

# 2008 ComEd RFP

For Electric Supply & Renewable Energy Products

## ACCEPTABLE Modifications to Post-Bid Letters of Credit - FINAL (revised)

March 13, 2008

The Standard Post-Bid Letter of Credit is included as Schedule 1 of the Master Power Purchase and Sale Agreement. The present document contains a comprehensive set of all modifications to the Standard Post-Bid Letter of Credit that are acceptable to ComEd. All modifications to the Standard Post-Bid Letter of Credit accepted for the benefit of a single RFP Bidder are available to all RFP Bidders on an optional basis.

*Paragraph 1 - Original*

We hereby establish our Irrevocable Transferable Standby Letter of Credit in your favor for the account of \_\_\_\_\_ (the "Account Party"), for the aggregate amount not exceeding \_\_\_\_\_ United States Dollars (\$\_\_\_\_\_), available to you at sight upon demand at our counters at (Location) on or before the expiration hereof against presentation to us of one or more of the following statements, dated and signed by a representative of the beneficiary:

*Paragraph 2 - Original*

1. "An Event of Default (as defined in the Master Purchase and Sale Agreement dated as of \_\_\_\_\_ between beneficiary and Account Party, as the same may be amended (the "Master Agreement")) has occurred and is continuing with respect to Account Party under the Master Agreement and no Event of Default has occurred and is continuing with respect to the beneficiary of this Letter of Credit. Wherefore, the undersigned does hereby demand payment of the entire undrawn amount of the Letter of Credit"; or

*Acceptable Modifications to Paragraph 2*

1. "An Event of Default (as defined in the Master Power Purchase and Sale Agreement dated as of \_\_\_\_\_ between beneficiary and Account Party, as the same may be amended (the "Master Agreement")) has occurred and is continuing with respect to Account Party under the Master Agreement and no Event of Default has occurred and is continuing with respect to the beneficiary of this Letter of Credit. Wherefore, the undersigned does hereby demand payment of the entire undrawn amount of the Letter of Credit"; or

*Paragraph 3- Original*

2. "An Early Termination Date (as defined in the Master Purchase and Sale Agreement dated as of \_\_\_\_\_ between beneficiary and Account Party, as the same may be amended (the "Master Agreement")) has occurred and is continuing with respect to Account Party under the Master Agreement and no Event of Default has occurred and is continuing with respect to the beneficiary of this Letter of Credit. Wherefore, the undersigned does hereby demand payment of the entire undrawn amount of the Letter of Credit".

This Letter of Credit shall expire on \_\_\_\_\_.

*Acceptable Modifications to Paragraph 3*

2. "An Early Termination Date (as defined in the Master Power Purchase and Sale Agreement dated as of \_\_\_\_\_ between beneficiary and Account Party, as the same may be amended (the "Master Agreement")) has occurred and is continuing with respect to Account Party under the Master Agreement and no Event of Default has occurred and is continuing with respect to the beneficiary of this Letter of Credit. Wherefore, the undersigned does hereby demand payment of the entire undrawn amount of the Letter of Credit".

This Letter of Credit shall expire on \_\_\_\_\_.

*Paragraph 4 - Original*

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 the Issuing Bank referencing this Letter of Credit No. \_\_\_\_\_. Partial drawings are permitted hereunder.

*Acceptable Modifications to Paragraph 4*

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 by~~ the Issuing Bank ~~referencing this Letter of Credit No. \_\_\_\_\_~~. Partial drawings are permitted hereunder.

*Paragraph 5 - Original*

We hereby agree with you that documents drawn under and in compliance with the terms of this Letter of Credit shall be duly honored upon presentation as specified.

*Paragraph 6 - Original*

This Letter of Credit shall be governed by the Uniform Customs and Practice for Documentary Credits, 2007 Revision, International Chamber of Commerce Publication No. 600 (the "UCP"), except to the extent that the terms hereof are inconsistent with the provisions of the UCP, including but not limited to Articles 14(b), 16(d) and 36 of the UCP, in which case the terms of this Letter of Credit shall govern.

*Paragraph 7 - Original*

With respect to Article 14(b) of the UCP, the Issuing Bank shall have a reasonable amount of time, not to exceed three (3) banking days following the date of its receipt of documents from the beneficiary, to examine the documents and determine whether to take up or refuse the documents and to inform the beneficiary accordingly.

*Paragraph 8 - Original*

In the event of an Act of God, riot, civil commotion, insurrection, war or any other cause beyond our control that interrupts our business (collectively, an "Interruption Event") and causes the place for presentation of this Letter of Credit to be closed for business on the last day for presentation, the expiry date of this Letter of Credit will be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business.

*Paragraph 9 - Original*

This Letter of Credit is transferable, and we hereby consent to such transfer, but otherwise may not be amended, changed or modified without the express written consent of the beneficiary, the Issuing Bank and the Account Party.

*Acceptable Modifications to Paragraph 9*

This Letter of Credit is transferable, in accordance with the procedures in UCP 600 through the submission of a Letter of Full Transfer substantially in the form of Exhibit A, ~~and we hereby consent to such transfer,~~ but otherwise may not be amended, changed or modified without the express written consent of the beneficiary, the Issuing Bank and the Account Party.

*PLEASE NOTE THAT THIS CHANGE (\*) IS REQUIRED IF EXHIBIT A IS INCLUDED, AS POSTED: [http://www.2008-rfp.com/docs/Letter\\_of\\_Full\\_Transfer\\_Exhibit\\_A\\_to\\_Schedule\\_1\\_of\\_Collateral\\_Annex\\_3-10-2008.pdf](http://www.2008-rfp.com/docs/Letter_of_Full_Transfer_Exhibit_A_to_Schedule_1_of_Collateral_Annex_3-10-2008.pdf).*

*Acceptable Additional Paragraphs*

This Letter of Credit may not be transferred to any person with which U.S. persons are prohibited from doing business under U.S. Foreign Assets Control Regulations or other applicable U.S. Laws and Regulations.

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We will not make any payment under this Letter of Credit (1) to any entity or person who is subject to the sanctions issued by the United States Department of Commerce, or to whom payment is prohibited by the foreign asset control regulations of the United States Department of the Treasury, or (2) which otherwise is in contravention of United States laws and regulations.