

Commonwealth Edison Company
2009 Standard Products Request for Proposals
Process and Rules

April 10, 2009

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ARTICLE I. INTRODUCTION

I.1. Overview

- I.1.1. Capitalized terms in this document are either defined explicitly herein or are defined in the Master Power Purchase and Sale Agreement (“Master Agreement”), which is attached as Appendix 1.
- I.1.2. Pursuant to Illinois Public Act 95-0481, effective August 28, 2007 (the “Act”), including the Act’s amendments to the Public Utilities Act (“PUA”), on October 21, 2008 the Illinois Power Agency (“IPA”) filed a Procurement Plan with the Illinois Commerce Commission (“ICC”). The Procurement Plan provides for purchase of electric supply to serve certain customers of Commonwealth Edison Company (“Company” or “ComEd”) over the five-year period beginning on June 1, 2009 and ending on May 31, 2014.
- I.1.3. The ICC issued an Order on January 7, 2009 substantially approving the IPA’s Procurement Plan. For purposes of this document the “Procurement Plan” means the Procurement Plan as amended by this ICC Order. The Procurement Plan specifies that a series of Request for Proposals (“RFP”) will be issued to procure specific quantities of on-peak and off-peak energy to be delivered in each of the monthly periods from June 1, 2009 through May 31, 2014 from suppliers. The present document, in conjunction with all its appendices as described in more detail in Section I.5, is one such RFP. This RFP is issued to procure energy delivered from June 1, 2009 to May 31, 2011. The present document alone is referred to as the “RFP Rules”. The RFP Rules detail the qualification standards and bidding process.
- I.1.4. The IPA has retained NERA Economic Consulting (“NERA”) as the Procurement Administrator for the ComEd portfolio. NERA will administer the present RFP. The ICC has retained Boston Pacific Company, Inc. (“Boston Pacific”) as the Procurement

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Monitor. The Procurement Monitor will report and monitor the progress of the procurement event for the ICC.

I.1.5. A Proposal is a response to this RFP. A supplier that submits any part of a response to this RFP is an RFP Bidder.

I.1.6. A Proposal consists of two (2) parts. The first part of the Proposal ("Part 1 Proposal") is the RFP Bidder's response to the qualification standards described in Article IV of these RFP Rules. RFP Bidders that qualify pursuant to a successful Part 1 Proposal may submit the second part of the Proposal ("Part 2 Proposal"). The Part 2 Proposal, described in detail in Article V, includes the RFP Bidder's offers and financial support for these offers.

I.2. Products and Bids

I.2.1. This RFP solicits suppliers to deliver specific quantities of on-peak and off-peak energy in each monthly period from June 1, 2009 through May 31, 2011. All on-peak hours in a given month constitute the on-peak Segment for that month and all off-peak hours constitute the off-peak Segment for that month. A Product is a constant quantity of energy to be delivered at the Northern Illinois Hub ("NiHub") in either the on-peak Segment or the off-peak Segment of a specific month. There are thus forty-eight (48) Products, with one Product corresponding either to the on-peak Segment or to the off-peak Segment of a specific month.

I.2.2. The Procurement Plan specifies a quantity, in megawatts ("MW"), of each Product. The Target for each Product is the quantity of each Product that this RFP seeks to procure expressed in number of 50 MW blocks. The Targets are given in Table I-1. Of these forty-eight (48) Products, the Target for nine (9) of these Products is zero. Thus, this RFP seeks to procure thirty-nine (39) Products.

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Table I-1. Targets (number of blocks of 50 MW each)

Product	Target	Product	Target
June 2009 On-Peak	40	June 2009 Off-Peak	27
July 2009 On-Peak	66	July 2009 Off-Peak	40
August 2009 On-Peak	60	August 2009 Off-Peak	36
September 2009 On-Peak	34	September 2009 Off-Peak	21
October 2009 On-Peak	24	October 2009 Off-Peak	14
November 2009 On-Peak	30	November 2009 Off-Peak	20
December 2009 On-Peak	39	December 2009 Off-Peak	28
January 2010 On-Peak	42	January 2010 Off-Peak	31
February 2010 On-Peak	37	February 2010 Off-Peak	27
March 2010 On-Peak	29	March 2010 Off-Peak	20
April 2010 On-Peak	23	April 2010 Off-Peak	15
May 2010 On-Peak	24	May 2010 Off-Peak	15
June 2010 On-Peak	15	June 2010 Off-Peak	4
July 2010 On-Peak	40	July 2010 Off-Peak	17
August 2010 On-Peak	33	August 2010 Off-Peak	12
September 2010 On-Peak	6	September 2010 Off-Peak	0
October 2010 On-Peak	0	October 2010 Off-Peak	0
November 2010 On-Peak	4	November 2010 Off-Peak	0
December 2010 On-Peak	14	December 2010 Off-Peak	5
January 2011 On-Peak	16	January 2011 Off-Peak	8
February 2011 On-Peak	11	February 2011 Off-Peak	4
March 2011 On-Peak	4	March 2011 Off-Peak	0
April 2011 On-Peak	0	April 2011 Off-Peak	0
May 2011 On-Peak	0	May 2011 Off-Peak	0

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- I.2.3. Included Retail Customers are residential and non-residential customers below 100 kW as well as customers between 100 kW and 400 kW that are currently taking generation service from ComEd. The requirements of Included Retail Customers will be met from a variety of sources, including but not limited to the Products procured through this RFP, the full requirements Supplier Forward Contracts (“SFCs”) to which ComEd is a party as a result of the 2006 Illinois Auction, and the multi-year financial swap contract entered into by ComEd with Exelon Generation Company pursuant to the Act’s revisions to the PUA (220 ILCS 5/16-111.5(k)). The amounts to be procured through this RFP are provided as Targets in Table I-1 above.
- I.2.4. An RFP Bidder may bid on any number of Products and may bid on all Products. For each Product, an RFP Bidder may bid on any number of blocks up to and including the Target for that Product.
- I.2.5. A Combination is a grouping of two or more Products. An RFP Bidder may bid on one or more of fourteen (14) specific Combinations, consisting of seven (7) groupings of on-peak Products and seven (7) groupings of off-peak Products. These groupings are: July and August 2009; October, November, and December 2009; January and February 2010; March and April 2010; June 2009 to May 2010; July and August 2010; and January and February 2011.
- I.2.6. The number of blocks available for each Combination is the minimum Target for the Products in that Combination. An RFP Bidder may bid on any number of blocks for a Combination, up to and including the number of blocks available for that Combination. The number of blocks available for each Combination is provided in Table I-2.
- I.2.7. Some Combinations, such as the grouping of October, November, and December 2010, are not available because the Target for at least one of the Products in the Combination is zero.

Table I-2. Number Blocks Available for Each Combination

Combination of On-Peak Products	Blocks Available	Combination of Off-Peak Products	Blocks Available
July and August 2009	60	July and August 2009	36
October, November and December 2009	24	October, November, December 2009	14
January and February 2010	37	January and February 2010	27
March and April 2010	23	March and April 2010	15
June 2009 to May 2010	23	June 2009 to May 2010	14
July and August 2010	33	July and August 2010	12
January and February 2011	11	January and February 2011	4

- I.2.8. A Bid is a price in \$/MWh for one (1) block of a Product or for a block of a Combination. The Bid is the price that the RFP Bidder is willing to accept to deliver each MWh in one (1) block.
- I.2.9. An RFP Bidder may bid both on a Product and on a Combination that includes this Product.
- I.2.10. An RFP Bidder must specify a maximum willingness to supply (in blocks) for each Segment of each month. This maximum willingness to supply for a Segment of a month cannot exceed the Target for that Segment and month, as provided in Table I-1 above.
- I.2.11. The evaluation of Bids proceeds in two steps. In the first step, all Bids that fail to meet the benchmarks established by the Procurement Administrator, the Procurement Monitor and the IPA are eliminated. This is further discussed in Paragraph V1.6.2. In the second step, the Procurement Administrator evaluates the Bids that meet or beat the benchmarks and selects a package of Bids that procures all needed blocks at the lowest average cost per MWh. This package of Bids is called the Least Cost Package.

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I.3. Submission of Proposals

- I.3.1. RFP Bidders must use the Part 1 Form provided as Appendix 2 of these RFP Rules as well as the Supplement to the Part 1 Form to respond to the qualification standards described in Article IV of these RFP Rules. The Part 1 Form, the Supplement to the Part 1 Form, as well as other Forms mentioned in these RFP Rules, are available electronically on the RFP Web site www.comed-energyrfp.com.
- I.3.2. The Part 1 Proposal for an RFP Bidder consists of three (3) original completed Part 1 Forms as well as one (1) copy of all documents required by the Part 1 Form, including the Supplement to the Part 1 Form. These additional documents required for the Part 1 Proposal can be submitted either in hard copy, or in electronic format on a Compact Disk ("CD"). The qualification standards include the submission of contact information, general representations, and the submission of financial information for a creditworthiness assessment.
- I.3.3. RFP Bidders must use the Part 2 Form provided as Appendix 3 of these RFP Rules and the Bid Form provided as Appendix 4 of these RFP Rules to respond to the Part 2 Proposal requirements described in Article V of these RFP Rules. The Part 2 Proposal consists of three (3) original completed Part 2 Forms, one (1) Bid Form, and all other documents required by the Part 2 Form, in the number of originals specified in Article V. The Part 2 Proposal requirements include additional representations, acceptance of the terms of the Master Agreement, submission of Bids and a Pre-Bid Letter of Credit in an amount sufficient to support the Bids.
- I.3.4. The schedule for this RFP is provided in Table II-1 and will be updated if necessary on the RFP Web site www.comed-energyrfp.com. Part 1 Proposals are received and processed during a specific timeframe, the Part 1 Proposal Window, which extends from April 15, 2009 until noon on April 20, 2009. The last day of the Part 1 Proposal Window, April 20, 2009, is called the Part 1 Date. All times in this RFP are Central Prevailing Times unless specifically noted. An RFP Bidder that submits a Part 1 Proposal during the Part 1 Proposal Window and who is qualified pursuant to its Part 1

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Proposal may submit a Part 2 Proposal. Each RFP Bidder that submits a Part 1 Proposal will be notified whether it has qualified to submit a Part 2 Proposal no later than 6 PM on April 23, 2009.

