth in the BGS-FP Supplier Master Agreement and to submit the executed BGS-FP Supplier Master Agreement to the Board for information. A winner's financial guarantee posted before the Auction may be forfeited if the winner does not execute the Agreement within three days, if the winner fails to demonstrate compliance

with the creditworthiness requirements set forth in the BGS-FP Supplier Master Agreement, or if the winner fails to agree to any of the terms of the Agreement. Effective with the exercise by an EDC of its right to collect on the financial guarantees, any contractual rights or other entitlements of the winners shall immediately terminate without further notice by the EDC. In addition, winners shall be liable for damages incurred by the EDCs, which damages shall be determined in accordance with the terms of the BGS-FP Supplier Master Agreement as if the winner were a defaulting party to that Agreement.

Each winner will have to pay a fee per tranche won. This fee will be set to recover all the costs associated with the Auction Process. The Auction Manager will announce the fee per winning tranche no later than 6 days before the Auction. The fee will be netted against the first payment made to the winner during the supply period.

IX.E. Association and Confidential Information Rules

IX.E.1. Process for Reporting Associations, Identifying Concerns and Remedies

Interested parties applying to qualify to bid in the Auction will be required to indicate in their Part 1 Applications whether they are part of a bidding agreement, a joint venture for purposes of participating in the Auction, a bidding consortium, or other arrangements pertaining to bidding in the Auction. Interested parties will also be required to certify in their Part 1 Application that, should they qualify to participate in the Auction, they will not disclose information regarding the list of qualified bidders. In addition to certifications regarding bidding agreements and confidential information, each interested party makes a number of other certifications signifying its agreement with the terms of the BGS-FP Auction Rules, the terms of the BGS-FP Supplier Master Agreement, as well as signifying its agreement that it will not assign its rights or substitute another entity in its place. These additional certifications are discussed in section IX.B.2.

Once parties are qualified to bid in the Auction, each qualified bidder will be asked in its Part 2 Application to make a number of certifications, each detailed below, and each qualified bidder may be asked to provide additional information to the Auction Manager if these certifications cannot be made. In particular, each qualified bidder will be informed of the list of qualified bidders and will be asked to certify that it is not associated with any other qualified bidder. If a qualified bidder cannot make such a

certification, it will be asked to identify associations it may have with other qualified bidders. The criteria that determine whether two bidders are associated with one another are given below. If two qualified bidders are associated with one another, the Auction Manager will determine whether the two qualified bidders can both participate in the Auction, as well as the terms and conditions of such participation. The Auction Manager may require qualified bidders that are associated with one another to bid as one entity or to reorganize so as to no longer be associated with one another.

Qualified bidders will be asked to certify that they will undertake to appropriately restrict their disclosure of confidential information relative to their bidding strategy and confidential information regarding the Auction Process (both of which are defined in section IX.E.3). Qualified bidders will also be asked to certify that they have not come and will not come to any agreement with another qualified bidder with respect to bidding at the Auction, except as disclosed and approved by the Auction Manager in their Part 1 Application. In addition to certifications regarding associations and confidential information, each qualified bidder makes a number of other certifications signifying its agreement that a bid is a binding offer to provide service under the terms of the BGS-FP Supplier Master Agreement, as well as signifying its agreement that it will not assign its rights or substitute another entity in its place. These additional certifications are discussed in section IX.B.2.

Before obtaining final documentation necessary to participate in the Auction, registered bidders will be required to certify that they will continue to maintain the confidentiality of any information that they will have acquired through their participation in the Auction Process.

IX.E.2. Association Criteria

1. Preliminary Definitions

- a. A party ***controls*** an entity directly if the party holds a majority of shares, majority voting power, a majority of common directors, can appoint a majority of directors, or if the party in fact controls the entity's affairs through some other means. A party controls an entity indirectly if the party controls another entity that controls the entity in question (or through a longer line of control; e.g., if the party controls another entity that controls an entity that controls the entity in question, etc.).
- b. A party ***participates*** directly in another entity Z if the party holds any class of listed shares, if it holds the right to acquire such shares, if it holds any option to purchase shares or if it has voting power. The participation is indirect if the party participates in another entity that participates in Z (with potentially a longer line of "indirect participation"). When the participation is indirect, the percentage of participation of the party in the entity is obtained by multiplying the percentages of participation at each level.
- c. A party ***is concerned with*** the bid of a bidder if the party has confidential information relative to the bidders' bidding strategy (see definition in the next section), has agreed to provide assistance with financing or has agreed to provide assistance in another way.

2. Bidder A and Bidder B are associated with each other if Bidder A

- a. Controls bidder B, directly or indirectly; or
- b. Has at least a 10% participation in Bidder B and is concerned with Bidder B's bid; or
- c. Controls an entity that has at least a 10% participation, direct or indirect, in Bidder B and that is concerned with Bidder B's bid; or
- d. Is controlled by an entity that controls Bidder B directly or indirectly; or
- e. Is controlled by an entity that has at least a 10% participation, direct or indirect, in Bidder B and that is concerned with Bidder B's bid.

3. Bidder A and Bidder B are associated if there is a party which
 - a. Controls Bidder A, directly or indirectly; or
 - b. Has at least a 10% participation in Bidder A, directly or indirectly, and is concerned with Bidder A's bid; or
 - c. Controls an entity that has at least a 10% participation in Bidder A, direct or indirect, and is concerned with Bidder A's bid; or
 - d. Has confidential information about Bidder A's bid and is controlled by Bidder A; or
 - e. Has confidential information about Bidder A's bid and is controlled by an entity or person that controls Bidder A directly or indirectly; or
 - f. Has confidential information about Bidder A's bid and is controlled, directly or indirectly, by an entity that has at least a 10% participation in Bidder A and is concerned with Bidder A's bid;

and if this same party has one of relationships a. to f. with Bidder B.

4. Bidder A and Bidder B are associated if there is a party that has at least a 20% participation, directly or indirectly, in both bidders.
5. Bidder A and Bidder B are associated if there is a party that has at least a 20% participation, directly or indirectly, in Bidder A and that:
 - a. Has at least 10% participation in Bidder B, directly or indirectly, and is concerned with Bidder B's bid; or
 - b. Is controlled by Bidder B; or
 - c. Controls a person or entity that controls Bidder B; or
 - d. Controls a person or entity that: has at least 10% participation in Bidder B, directly or indirectly, and is concerned with Bidder B's bid; or
 - e. Is controlled by a person or entity that controls Bidder B directly or indirectly; or

- f. Is controlled by a person or entity that has at least 10% participation in Bidder B, directly or indirectly, and is concerned with Bidder B's bid; or
- g. Is controlled by a person or entity who controls a person has at least 10% participation in Bidder B, directly or indirectly, and is concerned with Bidder B's bid.

IX.E.3. Definitions of Confidential Information

Confidential information relative to the bidding strategy means information relating to a bidder's bid, whether in writing or verbally, which if it were to be made public would be likely to have an effect on any of the bids that another bidder would be willing to submit at the Auction. Confidential information relative to the bidding strategy includes (but is not limited to) a bidder's Auction strategy; a bidder's indicative offer; the bidder's preference to bid for one EDC's system rather than another; the quantities that a bidder wishes to serve of one or more EDCs' systems; the bidder's estimation of the value of a tranche of the various EDCs' systems; the bidder's estimation of the risks associated with serving BGS-FP Load or of serving a particular EDC; and a bidder's contractual arrangements for power with a party to serve the BGS-FP Load were the bidder to be a winner at the Auction.

Confidential information regarding the Auction Process means information that is not released publicly by the Board or the Auction Manager and that a bidder acquires as a result of participating in the Auction Process, whether in writing or verbally, which if it were to be made public could impair the integrity of current or future Auctions, impair the ability of the EDCs to hold future Auctions, harm consumers, or injure bidders or applicants. Confidential information regarding the Auction Process includes (but is not limited to) the list of qualified bidders, the list of registered bidders, the initial eligibility in the Auction, the status of a bidder's participation in the Auction, and all reports of results and announcements made by the Auction Manager to all or any one bidder during the Auction.

IX.E.4. Certifications and Disclosures to Be Made

An interested party will be required in its Part 1 Application to disclose any bidding agreement or arrangement in which the interested party may have entered. In addition, the following certification will be required and will apply from the time that the Part 1 Application has been submitted.

1. An applicant must certify that if it qualifies to participate in the Auction, the applicant will not disclose at any time information regarding the list of qualified bidders, including the number of qualified bidders, the identity of any one or all entities that have been qualified, or the fact that an entity has not been qualified for participation in the Auction. The applicant must certify that it will destroy any document distributed by the Auction Manager that lists the qualified bidders within five days of the Board deciding whether to approve the Auction results.

The following certifications will be required of each qualified bidder in its Part 2 Application and will apply from the time of qualification until the Board certification of the Auction results. Each qualified bidder must consult the list of all qualified bidders and attest to the following:

2. A qualified bidder must certify that it is not associated with another qualified bidder according to the criteria given above.

A qualified bidder unable to make certification 2 must identify the qualified bidders with which it is associated and the nature of the association.

3. A qualified bidder must certify that, other than qualified bidders that were explicitly named in its Part 1 Application as parties with whom the bidder has entered into a bidding agreement, joint venture for the purpose of bidding in the Auction, bidding consortium, or other arrangement pertaining to bidding in the Auction, the bidder has not entered into any agreement with another qualified bidder, directly or indirectly, regarding bids at the Auction, including, but not limited to, the amount to bid at certain prices, the system on which bids are placed, when or at what prices bids are withdrawn or switched, or the amount of exit prices.

An *Advisor* is an entity or person(s) that will be advising or assisting the qualified bidder with bidding strategy in the BGS-FP Auction, with estimation of the value of a system's tranches, or with the estimation of the risks associated with serving BGS-FP load.

4. A qualified bidder must certify to one of the following: (i) the qualified bidder has not retained an Advisor; or (ii) the qualified bidder has retained an Advisor, the Advisor will not provide any similar advice or assistance to any other qualified bidder, and the Advisor will not be privy to confidential information relative to another qualified bidder's bidding strategy; or (iii) the qualified bidder has retained an Advisor who will provide similar advice or assistance to another qualified bidder, or who will be privy to confidential information relative to any

other qualified bidder's bidding strategy, but appropriate protections have been put into place to ensure that the Advisor does not serve as a conduit of information between, or as a coordinator of the bidding strategies of, multiple bidders.

A qualified bidder unable to make certification 4 must name the Advisor and the other bidder(s) concerned.

5. A qualified bidder must certify that the qualified bidder is not a party to any contract for the purchase of power that might be used as source of supply for BGS-FP, and that (i) would require the disclosure of any confidential information (confidential information relative to the bidding strategy or confidential information regarding the Auction Process) to the counterparty under such a contract; or (ii) that would require the disclosure of any confidential information (confidential information relative to the bidding strategy or confidential information regarding the Auction Process) to any other party; or (iii) that would provide instructions, direct financial incentives, or other inducements for the bidder to act in a way determined by the counterparty in the agreement and/or in concert with any other bidder in the Auction. Notwithstanding the above, a qualified bidder may, during negotiations prior to the Auction for contractual arrangements for power to serve BGS-FP Load were the bidder to be a winner at the Auction, discuss with the counterparty to such arrangements the nature of the products to be purchased, the volume, and the price at which it is willing to buy these products.

A qualified bidder unable to make certification 5 must disclose the contractual terms that prevent the qualified bidder from making the certification.

6. A qualified bidder must certify that it does not have any knowledge of confidential information relative to the bidding strategy of any other qualified bidder.

A qualified bidder unable to make certification 6 will be asked to name the other qualified bidder and the nature of the confidential information.

7. A qualified bidder must certify that it will not disclose confidential information relative to its own bidding strategy except to bidders that were explicitly named in its Part 1 Application as parties with whom the bidder has entered into a bidding agreement, joint venture for the purpose of bidding in the Auction, bidding consortium, or other arrangement pertaining to bidding in the Auction, bidders

with which it is associated as disclosed through certification 2, to its Advisor, and to its financial institution.

A qualified bidder unable to make certification 7 will be asked to state all reasons.

8. A qualified bidder must certify that, other than entities affiliated with the bidder, and other than bidders with which the bidder has entered a bidding agreement, joint venture for purposes of the Auction, bidding consortium, or other arrangement pertaining to the Auction, no party has agreed to defray any of its costs of participating in the Auction, including the cost of preparing the bid, the cost of any financial guarantees, the cost to be paid upon winning a tranche, or any other participation cost.

A qualified bidder unable to make certification 8 must identify the party that has agreed to defray some or all of the qualified bidder's cost of participating in the Auction, and the nature of the participation costs that the party has agreed to defray.

Furthermore, in its Part 2 Application a qualified bidder will have to certify that it will not disclose any confidential information regarding the Auction Process that it has acquired or will acquire through its participation. These certifications will apply from the time of submission of the Part 2 Application.

9. A qualified bidder must certify that if it is registered to participate in the Auction, the qualified bidder will not disclose at any time information regarding the initial eligibility in the Auction or the list of registered bidders, including the number of registered bidders, the identity of any one or all entities that have been registered, or the fact that an entity has not been registered for participation in the Auction.
10. A qualified bidder must certify that it will not disclose any confidential information regarding the Auction Process to any party except to its Advisor and bidders with which it is associated.

A qualified bidder unable to make certification 9 or certification 10 will be asked to state all reasons.

Following a successful Part 2 Application, the registered bidder will be required to certify that it will continue to abide by its prior commitment to maintain the confidentiality of information regarding the Auction Process. The registered bidder will be required to do so before obtaining manuals and procedures essential to submit bids in the Auction. The registered bidder also certifies that it will destroy all documents provided by the Auction Manager that contain confidential information within five days

of the Board deciding whether to approve the Auction results. Such certification will apply from the time at which it is made, no later than five days before the start of the Auction.

11. A registered bidder certifies that it continues to abide by its prior confidentiality certifications. The registered bidder will not disclose any confidential information regarding the Auction Process to any party except to its Advisor and bidders with which it is associated. Further, the registered bidder certifies that it will destroy all documents written or electronic provided by the Auction Manager that contain confidential information regarding the Auction Process within five days of the Board deciding whether to approve the Auction results.

Once the Auction has been concluded, if the Board approves the Auction results, the Board may choose to release information regarding final BGS-FP prices and the names of the winners. At that point, a winner may itself release information only regarding the number of tranches it has won and the territories the winner will be serving, and a losing bidder may itself release information only regarding the fact that it participated in the Auction. The winners and losing bidders otherwise continue to be bound by their certifications as described previously.

IX.E.5. Actions to Be Taken If Certifications Cannot Be Made

If a party cannot make all above certifications, the Auction Manager will decide within five days on a course of action on a case-by-case basis. To decide on this course of action, the Auction Manager may make additional inquiries to understand the reason for the inability of the bidder to make the certification.

In general, qualified bidders that are associated with one another, or that have entered into agreements regarding bidding at the Auction, are considered as one bidder for the purposes of application of the load caps and for the administration of the Auction. Bidders can be allowed to bid independently or can be asked to end their association or agreement as a condition of participation, as circumstances warrant. If qualified bidders are asked to end their associations they will be given five days to do so.

If qualified bidders do not comply with additional information requests by the Auction Manager regarding certifications required in the Part 2 Application, or do not comply with a request from the Auction Manager to end their associations, this may be sufficient grounds for the Auction Manager to reject the application.

Sanctions can be imposed on a qualified bidder for failing to disclose information relevant to determining associations, for coordinating with another bidder without disclosing this fact, for releasing confidential information except as provided in 3, 5, and 7 of section IX.E.4, or for disclosing information during the Auction to a person other than those specified in 10 of section IX.E.4. Such sanctions can include, but are not limited to, loss of all rights to serve any BGS-FP Load won in the Auction by such bidder, forfeiture of bid bonds and other fees posted or paid, liquidated damages of \$100,000, action under state or federal laws, attorneys' fees and court costs incurred in any litigation that arises out of the bidder's improper disclosure, debarment from participation in future BGS Auctions, prosecution under applicable state and federal laws, or other sanctions that the Board may consider appropriate. The Auction Manager will make a recommendation to the Board on a possible sanction and the Board will make the final determination.

IX.F. Glossary of Auction Terms

IX.F.1. Associated With

A bidder is associated with another if the two bidders have ties that could allow them to act in concert or that prevent them from competing actively against each other in the Auction. Specific criteria for associations are provided in section IX.E.2.

IX.F.2. Auction Volume

The Auction volume is a number of tranches that the EDCs taken together will purchase through the Auction (representing one-third of BGS-FP Load). The Auction Manager, in accordance with confidential guidelines approved by the Board, may cut back the Auction volume.

IX.F.3. BGS

Basic Generation Service is the electric supply for those retail customers who are not served by a third party supplier.

IX.F.4. BGS Load

The BGS Load is the full electricity requirement (i.e., including energy, capacity, ancillary services, transmission, etc.) of retail customers who have not chosen a third party supplier, as measured and reported to PJM. It is the EDC aggregate zonal requirements less the wholesale requirements less the third party supplier requirements.

IX.F.5. BGS-CIEP Load

An EDC's BGS-CIEP Load includes the sum of the hourly load of all BGS-CIEP customers, adjusted for losses.

IX.F.6. BGS-FP Load

The BGS-FP Load is the BGS Load excluding the BGS-CIEP Load.

IX.F.7. BGS-FP Peak Load Share

BGS-FP Peak Load Share is the portion of PJM-determined EDC zonal peak load on one proxy day attributable to customers in FP rate classes that are taking BGS on that proxy day. The BGS-FP Peak Load Share is a single value measured in MW.

IX.F.8. Bid

A bid consists of four numbers: a number of PSE&G tranches, a number of JCP&L tranches, a number of ACE tranches, and a number of RECO tranches. A bid represents the number of tranches that a bidder wishes to serve for each EDC at the going prices in force at that point in the Auction. In all rounds except the first, to fully specify a bid, a bidder may be asked for information in addition to the number of tranches that it wishes to bid for each EDC, such as switching priorities and exit prices. A bid is valid when it is submitted and verified in the bidding phase, and processed by the Auction software.

IX.F.9. Bidding Phase

The bidding phase is the first phase of a round, during which bidders place bids. A bidder that submits a bid in a round may revise or change this bid as long as the bidding phase of the round is still open.

IX.F.10. Calculating Phase

The calculating phase is the second phase of the round, during which the Auction Manager tabulates the results of that round's bidding phase and calculates the prices for the next round.

IX.F.11. CIEP Load

CIEP Load for an EDC is defined as the sum of the hourly load of all BGS-CIEP customers, as well as the hourly load of retail customers served by a third party supplier who, were they to take BGS, would do so under a CIEP tariff, adjusted for losses.

IX.F.12. Contingency Plan

If the number of tranches procured through the Auction is less than the Auction volume set at the start of the Auction, each EDC whose tranche target is not filled at the end of the Auction will implement a Contingency Plan for the remaining tranches. Under

their Contingency Plans, the EDCs will purchase necessary services including installed capacity, energy, and ancillary services, through PJM-administered markets.

IX.F.13. Decrement

If the number of tranches bid exceeds the number of tranches needed for an EDC, the price for the EDC falls by a decrement in the next round. The decrement varies in each round based on the excess supply on an EDC measured against a measure of maximum possible excess supply.

IX.F.14. Denied Switches

The Auction Manager denies reductions in the number of tranches bid for an EDC from switches when the tranches bid at the going price and the withdrawn tranches that can be retained are not sufficient to fill that EDC's tranche target. Denied switches are retained at the last price at which they were freely bid.

IX.F.15. EDC Load Cap

An EDC load cap is a maximum number of tranches that a bidder can bid and win for that EDC. For each EDC, the bidder's combined number of tranches bid at the going price, retained withdrawals, and denied switches cannot exceed the EDC load cap in any given round.

IX.F.16. EDC-Specific Summer Factor

The factor by which an EDC's Auction price is multiplied to determine the price that each BGS-FP supplier for that EDC receives for every kWh of load it serves in each summer month of the supply period. The summer months are from June 1 through September 30.

IX.F.17. EDC-Specific Winter Factor

The factor by which an EDC's Auction price is multiplied to determine the price that each BGS-FP supplier for an EDC receives for every kWh of load it serves in each winter month of the supply period. The winter months are from October 1 through May 31.

IX.F.18. Eligibility and Initial Eligibility

Initial eligibility is equal to the number of tranches that a bidder has financially guaranteed with a letter of credit (or bid bond) with its Part 2 Application. Initial eligibility can never exceed the statewide load cap.

A bidder's initial eligibility is the bidder's eligibility in round 1. A bidder's eligibility in round 2 is the total number of tranches bid for all EDCs at the going prices in round 1. For any subsequent round, a bidder's eligibility in a round is the bidder's eligibility at the start of the previous round minus the number of tranches that the bidder withdrew in the bidding phase of the previous round (whether or not the Auction Manager retains these withdrawn tranches).

IX.F.19. Eligibility Ratio

An eligibility ratio is obtained by dividing the total eligibility in the Auction by the number of tranches available in the Auction.

IX.F.20. End of Auction

The Auction ends in the reporting phase of the first round in which the total excess supply is zero.

IX.F.21. Excess Supply

The excess supply on an EDC is the number of tranches bid at the going price for the EDC minus the EDC's tranche target, or it is zero, whichever is greater.

IX.F.22. Exit Price

If a bidder is reducing eligibility in a round, in general the bidder names an exit price. The bidder names an exit price for the tranches of an EDC that the bidder is no longer willing to serve at the price for the current round. An exit price must be a price higher than the going price in the current round and less than or equal to the previous going price for the EDC. No exit price is named when withdrawing tranches of free eligibility.

IX.F.23. Extension

An extension extends the bidding phase of a round by 15 minutes. Each bidder is allowed two extensions during the Auction. A bidder is automatically deemed to have requested an extension whenever no bid has been received from the bidder by the end of the scheduled bidding phase of a round and the bidder has not used the two allowable extensions. The bidding phase in round 1 is automatically extended for the convenience of bidders.

IX.F.24. Financial Guarantee

Each qualified bidder must post a financial guarantee, in the form of a letter of credit (or bid bond), proportional to its indicative offer at the maximum starting price. Some bidders may be required to post additional pre-Auction security depending on a creditworthiness assessment.

IX.F.25. FP Load

FP Load is the retail load excluding the CIEP Load.

IX.F.26. FP Peak Load Share

FP Peak Load Share is the portion attributable to those customers on FP service of PJM-determined EDC zonal peak load on one proxy day. The FP Peak Load Share is a single value measured in MW that consists of the BGS-FP Peak Load Share and the peak load attributable to customers who are served by third party suppliers on the proxy day and who are in FP rate classes.

IX.F.27. Free Eligibility

A denied switch that is replaced in filling the tranche target by a new tranche at the going price is said to be outbid. An outbid denied switch becomes a tranche of free eligibility. The bidder can assign a tranche of free eligibility to any EDC(s) and, if the bidder wishes to withdraw such a tranche, no exit price will be named and this tranche will not be retained.

IX.F.28. Full-Requirements Service

Full-requirements service means that the supplier is responsible for fulfilling all the requirements of a PJM LSE including capacity, energy, ancillary services, transmission, and any other service as may be required by PJM.

IX.F.29. Going Price

The going price for an EDC in a round is the price at which the Auction Manager is soliciting bids in that round. A bidder that submits a bid in a round declares itself ready to supply the number of tranches bid for each EDC at the going price for the EDC.

