

ComEd Energy RFPs

For Electric Supply & Renewable Energy Products

Standard Products RFP

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

May 3, 2010

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

Paragraph 1 - Original

We, _____ (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 purportedly signed by an authorized 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 purportedly signed by an authorized representative of the beneficiary (signed as such):

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 ~~purportedly~~ signed by an authorized ~~representative-official~~ of the beneficiary:

We, _____ (the "Issuing Bank"), hereby establish our Irrevocable Transferable Standby Letter of Credit (the "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 Power Purchase and Sale Agreement dated as of _____ between beneficiary and Account Party, as the same may be amended (the "Master Agreement")) has occurred and is continuing with respect to Account Party under the Master Agreement and no Event of Default has occurred and is continuing with respect to the beneficiary of this Letter of Credit. Wherefore, the undersigned does hereby demand payment of _____ United States Dollars (\$_____) [or the entire undrawn amount of the Letter of Credit]"; or

Acceptable Modifications to Paragraph 2

1. "An Event of Default (as defined in the Master Power Purchase and Sale Agreement dated as of _____ between [Beneficiary's Name] ("beneficiary") and [Account Party's Name] ("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 _____ United States Dollars (\$_____) [or the entire undrawn amount of the Letter of Credit]"; or

Please note that you may only make the change to (2) on page 4 of this document OR the change (1) above.

Paragraph 3 - Original

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

Acceptable Modifications to Paragraph 3

2. "An Early Termination Date (as defined in the Master Power Purchase and Sale Agreement dated as of _____ between [\[Beneficiary's Name\]](#) ("beneficiary") and [\[Account Party's Name\]](#) ("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 _____ United States Dollars (\$_____) [or the entire undrawn amount of the Letter of Credit]"

Please note that you may only make the change to (1) on page 3 of this document OR the change (2) above.

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 by the Issuing Bank. Partial and multiple 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 by the Issuing Bank. Partial [drawings](#) and multiple [presentations](#) ~~drawings~~ are permitted hereunder.

Paragraph 6 - Original

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.

Acceptable Modifications to Paragraph 6

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. Matters not covered by the UCP shall be governed and construed in accordance with the laws of the State of New York.

Acceptable Modifications to Paragraph 7

Paragraphs 7, 8 and 9 may be replaced with the following paragraphs:

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.

Rule 3.14(a) of the ISP as it applies to this Irrevocable Standby Letter of Credit is hereby modified to provide as follows:

If on the last Business Day for presentation the place for presentation stated in this Letter of Credit is for any reason closed, then the last day for presentation is automatically extended to the day occurring thirty calendar days after the place for presentation re-opens for business.

Rule 3.14(a) of the ISP as it applies to this Irrevocable Standby Letter of Credit is hereby further modified to provide that any alternate place for presentation that we designate must be located in the United States.

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. With respect to Article 16(d) of the UCP, the notice required in sub-article 16(c) must be given no later than the banks' close of business on the third Business Day following the date of presentation.

Acceptable Modifications to Paragraph 8

Paragraphs 7, 8 and 9 may be replaced with the following paragraphs:

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.

Rule 3.14(a) of the ISP as it applies to this Irrevocable Standby Letter of Credit is hereby modified to provide as follows:

If on the last Business Day for presentation the place for presentation stated in this Letter of Credit is for any reason closed, then the last day for presentation is automatically extended to the day occurring thirty calendar days after the place for presentation re-opens for business.

Rule 3.14(a) of the ISP as it applies to this Irrevocable Standby Letter of Credit is hereby further modified to provide that any alternate place for presentation that we designate must be located in the United States.

Paragraph 9 - Original

Article 36 of the UCP as it applies to this Irrevocable Standby Letter of Credit is hereby modified to provide that 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. Article 36 of the UCP as it applies to this Irrevocable Standby Letter of Credit is hereby further modified to provide that any alternate place for presentation that we designate must be located in the United States.

Acceptable Modifications to Paragraph 9

Paragraphs 7, 8 and 9 may be replaced with the following paragraphs:

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.

Rule 3.14(a) of the ISP as it applies to this Irrevocable Standby Letter of Credit is hereby modified to provide as follows:

If on the last Business Day for presentation the place for presentation stated in this Letter of Credit is for any reason closed, then the last day for presentation is automatically extended to the day occurring thirty calendar days after the place for presentation re-opens for business.

Rule 3.14(a) of the ISP as it applies to this Irrevocable Standby Letter of Credit is hereby further modified to provide that any alternate place for presentation that we designate must be located in the United States.

Paragraph 10 - Original

We, the Issuing Bank, hereby certify that as of the Date of Issuance of this Irrevocable Standby Letter of Credit our Senior Unsecured Debt is rated "A" or better by Standard and Poor's ("S&P"), "A2" or better from Moody's Investors Service ("Moody's"), and "A" or better by Fitch Ratings ("Fitch"). We hereby certify that our Senior Unsecured Debt is rated by two of S&P, Moody's, and Fitch.

Acceptable Modifications to Paragraph 10

Paragraph 11 - 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 11

~~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.

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 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. Our customary transfer fees are for the account of the (insert applicant or beneficiary name)

Acceptable, provided that: (a) the transfer fees are for the account of the applicant; (b) this sentence is inserted at the end of this letter of credit in the space provided for administrative comments.

Paragraphs 11 and 12 may be replaced with the following paragraphs:

This Letter of Credit is transferable in whole but not in part, and except as expressly stated herein, is transferable in accordance with the ICC publication no. 600. Any transfer request must be presented to us with the attached form together with the original letter of credit. Transfers to designated foreign nationals and /or specially designated nationals are not permitted as being contrary to the U.S. Treasury Department or foreign assets control regulations.

Except for the transfer, this letter of credit otherwise may not be amended, changed or modified without the express written consent of the beneficiary, the Issuing Bank and the Account Party.

Paragraph 12 - 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.

Acceptable Modifications to Paragraph 12

Paragraph 13 - 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.

Acceptable Modifications to Paragraph 13

Exhibit A (Letter of Full Transfer) - Original

EXHIBIT A
LETTER OF FULL TRANSFER

To: _____, 20____
Bank
Address

Gentlemen: RE: Credit _____ Issued By _____

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 original 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)

Yours very truly,

Signature of Beneficiary

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

(BANK)

(Authorized Signature)

Signature of Transferee

Acceptable Modifications to Exhibit A

EXHIBIT A
LETTER OF FULL TRANSFER

To: _____, 20____
Bank
Address

Gentlemen: RE: Credit _____ Issued By _____

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 original of such Letter of Credit ~~is~~ and all original amendments are returned herewith, and we ask you to endorse the ~~transfer letter of credit and amendments~~ 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)

Yours very truly,

Signature of Beneficiary

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

~~_____
(BANK)

(Authorized Signature)~~

Signature of Transferee