- I.3.5. Part 2 Proposals are received and processed during a specific timeframe, the Part 2 Proposal Window, which extends from April 24, 2009 to noon on April 28, 2009. The last day of the Part 2 Proposal Window, April 28, 2009, is called the Part 2 Date. All materials for the Part 2 Proposals, except an RFP Bidder's Bids, must be received by noon on the Part 2 Date. The day the Bids are due, April 29, 2009, is called the Bid Date. Each RFP Bidder's Bids must be received between 9 AM and noon on the Bid Date. All Bids from Part 2 Proposals that are complete and compliant by 3 PM on the Bid Date are evaluated on the Bid Date.
- I.3.6. Within one (1) business day of the Bid Date, the Procurement Administrator will submit to the ICC a confidential report that will provide the results of the bidding for each Product and for each Combination as well as a recommendation on whether these results should be accepted or rejected. Also within one (1) business day of the Bid Date, the Procurement Monitor will submit to the ICC a confidential report regarding the results of the RFP. The ICC will decide whether to accept or reject the results of the RFP within two (2) business days of receiving the confidential reports from both the Procurement Administrator and the Procurement Monitor.
- I.3.7. If the ICC accepts the results of the RFP, ComEd will file its generation supply charges for each customer group within two (2) business days of the ICC decision. ComEd and the winning RFP Bidders will execute the Confirmations of the transactions as provided in the Master Agreement within three (3) business days of the ICC decision.
- I.3.8. If the ICC rejects the results of the procurement event or if not all blocks of each month and Segment are filled, the Procurement Administrator, the Procurement Monitor, and the ICC Staff will meet within 10 days of the ICC decision to analyze potential causes of low supplier interest or causes for the ICC decision. The Procurement Administrator may implement changes and hold a second procurement

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event if such changes would address concerns causing the Commission to reject the results of the first procurement event.

I.4. Seller Obligations

- I.4.1. The results of this procurement event are subject to approval by the ICC. If the ICC approves the results of the procurement event, a winning RFP Bidder becomes a Seller of energy to ComEd for at least one Segment of one month during the period from June 1, 2009 to May 31, 2011.
- I.4.2. This Section describes in general terms a few key provisions of the Master Agreement. This is a summary only and is subject to and qualified in its entirety by the Master Agreement provided as Appendix 1 to the RFP Rules. Each RFP Bidder accepts the obligations and associated rights to provide energy as defined in the Master Agreement.
- I.4.3. In a given Segment of a given month, the Seller provides a constant amount of energy corresponding to the sum of the number of blocks won of the Product for that Segment of that month, and the number of blocks won of any Combination that includes that Segment of that month, times 50 MW. For each Segment of each month, the price paid to the RFP Bidder is the average of the RFP Bidder's own winning Bids for all blocks of that Product and for all blocks of a Combination that includes that Segment of that month. The Seller is paid up to thirty-nine (39) different prices corresponding to the on-peak Segment and off-peak Segment for each month of the June 1, 2009 to May 31, 2011 period for which energy is purchased through this RFP.
- I.4.4. Sellers will be responsible for scheduling and delivery in the PJM Day-Ahead Market of the energy they contract to provide. The delivery point is NiHub.

I.5. Summary of RFP Documents

- I.5.1. The following documents are appended to the RFP Rules, and shall be considered an integral part of this RFP:

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- Appendix 1: Master Power Purchase and Sale Agreement
- Appendix 2: Part 1 Form
- Appendix 3: Part 2 Form
- Appendix 4: Bid Form
- Appendix 5: CFO Attestation
- Appendix 6: Standard Pre-Bid Letter of Credit
- Appendix 7: Officer's Certificate (for RFP Bidders under an Agency Agreement)
- Appendix 8: Confidentiality Statement
- Appendix 9: Additional Information Concerning Maximum Willingness to Supply

ARTICLE II. Information and Schedule

II.1. RFP Web Site

II.1.1. The Procurement Administrator has established an RFP Web site that is the main source of information for this RFP and for the RFP for renewable energy products. Prospective RFP Bidders and other stakeholders can visit this RFP Web site to obtain information and documents related to this RFP and to the RFP for renewable energy products. The RFP Web site address is www.comed-energyrfp.com.

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

Home: This section provides announcements of interest to prospective RFP Bidders and to other interested parties, an outline of the 2009 RFP process, and a summary of important dates.

Calendar: This section provides the timeline for the main events in this RFP.

Announcements: This section provides RFP-related announcements and links to the relevant documents.

Standard Products Documents: This section provides documents regarding this RFP.

Renewables Documents: This section provides documents regarding the RFP for renewable energy products.

FAQs: The Procurement Administrator answers questions from prospective RFP Bidders and provides an answer to the question via email to the questioner. In addition, a copy of the question and answer will be posted in this section of the RFP Web site so that all stakeholders and prospective RFP Bidders have access to the same information. Aspects of the question and/or answer that might identify the party asking the question will be removed before posting.

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Ask a Question: In this section, all stakeholders, including prospective RFP Bidders, are able to ask questions of the Procurement Administrator via a web form.

Register: This section gives interested parties an opportunity to register their email address to receive updates and announcements regarding this RFP. The Procurement Administrator advises registrants of important modifications to the RFP Web site, such as postings of new documents.

Links: This section provides various links that may be of interest to prospective RFP Bidders.

Previous RFPs: This section provides links to the documents from previous RFPs.

II.2. RFP Schedule

II.2.1. The following is the schedule for this procurement event. Specific times for submission of materials for the Part 1 Proposals and Part 2 Proposals are provided elsewhere in this RFP. All such times are Central Prevailing Time unless specifically noted. This schedule may be amended if circumstances warrant. Any such amendments will be posted to the RFP Web site.

Table II-1. RFP Schedule

Event	Date
IPA files Procurement Plan	October 21, 2008
Commission Order Regarding Procurement Plan	January 7, 2009
RFP Web site opens	March 25, 2009
Consultation on Master Agreement opens	March 25, 2009
Draft RFP Documents are issued	March 30, 2009
Consultation on Master Agreement closes	April 1, 2009
Final documents are issued	April 10, 2009
Supplement to the Part 1 Form is issued	April 13, 2009
Bidder Information Call	April 14, 2009
Opening of Part 1 Proposal Window	April 15, 2009
Part 1 Date (Close of Part 1 Proposal Window and last day to submit Part 1 Proposals)	April 20, 2009
RFP Bidders are qualified for submission of Part 2 Proposals	April 23, 2009
Bidder Training	April 24, 2009
Opening of Part 2 Proposal Window	April 24, 2009

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Event	Date
Part 2 Date (Close of Part 2 Window and last day to submit Part 2 Proposals Except Bids)	April 28, 2009
Bid Date (Due Date for Bids)	April 29, 2009
Procurement Administrator submits confidential report	No later than April 30, 2009
ICC makes decision on results of RFP	No later than May 4, 2009
ComEd files retail generation rates	No later than May 6, 2009
Master Agreement and Confirmations fully executed	No later than May 7, 2009

ARTICLE III. General Requirements for Proposals

- III.1.1. An entity that submits any part of a response to this RFP is an RFP Bidder. Each RFP Bidder can submit at most one Part 1 Proposal and one Part 2 Proposal. An RFP Bidder that is qualified by submitting a Part 1 Proposal that fulfills all requirements described in Article IV may submit a Part 2 Proposal.
- III.1.2. All Part 1 Proposals and all Part 2 Proposals are submitted to the Procurement Administrator in accordance with the instructions provided in Article VI.
- III.1.3. All representations and certifications required by this RFP must be made by a single individual, who is an Officer of the RFP Bidder. An Officer of the RFP Bidder is an individual empowered to undertake contracts and bind that RFP Bidder. As a requirement of the Part 1 Proposal, the RFP Bidder must provide the name, title, and full contact information (address, phone number, fax number, email address) of the Officer of that RFP Bidder who will be making the representations in the Part 1 and the Part 2 Proposals.
- III.1.4. Each RFP Bidder must comply with all Part 1 Proposal requirements described in Article IV. Section IV.1 describes the contact information and representations required. Section IV.2 describes financial requirements. Section IV.3 describes the regulatory representations required. Section IV.4 lists the additional representations that are required. Section IV.5 explains that a Bid Participation Fee is required with the Part 1 Proposal. Section IV.6 lists additional requirements applicable only to RFP Bidders submitting a Proposal under an Agency Agreement.
- III.1.5. All information provided and certifications made in the Part 1 Proposal must remain valid and remain in full force until seven (7) business days after the Bid Date. Regardless of the reason, if any information provided in the Part 1 Proposal changes or any previous certification fails to remain valid, it is the sole responsibility of the RFP Bidder to notify the Procurement Administrator. Failing to do so may result in

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disqualification of the RFP Bidder and of its Proposal. The Procurement Administrator reserves the right to change the assessment of qualifications based on any revised information provided by the RFP Bidder.