IX.F.30. Indicative Offer

An indicative offer specifies two numbers of tranches. The first number represents the amount that the qualified bidder is willing to serve at the maximum starting price on a statewide basis (i.e., for all EDCs combined). The second number represents the amount that the qualified bidder is willing to supply at the minimum starting price on a statewide basis. At each of the maximum and the minimum starting prices, the number of tranches indicated by the qualified bidder cannot exceed the statewide load cap. Indicative offers are provided with the Part 2 Application.

IX.F.31. Initial Eligibility

See Eligibility and Initial Eligibility.

IX.F.32. Minimum and Maximum Starting Prices

The minimum and maximum starting prices establish the range of possible starting prices for the Auction: each EDC will choose a starting price for round 1 of the Auction that is between the minimum and the maximum starting prices. The EDCs will agree on the statewide minimum and maximum starting prices.

IX.F.33. MW-Measure

The approximate measure in MW of a single tranche for an EDC, given the FP Peak Load Share for the EDC and the percentage of load represented by the tranche.

IX.F.34. Outbid (Denied Switches)

A denied switch that is replaced in filling the tranche target by a new tranche at the going price is said to be outbid.

IX.F.35. Oversupply Ratio

The oversupply ratio is the ratio of the excess supply on an EDC to a measure of the maximum possible excess supply on that EDC. The measure of the maximum possible excess supply on an EDC takes into account the total excess supply in the Auction, the EDC load cap, and the number of registered bidders.

IX.F.36. Part 1 Application

In their Part 1 Applications, interested parties will be asked to submit financial information so that the EDCs can assess their creditworthiness. In addition, interested parties will be asked to comply with other qualification criteria, including agreeing to comply with the BGS-FP Auction Rules and agreeing to the terms of the BGS-FP Supplier Master Agreement. Each interested party will also be asked to agree that if the interested party is successful in its Part 1 Application it will keep confidential the list of other successful applicants and it will not assign its rights or substitute another entity in its place.

IX.F.37. Part 1 Application Date

Date at which Part 1 Applications are due. This date will be set no earlier than 10 days after the maximum and minimum starting prices have been announced.

IX.F.38. Part 2 Application

In the Part 2 Application, qualified bidders will make a number of certifications to ensure compliance with the association and confidential information portion of these rules. Each qualified bidder is also asked to agree to keep confidential the list of other successful applicants; to agree that the submission of any bid creates a binding and irrevocable offer to provide service under the terms of the BGS-FP Supplier Master Agreement; and not to assign its rights or substitute another entity in its place.

IX.F.39. Part 2 Application Date

Date at which Part 2 Applications are due. This date will be set no later than 10 days before the start of the Auction.

IX.F.40. Product in the Auction

A product in the (BGS-FP) Auction is the BGS-FP Load for an EDC for a three-year supply period.

IX.F.41. Qualified Bidder

An interested party that has submitted a Part 1 Application and that has satisfied all conditions of the Part 1 Application becomes a qualified bidder. Interested parties will be notified that they have qualified no later than three days after the Part 1 Application Date.

IX.F.42. Recess

A recess is a suspension of the Auction for a period of no less than twenty minutes, giving bidders more time to consider their bids. A bidder may request a recess in the calculating phase or the reporting phase of a round. Each bidder is allowed one recess during the Auction. A bidder cannot request a recess in the first ten rounds of the Auction. Starting in the eleventh round, a bidder may request a recess in a round if the total excess supply in the Auction reported in the previous round was 40 or fewer tranches.

IX.F.43. Reductions

Reductions in the number of tranches bid on an EDC for which the price has ticked down can be in the form of a withdrawal (i.e., reducing the number of tranches bid on an EDC without increasing the number of tranches bid on other EDCs, and thus reducing the number of tranches bid in total) or a switch (i.e., re-assigning the total number of tranches bid so that the number of tranches bid on one or several EDCs is reduced, but the number of tranches bid on other EDCs is increased by the same amount).

IX.F.44. Registered Bidder

A qualified bidder that submits a Part 2 Application and that satisfies all conditions of the Part 2 Application becomes a registered bidder. Conditions of the Part

2 Application include the submission of an indicative offer and financial guarantees. These conditions also include making certifications relating to the Association and Confidential Information Rules or, if not all these certifications can be made, providing additional information to the Auction Manager and abiding by the course of action decided by the Auction Manager.

IX.F.45. Reporting Phase

The reporting phase is the third and final phase of a round, during which the Auction Manager informs the bidders of the results of that round's bidding phase. All bidders are informed of the going prices for the next round's bidding phase and are provided with a range of total excess supply. Each bidder privately receives the results of the bidder's own bid from that round, indicating to each bidder its obligation at this point in the Auction.

IX.F.46. Round

The Auction runs in discrete time periods called rounds. Each round has a bidding phase, a calculating phase, and a reporting phase.

IX.F.47. Rounding

Prices and exit prices are in cents per kWh and are rounded off to the nearest thousandth of a cent.

IX.F.48. Session

Each day in the Auction will consist of two bidding sessions of roughly equal length. Each bidding session will consist of a number of rounds.

IX.F.49. Starting Prices

The starting prices are announced three days before the Auction starts. The starting prices are the going prices in round 1.

IX.F.50. Statewide Load Cap

The statewide load cap is a maximum on the number of tranches that a bidder can bid and win statewide.

IX.F.51. Switches and Switching

Switching involves an increase in the number of tranches bid on some EDCs while at the same time a reduction in the number of tranches bid on other EDCs. Switching (without a simultaneous reduction of tranches through a withdrawal) occurs when a bidder reallocates its tranches bid without changing the total number of tranches bid on all EDCs. Switching alone has no effect on eligibility.

IX.F.52. Switching Priority

A switching priority is a preference assigned to one of the EDCs for which a bidder is increasing its number of tranches bid. The bidder is required to assign a switching priority when the bidder is increasing the number of tranches bid for more than one EDC.

IX.F.53. Target Eligibility Ratio

The target eligibility ratio is a desired ratio of eligibility to the Auction volume.

IX.F.54. Time-Out

A time-out is a pause in the Auction. A time-out suspends activity in the Auction for a period of up to four hours. The Auction Manager can call a time-out at any time during a round.

IX.F.55. Total Excess Supply

The total excess supply in the Auction is the sum, over all EDCs for which the number of tranches bid exceeds the tranche target, of the excess supplies for the individual EDCs, plus tranches of free eligibility.

IX.F.56. Tranche

A tranche of one EDC is a full-requirements tranche. A tranche is a fixed percentage share of the BGS-FP Load of an EDC for the period June 1, 2012 to May 31, 2015.

IX.F.57. Tranche Size

The tranche size of an EDC in this Auction is the percentage share of the BGS-FP Load of the EDC represented by one tranche.

IX.F.58. Tranche Target

The tranche target is the number of tranches available at the Auction for an EDC.

IX.F.59. Withdrawal

A bidder reduces the number of tranches bid on an EDC through a withdrawal when the bidder is reducing the number of tranches bid on an EDC, while not increasing the number of tranches bid on other EDCs, and thus reducing the number of tranches bid in total. A bidder who does not bid a tranche of free eligibility in the round when it becomes available is making a withdrawal.

IX.G. Appendix

IX.G.1. Tranches

Data for sample calculations are provided in the table below. The second column of the table provides, for each EDC, the 2011 FP Peak Load Share on a proxy day. The fourth column provides the number of tranches for each EDC, which is the tranche target. The last column provides the MW-measure, which is generally the size of the tranche times the FP Peak Load Share (please see the note about JCP&L below).

Table IX-5. Peak Load Shares

EDC	FP Peak Load Share (MW)	FP Peak Load Share in 2012 Auction (MW)	Tranche Target	Size of tranche (%)	MW-Measure
PSE&G	8,479.26	2,892.92	29	1.18%	99.76
JCP&L ⁹	5,001.60	1,932.44	20	1.93%	96.62
ACE	2,095.50	666.75	7	4.55%	95.25
RECO	398.20	99.55	1	25.00%	99.55
Total	15,974.56	5,591.66	57		

For RECO, the FP Peak Load Share is 398.20 MW. The size of a tranche is 25%. The MW-measure is then 99.55 MW, or 25% of 398.20 MW.

With the 2010 Auction, JCP&L began transitioning to procuring more tranches so that the MW-measure of a tranche is closer to approximately 100 MW. Three tranches were or will be added to each of the 2010, 2011, and 2012 Auctions. At the end of the transition, after the 2012 Auction, JCP&L will be procuring 53 tranches. The percentage of the BGS-FP Load that JCP&L is procuring, as well as the size of a tranche, will vary across these three Auctions.

⁹ The Board has directed that JCP&L continue to serve 10 MW of its residential load, using the St. Lawrence Project Power and, as necessary, purchases from PJM-administered markets. JCP&L will serve 10 MW in every hour. The FP Peak Load Share in the table above has been reduced by 10 MW.

IX.G.2. Decrements

The calculation of the size of the decrement, Δ , is based on the oversupply ratio, γ , which is the ratio of the excess supply on an EDC to an estimate of the maximum excess supply:

$$\gamma = \frac{B - TT}{\min(\overline{RES}, n \cdot LC - TT)}$$

The numerator is the excess supply on an EDC, which is the number of tranches bid at the going price (B) minus the tranche target (TT). The denominator is a measure of maximum possible excess supply for that EDC. The excess supply on an EDC must be less than or equal to the total excess supply in the Auction. \overline{RES} is the upper bound of the range of total excess supply reported to bidders or 30 tranches, whichever is larger, and it serves as a measure of total excess supply in the Auction. The excess supply on an EDC must also be less than or equal to the excess supply that would result from all bidders bidding the load cap on the EDC. This is represented by $n \cdot LC - TT$, namely the number of registered bidders (n) times the load cap (LC) minus the tranche target (TT). The estimate of maximum possible excess supply for the EDC used for the decrement rules is \overline{RES} , or the measure based on the number of registered bidders and the load cap $n \cdot LC - TT$, whichever is smaller.

Regime 1

At the start of the Auction, in Regime 1, the following decrement formulas will be used.

If an EDC's tranche target is 20 tranches or more, then the decrement for that EDC is set as follows:

$$\Delta = \text{Max} [0.005 , \min \{ (0.066 \gamma - 0.006) , 0.05 \}]$$

For example if $\gamma = 0.5000$, then $\Delta = 0.0270$, which means that prices are reduced by 2.7% for the next round. Prices will be rounded off to the nearest thousandth of a cent.

Using this rule, the smallest decrement would be 0.5% (and the amount of the price decrease would be rounded off to the nearest thousandth of a cent). When the oversupply ratio is at or below 0.1667 (but above 0), the decrement is set at 0.5%. The decrement is never more than 5% (subject to rounding off). When the oversupply ratio is 0.8485 or greater, which means that the excess supply on the EDC reaches 84.85% of its maximum, the decrement is set at 5%. When the oversupply ratio is between 0.1667 and

0.8485, so that the excess supply on the EDC is between 16.67% and 84.85% of its maximum, the decrement is between 0.5% and 5% according to the rule given above.

If an EDC's tranche target is between 10 and 19 tranches (inclusive), then the decrement for that EDC is set as follows:

$$\Delta = \text{Max} [0.005 , \min \{ (0.136 \gamma - 0.013) , 0.05 \}]$$

For example if $\gamma = 0.3000$, then $\Delta = 0.0278$, which means that prices are reduced by 2.78% for the next round. Prices will be rounded off to the nearest thousandth of a cent.

Using this rule, the smallest decrement would be 0.5% (and the amount of the price decrease would be rounded off to the nearest thousandth of a cent). When the oversupply ratio is at or below 0.1324 (but above 0), the decrement is set at 0.5%. The decrement is never more than 5% (subject to rounding off). When the oversupply ratio is 0.4632 or greater, which means that the excess supply on the EDC reaches 46.32% of its maximum, the decrement is set at 5%. When the oversupply ratio is between 0.1324 and 0.4632, so that the excess supply on the EDC is between 13.24% and 46.32% of its maximum, the decrement is between 0.5% and 5% according to the rule given above.

If an EDC's tranche target is between 5 and 9 tranches (inclusive), then the decrement for that EDC is set as follows:

$$\Delta = \text{Max} [0.005 , \min \{ (0.16 \gamma - 0.006) , 0.05 \}]$$

For example if $\gamma = 0.2500$, then $\Delta = 0.0340$, which means that prices are reduced by 3.4% for the next round. Prices will be rounded off to the nearest thousandth of a cent.

Using this rule, the smallest decrement would be 0.5% (and the amount of the price decrease would be rounded off to the nearest thousandth of a cent). When the oversupply ratio is at or below 0.0688 (but above 0), the decrement is set at 0.5%. The decrement is never more than 5% (subject to rounding off). When the oversupply ratio is 0.3500 or greater, which means that the excess supply on the EDC reaches 35% of its maximum, the decrement is set at 5%. When the oversupply ratio is between 0.0688 and 0.3500, so that the excess supply on the EDC is between 6.88% and 35% of its maximum, the decrement is between 0.5% and 5% according to the rule given above.

If an EDC's tranche target is 4 tranches or fewer, the decrement for that EDC is set as a series of steps.

Using this rule, the smallest decrement would be 1% (and the amount of the price decrease would be rounded off to the nearest thousandth of a cent). The smallest decrement would be in effect when the oversupply ratio is at or below a pre-determined minimum value. The decrement is never more than 5% (subject to rounding off). The largest decrement would be in effect when the oversupply ratio is above a pre-determined maximum value. When the oversupply ratio is in between the pre-determined minimum and maximum values, the decrement will be set at one or more values between 1% and 5%. For two or more consecutive values of the oversupply ratio, the decrement will stay constant.

For example, if the tranche target is 1 and if the number of registered bidders is greater than or equal to 15, the following series of steps could be used:

$$\Delta = \begin{cases} 0.01 & \text{if } \gamma \leq 0.15 \\ 0.03 & \text{if } 0.15 < \gamma \leq 0.3 \\ 0.05 & \text{if } \gamma > 0.3 \end{cases}$$

When the oversupply ratio is at or below a minimum value of 0.1500, the decrement is set at 1%. When the oversupply ratio is above a maximum value of 0.3000, which means that the excess supply on the EDC exceeds 30.00% of its maximum, the decrement is set at 5%. When the oversupply ratio is at or below 0.3000 but above 0.1500, so that the excess supply on the EDC is at or below 30% but above 15% of its maximum, the decrement is constant at 3%

As another example, if the tranche target is 2 and if the number of registered bidders is greater than or equal to 16, the following series of steps could be used:

$$\Delta = \begin{cases} 0.01 & \text{if } \gamma \leq 0.08 \\ 0.03 & \text{if } 0.08 < \gamma \leq 0.18 \\ 0.05 & \text{if } \gamma > 0.18 \end{cases}$$

When the oversupply ratio is at or below a minimum value of 0.0800, the decrement is set at 1.00%. When the oversupply ratio is above a maximum value of 0.1800, which means that the excess supply on the EDC exceeds 18% of its maximum, the decrement is set at 5%. When the oversupply ratio is between 0.0800 and 0.1800, so that the excess supply on the EDC is between 8% and 18% of its maximum, the decrement is constant at 3%.

The rules provided above as examples have three possible values for the decrement or three “steps”. The exact form of the rules used in the Auction for EDCs with four or fewer tranches will depend on the tranche target and on the number of registered bidders. In general, if the tranche target increases or the number of registered bidders increases, the number of steps in the function may increase.

Change in Regime

Decrements continue to be between 0.5% and 5% of the previous going price as calculated by the decrement formulas of Regime 1 until the going prices for round 4 are calculated. After that time, in the first round in which the total excess supply in the Auction is reported to bidders to be 30 or fewer tranches, the decrement formulas of Regime 2 will be used for the prices that will be the going prices in the next round and for the remainder of the Auction.

Regime 2

Later in the Auction, in Regime 2, the following decrement formulas will be used.

If an EDC’s tranche target is 20 tranches or more, then the decrement for that EDC is set as follows:

$$\Delta = \text{Max} [0.0025 , \min \{ (0.033 \gamma - 0.002) , 0.025 \}]$$

For example if $\gamma = 0.5000$, then $\Delta = 0.0145$, which means that prices are reduced by 1.45% for the next round. Prices will be rounded off to the nearest thousandth of a cent.

Using this rule, the smallest decrement would be 0.25% (and the amount of the price decrease would be rounded off to the nearest thousandth of a cent). When the oversupply ratio is at or below 0.1364 (but above 0), the decrement is set at 0.25%. The decrement is never more than 2.5% (subject to rounding off). When the oversupply ratio is 0.8182 or greater, which means that the excess supply on the EDC reaches 81.82% of its maximum, the decrement is set at 2.5%. When the oversupply ratio is between 0.1364 and 0.8182, so that the excess supply on the EDC is between 13.64 and 81.82% of its maximum, the decrement is between 0.25% and 2.5% according to the rule given above.

If an EDC’s tranche target is between 10 and 19 tranches (inclusive), then the decrement for that EDC is set as follows:

$$\Delta = \text{Max} [0.0025 , \min \{ (0.068 \gamma - 0.0065) , 0.025 \}]$$

For example if $\gamma = 0.3000$, then $\Delta = 0.0139$, which means that prices are reduced by 1.39% for the next round. Prices will be rounded off to the nearest thousandth of a cent.

Using this rule, the smallest decrement would be 0.25% (and the amount of the price decrease would be rounded off to the nearest thousandth of a cent). When the oversupply ratio is at or below 0.1324 (but above 0), the decrement is set at 0.25%. The decrement is never more than 2.5% (subject to rounding off). When the oversupply ratio is 0.4633 or greater, which means that the excess supply on the EDC reaches 46.32 of its maximum, the decrement is set at 2.5%. When the oversupply ratio is between 0.1324 and 0.4632 so that the excess supply on the EDC is between 13.24 and 46.32 of its maximum, the decrement is between 0.25% and 2.5% according to the rule given above.

If an EDC's tranche target is between 5 and 9 tranches (inclusive), then the decrement for that EDC is set as follows:

$$\Delta = \text{Max} [0.0025 , \min \{ (0.08 \gamma - 0.003) , 0.025 \}]$$

For example if $\gamma = 0.3000$, then $\Delta = 0.0210$, which means that prices are reduced by 2.10% for the next round. Prices will be rounded off to the nearest thousandth of a cent.

Using this rule, the smallest decrement would be 0.25% (and the amount of the price decrease would be rounded off to the nearest thousandth of a cent). When the oversupply ratio is at or below 0.0688 (but above 0), the decrement is set at 0.25%. The decrement is never more than 2.5% (subject to rounding off). When the oversupply ratio is 0.3500 or greater, which means that the excess supply on the EDC reaches 35% of its maximum, the decrement is set at 2.5%. When the oversupply ratio is between 0.0688 and 0.3500, so that the excess supply on the EDC is between 6.88% and 35% of its maximum, the decrement is between 0.25% and 2.5% according to the rule given above.

If an EDC's tranche target is 4 tranches or fewer, the decrement for that EDC is set as a series of steps.

Using this rule, the smallest decrement would be 0.25% (and the amount of the decrease in price would be rounded off to the nearest thousandth of a cent). The smallest decrement would be in effect when the oversupply ratio is at or below a pre-determined minimum value. The decrement is never more than 2.5% (subject to rounding off). The largest decrement would be in effect when the oversupply ratio is above a pre-determined maximum value. When the oversupply ratio is in between the pre-determined minimum and maximum values, the decrement will be set at one or more values between 0.25% and 2.5%. For two or more consecutive values of the oversupply ratio, the decrement will stay constant.

For example, if the tranche target is 1 and if the number of registered bidders is greater than or equal to 15, the following series of steps could be used:

$$\Delta = \begin{cases} 0.0025 & \text{if } \gamma \leq 0.15 \\ 0.015 & \text{if } 0.15 < \gamma \leq 0.3 \\ 0.025 & \text{if } \gamma > 0.3 \end{cases}$$

When the oversupply ratio is at or below a minimum value of 0.1500, the decrement is set at 0.25%. When the oversupply ratio is above a maximum value of 0.3000, which means that the excess supply on the EDC exceeds 30.00% of its maximum, the decrement is set at 2.5%. When the oversupply ratio is at or below 0.3000 but above 0.1500, so that the excess supply on the EDC is at or below 30.00% but above 15.00% of its maximum, the decrement is constant at 1.5%.

As another example, if the tranche target is 2 and if the number of registered bidders is greater than or equal to 15, the following series of steps could be used:

$$\Delta = \begin{cases} 0.005 & \text{if } \gamma \leq 0.08 \\ 0.015 & \text{if } 0.08 < \gamma \leq 0.18 \\ 0.025 & \text{if } \gamma > 0.18 \end{cases}$$

When the oversupply ratio is at or below a minimum value of 0.0800, the decrement is set at 0.50%. When the oversupply ratio is above a maximum value of 0.1800, which means that the excess supply on the EDC exceeds 18.00% of its maximum, the decrement is set at 2.5%. When the oversupply ratio is between 0.0800 and 0.1800, so that the excess supply on the EDC is between 8.00% and 18.00% of its maximum, the decrement is constant at 1.5%.

The rules provided above as examples have three possible values for the decrement or three “steps”. The exact form of the rules for EDCs with 4 or fewer tranches will depend on the tranche target and on the number of registered bidders. In general, if the tranche target increases or the number of registered bidders increases, the number of steps in the function may increase.

The decrement for an EDC with a tranche target of 4 or fewer is subject to an automatic increase when the decrement remains at the Regime 2 minimum for three rounds in a row. The maximum number of rounds in a row for which the decrement is

increased is three rounds. If the decrement is increased, it is set to the average of the minimum decrement and the next highest decrement.

Specifically, the decrement is *bumped up*, i.e., increased from the minimum to an average of the two smallest decrements, whenever the decrement would otherwise have been set at the minimum in that round, and:

- In the three previous rounds, the decrement was set at the minimum; or
- Of the three previous rounds, the decrement was set at the minimum for the first two of these previous rounds and the decrement was bumped up in the third; or
- Of the three previous rounds, the decrement was set at the minimum for the first of these three previous rounds and was bumped up in the second and third of these previous rounds.

For example, suppose that the tranche target is 1 and that the number of registered bidders is greater than or equal to 15. If the oversupply ratio is at or below 0.1100 for rounds 20, 21, 22 and 23, the decrement is set at the minimum (0.25%) in rounds 20, 21 and 22, but the decrement is increased to 0.875% (the average of the minimum decrement 0.25% and the next highest decrement, 1.5%) in round 23.

D. BGS-FP SUPPLIER MASTER AGREEMENT

Note: This is a courtesy copy. The official version is provided on the BGS Auction web site (<http://www.bgs-auction.com/bgs.bidinfo.cc.asp>). Should there be any discrepancies between this courtesy copy and the official version, the official version will govern.

