

# ComEd Energy RFPs

For Electric Supply & Renewable Energy Products

## Renewables RFP

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

May 7, 2009

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

*Paragraph 1 - Original*

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

*Acceptable Modifications to Paragraph 1*

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

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

*Paragraph 2 - Original*

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

*Paragraph 3 - Original*

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

*Paragraph 4 - Original*

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

*Paragraph 5 - Original*

The amount which may be drawn by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid through the Issuing Bank referencing this Letter of Credit No. \_\_\_\_\_. Partial drawings are permitted hereunder.

*Acceptable Modifications to Paragraph 5*

The amount which may be drawn by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid ~~through by~~ the Issuing Bank ~~referencing this Letter of Credit No. \_\_\_\_\_~~. Partial drawings are permitted hereunder.

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The amount which may be drawn by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid through the Issuing Bank referencing this Letter of Credit No. \_\_\_\_\_. Partial and multiple drawings are permitted hereunder.

*Paragraph 6 - Original*

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

*Acceptable Modifications to Paragraph 6*

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

*Paragraph 7 - Original*

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

*Acceptable Modifications to Paragraph 7*

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

*Paragraph 8 - Original*

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

*Acceptable Modifications to Paragraph 8*

With respect to Article 14(b) of the UCP, the Issuing Bank shall have a reasonable amount of time, not to exceed three (3) banking days following the date of its receipt of documents from the beneficiary, to examine the documents and determine whether to take up or refuse the documents and to inform the beneficiary accordingly. With respect to Article 16(d) of the UCP, the notice required in sub-article 16C must be given no later than the banks close of business on the third banking day following the date of presentation.

*Paragraph 9 - Original*

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

*Paragraph 10 - Original*

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

*Acceptable Modifications to Paragraph 10*

~~This Letter of Credit is transferable, in accordance with the procedures in UCP 600 through the submission of a Letter of Full Transfer substantially in the form of Exhibit A, but otherwise may not be amended, changed or modified without the express written consent of the beneficiary, the Issuing Bank and the Account Party.~~ This letter of credit is transferable in full and not in part. Any transfer made hereunder must conform strictly to the terms hereof and to the conditions of Article 38 of the Uniform Customs and Practice for Documentary Credit (2007 revision) fixed by the International Chamber of Commerce, Publication No. 600.

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

*Paragraph 11 - Original*

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

*Paragraph 12 - Original*

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

*Paragraphs 7 and 8 may be replaced with the following paragraph:*

This letter of credit is subject to International Standby Practices (ISP98). This standby letter of credit shall be deemed to be made under the laws of the State of New York, including Article 5 of the Uniform Commercial Code, and shall, as to matters not governed by the International Standby Practices (ISP98), be governed by and construed in accordance with the laws of the State of New York, excluding any choice of law provisions or conflict of law principles which would require reference to the laws of any other jurisdiction.

*Exhibit A (Letter of Full Transfer) - Original*

EXHIBIT A  
LETTER OF FULL TRANSFER

\_\_\_\_\_, 20\_\_

To:  
Bank  
Address

Gentlemen:

RE: Credit \_\_\_\_\_ Issued By \_\_\_\_\_

\_\_\_\_\_  
Advice No. \_\_\_\_\_

For value received, the undersigned beneficiary hereby irrevocably transfers to:

\_\_\_\_\_  
(Name of Transferee)

\_\_\_\_\_  
(Address)

all rights of the undersigned beneficiary to draw under the above Letter of Credit in its entirety.

By this transfer, all rights of the undersigned beneficiary in such Letter of Credit are transferred to the transferee and the transferee shall have the sole rights as beneficiary thereof, including sole rights relating to any amendments whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised direct to the transferee without necessity of any consent of or notice to the undersigned beneficiary.

The advice of such Letter of Credit is returned herewith, and we ask you to endorse the transfer on the reverse thereof, and forward it direct to the transferee with your customary notice of transfer.

Enclosed is remittance of \$\_\_\_\_\_ in payment of your transfer commission and in addition thereto we agree to pay to you on demand any expenses which may be incurred by you in connection with this transfer.

Transfer Commission Charges

\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE AUTHENTICATED  
The signatory/ies of this concern  
is/are authorized to withdraw  
corporate funds.

\_\_\_\_\_  
(BANK)

\_\_\_\_\_  
(Authorized Signature)

SIGNATURE AUTHENTICATED  
The signatory/ies of this concern  
is/are authorized to withdraw  
corporate funds.

\_\_\_\_\_  
(BANK)

\_\_\_\_\_  
(Authorized Signature)

Yours very truly,

\_\_\_\_\_  
Signature of Beneficiary

\_\_\_\_\_  
Signature of Transferee

Acceptable Modifications to Exhibit A

EXHIBIT A  
LETTER OF FULL TRANSFER

To: \_\_\_\_\_, 20\_\_\_\_  
Bank  
Address

Gentlemen: RE: Credit \_\_\_\_\_ Issued By \_\_\_\_\_

~~Advice No. \_\_\_\_\_~~

For value received, the undersigned beneficiary hereby irrevocably transfers to:

\_\_\_\_\_  
(Name of Transferee)

\_\_\_\_\_  
(Address)

all rights of the undersigned beneficiary to draw under the above Letter of Credit in its entirety.

By this transfer, all rights of the undersigned beneficiary in such Letter of Credit are transferred to the transferee and the transferee shall have the sole rights as beneficiary thereof, including sole rights relating to any amendments whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised direct to the transferee without necessity of any consent of or notice to the undersigned beneficiary.

The ~~advice original~~ of such Letter of Credit, and all amendments thereto, if any, is/are returned herewith, and we ask you to endorse the transfer on the reverse thereof, and forward it direct to the transferee with your customary notice of transfer.

Enclosed is remittance of \$\_\_\_\_\_ in payment of your transfer commission and in addition thereto we agree to pay to you on demand any expenses which may be incurred by you in connection with this transfer.

Transfer Commission Charges

\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE AUTHENTICATED  
The signatory/ies of this concern  
is/are authorized to withdraw  
corporate funds.

\_\_\_\_\_  
(BANK)

\_\_\_\_\_  
(Authorized Signature)

SIGNATURE AUTHENTICATED  
The signatory/ies of this concern  
is/are authorized to withdraw  
corporate funds.

\_\_\_\_\_  
(BANK)

\_\_\_\_\_  
(Authorized Signature)

Yours very truly,

\_\_\_\_\_  
Signature of Beneficiary

\_\_\_\_\_  
Signature of Transferee