- III.1.6. Each RFP Bidder must comply with all Part 2 Proposal requirements as stipulated in Article V. Section V.1 describes the contact information and representations required by the Part 2 Proposal. Section V.2 describes the Pre-Bid Letter of Credit required to support the RFP Bidder's Bids. Section V.3 lists the Master Agreement documents required of the RFP Bidder, including two (2) executed signature pages and one (1) fully executed Guaranty for those RFP Bidders relying on the financial standing of a Guarantor. Section V.4 describes the requirements for the submission of Bids.
- III.1.7. Proposals that do not adhere to the terms and conditions of these RFP Rules, or that do not fulfill all requirements set forth in Article IV and Article V of this RFP, or that are not submitted in accordance with the process of Article VI, will not be considered.
- III.1.8. The submission of a Part 1 or a Part 2 Proposal to the Procurement Administrator constitutes the RFP Bidder's acknowledgement and acceptance of all the terms and conditions of these RFP Rules, regardless of the outcome of the RFP or the outcome of such Proposal.
- III.1.9. The RFP Bidder, at its own cost and expense, shall defend ComEd, the Procurement Monitor, the Procurement Administrator and the IPA and their subsidiaries, affiliates, successors and assigns, and each and every one of their respective past, present, or future officers, directors, trustees, employees, shareholders, executors, administrators, successors and assigns, other than entities that are also RFP Bidders, against any and all manner of past, present, or future claims, demands, disputes, controversies, complaints, suits, actions, proceedings, or allegations of any kind which in any manner relate to, arise out of, or result from any false statement in the Proposal or breach of any covenant by the RFP Bidder set forth herein. The RFP Bidder shall indemnify and hold harmless ComEd, the Procurement Monitor, the

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

ARTICLE IV. Part 1 Proposal Requirements

IV.1. Contact Information and Representations

- IV.1.1. An RFP Bidder must submit the following contact information in its Part 1 Proposal: (i) the RFP Bidder's legal name and address; (ii) the name, title, and full contact information (address, phone number, fax number, email address) of an Officer of the RFP Bidder; (iii) the name, title, and full contact information (address, phone numbers, fax number, email address) of an individual named by the Officer of the RFP Bidder who will serve as Representative of the RFP Bidder for purposes of this RFP.
- IV.1.2. The Officer of the RFP Bidder must be an officer, a director or an individual otherwise empowered to undertake contracts and bind the RFP Bidder. The Officer of the RFP Bidder whose contact information is provided in the Part 1 Proposal must make all representations required in the Part 1 Proposal and, should the RFP Bidder submit a Part 2 Proposal, must be the individual who signs the Master Agreement.
- IV.1.3. In the Part 1 Proposal, the Officer of the RFP Bidder must name a Representative of the RFP Bidder. The Officer of the RFP Bidder may name himself or herself as the Representative. The Representative is the point of contact if the Procurement Administrator has questions on the documentation provided by the RFP Bidder in response to this RFP or requires additional information. The Procurement Administrator sends all correspondence related to the procurement event to the Representative, including confidential information required to submit bids on the Bid Date. The Procurement Administrator, for the purposes of this RFP, will communicate exclusively with the Representative or the Officer. Communications with the Representative will typically be done via fax and by overnight delivery so that the RFP Bidder is urged to provide a fax number at which the Representative will be able to receive faxes from the Procurement Administrator in a secure and timely manner.

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- IV.1.4. The Officer of the RFP Bidder must certify that the Part 1 Proposal will remain in full force and effect until seven (7) business days after the Bid Date.
- IV.1.5. The Officer of the RFP Bidder must certify that all information provided in the Part 1 Proposal is true and accurate to the best of the Officer's knowledge and belief.
- IV.1.6. The Officer of the RFP Bidder must certify that if, for any reason and due to any circumstance, any information provided in the Part 1 Proposal changes before the Bid Date, the Officer of the RFP Bidder or the Representative will notify the Procurement Administrator of such changes as soon as practicable.
- IV.1.7. All information and certifications in this Section IV.1 must be provided exclusively by completing Section 1 of the Part 1 Form, as further explained in Article VI.

IV.2. Financial Requirements

- IV.2.1. An RFP Bidder must clearly select one of the following two (2) options for purposes of submitting to these financial requirements: (a) relying on its own financial standing; or (b) relying on the financial standing of another entity. If the RFP Bidder is relying on the financial standing of another entity that will serve as its guarantor (the "RFP Guarantor"), this entity must be incorporated or otherwise formed under the laws of the United States.
- IV.2.2. An RFP Bidder includes in its Part 1 Proposal a single copy of the financial documents required in this Section IV.2, either in hard copy or electronically on a CD.
- IV.2.3. An RFP Bidder that selects option (a) in Paragraph IV.2.1 must submit recent financial information for the RFP Bidder in its Part 1 Proposal. The RFP Bidder must submit, if available: (i) its 2008 audited annual financial information, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules. If available, the Securities and Exchange Commission ("SEC") Form 10-K should be submitted to fulfill this requirement; (ii) its most recent quarterly financial data, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules. If available, the SEC Form 10-Q should be

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submitted to fulfill this requirement. If unavailable, the most recent quarterly or monthly financial data must be accompanied by an attestation by the Bidder's Chief Financial Officer, satisfying the requirements set out in Appendix 5, that the information submitted fairly presents in all material respects the financial condition and results of the operations of the Bidder. The requirements for this attestation are more specifically provided in Appendix 5 of these RFP Rules; and (iii) any public financial disclosure made since the release of the Bidder's most recent financial data for any matters that are material to the Bidder's financial condition. If available, SEC Forms 8-K should be submitted to fulfill this requirement.

IV.2.4. An RFP Bidder that selects option (b) in Paragraph IV.2.1 must submit in its Part 1 Proposal recent financial information for the entity on whose financial standing the RFP Bidder is relying. The RFP Bidder must submit for the entity: (i) 2008 audited annual financial information, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules. If available, the SEC Form 10-K should be submitted to fulfill this requirement; (ii) the most recent quarterly financial data, including a balance sheet, income statement, cash flow statement, and any accompanying notes and schedules. If available, the SEC Form 10-Q should be submitted to fulfill this requirement. If unavailable, the most recent quarterly or monthly financial data must be accompanied by an attestation by the entity's Chief Financial Officer, satisfying the requirements set out in Appendix 5, that the information submitted fairly presents in all material respects the financial condition and results of the operations of the entity. The requirements for this attestation are more specifically provided in Appendix 5 of these RFP Rules; and (iii) any public financial disclosure made since the release of the entity's most recent financial data for any matters that are material to the entity's financial condition. If available, SEC Forms 8-K should be submitted to fulfill this requirement.

IV.2.5. In its Part 1 Proposal, an RFP Bidder must submit any available rating from the following rating agencies for the entity on whose financial standing it is relying:

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Standard & Poor's Rating Services ("S&P"), Moody's Investors Service, Inc. ("Moody's"), and Fitch, Inc. ("Fitch"). An RFP Bidder that selects option (a) in Paragraph IV.2.1 submits ratings for the RFP Bidder; an RFP Bidder that selects option (b) in Paragraph IV.2.1 submits ratings for another entity on whose financial standing it is relying. For each rating agency that rates the entity, the RFP Bidder must submit a print out of the agency's web site or other documentation from the agency providing the name of the rating agency, the type of rating, and the rating of the entity.

IV.2.6. The Officer of the RFP Bidder must certify that each of the ratings provided in its Part 1 Proposal in response to Paragraph IV.2.5 above is a Credit Rating as defined in the Master Agreement.

IV.2.7. An RFP Bidder must, in its Part 2 Proposal, submit a Pre-Bid Letter of Credit in the form of the Standard Pre-Bid Letter of Credit in an amount of \$10,000 per block of an RFP Bidder's Maximum Quantity, derived from the Bidder's maximum willingness to supply for each Segment of each month. The Standard Pre-Bid Letter of Credit is provided as Appendix 6 of these RFP Rules. An RFP Bidder may, in its Part 1 Proposal, request modifications to the Standard Pre-Bid Letter of Credit that are non-material in nature, or that clarify the intent of the Standard Pre-Bid Letter of Credit, or that make modifications advantageous to both ComEd and the RFP Bidder. An RFP Bidder requests modifications to the Standard Pre-Bid Letter of Credit by submitting a Draft Pre-Bid Letter of Credit substantially in the form of the Standard Pre-Bid Letter of Credit indicating clearly any and all modifications from the Standard Pre-Bid Letter of Credit. The Draft Pre-Bid Letter of Credit must be submitted electronically, in Microsoft Word with tracked changes. The Draft Pre-Bid Letter of Credit must be transmitted to the Procurement Administrator in one of the following two ways. The Draft Pre-Bid Letter of Credit may be saved to a CD that is included with the Part 1 Proposal. Alternatively, the Draft Pre-Bid Letter of Credit may be e-mailed to the Procurement Administrator at pa@comed-energyrfp.com. A Draft Pre-Bid Letter of

Credit that is not substantially in the form of the Standard Pre-Bid Letter of Credit will not be considered or evaluated.