THIS BGS-FP SUPPLIER MASTER AGREEMENT, made and entered into this ____ day of _____, 2012, by and between _____ (the “Company”), a corporation and a public utility organized and existing under the laws of the State of New Jersey, on its own behalf and as agent as more fully set forth below, and each of the suppliers listed on Appendix A hereto, severally and not jointly (each a “BGS-FP Supplier” and, collectively, the “BGS-FP Suppliers”), the Company and each BGS-FP Supplier hereinafter sometimes referred to collectively as the “Parties”, or individually as a “Party”,

WITNESSETH:

WHEREAS, the Company is a public utility engaged, *inter alia*, in the transmission and distribution of electric Energy within its Service Territory located in the State of New Jersey; and

WHEREAS, pursuant to Section 9(c) of the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 *et. seq.*, the New Jersey Board of Public Utilities (“BPU”) has been authorized to make available to any power supplier on a competitive basis the opportunity to provide Basic Generation Service (“BGS”); and

WHEREAS, in its Decision and Order dated _____, in Docket No. EO11040250 (the “_____ Order”), the BPU found that for periods after May 31, 2012, it would serve the public interest for the Company to continue to secure BGS Supply through a bid process; and

WHEREAS, in the _____ Order, the BPU approved an auction design for bidding out two Basic Generation Service products, one a fixed priced product termed Basic Generation Service – Fixed Pricing (“BGS-FP”), and one a variable hourly priced product termed Basic Generation Service – Commercial and Industrial Energy Pricing (“BGS-CIEP”); and

WHEREAS, on _____, 2012 to _____, 2012, a successful auction for bidding out BGS-FP was held; and,

WHEREAS, each BGS-FP Supplier was one of the winning bidders in the

auction for the provision of BGS-FP; and

WHEREAS, the _____ Order authorized the Company to contract with winning bidders, on behalf of the consumers of electricity located on the Company's distribution system, for the provision of the share of BGS-FP Load covered by the winning bid; and

WHEREAS, pursuant to the auction procedures approved in the _____ Order, the Company and each of the BGS-FP Suppliers desire to enter into this BPU-approved BGS-FP Supplier Master Agreement ("Agreement") setting forth their respective obligations concerning the provision of BGS-FP.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, hereby covenant, promise and agree as follows:

ARTICLE 1: DEFINITIONS

Any capitalized or abbreviated term not elsewhere defined in this Agreement shall have the definition set forth in this Article 1.

Ancillary Services – shall have the meaning ascribed thereto in the PJM Tariff.

Applicable Legal Authorities – generally, those federal and New Jersey statutes and administrative rules and regulations that govern the electric utility industry in New Jersey.

Auction Price – the price, set forth in Appendix A, resulting from the Company's competitive solicitation of the opportunity to supply BGS-FP subject to any adjustment made pursuant to Section 15.9 hereof. This price is the basis for financial settlement of BGS-FP Supply supplied by the BGS-FP Supplier to BGS-FP Customers under this Agreement.

Auction Website – www.bgs-auction.com

Bankruptcy Code – those laws of the United States of America related to bankruptcy, codified and enacted as Title 11 of the United States Code, entitled "Bankruptcy" and found at 11 U.S.C. § 101 *et seq.*, as such laws may be amended, modified, replaced or superseded from time to time.

Basic Generation Service or “BGS” – electric generation service that is provided at retail pursuant to the Applicable Legal Authorities under the Company’s retail electric tariffs and under any other agreements or arrangements between the Company and Customers, to any Customer that is not being served by a Third Party Supplier.

Basic Generation Service – Commercial and Industrial Energy Pricing or “BGS-CIEP” – electric generation service that is provided pursuant to the Applicable Legal Authorities at prices that include an energy charge component that varies on an hourly basis in accordance with changes in the actual real-time PJM load weighted average total Locational Marginal Price (“LMP”) (including energy, congestion and marginal losses) for the Company’s Transmission Zone under the Company’s BGS-CIEP Tariffs.

Basic Generation Service Supply or “BGS Supply” – either BGS-FP Supply or BGS-CIEP Supply.

BGS-CIEP Customer – a Customer who is being served under any one of the Company’s BGS-CIEP Tariffs and is not taking electric generation service from a Third Party Supplier.

BGS-CIEP Load – the full electricity requirement (including without limitation, Energy, Capacity, Ancillary Services and Firm Transmission Service) of BGS-CIEP Customers.

BGS-CIEP Supplier – an entity that has been selected through the BGS-CIEP solicitation and has accepted the obligations and associated rights to provide BGS-CIEP Supply to retail customers within the State of New Jersey in accordance with the Applicable Legal Authorities and has entered into a BGS-CIEP Supplier Master Agreement with the Company as a Party. Each BGS-CIEP Supplier must be an LSE and shall have the obligations of an LSE under the PJM Agreements.

BGS-CIEP Supplier Responsibility Share – for each BGS-CIEP Supplier, the fixed percentage share of the Company’s BGS-CIEP Load for which the BGS-CIEP Supplier is responsible as set forth in Appendix A to the BGS-CIEP Supplier Master Agreement. The stated percentage share was determined by multiplying the number of tranches won by the BGS-CIEP Supplier in the auction times the BGS-CIEP Tranche size percentage share.

BGS-CIEP Supply – unbundled Energy, Capacity, Ancillary Services and Firm Transmission Service, including all losses and/or congestion costs associated with the provision of such services, and such other services or products that a BGS-CIEP Supplier may be required, by PJM or other governmental body having jurisdiction, to provide in

order to meet the BGS-CIEP Supplier Responsibility Share under the BGS-CIEP Supplier Master Agreement.

BGS-CIEP Tariffs – Rate Schedules _____ of the Company.

Basic Generation Service – Fixed Pricing or “BGS-FP” – electric generation service that is provided at retail pursuant to the Applicable Legal Authorities under the Company’s BGS-FP Tariffs.

BGS-FP Customer – a Customer who is being served under any one of the Company’s BGS-FP Tariffs and is not taking electric generation service from a Third Party Supplier.

BGS-FP Load – the full electricity requirement (including, without limitation, Energy, Capacity, Ancillary Services and Firm Transmission Service) of BGS-FP Customers.

BGS-FP Peak Load Share – is the portion of load attributable to those Customers on BGS-FP of the PJM-determined EDC zonal peak load.

BGS-FP Supplier – an entity that has been selected through the BGS-FP solicitation and has accepted the obligations and associated rights to provide BGS-FP Supply to retail customers within the State of New Jersey in accordance with the Applicable Legal Authorities and has entered into this Agreement with the Company as a Party. Each BGS-FP Supplier under this Agreement must be an LSE and shall have the obligations of an LSE under the PJM Agreements. The term “supplier” also refers generically to any entity authorized by the BPU to provide BGS Supply, as opposed to a specific signatory to this Agreement, where the context makes it appropriate to do so. The distinction can be derived from the context, but is also generally reflected in the use of lower case type (“supplier”) to reflect the generic usage, and an initial capital (“Supplier”) to reflect a Party to this Agreement.

BGS-FP Supplier Responsibility Share – for each BGS-FP Supplier, the fixed percentage share of the Company’s BGS-FP Load for which the BGS-FP Supplier is responsible as set forth in Appendix A. The stated percentage share was determined by multiplying the number of Tranches won by the BGS-FP Supplier in the auction times the Tranche size percentage share.

BGS-FP Supply – unbundled Energy, Capacity, Ancillary Services and Firm Transmission Service, including all losses and/or congestion costs associated with the provision of such services, and such other services or products that a BGS-FP Supplier

may be required, by PJM or other governmental body having jurisdiction, to provide in order to meet the BGS-FP Supplier Responsibility Share under this Agreement.

BGS-FP Tariffs – Rate Schedules _____ of the Company.

Billing Month – each calendar month during the term of this Agreement.

BPU or “Board” – the New Jersey Board of Public Utilities or its successor.

Business Day – any day on which the Company’s and PJM’s corporate offices are open for business and commercial banks are not authorized or required to close in New York, New York.

Capacity – shall mean “Unforced Capacity” as set forth in the PJM RAA or in successor, superseding or amended versions of the PJM RAA that may take effect from time to time over the term of this Agreement, and any successor measurement of generating capacity as may be employed in PJM (whether set forth in the PJM RAA or elsewhere) for the purpose of stating the capacity obligation of an LSE.

Charge – any fee, charge or other amount that is billable by the Company to the BGS-FP Supplier under this Agreement.

Competitive Electricity Supply – unbundled Energy, Capacity, and Firm Transmission Service, including all losses and/or congestion associated with the provision of the foregoing services, and such other services or products that are provided by a Third Party Supplier to fulfill its obligations to serve customer load. The provision of Competitive Electricity Supply by Third Party Suppliers entails fulfillment of all obligations associated with service to Customers, including the obligations of a Load Serving Entity under the PJM Tariff, procedures, agreements and manuals.

Costs – means, with respect to the Non-Defaulting Party brokerage fees, commissions and other similar transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace this Agreement; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with the termination of this Agreement.

Customer – a Company customer as defined in the Company’s retail tariffs, eligible to receive Competitive Electricity Supply from a Third Party Supplier or BGS-FP or BGS-CIEP from a BGS-FP Supplier or BGS-CIEP Supplier, respectively, in accordance with the Applicable Legal Authorities.

Damages – financial compensation from the Defaulting Party to the Non-Defaulting Party associated with the occurrence of an Event of Default or an Early Termination of this Agreement. This compensation shall be assessed pursuant to Article 5 of this Agreement.

Early Termination – termination of this Agreement prior to the end of the term due to the occurrence of an Event of Default as specified in Section 5.1 of this Agreement and the declaration of Early Termination.

Early Termination Date – the date upon which an Early Termination becomes effective as specified in Section 5.2 of this Agreement.

Effective Date – the date first written above.

Electric Distribution Company or “EDC” - the applicable of the four New Jersey Electric Distribution Companies.

Emergency – (i) an abnormal system condition requiring manual or automatic action to maintain system frequency, or to prevent loss of firm load, equipment damage, or tripping of system elements that could adversely affect the reliability of an electric system or the safety of persons or property; or (ii) a fuel shortage requiring departure from normal operating procedures; or (iii) a condition that requires implementation of Emergency Operations Procedures as defined in the PJM OATT or PJM manuals; or (iv) any other condition or situation that the Company or PJM deems imminently likely to endanger life or property or to affect or impair the Company’s electrical system or the electrical system(s) of other(s) to which the Company’s electrical system is directly or indirectly connected (a “Connected Entity”). Such a condition or situation may include, but shall not be limited to, potential overloading of the Company’s transmission and/or distribution circuits, PJM minimum generation (“light load”) conditions, or unusual operating conditions on either the Company’s or a Connected Entity’s electrical system, or conditions such that the Company is unable to accept Energy from the BGS-FP Supplier without jeopardizing the Company’s electrical system or a Connected Entity’s electrical system.

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

Energy Portfolio Standards – (i) those standards imposed by the BPU pursuant to N.J.S.A. 48:3-87(d) requiring that specified levels of electric power sold for the provision of Basic Generation Service shall be produced from renewable energy resources as set forth in the Renewable Energy Portfolio Standards, N.J.A.C. 14:8-2 et seq., as modified

or superseded, or in such other regulations of the BPU as may be adopted or amended from time to time, and (ii) any standards imposed under any federal, state or local legislation or by any federal, interstate, state or local court, tribunal or governmental agency or authority or regulatory body that have the effect of requiring that specified levels of electric power sold for the provision of Basic Generation Service shall be produced from, or be otherwise attributable to, renewable energy resources or shall be produced from, or be otherwise attributable to, resources emitting only specified amounts of carbon or other substances, as the same may be adopted or amended from time to time.

Event of Default – a breach of obligations under this Agreement as set forth in Section 5.1 of this Agreement.

FERC – the Federal Energy Regulatory Commission.

Final FERC Order – a final order issued by FERC in connection with a request for an increase or decrease in the rates for Firm Transmission Service, or, if FERC has issued an order authorizing Company’s recovery of transmission costs through formula rates, the acceptance by operation of law or otherwise of the Company’s rate tariff filing seeking an increase or decrease for Firm Transmission Service, which is no longer subject (either actually or potentially) to rehearing or judicial review in which the amount of the increase or decrease is in dispute or in question and is not the subject of proceedings at FERC on remand from any court in which the amount of the specific increase or decrease in the Firm Transmission Service rate is in dispute or in question.

Final Monthly Energy Allocation or “FMEA” – is a quantity in kWh which, for any Billing Month, is the PMEA adjusted for any billing or metering data received subsequent to the calculation of PMEA of which PJM is notified within 60 days.

Firm Transmission Service – shall mean “Network Integration Transmission Service” under the PJM OATT in effect as of the Effective Date of this Agreement, or in successor, superseding or amended versions of the PJM OATT that may take effect from time to time over the term of this Agreement. In the event the PJM OATT is modified such that “Network Integration Transmission Service” is no longer offered, Firm Transmission Service shall mean the type of transmission service offered under the PJM OATT that is accorded the highest level of priority for scheduling and curtailment purposes.

Forward Market Price – the price for On-peak Energy Forwards as determined by averaging concurrent quotations obtained by all of the EDCs from the same three independent brokers active in the electric markets as available.

Gains – means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from an Early Termination of this Agreement, determined in a commercially reasonable manner.

Guaranty – means a guaranty, hypothecation agreement, margins or security agreement or any other document (whether in the form attached to this BGS-FP Supplier Master Agreement or other form approved by the Company).

Guarantor – any party who has the authority and may agree to guarantee a BGS-FP Supplier’s financial obligations under this Agreement, recognizing that such a party will be obligated to meet the Company’s creditworthiness requirements for BGS-FP Suppliers.

Independent Credit Requirement or “ICR” – an amount required as security under Section 6.3 of this Agreement, to reflect the risk of Energy and Capacity price movements between the Early Termination Date caused by an Event of Default by a BGS-FP Supplier and the date the final calculation of Damages owing to the Company under Section 5.2 of this Agreement is made.

Interest Index – the average Federal Funds Effective Rate for the period of time the funds are on deposit. The Federal Funds Effective Rate is published daily on the Federal Reserve website (<http://www.federalreserve.gov/releases/h15/update/>).

Kilowatt or “kW” – unit of measurement of useful power equivalent to 1000 watts.

Kilowatt-hour or “kWh” – one kilowatt of electric power used over a period of one hour.

Load Serving Entity or “LSE” – an entity that has been granted the authority or has an obligation pursuant to state or local law, regulation or franchise to sell electricity to retail customers located within the PJM Control Area as that term is defined in the PJM RAA or in successor, superseding or amended versions of the PJM RAA that may take effect from time to time over the term of this Agreement.

Losses – means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from an Early Termination of this Agreement, determined in a commercially reasonable manner.

MAAC – the Mid-Atlantic Area Council of NERC or its successor.

Margin – the amount by which the Total Exposure Amount exceeds a BGS-FP Supplier’s, or Guarantor’s, credit limit as defined in Section 6.6.

Mark-to-Market Exposure Amount – an amount calculated daily for each BGS-FP Supplier reflecting the total MtM credit exposure to the Company due to fluctuations in market prices for Energy minus amounts due pursuant to this Agreement to such BGS-FP Supplier for the delivery of BGS-FP Supply. The total MtM credit exposure will be equal to 1.1 times the sum of the MtM credit exposures for each Billing Month as set forth in Section 6.5 of this Agreement. The methodology for calculation of the MtM credit exposure is illustrated in Appendix B.

Maximum Credit Limit – the lesser of the applicable % of TNW and the applicable credit limit cap as specified in Section 6.6 of this Agreement.

Megawatt or MW – one thousand kilowatts.

Megawatt-hour or MWh – one megawatt of electric power used over a period of one hour.

Merger Event – when a Party consolidates or amalgamates with, or merges into or with, or transfers all or substantially all of its assets to another entity and either (i) the resulting entity fails to assume all of the obligations of such Party hereunder or (ii) the benefits of any credit support provided pursuant to Article 6 of this Agreement fail to extend to the performance by such resulting, surviving or transferee entity of the Party's obligations hereunder, and the resulting entity or its guarantor fails to meet the creditworthiness requirements of this Agreement. Transfer of all or substantially all of the Company's generation assets does not qualify as a Merger Event.

Meter Reading – the process whereby the Company takes notice of the information presented on a Customer's meter. A Meter Reading may be obtained manually, through telemetry, or by estimation, in accordance with the Company's established procedures and practices.

Minimum Rating – a minimum senior unsecured debt rating as defined in Section 6.4(a)(i) of this Agreement.

NERC – the North American Electric Reliability Council or its successor.

On-peak Energy Forward – a standardized energy trading product representing the delivery of electric power in PJM, at the Western Hub, over a period from 7:00 a.m. up to the hour ending at 11:00 p.m. Monday through Friday, excluding NERC holidays. In the event that the PJM Western Hub price is no longer available or no longer representative of a transparent trading hub, the Parties will negotiate in good faith to agree upon an alternate liquid price.

PJM – the Pennsylvania-New Jersey-Maryland Interconnection L.L.C. or its successor.

PJM Agreements – shall have the meaning ascribed in Section 2.3 of this Agreement.

PJM Control Area – that certain Control Area encompassing systems in Pennsylvania, New Jersey, Maryland, Delaware, Virginia and the District of Columbia, as may be modified from time to time, and which is recognized by the North American Electric Reliability Council as the “PJM Control Area”.

PJM OA – the PJM Operating Agreement or its successor.

PJM OATT – the prevailing PJM Open Access Transmission Tariff on file with the FERC, which sets forth the rates, terms and conditions of transmission service over transmission facilities located in the PJM Control Area, as is in effect on the Effective Date and as modified from time to time.

PJM OI – the PJM Office of Interconnection, the system operator for the PJM Control Area.

PJM RAA – the PJM Reliability Assurance Agreement or its successor.

Preliminary Monthly Energy Allocation or “PMEA” – is a quantity in kWh which, for any Billing Month, is the preliminary calculation of the BGS-FP Load associated with the BGS-FP Supplier’s BGS-FP Supplier Responsibility Share.

PMEA/FMEA Adjustment Amount – for any Billing Month, the monetary amount due to the BGS-FP Supplier or the Company, as the case may be, in order to reconcile any difference between the PMEA used for the purpose of calculating estimated payments made to the BGS-FP Supplier for a given month and the FMEA used for calculating the final payments due to the BGS-FP Supplier for such month as more fully described in Article 9 hereof.

Seasonal Billing Factor – a numerical factor set forth in Appendix B hereto, one amount applicable during the summer months of June through September, and one amount applicable during the non-summer months of October through May, applied to the Auction Price in accordance with the provisions of Article 9 of this Agreement and thereby used to shape the Company’s payments to BGS-FP Suppliers.

Service Territory – the geographic areas of the State of New Jersey in which the Company serves electric Customers.

Settlement Amount – with respect to a Non-Defaulting Party, the net amount of the Losses or Gains, and Costs, expressed in U.S. Dollars, which such party incurs as a result of Early Termination, as set forth in Section 5.4(a) of this Agreement. For the purposes of calculating the Termination Payment, the Settlement Amount shall be considered an amount due to the Non-Defaulting Party under this Agreement if the total of the Losses and Costs exceeds the Gains and shall be considered an amount due to the Defaulting Party under this Agreement if the Gains exceed the total of the Losses and Costs.

Statement – a monthly report prepared by the Company for the BGS-FP Supplier indicating the amount due to the BGS-FP Supplier by the Company in compensation for kWhs supplied to BGS-FP Customers by the BGS-FP Supplier during the current Billing Month, in accordance with the BGS-FP Supplier’s obligations under this Agreement.

Supply Day – any calendar day during the term of this Agreement on which the BGS-FP Supplier is providing, or is obligated by this Agreement to provide, BGS-FP Supply to the Company’s BGS-FP Customers.

Tangible Net Worth or “TNW” – total assets less intangible assets and total liabilities. Intangible assets include benefits such as goodwill, patents, copyrights and trademarks.

Termination Payment – shall have the meaning ascribed in Section 5.4 of this Agreement.

Third Party Supplier or “TPS” – a person or entity that is duly licensed by the Board to offer and to assume the contractual and legal responsibility to provide electric generation service to retail customers located in the state of New Jersey pursuant to retail open access programs approved by the Board.

Total Exposure Amount – an amount calculated daily for each BGS-FP Supplier reflecting the total credit exposure to the Company and consisting of the sum of (i) the Mark-to-Market Exposure Amount arising under this Agreement; (ii) any amount(s) designated as the “Mark-to-Market Exposure Amount” arising under any other BGS Supply agreements providing for “BGS-FP Supply” or similar BGS service; and (iii) the amount designated as the “credit exposure” under any other BGS Supply agreements providing for “BGS-CIEP Supply” or similar BGS service; provided that in the event the amount calculated for any day is a negative number, it shall be deemed to be zero for such day.

Tranche – a fixed percentage share of the BGS-FP Load of the Company as determined for the purposes of the auction of the Company’s BGS-FP Load. The fixed percentage is the Tranche size for the Company.

Wholesale Customer – an entity (e.g., a municipality or borough) authorized to take electric service for resale to retail customers under a wholesale contract filed with the FERC.

ARTICLE 2: GENERAL TERMS AND CONDITIONS

2.1 Capacity In Which Company Is Entering Into This Agreement

Each BGS-FP Supplier agrees and acknowledges that the Company is contracting for the provision of BGS-FP Supply from such BGS-FP Supplier as the agent for Customers receiving Basic Generation Service – Fixed Pricing on the Company’s distribution system pursuant to the authorizations provided to the Company under the _____ Order. The BGS-FP Supplier further agrees and acknowledges that the Company will administer and monitor the BGS-FP Supplier’s performance in providing BGS-FP Supply under this Agreement and that the Company shall be entitled, on behalf of Customers, to enforce BGS-FP Suppliers’ obligations related to the provision of BGS-FP Supply. The BGS-FP Supplier hereby permanently and irrevocably waives any claim that Company is not entitled to seek enforcement of this Agreement on behalf of Customers. However, no Customer or group of Customers may seek enforcement of this Agreement directly against the BGS-FP Supplier on their own behalf, including independently or by joining in any legal action by the Company. This Agreement does not create, assign or grant to any Customer or group of Customers any rights in or claims to damages or remedies against the BGS-FP Supplier independent of or different from the rights expressly granted to the Company hereunder as agent for Customers.

The Company is also contracting on its own behalf and not as agent for Customers insofar as this Agreement requires the Company: (i) to pay the BGS-FP Suppliers as required under this Agreement; and (ii) to provide data or to otherwise cooperate with a BGS-FP Supplier in connection with such BGS-FP Supplier’s provision of BGS-FP Supply. The Parties acknowledge that the Agreement is a forward contract and, accordingly, the Parties hereto are entitled to the protections of section 556 of the Bankruptcy Code. The Parties therefore agree that the Agreement may be terminated by either Party upon the commencement of a proceeding by the other Party under any chapter of the Bankruptcy Code in accordance with Section 5.2 of this Agreement.

2.2 Parties' Obligations

(a) Obligations of BGS-FP Supplier

Each BGS-FP Supplier hereby agrees severally, but not jointly, as follows:

(i) to provide sufficient quantities of BGS-FP Supply on an instantaneous basis at all times to meet the BGS-FP Supplier Responsibility Share; without limitation, the BGS-FP Supplier shall be obligated to procure those services provided by the PJM OI and to perform such functions as may be required by the PJM OI that are necessary for the delivery of BGS-FP Supply required hereunder

(ii) to cooperate with the Company in any regulatory compliance efforts that may be required to maintain the ongoing legitimacy and enforceability of the terms of this Agreement and to fulfill any regulatory reporting requirement associated with the provision of BGS-FP Supply, before the BPU, FERC or any other regulatory body asserting jurisdiction, including meeting the reporting requirements of any Energy Portfolio Standards and the BPU's Environmental Information Disclosure Standards, N.J.A.C. 14:8.3 et seq;

(iii) to become the Load Serving Entity with respect to the provision of BGS-FP Supply for the BGS-FP Supplier Responsibility Share and to comply with all requirements of a Load Serving Entity with respect to such BGS-FP Supplier Responsibility Share;

(iv) to pay to the Company the PMEA/FMEA Adjustment Amount for any Billing Month in which the PMEA exceeds the FMEA, as more fully described in Article 9 of this Agreement;

(v) to pay to the Company a charge of \$_____ per Tranche, which amount was announced prior to the auction for each Tranche comprising the BGS-FP Supplier's BGS-FP Supplier Responsibility Share, in order to reimburse the Company for the total costs of the BGS-FP auction and related costs associated with providing BGS-FP administration;

(vi) to satisfy the Energy Portfolio Standards with respect to its BGS-FP Supplier Responsibility Share; and

(vii) to comply in a timely manner with all obligations under this Agreement imposed upon a BGS-FP Supplier.

(b) **Obligations of the Company**

The Company hereby agrees as follows:

(i) to pay to each BGS-FP Supplier every month an amount equal to the Auction Price multiplied by the Seasonal Billing Factor multiplied by the PMEAs, as detailed in Article 9 of this Agreement and subject to the exceptions set forth therein;

(ii) to pay to each BGS-FP Supplier the PMEAs/FMEAs Adjustment Amount for any Billing Month in which the FMEAs exceeds the PMEAs, as more fully described in Article 9 of this Agreement;

(iii) to provide to each BGS-FP Supplier its estimated aggregate load obligation for each Supply Day twenty (20) days prior to the Supply Day, and its final estimated load obligation for each Supply Day five (5) days prior to the Supply Day;

(iv) to the extent that (a) the Company purchases Energy during the term of this Agreement from renewable energy resources that meet the eligibility requirements for satisfying the Energy Portfolio Standards; (b) the renewable energy attributes transfer to the Company under the terms of the Energy purchase arrangements; and (c) the Company is not utilizing the renewable energy attributes associated with such purchases to meet obligations as a Load Serving Entity within PJM, the Company shall apply such renewable energy attributes to help satisfy the BGS-FP Supplier's Energy Portfolio Standards obligations under Section 2.2(a)(vi) of this Agreement to the extent that the Applicable Legal Authorities expressly allow or authorize the Company to do so;

(v) to pay to each BGS-FP Supplier, as approved by the BPU, a percentage share equal to the BGS-FP Supplier Responsibility Share of such BGS-FP Supplier of all amounts received from a TPS as damages, penalties or forfeited security due to the failure of such TPS to provide adequate notice in conformance with applicable BPU requirements that a Customer previously served by the TPS is switching to BGS-FP or forfeited as a result of an event of default by a TPS under the Company's Third Party Supplier Agreement; provided that the amounts paid to BGS-FP Suppliers shall be net of any amounts retained by the Company to offset costs or losses of the Company associated with the failure of the TPS to provide adequate notice or the occurrence of an event of default under the Company's Third Party Supplier Agreement; and further provided, that the Company shall have no obligation to seek the recovery of any damages, penalties or forfeited security due from a TPS through collection efforts, judicial procedures or otherwise; and

(vi) to comply in a timely manner with all obligations under this Agreement imposed upon the Company.

(c) **Obligation of the BGS-FP Customers**

The Company hereby agrees on behalf of the BGS-FP Customers to accept the delivery of BGS-FP Supply necessary to meet the BGS-FP Load.

2.3 PJM Services

Each BGS-FP Supplier shall make all necessary arrangements for the delivery of BGS-FP Supply through the PJM OI. The Company will advise the PJM OI of the magnitude and location of each BGS-FP Supplier's actual BGS-FP Supplier Responsibility Share, as required by the PJM OI, for the purpose of calculating such BGS-FP Supplier's appropriate Firm Transmission Service obligation, Capacity obligation, Energy obligation, or other requirements related to the provision of service under this Agreement by BGS-FP Suppliers arising under the PJM OATT, PJM RAA, PJM OA and any other applicable PJM agreement (collectively, the "PJM Agreements"). Each BGS-FP Supplier shall remain responsible to PJM for the performance of its LSE obligations associated with the provision of BGS-FP Supply under this Agreement until the effective date of the transfer of such LSE obligations.

2.4 Communications and Data Exchange

Each BGS-FP Supplier and the Company shall supply to each other all data, materials or other information that is specified in this Agreement, or that may otherwise reasonably be required by BGS-FP Suppliers or by the Company in connection with the provision of BGS-FP Supply by the BGS-FP Supplier to BGS-FP Customers, if required, in a thorough and timely manner.

Electronic information exchange between each BGS-FP Supplier and the Company under this Agreement shall employ a BGS-FP Supplier identification number, assigned by the Company, which shall be consistent with the BGS-FP Supplier's Dunn & Bradstreet Business number. Each BGS-FP Supplier must be equipped with the communications capabilities necessary to comply with the communications and data exchange standards that are set by and as may, from time to time, be modified by PJM, and must bear the costs of putting in place and successfully testing all required information technology systems that will enable it to send to and receive data from the Company and PJM and to satisfy its obligations under this Agreement, the PJM Agreements and all other relevant agreements.

2.5 Record Retention

The Company shall retain, for a period of two (2) years following the expiration of the term of this Agreement, necessary records so as to permit BGS-FP Suppliers to confirm the validity of payments due to BGS-FP Suppliers hereunder; provided that if a BGS-FP Supplier has provided notice within two (2) years of the expiration of the term of this Agreement that it disputes the validity of any payments, the Company agrees that it shall retain all records related to such dispute until the dispute is finally resolved.

2.6 Verification

In the event of a good faith dispute regarding any invoice issued or payment due under this Agreement, and provided that a mutually acceptable confidentiality agreement is executed by the Parties, each Party will have the right to verify, at its sole expense, the accuracy of the invoice or the calculation of the payment due by obtaining copies of relevant portions of the books and records of the other Party. The right of verification will survive the termination of this Agreement for a period of two (2) years after termination.

ARTICLE 3: REPRESENTATIONS AND WARRANTIES

3.1 BGS-FP Supplier's Representations and Warranties

Each BGS-FP Supplier hereby represents, warrants and covenants to the Company as follows:

a) such BGS-FP Supplier is a corporation, partnership, limited liability company or other legal entity, as set forth in Appendix A hereto, duly organized, validly existing and in good standing under the laws of the State of New Jersey or, if another jurisdiction, under the laws of such jurisdiction and, in such case, is duly registered and authorized to do business and is in good standing in the State of New Jersey;

b) such BGS-FP Supplier has all requisite power and authority to execute and deliver this Agreement and to carry on the business to be conducted by it under this Agreement and to enter into and perform its obligations hereunder, including satisfaction of all applicable FERC requirements;

c) the execution and delivery of this Agreement and the performance of such BGS-FP Supplier's obligations hereunder have been duly authorized by all necessary

action on the part of the BGS-FP Supplier and do not and will not conflict with, or constitute a breach of or default under, any of the terms, conditions, or provisions of the BGS-FP Supplier's certificate of incorporation or bylaws or other constituent instruments or any indenture, mortgage, other evidence of indebtedness, or other agreement or instrument or any statute or rule, regulation, order, judgment, or decree of any judicial or administrative body to which the BGS-FP Supplier is a party or by which the BGS-FP Supplier or any of its properties is bound or subject;

d) all necessary and appropriate action that is required on the BGS-FP Supplier's part to execute this Agreement has been completed;

e) this Agreement is the legal, valid and binding obligation of such BGS-FP Supplier, enforceable in accordance with its terms;

f) there are no actions at law, suits in equity, proceedings or claims pending or, to such BGS-FP Supplier's knowledge, threatened against the BGS-FP Supplier before any federal, state, foreign or local court, tribunal or governmental agency or authority that might materially delay, prevent or hinder the BGS-FP Supplier's performance of its obligations hereunder;

g) it has entered into this Agreement with a full understanding of the material terms and risks of the same, and it is capable of assuming those risks;

h) the BGS-FP Supplier is in good standing as an LSE in PJM, is a signatory to all applicable PJM Agreements, and is in compliance with, and will continue to comply with, all obligations, rules and regulations, as established and interpreted by the PJM OI, that are applicable to LSEs as defined by the PJM Agreements; provided that the BGS-FP Supplier shall not be obligated to become an LSE in PJM until the date it begins providing BGS-FP Supply to Customers;

i) it has made its trading and investment decisions (including regarding the suitability thereof) based upon its own judgment and any advice from such advisors as it has deemed necessary and not in reliance upon any view expressed by the Company; and

j) the BGS-FP Supplier will comply with any and all information and data transfer protocols that may be adopted by the Company or that are set by, and from time to time modified by, the Board; provided that each BGS-FP Supplier shall be entitled to exercise its reserved right to challenge any such protocols in the appropriate forum.

3.2 Company's Representations and Warranties

The Company hereby represents, warrants and covenants to the BGS-FP Suppliers as follows:

a) the Company is an electric utility corporation duly organized, validly existing and in good standing under the laws of the State of New Jersey;

b) the Company has all requisite power and authority to carry on the business to be conducted by it under this Agreement and to enter into and perform its obligations hereunder;

c) the execution and delivery of this Agreement and the performance of the Company's obligations hereunder have been duly authorized by all necessary action on the part of the Company and do not and will not conflict with, constitute a breach of or default under, any of the terms, conditions, or provisions of the Company's certificate of incorporation or bylaws or any indenture, mortgage, other evidence of indebtedness, or other agreement or instrument or any statute or rule, regulation, order, judgment, or decree of any judicial or administrative body to which the Company is a party or by which the Company or any of its properties is bound or subject;

d) all necessary and appropriate action that is required on the Company's part to execute this Agreement has been completed;

e) this Agreement is the legal, valid and binding obligation of the Company, enforceable in accordance with its terms;

f) the ability of the Company to pay any and all amounts due and payable under this Agreement, or upon any potential breach thereof, is not conditioned upon any governmental or administrative appropriation by the Board, the State of New Jersey or any other governmental authority;

g) there are no actions at law, suits in equity, proceedings or claims pending or, to the Company's knowledge, threatened against the Company before any federal, state, foreign or local court, tribunal or governmental agency or authority that might materially delay, prevent or hinder the Company's performance of its obligations under this Agreement;

h) it has entered into this Agreement with a full understanding of the material terms and risks of the same, and it is capable of assuming those risks;

i) with respect to those rights and entitlements conferred on Customers under this Agreement as set forth in Section 2.1 of this Agreement, the Board has conferred on the Company all requisite power and authority to execute this Agreement on behalf of such Customers;

j) the Company's performance under this Agreement is not contingent upon the performance of Customers or the ability of Customers to pay rates;

k) the Company shall have full responsibility for metering, billing and delivery with respect to Customers and BGS-FP Suppliers shall have no responsibility with respect thereto; and

l) the Company shall be responsible for distribution services and the BGS-FP Supplier shall not be responsible for distribution charges.

3.3 Survival of Obligations

All representations and warranties contained in this Article are of a continuing nature and shall be maintained during the term of this Agreement. If a Party learns that any of the representations, warranties or covenants in this Agreement are no longer true during the term of this Agreement, the Party shall immediately notify the other Party via facsimile, with a hard copy of the notice delivered by overnight mail.

ARTICLE 4: COMMENCEMENT AND TERMINATION OF AGREEMENT

4.1 Commencement and Termination

The term of this Agreement shall commence upon the Effective Date; provided that the provision of BGS-FP Supply by BGS-FP Suppliers to BGS-FP Customers on the Company's system shall commence at 00:01 a.m. on June 1, 2012 and shall end at midnight on May 31, 2015, unless this Agreement is terminated earlier in accordance with the provisions hereof.

4.2 Termination of Right to Supply BGS-FP

Each BGS-FP Supplier agrees that termination of this Agreement for reason of an Event of Default shall terminate any right of such BGS-FP Supplier to provide BGS-FP Supply to the BGS-FP Customers and nullify any of the entitlements to which such BGS-

FP Supplier became entitled as a result of being selected as a winning bidder in the competitive solicitation for BGS-FP Supply.

4.3 Survival of Obligations

Termination of this Agreement for any reason shall not relieve the Company or any BGS-FP Supplier of any obligation accrued or accruing prior to such termination. Applicable provisions of this Agreement shall continue in effect after termination to the extent necessary to provide for final billings and adjustments including, without limitation, any obligation to pay amounts tracked and retained by the Company during the term of this Agreement for the benefit of the BGS-FP Suppliers under Section 15.9 of this Agreement.

4.4 Mutual Termination

The Company and the BGS-FP Supplier may agree at any time during the term of this Agreement to terminate their respective rights and obligations hereunder on such terms and under such conditions that they mutually deem to be appropriate as set forth in a mutual termination agreement acceptable in form and substance to the Company and the BGS-FP Supplier (“Mutual Termination Agreement”); provided that Company agrees that it shall enter into such a Mutual Termination Agreement, which will discharge the terminating BGS-FP Supplier (the “Terminating BGS-FP Supplier”) with respect to liabilities arising after the effective date of the Mutual Termination Agreement if the following conditions precedent are met: (i) the Terminating BGS-FP Supplier identifies a replacement supplier willing to assume all obligations of the Terminating BGS-FP Supplier hereunder for the remaining term of this Agreement (the “Replacement BGS Supplier”); (ii) the Replacement BGS Supplier demonstrates its compliance with Article 6 of this Agreement, “Creditworthiness”, as of the effective date of the Mutual Termination Agreement; (iii) the Replacement BGS Supplier executes a counterpart signature page to this Agreement and thereby becomes a Party under this Agreement, effective immediately following the effective date of the Mutual Termination Agreement; and (iv) the Terminating BGS Supplier is not, to the belief or knowledge of the Company, subject to an Event of Default as of the effective date of the Mutual Termination Agreement or, if the Company believes that the Terminating BGS Supplier may be subject to an Event of Default, either (a) the Company has determined that, as of the effective date of the Mutual Termination Agreement, it has not incurred any Damages as a result of the Event of Default or (b) if the Company has determined, as of the effective date of the Mutual Termination Agreement, that it may have incurred Damages as a result of the Event of Default, that the Replacement BGS Supplier has agreed in

writing to be responsible for the payment of such Damages or to otherwise cure the Event of Default, in either case to the satisfaction of the Company.

ARTICLE 5: BREACH AND DEFAULT

5.1 Events of Default

An Event of Default under this Agreement shall occur if a Party (the “Defaulting Party”):

- (i) is the subject of a voluntary bankruptcy, insolvency or similar proceeding;
- (ii) makes an assignment for the benefit of its creditors;
- (iii) applies for, seeks consent to, or acquiesces in the appointment of a receiver, custodian, trustee, liquidator or similar official to manage all or a substantial portion of its assets;
- (iv) is dissolved (other than pursuant to a consolidation, amalgamation or merger) or is the subject of a Merger Event;
- (v) has a secured party take possession of all or substantially all of its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets;
- (vi) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (vii) in the case of a BGS-FP Supplier, PJM terminates the BGS-FP Supplier’s ability to make purchases from PJM markets or PJM holds the Company responsible for the provision of Energy, Capacity, Firm Transmission Service or Ancillary Services to meet the BGS-FP Supplier’s BGS-FP Supplier Responsibility Share under this Agreement;
- (viii) fails to comply with the creditworthiness requirements as set forth in Article 6 of this Agreement, including, without limitation, compliance with the creditworthiness requirements to cover the Margin calculated under Section 6.7 or post any Margin due under Section 6.7 of this Agreement, within the time frames set forth in this Agreement;

(ix) in the case of the Company, fails to implement any measures that it is directed to implement by the Board pursuant to the creditworthiness review procedure adopted by the Board in its Order dated December 4, 2002 (Docket No. EX01110754);

(x) fails to pay the other Party when payment is due;

(xi) violates any federal, state or local code, regulation or statute applicable to the supply of Energy in a manner that materially, and adversely, affects the Party's performance under this Agreement, including by way of failure to continually satisfy all applicable FERC requirements, or, in the case of a BGS-FP Supplier, by way of failure to maintain any other governmental approvals required for participation in the New Jersey retail Energy market as a BGS-FP Supplier, default on any obligation or other failure to comply with PJM requirements under the PJM Agreements or fails to comply with the Energy Portfolio Standards with respect to the BGS Supplier's BGS-FP Supplier Responsibility Share;

(xii) is the subject of an involuntary bankruptcy or similar proceeding;

(xiii) subject to Section 5.3 (b) of this Agreement, in the case of the Company acting on behalf of the BGS-FP Customers, fails to accept BGS-FP Supply properly tendered by the BGS-FP Supplier under this Agreement;

(xiv) fails to satisfy any other material obligation under this Agreement not listed above;

(xv) makes a materially incorrect or misleading representation or warranty under this Agreement; or

(xvi) commits an act or makes an omission that constitutes an "Event of Default" under any other agreement(s) for the provision of BGS Supply between the Company and the BGS-FP Supplier;

and fails to remedy such condition, event or delinquency herein above described such that the other Party (the "Non-Defaulting Party") is completely made whole with respect to such condition, event or delinquency, within three (3) Business Days of receipt of written notice thereof from such Non-Defaulting Party; provided, however, that an Event of Default shall be deemed to have occurred immediately, without any need for the provision of notice thereof by the Non-Defaulting Party and without any right of cure on the part of the Defaulting Party, in the event of the occurrence of a condition, event or delinquency described in subsections "i", "ii", "iii", "iv", "v", "vi", "vii" or "viii" above.

5.2 Rights Upon Default

Upon and during the continuation of an Event of Default, the Non-Defaulting Party shall be entitled to:

- (i) pursue any and all available legal and equitable remedies;
- (ii) declare an Early Termination Date of this Agreement with respect to the obligations of the Defaulting Party without any liability or responsibility whatsoever except for obligations arising prior to the date of termination, by providing written notice to the Defaulting Party; provided, however, that this Agreement shall immediately terminate automatically and without notice in the case of any Event of Default in which a Supplier is the Defaulting Party occurring under subsections (i), (ii), (iii), (iv), (v), (vi), (vii) or (viii) of Section 5.1 of this Agreement and such date of automatic termination shall be deemed the Early Termination Date of this Agreement with respect to such Supplier; and
- (iii) receive Damages in accordance with Section 5.3 of this Agreement.

The Non-Defaulting Party shall be entitled to elect or pursue one or more of the above remedies.

5.3 Damages Resulting From an Event of Default

- (a) **BGS-FP Supplier's Failure to Supply BGS-FP Supply or Declaration of Early Termination By Company:**

Damages resulting from (i) a BGS-FP Supplier's failure to (A) provide BGS-FP Supply in conformance with Section 2.2 hereof or (B) pay PJM for purchases of any products or services from PJM, or other failure to comply with PJM requirements, such that PJM holds the Company responsible for the provision of Energy, Capacity, Firm Transmission Service or Ancillary Services to meet such BGS-FP Supplier's BGS-FP Supplier Responsibility Share under this Agreement or (ii) the occurrence of any Event of Default attributable to a BGS-FP Supplier resulting in Early Termination, shall include all Costs incurred by the Company, acting in a commercially reasonable manner consistent with any statutory or regulatory requirements imposed by the Applicable Legal Authorities, in obtaining replacement services or in obtaining a replacement supplier, which Costs exceed the amounts that would have been payable to the defaulting BGS-FP Supplier under this Agreement. Costs incurred by the Company for the purpose of calculating Damages hereunder will consist of:

(i) the cost of Energy (including all charges for losses and congestion), Firm Transmission Service, Capacity, Ancillary Services or other elements of BGS-FP Supply allocated to the Company by the PJM OI due to the failure of a BGS-FP Supplier to meet obligations owing to the PJM OI in connection with its obligations under this Agreement;

(ii) the cost of Energy (including all charges for losses and congestion), Firm Transmission Service, Capacity, Ancillary Services or other elements of BGS-FP Supply purchased by the Company to replace BGS-FP Supply that a BGS-FP Supplier was obligated to supply under this Agreement during the term hereof;

(iii) administrative and legal costs associated with procuring replacement BGS-FP Supply; and

(iv) financial hedging costs incurred by the Company on behalf of BGS-FP Customers as a result of having to procure BGS-FP Supply not provided by a BGS-FP Supplier.

Without limitation of the foregoing, Damages calculated hereunder shall constitute the ultimate liability of a BGS-FP Supplier in the event of an Early Termination caused by an Event of Default attributable to such BGS-FP Supplier regardless of the reason or basis for such Early Termination. The Parties recognize, however, that the final calculation of Damages hereunder may not be known for some time since the level of such Damages may be dependant upon the arrangements made by the Company to obtain replacement services or a replacement supplier. The Company and each BGS-FP Supplier agree that, until the calculation of Damages under this provision is completed, the amount and payment to the Company of the Settlement Amount on behalf of BGS-FP Customers in the event of an Early Termination as set forth in Section 5.4 of this Agreement shall be immediately due and owing as an estimate of all Damages ultimately determined to be due and owing. After Damages have been finally determined under this Section 5.3, the amounts of Damages due and owing will be reconciled with payments already made by the BGS-FP Supplier under Section 5.4 of this Agreement.

(b) **Failure By Company on Behalf of Customers To Accept BGS-FP Supply Tendered By BGS-FP Supplier:**

Damages resulting from the failure of the Company on behalf of Customers to accept BGS-FP Supply tendered by the BGS-FP Supplier necessary to meet the BGS-FP Supplier Responsibility Share of BGS-FP Load under this Agreement shall consist of the

positive difference (if any) between the amounts that would have been payable to the BGS-FP Supplier hereunder had the Company accepted the BGS-FP Supply tendered by the BGS-FP Supplier necessary to meet the BGS-FP Supplier Responsibility Share of BGS-FP Load under this Agreement minus the amount realized by the BGS-FP Supplier in disposing, in a commercially reasonable manner, of the BGS-FP Supply not accepted by the Company; provided, however, that the Company shall not be required to accept on behalf of any Customer, quantities of unbundled Energy, Ancillary Services or other component of BGS-FP Supply utilized by Customers on an instantaneous basis as a function of electrical load, in excess of such Customer's instantaneous consumption of such component of BGS-FP Supply.

(c) **Damages Resulting From Early Termination Due To An Event of Default Attributable To the Company:**

Damages resulting from Early Termination due to an Event of Default attributable to the Company shall be as set forth in Section 5.4 of this Agreement. Damages calculated in accordance with said Section 5.4 shall be the exclusive remedy available to the BGS-FP Supplier in the event of Early Termination resulting from an Event of Default attributable to the Company.

(d) **Other Damages:**

Damages for Events of Default not specified above shall consist of the direct Damages incurred by the Non-Defaulting Party.

5.4 Declaration of an Early Termination Date and Calculation of Settlement Amount and Termination Payment

(a) **Settlement Amount.**

If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the Non-Defaulting Party (in the case of an Event of Default by the Company, each BGS-FP Supplier shall be considered a "Non-Defaulting Party") shall have the right (i) to designate a day, no earlier than the day such notice is effective and no later than twenty (20) days after such notice is effective, as a date for Early Termination ("Early Termination Date") to accelerate all amounts owing between the Parties and to liquidate and terminate the undertakings set forth in this Agreement, (ii) to withhold any payments due to the Defaulting Party under this Agreement, and (iii) to suspend performance; provided however, that an Early Termination Date shall be deemed to occur automatically and concurrently with the Event of Default, without any requirement for the provision of notice by the Non-Defaulting Party, with respect to an Event of Default

under subsections “i”, “ii”, “iii”, “iv”, “v”, “vi”, “vii” and “viii” of Section 5.1 of this Agreement. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount with respect to the obligations under this Agreement. For the purposes of such determination, the quantity amounts of Energy (including all charges for losses and congestion), Capacity and other services 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 BGS-FP Load changes as may have occurred since the previous calendar year.