- IV.2.8. All approved modifications to the Standard Pre-Bid Letter of Credit will be posted to the RFP Web site. Each RFP Bidder may use any of the approved modifications, regardless of whether the RFP Bidder itself or another RFP Bidder proposed the modification.
- IV.2.9. The Master Agreement includes, as Schedule 1 to the Collateral Annex, a standard Irrevocable Standby Letter of Credit that may be used to post security under the terms of the Master Agreement. This paragraph refers to this letter of credit as the Standard Post-Bid Letter of Credit. An RFP Bidder may, in its Part 1 Proposal, request modifications to the Standard Post-Bid Letter of Credit that are non-material in nature, or that clarify the intent of the Standard Post-Bid Letter of Credit, or that make modifications advantageous to both ComEd and the RFP Bidder. An RFP Bidder requests modifications to the Standard Post-Bid Letter of Credit by submitting a Draft Post-Bid Letter of Credit substantially in the form of the Standard Post-Bid Letter of Credit indicating clearly any and all modifications from the Standard Post-Bid Letter of Credit. The Draft Post-Bid Letter of Credit must be submitted electronically, in Microsoft Word with tracked changes. The Draft Post-Bid Letter of Credit may be saved to a CD that is included with the Part 1 Proposal, or it may be e-mailed to the Procurement Administrator at pa@comed-energyrfp.com. A Draft Post-Bid Letter of Credit that is not substantially in the form of the Standard Post-Bid Letter of Credit will not be considered or evaluated.
- IV.2.10. All approved modifications to the Standard Post-Bid Letter of Credit will be posted to the RFP Web site. Each RFP Bidder may use any of the approved modifications, regardless of whether the RFP Bidder itself or another RFP Bidder proposed the modification.
- IV.2.11. The Officer of the RFP Bidder must certify that the RFP Bidder has no pending legal proceedings or, to its knowledge, threatened legal proceedings against it or any of its

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affiliates that could materially adversely affect its ability to perform its obligations under the Master Agreement and each Confirmation.

IV.2.12. All information and certifications in this Section IV.2 must be provided exclusively by completing Section 2 of the Part 1 Form, as further explained in Article VI.

IV.3. Regulatory Representation

IV.3.1. The Officer of the RFP Bidder must certify that the RFP Bidder has all regulatory authorizations necessary for it to legally perform its obligations under the Master Agreement and the Confirmation(s).

IV.3.2. The certification in this Section IV.3 must be provided exclusively by completing Section 3 of the Part 1 Form, as further explained in Article VI.

IV.4. Additional Representations

IV.4.1. The Officer of the RFP Bidder must, in the Part 1 Proposal, certify that he/she has read the Master Agreement and that the RFP Bidder accepts all of the terms of the Master Agreement without modifications.

IV.4.2. The Officer of the RFP Bidder must acknowledge that the submission of the Part 1 Proposal constitutes the RFP Bidder's acknowledgement and acceptance of all the terms and conditions of these RFP Rules, regardless of the outcome of the RFP or the outcome of such Proposal.

IV.4.3. The Officer of the RFP Bidder must, in its Part 1 Proposal, certify that the RFP Bidder is not part of a bidding agreement, a joint venture for purposes of participating in the RFP, a bidding consortium, or any other type of agreement related to bidding in this RFP. An RFP Bidder found to be acting in concert with another RFP Bidder will be disqualified by the Procurement Administrator.

IV.4.4. The certifications in this Section IV.4 must be provided exclusively by completing Section 4 of the Part 1 Form, as further explained in Article VI.

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IV.5. Bid Participation Fee

- IV.5.1. An RFP Bidder must, with its Part 1 Proposal, pay a Bid Participation Fee of \$1,000 that will be used to cover part of the costs of the procurement event. The Supplier Fees, which are levied on winning RFP Bidders only, also are used to cover part of the costs of the procurement event. The Bid Participation Fee will not be paid back under any circumstances.
- IV.5.2. The Bid Participation Fee must be submitted by certified check or by wire transfer to the Procurement Administrator by the Part 1 Date.
- IV.5.3. If the RFP Bidder submits the Bid Participation Fee by wire transfer, the RFP Bidder must provide: i) the name of the bank from which the wire transfer will originate; and ii) the entity and account from which the wire transfer originates. If the Procurement Administrator has not received the wire transfer when the Part 1 Form is received, the Procurement Administrator may require documentation showing that the wire transfer has been requested.
- IV.5.4. Information requested in this Section IV.5 of the RFP Rules must be provided exclusively by completing Section 5 of the Part 1 Form, as further explained in Article VI.

IV.6. RFP Bidders Under an Agency Agreement

- IV.6.1. An RFP Bidder submitting a Proposal under an agency authorization (“Agency Agreement”) must comply with additional requirements in its Part 1 Proposal. This Section details those additional requirements. The requirements of this Section IV.6 apply only to RFP Bidders submitting a Proposal under an Agency Agreement; other RFP Bidders are not subject to the requirements of this Section IV.6.
- IV.6.2. An RFP Bidder submitting a Proposal under an Agency Agreement must identify the Principal or Principals to the Agency Agreement.

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- IV.6.3. An RFP Bidder that is applying under an Agency Agreement must provide one (1) copy of its Agency Agreement with its Part 1 Proposal, either in hard copy or electronically on a CD.
- IV.6.4. The RFP Bidder must identify a Principal as the entity on whose financial standing the RFP Bidder relies, and for which financial information is provided under Section IV.2. If the RFP Bidder is acting as an agent for multiple Principals, the RFP Bidder must identify the Principal with the lowest credit rating as the entity on whose financial standing the RFP Bidder relies. The financial requirements of Section IV.2 apply to this entity.
- IV.6.5. The Officer of the RFP Bidder must certify that it has the authority to bind the Principal(s).
- IV.6.6. The Officer of the RFP Bidder must acknowledge that an Officers' Certificate, substantially in the form of Appendix 7 to these RFP Rules and signed by an officer of each Principal, must be provided with the Part 2 Proposal. This Officers' Certificate will state that: (i) the copy of the Agency Agreement submitted with the Part 1 Proposal is a true and complete copy of the Agency Agreement as currently in effect; (ii) the Agency Agreement is in full force and effect and shall remain in full force and effect for a period extending to seven (7) business days following the Bid Date; (iii) there are no proceedings pending for the amendment or termination of the Agency Agreement; (iv) each individual who has executed the Officers' Certificate, the Agency Agreement, and the Master Agreement submitted with the Part 2 Proposal is (or was at the time of the execution of such documents) authorized to execute and deliver such documents on behalf of the Principal(s); and (v) the Officer of the RFP Bidder is authorized to execute any Confirmations pursuant to the Master Agreement on behalf of the Principals. An RFP Bidder may, but is not required to, submit with its Part 1 Proposal a draft Officers' Certificate for evaluation. If an RFP Bidder submits a draft Officers' Certificate for evaluation, the Procurement Administrator will inform

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the RFP Bidder of any changes required to the Officers' Certificate in its Notification of Qualification.

IV.6.7. The information required by this Section IV.6 must be provided exclusively by completing Section 6 of the Part 1 Form, as further explained in Article VI.

IV.7. Elections

IV.7.1. Each RFP Bidder must duly complete the Supplement to the Part 1 Form ("Supplement") and include it with its Part 1 Proposal. The response to the Supplement is used to prepare the Master Agreement that will be sent to the RFP Bidder with its Notification of Qualification and that the RFP Bidder must present with its Part 2 Proposal. For RFP Bidders relying on the financial standing of a Guarantor, the response to the Supplement is also used to prepare the Guaranty that will be sent to the RFP Bidder with its Notification of Qualification and that the RFP Bidder must present with its Part 2 Proposal.

IV.7.2. Using the Supplement, each RFP Bidder must, with its Part 1 Proposal, make any possible elections for the Master Agreement and provide all contact information necessary for execution of the Master Agreement.

IV.7.3. Using the Supplement, each RFP Bidder must, with its Part 1 Proposal, make any possible elections for the Guaranty and provide all contact information necessary for execution of the Guaranty.

ARTICLE V. Part 2 Proposal Requirements

V.1. Contact Information and Representations

- V.1.1. An RFP Bidder submits contact information in its Part 1 Proposal. The Procurement Administrator provides, along with the Notification of Qualification, a record of the contact information contained in the Part 1 Proposal. An RFP Bidder must confirm in its Part 2 Proposal that the record of the contact information is correct. If it is not correct, the RFP Bidder must provide corrected contact information, including any or all of the following: (i) the RFP Bidder's legal name and address; (ii) the name and title of the Officer of the RFP Bidder making the certifications and representations of the Part 2 Proposal; (iii) the name of the Representative of the RFP Bidder; and (iv) the phone numbers, fax number, and email address for the Representative.
- V.1.2. The Officer of the RFP Bidder must certify that the Part 2 Proposal will remain in full force and effect until seven (7) business days after the Bid Date.
- V.1.3. The Officer of the RFP Bidder must certify that all information provided in the Part 2 Proposal is true and accurate to the best of the Officer's knowledge and belief.
- V.1.4. The Officer of the RFP Bidder must certify that the RFP Bidder is bidding independently and that it has no knowledge of any Proposal being submitted for this procurement event by another RFP Bidder in response to this RFP.
- V.1.5. The Officer of the RFP Bidder must certify that the RFP Bidder has maintained and will continue to maintain the confidentiality of its Proposal during the preparation of the Proposal, including in communicating with its financial institution for the purpose of preparing the Pre-Bid Letter of Credit or in communicating with advisors, if any.
- V.1.6. The Officer of the RFP Bidder must certify that, with only the exceptions noted in Paragraph V.1.5, the RFP Bidder has not disclosed, and will not otherwise disclose, publicly or to any other party any information relating to its Proposal, which could have an effect on whether another party submits a Proposal to this RFP, or on the

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contents of such Proposal that another RFP Bidder would be willing to submit in response to the RFP. Such information includes, but is not limited to: the fact that the RFP Bidder is submitting a Proposal in response to this RFP; the RFP Bidder's Bids; the RFP Bidder's number of blocks bid for any Product, any Combination, or for any bundle of Products and Combinations; the RFP Bidder's estimation of the value of a Product or Combination; the RFP Bidder's estimation of the risks associated with providing supply under the Master Agreement; and the RFP Bidder's preference for bidding on specific Products or Combinations. This certification must hold until the ICC has rendered its decision on the results of the procurement event.