(b) Net Out of Settlement Amounts.

The Non-Defaulting Party shall calculate a Termination Payment by aggregating all Settlement Amounts due under this Agreement or any other agreement(s) between the Company and the BGS-FP Supplier for the provision of BGS Supply into a single amount: by netting out (a) all Settlement Amounts that are due or will become due to the Defaulting Party, plus at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party and actually received, liquidated and retained by the Non-Defaulting Party, plus any or all other amounts due to the Defaulting Party under this Agreement or any other agreement(s) between the Company and the BGS-FP Supplier for the provision of BGS Supply against (b) all Settlement Amounts that are due or will become due to the Non-Defaulting Party, plus any or all other amounts due to the Non-Defaulting Party under this Agreement or any other agreement(s) between the Company and the BGS-FP Supplier for the provision of BGS Supply, so that all such amounts shall be netted out to a single liquidated amount; provided, however, that if the BGS-FP Supplier is the Defaulting Party and the Termination Payment is due to the BGS-FP Supplier, the Company shall be entitled to retain a commercially reasonable portion of the Termination Payment, which may be equal to the entire amount of the Termination Payment, as security for additional amounts that may be determined to be due and owing by the BGS-FP Supplier as Damages and further provided that any previously attached security interest of the Company in such retained amounts shall continue. The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate. If the Termination Payment has been retained by the Company as security for additional amounts that may be determined to be due and owing by the BGS-FP Supplier, and if, upon making a final determination of Damages, the Termination Payment, or any portion thereof, is to be made to the BGS-FP Supplier, the Company will pay simple interest on the Termination Payment amount being made to the BGS-FP Supplier. Simple interest will be calculated at the lower of the Interest Index or six (6) percent per annum.

(c) **Notice of Termination Payment.**

As soon as practicable after calculation of a Termination Payment, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. Subject to Section 5.4(b) above, the Termination Payment shall be made by the Party that owes it within three (3) Business Days after such notice is effective.

(d) **Disputes With Respect to Termination Payment.**

If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within three (3) Business Days of receipt of Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute; provided, however, that if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first provide commercially reasonable financial assurances to the Non-Defaulting Party in an amount equal to the Termination Payment.

(e) **Multiple BGS Supply Agreements.**

It is the intention of the Company and the BGS-FP Supplier that, in the event the BGS-FP Supplier is a party to other agreements with the Company for the provision of BGS Supply that existed prior to the Effective Date of this Agreement or are entered into after the Effective Date of this Agreement, the Company will calculate a single Termination Payment applicable to all such agreements as set forth herein. Each BGS-FP Supplier that is a party to such other agreements with the Company for the provision of BGS Supply hereby agrees that such other agreements are deemed amended by this Agreement for the purpose of calculating a single Termination Payment as described herein.

5.5 Step-up Provision

If any one or more BGS-FP Suppliers defaults in its obligations hereunder resulting in the exercise of the right of Early Termination by the Company with respect to such BGS-FP Supplier(s), then the Company, consistent with its Contingency Plan approved by the Board in its Order dated _____, may, at the Company's option, offer some or all Non-Defaulting Supplier(s) the optional right to assume under this Agreement additional Tranches of BGS-FP Load, subject to compliance with the

creditworthiness provisions of Article 6 of this Agreement. The provision of any such offer by the Company to Non-Defaulting Suppliers shall indicate the duration of the offer and the manner of acceptance thereof. Following the assumption by BGS-FP Supplier(s) of additional Tranches hereunder, the Company shall prepare a modified Appendix A which shall set forth the revised BGS-FP Supplier Responsibility Shares of the BGS-FP Load of the participating Non-Defaulting BGS-FP Supplier(s) following such assumption. This modified Appendix A shall be initialed (as a single document or in counterparts) by the Company and any affected BGS-FP Supplier(s) and shall thereafter be deemed a part of this Agreement, as to such affected BGS-FP Supplier(s), from the effective date of such modified Appendix A. A BGS-FP Supplier will not suffer any prejudice if it declines an offer to assume additional Tranches upon the default by another BGS-FP Supplier.

5.6 Setoff of Payment Obligations of The Non-Defaulting Party

Any payment obligations of the Non-Defaulting Party to the Defaulting Party pursuant to this Agreement or any other agreement(s) between the Company and the BGS-FP Supplier for the provision of BGS Supply shall be set off: (i) first, to satisfy any payment obligations of the Defaulting Party to the Non-Defaulting Party pursuant to this Agreement or any other agreement(s) between the Company and the BGS-FP Supplier for the provision of BGS Supply that are unsecured and not subject to any Guaranty; (ii) second, to satisfy any payment obligations of the Defaulting Party to the Non-Defaulting Party pursuant to this Agreement or any other agreement(s) between the Company and the BGS-FP Supplier for the provision of BGS Supply that are unsecured, but which are subject to a Guaranty; and (iii) third, to satisfy any remaining payment obligations of the Defaulting Party to the Non-Defaulting Party pursuant to this Agreement or any other agreement(s) between the Company and the BGS-FP Supplier for the provision of BGS Supply.

5.7 Preservation of Rights of Non-Defaulting Party

The rights of the Non-Defaulting Party under this Agreement, including without limitation Sections 5.4 and 5.6 of this Agreement, shall be supplemental to, and not in lieu of, any right of recoupment, lien, or set-off afforded by applicable law, and all such rights are expressly preserved for the benefit of the Non-Defaulting Party.

ARTICLE 6: CREDITWORTHINESS

6.1 Applicability

Each BGS-FP Supplier agrees that it shall meet the creditworthiness requirements of this Article 6 at all times during the term of this Agreements and shall inform the Company immediately of any changes in its credit rating or financial condition. Without limitation of the foregoing, each BGS-FP Supplier shall, upon written request, affirmatively demonstrate to the Company, its compliance with the creditworthiness requirements set forth hereunder. The Company may establish less restrictive creditworthiness requirements under this Article 6 in a non-discriminatory manner.

6.2 Creditworthiness Determination

The BGS-FP Supplier may submit and maintain a security deposit in accordance with Section 6.3 and 6.6 of this Agreement in lieu of submitting to or being qualified under a creditworthiness evaluation. The BGS-FP Supplier shall have the opportunity to petition the Company to re-evaluate its creditworthiness whenever an event occurs that the BGS-FP Supplier believes would improve the determination made by the Company of its creditworthiness. The Company's credit re-evaluation must be completed as soon as possible but no longer than thirty (30) days after receiving a fully documented request. The Company must provide the rationale for its determination of the credit limit and any resulting security requirement. The Company must perform its credit re-evaluation and associated security calculation in a non-discriminatory manner. BGS-FP Suppliers shall provide unrestricted access to audited financial statements; provided that if audited financial statements are not available, the Company may specify other types of financial statements that will be accepted.

6.3 Independent Credit Requirement

The Independent Credit Requirement per Tranche ("ICRT") that will be required of BGS-FP Suppliers under this Agreement shall initially be \$2.4 million per Tranche and shall decline in accordance with the schedule included as part of Appendix B throughout the term hereof. The ICR under this Agreement is the ICRT times the number of Tranches shown in Appendix A hereto.

6.4 Independent Credit Threshold

BGS-FP Suppliers that qualify under the following criteria will be granted an Independent Credit Threshold ("ICT"). The ICT will be used by the BGS-FP Supplier

solely to partially or fully cover the aggregate ICR amounts under this Agreement and any other BGS Supply agreement(s) between it and the Company. In all instances, the most current senior unsecured debt rating (or, if unavailable, the most current corporate issuer rating discounted one notch) will be used.

(a) The following requirements shall apply to BGS-FP Suppliers or Guarantors of BGS-FP Suppliers that have been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia in order to be granted an ICT. For BGS-FP Suppliers who cannot meet the following requirements, the posting of cash or a letter of credit in an acceptable form as defined in Section 6.9(b) below (see standard format in Appendix C) for the entire aggregate ICR amounts under this Agreement and any other BGS Supply agreement(s) between it and the Company will be required at the time of or prior to the execution of this Agreement.

(i) The BGS-FP Supplier shall meet the following requirements: (1) must be rated by at least two of the following rating agencies: Standard & Poor’s Ratings Services (“S&P”), Moody’s Investors Service, Inc. (“Moody’s”), Fitch, Inc. (“Fitch”) or A.M. Best Company (“A.M. Best”), and (2) must have a minimum senior unsecured debt rating (or, if unavailable, corporate issuer rating discounted one notch) of at least “BBB-” from S&P, “Baa3” from Moody’s, “BBB-” from Fitch, or “bbb” from A.M. Best (a “Minimum Rating”). If the BGS-FP Supplier is rated by only two rating agencies, and the ratings are split, the lower rating will be used. If the BGS-FP Supplier is rated by three or four rating agencies, and the ratings are split, the lower of the two highest ratings will be used; however, in the event that the two highest ratings are common, such common rating will be used. The maximum level of the ICT will be determined based on the following table:

Credit Rating of the BGS-FP Supplier				Max. Independent Credit Threshold
S&P	Moody’s	Fitch	A.M. Best	
A- and above	A3 and above	A- and above	aaa	16% of TNW ¹
BBB+	Baa1	BBB+	aa	10% of TNW
BBB	Baa2	BBB	a	8% of TNW
BBB-	Baa3	BBB-	bbb	6% of TNW
Below BBB-	Below Baa3	Below BBB-	Below bbb	0% of TNW

¹ “TNW” means Tangible Net Worth.

The BGS-FP Supplier will be required to post cash or a letter of credit in an acceptable form as defined in Section 6.9(b) of this Agreement (see standard format in Appendix C) for the aggregate ICR amounts under this Agreement and any other BGS Supply agreement(s) between it and the Company, to the extent that the aggregate ICR exceeds the ICT at the time of or prior to the execution of this Agreement; or

(ii) For BGS-FP Suppliers having a Guarantor, the Guarantor (1) must be rated by at least two of the following rating agencies: S&P, Moody's, Fitch, or A.M. Best, and (2) must have a minimum senior unsecured debt rating (or, if unavailable, corporate issuer rating discounted one notch) equal to the Minimum Rating. If the Guarantor is rated by only two rating agencies, and the ratings are split, the lowest rating will be used. If the Guarantor is rated by three or four rating agencies, and the ratings are split, the lower of the two highest ratings will be used; however, in the event that the two highest ratings are common, then such common rating will be used. The maximum level of the ICT that could be provided through the Guaranty (see standard format in Appendix D) will be determined based on the following table:

Credit Rating of the Guarantor				Max. Independent Credit Threshold
S&P	Moody's	Fitch	A.M. Best	
A- and above	A3 and above	A- and above	aaa	16% of TNW
BBB+	Baa1	BBB+	aa	10% of TNW
BBB	Baa2	BBB	a	8% of TNW
BBB-	Baa3	BBB-	bbb	6% of TNW
Below BBB-	Below Baa3	Below BBB-	Below bbb	0% of TNW

The BGS-FP Supplier will be granted an ICT of up to the amount of the Guaranty, provided that the amount of the Guaranty is below the maximum ICT shown in the table above; provided that if a Guaranty is provided for an unlimited amount, the BGS-FP Supplier will be granted an ICT of up to the maximum ICT shown in the table above. The Guaranty tendered by the BGS-FP Supplier to satisfy the ICT requirement arising under this Section 6.4 shall be a separate document from the Guaranty, if any, tendered by the BGS-FP Supplier to satisfy any requirement for a credit limit to cover the Total Exposure Amount arising under Section 6.6 of this Agreement; provided, however, that a single Guaranty may be provided if such Guaranty is for an unlimited amount. The

BGS-FP Suppliers will be required to post cash or a letter of credit in an acceptable form as defined in Section 6.9 of this Agreement for the aggregate ICR amounts under this Agreement and any other BGS Supply agreement(s) between it and the Company, to the extent that the aggregate ICR exceeds the ICT at the time of or prior to the execution of this Agreement.

(b) The following standards shall apply to BGS-FP Suppliers or Guarantors of BGS-FP Suppliers that have not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia. For a BGS-FP Supplier who cannot meet the following requirements, the posting of cash or a letter of credit in an acceptable form as defined in Section 6.9(b) of this Agreement (see standard format in Appendix C) for the entire aggregate ICR amounts under this Agreement and any other BGS Supply agreement(s) between it and the Company will be required at the time of or prior to the execution of this Agreement.

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

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

(c) All BGS-FP Suppliers or Guarantors of BGS-FP Suppliers that have not been incorporated or otherwise formed under the laws of a state of the United States or of the District of Columbia shall, in addition to all documentation required elsewhere in this Section 6.4, supply the following as a condition of being granted an ICT:

(i) For BGS-FP Suppliers: (i) a legal opinion of counsel qualified to practice in the foreign jurisdiction in which the BGS-FP Supplier is incorporated or otherwise formed that this Agreement has been duly authorized, executed and delivered and is the legal, valid and binding obligation of the BGS-FP Supplier 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 BGS-FP Supplier that the person executing this Agreement on behalf of the BGS-FP Supplier has the authority to execute the Agreement and that the governing board of such BGS-FP Supplier has approved the execution of this Agreement; and (iii) the sworn certificate of the corporate secretary (or similar officer) of such BGS-FP Supplier that the BGS-FP Supplier has been authorized by its governing board to enter into agreements of the same type as this Agreement. The Company shall have full discretion, without liability or obligation to the BGS-FP Supplier, to evaluate the sufficiency of the documents submitted by the BGS-FP Supplier.

(ii) For the Guarantor of a BGS-FP Supplier: (i) a legal opinion of counsel qualified to practice in the foreign jurisdiction in which the Guarantor is incorporated or otherwise formed that the Guaranty has been duly authorized, executed and delivered and is the legal, valid and binding obligation of the Guarantor 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 Guarantor that the person executing the Guaranty on behalf of the Guarantor has the authority to execute the Guaranty and that the governing board of such Guarantor has approved the execution of the Guaranty; and (iii) the sworn certificate of the corporate secretary (or similar officer) of such Guarantor that the Guarantor has been authorized by its governing board to enter into agreements of the same type as this Guaranty. The Company shall have full discretion, without liability or obligation to the Guarantor or the BGS-FP Supplier, to evaluate the sufficiency of the documents submitted by such Guarantor.

6.5 Mark-to-Market Credit Exposure Methodology

To calculate the daily exposure for each BGS-FP Supplier the Mark-to-Market (“MtM”) credit exposure methodology will be used. The “mark” for each Billing Month will be determined at the time the auction is completed based on the available Forward Market Prices and for the remaining Billing Months will be derived based on historical data. At the time the auction is completed, the MtM credit exposure for each BGS-FP Supplier shall be equal to zero. Subsequently, the differences between the available Forward Market Prices on the valuation date and the “mark” prices for the corresponding Billing Months will be used to calculate the daily credit exposures for each BGS-FP Supplier. The total MtM credit exposure will be equal to 1.1 times the sum of the MtM credit exposures for each Billing Month. The methodology for calculation of the MtM credit exposure is illustrated in the example (using hypothetical numbers) set forth in Appendix B hereto.

6.6 Credit Limit

The following criteria constitute the Company's creditworthiness requirements for the BGS-FP Suppliers to cover the Total Exposure Amount. In all instances, the most current senior unsecured debt rating (or, if unavailable, the most current corporate issuer rating discounted one notch) will be used.

(i) For a BGS-FP Supplier to be granted an unsecured line of credit, the BGS-FP Supplier shall meet the following requirements: (1) must be rated by at least two of the following rating agencies: S&P, Moody's, Fitch or A.M. Best, and (2) must have a minimum senior unsecured debt rating (or, if unavailable, corporate issuer rating discounted one notch) equal to the Minimum Rating. If the BGS-FP Supplier is rated by only two rating agencies, and the ratings are split, the lowest rating will be used. If the BGS-FP Supplier is rated by three or four rating agencies, and the ratings are split, the lower of the two highest ratings will be used; provided that in the event that the two highest ratings are common, such common rating will be used. The Maximum Credit Limit to cover the Total Exposure Amount will be determined based on the following table:

Credit Rating of the BGS-FP Supplier				Max. Credit Limit to be calculated as the lesser of the % of TNW and credit limit cap below	
S&P	Moody's	Fitch	A.M. Best	%	Credit Limit Cap
A- and above	A3 and above	A- and above	aaa	16% of TNW	\$60,000,000
BBB+	Baa1	BBB+	aa	10% of TNW	\$40,000,000
BBB	Baa2	BBB	a	8% of TNW	\$30,000,000
BBB-	Baa3	BBB-	bbb	6% of TNW	\$15,000,000
Below BBB-	Below Baa3	Below BBB-	Below bbb	0% of TNW	0

The BGS-FP Supplier will be required to post cash or a letter of credit in an acceptable form as defined in Section 6.9 (b) of this Agreement (see standard format in Appendix C) for the Margin due the Company as set forth in Section 6.7 of this Agreement; or

(ii) For BGS-FP Suppliers having a Guarantor, the Guarantor (1) must be rated by at least two of the following rating agencies: S&P, Moody's, Fitch or A.M. Best, and (2) must have a minimum senior unsecured debt rating (or, if unavailable, corporate issuer rating discounted one notch) equal to the Minimum Rating. If the Guarantor is rated by only two rating agencies, and the ratings are split, the lowest rating will be used. If the Guarantor is rated by three or four rating agencies, and the ratings are split, the lower of the two highest ratings will be used; provided that in the event that the two highest ratings are common, such common rating will be used. The Maximum Credit Limit to cover the Total Exposure Amount that could be provided through the Guaranty (see standard format in Appendix D) will be determined based on the following table:

Credit Rating of the Guarantor				Max. Credit Limit to be calculated as the lesser of the % of TNW and credit limit cap below	
S&P	Moody's	Fitch	A.M. Best	%	Credit Limit Cap
A- and above	A3 and above	A- and above	aaa	16% of TNW	\$60,000,000
BBB+	Baa1	BBB+	aa	10% of TNW	\$40,000,000
BBB	Baa2	BBB	a	8% of TNW	\$30,000,000
BBB-	Baa3	BBB-	bbb	6% of TNW	\$15,000,000
Below BBB-	Below Baa3	Below BBB-	Below bbb	0% of TNW	0

The BGS-FP Supplier will be granted a credit limit equal to the lesser of (i) the amount of the Guaranty as provided to the Company at the time this Agreement is executed as such amount may be modified in any amended or substitute Guaranty provided to the Company during the term of this Agreement, or (ii) the Supplier's Maximum Credit Limit. The BGS-FP Supplier, however, may not increase or substitute its Guaranty for the purpose of increasing its applicable credit limit during the time period after the Company has made a Margin call but before the BGS-FP Supplier has posted the required Margin. Notwithstanding anything herein to the contrary, the BGS-FP Supplier may increase the limit of its Guaranty after satisfying a Margin call from the Company and upon the Company's receipt of an amended or substitute Guaranty increasing the limit of the Guaranty, the BGS-FP Supplier may request a return of Margin in accordance with Section 6.7 of this Agreement. The BGS-FP Supplier will be required

to post cash or a letter of credit in an acceptable form as defined in Section 6.9(b) of this Agreement (see standard format in Appendix C) for the Margin due the Company as set forth in Section 6.7 of this Agreement; or

(iii) The posting of cash or a letter of credit as defined in Section 6.9 (b) below for the entire Total Exposure Amount as set forth in Section 6.7 of this Agreement.

6.7 Posting Margin and Return of Surplus Margin

(a) If at any time and from time to time during the term of this Agreement, the Total Exposure Amount exceeds the BGS-FP Supplier's or the Guarantor's credit limit, then the Company on any Business Day, may request that the BGS-FP Supplier provide cash or a letter of credit in an acceptable form as defined in Section 6.9(b) of this Agreement (see standard format in Appendix C), in an amount equal to the Margin (less any Margin posted by the BGS-FP Supplier and held by the Company pursuant to this Agreement or any other agreement(s) between the Company and the BGS-FP Supplier for the provision of BGS Supply).

If the BGS-FP Supplier receives written notice for Margin from the Company by 1:00 p.m. New York time on a Business Day, then the BGS-FP Supplier shall post Margin the next following Business Day, if posting cash, and by the second Business Day following the date of notice, if posting a letter of credit, unless the Company agrees in writing to extend the period to provide Margin. If the BGS-FP Supplier receives notice for Margin from the Company after 1:00 p.m. New York time on a Business Day, whether posting cash or a letter of credit, then the BGS-FP Supplier must post Margin the second Business Day following the date of notice unless the Company agrees in writing to extend the period to provide Margin. The Company will not unreasonably deny a request for a one-day extension of such period. In the event that the BGS-FP Supplier fails to post Margin when due in accordance with this Section 6.7, then an Event of Default under Article 5 of this Agreement will be deemed to have occurred and the Company will be entitled to the remedies set forth in Article 5 of this Agreement.

(b) Surplus Margin being held by the Company that is not needed to satisfy the Total Exposure Amount, as determined above, will be returned to the BGS-FP Supplier upon receipt of a written request by the BGS-FP Supplier. Surplus Margin means cash or a letter of credit posted by the BGS-FP Supplier as a result of a request by the Company pursuant to Section 6.7(a) that exceeds the Total Exposure Amount less the BGS-FP Supplier's or the Guarantor's credit limit. The amount returned to the BGS-FP Supplier shall be the surplus Margin then held by the Company. If the BGS-FP Supplier posted cash and notice is received by 1:00 p.m. New York time on a Business Day, the

surplus Margin will be returned by the next following Business Day and if the BGS-FP Supplier posted cash and notice is received by the Company after 1:00 p.m. New York time on a Business Day, the surplus Margin shall be returned by the second Business Day following the date of notice, unless the BGS-FP Supplier agrees in writing to extend the period to return the surplus Margin. If the BGS-FP Supplier posted a letter of credit, the surplus Margin shall be returned on the next Business Day following the Business Day on which the amendment to the letter of credit is received from the issuing bank, unless the BGS-FP Supplier agrees in writing to extend the period to return the surplus Margin. The BGS-FP Supplier will not unreasonably deny a request for a one-day extension of such period. In the event that the Company fails to return the surplus Margin when due in accordance with this Article, then an Event of Default under Article 5 of this Agreement will be deemed to have occurred and the BGS-FP Suppliers will be entitled to the remedies set forth in Article 5 of this Agreement.

6.8 Grant of Security Interest/Remedies

To secure its obligations under this Agreement and to the extent that the BGS-FP Supplier posted Margin/collateral hereunder, the BGS-FP Supplier hereby grants to the Company a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, the Company, and the BGS-FP Supplier and the Company agree to take such action as is reasonably required to perfect the secured Party's first priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Company may do any one or more of the following: (i) exercise any of the rights and remedies of the Company with respect to all collateral, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of the BGS-FP Supplier in the possession of the Company whether held in connection with this Agreement or any other agreement(s) between the Company and the BGS-FP Supplier for the provision of BGS Supply; (iii) draw on any outstanding letter of credit issued for its benefit; and (iv) liquidate all security held by or for the benefit of the Company free from any claim or right of any nature whatsoever of the BGS-FP Supplier, including any equity or right of purchase or redemption by the BGS-FP Supplier. The Company shall apply the proceeds of the collateral realized upon the exercise of such rights or remedies to reduce the BGS-FP Supplier's obligation under this Agreement or any other agreement(s) between the Company and the BGS-FP Supplier for the provision of BGS Supply (the BGS-FP Supplier remaining liable for any amounts owing to the Company after such application),

subject to the Company's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

All notices, demands or requests regarding credit requirements and credit related security or deposit transfers shall be in writing and shall be personally delivered or sent by overnight express mail, courier service or facsimile transmission (with the original transmitted by any of the other aforementioned delivery methods) addressed as follows:

If to a BGS-FP Supplier:

Notification information for each BGS-FP Supplier is set forth on Appendix A hereto.

If to the Company to:

Copy to:

or to such other person at such other address as a Party shall designate by like notice to the other Party. Notice received after the close of the Business Day shall be deemed received on the next Business Day; provided that notice by facsimile transmission shall be deemed to have been received by the recipient if the recipient confirms receipt telephonically or in writing.

6.9 Security Instruments

At each BGS-FP Supplier's choice, the following are deemed to be acceptable methods for posting security, if required:

(a) Cash; or

(b) A standby irrevocable letter of credit acceptable to the Company issued by a bank or other financial institution with a minimum "A" senior unsecured debt rating (or, if unavailable, corporate issuer rating discounted one notch) from S&P or "A2" from Moody's (see standard format in Appendix C). The letter of credit shall state that it shall renew automatically for successive one-year or shorter periods, until terminated upon at least ninety (90) days prior written notice from the issuing financial institution. If the Company receives notice from the issuing financial institution that the letter of credit is being cancelled, the BGS-FP Supplier will be required to provide a substitute letter of credit from an alternative bank satisfying the minimum requirements. The receipt of the

substitute letter of credit must be effective as of the cancellation date and delivered to the Company thirty (30) days before the cancellation date of the original letter of credit. If the BGS-FP Supplier fails to supply a substitute letter of credit as required, then the Company will have the right to draw on the existing letter of credit and to hold the amount as Margin.

If the credit rating of a bank or other financial institution from which a BGS-FP Supplier has obtained a letter of credit falls below the levels specified in Article 6 of this Agreement, the BGS-FP Supplier shall have two (2) Business Days following written notice by the Company to obtain a suitable letter of credit from another bank or other financial institution that meets those standards.

6.10 Maintenance of Creditworthiness

(a) Reporting of Changes.

Each BGS-FP Supplier shall promptly notify the Company of any change in its credit rating or financial condition or that of its Guarantor. The BGS-FP Supplier or Guarantor shall also furnish evidence of an acceptable credit rating or financial condition upon the request of the Company.

(b) Change in Credit Standing.

The Company will re-evaluate the creditworthiness of a BGS-FP Supplier whenever it becomes aware of an adverse change, through the provision of notice by such BGS-FP Supplier or otherwise, in the BGS-FP Supplier's or Guarantor's credit standing. If the lowest credit rating (whether senior unsecured debt rating or corporate issuer rating) used to determine the BGS-FP Supplier's ICT or its credit limit adversely changes, the Company will require additional security from the BGS-FP Supplier in accordance with Sections 6.4 and 6.6 of this Agreement. The additional security must be in a form acceptable to the Company, as specified in Section 6.9 of this Agreement and must be posted as set forth in Section 6.7 of this Agreement.

6.11 Calling on Security

The Company may call upon the security posted by the BGS-FP Supplier if the BGS-FP Supplier fails to pay amounts due to the Company pursuant to this Agreement or any other agreement(s) between the Company and the BGS-FP Supplier for the provision of BGS Supply after all of the following events occur:

- (a) Written Notice of Default is provided to the BGS-FP Supplier; and

- (b) Any applicable cure period ends.

The foregoing notwithstanding, the security posted by the BGS-FP Supplier shall become due automatically without prior notice or right of cure in the case of any Event of Default arising under subsections (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) of Section 5.1 of this Agreement.

6.12 Interest on Cash Held by Company

The Company will pay simple interest calculated at the lower of the Interest Index or six (6) percent per annum on all cash held by the Company pursuant to this Agreement. Each Billing Month, the Company will prepare a statement of interest amounts due to the BGS-FP Supplier. The statement will be sent to the BGS-FP Supplier within three (3) Business Days after the end of the Billing Month via overnight mail or other expeditious means. The Company shall make interest payments on the first Business Day after the 5th day of each calendar month.

6.13 Confidentiality

Information supplied by a BGS-FP Supplier in connection with the creditworthiness process shall be deemed confidential and not subject to public disclosure, unless Applicable Legal Authorities require disclosure of the information. If information must be disclosed, then the confidentiality of the information shall be maintained consistent with the Applicable Legal Authority's rules and regulations pertaining to confidentiality. The BGS-FP Supplier will be given prompt notice of any request by a third party to obtain confidential information related to the BGS-FP Supplier's creditworthiness.

6.14 No Endorsement of BGS-FP Supplier

The Company's determination that a BGS-FP Supplier is creditworthy pursuant to the process set forth above, shall not be deemed to constitute an express or implied warranty or guarantee of any kind with respect to the financial or operational qualifications of the BGS-FP Supplier. The Company will treat all BGS-FP Suppliers in a non-discriminatory manner and shall provide no preference to any BGS-FP Supplier.

6.15 Multiple BGS Supply Agreements

It is the intention of the Company and the BGS Supplier that, in the event the BGS-FP Supplier is a party to other agreements with the Company for the provision of

BGS Supply that existed prior to the effective date of this Agreement or is entered into after the effective date of this Agreement, the Company will calculate the Margin applicable to all such agreements as set forth herein. Each BGS-FP Supplier that is a party to such other agreements with the Company for the provision of BGS Supply hereby agrees that such other agreements are deemed amended by this Agreement for the purpose of calculating the Margin as described herein.

ARTICLE 7: PROCEDURES FOR ENERGY SCHEDULING, CAPACITY RESOURCE SUBMISSION AND TRANSMISSION PROCUREMENT

The Parties must adhere to any applicable operational requirements of PJM necessary to protect the integrity of the transmission system within the PJM Control Area and the transmission systems of interconnected control areas, and must satisfy any and all PJM, MAAC and NERC criteria, when applicable. The BGS-FP Supplier also must adhere to any applicable operational requirements of the Company necessary to protect the integrity of the Company's local distribution system.

The BGS-FP Peak Load Share will be determined by the Company based on the zonal peak load contributions utilized in the PJM determination of the zonal obligations for Capacity, adjusted for contributions associated with Customers served by Third Party Suppliers, BGS-CIEP Customers and Wholesale Customers. Contributions for TPSs shall be calculated as set forth in the Company's TPS operating procedures found on the Company's website at www.____.com. The BGS-FP Peak Load Share of a BGS-FP Supplier is based on the BGS-FP Supplier Responsibility Share.

7.1 Load Obligations

The Company and the BGS-FP Supplier acknowledge that the BGS-FP Customers are within the Company's metered boundaries and that the BGS-FP Load must be divided into BGS-FP Supplier obligations by applying the BGS-FP Supplier Responsibility Share for each BGS-FP Supplier as a Load Serving Entity that must meet its PJM obligations. These load obligations include, but are not limited to, hourly Energy obligations, Capacity obligations, Ancillary Services obligations, and Firm Transmission Service obligations under the PJM Agreements.

7.2 Data Transmission

(a) Energy

The procedures for transmitting load obligation data for the BGS-FP Supplier's hourly Energy obligations shall be as set forth by PJM.

(b) Capacity

The procedures for transmitting the BGS-FP Supplier Responsibility Share data to be used by PJM to determine the BGS-FP Supplier's Capacity obligations shall be as set forth by PJM.

(c) Transmission

The procedures for transmitting the BGS-FP Supplier Responsibility Share data based upon which the BGS-FP Supplier will meet its obligations under the PJM OATT shall be as set forth by PJM.

(d) Ancillary Services

The procedures for transmitting data regarding the BGS-FP Supplier's Ancillary Services obligations shall be as set forth by PJM.

7.3 Energy Scheduling

The Company will not provide load-forecasting services. The BGS-FP Supplier shall schedule Energy resources to meet its obligations with PJM as provided for in the PJM Agreements, procedures, and manuals. The Company, through an e-schedule, shall provide PJM and the BGS-FP Supplier with the data regarding the BGS-FP Supplier Responsibility Share of the Energy obligations, as set forth by PJM. The Energy obligations for each BGS-FP Supplier will be determined based on its BGS-FP Supplier Responsibility Share of the BGS-FP Load. The total preliminary BGS-FP Energy obligation will be based on the total Energy loads for all of the BGS-FP Customers as calculated by the Company, including all losses and unaccounted for energy.

ARTICLE 8: THE ENERGY SETTLEMENT/RECONCILIATION PROCESS

8.1 Energy Settlement By PJM

The settlement process occurs at PJM to reflect the BGS-FP Supplier's actual Energy obligations in a supply/usage reconciliation process. The Energy obligations for each BGS-FP Supplier will be determined based on the BGS-FP Supplier Responsibility Share of the BGS-FP Load. The reconciled total BGS-FP Energy obligation will be based on the final total Energy loads for the Customers receiving BGS-FP service, including losses.

Any adjustments for billing and metering errors reported subsequent to the calculation of FMEA will be proportionally allocated by the Company to the BGS-FP Suppliers.

8.2 Energy Settlement by the Company

In the event that actual BGS-FP Customer consumption data is not available until after the PJM deadline for conducting the final settlement, the Company will conduct the settlement process with the BGS-FP Supplier. Should PJM impose penalties against the Company as a result of the BGS-FP Supplier's transactions or failure to meet PJM requirements, such penalties shall be passed through by the Company, to the BGS-FP Supplier as part of this settlement process. In addition, all other applicable charges from PJM, including any billing adjustments, will be appropriately allocated to the BGS-FP Supplier.

ARTICLE 9: BILLING AND PAYMENT

9.1 The Company Payment of Obligations to the BGS-FP Supplier

The Company shall pay all amounts due to the BGS-FP Supplier hereunder in accordance with the following provisions:

(a) Each Billing Month, the Company will prepare a Statement of amounts due to the BGS-FP Supplier. A line item on this Statement will show amounts due equal to the Auction Price multiplied by the applicable Seasonal Billing Factor multiplied by PMEA for the Billing Month in question.

(b) The Statement will be sent to the BGS-FP Supplier within six (6) Business Days after the end of the Billing Month via overnight mail or other expeditious means.

(c) The Company shall make payment on the first Business Day after the 19th day of each calendar month provided that the Company maintains a minimum senior unsecured debt rating (or, if unavailable, corporate issuer rating discounted one notch) of at least “BBB-” from S&P, “Baa3” from Moody’s or “BBB-” from Fitch (the “Required Rating”). If the Company is rated by only two rating agencies, and the ratings are split, the lower rating will be used. If Company is rated by three rating agencies, and the ratings are split, the lower of the two highest ratings will be used, and, in the event that the two highest ratings are common, such common rating will be used.

(d) In the event that the Company’s minimum senior unsecured debt rating (or, if unavailable, corporate issuer rating discounted one notch) falls below the Required Rating, and until the Company’s minimum senior unsecured debt rating (or, if unavailable, corporate issuer rating discounted one notch) becomes equal or higher than the Required Rating, (i) the Company shall make an initial payment on the first business day after the 5th day of the calendar month for approximately 50% of the amount due to the BGS-FP Supplier for the previous calendar month (the “Initial Payment”), and (ii) the Company shall make a second payment on the first business day after the 19th day of the calendar month for any remaining amounts associated with the previous calendar month, which will include the difference between the Initial Payment and any amounts due equal to the Auction Price multiplied by the applicable Seasonal Billing Factor multiplied by PMEA for the Billing Month in question.

(e) To the extent that the FMEA differs from the PMEA the Company will pay or charge the BGS-FP Supplier for the PMEA/FMEA Adjustment Amount within the PJM deadline for conducting the final settlement.

(f) If each Party owes an amount to the other Party pursuant to this Agreement, including any related interest, payments or credits, the Parties may satisfy their respective obligations to each other by netting the aggregate amounts due to one Party against the aggregate amounts due to the other Party, with the Party, if any, owing the greater aggregate amount paying the other Party the difference between the amounts owed.

(g) Payments shall be subject to adjustment for any arithmetic errors, computation errors, meter reading errors, or other errors, provided that the errors become known within one (1) year of the termination of this Agreement.

(h) The Company shall make payments of funds payable to the BGS-FP Supplier by electronic transfer to a bank designated by the BGS-FP Supplier.

(i) If a good faith dispute arises between the Company and the BGS-FP Supplier regarding a Statement, the disputing Party shall be obligated to pay only the undisputed portion of the Statement, if any, and shall present the dispute in writing and submit supporting documentation to the non-disputing Party within one hundred twenty (120) calendar days from the date of the Statement in dispute. Statement disputes shall be addressed promptly, and in accordance with the dispute resolution procedures set forth in Article 11 of this Agreement. Upon resolution of a Statement dispute, any payments made to either Party will include simple interest on the payment at the lower of the Interest Index or six (6) percent per annum payable from the date that notice of a Statement dispute was received by the non-disputing Party.

(j) If payment is made to the BGS-FP Supplier after the due date shown on the Statement, a late fee will be added to the unpaid balance until the entire Statement is paid. This late fee will be calculated at the prime rate commercial borrowers are charged by J.P. Morgan Chase.

9.2 Billing for BGS-FP Supplier's Obligations to Other Parties

The Company shall have no responsibility for billing between: the BGS-FP Supplier and PJM; the BGS-FP Supplier and any Energy or Capacity source; or the BGS-FP Supplier and any other third party. The Company will be solely responsible for billing BGS-FP Customers for BGS-FP.

9.3 The BGS-FP Supplier Payment of Obligations to the Company

The BGS-FP Supplier shall pay all Charges it incurs hereunder in accordance with the following provisions:

(a) Each Billing Month, the Company shall submit an invoice to the BGS-FP Supplier for all Charges owed by the BGS-FP Supplier under this Agreement. The BGS-FP Supplier shall make payment for Charges incurred on or before the due date shown on the invoice. The due date will be on the first Business Day after the 19th day of each calendar month. The invoice will be sent to the BGS-FP Supplier within six (6) Business Days after the end of the Billing Month via overnight mail or other expeditious means.

(b) Invoices shall be subject to adjustment for any arithmetic errors, computation errors, Meter Reading errors, or other errors, provided that the errors become known within one (1) year of the termination of this Agreement.

(c) The BGS-FP Supplier shall make payments of funds payable to the Company by electronic transfer to a bank designated by the Company.

(d) If a good faith dispute arises between the Company and the BGS-FP Supplier regarding an invoice, the disputing Party shall pay only the undisputed portion of the invoice, if any, and shall present the dispute in writing and submit supporting documentation to the non-disputing Party within one hundred twenty (120) calendar days from the due date of the invoice in dispute. Billing disputes shall be addressed promptly, and in accordance with the dispute resolution procedures set forth in Article 11 of this Agreement. Upon resolution of a billing dispute, any payments made to either Party will include simple interest on the payment at the lower of the Interest Index or six (6) percent per annum payable from the date that notice of a bill dispute was received by the non-disputing Party.

(e) If payment is made to the Company after the due date shown on the invoice, a late fee will be added to the unpaid balance until the entire invoice is paid. This late fee will be calculated at the prime rate commercial borrowers are charged by J.P. Morgan Chase.

ARTICLE 10: SYSTEM OPERATION

10.1 Disconnection and Curtailment By the Company

The Company shall have the right, without incurring any liability to BGS-FP Suppliers, to disconnect (or otherwise curtail, interrupt or reduce deliveries from) the BGS-FP Suppliers or to disconnect (or otherwise curtail, interrupt or reduce deliveries to) any Customer whenever the Company determines in the exercise of its good faith discretion, or when the Company is directed by PJM, that such a disconnection, curtailment, interruption or reduction is necessary to facilitate construction, installation, maintenance, repair, replacement or inspection of any of the Company's facilities; or due to any other reason affecting the safe and reliable operation of the Company's or a Customer's facilities, including Emergencies, forced outages or potential overloading of the Company's transmission and/or distribution circuits, potential damage to any Customer's facilities or any risk of injury to persons.

10.2 Inadvertent Loss of Service to BGS-FP Customers

The Parties agree and acknowledge that service to BGS-FP Customers may be

inadvertently lost due to storms, weather, accidents, breakage of equipment or other events beyond the reasonable control of the Company affecting the transmission and distribution system of the Company. Neither Party will have any liability to the other Party for the occurrence of such events except for the Company's obligation to pursue steps for the resumption of the disrupted service as set forth in Section 10.3 below. In no event will an inadvertent loss of service affect a Party's obligation to make any payments then due or becoming due with respect to performance rendered prior to such inadvertent loss of service.

10.3 Good Faith Efforts

The Company shall use good faith efforts to: (a) minimize any curtailment, interruption or reduction to the extent practicable under the circumstances; (b) provide the BGS-FP Supplier with prior notification of any curtailment, interruption or reduction, to the extent practicable; and (c) resume service as promptly as practicable.

10.4 PJM Requirements

The BGS-FP Supplier acknowledges and agrees that, as a member of PJM, the Company is bound by all PJM operating instructions, policies and procedures as are currently set forth in the PJM Operating Manual, which are available through the Internet on the PJM Home Page (<http://www.pjm.com>), as may be revised from time to time, which are needed to maintain the integrity of the PJM system. The BGS-FP Supplier acknowledges and agrees that it will cooperate with the Company so that the Company will be in compliance with all PJM Emergency Operations Procedures, which include, but are not limited to, those procedures pertaining to minimum and maximum generation Emergencies, and measures requiring involuntary Customer participation, such as supply voltage reduction or full interruption of Customer load by either manual or automatic means.

10.5 Compliance With Governmental Directives

The BGS-FP Supplier also acknowledges and agrees that the Company may need to act in response to governmental or civil authority directives which may affect BGS-FP Customer load. The BGS-FP Supplier agrees to cooperate with the Company in order to comply with said directives.

ARTICLE 11: DISPUTE RESOLUTION

11.1 Informal Resolution of Disputes

The Company and the BGS-FP Supplier shall use good faith and reasonable commercial efforts to informally resolve all disputes arising out of the implementation of this Agreement. The BGS-FP Supplier's point of contact for all information, operations, and questions shall be the Company's Basic Generation Service Unit and the Auction Website. Any dispute between the Company and the BGS-FP Supplier under this Agreement may be referred to a designated senior representative of each of the Parties for resolution on an informal basis as promptly as practicable.

11.2 Recourse to Agencies or Courts of Competent Jurisdiction

Nothing in this Agreement shall restrict the rights of either Party to file a complaint with the FERC under relevant provisions of the Federal Power Act ("FPA"), with the BPU under relevant provisions of the Applicable Legal Authorities, with a New Jersey State court of competent jurisdiction, or with a federal court of competent jurisdiction situated in the State of New Jersey. The Parties' agreement hereunder is without prejudice to any Parties' right to contest the jurisdiction of the agency or court to which a complaint is brought.

To the extent that this Agreement is deemed to be subject to FERC jurisdiction, absent the agreement of all parties to a proposed change, the standard of review for changes to any section of the Agreement specifying the rate(s) or other material economic terms and conditions agreed to by the Parties herein, whether proposed by a Party, a non-party, the BPU or FERC acting sua sponte, will be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956).

ARTICLE 12: REGULATORY AUTHORIZATIONS AND JURISDICTION

12.1 Compliance With Applicable Legal Authorities

The Company and the BGS-FP Supplier are subject to, and shall comply with, all existing or future applicable federal, State and local laws, all existing or future duly-promulgated orders or other duly-authorized actions of PJM or of Applicable Legal Authorities.

12.2 FERC Jurisdictional Matters

The inclusion herein of descriptions of procedures or processes utilized by PJM or otherwise subject to the jurisdiction of FERC is intended solely for informational purposes. If anything stated herein is found by the FERC to conflict with or be inconsistent with any provision of the FPA, or any rule, regulation, order or determination of the FERC under the FPA or if any existing procedures or processes utilized by PJM are duly modified, the applicable FERC rule, regulation, order, determination or modification shall control. To the extent required under any provision of the FPA, or any rule, regulation, order or determination of the FERC under the FPA, the Company and/or the BGS-FP Supplier, if applicable, shall use reasonable commercial efforts to secure, from time to time, all appropriate orders, approvals and determinations from the FERC necessary to support this Agreement.

ARTICLE 13: LIMITATION OF LIABILITY

13.1 Limitations on Liability

Except to the extent expressly set forth in this Agreement, each Party shall be liable to the other Party only for direct damages incurred as a result of such Party's failure to comply with this Agreement and no Party shall have any liability to the other Party for consequential, indirect, special or punitive damages, including lost profits or lost revenues, arising out of such Party's failure to comply with its obligations under this Agreement. Notwithstanding anything to the contrary in this Agreement, the BGS-FP Suppliers have no obligations or liability to other BGS-FP Suppliers.

This Agreement does not create any duty to any BGS-FP Supplier with respect to the administration of the Company's Third Party Supplier Agreements by the Company, including, without limitation, with respect to the credit and security provisions of the Company's Third Party Supplier Agreements and Article 11 thereof. Nor will the Company have any liability to any BGS-FP Supplier for any act or failure to act in connection with such administration. If any dispute arises among the BGS-FP Suppliers regarding the allocation of forfeited security (net of the Company's costs as described in Section 11.3 of the Company's Third Party Supplier Agreements) due to BGS-FP Suppliers pursuant to Article 11 of the Company's Third Party Supplier Agreements, then such forfeited security (net of the Company's costs as described in Section 11.3 of the Company's Third Party Supplier Agreements) will be deposited into an interest-bearing account pending final disposition of such dispute.

13.2 Risk of Loss

Solely for purposes of determining risk of loss and for determining the indemnity obligations under Article 14 of this Agreement, the Company shall be deemed to have custody and control of the electric Energy delivered by a BGS-FP Supplier upon receipt thereof into the Company's distribution system and until delivery thereof at the retail electric meter of the Customer; and each BGS-FP Supplier shall be deemed to have custody and control of the electric Energy at all times prior to receipt thereof by the Company. Each BGS-FP Supplier shall at all times be deemed to hold title to electric Energy until delivery at the retail electric meter of the Customer at which time title shall be deemed to pass to such Customer. The Party deemed to have custody and control of electric Energy shall, among the Parties to this Agreement, be responsible for all loss or damage to property or injury or death to persons arising in connection with such electric Energy while in its custody and control and shall indemnify the other Parties with respect to same as set forth in Article 14 of this Agreement.

ARTICLE 14: INDEMNIFICATION

14.1 Indemnification

(a) Should the Company become the defendant in, or obligor for, any third party claims and/or liabilities for losses, penalties, expenses, damage to property, injury to or death of any person including a Party's employees or any third parties, that were caused by or occur in connection with an act or omission of a BGS-FP Supplier with respect to an obligation arising under or in connection with this Agreement, or for which such BGS-FP Supplier has otherwise assumed liability under the terms of this Agreement, such BGS-FP Supplier shall defend (at the Company's option), indemnify and hold harmless the Company, its shareholders, board members, directors, officers and employees, from and against any and all such third party claims and/or liabilities, except to the extent that a court of competent jurisdiction determines that the losses, penalties, expenses or damages were caused wholly or in part by the gross negligence or willful misconduct of the Company. The Company may, at its own expense, retain counsel and participate in the defense of any such suit or action.