V.1.7. In accordance with the Act and ICC Orders, the following information will be made public at the time of ICC approval of a procurement event: (i) the names of successful Bidders; (ii) the load-weighted average of the winning Bids for each Segment of each month; (iii) the load-weighted average of the winning Bids for each Product and for each Combination; and (iv) the number of megawatts awarded for each Segment of each month, provided that there are at least three successful Bidders. The Act states that participants in the procurement process will maintain the confidentiality of all other supplier and bidding information. The Part 2 Form will remind RFP Bidders of this provision.

V.1.8. The Officer of the RFP Bidder must certify that any Bid on any Product or any Combination submitted in response to this RFP is binding until seven (7) business days after the Bid Date. Each Bid constitutes a binding and irrevocable offer to supply a block of a Product or a block of the Combination at the price provided as the Bid and under the terms of the Master Agreement submitted with the Part 2 Proposal. All Bids together constitute a binding and irrevocable offer to supply, under the terms of the Master Agreement submitted in the Part 2 Proposal, the number of blocks of each Product at each price submitted and the number of blocks of each Combination at each price submitted up to the specified maximum willingness to supply for each Segment of each month.

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- V.1.9. The Officer of the RFP Bidder must certify that if the ICC approves some or all of the RFP Bidder's Bids, a binding and enforceable obligation arises under the terms of the Master Agreement provided with the Part 2 Proposal to execute a Confirmation to supply and deliver energy to ComEd for each Segment of each month for which the RFP Bidder's Bids are approved by the ICC. For each Segment of each month, the price paid to the RFP Bidder is the average of the RFP Bidder's own winning Bids for all blocks of the Product and for all blocks of a Combination that includes that Segment of that month.
- V.1.10. If the ICC approves some or all of the RFP Bidder's Bids, within one (1) business day of the ICC decision approving the results, ComEd will send electronically to the Officer of the RFP Bidder each applicable unexecuted Confirmation. The Officer of the RFP Bidder must acknowledge that the RFP Bidder will have until 1 PM CPT (2 PM Eastern Prevailing Time) on the next business day after receipt to execute two (2) originals of each Confirmation and to return by facsimile or electronic means to ComEd one (1) original of each executed Confirmation, with one (1) original of each executed Confirmation to follow by overnight delivery to ComEd.
- V.1.11. The information required by this Section V.1 must be provided exclusively by completing Section 1 of the Part 2 Form, as further explained in Article VI.

V.2. Pre-Bid Letter of Credit

- V.2.1. The RFP Bidder must provide an executed Pre-Bid Letter of Credit, drawn for the account of the RFP Bidder. The RFP Bidder must either use the Standard Pre-Bid Letter of Credit provided in Appendix 6 to these RFP Rules, or the RFP Bidder must submit a Pre-Bid Letter of Credit that incorporates only those modifications to the Standard Pre-Bid Letter of Credit accepted as a result of the evaluation of Part 1 Proposals. All approved modifications will be posted to the RFP Web site. An RFP Bidder may use any of the approved modifications, regardless of whether the RFP Bidder itself or another RFP Bidder proposed the modification. The RFP Bidder

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cannot propose or incorporate any modification to its Pre-Bid Letter of Credit other than the modifications approved and posted as such on the RFP Web site. If the Pre-Bid Letter of Credit incorporates or proposes modifications other than those approved and posted as such on the RFP Web site, the Pre-Bid Letter of Credit will be non-compliant and the Part 2 Proposal will be automatically considered deficient.

- V.2.2. The Pre-Bid Letter of Credit must be in an amount no less than \$10,000 per block of an RFP Bidder's Maximum Quantity, which is the sum of the maximum willingness to supply of the RFP Bidder across all Segments and all months.
- V.2.3. Payment under the Pre-Bid Letter of Credit can be demanded by ComEd if: (i) the RFP Bidder has made a material omission or misrepresentation in its Part 1 Proposal or in its Part 2 Proposal; (ii) the RFP Bidder discloses information relating to its Proposal publicly or to any other party before the ICC has rendered its decision on the results of the procurement event; or (iii) the ICC approves some or all of the RFP Bidder's Bids and the RFP Bidder fails to execute all Confirmations in the timeframe required by the Master Agreement.
- V.2.4. ComEd will release the Pre-Bid Letter of Credit no later than eight (8) business days after the Bid Date. An RFP Bidder may, in Section 2 of the Part 2 Form, provide special instructions for the return of the Pre-Bid Letter of Credit. If the ICC does not approve any of a particular RFP Bidder's Bids, ComEd will release that RFP Bidder's Pre-Bid Letter of Credit within one (1) business day of the ICC decision on the procurement event.
- V.2.5. The confirmation by the Officer of the RFP Bidder that the Pre-Bid Letter of Credit is included with the Part 2 Proposal must be provided exclusively by completing Section 2 of the Part 2 Form, as further explained in Article VI.

V.3. Master Agreement Documents

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- V.3.1. With the Notification of Qualification, the Procurement Administrator sends the Master Agreement to each RFP Bidder that qualified pursuant to a successful Part 1 Proposal. The Master Agreement is provided electronically on a CD. The Officer of the RFP Bidder must print two (2) originals of the Master Agreement, must execute each of the two (2) signature pages, and must return these two (2) signature pages with the RFP Bidder's Part 2 Proposal. For the avoidance of doubt, the Officer of the RFP Bidder executing the signatures pages of the two (2) originals of the Master Agreement is the Officer designated in the Part 1 Proposal and whose contact information is confirmed in the Part 2 Proposal.
- V.3.2. If the RFP Bidder has named an RFP Guarantor in its Part 1 Proposal, the RFP Bidder must provide with its Part 2 Proposal one (1) original executed Guaranty. The Guaranty must be in the standard form provided as Schedule 2 to the Master Agreement or must include only those modifications accepted pursuant to the comment process that closed on April 1, 2009. All approved modifications to the Guaranty will be posted to the RFP Web site. Each RFP Bidder may use any of the approved modifications, regardless of whether the RFP Bidder itself or another RFP Bidder proposed the modification.
- V.3.3. If the RFP Bidder is applying under an Agency Agreement, the RFP Bidder must submit an Officers' Certificate, substantially in the form of Appendix 7 to these RFP Rules and signed by an officer of each Principal. This Officers' Certificate states that: (i) the copy of the Agency Agreement submitted with the Part 1 Proposal is a true and complete copy of the Agency Agreement as currently in effect; (ii) the Agency Agreement is in full force and effect and shall remain in full force and effect for a period extending to seven (7) business days following the Bid Date; (iii) there are no proceedings pending for the amendment or termination of the Agency Agreement; (iv) each individual who has executed the Officers' Certificate, the Agency Agreement, and the Master Agreement submitted with the Part 2 Proposal is (or was at the time of the execution of such documents) authorized to execute and deliver

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such documents on behalf of the Principal(s); and (v) the Officer of the RFP Bidder is authorized to execute any Confirmations pursuant to the Master Agreement on behalf of the Principals. If no representatives of the RFP Bidder are authorized to execute Confirmations pursuant to the Master Agreement, the RFP Bidder must name a representative of a Principal that is so authorized. This individual must also execute the two (2) originals of the signature pages of the Master Agreement submitted with the Part 2 Proposal.

V.3.4. The confirmation by the Officer of the RFP Bidder that all Master Agreement documents required by this Section V.3 are included with the Part 2 Proposal must be provided exclusively by completing Section 3 of the Part 2 Form, as further explained in Article VI.

V.4. Bids

V.4.1. A Bid is a price, in \$/MWh rounded to the nearest cent, for a block of a Product or for a block of a Combination. The Bid is the price that the RFP Bidder is willing to accept to deliver each MWh in the block.

V.4.2. An RFP Bidder cannot submit a Bid for less than a full block of a Product or for less than a full block of a Combination. The RFP Bidder cannot bid on fractions, portions, or parts of blocks. Such Bids will be automatically rejected.

V.4.3. A Bid that is not expressed in \$/MWh will automatically be rejected.

V.4.4. An RFP Bidder may bid on any number of Products and may bid on all Products. For each Product, an RFP Bidder may bid on any number of blocks up to and including the Target for that Product. The Target for each Product is provided in Table I-1.

V.4.5. An RFP Bidder may bid on any number of Combinations and may bid on all Combinations. For each Combination, an RFP Bidder may bid on any number of blocks up to and including the number of blocks available for each Combination. The number of blocks available for each Combination is provided in Table I-2.

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- V.4.6. An RFP Bidder must specify a maximum willingness to supply for each Segment of each month. By indicating a maximum willingness to supply, the RFP Bidder is providing a maximum on the number of blocks, across Products and Combinations, that the RFP Bidder is willing to supply for a given month and Segment. The maximum willingness to supply for a Segment of a month is an integer number of blocks less than or equal to the Target for the Product corresponding to that Segment of that month. The RFP Bidder cannot win, across all Products and Combinations, more blocks of a Segment of a month than the RFP Bidder has itself specified as its maximum willingness to supply for that Segment of that month. Appendix 9 to these RFP Rules provides additional explanation about the maximum willingness to supply.
- V.4.7. The RFP Bidder may not submit any additional instructions, contingencies, or conditions on their Bids. Any such additional instructions, contingencies, or conditions will be ignored.
- V.4.8. To be sufficient to support the RFP Bidder's Bids, the Pre-Bid Letter of Credit must be in an amount no less than \$10,000 per block of an RFP Bidder's Maximum Quantity derived from the Bidder's maximum willingness to supply for each Segment of each month. If the Pre-Bid Letter of Credit is insufficient to support the RFP Bidder's Bids, the Procurement Administrator will determine the number of blocks that the Pre-Bid Letter of Credit can support. The Procurement Administrator will remove Bids to ensure that the Pre-Bid Letter of Credit is sufficient. The Procurement Administrator will determine the month and Segment for which there is most competition as measured by the highest ratio of the total number of blocks on which a Bid is placed (counting Bids on the Product corresponding to the Segment of the month as well as Bids on any Combination that includes that Segment of that month) to the Target. The Procurement Administrator will remove the highest Bid from that month and Segment for which there is most competition. The Bid may be a Bid on a Product or a Bid on a Combination. The Procurement Administrator will continue in this fashion, first determining the most competitive month and Segment, and then removing the

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highest Bid belonging to the RFP Bidder, until the amount of the Pre-Bid Letter of Credit is sufficient. The Officer of the RFP Bidder must, in the Part 2 Form, agree that the Procurement Administrator may modify the RFP Bidder's Bids as described in this paragraph should the amount of the Pre-Bid Letter of Credit be insufficient to support the RFP Bidder's Bids.