(b) Should a BGS-FP Supplier (the "Indemnified Supplier") become the defendant in, or obligor for, any third party claims and/or liabilities for losses, penalties,

expenses, damage to property, injury to or death of any person including a Party's employees or any third parties, that were caused by or occur in connection with an act or omission of the Company or another BGS-FP Supplier with respect to an obligation arising under or in connection with this Agreement, or for which the Company or such other BGS-FP Supplier has otherwise assumed liability under the terms of this Agreement, the Company or such BGS-FP Supplier shall defend (at the option of the Indemnified Supplier), indemnify and hold harmless the Indemnified Supplier, its shareholders, board members, directors, officers and employees, from and against any and all such third party claims and/or liabilities, except to the extent that a court of competent jurisdiction determines that the losses, penalties, expenses or damages were caused wholly or in part by the gross negligence or willful misconduct of the Indemnified Supplier. The Indemnified Supplier may, at its own expense, retain counsel and participate in the defense of any such suit or action.

14.2 Survives Agreement

The obligation of a Party to defend, indemnify, and hold harmless another Party under this Article shall survive termination of this Agreement, and shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for either Party under any statutory scheme, including any Worker's Compensation Acts, Disability Benefit Acts or other Employee Benefit Acts.

ARTICLE 15: MISCELLANEOUS PROVISIONS

15.1 Notices

Unless otherwise stated herein, all notices, demands or requests required or permitted under this Agreement shall be in writing and shall be personally delivered or sent by overnight express mail, courier service or facsimile transmission (with the original transmitted by any of the other aforementioned delivery methods) addressed as follows:

If to a BGS-FP Supplier:

Notification information for each BGS-FP Supplier is set forth on Appendix A hereto.

If to the Company to:

Copy to:

or to such other person at such other address as a Party shall designate by like notice to the other Party. Notice received after the close of the Business Day shall be deemed received on the next Business Day; provided that notice by facsimile transmission shall be deemed to have been received by the recipient if the recipient confirms receipt telephonically or in writing.

15.2 No Prejudice of Rights

The failure of a Party to insist on any one or more instances upon strict performance of any provisions of this Agreement, or to take advantage of any of its rights hereunder, shall not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder, which shall remain in full force and effect. No term or condition of this Agreement shall be deemed to have been waived and no breach excused unless such waiver or consent to excuse is in writing and signed by the Party claimed to have waived or consented to excuse.

15.3 Assignment

Parties shall not assign any of their rights or obligations under this Agreement without obtaining (a) any necessary regulatory approval(s) and (b) the prior written consent of the non-assigning Party, which consent shall not be unreasonably withheld; provided that the Company agrees that it shall grant its consent to a proposed assignment by a BGS-FP Supplier if the proposed assignee meets all of the Company's creditworthiness requirements then in effect under Article 6 of this Agreement; and further provided that a BGS-FP Supplier wishing to assign its interests hereunder shall not be obligated to obtain the consent of any other BGS-FP Supplier. No assignment of this Agreement shall relieve the assigning Party of any of its obligations under this Agreement until such obligations have been assumed by the assignee and all necessary consents have been obtained. Any assignment in violation of this Section 15.3 shall be void; provided, however, the Company may assign any or all of its rights and obligations under this Agreement, without the BGS-FP Supplier's consent, to any entity succeeding to all or substantially all of the assets of the Company, if such assignee agrees, in writing,

to be bound by all of the terms and conditions hereof and all necessary regulatory approvals are obtained. The BGS-FP Supplier may, with prior written notice to the Company but without obtaining the approval of the Company, assign the accounts, revenues or proceeds under this Agreement to a third party. The Company agrees that, following receipt of such notice of the assignment of accounts, revenues or proceeds and such other documentation that the Company may reasonably request, the Company will pay amounts becoming due to the assigning BGS-FP Supplier under this Agreement directly to the designated assignee; provided, however, that nothing herein shall enlarge or expand the rights of such designated assignee beyond the rights granted to the BGS-FP Supplier and the right of such designated assignee to receive payments shall be subject to all defenses, offsets and claims of the Company arising under this Agreement. The Company further agrees that, in the event necessary regulatory approvals to effectuate an assignment have been sought in good faith but that action by the regulatory body is pending, the Company shall accept the performance of the proposed assignee as a Party to this Agreement, as co-obligor with the Party proposing to assign its interest, until such approvals are obtained; provided that, in the event the regulatory body declines to grant its approval (or, in the discretion of the Company, in the event the application seeking approval is still pending without action by the regulatory body after ninety (90) days), the request for approval of the assignment shall be deemed to have been rejected.

15.4 Governing Law and Venue

To the extent not subject to the jurisdiction of the FERC, questions including those concerning the formation, validity, interpretation, execution, amendment, termination and construction of this Agreement shall be governed by the laws of the State of New Jersey, without regard to principles of conflicts of law. Any lawsuit arising in connection with this Agreement shall be brought only in the State or federal courts of New Jersey.

15.5 Headings

The headings and subheadings contained in this Agreement are used solely for convenience and do not constitute a part of the Agreement between the Parties hereto, nor should they be used to aid in any manner in the construction of this Agreement.

15.6 Third Party Beneficiaries

This Agreement is intended solely for the benefit of the Parties hereto including Customers for which the Company is executing this Agreement as agent. Nothing in this Agreement shall be construed to create any duty, or standard of care with reference to, or

any liability to, any person not a Party to this Agreement.

15.7 General Miscellaneous Provisions

(a) This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the Parties (or any of them), or to impose any partnership obligation or liability upon any Party. The obligations of the BGS-FP Suppliers are expressly agreed to be several and not joint. No Party shall have any right, power, or authority to enter into any agreement or undertaking for, or on behalf of, or to act as or be an agent or representative of, or to otherwise bind, any other Party.

(b) Cancellation, expiration or Early Termination of this Agreement shall not relieve the Parties of obligations that by their nature survive such cancellation, expiration or termination, including warranties, remedies, promises of indemnity and confidentiality.

(c) Should any provision of this Agreement be held invalid or unenforceable, such provision shall be invalid or unenforceable only to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable any other provision hereof unless it materially changes the agreement of the Parties.

(d) Each of the Parties acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms. This Agreement is intended by the Parties as a final expression of their agreement. The Parties further agree that this Agreement is the complete and exclusive statement of agreement and supersedes all proposals (oral or written), understandings, representations, conditions, warranties, covenants and all other communications between the Parties relating thereto.

15.8 Taxes

All present and future federal, state, municipal or other taxes imposed by any taxing authority by reason of the provision of BGS-FP Supply to BGS-FP Customers by a BGS-FP Supplier under this Agreement shall be the liability of the BGS-FP Supplier, except for New Jersey State Sales and Use Taxes, which will be the Company's responsibility to collect from BGS-FP Customers for remittance to the applicable taxing authority. Should a BGS-FP Supplier be required to remit any New Jersey State Sales and Use Taxes directly to the applicable taxing authority, other than taxes previously collected by the BGS-FP Supplier on behalf of the Company, the Company will defend and indemnify the BGS-FP Supplier for such Sales and Use Taxes and will pay to the BGS-FP Supplier all such tax amounts upon demand. Each BGS-FP Supplier shall pay all such taxes to the applicable taxing authority to the extent required or permitted by law.

If any transaction is exempt from the payment of any such taxes, the affected BGS-FP Supplier will, if requested, provide the Company with valid tax exemption certificates. Should the Company be required to remit any such taxes directly to any applicable taxing authority, other than taxes previously collected by the Company directly from a BGS-FP Supplier, the BGS-FP Supplier will defend and indemnify the Company and will pay to the Company all such tax amounts upon demand.

If new taxes are imposed on Energy, Capacity, Firm Transmission Service or Ancillary Services after the Effective Date of this Agreement, within forty-five (45) days of the final adoption of any such new taxes, the Company will notify the BGS-FP Suppliers that such new tax has been adopted, will seek approval from the Board to collect the new taxes from BGS-FP Customers, and will provide the BGS-FP Suppliers with a copy of the Company's petition seeking such approval from the Board. Upon receipt of Board approval of the collection of the new taxes from BGS-FP Customers, the BGS-FP Supplier will be excused from liability for payment of those new taxes.

15.9 Changes in Transmission Charges for Firm Transmission Service

(a) If during the term of this Agreement, a filing is made with the FERC to increase or decrease the charges for Firm Transmission Service, including any charge or surcharge imposed on customers receiving Firm Transmission Service, or if the charges for Firm Transmission Service are adjusted pursuant to a FERC-authorized formula rate, then the following procedures shall apply:

(i) within forty-five (45) days of the date upon which the rate change filing or formula rate informational filing is made with the FERC, the Company will notify the BGS-FP Suppliers that such rate filing has been made, and will seek approval from the Board to increase or decrease the charges to BGS-FP Customers by the amount of such rate adjustment for Firm Transmission Service; provided that, if the rate adjustment for the Firm Transmission Service is to the demand component of such rate, the rate adjustment sought by the Company shall be stated as a dollar per kilowatt-hour charge or reduction based on a load factor for transmission service equal to the load factor for transmission service over the previous twelve (12) months; and further provided that the Company will provide the BGS-FP Suppliers with a copy of the Company's petition seeking such approvals from the Board;

(ii) upon receipt of Board approval for the adjustment in the charges to BGS-FP Customers, the Company shall begin collecting the new charges (calculated with respect to the increase or decrease) from the BGS-FP Customers;

(iii) in the event of a decrease in Firm Transmission Service Charges, the Auction Price shall be deemed to be decreased by the decrease to BGS-FP Customers approved by the BPU;

(iv) in the event of an increase in Firm Transmission Service Charges the following provisions shall apply: (a) commencing with the date that the Company begins collecting the rate increase approved by the BPU from the BGS-FP Customers, the Company shall track that portion of the charges to BGS-FP Customers comprised by the increase and shall retain such tracked amounts for the benefit of the BGS-FP Suppliers; (b) upon approval by the FERC, in a Final FERC Order and not subject to refund, of a proposed increase in charges for Firm Transmission Service, or at such time as an annual adjustment to the charges for Firm Transmission Service becomes effective pursuant to the applicable FERC-authorized formula rate, the following shall occur: (A) the Auction Price shall be deemed to be increased by the increase to BGS-FP Customers approved by the BPU; and (B) the Company shall promptly pay each BGS-FP Supplier, in proportion to its BGS-FP Supplier Responsibility Share, the amounts tracked and retained for the benefit of BGS-FP Suppliers during the term of this Agreement; provided, however, that in the event only a proportion of the increased charge for Firm Transmission Service is approved by FERC, in a Final FERC Order and not subject to refund, the Auction Price shall be increased only by that portion of the increase approved by the FERC and the BGS-FP Suppliers shall be paid only that portion of the tracked and retained amounts associated with the portion of the increase approved by the FERC; and further provided that in the event FERC approves less than the entirety of the increased charge or rejects the increase in its entirety, all amounts tracked and retained by the Company for the benefit of the BGS-FP Suppliers associated with the rejected increase for Firm Transmission Service (or the rejected portion of the increase for Firm Transmission Service), shall be credited by the Company against future rates paid by BGS-FP Customers and the BGS-FP Suppliers shall have no right in or to such amounts. The Company will pay simple interest on amounts tracked and retained hereunder, calculated at the lower of the Interest Index or six (6) percent per annum; and

(v) Nothing herein shall prevent or restrict the participation of the Company or the BGS-FP Suppliers in any FERC or judicial proceedings associated with any proposed increase or decrease in charges for Firm Transmission Service or any FERC or judicial proceedings associated with any formula rate adjustment, in sponsoring, supporting, opposing, challenging or otherwise addressing such increases, decreases, or adjustments.

(b) If, prior to the Effective Date of this Agreement, a filing is made with the FERC to increase or decrease the charges for Firm Transmission Services, including any

charge or surcharge imposed on customers receiving Firm Transmission Services, and the Company seeks the approval of the BPU to increase or decrease the rates charged to BGS-FP Customers by the amount of such increase or decrease for Firm Transmission Services, then the following procedures shall apply:

(i) upon receipt of Board approval for the increase or decrease in the rates charged to BGS-FP Customers, the Company shall begin collecting the new rate (calculated with respect to the increase or decrease) from the BGS-FP Customers;

(ii) in the event of a rate decrease, the Auction Price shall be deemed to be decreased by the rate decrease to BGS-FP Customers approved by the BPU;

(iii) in the event of a rate increase the following provisions shall apply: (a) commencing with the later of (x) the date that the Company begins collecting the rate increase approved by the BPU from the BGS-FP Customers or (y) June 1, 2012 if the Company begins collecting the rate increase approved by the BPU from the BGS-FP Customers prior to June 1, 2012, the Company shall track that portion of the rates charged to BGS-FP Customers comprised by the rate increase and shall retain such tracked amounts for the benefit of the BGS-FP Suppliers; (b) upon approval by the FERC, in a Final FERC Order and not subject to refund, of the proposed increase in charges for Firm Transmission Service, the following shall occur: (A) the Auction Price shall be deemed to be increased by the increase in charges to BGS-FP Customers approved by the BPU; and (B) the Company shall promptly pay each BGS-FP Supplier, in proportion to its BGS-FP Supplier Responsibility Share, the amounts tracked and retained for the benefit of BGS-FP Suppliers during the term of this Agreement; provided, however, that in the event only a proportion of the proposed increase in charges for Firm Transmission Service is approved by FERC, in a Final FERC Order and not subject to refund, the Auction Price shall be increased only by that portion of the proposed increase approved by the FERC and the BGS-FP Suppliers shall be paid only that portion of the tracked and retained amounts associated with the increase approved by the FERC; and further provided that in the event FERC approves less than the entirety of the proposed increase or rejects the proposed increase in its entirety, all amounts tracked and retained by the Company for the benefit of the BGS-FP Suppliers associated with the rejected increase in charges for Firm Transmission Service (or the rejected portion of the proposed increase in charges for Firm Transmission Service), shall be credited by the Company against future rates paid by BGS-FP Customers and the BGS-FP Suppliers shall have no right in or to such amounts. The Company will pay simple interest on amounts tracked and retained hereunder, calculated at the lower of the Interest Index or six (6) percent per annum; and

(iv) Nothing herein shall prevent or restrict the participation of the Company or the BGS-FP Suppliers in any FERC or judicial proceedings associated with any proposed increase or decrease in charges for Firm Transmission Service, in sponsoring, supporting, opposing, challenging or otherwise addressing such proposed rate increases or decreases.

(c) In the event that, at the beginning of the term of this Agreement, PJM Transmission Charges include charges approved by FERC subject to refund without a Final FERC Order and such charges are being collected from BGS-FP Customers pursuant to BPU approval, these charges will be treated as rate increases pursuant to subsection 15.9(a)(iv) of this Agreement.

(d) Nothing herein to the contrary withstanding, in the event that the Company, in the exercise of its good faith judgment, cannot determine whether, or the extent to which, a filing at the FERC seeking a change in charges (including a filing seeking a change in rate design) for Firm Transmission Service, should be considered an increase or decrease in rates for the purposes of the preceding paragraphs, the Company may seek a ruling requesting such a determination from the BPU within ten (10) Business Days of the filing at the FERC. The Company shall thereafter implement the rate increase or rate decrease for Firm Transmission Service, if any, through an appropriate adjustment in the Auction Price in accordance with the directives of the BPU in its order.

15.10 Use of the Word “Including”

The word “including”, when following any general statement or term, is not to be construed as limiting the general statement or term to the specific items or matters set forth or to similar items or matters, but rather as permitting the general statement or term to refer to all other items or matters that could reasonably fall within its broadest possible scope.

15.11 Federal Acquisition Regulation

If any of the following clauses prescribed by the Federal Acquisition Regulation (“FAR”), 48 Code of Federal Regulations Chapter 1, should be deemed to apply to this Agreement, the BGS-FP Supplier shall comply with the requirements of such clause(s), and shall include the terms or substance of such clause(s) in its subcontracts, as and to the extent required by the FAR:

- 1) Clean Air and Water: §52.223-2;
- 2) Contract Work Hours and Safety Standards Act-Overtime Compensation: §52.222-4;
- 3) Equal Opportunity: §52.222-26;
- 4) Affirmative Action for and Employment Reports on Special Disabled and Vietnam Era Veterans: §52.222-35 and §52.222-37;
- 5) Affirmative Action for Handicapped Workers: §52.222-36;
- 6) Utilization of Small Business Concerns and Small Disadvantaged Business Concerns and Small Business and Small Disadvantaged Business Subcontracting Plan: §52.219-8 and §52-219-9.

In case of a conflict between the provisions of the FAR and the balance of this Agreement, the requirements of the FAR shall prevail.

15.12 Binding Terms

This Agreement and the rates, terms and conditions herein shall remain in effect for the entire term hereof and each Party (including the Company acting on behalf of Customers) agrees not to seek any change to such rates, terms and conditions pursuant to the FPA, if the FPA is deemed to have jurisdiction over this Agreement, including on the grounds that they are not just and reasonable.

15.13 Amendment

This Agreement, including the appendices hereto, cannot be amended without the written agreement of all Parties and the approval of the Board prior to such amendment becoming effective.

15.14 Counterparts

This Agreement may be executed in counterparts, each of which will be considered an original, but all of which shall constitute one instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first set forth above.

ATTEST:

_____ By:_____

[SUPPLIER SIGNATURES APPEAR ON SUCCEEDING PAGES]

**APPENDIX A TO BGS-FP SUPPLIER MASTER AGREEMENT,
DATED _____, 2012,
BY AND BETWEEN _____
AND THE BGS-FP SUPPLIERS**

BGS Supplier	Auction Price	BGS Supplier Responsibility Share

Address for Notice

The address for any notice to _____ provided pursuant to Section 6.8 and 15.1 of the BGS-FP Supplier Master Agreement shall be the following:

For Credit Related Issues, Section 6.8:

- Name
- Address
- Telephone
- Fax
- E-Mail

For Notices, Section 15.1:

- Name
- Address
- Telephone
- Fax
- E-Mail

**APPENDIX B TO BGS-FP SUPPLIER MASTER AGREEMENT,
DATED _____, 2012,
BY AND BETWEEN _____
AND THE BGS-FP SUPPLIERS**

Seasonal Billing Factor

The Seasonal Billing Factor is as follows:

June through September:

October through May:

SCHEDULE FOR ICRT

MONTH		36-MONTH BGS-FP (\$/tranche)
FEB. 2012		2,400,000
MAR. 2012		2,400,000
APR. 2012		2,400,000
MAY 2012		2,400,000
JUNE 2012		2,400,000
JULY 2012		2,400,000
AUG. 2012		2,400,000
SEPT. 2012		2,000,000
OCT. 2012		2,000,000
NOV. 2012		2,000,000
DEC.2012		1,900,000
JAN. 2013		1,900,000
FEB. 2013		1,900,000
MAR. 2013		1,800,000
APR. 2013		1,800,000
MAY 2013		1,800,000
JUNE 2013		1,650,000
JULY 2013		1,650,000
AUG. 2013		1,650,000
SEPT. 2013		1,400,000
OCT. 2013		1,400,000
NOV. 2013		1,400,000
DEC.2013		1,300,000
JAN. 2014		1,300,000
FEB. 2014		1,300,000
MAR. 2014		1,200,000
APR. 2014		1,200,000
MAY 2014		1,200,000
JUNE 2014		1,000,000
JULY 2014		1,000,000
AUG. 2014		1,000,000
SEPT. 2014		850,000
OCT. 2014		850,000
NOV. 2014		850,000
DEC.2014		650,000
JAN. 2015		650,000
FEB. 2015		650,000
MAR. 2015		400,000
APR. 2015		400,000
MAY 2015		400,000

MtM EXPOSURE AMOUNT CALCULATION INFORMATION:

Table 1 contains the illustrative marks² for each month of the BGS-FP auction period. Monthly marks (example only, to be updated in January 2012) are provided for June 2012 through May 2015. For the months, two-month blocks³ or quarterly blocks³ where broker quotes are available, broker quotes will be used for those months. For all the remaining months the EDCs will be using a proprietary method that reflects forward market conditions.

The method described above will be employed from _____, 2012 through _____, 2012. From _____, 2012 through the day of the close of the BGS-FP Auction, only the months for which a monthly, a two-month block or a quarterly block quotes are available will be updated. The mark for each Billing Month is the mark that was calculated on the date that the BGS-FP Auction closes and will not change over the life of the contract. After the close of the BGS-FP Auction Forward Market Prices will change. In addition, the on-peak and off-peak loads used to calculate the MtM Exposure Amount will be adjusted monthly to reflect the most current changes.

Forward Market Prices for the months, two-month blocks or quarterly blocks where at least two broker quotes are available will be equal to the broker quotes. In case quotes for a component of a block and for the block are both available, the EDCs reserve the right not to use both the component of a block and the block if they are inconsistent with each other. However, when this inconsistency occurs the EDC must use either the component or the block. Forward Market Prices for the months, two-month blocks or quarterly blocks where broker quotes are unavailable will be equal to the last available broker quotes or in case they have not been quoted on the broker sheets since the BGS-FP Auction closed, they will be equal to the marks set at the close of the BGS-FP Auction.

² Illustrative marks represent PJM Western Hub on-peak prices.

³ For two-month and quarterly blocks for which the average for the block and a component of the block are both quoted, the component will be equal to its quoted price and the other months in the block will be constructed so that the weighted average (weighted by on-peak hours in each month) of the block equals the quote for the block; e.g., Q4 2012 = \$50 and Oct 2012 = \$40; therefore, Oct 2012 = \$40 and Nov-Dec 2012 = \$55 ($\$50 \times (336 + 336 + 368) - \$40 \times 336) / (336 + 368) = \54.77 . If only the block is quoted, that price will be used for all relevant months; e.g., Jan/Feb 2013 = \$35, then Jan 2013 = \$35 and Feb 2013 = \$35.

MtM CALCULATION EXAMPLE**PARAMETERS**

On the closing day of the auction, the following parameters are set

1. The expected On-Peak Load per tranche for each EDC.
2. The expected Off-Peak Load per tranche for each EDC.
3. A table of monthly on-peak forward prices (to be used as the inception price “mark” for each month of the supply period).
4. A table of monthly historical on-and off-peak energy prices to determine the ratio of off-peak price to on-peak prices.

Indicative on-peak and off-peak loads per tranche for each EDC will be made available 14 days prior to the auction.

ALL ENERGY PRICES ARE BASED ON THE PJM WESTERN HUB.

EXAMPLE**TABLE 1 – INITIAL DATA****Broker Sheets (Quotes from Auction Closing Day)**

Broker	Bid/Offer	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12
Broker 1	Bid						
Broker 1	Offer						
Broker 2	Bid						
Broker 2	Offer						
Broker 3	Bid						
Broker 3	Offer						
Average	Mid						

Broker	Bid/Offer	Dec-12	Jan-13	Feb-13	Mar-13	Apr-13	May-13
Broker 1	Bid						
Broker 1	Offer						
Broker 2	Bid						
Broker 2	Offer						
Broker 3	Bid						
Broker 3	Offer						
Average	Mid						

TABLE 2 - EXAMPLE OF HISTORICAL ENERGY PRICES, AND RATIO OF OFF-PEAK TO ON-PEAK PRICE**Broker Sheets (Quotes from Auction Closing Day)**

Month	Historical Average Price	Historical Ratio of Off-Peak to On-Peak Price
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

**TABLE 3 - DATA SET ON THE CLOSING DAY OF THE AUCTION ENERGY
(MWH/TRANCHE)**

	<u>On-Peak Volume⁴</u>	<u>Off-Peak Volume⁵</u>	<u>On-Peak Price⁶</u>	<u>Off-Peak Price⁷</u>
Jun-12				
Jul-12				
Aug-12				
Sep-12				
Oct-12				
Nov-12				
Dec-12				
Jan-13				
Feb-13				
Mar-13				
Apr-13				
May-13				
Jun-13				
Jul-13				
Aug-13				
Sep-13				
Oct-13				
Nov-13				
Dec-13				
Jan-14				
Feb-14				
Mar-14				
Apr-14				
May-14				
Jun-14				
Jul-14				
Aug-14				
Sep-14				
Oct-14				
Nov-14				
Dec-14				
Jan-15				
Feb-15				
Mar-15				
Apr-15				
May-15				

⁴ On-peak and off-peak volumes will be adjusted monthly.