- V.4.9. With the Notification of Qualification, the Procurement Administrator sends by overnight delivery the Bid Form to each RFP Bidder qualified pursuant to a successful Part 1 Proposal. The Bid Form is provided electronically on a CD. At the same time, the Procurement Administrator sends to each RFP Bidder instructions for completion of the Bid Form, for encryption of the Bid Form, and for electronic transfer of the completed Bid Form to the Procurement Administrator, as well as instructions for fax submission of the Bids in case of technical difficulties with the electronic transfer. These instructions will contain a username, password, and security codes unique to each RFP Bidder that will allow the Procurement Administrator to authenticate the Bids received. The Officer of the RFP Bidder must, in the Part 2 Form, confirm that the username, password, and security codes were received intact and that no one but authorized personnel of the RFP Bidder has had access to this information.
- V.4.10. The Bid Form, as provided to each RFP Bidder upon qualification, is the exclusive method for submitting an RFP Bidder's Bids and maximum willingness to supply for each Segment of each month. An RFP Bidder must fill out all required information on the Bid Form according to the instructions provided by the Procurement Administrator with its Notification of Qualification. An RFP Bidder must encrypt its Bid Form and submit the Bid Form to the Procurement Administrator through a secure electronic transfer according to the instructions provided by the Procurement Administrator with its Notification of Qualification. An RFP Bidder must fill out contact information on its Bid Form and the Procurement Administrator will use that information to confirm receipt of the Bids.

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- V.4.11. Only in case of technical difficulties, an RFP Bidder may print the Bid Form and fax it to the Procurement Administrator instead of using the secure electronic transfer. The Procurement Administrator will provide instructions for such a contingency. These instructions will include the Officer of the RFP Bidder or the Representative phoning the Procurement Administrator to advise the Procurement Administrator of the use of a fax transmission and to provide authenticating information, and a representative of the RFP Bidder confirming each and every Bid by phone.
- V.4.12. All Bid Forms must be received between 9 AM and 12 PM (noon) (CPT) on the Bid Date. No late Bid Forms will be accepted regardless of the method used by the RFP Bidder to submit its Bid Form.
- V.4.13. The Officer of the RFP Bidder must provide the certifications required in this Section V.4 exclusively by completing Section 4 of the Part 2 Form, as further explained in Article VI.

ARTICLE VI. Process

VI.1. Part 1 and Part 2 Proposals: Submission and Processing

- VI.1.1. The Procurement Administrator, for the purposes of this RFP, will communicate exclusively with the Representative or the Officer of the RFP Bidder. Any notification or other written communication given by the Procurement Administrator to an RFP Bidder will be sent by overnight delivery at the address provided for the Representative or sent by fax at the fax number provided for the Representative. Any such notification or communication will be deemed received by the RFP Bidder at the time of delivery or transmission, provided that where delivery or transmission occurs after 6 PM on a business day or occurs on a day that is not a business day, receipt will be deemed to occur at 9 AM on the following business day. The RFP Bidder is urged to provide a fax number at which the Representative will be able to receive faxes from the Procurement Administrator in a secure and timely manner.
- VI.1.2. The exclusive method of responding to the qualification standards listed in Article IV of these RFP Rules is the use of the Part 1 Form provided as Appendix 2 of these RFP Rules and the use of the Supplement to the Part 1 Form posted to the RFP Web site. An RFP Bidder must provide the contact information and general representations required by Section IV.1, including information regarding the Officer of the RFP Bidder and the Representative, exclusively by completing Section 1 of the Part 1 Form. An RFP Bidder must show compliance with the financial requirements of Section IV.2 exclusively by completing Section 2 of the Part 1 Form and by providing all documents supporting the financial information and credit information requested in that Section. The Officer of the RFP Bidder must certify, as required by Section IV.3, that the RFP Bidder has all regulatory authorizations necessary for it to legally perform its obligations under the Master Agreement and the Confirmations exclusively by completing Section 3 of the Part 1 Form. An RFP Bidder must make additional

representations, including acceptance of all the terms of the Master Agreement without modifications, exclusively by completing Section 4 of the Part 1 Form. An RFP Bidder must provide the details of how it pays the Bid Participation Fee exclusively by completing Section 5 of the Part 1 Form. An RFP Bidder submitting a Proposal under an Agency Agreement must provide additional information, including acknowledging that an Officers' Certificate must be provided with the Part 2 Proposal, exclusively by completing Section 6 of the Part 1 Form. An RFP Bidder must make any possible elections for the Master Agreement, provide all contact information necessary for execution of the Master Agreement, exclusively by completing the Supplement to the Part 1 Form. An RFP Bidder relying on the financial standing of a Guaranty must make any possible elections for the Guaranty and provide all contact information necessary for execution of the Guaranty exclusively by completing the Supplement to the Part 1 Form.

- VI.1.3. Responses to the qualification standards of Article IV that do not use the Part 1 Form will not be considered and the Part 1 Proposal will be considered deficient.
- VI.1.4. The Part 1 Proposal consists of three (3) original Part 1 Forms and one (1) copy of all documents requested in the Part 1 Form and in Article IV of these RFP Rules, including the Supplement to the Part 1 Form. Section IV provides all instructions on whether a given document may be provided in hard copy or electronically on a CD, or electronically via email.
- VI.1.5. An RFP Bidder must deliver its Part 1 Proposal by certified mail, registered mail, hand delivery or overnight delivery to the Procurement Administrator by noon on the Part 1 Date at the following address: Procurement Administrator, ComEd Procurement, 222 South Riverside Plaza, 29th Floor, Chicago, IL 60606-5808. All times in this RFP are Central Prevailing Times unless specifically noted. Photocopies and facsimiles of the Part 1 Form will not be considered. No late Part 1 Proposals will be accepted under any circumstances.

- VI.1.6. The Procurement Administrator receives and processes the Part 1 Proposals during the Part 1 Proposal Window, which extends from 8 AM on April 15, 2009 to noon on the Part 1 Date, which is April 20, 2009. If a Part 1 Proposal is received by post, the Procurement Administrator faxes a confirmation to the RFP Bidder consisting of a photocopy of the first page of the Part 1 Form stamped with the time and the date that it was received. If a Part 1 Proposal is hand-delivered, the Procurement Administrator provides a confirmation consisting of a photocopy of the first page of the Part 1 Form stamped with the time and the date that it was received. The Procurement Administrator confirms receipt whether or not the Part 1 Proposal arrives during the Part 1 Window; however, Part 1 Proposals are only processed during the Part 1 Window.
- VI.1.7. If the Part 1 Proposal arrives before noon on any day during the Part 1 Window, the Procurement Administrator sends the confirmation of receipt on the day the Part 1 Proposal is received with the results of an initial review. The initial review states either that the Part 1 Proposal is complete and is being considered, or the initial review lists items of the Part 1 Proposal that are deficient or require clarification. If a Part 1 Proposal arrives after noon on any day during the Part 1 Window prior to the Part 1 Date, the Procurement Administrator sends the confirmation of receipt along with the initial review by noon of the next business day.
- VI.1.8. An RFP Bidder that submits a Draft Pre-Bid Letter of Credit will receive a review of any proposed modifications within two (2) business days. The RFP Bidder can only submit once a single Draft Pre-Bid Letter of Credit. Any review communicated to the RFP Bidder of the Draft Pre-Bid Letter of Credit is final and without appeal. All modifications accepted to the Pre-Bid Letter of Credit for the benefit of a single RFP Bidder will be made available to all RFP Bidders on an optional basis. All such modifications will be posted in a single document on the RFP Web site that will be updated daily during the Part 1 Window. By noon on the day the Part 2 Window

opens, the final document containing all accepted modifications will be posted to the RFP Web site.

- VI.1.9. An RFP Bidder that submits a Draft Post-Bid Letter of Credit will receive a review of any proposed modifications within seven (7) business days but in no event later than the Part 2 Date. The RFP Bidder can only submit once a single Draft Post-Bid Letter of Credit. Any review communicated to the RFP Bidder of the Draft Post-Bid Letter of Credit is final and without appeal. All modifications accepted to the Standard Post-Bid Letter of Credit for the benefit of a single RFP Bidder will be made available to all RFP Bidders on an optional basis. All such modifications will be posted in a single document on the RFP Web site that will be posted no later than 6 PM on the Part 2 Date.
- VI.1.10. An RFP Bidder applying under an Agency Agreement that submits a Draft Officers' Certificate will receive a review of the document within two (2) business days. Any review communicated to the RFP Bidder of the Draft Officers' Certificate is final and without appeal.
- VI.1.11. If an RFP Bidder receives any notice from the Procurement Administrator that any item of the Part 1 Proposal is deficient or requires clarification, the RFP Bidder has until noon on the Part 1 Date, or until 6 PM on the business day following the business day during which such a notice is faxed to the RFP Bidder, whichever comes later, to respond. If the RFP Bidder does not correct or adequately explain the deficiency within the time allowed, the Part 1 Proposal may be rejected.
- VI.1.12. With its Part 1 Proposal, an RFP Bidder that relies on the financial standing of a Guarantor must, by using the Supplement, make its elections to incorporate any or all of the approved modifications to the Form of Guaranty and provide all information that will be needed to prepare the guaranty for execution. The RFP Bidder's response will be used to prepare the original guaranty that will be sent to the RFP Bidder with its Notification of Qualification.

- VI.1.13. With its Part 1 Proposal, each RFP Bidder must, by using the Supplement, make any possible elections for the Master Agreement and provide all contact information necessary for execution of the Master Agreement. The RFP Bidder's response will be used to prepare the original Master Agreement that will be sent to the RFP Bidder with its Notification of Qualification.
- VI.1.14. An RFP Bidder is qualified to submit a Part 2 Proposal if its Part 1 Proposal is received on or before noon on the Part 1 Date, if its Part 1 Proposal is complete, and if its Part 1 Proposal fully complies with the qualification standards of Article IV of these RFP Rules. If an RFP Bidder receives a notice from the Procurement Administrator that the Part 1 Proposal is deficient or requires clarification, and if the RFP Bidder does not respond, the RFP Bidder will not be qualified. An RFP Bidder that submits a Part 1 Proposal will be notified whether it has qualified to submit a Part 2 Proposal for the RFP no later than 6 PM on April 23, 2009.
- VI.1.15. If an RFP Bidder fails to qualify, the Procurement Administrator notifies the RFP Bidder of that fact by fax and by overnight delivery. The Procurement Administrator returns one (1) copy of the Part 1 Form by overnight delivery.
- VI.1.16. If an RFP Bidder qualifies, the Procurement Administrator sends by fax and by overnight delivery a Notification of Qualification to the RFP Bidder. The Procurement Administrator sends by overnight delivery, with the Notification of Qualification: (i) a CD to which are saved the Master Agreement and the Bid Form; (ii) instructions for filling out and encrypting the Bid Form; (iii) instructions for the electronic transfer of the completed Bid Form from the RFP Bidder to the Procurement Administrator; (iv) instructions for fax submission of the Bids in case of technical difficulties with the electronic transfer; (v) invitation to a training session on the bid submission process; (vi) a sealed envelope containing a username, a password, and security codes to be used for bid submission uniquely by that RFP Bidder.
- VI.1.17. Except for submission of Bids, the exclusive method of responding to the requirements listed in Article V of these RFP Rules is the use of the Part 2 Form

provided as Appendix 3 of these RFP Rules. An RFP Bidder must confirm its contact information and make general representations required by Section V.1, including certifying that its Bids will remain binding until seven (7) business days after the Bid Date, exclusively by completing Section 1 of the Part 2 Form. An RFP Bidder must confirm that it is submitting the Pre-Bid Letter of Credit exclusively by completing Section 2 of the Part 2 Form. An RFP Bidder must confirm that it is submitting all documents related to the Master Agreement, duly executed, exclusively by completing Section 3 of the Part 2 Form. An RFP Bidder must verify that it has received intact the information necessary for the submission of Bids (including the username, password, and security codes) and that the security of this information has been maintained exclusively by completing Section 4 of the Part 2 Form. Responses to the requirements of Article V that do not use the Part 2 Form will not be considered and the Part 2 Proposal will be considered deficient.

VI.1.18. The Bid Form, as provided to each RFP Bidder upon qualification, is the exclusive method for the submission of Bids and for the submission of the maximum willingness to supply for each Segment of each month. A sample of the Bid Form is provided for illustrative purposes as Appendix 4 of these RFP Rules. The Bid Form must be filled out completely, encrypted, and transferred according to the instructions provided by the Procurement Administrator. Bids on any Bid Form that is incompletely or inconsistently filled out will be considered deficient and will not be evaluated.

VI.1.19. The Part 2 Proposal (excluding the Bids) consists of three (3) original Part 2 Forms, the Pre-Bid Letter of Credit, two (2) executed signature pages from the Master Agreement, and one (1) hard copy of any other document requested of the RFP Bidder in the Part 2 Form and in Article V of these RFP Rules. An RFP Bidder relying on the financial standing of a guarantor must provide one (1) original Guaranty. An RFP submitting a Proposal under an Agency Agreement must provide an executed Officers' Certificate.

- VI.1.20. An RFP Bidder must deliver its Part 2 Proposal (excluding the Bids) by certified mail, registered mail, hand delivery or overnight delivery to the Procurement Administrator by noon on the Part 2 Date at the following address: Procurement Administrator, ComEd Procurement, 222 South Riverside Plaza, 29th Floor, Chicago, IL 60606-5808. The Part 2 Date is the last day of the Part 2 Proposal Window. An RFP Bidder must submit its Bids in accordance with the instructions received from the Procurement Administrator with its Notification of Qualification and in accordance with the requirements of Section VI.2 between 9 AM and noon on the Bid Date. All times in this RFP are Central Prevailing Times unless specifically noted. Photocopies and facsimiles of the Part 2 Form will not be considered. No late Part 2 Proposals will be accepted under any circumstances.
- VI.1.21. If a Part 2 Proposal (excluding the Bids) is received by post, the Procurement Administrator faxes a confirmation to the RFP Bidder consisting of a photocopy of the first page of the Part 2 Form stamped with the time and the date that it was received. If a Part 2 Proposal is hand-delivered, the Procurement Administrator provides a confirmation consisting of a photocopy of the first page of the Part 2 Form stamped with the time and the date that it was received. The Procurement Administrator confirms receipt whether or not the Part 2 Proposal arrives during the Part 2 Window; however, Part 2 Proposals are only processed during the Part 2 Window.
- VI.1.22. If the Part 2 Proposal (excluding the Bids) arrives before noon on any day during the Part 2 Window, the Procurement Administrator sends the confirmation of receipt on the day the Part 2 Proposal is received with the results of an initial review. The initial review states either that the Part 2 Proposal is complete and is being considered, or the initial review lists items of the Part 2 Proposal that are deficient or require clarification. If a Part 2 Proposal arrives after noon on any day during the Part 2 Window prior to the Part 2 Date, the Procurement Administrator sends the confirmation of receipt along with the initial review by noon of the next business day.

- VI.1.23. An RFP Bidder's Part 2 Proposal (excluding the Bids) is automatically deficient if the Pre-Bid Letter of Credit proposes or includes modifications to the Standard Pre-Bid Letter of Credit included as Appendix 6 of these RFP Rules other than those accepted modifications posted in a single document on the RFP Web site.
- VI.1.24. If an RFP Bidder receives a notice from the Procurement Administrator that any item of the Part 2 Proposal (excluding the Bids) is deficient or requires clarification, the RFP Bidder has until noon on the Part 2 Date, or until 6 PM on the business day following the business day during which such a notice is faxed to the RFP Bidder, whichever comes later, to respond. In no event will the RFP Bidder be allowed to respond after 3 PM on the Bid Date. If the RFP Bidder does not correct or adequately explain the deficiency within the time allowed, the Part 2 Proposal may be rejected.
- VI.1.25. An RFP Bidder's Bids are evaluated if its Part 2 Proposal (excluding the Bids) is received on or before noon on the Part 2 Date, if its Part 2 Proposal is complete and fully complies with the requirements of Article V of these RFP Rules by 3 PM on the Bid Date, if its Bid Form is received between 9 AM and noon on the Bid Date, and if its Bid Form is submitted according to the instructions provided by the Procurement Administrator. Each RFP Bidder that submits a Part 2 Proposal will be notified whether its Bids were evaluated no later than 3 PM on the Bid Date.
- VI.1.26. If an RFP Bidder's Bids are not evaluated because its Part 2 Proposal fails to satisfy all requirements of Article V, the Procurement Administrator notifies the RFP Bidder of that fact by fax and by overnight delivery. The Procurement Administrator returns one (1) copy of the Part 2 Form by overnight delivery.
- VI.1.27. If an RFP Bidder's Bids are evaluated, the Procurement Administrator notifies the RFP Bidder of that fact by 3 PM on the Bid Date. By 6 PM on the first business day after the Bid Date, the Procurement Administrator notifies an RFP Bidder with Bids that were being evaluated whether any of the RFP Bidder's Bids are being recommended for acceptance by the Procurement Administrator. The Procurement Administrator identifies to an RFP Bidder the number of blocks of each Product and each

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Combination for which the RFP Bidder's Bids are being recommended for acceptance, and identifies the Bid that is the price for each such block. This notification occurs by telephone with a written confirmation by fax upon request by the RFP Bidder.

VI.2. Bid and Post-Bid Process

- VI.2.1. An RFP Bidder submits its Bids electronically, by transferring an encrypted Bid Form through a secure file transfer interface. The RFP Bidder must use a username and a password provided by the Procurement Administrator to access the secure interface. The RFP Bidder must use a security code provided by the Procurement Administrator to encrypt the file.
- VI.2.2. An RFP Bidder that must resort to submitting its Bid Form by fax because of technical difficulties must follow the instructions provided by the Procurement Administrator for this contingency. These instructions will include the Officer of the RFP Bidder or the Representative phoning the Procurement Administrator to advise the Procurement Administrator of the use of a fax transmission to submit Bids and to provide authenticating information.
- VI.2.3. All Bid Forms must be received between 9 AM and noon (CPT) on the Bid Date. All times in this RFP are Central Prevailing Times unless specifically noted. No late Bid Forms will be considered regardless of the method used by the RFP Bidder to submit its Bid Form.
- VI.2.4. The Procurement Administrator confirms receipt of the Bid Form with each RFP Bidder by telephone. The telephone number used is the telephone number provided on the Bid Form. The Procurement Administrator makes this confirmation within 15 minutes of receipt of the Bid Form. An RFP Bidder that does not receive confirmation within fifteen (15) minutes of submitting its Bid Form should assume technical difficulties, should proceed to submitting its Bid Form by fax, and should phone the Procurement Administrator.

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- VI.2.5. If the Bid Form received by the Procurement Administrator is incomplete or inconsistent, the Procurement Administrator will advise the RFP Bidder of that fact when confirming receipt of the Bid Form. The RFP Bidder may correct and resubmit the Bid Form as long as the Bid Form is received on or before noon on the Bid Date. It is the responsibility of the RFP Bidder to ensure that a completely and consistently filled out Bid Form is submitted between 9 AM and noon on the Bid Date. The Procurement Administrator will hold a training session for RFP Bidders to practice the bid submission process. RFP Bidders are encouraged to participate to minimize the possibility of technical difficulties with the submission of their Bid Forms.
- VI.2.6. The Act requires the Procurement Administrator to notify RFP Bidders that the Procurement Administrator may, in its discretion, enter into post-bid price negotiations with RFP Bidders. The Procurement Administrator has decided that there will be no post-bid negotiations. All Bids that meet the benchmarks are evaluated on a price-only basis. In accordance with the Act, benchmarks are established by the Procurement Administrator, in consultation with the IPA, the Procurement Monitor, and the ICC Staff. The benchmarks are confidential and are subject to review and approval by the ICC.
- VI.2.7. The evaluation of Bids proceeds in two steps. In the first step, all Bids that fail to meet the benchmarks established by the Procurement Administrator, the Procurement Monitor and the IPA are eliminated. In the second step, the Procurement Administrator evaluates the Bids that meet or beat the benchmarks and selects a package of Bids that procures all needed blocks at the lowest average cost per MWh. This package of Bids is called the Least Cost Package.
- VI.2.8. If, for a particular Segment of a month, an insufficient number of Bids is received, for evaluation purposes the benchmark is used for each block that has not received a Bid.
- VI.2.9. It is possible that multiple Bidders could submit Bids of the same amount (\$/MWh) for the same Product, resulting in a tie for the highest accepted price for a Product. Such Bids are Tied Bids (at the Tied Price) for a Product. If, in order to fill the Target

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exactly, only some of the Tied Bids for a Product must be accepted, the Bids included in the Least Cost Package will be selected at random from the Tied Bids on a Product. For the first block needed at the Tied Price, the probability that a particular Bidder is chosen is the number of blocks that the Bidder bid at the Tied Price divided by the total number of blocks bid at the Tied Price. If a second block is needed at the Tied Price, the probability that a particular Bidder is chosen is the number of blocks that the Bidder bid at the Tied Price (and that are not already part of the Least Cost Package) divided by the total number of Tied Bids that are not part of the Least Cost Package. The Procurement Administrator repeats this procedure until the Target for the Product is filled. No selection preference will be given to identical Bids submitted at any particular time or in any particular way.

- VI.2.10. By 6 PM on the first business day after the Bid Date, the Procurement Administrator notifies an RFP Bidder that had Bids that were evaluated whether any of the RFP Bidder's Bids are being recommended for acceptance by the Procurement Administrator. The Procurement Administrator identifies to an RFP Bidder the number of blocks of each Product and each Combination for which the RFP Bidder's Bids are being recommended for acceptance, and identifies the Bid that is the price for each such block. This notification occurs by telephone with a written confirmation by fax upon request by the RFP Bidder. The Procurement Administrator provides no other information to an RFP Bidder about the results of the procurement event.
- VI.2.11. Within one (1) business day of the Bid Date, the Procurement Administrator will submit to the ICC a confidential report that will provide the results of the bidding for each Product and for each Combination as well as a recommendation on whether these results should be accepted or rejected. Also within one (1) business day of the Bid Date, the Procurement Monitor will submit to the ICC a confidential report regarding the results of the RFP. The ICC will decide whether to accept or reject the

results of the RFP within two (2) business days of receiving the confidential reports from both the Procurement Administrator and the Procurement Monitor.

- VI.2.12. If the ICC accepts the results of the RFP, the Procurement Administrator will notify all RFP Bidders whether some or all of their Bids were accepted by the ICC. Such RFP Bidders are called winning RFP Bidders. The Procurement Administrator notifies each winning RFP Bidder of the number and price of blocks won of each month and Segment. The Procurement Administrator also provides to ComEd the name of each winning RFP Bidder, and for each such winning RFP Bidders, the number and price of blocks won of each month and Segment. For each Segment of each month, the price paid to the winning RFP Bidder is the average of the RFP Bidder's own winning Bids for all blocks of that Product and for all blocks of a Combination that includes that Segment of that month.
- VI.2.13. In accordance with the Act and ICC Orders, the following information will be made public at the time of ICC approval of a procurement event: (i) the names of successful Bidders; (ii) the load-weighted average of the winning Bids for each Segment of each month; (iii) the load-weighted average of the winning Bids for each Product and for each Combination; and (iv) the number of megawatts awarded for each Segment of each month, provided that there are at least three successful Bidders.
- VI.2.14. Within one (1) business day of the ICC decision approving the results, ComEd sends electronically one (1) copy of each applicable unexecuted Confirmation to each winning RFP Bidder. For each winning RFP Bidder there is one (1) Confirmation for each Segment of each month for which the winning RFP Bidder has winning Bids, as well as one (1) Confirmation for the payment of the Supplier Fees, for a maximum of forty (40) Confirmations in total. By 1 PM CPT (2 PM Eastern Prevailing Time) on the day following a winning RFP Bidder's receipt of the unexecuted Confirmation(s), both the winning RFP Bidder and ComEd execute two (2) originals of each Confirmation in counterpart. The winning RFP Bidder and ComEd return to each other by facsimile or

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electronic means to each other one (1) original of each executed Confirmation, with one (1) original of each executed Confirmation to follow by overnight delivery. The winning RFP Bidder and ComEd each retains one (1) original of each executed Confirmation. ComEd also fully executes the Master Agreement and sends with the executed Confirmation(s) one (1) original of the executed Master Agreement.

VI.2.15. The Procurement Administrator will inform qualified RFP Bidders of the amount of the Supplier Fee per block on-peak and the amount of the Supplier Fee per block off-peak no later than 6 PM on the Part 2 Date. The Procurement Administrator will provide estimates of the Supplier Fee per block on-peak and the Supplier Fee per block off-peak at the Bidder Information Session.

VI.2.16. ComEd files its generation supply charges for each customer group within two (2) business days of the ICC decision.

VI.2.17. If the ICC rejects the results of the procurement event or if not all blocks of each month and Segment are filled, the Procurement Administrator, the Procurement Monitor, and the ICC Staff will meet within 10 days of the ICC decision to analyze potential causes of low supplier interest or causes for the ICC decision. The Procurement Administrator may implement changes and hold a second procurement event if such changes would address concerns causing the Commission to reject the results of the first procurement event.

VI.3. Personnel and Confidentiality

VI.3.1. Any information provided by an RFP Bidder in its Part 1 Proposal is provided on a confidential basis to the Procurement Administrator, and may be provided on a confidential basis to the Procurement Monitor, to the IPA or to ICC Staff. ComEd representatives will review the information provided to fulfill the requirements of Section IV.2 and Section IV.6, and will participate in the evaluation of the creditworthiness of each RFP Bidder. Any information provided to ComEd is also provided to the Procurement Monitor.

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- VI.3.2. Any information provided by an RFP Bidder in its Part 2 Proposal is provided on a confidential basis to the Procurement Administrator, and may be provided on a confidential basis to the Procurement Monitor, to the IPA or to the ICC Staff. ComEd representatives will review the Pre-Bid Letter of Credit with the name of the RFP Bidder and the amount redacted and will participate in the evaluation of this Pre-Bid Letter of Credit. Any information provided to ComEd is also provided to the Procurement Monitor.
- VI.3.3. The Procurement Administrator, the Procurement Monitor, and representatives from ComEd involved in the evaluation of Proposals will consider all data and information provided by RFP Bidders in response to this RFP to be confidential and will attempt to limit its disclosure to the public in accordance with the provisions of this Section. ComEd will also take reasonable action to ensure that its employees, representatives and agents authorized to consider and evaluate all Proposals protect the confidentiality of such data and information. Each Representative of the Procurement Administrator, Procurement Monitor, and ComEd that has access to any portion of the Proposals is required to sign a Confidentiality Statement in the form of Appendix 8 to these RFP Rules prior to evaluation of any portion of the Proposals. The list of all signatories is available to an RFP Bidder upon request.
- VI.3.4. However, absolute protection from public disclosure of the RFP Bidders' data and information filed in response to this RFP cannot be provided and is not intended. By submitting a Proposal in response to this RFP, each RFP Bidder acknowledges and agrees to the limitations of the confidentiality provisions set forth in this Section.
- VI.3.5. In addition, the RFP Bidders' data and information filed in response to the RFP will be disclosed if required by any federal, state or local agency (including, without limitation, the ICC) or by a court of competent jurisdiction. ComEd or the Procurement Administrator will notify the RFP Bidder in advance of such disclosure and cooperate with such RFP Bidder, to the extent deemed reasonable by ComEd, and at the expense of the RFP Bidder, to prevent the disclosure of such materials. In any

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event, ComEd, its employees, and agents including the Procurement Administrator will not be responsible to the RFP Bidders or any other party or liable for any disclosure of such designated materials before, during or subsequent to this RFP.

ARTICLE VII. Reserved Rights

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