⁵ On-peak and off-peak volumes will be adjusted monthly.

⁶ Forward price (if available). If not available, adjusted historical average price will be used.

⁷ On-peak price multiplied by the historical off-peak/on-peak ratio.

EXAMPLE**TABLE 4 - DATA ON DAY 1 OF THE SUPPLY PERIOD****Broker sheets on day 1 of the Supply Period**

Broker	Bid/Offer	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12
Broker 1	Bid						
Broker 1	Offer						
Broker 2	Bid						
Broker 2	Offer						
Broker 3	Bid						
Broker 3	Offer						
Average	Mid						

Broker	Bid/Offer	Dec-12	Jan-13	Feb-13	Mar-13	Apr-13	May-13
Broker 1	Bid						
Broker 1	Offer						
Broker 2	Bid						
Broker 2	Offer						
Broker 3	Bid						
Broker 3	Offer						
Average	Mid						

Note: For a monthly forward price from a broker to be included, both bid and offer must be available.

EXAMPLE**TABLE 5 - DATA SET ON THE CLOSING DAY OF THE AUCTION
Energy (MWh/tranche)**

	On-Peak Load per Tranche (MWh)	Off-Peak Load per Tranche (MWh)	Inception On-Peak Price	Current Day On- Peak Price	Change in On-Peak Price	Change in Off-Peak Price ⁸	MtM
Jun-12							
Jul-12							
Aug-12							
Sep-12							
Oct-12							
Nov-12							
Dec-12							
Jan-13							
Feb-13							
Mar-13							
Apr-13							
May-13							
Jun-13							
Jul-13							
Aug-13							
Sep-13							
Oct-13							
Nov-13							
Dec-13							
Jan-14							
Feb-14							
Mar-14							
Apr-14							
May-14							
Jun-14							
Jul-14							
Aug-14							
Sep-14							
Oct-14							
Nov-14							
Dec-14							
Jan-15							
Feb-15							
Mar-15							
Apr-15							
May-15							
							Total

Note: Inception on-peak price is equal to on-peak price set on the closing day of the auction.

⁸ Change in on-peak price multiplied by ratio of off-peak price to on-peak price.

APPENDIX C TO BGS-FP SUPPLIER MASTER AGREEMENT,

DATED _____, 2012,
 BY AND BETWEEN _____
 AND THE BGS-FP SUPPLIERS

SAMPLE BGS-FP LETTER OF CREDIT

_____ (Date)

Letter of Credit No. _____

To: [One of the following:

Atlantic City Electric Company (“ACE”) or Jersey Central Power & Light Company (“JCP&L”) or Public Service Electric and Gas Company (“PSE&G”) or Rockland Electric Company (“RECO”)]

1. We hereby establish in your favor this irrevocable transferable Letter of Credit (this “Letter of Credit”) for the account of _____ (the “Applicant”), in the amount of \$_____, effective immediately and available to you at sight upon demand at our counters at _____ (Location) and expiring 364 days from date of issuance or any extension thereof (in the form of Annex 5), unless terminated earlier in accordance with the provisions hereof or otherwise extended.
2. This Letter of Credit is issued at the request of the Applicant, and we hereby irrevocably authorize you to draw on us, in accordance with the terms and conditions hereof, up to the maximum amount of this Letter of Credit, subject to reduction as provided in paragraph 12 hereof. This Letter of Credit may be drawn upon an Event of Default under the BGS-FP Supplier Master Agreement(s) between the Applicant and you, dated _____ and the BGS-CIEP Supplier Master Agreement(s) between the Applicant and you, dated _____.
3. A partial or full drawing hereunder may be made by you on any Business Day on or prior to the expiration of this Letter of Credit by delivering, by no later than 11:00 A.M. (New York, NY time¹) on such Business Day to _____ (Bank), _____ (address), (i) a notice executed by you in the form of Annex 1 hereto, appropriately completed and duly signed by your Authorized Officer and (ii) your draft in the form of Annex 2 hereto, appropriately completed and duly signed by your Authorized Officer. Authorized Officer shall mean President, Treasurer, any Vice President or any Assistant Treasurer.

¹ 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.

4. We may, but shall not be obligated to, accept any request to issue a substitute Letter of Credit. Such request shall be in an Availability Certificate in the form of Annex 3 hereto by you to us for exchange for a new Letter of Credit in the amount set forth in an Availability Certificate, which amount shall not exceed the present value of this Letter of Credit. Upon acceptance by us of any such request to issue a substitute Letter of Credit for exchange, the new Letter of Credit shall be issued in the amount as set forth in the Availability Certificate.
5. We hereby agree to 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 the draft delivered to us in connection with such drawing to such account at such bank in the United States as you may specify in your draft delivered to us pursuant to Paragraph 3 hereof, by 3:00 P.M. (New York, NY time) on the date of such drawing, if delivery of this requisite document is made prior to 11:00 AM (New York, NY time) on a Business Day pursuant to Paragraph 3 herein above, but at the opening of business on the first Business Day next succeeding the date of such drawing if delivery of the requisite document is made on or after 11:00 AM (New York, NY time) on any Business Day pursuant to Paragraph 3 herein above.
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 prompt notice (not exceeding three (3) Business Days following the date of receipt of the documents) that the demand for payment was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons that the demand for payment was not effected in accordance with such terms and conditions, 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. This Letter of Credit shall automatically terminate and be delivered to us for cancellation on the earliest of (i) the making by you of the drawings in an amount equal to the maximum amount available to be made hereunder, (ii) the date we issue a new letter of credit in exchange for this Letter of Credit in accordance with Paragraph 4 herein above, (iii) the date we receive from you a Certificate of Expiration in the form of Annex 4 hereto, or (iv) the above-stated expiration date hereof.

8. As used herein:

“Availability Certificate” shall mean a certificate substantially in the form of Annex 3 hereto, appropriately completed and duly signed by your authorized officer.

“Business Day” shall mean any day on which commercial banks are not authorized or required to close in New York, New York and any day on which payments can be effected on the Fedwire system.

9. This Letter of Credit is assignable and transferable, in accordance with Annex 6, to an entity who you certify to us in the form of Annex 6, and we hereby consent to such assignment or transfer, provided that this Letter of Credit may not otherwise be amended or modified without consent from us, you and the Applicant, 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”). Any and all transfer fees, expenses and costs shall be borne by the Applicant. 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. Transfers fees shall be borne by the Applicant.
10. 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 6 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.
11. We certify that as of _____(date) we _____ (“Bank”) satisfy the senior unsecured debt rating of “A” from Standard & Poor’s Ratings Services or “A2” from Moody’s Investors Service Inc.
12. The amount which may be drawn 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 No. _____. Partial drawings are permitted hereunder.
13. Faxed document(s) are acceptable. Presentation by fax must be made to fax number _____ confirmed by telephone to _____.
14. In the event of act of God, riot, civil commotion, insurrection, war, terrorism or by any strikes or lock outs, or any cause beyond our control, that interrupts our business, and

causes the place for presentation of this Letter of Credit to be closed for business on the last day of presentation, the expiration date of this Letter of Credit shall be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business.

15. This original Letter of Credit has been sent to the beneficiary EDC located at _____ above (as per Applicant's instructions). The aggregate amount paid to the EDC 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 (except for Annex 5) or other communications directed to us under this Letter of Credit must be signed by an Authorized Officer of the EDC. Acceptance or rejection of any amendments to this Letter of Credit or any extensions pursuant to Annex 5 must be signed by an Authorized Officer of the EDC.

Very truly yours,
(Bank)

By: _____
Name:
Title:

By: _____
Name:
Title:

ANNEX 1 TO LETTER OF CREDIT

DRAWING UNDER LETTER OF CREDIT NO. _____

_____, 20__

To: (Bank)
(Address)

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

The undersigned is making a drawing under the above-referenced Letter of Credit in the amount specified below and hereby certifies to you as follows:

1. Capitalized terms used herein that are defined herein shall have the meanings ascribed thereto in the Letter of Credit.
2. Pursuant to Paragraph 2 of the Letter of Credit No. _____, dated _____, 20__, the undersigned is entitled to make a drawing under the Letter of Credit in the amount of \$ _____, inasmuch as there is an Event of Default under any BGS Supplier Master Agreement between the Applicant and us.
3. We acknowledge that, upon your honoring the drawing herein requested, the amount of the Letter of Credit available for drawing shall be automatically decreased by an amount equal to this drawing.

Very truly yours,

EDC name

By _____

Name:

Title:

Date:

cc: _____ (Applicant)

NERA

Economic Consulting

ANNEX 2 TO LETTER OF CREDIT

DRAWING UNDER LETTER OF CREDIT NO. _____

_____, 20__

ON [Business Day immediately succeeding
date of presentation]

PAY TO: EDC

Attn:

\$ _____

For credit to the account of _____.

FOR VALUE RECEIVED AND CHARGE TO ACCOUNT OF LETTER OF CREDIT
NO. _____ OF

(Bank)
(Address)

EDC

By _____

Name:

Title:

ANNEX 3 TO LETTER OF CREDIT

AVAILABILITY CERTIFICATE
 UNDER LETTER OF CREDIT NO. _____

_____, 20__

To: (Bank)
 (Address)

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

Each of the undersigned hereby requests that, in exchange for the above-referenced Letter of Credit, a new Letter of Credit be issued in the amount of \$_____ (the "New Amount") and to expire on _____(date), but otherwise in the form of this Letter of Credit.

Please acknowledge your intention to issue such new Letter of Credit in the New Amount upon the surrender of the above-referenced Letter of Credit by signing the attached acknowledgment copy hereof and forwarding it to:

EDC
 Address

Very truly yours,

EDC

By _____

Name:

Title:

Date:

APPLICANT NAME

By: _____

Name:

Title:

Date:

Agreed and Accepted:
 (Bank)

By _____

Name:

Title:

Date:

ANNEX 4 TO LETTER OF CREDIT

CERTIFICATE OF EXPIRATION
OF LETTER OF CREDIT NO. _____

_____, 20__

To: (Bank)
(Address)

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

The undersigned hereby certifies to you that the above referenced Letter of Credit may be cancelled without payment. Attached hereto is said Letter of Credit, marked cancelled.

EDC

By _____

Name:

Title:

Date:

cc: _____ (Applicant Name)

ANNEX 5 TO LETTER OF CREDIT

NOTICE OF EXTENSION
OF LETTER OF CREDIT NO. _____

_____, 20__

To _____(EDC):

Re: Our Letter of Credit no. _____ presently in the amount of
USD _____ issued for the account of _____ and
expiring on _____.

On the expiration date of the Letter of Credit no. _____, we will issue a new
Letter of Credit No. _____ to expire on _____(date). This new
Letter of Credit No. _____ will, aside from the expiration date be in the
amount and form of our Letter of Credit No. _____.

Very truly yours,

BANK _____

By _____

Name:

Title:

Date:

cc: _____ (Applicant Name)

ANNEX 6 TO LETTER OF CREDIT

NOTICE OF TRANSFER
OF LETTER OF CREDIT NO. _____

_____, 20__

To:

Bank

Bank Address

To Whom It May Concern:

Re: Credit _____

Issued by _____

Advice No _____

For the value received, the undersigned beneficiary hereby irrevocably transfers to:

(Name of Transferee)

(Address)

all rights of the undersigned beneficiary to draw under the above Letter of Credit in its entirety.

By this transfer, all rights of the undersigned beneficiary in such Letter of Credit are transferred to the transferee and the transferee shall have the sole rights as beneficiary thereof, including sole rights relating to any amendments whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised direct to the transferee without necessity of any consent of or notice to the undersigned beneficiary.

The advice of such Letter of Credit is returned herewith, and we ask you to endorse the transfer on the reverse thereof, and forward it direct to the transferee with your customary notice of transfer.

Enclosed is a certified check in the amount of \$_____ in payment of your transfer commission and in addition we agree to pay to you on demand any expenses that may be incurred by you in conjunction with this transfer.

Very Truly Yours

(signature of EDC)

NERA

Economic Consulting

The above signature with title as stated conforms to that on file with us and is authorized for the execution of said instruments.

(Name of authenticating party)

(Authorized signature of authenticating party)

Name

Title

APPENDIX D TO BGS-FP SUPPLIER MASTER AGREEMENT,
DATED _____, 2012,
BY AND BETWEEN _____
AND THE BGS-FP SUPPLIERS

GUARANTY

GUARANTY (this “Guaranty”), dated as of __, 2012, made by _____ (the “Guarantor”), a corporation organized and existing under the laws of _____ in favor of _____ (the “Guaranteed Party”), a corporation organized and existing under the laws of the State of New Jersey.

Terms not defined herein take on the meaning given to them in the BGS-FP Supplier Master Agreement(s) dated _____ and/or the BGS-CIEP Supplier Master Agreement(s) dated _____ (the “Agreements”). Guarantor enters into this Guaranty in consideration of, and as an inducement for Guaranteed Party having entered into or entering into the “Agreements” with _____ [Name], a _____ [State] corporation (the “BGS Supplier”), which may involve the extension of credit by the Guaranteed Party. Guarantor, subject to the terms and conditions hereof, hereby unconditionally and absolutely guarantees to the Guaranteed Party the full and prompt payment when due, subject to an applicable grace period and upon demand in writing from the Guaranteed Party to the Guarantor’s attention at the address for Guarantor set forth in Section 11 hereof of any and all amounts payable by the BGS Supplier to the Guaranteed Party arising out of the Agreement(s), and,

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of the principal and interest on any sums due and payable by the BGS Supplier as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall Option 1 [in no event exceed _____.] Option 2 [in no event exceed the lesser of [the credit limit amount] or the sum of the Total Exposures Amounts under the Agreement(s).] All such principal, interest, obligations and liabilities, collectively, are the “Guaranteed Obligations”. This Guaranty is a guarantee of payment and not of collection.

2. The Guarantor hereby waives diligence, acceleration, notice of acceptance of this Guaranty and notice of any liability to which it may apply, and waives presentment and all demands whatsoever except as noted herein, notice of protest, notice of dishonor or nonpayment of any such liability, suit or taking of other action by any Guaranteed Party against, and any other notice to, any party liable thereon (including the Guarantor or any other guarantor), filing of claims with a court in the event of the insolvency or bankruptcy of the BGS Supplier, and any right to require a proceeding first against the BGS Supplier.
3. The Guaranteed Party may, at any time and from time to time, without notice to or consent of the Guarantor, without incurring responsibility to the Guarantor and without impairing or releasing the obligations of the Guarantor hereunder, upon or without any terms or conditions: (i) take or refrain from taking any and all actions with respect to the Guaranteed Obligations, any Document or any person (including the BGS Supplier) that the Guaranteed Party determines in its sole discretion to be necessary or appropriate; (ii) take or refrain from taking any action of any kind in respect of any security for any Guaranteed Obligation(s) or liability of the BGS Supplier to the Guaranteed Party; or (iii) compromise or subordinate any Guaranteed Obligation(s) or liability of the BGS Supplier to the Guaranteed Party including any security for such Guaranteed Obligation(s) or liability of the BGS Supplier to the Guaranteed Party.
4. Subject to the terms and conditions hereof, the obligations of the Guarantor under this Guaranty are absolute and unconditional and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by: (i) any extension, renewal, settlement, compromise, waiver, consent, discharge or release by the BGS Supplier concerning any provision of the Agreement(s) in respect of any Guaranteed Obligations of the BGS Supplier; (ii) the rendering of any judgment against the BGS Supplier or any action to enforce the same; (iii) the existence, or extent of, any release, exchange, surrender, non-perfection or invalidity of any direct or indirect security for any of the Guaranteed Obligations; (iv) any modification, amendment, waiver, extension of or supplement to any of the Agreement(s) or the Guaranteed Obligations agreed to from time to time by the BGS Supplier and the Guaranteed Party; (v) any change in the corporate existence (including its constitution, laws, rules, regulations or powers), structure or ownership of the BGS Supplier or the Guarantor, or any insolvency, bankruptcy, reorganization or other similar proceedings affecting the BGS Supplier or its assets, the Guarantor or any other guarantor of any of the Guaranteed Obligations; (vi) the existence of any claim, set-off or other rights which the Guarantor may have at any time against the BGS Supplier, the Guaranteed Party or any other corporation or

person, whether in connection herewith or in connection with any unrelated transaction; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim; (vii) the invalidity, irregularity or unenforceability in whole or in part of the Agreement(s) or any Guaranteed Obligations or any instrument evidencing any Guaranteed Obligations or the absence of any action to enforce the same, or any provision of applicable law or regulation purporting to prohibit payment by the BGS Supplier of amounts to be paid by it under the Agreement(s) or any of the Guaranteed Obligations; and (viii) except for a failure to comply with any applicable statute of limitations, any other act or omission to act or delay of any kind of the BGS Supplier, any other guarantor, the Guaranteed Party or any other corporation or person or any other event, occurrence or circumstance whatsoever which might, but for the provisions of this paragraph, constitute a legal or equitable discharge of the Guarantor's obligations hereunder.

5. The Guarantor hereby irrevocably waives (a) any right of reimbursement or contribution, and (b) any right of salvage against the BGS Supplier of any collateral security or guaranty or right of offset held by the Guaranteed Party.
6. The Guarantor will not exercise any rights, which it may acquire by way of subrogation until all Guaranteed Obligations to the Guaranteed Party pursuant to the Agreement(s) have been paid in full.
7. Subject to the terms and conditions hereof, this Guaranty is a continuing one and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon. Except for a failure to comply with any applicable statute of limitations, no failure or delay on the part of the Guaranteed Party in exercising any right, power or privilege hereunder, and no course of dealing between the Guarantor and the Guaranteed Party, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights, powers and remedies herein expressly provided are cumulative and not exclusive of any rights, powers or remedies, which the Guaranteed Party would otherwise have. No notice to or demand on the Guarantor in any case shall entitle the Guarantor to any other or further notice of demand in similar or other circumstances or constitute a waiver of the rights of the Guaranteed Party to any other or further action in any circumstances without notice or demand.
8. This Guaranty shall be binding upon the Guarantor and upon its successors and assigns and shall inure to the benefit of and be enforceable by the Guaranteed Party

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

9. Neither this Guaranty nor any provision hereof may be changed, waived, discharged or terminated except upon written agreement of the Guaranteed Party and the Guarantor.
10. The Guarantor agrees that its liability as guarantor shall continue and remain in full force and effect in the event that all or any part of any payment made hereunder or any obligation or liability guaranteed hereunder is recovered (as a fraudulent conveyance, preference or otherwise) rescinded or must otherwise be reinstated or returned due to bankruptcy or insolvency laws or otherwise.
11. All notices and other communications hereunder shall be made at the addresses by hand delivery, by the next day delivery service effective upon receipt or by certified mail return receipt requested (effective upon scheduled weekday delivery day) or telefacsimile (effective upon receipt of evidence, including telefacsimile evidence, that telefacsimile was received)

If to the Guarantor:
[To be completed]

If to the Guaranteed Party:
[To be completed]

12. If claim is ever made upon the Guaranteed Party for repayment or recovery of any amount or amounts received in payment or on account of any of the Guaranteed Obligations and the Guaranteed Party repays all or part of such amount by reason of (a) any judgment, decree or order of any court or administrative body having jurisdiction over such payee or any of its property, or (b) any settlement or compromise of any such claim effected by such payee with any such claimant (including the Guarantor), then and in such event the Guarantor agrees that any such judgment, decree, order, settlement or compromise shall be binding upon it, notwithstanding any revocation hereof or the cancellation of the Agreement(s) or other instrument evidencing any liability of the Guarantor, and the Guarantor shall be and remain liable to the Guaranteed Party hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by any such payee.

13. The Guarantor hereby certifies that it satisfies the Minimum Rating as defined in the Agreement(s).
14. This Guaranty shall remain in full force and effect until all Guaranteed Obligations have been fully and finally performed, at which point it will expire. The Guarantor may terminate this Guaranty upon thirty (30) days prior written notice to the Guaranteed Party which termination shall be effective only upon receipt by the Guaranteed Party of alternative means of security or credit support, as specified in the Agreement(s) and in a form reasonably acceptable to the Guaranteed Party. Upon the effectiveness of any such expiration or termination, the Guarantor shall have no further liability under this Guaranty, except with respect to the Guaranteed Obligations entered into prior to the time the expiration or termination is effective, which Guaranteed Obligations shall remain guaranteed pursuant to the terms of this Guaranty until finally and fully performed.
15. The Guarantor represents and warrants that: (i) it is duly organized and validly existing under the laws of the jurisdiction in which it was organized and has the power and authority to execute, deliver, and perform this Guaranty; (ii) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over the Guarantor is required on the part of the Guarantor for the execution, delivery and performance of this Guaranty except for those already made or obtained; (iii) this Guaranty constitutes a valid and legally binding agreement of the Guarantor, and is enforceable against the Guarantor, except as the enforceability of this Guaranty may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditor's rights generally and by general principles of equity; and (iv) the execution, delivery and performance of this Guaranty by the Guarantor have been and remain duly authorized by all necessary corporate or comparable action and do not contravene any provision of its _____ [insert appropriate corporate organizational document, such as Declaration of Trust, Limited Liability Agreement, Articles of Incorporation or by-laws] or any law, regulation or contractual restriction binding on it or its assets.
16. This Guaranty and the rights and obligations of the BGS Supplier and the Guarantor hereunder shall be construed in accordance with and governed by the laws of the State of New Jersey. The Guarantor and Guaranteed Party jointly and severally agree to the exclusive jurisdiction of State and federal courts located in the State of New Jersey over any disputes arising or relating to this Guaranty and waive any objections to venue or inconvenient forum. The Guarantor and Guaranteed Party

each hereby irrevocably waive any and all rights to trial by jury with respect to any legal proceeding arising out of or relating to this Guaranty.

17. This writing is the complete and exclusive statement of the terms of this Guaranty and supersedes all prior oral or written representations, understandings, and agreements between the Guaranteed Party and the Guarantor with respect to subject matter hereof. The Guaranteed Party and the Guarantor agree that there are no conditions to the full effectiveness of this Guaranty.
18. Every provision of this Guaranty is intended to be severable. If any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable. This Guaranty may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.
19. No Trustee or shareholder of Guarantor shall be held to any liability whatsoever for any obligation under this Guaranty, and such Guaranty shall not be enforceable against any such Trustee in their or his or her individual capacities or capacity. This Guaranty shall be enforceable against the Trustees of Guarantor only as such, and every person, firm, association, trust or corporation having any claim or demand arising under this Guaranty and relating to Guarantor, its shareholders or Trustee shall look solely to the trust estate of Guarantor for the payment or satisfaction thereof.

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

[GUARANTOR]

By: _____
Title:

Accepted and Agreed to:

(EDC)
By: _____
Title: