

# Large Filing Separator Sheet

Case Number: 07-796-EL-ATA

File Date: 7/10/07

Section: 3 of 3

Number of Pages: 170

Description of Document: New Case  
(Exhibits G2, H, I, J  
and Workpapers)

**MASTER STANDARD SERVICE OFFER (“SSO”)  
SUPPLY AGREEMENT  
FOR THE PERIOD  
FROM JANUARY 1, 2009  
THROUGH MAY 31, [\_\_]<sup>1</sup>**

---

<sup>1</sup> 2010, 2011 or 2012

## **TABLE OF CONTENTS**

<b>ARTICLE 1: DEFINITIONS .....</b>	<b>2</b>
<b>ARTICLE 2: GENERAL TERMS AND CONDITIONS .....</b>	<b>11</b>
2.1 Capacity In Which Companies Are Entering Into This Agreement .....	11
2.2 Parties' Obligations.....	11
2.3 MISO Services .....	14
2.4 Communications and Data Exchange .....	14
2.5 Record Retention .....	15
2.6 Verification .....	16
<b>ARTICLE 3: REPRESENTATIONS AND WARRANTIES .....</b>	<b>16</b>
3.1 SSO Supplier's Representations and Warranties .....	16
3.2 Companies' Representations and Warranties .....	18
3.3 Joint Representations and Warranties .....	20
3.4 Survival of Obligations .....	21
<b>ARTICLE 4: COMMENCEMENT AND TERMINATION OF AGREEMENT ....</b>	<b>21</b>
4.1 Commencement and Termination.....	21
4.2 Termination of Right to Supply SSO.....	22
4.3 Survival of Obligations .....	22
4.4 Mutual Termination .....	22
<b>ARTICLE 5: BREACH AND DEFAULT.....</b>	<b>23</b>
5.1 Events of Default .....	23
5.2 Rights Upon Default .....	26
5.3 Damages Resulting From an Event of Default .....	27
5.4 Declaration of an Early Termination Date and Calculation of Settlement Amount and Termination Payment.....	30
5.5 Step-up Provision.....	33
5.6 Setoff of Payment Obligations of the Non-Defaulting Party.....	34
5.7 Preservation of Rights of Non-Defaulting Party.....	34
<b>ARTICLE 6: CREDITWORTHINESS.....</b>	<b>35</b>
6.1 Applicability .....	35
6.2 Creditworthiness Determination .....	35
6.3 Independent Credit Requirement .....	36
6.4 Independent Credit Threshold.....	36
6.5 Mark-to-Market Credit Exposure Methodology.....	42
6.6 Credit Limit.....	42
6.7 Posting Margin and Return of Surplus Margin.....	45
6.8 Grant of Security Interest/Remedies.....	47
6.9 Security Instruments .....	50
6.10 Maintenance of Creditworthiness .....	51
6.11 Calling on Security .....	51
6.12 Interest on Cash Held by Company .....	52

6.13	Confidentiality .....	52
6.14	No Endorsement of SSO Supplier .....	53
<b>ARTICLE 7: PROCEDURES FOR ENERGY SCHEDULING AND DATA</b>		
	<b>TRANSMISSION.....</b>	<b>53</b>
7.1	Load Obligations.....	53
7.2	Data Transmission .....	53
7.3	Energy Scheduling .....	54
<b>ARTICLE 8: THE ENERGY SETTLEMENT/RECONCILIATION PROCESS... 55</b>		
8.1	Energy Settlement By MISO .....	55
8.2	Energy Settlement by the Company .....	55
<b>ARTICLE 9: BILLING AND PAYMENT..... 55</b>		
9.1	The Company Payment of Obligations to the SSO Supplier.....	55
9.2	Billing for SSO Supplier's Obligations to Other Parties .....	57
9.3	The SSO Supplier Payment of Obligations to the Companies .....	57
<b>ARTICLE 10: SYSTEM OPERATION..... 58</b>		
10.1	Disconnection and Curtailment by the Companies.....	58
10.2	Inadvertent Loss of Service to SSO Customers .....	59
10.3	Good Faith Efforts .....	59
10.4	MISO Requirements .....	60
10.5	Compliance with Governmental Directives.....	60
<b>ARTICLE 11: DISPUTE RESOLUTION ..... 60</b>		
11.1	Informal Resolution of Disputes.....	60
11.2	Recourse to Agencies or Courts of Competent Jurisdiction .....	61
<b>ARTICLE 12: REGULATORY AUTHORIZATIONS AND JURISDICTION 61</b>		
12.1	Compliance with Applicable Legal Authorities .....	61
12.2	FERC Jurisdictional Matters.....	62
<b>ARTICLE 13: LIMITATION OF LIABILITY ..... 62</b>		
13.1	Limitations on Liability .....	62
13.2	Risk of Loss .....	63
<b>ARTICLE 14: INDEMNIFICATION ..... 63</b>		
14.1	Indemnification.....	63
14.2	Survives Agreement.....	65
<b>ARTICLE 15: MISCELLANEOUS PROVISIONS..... 65</b>		
15.1	Notices .....	65
15.2	No Prejudice of Rights.....	66
15.3	Assignment .....	66
15.4	Governing Law and Venue .....	68
15.5	Headings .....	68
15.6	Third Party Beneficiaries .....	68
15.7	General Miscellaneous Provisions.....	69
15.8	Taxes.....	70
15.9	Capacity Market Developments.....	70
15.10	Use of the Word "Including" .....	71

15.11	Federal Acquisition Regulation .....	71
15.12	Binding Terms .....	72
15.13	Confidentiality .....	72
15.14	Amendment.....	73
15.15	Counterparts .....	73
<b>APPENDIX A TO MASTER SSO SUPPLY AGREEMENT.....</b>		<b>76</b>
<b>APPENDIX B TO MASTER SSO SUPPLY AGREEMENT .....</b>		<b>77</b>
<b>APPENDIX C TO MASTER SSO SUPPLY AGREEMENT.....</b>		<b>78</b>
<b>APPENDIX D TO MASTER SSO SUPPLY AGREEMENT.....</b>		<b>87</b>
<b>APPENDIX E TO SSO MASTER SUPPLY WHOLESALE AGREEMENT .....</b>		<b>101</b>

## **MASTER SSO SUPPLY AGREEMENT**

**THIS MASTER SSO SUPPLY AGREEMENT**, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2008 by and between The Cleveland Electric Illuminating Company, The Toledo Edison Company and Ohio Edison Company (collectively, the "Companies"), each of which is a corporation organized and existing under the laws of the State of Ohio, and each of the suppliers listed on Appendix A hereto severally, but not jointly (each a "SSO Supplier" and, collectively, the "SSO Suppliers"). The Companies and each SSO Supplier are hereinafter sometimes referred to collectively as the "Parties," or individually as a "Party,"

### **WITNESSETH:**

**WHEREAS**, each of the Companies is an Ohio public utility engaged, inter alia, in providing SSO Service within its service territory; and

**WHEREAS**, the PUCO found that, for periods on and after January 1, 2009, it would serve the public interest for the Companies to secure SSO Supply through a competitive bidding process; and

**WHEREAS**, on \_\_\_\_\_, 2008 to \_\_\_\_\_, 2008 the Company conducted and completed a successful solicitation for SSO Supply; and,

**WHEREAS**, each SSO Supplier was one of the winning bidders in the solicitation for the provision of SSO Supply; and

**WHEREAS**, the PUCO has authorized the Companies to contract with winning bidders for the provision of SSO Supply to serve SSO Load in accordance with the terms of this Standard Service Offer Master SSO Supply Agreement (“Agreement”); and

**WHEREAS**, the Companies and each of the SSO Suppliers desire to enter into this Agreement setting forth their respective obligations concerning the provision of SSO Supply.

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

#### **ARTICLE 1:       DEFINITIONS**

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

**Ancillary Services** has the same meaning ascribed to the term in the applicable MISO Rules.

**Applicable Legal Authorities** means generally, those federal and Ohio statutes and administrative rules and regulations that govern the electric utility industry in Ohio.

**Asset Owner** has the meaning ascribed thereto in the applicable MISO Rules.

**Auction Revenue Right or ARR** has the same meaning ascribed to the term in the applicable MISO Rules.

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

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

**Business Day** means any day on which the Companies’ and MISO’s corporate offices are open for business and commercial banks are not authorized or required to close.

**Charge** means any fee, charge or other amount that is billable by the Companies to the SSO Supplier under this Agreement.

**Cinergy Hub** means the liquid pricing point located in MISO.

**Commercial Customer** means a Customer taking service under one of the Companies' General Service – Small Tariffs.

**Commercial Pricing Node or "CP Node"** has the same meaning ascribed to the term in the applicable MISO Rules.

**Competitive Electricity Supply** means unbundled Energy, Resource Adequacy Requirements, Ancillary Services and Firm Transmission Service, including all transmission and distribution losses and congestion associated with the provision of the foregoing services, other obligations or responsibilities currently imposed or that may be imposed by MISO, and such other services or products that are provided by a CRES Supplier to fulfill its obligations to serve customer load. The provision of Competitive Electricity Supply by CRES Suppliers entails fulfillment of all obligations associated with service to Customers, including the obligations of an LSE under the applicable MISO Rules.

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

**CRES Supplier** means a person or entity that is duly certified by the Commission to offer and to assume the contractual and legal responsibility to provide Competitive Electricity Supply to Customers located in the state of Ohio pursuant to retail open access programs approved by the Commission.

**Customer** means any person or entity who enters a contractual agreement with any of the Companies to receive distribution service, including, without limitation, all persons eligible to receive Competitive Electricity Supply from a CRES Supplier or SSO Service, respectively, in accordance with the Applicable Legal Authorities.

**Damages** means the amount of compensation specified in Article 5 of this Agreement due to a Party resulting from an Event of Default or an Early Termination of this Agreement.

**Defaulting Party** means a Party that causes or is subject to an Event of Default.



**Early Termination** means termination of this Agreement prior to the end of the term due to the occurrence of an Event of Default as specified in Section 5.2 of this Agreement and the declaration of Early Termination.

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

**Emergency** means (i) an abnormal system condition requiring manual or automatic action to maintain system frequency, or to prevent loss of firm load, equipment damage, or tripping of system elements that could adversely affect the reliability of an electric system or the safety of persons or property; or (ii) a fuel shortage requiring departure from normal operating procedures; or (iii) a condition that requires implementation of emergency operations procedures; or (iv) any other condition or situation that the Companies, the FirstEnergy Control Area operator, other transmission owner, or MISO deems imminently likely to endanger life or property or to affect or impair the Companies' electrical system or the electrical system(s) of other(s) to which the Companies' electrical system is directly or indirectly connected (a "Connected Entity"). Such a condition or situation may include, but shall not be limited to, potential overloading of the Companies' transmission or distribution circuits, MISO minimum generation ("light load") conditions, or unusual operating conditions on either the Companies' or a Connected Entity's electrical system, or conditions such that the Companies are unable to accept Energy from the SSO Supplier without jeopardizing the Companies' electrical system or a Connected Entity's electrical system.

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

**Event of Default** means a breach of obligations under this Agreement as set forth in Section 5.2 hereof.

**FERC** means the Federal Energy Regulatory Commission, or any successor thereto.

**Final FERC Order** means a final order issued by FERC which is no longer subject to rehearing or judicial review and is not the subject of proceedings at FERC on remand from any court.

**Final Monthly Energy Allocation or "FMEA"** means is a quantity of Energy expressed in MWh which, for any Billing Month, is the PMEA adjusted for any billing or metering errors found subsequent to the calculation of PMEA of which MISO is notified prior to the last date on which MISO issues a settlement statement for a previous operating day for the Billing Month.

**Financial Transmission Rights or "FTRs"** has the same meaning ascribed to the term in the applicable MISO Rules.

**Firm Transmission Service** means "Network Integration Transmission Service" under the MISO Rules. In the event the MISO Rules are modified such that "Network Integration Transmission Service" is no longer offered, Firm Transmission Service means the type of transmission service offered under the MISO Rules that is accorded the highest level of priority for scheduling and curtailment purposes.

**FirstEnergy Control Area** means the geographic region represented by the combined service territories of The Cleveland Electric Illuminating Company, The Toledo Edison Company, Pennsylvania Power Company and Ohio Edison Company, as may be modified from time to time, and which is recognized by the North American Electric Reliability Council as the "FirstEnergy Control Area."

**FirstEnergy Load Zone** means that set of electrical locations determined pursuant to the applicable MISO tariff, rules, agreements and procedures, representing the aggregate area of consumption for the Companies within the FirstEnergy Control Area and used for the purposes of scheduling, reporting withdrawal volumes, and settling Energy transactions at aggregated load levels, to facilitate Energy market transactions. The reference commercial pricing node will be the MISO commercial pricing node labeled "FESR."

**Forward Market Price** means forward market prices as determined by concurrent broker quotations obtained by the Companies for the Cinergy Hub, which is indicative of market conditions in the FirstEnergy Control Area. Broker quotes will be obtained from the same three independent broker's active in the electric markets, as available.

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

**General Service – Small Tariffs** means Rate Schedules GS, STL, TRF and POL of the Companies' Tariffs for Electric Service.

**General Service – Large Tariffs** means Rate Schedules GP, GSU and GT of the Companies' Tariffs for Electric Service.

**Guaranty** means a guaranty, hypothecation agreement, margins or security agreement or any other document, (whether in the form attached to this Agreement or other form approved by the Companies.)

**Guarantor** means any party having the authority and agreeing to guarantee a SSO Supplier's financial obligations under this Agreement, recognizing that such a party will be obligated to meet the Companies' creditworthiness requirements for SSO Suppliers.

**Independent Credit Requirement or "ICR"** means an amount per Tranche required as security under Section 6.3 hereof, to reflect the risk of Energy price movements between the date of an Early Termination caused by an Event of Default by a SSO Supplier and

the date the final calculation of Damages owing to the Companies under Section 5.2 is made.

**Industrial Customer** means a Customer taking service under one of the Companies' General Service – Large Tariffs.

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

**Kilowatt or “kW”** means a unit of measurement of useful power equivalent to 1,000 watts.

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

**Load Serving Entity or “LSE”** has the same meaning ascribed to the term in the applicable MISO Rules.

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

**Margin** means the amount by which the Total Exposure Amount exceeds the Credit Limit of the SSO Supplier, or its Guarantor, as defined in Section 6.6 of this Agreement.

**Market Participant** has the meaning ascribed thereto in the MISO Rules.

**Mark-to-Market Exposure Amount** means an amount calculated daily for each SSO Supplier reflecting the exposure to the Companies due to fluctuations in market prices for Energy as set forth in Section 6.5 and in Appendix C minus amounts due pursuant to this Agreement to such SSO Supplier for the delivery of SSO Supply.

**Megawatt or “MW”** means one thousand kilowatts.

**Megawatt-hour or “MWh”** means one megawatt of electric power used over a period of one hour.

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

**Meter Data Management Agent** has the meaning ascribed thereto in the applicable MISO Rules.

**Meter Read Date** means the date on which each of the Companies is scheduled, in accordance with its own established procedures and practices and its own regularly-scheduled billing cycles, to read a meter for purposes of producing Customer bills.

**Meter Reading** means the process whereby each of the Companies takes notice of the information presented on a Customers' meters. A Meter Reading may be obtained manually, through telemetry, or by estimation, in accordance with each of the Companies' established procedures and practices.

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

**MISO** means the Midwest Independent Transmission System Operator, Inc. its successors and assigns.

**MISO Charges** means the prevailing charges required by MISO to be paid by each LSE operating in the MISO.

**MISO EMT** means the prevailing MISO Open Access Transmission and Energy Markets Tariff on file with the FERC, which sets forth the rates, terms and conditions, among other things, of transmission service over transmission facilities located in the FirstEnergy Control Area and the rules governing MISO's administration of Energy markets, Ancillary Services, Financial Transmission Rights and Resource Adequacy Requirements, as well as any MISO Business Practice Manuals as are in effect on the date hereof and as modified from time to time.

**MISO Planning Reserve Sharing Group** means the agreement whereby participants study the collective resources of the Midwest Planning Reserve Sharing Group participants to determine the minimum level of reserve requirements based upon the reliability principles and standards.

**MISO Rules** means any MISO tariff, rules or agreements, or succeeding, superseding or amended versions of the MISO tariff, rules or agreements that may take effect from time to time over the term of this Agreement.

**Mutual Termination Agreement** has the meaning ascribed to in Section 4.4 of this Agreement.

**NERC** means the North American Electric Reliability Council or its successor.

**PJM Western Hub** means a liquid pricing point in PJM.

**Preliminary Monthly Energy Allocation or "PMEA"** means a quantity of Energy expressed in MWh which, for any Billing Month, is the preliminary calculation of the Supplier's SSO Supplier Responsibility Share.

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

**Price** means the price in \$/MWh set forth in Appendix A hereto, resulting from the Companies' solicitation for the opportunity to provide SSO Supply. The Price is the basis for financial settlement of SSO Supply supplied by the SSO Supplier for SSO Customers under this Agreement.

**PUCO or "Commission"** means the Public Utilities Commission of Ohio, or any successor thereto.

**Residential Customer** means a Customer taking service under any of the Companies' Residential Tariff.

**Residential Tariff** means Rate Schedule RS.

**Resource Adequacy Requirements** means those requirements (or equivalent requirements) set forth in the applicable MISO Rules, and as may be replaced or superseded by other requirements in or in succeeding, superseding or amended versions of the MISO Rules.

**Seasonal Billing Factor** means a numerical factor, as set forth in Appendix B hereto, one amount applicable during the summer months of June through August, and one amount applicable during the non-summer months of September through May, applied to the Price in accordance with the provisions of Article 9 hereof and thereby used to adjust the Companies' payments to SSO Suppliers.

**Service Territory** means the geographic areas of the State of Ohio in which the Companies serve Customers.

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

**SSO Customers** means Residential, Commercial and Industrial Customers taking SSO Service from the Companies during the term of this Agreement.

**SSO Load** means the full electricity requirement (including, without limitation, Energy, Resource Adequacy Requirements, Ancillary Services and Firm Transmission Service of SSO Customers. The hourly Energy requirements of SSO Load used to determine the PMEA and FMEA will be measured and reported by the Companies to MISO and will include distribution losses.

**SSO Load Share** means the SSO Supplier's portion of the FirstEnergy Load Zone single coincident peak attributable to the Companies SSO Customers.

**SSO Service** means Standard Service Offer electric generation service that is provided by the Companies to any Customer that is not being served by a CRES Supplier.

**SSO Supplier** means an entity that has been selected through the SSO solicitation and has accepted the obligations and associated rights to provide SSO Supply to the Companies for retail customers within the State of Ohio in accordance with the Applicable Legal Authorities and has entered into this Agreement with the Companies as a Party. The term "supplier" also refers generically to any entity authorized by the PUCO to provide SSO Supply where the context makes it appropriate to do so. The distinction can be derived from the context, but is also generally reflected in the use of lower case type ("supplier") to reflect the generic usage, and an initial capital ("Supplier") to reflect a Party to this Agreement.

**SSO Supplier Load Zone** means the load zone created pursuant to MISO's tariff, rules, agreements and procedures encompassing the individual SSO Supplier's proportionate share of the FirstEnergy Load Zone based on that SSO Supplier's SSO Supplier Responsibility Share.

**SSO Supplier Representative** means any officer, director, employee, consultant, contractor, or other agent or representative of the SSO Supplier in connection with the SSO Supplier's activity solely as a SSO Supplier. To the extent the SSO Supplier is a division or group of a company, the term SSO Supplier Representative does not include any person in that company who is not part of the SSO Supplier division or group.

**SSO Supplier Responsibility Share** means, for each SSO Supplier, the fixed percentage share of the Companies' SSO Load for which the SSO Supplier is responsible as set forth in Appendix A. The stated percentage share is determined by multiplying the number of Tranches won by the SSO Supplier in the solicitation times the Tranche size percentage share.

**SSO Supply** means unbundled Energy, Resource Adequacy Requirements, Ancillary Services and Firm Transmission Service, including all transmission and distribution losses and congestion and imbalance costs associated with the provision of such services,

as measured and reported to MISO, and such other services or products that a SSO Supplier may be required, by MISO or other governmental body having jurisdiction, to provide in order to meet the SSO Supplier Responsibility Share under this Agreement.

**SSO Tariffs** means Schedules of Rates of The Cleveland Electric Illuminating Company (P.U.C.O. 13), The Toledo Edison Company (P.U.C.O. 8) and Ohio Edison Company (P.U.C.O. 11) , and as those Rate Schedules may be amended from time to time. Copies of the SSO Tariffs may be obtained at [http://www.firstenergycorp.com/corporate/Operating\\_Companies/index.html](http://www.firstenergycorp.com/corporate/Operating_Companies/index.html).

**Standard Service Offer** or “SSO” means a market-based standard service offer of all competitive retail electric services necessary to maintain essential electric service to consumers, including a firm supply of electric generation service as required by Section 4928.14 of the Revised Code of Ohio.

**Statement** means a monthly report prepared by the Companies for the SSO Supplier indicating the amount due to the SSO Supplier in compensation for kWh supplied for SSO Customers by the SSO Supplier during the current Billing Month, in accordance with SSO Supplier’s obligations under this Agreement.

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

**Termination Payment** has the meaning set forth in Section 5.4 of this Agreement.

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

**Tranche** means a fixed percentage share of the Companies’ SSO Load as determined for the purposes of the solicitation conducted to procure SSO Supply for the Companies’ SSO Load. The fixed percentage is the Tranche size for the Companies.

**Transmission Customer** has the same meaning ascribed to the term in the applicable MISO Rules.

**Zonal Peak Load** means the monthly coincident peak load of the transmission system within the FirstEnergy Control Area.

## **ARTICLE 2: GENERAL TERMS AND CONDITIONS**

### **2.1 Capacity In Which Companies Are Entering Into This Agreement**

Each SSO Supplier agrees and acknowledges that the Companies are contracting for the provision of SSO Supply from such SSO Supplier for Customers receiving SSO Service on the Companies' distribution systems pursuant to the authorizations provided to each of the Companies. The SSO Supplier further agrees and acknowledges that the Companies will administer and monitor the SSO Supplier's performance in providing SSO Supply under this Agreement and that the Companies will be entitled to enforce SSO Suppliers' obligations related to the provision of SSO Supply. The SSO Supplier hereby permanently and irrevocably waives any claim that Companies are not entitled to seek enforcement of this Agreement.

The Parties acknowledge that this Agreement is a forward contract and, accordingly, the Parties hereto are entitled to the protections of Section 556 of the Bankruptcy Code. The Parties therefore agree that this Agreement may be terminated by either Party upon the commencement of a proceeding by one Party under any chapter of the Bankruptcy Code in accordance with Section 5.2 hereof.

### **2.2 Parties' Obligations**

#### **(a) Obligations of SSO Supplier**

Each SSO Supplier hereby agrees severally, but not jointly, as follows:

- (i) to provide sufficient quantities of SSO Supply on an instantaneous basis at all times to meet the SSO Supplier Responsibility Share;
- (ii) to procure those services provided by MISO and to perform such functions as may be required by MISO that are necessary for the delivery of SSO Supply



required hereunder, and to pay all costs, fees, and charges associated with such services, except to the extent that, as expressly set forth in this Agreement, the Companies are acting as the Meter Data Management Agent of the SSO Suppliers under the MISO Rules;

(iii) to cooperate with the Companies in any regulatory compliance efforts that may be required to maintain the ongoing legitimacy and enforceability of the terms of this Agreement and to fulfill any regulatory reporting requirement associated with the provision of SSO Supply or SSO Service, before the PUCO, FERC or any other regulatory body asserting jurisdiction;

(iv) to become the Asset Owner, Market Participant and LSE solely with respect to the provision of SSO Supply for the SSO Supplier Responsibility Share and to comply with all MISO rights and obligations of an Asset Owner, Market Participant and LSE with respect to such SSO Supplier Responsibility Share;

(v) to become a Market Participant including obtaining a properly defined CP Node and provide written evidence thereof to the Company not later than November 1, 2008 and to remain a Market Participant continuously for the entire term this Agreement;

(vi) to pay to the Companies the PMEA/FMEA Adjustment Amount for any month in which the PMEA exceeds the FMEA, as more fully described in Article 9 hereof ;

(vii) to join the Midwest Planning Reserve Sharing Group or its successor and remain a member of such Midwest Planning Reserve Sharing Group during the term of this Agreement, and to adhere to the rules, requirements and standards adopted by the

Midwest Planning Reserve Sharing Group or its successor;

(ix) to pay to the Companies a charge of \$\_\_\_\_\_ per Tranche, which amount was announced prior to the solicitation for each Tranche comprising the SSO Supplier's SSO Supplier Responsibility Share, in order to reimburse the Company for the total costs of the SSO solicitation and related costs associated with providing SSO administration; and

(x) to comply in a timely manner with all obligations under this Agreement imposed upon a SSO Supplier.

**(b) Obligations of the Company**

The Companies hereby agree severally, but not jointly, as follows:

(i) to pay to each SSO Supplier every Billing Month an amount equal to the Price multiplied by the Seasonal Billing Factor multiplied by the PMEA, as detailed in Article 9;

(ii) to act as the Meter Data Management Agent for the SSO Suppliers;

(iii) to pay to each SSO Supplier the PMEA/FMEA Adjustment Amount for any month in which the FMEA exceeds the PMEA, as more fully described in Article 9 hereof;

(iv) to transfer ARR revenues or to pay to each SSO Supplier the net revenues from sales of its FTRs into the MISO Market, in proportion to such SSO Supplier's SSO Supplier Responsibility Share, for the period from January 1, 2009 through May 31, 2009;

(v) to join the Midwest Planning Reserve Sharing Group and remain a member of such Midwest Planning Reserve Sharing Group during the term of this

Agreement, and to adhere to the rules, requirements and standards adopted by the Midwest Planning Reserve Sharing Group; and

(vi) to provide a monthly Statement to the SSO Supplier showing calculation of amounts due pursuant to Article 9.

### **2.3 MISO Services**

Each SSO Supplier must make all necessary arrangements for the delivery of SSO Supply through MISO. As MDMA for settlement purposes, the Companies will advise MISO of the magnitude of each SSO Supplier's actual SSO Supplier Responsibility Share, as required by applicable MISO Rules, for the purpose of calculating such SSO Supplier's appropriate Energy obligation, Resource Adequacy Requirements obligation, Ancillary Services obligation, Firm Transmission Service obligation, and other requirements and obligations currently and as may be amended from time to time by MISO, related to the provision of service under this Agreement by SSO Suppliers arising under the applicable MISO Rules. Each SSO Supplier will remain responsible to MISO for the performance and cost of its Asset Owner, Market Participant and LSE obligations associated with the provision of SSO Supply under this Agreement until the effective date of the transfer of such Asset Owner, Market Participant and LSE obligations.

### **2.4 Communications and Data Exchange**

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

Electronic information exchange between each SSO Supplier and the Companies under this Agreement will employ a SSO Supplier identification number, assigned by the Companies, which must be consistent with the SSO Supplier's Dunn & Bradstreet Business number. No later than November 30, 2008, each SSO Supplier must be equipped with the communications capabilities necessary to comply with the communications and data exchange standards that are set by and as may, from time to time, be modified by MISO, and must bear the costs of putting in place and successfully testing all required information technology systems that will enable it to send to and receive data from the Companies and MISO and to satisfy its obligations under this Agreement, any applicable MISO Rules.

## **2.5 Record Retention**

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

Each SSO Supplier will have the right, upon reasonable notice, to inspect the books and records retained by the Companies which document the payments due and owing, or owed and paid, to the SSO Supplier. Such inspection must take place during regular business hours.

## **2.6 Verification**

In the event of a good faith dispute regarding any invoice issued or payment due under this Agreement, each Party will have the right to verify, at its sole expense, the accuracy of the invoice or the calculation of the payment due by obtaining copies of the relevant portions of the books and records of the other Party. The right of verification will survive the termination of this Agreement for a period of two (2) years after such termination. Both Parties agree that the books and records to be inspected for performance of this paragraph shall be deemed and treated by the Parties as Confidential Information. Both Parties agree to use the Confidential Information of the other Party for the sole purpose of performance under this paragraph. Both Parties will take all precautions and actions to prevent sale, use or disclosure of the other Party's Confidential Information to any third party.

## **ARTICLE 3: REPRESENTATIONS AND WARRANTIES**

### **3.1 SSO Supplier's Representations and Warranties**

Each SSO Supplier hereby represents, warrants and covenants to the Companies as follows:

- a) such SSO Supplier is a corporation, partnership, limited liability company or other legal entity, as set forth in Appendix A hereto, duly organized, validly existing and in good standing under the laws of the State of Ohio or, if another jurisdiction, is duly registered and authorized to do business and is in good standing in the State of Ohio;
- b) such SSO Supplier has all requisite power and authority to execute and deliver this Agreement and to carry on the business to be conducted by it under this Agreement and to enter into and perform its obligations hereunder, including satisfaction

of all applicable FERC and MISO requirements, including ongoing status as a signatory to a service agreement between each of the Companies and SSO Supplier pursuant to the applicable FERC-approved Tariffs;

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

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

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

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

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

h) the SSO Supplier is in good standing as an Asset Owner, Market Participant and LSE in MISO, is a signatory to all applicable MISO agreements, and is in compliance, and is in compliance, and will continue to comply with all obligations, rules, tariffs and regulations, as established and interpreted by MISO, that are applicable to Asset Owners Market Participants and LSEs; provided that the SSO Supplier is not obligated to become an Asset Owner, Market Participant and LSE in MISO until November 1, 2008;

i) the SSO Supplier will be solely responsible for payment of all charges due to MISO currently and as may be amended from time to time by MISO associated with the SSO Supplier's standing as an Asset Owner, as a Market Participant and as a LSE, and the provision of SSO Supply for the SSO Supplier Responsibility Share;

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

k) the SSO Supplier will comply with any and all information and data transfer protocols that may be adopted by the Companies or that are set by, and from time to time modified by, the Commission; provided that each SSO Supplier will be entitled to challenge any such protocols in the appropriate forum.

### **3.2 Companies' Representations and Warranties**

Each of the Companies hereby represents, warrants and covenants to the SSO Suppliers as follows:

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

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

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

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

e) this Agreement is the legal, valid and binding obligation of the Company, enforceable in accordance with its terms, except as such enforceability may be limited by Applicable Legal Authorities;

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



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

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

i) the Company's performance under this Agreement is not contingent upon the performance of Customers or the ability of any individual Customer to fully pay for SSO Service;

j) the Company will have full responsibility for metering, billing and delivery with respect to Customers and SSO Suppliers will have no responsibility with respect thereto;

k) the Company will be responsible for distribution services and the Supplier will not be responsible for distribution charges; and

l) The Company will perform MDMA functions in accordance with MISO Energy Market Tariff and Business Practice Manuals.

### **3.3 Joint Representations and Warranties**

Each Party hereby warrants, represents and covenants to the other that this Agreement is for the purchase and sale of the full electricity requirement (including, without limitation, Energy, Resource Adequacy Requirements, Ancillary Services and Firm Transmission Service) of the SSO Load that will be delivered in quantities expected to be used or sold over a defined period in the normal course of business, and it is the

intention at the inception and throughout the term of this Agreement that the fulfillment of the SSO Supplier's obligation under Section 2.2(a)(i) hereof will result in physical delivery and not financial settlement, and that the quantity of SSO Supply that each SSO Supplier must deliver and that each of the Companies must accept for delivery will be determined by the requirements of the SSO Load for which the SSO Supplier is responsible under the Agreement, and, as such, that this Agreement does not provide for an option by either Party with respect to the quantity of SSO Supply to be delivered or received during performance of the Agreement.

#### **3.4 Survival of Obligations**

All representations and warranties contained in this Article are of a continuing nature and must be maintained during the term of this Agreement. If a Party learns that any of the representations, warranties, or covenants in this Agreement are no longer true during the term of this Agreement, the Party must immediately notify the other Party in accordance with the notice provisions of Section 15.1 of this Agreement.

### **ARTICLE 4: COMMENCEMENT AND TERMINATION OF AGREEMENT**

#### **4.1 Commencement and Termination**

The term of this Agreement will commence upon the date first written above (the "Effective Date"); provided that the provision of SSO Supply by SSO Suppliers will commence for any SSO Customer on or after January 1, 2009 at 12:00:01 a.m. on such date and continue through \_\_\_\_\_<sup>1</sup>, unless this Agreement is terminated earlier in accordance with the provisions hereof.

---

<sup>1</sup> May 31, 2010, 11:59:59 p.m., May 31, 2011, 11:59:59 p.m., or May 31, 2012, 11:59:59 p.m.

#### **4.2 Termination of Right to Supply SSO**

Each SSO Supplier agrees that termination of this Agreement for reason of an Event of Default will terminate any right of such SSO Supplier to provide SSO Supply for the SSO Customers and nullify any of the entitlements to which such SSO Supplier became entitled as a result of being selected as a winning bidder in the competitive bidding for SSO Supply.

#### **4.3 Survival of Obligations**

Termination of this Agreement for any reason shall not relieve the Companies or any SSO Supplier of any obligation accrued or accruing prior to such termination. Applicable provisions of this Agreement will continue in effect after termination to the extent necessary to provide for final billings and adjustments.

#### **4.4 Mutual Termination**

The Companies and the SSO Supplier may agree at any time during the term of this Agreement to terminate their respective rights and obligations hereunder on such terms and under such conditions that they mutually deem to be appropriate as set forth in a mutual termination agreement acceptable in form and substance to the Companies and the SSO Supplier ("Mutual Termination Agreement"); provided that Companies agree that they will enter into a such Mutual Termination Agreement, which will discharge the terminating SSO Supplier (the "Terminating SSO Supplier") with respect to liabilities arising after the effective date of the Mutual Termination Agreement if the following conditions precedent are met: (i) the Terminating SSO Supplier identifies a replacement supplier willing to assume all obligations of the Terminating SSO Supplier hereunder for the remaining term of this Agreement (the "Replacement SSO Supplier"); (ii) the

Replacement SSO Supplier demonstrates its compliance with Article 6 hereof, "Creditworthiness", as of the effective date of the Mutual Termination Agreement; (iii) the Replacement SSO Supplier executes a counterpart signature page to this Agreement and thereby becomes a Party under this Agreement, effective immediately following the effective date of the Mutual Termination Agreement; and (iv) the Terminating SSO Supplier is not, to the belief or knowledge of the Companies, subject to an Event of Default as of the effective date of the Mutual Termination Agreement or, if the Companies believe that the Terminating SSO Supplier may be subject to an Event of Default, either (a) the Companies have determined that, as of the effective date of the Mutual Termination Agreement, they have not incurred any Damages as a result of the Event of Default or (b) if the Companies have determined, as of the effective date of the Mutual Termination Agreement, that they may have incurred Damages as a result of the Event of Default, that the Replacement SSO Supplier has agreed in writing to be responsible for the payment of such Damages or to otherwise cure the Event of Default, in either case to the satisfaction of the Companies.

## **ARTICLE 5: BREACH AND DEFAULT**

### **5.1 Events of Default**

An Event of Default under this Agreement will occur if a Party (the "Defaulting Party"):

- (i) is the subject of a voluntary bankruptcy, insolvency or similar proceeding;
- (ii) makes an assignment for the benefit of its creditors;

(iii) applies for, seeks consent to, or acquiesces in the appointment of a receiver, custodian, trustee, liquidator or similar official to manage all or a substantial portion of its assets;

(iv) is dissolved (other than pursuant to a consolidation, amalgamation or merger) or is the subject of a Merger Event;

(v) has a secured party take possession of all or substantially all of its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets;

(vi) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);

(vii) in the case of an SSO Supplier, fails to become an LSE or fails to remain an LSE for the entire term hereof as required under Section 2.2(a) of this Agreement;

(viii) in the case of an SSO Supplier, fails to become a Market Participant or fails to show proof of having established a proper CP Node and provide written evidence thereof to the Company not later than November 1, 2008 or fails to remain a Market Participant for the entire term hereof as required under Section 2.2(a) of this Agreement;

(ix) in the case of an SSO Supplier, fails to become a member of a Midwest Planning Reserve Sharing Group or fails to remain a member of a Midwest Planning Reserve Sharing Group for the entire term hereof as required under Section 2.2(a) of this Agreement;

(x) in the case of an SSO Supplier, MISO terminates the SSO Supplier's ability to make purchases from the MISO markets or MISO holds any of the Companies responsible for the provision of Energy, Resource Adequacy Requirements, Ancillary

Services or Firm Transmission Services to meet the Supplier's SSO Supplier Responsibility Share under this Agreement;

(xi) fails to comply with the Creditworthiness standards as set forth in Article 6 below, including, without limitation, compliance with the Creditworthiness requirements to cover the Margin calculated under Section 6.7 or post any Margin due under Section 6.7, within the time frames set forth in the Agreement;

(xii) fails to pay the other Party within one (1) Business Day after notice is given by the other Party of nonpayment when payment is due;

(xiii) violates any federal, state or local code, regulation or statute applicable to the supply of Energy in a manner that materially, and adversely, affects the Party's performance under this Agreement, including by way of failure to continually satisfy all applicable FERC requirements, or, in the case of a SSO Supplier, by way of failure to maintain any other governmental approvals required for participation in the Ohio retail Energy market as a SSO Supplier, default on any obligation or other failure to comply with MISO requirements under the applicable MISO tariff, rules or agreements;

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

(xv) subject to Section 5.3(b) hereof, in the case of the Companies, fails to accept SSO Supply properly tendered by SSO Supplier under this Agreement;

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

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

(xviii) commits an act or makes an omission that constitutes an “Event of Default” under any other agreement(s) for the provision of SSO Service between the Company and the SSO Supplier; and

fails to remedy such condition, event or delinquency herein above described such that the other Party (the “Non-Defaulting Party”) is completely made whole with respect to such condition, event or delinquency, within three (3) Business Days of receipt of written notice thereof from such Non-Defaulting Party; provided, however, that an Event of Default will be deemed to have occurred immediately, without any need for the provision of notice thereof by the Non-Defaulting Party and without any right of cure on the part of the Defaulting Party, in the event of the occurrence of a condition, event or delinquency described in subsections “i”, “ii”, “iii”, “iv”, “v”, “vi”, “vii”, “viii”, “ix” or “x” above. Termination of this Agreement by the PUCO, other regulatory authority, or court of law does not constitute an Event of Default under this Agreement.

## **5.2 Rights Upon Default**

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

- (i) pursue any and all available legal and equitable remedies;
- (ii) declare an Early Termination Date of this Agreement with respect to the obligations of the Defaulting Party without any liability or responsibility whatsoever except for obligations arising prior to the date of termination, by providing written notice to the Defaulting Party; provided, however, that this Agreement will immediately terminate automatically and without notice in the case of any Event of Default in which a

Supplier is the Defaulting Party occurring under Section 5.1(i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix) or (x) hereof and such date of automatic termination will be deemed the Early Termination Date of this Agreement with respect to such Supplier; and

(iii) receive Damages in accordance with Section 5.3 of this Agreement.

The Non-Defaulting Party will be entitled to elect or pursue one or more of the above remedies simultaneously or sequentially, as appropriate.

### **5.3 Damages Resulting From an Event of Default**

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



(i) the cost of Energy, Resource Adequacy Requirements, Ancillary Services and Firm Transmission Service (including transmission and distribution losses, congestion, administrative charges or other elements of SSO Supply) currently and as may be amended from time to time by MISO allocated to the Company by MISO due to the failure of a SSO Supplier to meet obligations owing to MISO in connection with its obligations under this Agreement;

(ii) the cost of Energy, Resource Adequacy Requirements, Ancillary Services and Firm Transmission Service (including transmission and distribution losses, congestion, administrative charges or other elements of SSO Supply) currently and as may be amended from time to time by MISO purchased by the Company to replace SSO Supply that a SSO Supplier was obligated to supply under this Agreement during the term hereof;

(iii) administrative and legal costs associated with procuring replacement SSO Supply; and

(iv) financial hedging costs incurred by any of the Companies as a result of having to procure SSO Supply not provided by a SSO Supplier.

Without limitation of the foregoing, Damages calculated hereunder will constitute the ultimate liability of a SSO Supplier in the event of an Early Termination caused by an Event of Default attributable to such SSO Supplier regardless of the reason or basis for such Early Termination. The Parties recognize, however, the final calculation of Damages hereunder may not be known for some time since the level of such Damages may be dependant upon the arrangements made by the Company to obtain replacement services or a replacement supplier. The Companies and each SSO Supplier agree that,

until the calculation of Damages under this provision is completed, the amount and payment to the Companies of the Settlement Amount in the event of an Early Termination as set forth in Section 5.4 hereof will be immediately due and owing as an estimate of all Damages ultimately determined to be due and owing. After Damages have been finally determined under this Section 5.3, the amounts of Damages due and owing will be reconciled with payments already made by SSO Supplier under Section 5.4 hereof.

(b) **Failure By the Companies To Accept SSO Supply Tendered By SSO Supplier:** Damages resulting from the failure of the Companies to accept SSO Supply tendered by the SSO Supplier necessary to meet the SSO Supplier Responsibility Share of SSO Load under this Agreement will consist of the positive difference (if any) between the amounts that would have been payable to the SSO Supplier hereunder had the Companies accepted the SSO Supply tendered by the SSO Supplier necessary to the SSO Supplier Responsibility Share of SSO Load under this Agreement minus the amount realized by the SSO Supplier in disposing, in a reasonable commercial manner, of the SSO Supply not accepted by the Companies; provided however, that the Companies will not be required to accept quantities of unbundled Energy, Ancillary Services, Firm Transmission Service or other component of SSO Supply utilized by Customers on an instantaneous basis as a function of electrical load, in excess of such Customer's instantaneous consumption of such component of SSO Supply; and further provided that the Companies are not liable for any Damages if this Agreement is terminated by the PUCO, other regulatory authority or a court of law.

(c) **Damages Resulting From Early Termination Due To An Event of Default Attributable To the Companies:** Damages resulting from Early Termination due to an Event of Default attributable to the Companies will be as set forth in Section 5.4 below. Damages calculated in accordance with Section 5.4, and reflected in the Termination Payment, shall be the exclusive remedy available to the SSO Supplier in the event of Early Termination resulting from an Event of Default attributable to the Companies. The Companies shall not be liable for any Damages if this Agreement is terminated by the PUCO, other regulatory authority or a court of law.

(d) **Other Damages:** Damages for Events of Default not specified above shall consist of the direct damages incurred by the Non-Defaulting Party.

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

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

and “x” of Section 5.1. The Non-Defaulting Party will calculate, in a commercially reasonable manner, a Settlement Amount with respect to the obligations under this Agreement. For the purposes of such determination, the quantity amounts of Energy (including all charges for transmission and distribution losses and congestion) and other services provided for under this Agreement for the period following the Early Termination Date through the remainder of the term of this Agreement will be deemed to be those quantity amounts that would have been delivered on an hourly basis, had this Agreement been in effect during the previous calendar year adjusted for such SSO Load changes as may have occurred since the previous calendar year.

(b) **Net Out of Settlement Amounts.** The Non-Defaulting Party will calculate Termination Payment by aggregating all Settlement Amounts due under this Agreement or any other agreement(s) between the Companies and the SSO Supplier for the provision of SSO Supply into a single amount by netting out (a) all Settlement Amounts that are due or will become due to the Defaulting Party, plus at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party and actually received, liquidated and retained by the Non-Defaulting Party, plus any or all other amounts due to the Defaulting Party under this Agreement or any other agreement(s) between the Companies and the SSO Supplier for the provision of SSO Supply against (b) all Settlement Amounts that are due or will become due to the Non-Defaulting Party, plus any or all other amounts due to the Non-Defaulting party under this Agreement or any other agreement(s) between the Companies and the SSO Supplier for the provision of SSO Supply, so that all such amounts will be netted out to a single liquidated amount; provided however, that if the SSO Supplier is the Defaulting

Party and the Termination Payment is due to the SSO Supplier, the Company will be entitled to retain a commercially reasonable portion of the Termination Payment, which may be equal to the entire amount of the Termination Payment, as security for additional amounts that may be determined to be due and owing by the SSO Supplier as Damages and further provided that any previously attached security interest of the Companies in such retained amounts will continue. The Termination Payment will be due to or due from the Non-Defaulting Party as appropriate. If the Termination Payment has been retained by the Companies as security for additional amounts that may be determined to be due and owing by the SSO Supplier, and if, upon making a final determination of Damages, the Termination Payment, or any portion thereof, is to be made to the SSO Supplier, the Companies will pay simple interest on the Termination Payment amount being made to the SSO Supplier. Simple interest will be calculated at the lower of the Interest Index or six (6) percent per annum.

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

(d) **Disputes With Respect to Termination Payment.** If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination

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

### **5.5 Step-up Provision**

If any one or more SSO Suppliers defaults in its obligations hereunder resulting in the exercise of the right of Early Termination by the Companies with respect to such SSO Supplier(s), then the Companies, subject to Applicable Legal Authorities, may offer some or all Non-Defaulting Supplier(s) the optional right to assume under this Agreement additional Tranches of SSO Load, and subject to further compliance with the creditworthiness provisions of Article 6 of this Agreement. The provision of any such offer by the Companies to Non-Defaulting Suppliers will indicate the duration of the offer and the manner of acceptance thereof. Following the assumption by SSO Supplier(s) of additional Tranches hereunder, the Companies will prepare a modified Appendix A which will set forth the revised SSO Supplier Responsibility Shares of the SSO Load of the participating Non-Defaulting SSO Supplier(s) following such assumption. This modified Appendix A must be initialed (as a single document or in counterparts) by the Companies and any affected SSO Supplier(s) and shall thereafter be deemed a part of this Agreement, as to such affected SSO Supplier(s), from its effective date. A SSO Supplier will not suffer any prejudice under this Agreement or otherwise if

it declines an offer to assume additional Tranches upon the default by another SSO Supplier.

#### **5.6 Setoff of Payment Obligations of the Non-Defaulting Party**

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

#### **5.7 Preservation of Rights of Non-Defaulting Party**

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

## **ARTICLE 6: CREDITWORTHINESS**

### **6.1 Applicability**

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

### **6.2 Creditworthiness Determination**

The SSO Supplier may submit and maintain a security deposit in accordance with Section 6.3 and 6.6 below in lieu of submitting to or being qualified under a creditworthiness evaluation. The SSO Supplier may petition the Companies to re-evaluate its creditworthiness whenever an event occurs that the SSO Supplier believes would improve the determination made by the Companies of its creditworthiness. The Companies' credit re-evaluation must be completed as soon as possible, but in no event, longer than thirty (30) days after receiving a fully documented request. The Companies shall provide the rationale for their determination of the credit limit and any resulting security requirement. The Companies shall perform their credit re-evaluation and associated security calculation in a non-discriminatory manner. SSO Suppliers shall provide unrestricted access to audited financial statements; however, if audited financial



statements are not available, the Companies may specify other types of financial statements that will be accepted.

### **6.3 Independent Credit Requirement**

The Independent Credit Requirement (“ICR”) per tranche (“ICRT”) that will be required of SSO Suppliers under this Agreement will initially be \$\_\_\_\_<sup>1</sup> million per Tranche and will decline in accordance with the schedule included as part of Appendix C throughout the term hereof. The ICR under this Agreement is the ICRT times the number of Tranches shown in Appendix C hereto.

For the purpose of calculating Margin, the treatment of the ICR posted by the SSO Supplier will be netted by the Company only when a SSO Supplier’s Total Exposure Amount requires a SSO Supplier to post Margin in excess of the ICR amount.. If the calculated Total Exposure Amount results in a Margin requirement below the ICR amount as shown in Appendix C, the ICR will not be netted against the Margin requirement. Examples of this calculation are found in Appendix C.

### **6.4 Independent Credit Threshold**

SSO Suppliers that qualify under the following criteria will be granted an Independent Credit Threshold (“ICT”). The ICT will be used by the SSO Suppliers solely to partially or fully cover the aggregate ICR amounts under this Agreement and any other SSO agreement(s) between it and the Companies. In all instances, the most current senior unsecured debt rating (or, if unavailable, the most current corporate issuer debt rating discounted one notch) will be used.

---

<sup>1</sup> \$1.2 (Agreements ending May 31, 2010); \$2.0 (Agreements ending May 31, 2011); \$2.7 (Agreements ending May 31, 2012).

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

(i) The SSO Supplier must (1) be rated by at least two of the following rating agencies: Standard & Poor's Rating Services ("S&P"), Moody's Investors Service, Inc. ("Moody's") or Fitch, Inc. ("Fitch"), and (2) have a minimum senior unsecured debt rating (or, if unavailable, corporate issuer rating discounted one notch) of at least "BBB-" from S&P, "Baa3" from Moody's, or "BBB-" from Fitch (a "Minimum Rating"). If the SSO Supplier is rated by only two rating agencies, and the ratings are split, the lowest rating will be used. If the SSO Supplier is rated by three rating agencies, and the ratings are split, the lower of the two highest ratings will be used; provided that, in the event that the two highest ratings are common, such common rating will be used. The maximum level of the ICT will be determined based on the following table:

Credit Rating of the SSO Supplier			Max. Independent Credit Threshold
S&P	Moody's	Fitch	

A- and above	A3 and above	A- and above	16% of TNW
BBB+	Baa1	BBB+	10% of TNW
BBB	Baa2	BBB	8% of TNW
BBB-	Baa3	BBB-	6% of TNW
Below BBB-	Below Baa3	Below BBB-	0% of TNW

The SSO Supplier will be required to post cash or a letter of credit in an acceptable form as defined in Section 6.9 (b) below (see standard format in Appendix D) for the aggregate ICR amounts under this Agreement and any other SSO agreement(s) between it and the Companies, to the extent that the aggregate ICR exceeds the ICT; or

(ii) For SSO Suppliers having a Guarantor, the Guarantor must

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

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

The SSO Supplier will be granted an ICT of up to the amount of the Guaranty, provided that the amount of the Guaranty is below the maximum ICT shown in the table above. If a Guaranty is provided for an unlimited amount, the SSO Supplier will be granted an ICT of up to the maximum ICT shown in the table above. The Guaranty tendered by the SSO Supplier to satisfy the ITC requirement arising under this Section 6.4 shall be a separate document from the Guaranty, if any, tendered by the SSO Supplier to satisfy any requirement for a credit limit to cover the Total Exposure Amount arising under Section 6.6 below; provided, however, that a single Guaranty may be provided if such Guaranty is for an unlimited amount. The SSO Supplier will be required to post security in an acceptable form as listed in Section 6.9 below for the aggregate ICR amounts under this Agreement and any other SSO agreement(s) between it and the Companies, to the extent that the aggregate ICR exceeds the ICT at the time of or prior to the execution of this Agreement.

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

(i) The SSO Supplier must supply such evidence of creditworthiness so as to provide the Companies with comparable assurances of creditworthiness as is applicable above for SSO Suppliers that have been incorporated or otherwise formed under the laws of the United States. The Companies will have full discretion, without liability or recourse to the SSO Supplier, to evaluate the evidence of creditworthiness submitted by such SSO Supplier; or

(ii) The Guarantor of a SSO Supplier must supply such evidence of creditworthiness so as to provide the Companies with comparable assurances of creditworthiness as is applicable above for Guarantors of SSO Suppliers that have been incorporated or otherwise formed under the laws of the United States. The Companies will have full discretion, without liability or recourse to the Guarantor or the SSO Supplier, to evaluate the evidence of creditworthiness submitted by such Guarantor.

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

(i) For SSO Supplier: (1) a legal opinion of counsel qualified to practice in the foreign jurisdiction in the which SSO Supplier is incorporated or otherwise formed that this Agreement is, or upon the completion of execution formalities will become, the binding obligation of the SSO Supplier in the jurisdiction in which it has been incorporated or otherwise formed; (2) the sworn certificate of the corporate secretary (or similar officer) of such SSO Supplier that the person executing the Agreement on behalf of the SSO Supplier has the authority to execute the Agreement and that the governing board of such SSO Supplier has approved the execution of the Agreement and (3) the sworn certificate of the corporate secretary (or similar officer) of such SSO Supplier that the SSO Supplier has been authorized by its governing board to enter into agreements of the same type as this Agreement. The Companies will have full discretion, without liability or recourse to the SSO Supplier, to evaluate the sufficiency of the documents submitted by the SSO Supplier.

(ii) For the Guarantor of a SSO Supplier: (1) a legal opinion of counsel qualified to practice in the foreign jurisdiction in the which the Guarantor is incorporated or otherwise formed that this Guaranty is, or upon the completion of execution formalities will become, the binding obligation of the Guarantor in the jurisdiction in which it has been incorporated or otherwise formed; (2) the sworn certificate of the corporate secretary (or similar officer) of such Guarantor that the person executing the Guaranty on behalf of the Guarantor has the authority to execute the Guaranty and that the governing board of such Guarantor has approved the execution of the Guaranty and (3) the sworn certificate of the corporate secretary (or similar officer) of such Guarantor that the Guarantor has been authorized by its governing board to enter

into agreements of the same type as this Guaranty. The Companies will have full discretion, without liability or recourse to the Guarantor or the SSO Supplier, to evaluate the sufficiency of the documents submitted by such Guarantor.

#### **6.5 Mark-to-Market Credit Exposure Methodology**

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

#### **6.6 Credit Limit**

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

(i) For SSO Suppliers to be granted an unsecured line of credit, the SSO Supplier must (1) be rated by at least two of the following rating agencies: S&P,

Moody's, or Fitch, and (2) have a minimum senior unsecured debt rating (or, if unavailable, corporate issuer rating discounted one notch) equal to the Minimum Rating. If the SSO Supplier is rated by only two rating agencies, and the ratings are split, the lowest rating will be used. If the SSO Supplier is rated by three rating agencies, and the ratings are split, the lower of the two highest ratings will be used; provided that, in the event that the two highest ratings are common, such common rating will be used. The maximum level of the credit limit to cover the Total Exposure Amount will be determined based on the following table:

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

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



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

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

The SSO Supplier will be granted a credit limit equal to the lesser of (i) the amount of the Guaranty as provided to the Companies at the time this Agreement is executed as such amount may be modified in any amended or substitute Guaranty

provided to the Companies during the term of this Agreement or (ii) the Supplier's Maximum Credit Limit. The SSO Supplier, however, may not increase or substitute its Guaranty for the purpose of increasing its applicable credit limit during the time period after the Companies have made a Margin call but before the SSO Supplier has posted the required Margin. Notwithstanding anything herein to contrary, the SSO Supplier may increase the limit of its Guaranty after satisfying a Margin call from the Companies and upon the Companies' receipt of an amended or substitute Guaranty increasing the limit of the Guaranty, the SSO Supplier may request a return of Margin in accordance with Section 6.7 hereof. The SSO Suppliers will be required to post cash or letter of credit in an acceptable form as defined in Section 6.9 (b) below (see standard format in Appendix D) for the Margin due the Companies as set forth in Section 6.7 of this Agreement; or

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

#### **6.7 Posting Margin and Return of Surplus Margin**

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

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

(b) Surplus Margin being held by the Companies not needed to satisfy the Total Exposure Amount, as determined above, will be returned to the SSO Supplier upon receipt of a written request by the SSO Supplier. The returned amount to the SSO Supplier shall be the lesser of the surplus Margin then held by the Companies or the Total Exposure Amount less the Credit Limit. If the SSO Supplier posted cash and notice is received by 1:00 p.m. Eastern Standard Time on a Business Day, the surplus Margin will be returned by the next following Business Day and if the SSO Supplier posted cash and notice is received by the Companies after 1:00 p.m. Eastern Standard Time on a Business Day, the surplus Margin will be returned by the second Business Day following the date of notice. If the SSO Supplier posted a letter of credit, the Surplus Margin shall be

returned on the next Business Day following the Business Day on which the amendment to the letter of credit is received from the issuing bank. In the event that the Company fails to return the surplus Margin when due in accordance with this Article, then an Event of Default under Article 5 will be deemed to have occurred and the SSO Suppliers will be entitled to the remedies set forth in Article 5 of this Agreement unless SSO Supplier agrees in writing to extend such period for providing the surplus Margin. The SSO Supplier will not unreasonably deny a request for a one-day extension of the period for returning the surplus Margin.

#### **6.8 Grant of Security Interest/Remedies**

To secure its obligations under this Agreement and to the extent that the SSO Supplier delivered Margin/collateral hereunder, the SSO Supplier hereby grants to the Companies a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, the Companies, and SSO Supplier and the Companies agree to take such action as reasonably required to perfect the secured Party's first priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Companies may do any one or more of the following: (i) exercise any of the rights and remedies of the Companies with respect to all collateral, including any such rights and remedies under law then effect; (ii) exercise their rights of setoff against any and all property of the SSO Supplier in the possession of the

Companies whether held in connection with this Agreement or any other agreement(s) between the Companies and the SSO Supplier for the provision of SSO Supply; (iii) draw on any outstanding letter of credit issued for their benefit; and (iv) liquidate all security held by or for the benefit of the Companies free from any claim or right of any nature whatsoever if the SSO Supplier, including any equity or right of right of purchase or redemption by the SSO Supplier. The Companies will apply the proceeds of the collateral realized upon the exercise of such rights or remedies to reduce the SSO Supplier's obligation under this Agreement or any other agreement(s) between the Companies and the SSO Supplier for the provision of SSO Supply (the SSO Supplier remaining liable for any amounts owing to the Companies after such application), subject to the Companies' obligation to the return of any surplus proceeds remaining after such obligations are satisfied in full.

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

If to a SSO Supplier:

Notification information for each SSO Supplier is set forth on Appendix A hereto.

If to the Companies to:

Thomas R. Sims  
Senior Business Analyst  
FirstEnergy Corp.  
76 South Main Street, 17<sup>th</sup> Floor  
Akron, OH 44308  
Telephone: 330-284-3808  
Facsimile: 330-255-1662  
simst@firstenergycorp.com

Copy to:

David M. Blank  
Vice President, Rates & Regulatory Affairs  
FirstEnergy Corp.  
76 South Main Street, 8<sup>th</sup> Floor  
Akron, OH 44308  
Telephone: 330-384-5451  
Facsimile: 330-761-4281  
dmblank@firstenergycorp.com

Copy to:

Dean W. Stathis  
Director, Regulated Commodity Sourcing  
2800 Pottsville Pike  
Reading PA 19612-6001  
Telephone: 610-921-6766  
Facsimile: 330-315-9208  
dstathis@firstenergycorp.com

And:

James W. Burk, Esq.  
FirstEnergy Corp.  
76 South Main Street  
Akron, OH 44308  
Telephone: 330-384-5861  
Facsimile: 330-384-3875  
burkj@firstenergycorp.com

or to such other person at such other address as a Party may designate by like notice to the other Party. Notice received after the close of the Business Day will be deemed

received on the next Business Day; provided that notice by facsimile transmission will be deemed to have been received by the recipient if the recipient confirms receipt telephonically or in writing.

## **6.9 Security Instruments**

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

- (a) cash; or
- (b) a standby irrevocable letter of credit acceptable to the Company issued by a bank or other financial institution with a minimum "A" senior unsecured debt rating (or, if unavailable, corporate issuer rating discounted one notch) from S&P or Moody's (see standard format in Appendix D). The letter of credit shall state that it will renew automatically for successive one-year or shorter periods, until terminated upon at least ninety (90) days prior written notice from the issuing financial institution. If the Companies receive notice from the issuing financial institution that letter of credit is being cancelled, the SSO Supplier will be required to provide a substitute letter of credit from an alternative bank satisfying the minimum requirements. The receipt of the substitute letter of credit must be effective as of the cancellation date and delivered to the Companies thirty (30) days before the cancellation date of the original letter of credit. If the SSO Supplier fails to supply a substitute letter of credit as required, then the Companies will have the right to draw on the existing letter of credit and to hold the amount as Margin.

If the credit rating of a bank or other financial institution from which a SSO Supplier has obtained a letter of credit falls below levels specified in this Article 6, the

SSO Supplier will have two (2) Business Days following written notice by the Companies to obtain a suitable letter of credit from another bank or other financial institution that meets those standards unless such period is extended in writing by Companies.

#### **6.10 Maintenance of Creditworthiness**

##### **(a) Reporting of Changes.**

Each SSO Supplier must promptly notify the Companies of any change in its credit rating or financial condition or that of its Guarantor. The SSO Supplier or Guarantor must also furnish evidence of an acceptable credit rating or financial condition upon the request of the Companies.

##### **(b) Change in Credit Standing.**

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

#### **6.11 Calling on Security**

The Companies may call upon the security posted by the SSO Supplier if the SSO Supplier fails to pay amounts due to the Companies pursuant to this Agreement or any



other agreement(s) between the Companies and the SSO Supplier for the provision of SSO Supply after all of the following events occur:

- (a) written Notice of Default is provided to the SSO Supplier; and
- (b) any applicable cure period ends.

The foregoing notwithstanding, the security posted by the SSO Supplier will become due automatically without prior notice or right of cure in the case of any Event of Default arising under Section 5.1 (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix) and (x) hereof.

#### **6.12 Interest on Cash Held by Company**

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

#### **6.13 Confidentiality**

Information supplied by a SSO Supplier in connection with the creditworthiness process shall be deemed confidential and not subject to public disclosure, unless Applicable Legal Authorities require disclosure of the information. If information must be disclosed, then the confidentiality of the information will be maintained consistent with the Applicable Legal Authority's rules and regulations pertaining to confidentiality.

The SSO Supplier will be given prompt notice of any request by a third party to obtain confidential information related to the SSO Supplier's creditworthiness.

#### **6.14 No Endorsement of SSO Supplier**

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

### **ARTICLE 7: PROCEDURES FOR ENERGY SCHEDULING AND DATA TRANSMISSION**

The Parties must adhere to any applicable operational requirements of MISO necessary to protect the integrity of the transmission system within the FirstEnergy Control Area and the transmission systems of interconnected control areas, and must satisfy any and all MISO and NERC criteria, when applicable. The SSO Supplier also must adhere to any applicable operational requirements of the Companies necessary to protect the integrity of each of the Companies' local distribution systems.

#### **7.1 Load Obligations**

The Companies and the SSO Supplier acknowledge that the SSO Customers are within the Companies' service territories and that the SSO Load must be divided into SSO Supplier obligations by applying the SSO Supplier Responsibility Share for each SSO Supplier.

#### **7.2 Data Transmission**

##### **(a) Energy**

The procedures for transmitting load obligation data for the SSO Supplier's hourly Energy obligations will be as set forth by MISO.

**(b) Resource Adequacy**

The procedures for transmitting load obligation data for the SSO Supplier's Resource Adequacy Requirements will be as set forth by MISO.

**(c) Transmission**

The SSO Load Share will be determined by the Companies. The procedures for transmitting the SSO Load Share and the SSO Supplier Responsibility Share data based upon which the SSO Supplier will meet its Firm Transmission Service obligations will be as set forth by MISO.

**(d) Ancillary Services**

The procedures for transmitting data regarding the SSO Supplier's Ancillary Services obligations will be as set forth by MISO.

**7.3 Energy Scheduling**

The Companies will not provide load-forecasting services. The SSO Supplier must schedule Energy resources to meet its obligations with MISO as provided for in the applicable MISO tariff, rules, agreements, procedures, and manuals. The Companies will act as the SSO Supplier's Meter Data Management Agent by providing MISO with the actual data regarding the SSO Supplier Responsibility Share of the SSO Load for the purposes of settlement. The SSO Supplier will access the Meter Data Management Agent submitted data directly from the Suppliers' own MISO portal. The Energy obligations for each SSO Supplier will be determined based on its SSO Supplier Responsibility Share.

## **ARTICLE 8: THE ENERGY SETTLEMENT/RECONCILIATION PROCESS**

### **8.1 Energy Settlement By MISO**

The settlement process occurs at MISO, pursuant to MISO tariffs, rules, agreements, and procedures, to reflect the SSO Supplier's actual Energy obligations in a supply/usage reconciliation process. For purposes of the settlement process, the delivery point will be deemed to be the SSO Supplier Load Zone.

### **8.2 Energy Settlement by the Company**

Energy Settlement shall be conducted by the MISO. In the event that MISO imposes penalties against any of the Companies as a result of the SSO Supplier's transactions or failure to meet the MISO requirements, the Companies will bill such penalties directly to the SSO Supplier.

## **ARTICLE 9: BILLING AND PAYMENT**

### **9.1 The Company Payment of Obligations to the SSO Supplier**

The Companies will pay all amounts due to the SSO Supplier hereunder in accordance with the following provisions:

(a) Each Billing Month, the Company will prepare and provide a Statement to each SSO Supplier. Line items on the Statement will show amounts due equal to the Price multiplied by the applicable Seasonal Billing Factor multiplied by PMEA times the Price in accordance with Section 2.2.

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

(c) The Companies will make payment on the first Business Day after the 19<sup>th</sup> day of each calendar month.

(d) To the extent that the FMEA differs from the PMEA, the Companies will pay or charge to the SSO Supplier (the "FMEA/PMEA Adjustment")

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

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

(g) The Companies shall make payments of funds payable to the SSO Supplier by electronic transfer to a bank designated by the SSO Supplier.

(h) If a good faith dispute arises between the Companies and the SSO Supplier regarding a Statement, the disputing Party shall be obligated to pay only the undisputed portion of the Statement, if any, and shall present the dispute in writing and submit supporting documentation to the non-disputing Party within one-hundred twenty (120) calendar days from the date of the Statement in dispute. Statement disputes must be addressed promptly, and in accordance with the dispute resolution procedures set forth in this Agreement. Upon resolution of a Statement dispute, any payments made to either Party will include simple interest on the payment at the lower of the Interest Index or six

(6) percent per annum payable from the date that notice of a Statement dispute was received by the non-disputing Party.

(i) If payment is made to the SSO Supplier after the due date shown on the Statement, a late fee will be added to the unpaid balance until the entire Statement is paid. This late fee will be calculated at the prime rate commercial J.P. Morgan Chase charges borrowers.

## **9.2 Billing for SSO Supplier's Obligations to Other Parties**

The Companies shall have no responsibility for billing between the following entities: the SSO Supplier and MISO; the SSO Supplier and any Energy source; or the SSO Supplier and any other third party. The Companies shall be solely responsible for billing SSO Customers for SSO Service.

## **9.3 The SSO Supplier Payment of Obligations to the Companies**

The SSO Supplier must pay all Charges it incurs hereunder in accordance with the following provisions:

(a) Each Billing Month, the Companies will submit an invoice to the SSO Supplier for all Charges provided under this Agreement. The SSO Supplier must make payment for Charges incurred on or before the due date shown on the invoice. The due date will be on the first Business Day after the 19<sup>th</sup> day of each calendar month. The invoice will be sent to SSO Supplier within six (6) Business Days after the end of the Billing Month via overnight mail or other expeditious means.

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

(c) The SSO Supplier must make payments of funds payable to the Company by electronic transfer to a bank designated by the Company.

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

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

## **ARTICLE 10: SYSTEM OPERATION**

### **10.1 Disconnection and Curtailment by the Companies**

Each of the Companies shall have the right, without incurring any liability to SSO Suppliers, to disconnect (or otherwise curtail, interrupt or reduce deliveries from) the SSO Suppliers or to disconnect (or otherwise curtail, interrupt or reduce deliveries to) any Customer whenever one of the Companies determines in the exercise of its good faith discretion, or when the Companies are directed by MISO, that such a disconnection, curtailment, interruption or reduction is necessary to facilitate construction, installation,

maintenance, repair, replacement or inspection of any of the Companies' facilities; or due to any other reason affecting the safe and reliable operation of the Companies' or a Customer's facilities, including Emergencies, forced outages or potential overloading of the Companies' transmission or distribution circuits, potential damage to any Customer's facilities or any risk of injury to persons. The Companies shall not show any preference for any entity affiliated with it in connection with any such disconnection or curtailment.

#### **10.2 Inadvertent Loss of Service to SSO Customers**

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

#### **10.3 Good Faith Efforts**

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



#### **10.4 MISO Requirements**

The Parties acknowledge and agree that, as members of MISO, each of them is bound by all of the MISO rules, operating instructions, policies and procedures set forth by MISO. The SSO Supplier acknowledges and agrees that it will cooperate with the Companies, MISO and the applicable balancing authority and reliability coordinator so that the Companies will be in compliance with all MISO emergency operations procedures, which include, but are not limited to, those procedures pertaining to minimum and maximum generation Emergencies, and measures requiring involuntary Customer participation, such as supply voltage reduction or full interruption of Customer load by either manual or automatic means.

#### **10.5 Compliance with Governmental Directives**

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

### **ARTICLE 11: DISPUTE RESOLUTION**

#### **11.1 Informal Resolution of Disputes**

The Companies and the SSO Supplier will use good faith and reasonable commercial efforts to informally resolve all disputes arising out of the implementation of this Agreement. The SSO Supplier's point of contact for all information, operations, and questions will be as provided for in Article 15. Any dispute between the Companies and the SSO Supplier under this Agreement may be referred to a designated senior

representative of each of the Parties for resolution on an informal basis as promptly as practicable.

### **11.2 Recourse to Agencies or Courts of Competent Jurisdiction**

Nothing in this Agreement shall restrict the rights of either Party to file a complaint with the FERC under relevant provisions of the Federal Power Act ("FPA"), with the PUCO under relevant provisions of the Applicable Legal Authorities, with a Ohio State court of competent jurisdiction, or with a federal court of competent jurisdiction situated in the State of Ohio. The Parties' agreement hereunder is without prejudice to any Parties' right to contest the jurisdiction of the agency or court to which a complaint is brought.

To the extent that this Agreement is deemed to be subject to FERC jurisdiction, absent the agreement of all Parties to a proposed change, the standard of review for changes to any Article of the Agreement specifying the rate(s) or other material economic terms and conditions agreed to by the Parties herein, whether proposed by a Party, a non-party, the PUCO or FERC acting sua sponte, will be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956).

## **ARTICLE 12: REGULATORY AUTHORIZATIONS AND JURISDICTION**

### **12.1 Compliance with Applicable Legal Authorities**

The Companies and the SSO Supplier are subject to, and will comply with, all existing or future applicable federal, State and local laws, all existing or future duly-promulgated orders or other duly-authorized actions of MISO or of Applicable Legal Authorities.

## **12.2 FERC Jurisdictional Matters**

The inclusion herein of any descriptions of procedures or processes utilized by MISO or otherwise subject to the jurisdiction of FERC is intended solely for informational purposes. If anything stated herein is found by the FERC in a final rule, regulation, determination, or order to conflict with or be inconsistent with any provision of the FPA, or any final rule, regulation, order or determination of the FERC under the FPA or if any existing procedures or processes utilized by MISO are duly modified, the applicable FERC rule, regulation, order, determination or modification will control. To the extent required under any provision of the FPA, or any rule, regulation, order or determination of the FERC under the FPA, the Companies, and SSO Supplier, if applicable, will use reasonable commercial efforts to secure, from time to time, all appropriate orders, approvals and determinations from the FERC necessary to support this Agreement.

## **ARTICLE 13: LIMITATION OF LIABILITY**

### **13.1 Limitations on Liability**

Except to the extent expressly set forth in this Agreement, each Party will be liable to other Parties for direct damages incurred as a result of such Party's failure to comply with this Agreement and no Party will have any liability to the other Party for consequential, indirect, special or punitive damages, including lost profits or lost revenues, arising out of such Party's failure to comply with its obligations under this Agreement. Notwithstanding anything to the contrary in this Agreement, nothing herein shall impose any obligations or liability from one SSO Supplier to any other SSO Supplier(s).

### **13.2 Risk of Loss**

Solely for purposes of determining risk of loss and for determining the indemnity obligations under Article 14 hereof, the Companies will be deemed to have custody and control of the electric Energy delivered by a SSO Supplier upon receipt thereof into the Companies' distribution system and until delivery thereof at the retail electric meter of the Customer; and each SSO Supplier will be deemed to have custody and control of the electric Energy at all times prior to receipt thereof by the Companies. Each SSO Supplier will at all times be deemed to hold title to electric Energy until delivery at the retail electric meter of the Customer at which time title shall be deemed to pass to such Customer. It is acknowledged and agreed that the Companies shall at no time take title to any electric Energy under this Agreement. The Party deemed to have custody and control of electric Energy will, among the Parties to this Agreement, be responsible for all loss or damage to property or injury or death to persons arising in connection with such electric Energy while in its custody and control and will indemnify the other Parties with respect to same as set forth in Article 14 of this Agreement.

## **ARTICLE 14: INDEMNIFICATION**

### **14.1 Indemnification**

(a) Should any of the Companies become the defendant in, or obligor for, any third party's claims or liabilities for losses, penalties, expenses, damage to property, injury to or death of any person including a Party's employees or any third parties, that were caused by or occur in connection with an act or omission of a SSO Supplier with respect to an obligation arising under or in connection with this Agreement, or for which such SSO Supplier has otherwise assumed liability under the terms of this

Agreement, such SSO Supplier must defend (at the Companies' option), indemnify and hold harmless the Companies, their shareholders, board members, directors, officers and employees, agents and attorneys from and against any and all such third party claims and liabilities, except to the extent that a court of competent jurisdiction determines that the losses, penalties, expenses or damages were caused wholly or in part by the gross negligence or willful misconduct of the Companies. The Companies may, at their own expense, retain counsel and participate in the defense of any such suit or action.

(b) Should a SSO Supplier (the "Indemnified Supplier") become the defendant in, or obligor for, any third party's claims or liabilities for losses, penalties, expenses, damage to property, injury to or death of any person including a Party's employees or any third parties, that were caused by or occur in connection with an act or omission of the Companies or another SSO Supplier with respect to an obligation arising under or in connection with this Agreement, or for which the Companies or such other SSO Supplier has otherwise assumed liability under the terms of this Agreement, the Companies or such SSO Supplier must defend (at the option of the Indemnified Supplier), indemnify and hold harmless the Indemnified Supplier, its shareholders, board members, directors, officers, employees, agents and attorneys from and against any and all such third party claims and/or liabilities, except to the extent that a court of competent jurisdiction determines that the losses, penalties, expenses or damages were caused wholly or in part by the gross negligence or willful misconduct of the Indemnified Supplier. The Indemnified Supplier may, at its own expense, retain counsel and participate in the defense of any such suit or action.

## **14.2 Survives Agreement**

The obligation of a Party to defend, indemnify, and hold harmless another Party under this Article will survive termination of this Agreement, and will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for either Party under any statutory scheme, including any Worker's Compensation Acts, Disability Benefit Acts or other Employee Benefit Acts.

## **ARTICLE 15: MISCELLANEOUS PROVISIONS**

### **15.1 Notices**

Unless otherwise stated herein, all notices, demands or requests required or permitted under this Agreement must be in writing and must be personally delivered or sent by overnight express mail, courier service or facsimile transmission (with the original transmitted by any of the other aforementioned delivery methods) addressed as follows:

If to a SSO Supplier:

Notification information for each SSO Supplier is set forth on Appendix A hereto.

If to the Company to:

David M. Blank  
Vice President, Rates & Regulatory Affairs  
FirstEnergy Corp.  
76 South Main Street, 8<sup>th</sup> Floor  
Akron, OH 44308  
Telephone: 330-384-5451  
Facsimile: 330-761-4281  
dmblank@firstenergycorp.com

Copy to:

James W. Burk, Esq.  
FirstEnergy Corp.  
76 South Main Street  
Akron, OH 44308  
Telephone: 330-384-5861  
Facsimile: 330-384-3875  
burkj@firstenergycorp.com

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

### **15.2 No Prejudice of Rights**

The failure of a Party to insist on any one or more instances upon strict performance of any provisions of this Agreement, or to take advantage of any of its rights hereunder, may not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder, which will remain in full force and effect. No term or condition of this Agreement will be deemed to have been waived and no breach excused unless such waiver or consent to excuse is in writing and signed by the Party claimed to have waived or consented to excuse.

### **15.3 Assignment**

Parties may not assign any of their rights or obligations under this Agreement without obtaining (a) any necessary regulatory approval(s) and (b) the prior written consent of the non-assigning Party, which consent will not be unreasonably withheld; provided that the Companies agree that they will grant their consent to a proposed

assignment by a SSO Supplier if the proposed assignee meets all of the Companies' creditworthiness requirements then in effect under Article 6 of this Agreement; and further provided that a SSO Supplier wishing to assign its interests hereunder will not be obligated to obtain the consent of any other SSO Supplier. No assignment of this Agreement will relieve the assigning Party of any of its obligations under this Agreement until such obligations have been assumed by the assignee and all necessary consents have been obtained. Any assignment in violation of this Section 15.3 will be void; provided, however, any of the Companies may assign any or all of its rights and obligations under this Agreement, without the SSO Supplier's consent, to any entity succeeding to all or substantially all of the assets of the Company, if such assignee agrees, in writing, to be bound by all of the terms and conditions hereof and all necessary regulatory approvals are obtained. SSO Supplier may, with prior written notice to the Companies but without obtaining the approval of the Companies, assign the accounts, revenues or proceeds under this Agreement to a third party. The Companies agree that following receipt of such notice of the assignment of accounts, revenues or proceeds and such other documentation that the assigning SSO Supplier may reasonably request that the Companies will pay amounts becoming due to the assigning SSO Supplier under this Agreement directly to the designated assignee; provided however, that nothing herein shall enlarge or expand the rights of such designated assignee beyond the rights granted to the SSO Supplier and the right of such designated assignee to receive payments shall be subject to all defenses, offsets and claims of the Companies arising under this Agreement. The Companies further agrees that, in the event necessary regulatory approvals to effectuate an assignment have been sought in good faith but that action by the regulatory body is



pending, the Companies will accept the performance of the proposed assignee as a Party to this Agreement, as co-obligor with the Party proposing to assign its interest, until such approvals are obtained; provided that, in the event the regulatory body declines to grant its approval (or, in the discretion of the Companies, in the event the application seeking approval is still pending without action by the regulatory body after ninety (90) days), the request for approval of the assignment will be deemed to have been rejected.

#### **15.4 Governing Law and Venue**

To the extent not subject to the jurisdiction of the FERC, questions including those concerning the formation, validity, interpretation, execution, amendment, termination and construction of this Agreement will be governed by the laws of the State of Ohio, without regard to principles of conflicts of law. Any lawsuit arising in connection with this Agreement must be brought in the State or Federal courts of Ohio.

#### **15.5 Headings**

The headings and subheadings contained in this Agreement are used solely for convenience and do not constitute a part of the Agreement between the Parties hereunto, nor should they be used to aid in any manner in the construction of this Agreement.

#### **15.6 Third Party Beneficiaries**

This Agreement is intended solely for the benefit of the Parties hereto including Customers for whom the Companies are executing this Agreement as agent. Nothing in this Agreement may be construed to create any duty, or standard of care with reference to, or any liability to, any person not a Party to this Agreement.

### **15.7 General Miscellaneous Provisions**

(a) This Agreement may not be interpreted or construed to create an association, joint venture, or partnership between the Parties (or any of them), or to impose any partnership obligation or liability upon any Party. The obligations of the SSO Suppliers are expressly agreed to be several and not joint. No Party will have any right, power, or authority to enter into any agreement or undertaking for, or on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the any other Party.

(b) Cancellation, expiration or Early Termination of this Agreement will not relieve the Parties of obligations that by their nature survive such cancellation, expiration or termination, including warranties, remedies, promises of indemnity and confidentiality.

(c) Should any provision of this Agreement be held invalid or unenforceable, such provision will be invalid or unenforceable only to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable any other provision hereof, unless it materially changes the agreement of the Parties.

(d) Each of the Parties acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms. This Agreement is intended by the Parties as a final expression of their agreement. The Parties further agree that this Agreement is the complete and exclusive statement of agreement and supersedes all proposals (oral or written), understandings, representations, conditions, warranties, covenants and all other communications between the Parties relating thereto.

### **15.8 Taxes**

All present and future federal, state, municipal or other taxes imposed by any taxing authority by reason of the provision of SSO Supply by a SSO Supplier under this Agreement will be the liability of the SSO Supplier, except for Ohio Sales and Use Taxes, which will be the Companies' responsibility. Should a SSO Supplier be required to remit any Ohio Sales and Use Taxes directly to the applicable taxing authority, other than taxes previously collected by the SSO Supplier on behalf of the Companies, the Companies will defend and indemnify the SSO Supplier for such Sales and Use Taxes and will pay to the SSO Supplier all such tax amounts upon demand. Each SSO Supplier shall pay all such taxes to the applicable taxing authority to the extent required or permitted by law. If any transaction is exempt from the payment of any such taxes, the affected SSO Supplier will, if requested, provide the Companies with valid tax exemption certificates. Should the Companies be required to remit any such taxes directly to any applicable taxing authority, other than taxes previously collected by the Companies directly from an SSO Supplier, the SSO Supplier will defend and indemnify the Companies and will pay to the Companies all such tax amounts upon demand.

### **15.9 Capacity Market Developments**

The Parties agree that, as of the date of execution of this Agreement, MISO has not adopted Capacity requirements or implemented a transparent trading market for the purchase and sale of capacity. In the event that, during the term of this Agreement, MISO adopts capacity requirements and implements a transparent trading market for the purchase and sale of Capacity, the Companies will apply to the PUCO for approval to adjust the Price by an appropriate, incremental amount.

#### **15.10 Use of the Word "Including"**

The word "including", when following any general statement or term, is not to be construed as limiting the general statement or term to the specific items or matters set forth or to similar items or matters, but rather as permitting the general statement or term to refer to all other items or matters that could reasonably fall within its broadest possible scope.

#### **15.11 Federal Acquisition Regulation**

If any of the following clauses prescribed by the Federal Acquisition Regulation ("FAR"), 48 Code of Federal Regulations Chapter 1 should be deemed to apply to this Agreement, the SSO Supplier shall comply with the requirements of such clause(s), and shall include the terms or substance of such clause(s) in its subcontracts, as and to the extent required by the FAR:

- (i) Clean Air and Water: §52.223-2;
- (ii) Contract Work Hours and Safety Standards Act-Overtime Compensation:  
§52.222-4
- (iii) Equal Opportunity: §52.222-26;
- (iv) Affirmative Action for and Employment Reports on Special Disabled and  
Vietnam Era Veterans: §52.222-35 and §52.222-37;
- (v) Affirmative Action for Handicapped Workers: §52.222-36; and
- (vi) Utilization of Small Business Concerns and Small Disadvantaged  
Business Concerns and Small Business and Small Disadvantaged Business  
Subcontracting Plan: §52.219-8 and §52-219-9.

In case of a conflict between the provisions of the FAR and the balance of this Agreement, the requirements of the FAR will prevail.

#### **15.12 Binding Terms**

This Agreement and the rates, terms and conditions herein will remain in effect for the entire term hereof and each Party agrees not to seek any change to such rates, terms and conditions pursuant to the Federal Power Act, if the Federal Power Act is deemed to have jurisdiction to this Agreement, including on the grounds that they are not just and reasonable.

#### **15.13 Confidentiality**

(a) Each Party shall hold in confidence and not release or disclose any document or information furnished by the other Party in connection with this Agreement, unless: (i) compelled to disclose such document or information by judicial, regulatory or administrative process or other provisions of law; (ii) such document or information is generally available to the public; (iii) such document or information was available to the receiving Party on a non-confidential basis; or (iv) such document or information was available to the receiving Party on a non-confidential basis from a third-party, provided that the receiving Party does not know, and, by reasonable effort, could not know that such third-party is prohibited from transmitting the document or information to the receiving Party by a contractual, legal or fiduciary obligation.

(b) Notwithstanding any other provision of this Section 15.13, a Party may disclose to its employees, representatives and agents all documents and information furnished by the other Party in connection with this Agreement, provided that such employees, representatives and agents have been advised of the confidentiality provisions

of this Section 15.13, and further provided that in no event shall a document or information be disclosed in violation of the standard of conduct requirements established by FERC.

(c) A Party receiving notice or otherwise concluding that any confidential document or information furnished by the other Party in connection with this Agreement is being sought under any provision of law, to the extent it is permitted to do so under any applicable law, shall: (i) promptly notify the other Party; and (ii) use reasonable efforts in cooperation with the other Party to seek confidential treatment of such confidential information.

(d) The Parties agree that monetary damages may be inadequate to compensate a Party for the other Party's breach of its obligations under this Section 15.13. Each Party accordingly agrees that the other Party shall be entitled to equitable relief, by way of injunction or otherwise, if the Party breaches or threatens to breach its obligations under this Section 15.13, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law.

#### **15.14 Amendment**

This Agreement, including the appendices hereto, cannot be amended without the written agreement of all Parties and the approval of the Commission prior to such amendment becoming effective.

#### **15.15 Counterparts**

This Agreement may be executed in counterparts, each of which will be considered an original, but all of which will constitute one instrument.

*[Remainder of this page intentionally left blank.]*

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first set forth above.

**ATTEST:**

\_\_\_\_\_  
David W. Whitehead  
Vice President, Administration

**By:** \_\_\_\_\_  
James M. Murray  
President, OH Operations

[SUPPLIER SIGNATURES APPEAR ON SUCCEEDING PAGES]



**APPENDIX A TO MASTER SSO SUPPLY AGREEMENT**  
DATED \_\_\_\_\_, 2008,  
BY AND BETWEEN THE CLEVELAND ELECTRIC ILLUMINATING COMPANY,  
THE TOLEDO EDISON COMPANY AND OHIO EDISON COMPANY  
AND THE SSO SUPPLIERS

**Notice**

SSO Supplier	Price	SSO Supplier Responsibility Share
_____	_____/MWh	_____

Address for Notice

The address for any notice to \_\_\_\_\_ provided pursuant to Sections 6.8 and 15.1 of the SSO Master SSO Supply Agreement shall be the following:

For Credit Related Issues, Section 6.8:

**Name**  
Address  
Telephone  
Fax  
e-mail

For Notices, Section 15.1:

Name  
Address  
Telephone  
Fax  
e-mail

**APPENDIX B TO MASTER SSO SUPPLY AGREEMENT**  
**DATED \_\_\_\_\_, 2008**  
**BY AND BETWEEN THE CLEVELAND ELECTRIC ILLUMINATING COMPANY,**  
**THE TOLEDO EDISON COMPANY AND OHIO EDISON COMPANY**  
**AND THE SSO SUPPLIERS**

**Seasonal Billing Factor**

The Seasonal Billing Factors are as follows:

June 1 through August 31	1.267
September 1 through December 31 and January 1 through May 31	0.903

**APPENDIX C TO MASTER SSO SUPPLY AGREEMENT**  
DATED \_\_\_\_\_, 2008  
BY AND BETWEEN THE CLEVELAND ELECTRIC ILLUMINATING COMPANY,  
THE TOLEDO EDISON COMPANY AND OHIO EDISON COMPANY  
AND THE SSO SUPPLIERS

**Schedule for ICRT**

Column (A), (B) or (C), as appropriate, will be used to correspond to the term time period specified in Article 4.1 of the Master SSO Supply Agreement.

	(A)	(B)	(C)
MONTH	17-MONTH SSO (\$/tranche)	29-Month SSO (\$/tranche)	41-Month SSO (\$/tranche)
<sup>1</sup> 2008 through December 2008	1,200,000	2,000,000	2,700,000
January 2009	1,200,000	2,000,000	2,700,000
February 2009	1,200,000	2,000,000	2,700,000
March 2009	1,200,000	2,000,000	2,700,000
April 2009	800,000	2,000,000	2,700,000
May 2009	800,000	1,320,000	2,200,000
June 2009	800,000	1,320,000	2,200,000
July 2009	600,000	1,320,000	2,200,000
August 2009	600,000	1,320,000	2,200,000
September 2009	600,000	1,320,000	2,000,000
October 2009	450,000	990,000	2,000,000
November 2009	450,000	990,000	2,000,000
December 2009	450,000	990,000	2,000,000
January 2010	450,000	990,000	1,900,000
February 2010	325,000	745,000	1,900,000
March 2010	325,000	745,000	1,900,000
April 2010	325,000	745,000	1,900,000
May, 2010	325,000	745,000	1,700,000
June, 2010		560,000	1,700,000
July, 2010		560,000	1,700,000
August, 2010		560,000	1,700,000
September, 2010		560,000	1,400,000
October, 2010		420,000	1,400,000
November 2010		420,000	1,400,000
December, 2010		420,000	1,400,000
January, 2011		420,000	1,200,000
February 2011		325,000	1,200,000
March 2011		325,000	1,200,000
April 2011		325,000	1,200,000
May, 2011		325,000	1,000,000
June, 2011			1,000,000
July, 2011			1,000,000

<sup>1</sup> Date will correspond to date of execution of Master SSO Supply Agreement.

August, 2011			850,000
September, 2011			850,000
October, 2011			850,000
November 2011			650,000
December, 2011			650,000
January, 2012			650,000
February, 2012			325,000
March, 2012			325,000
April, 2012			325,000
May, 2012			325,000

**APPENDIX C TO MASTER SSO SUPPLY AGREEMENT**  
**DATED \_\_\_\_\_, 2008**  
**BY AND BETWEEN THE CLEVELAND ELECTRIC ILLUMINATING COMPANY,**  
**THE TOLEDO EDISON COMPANY AND OHIO EDISON COMPANY**  
**AND THE SSO SUPPLIERS**

**MtM Exposure Amount Calculation Information**

Table 1 contains the illustrative marks for each month of the SSO solicitation period. Monthly marks (example only, to be updated in \_\_\_\_\_ 2008) are provided for January 2009 through December 2009. For the months, two-month blocks or quarterly blocks where broker quotes are available, broker quotes will be used for those months. For all the remaining months the Companies will be using a proprietary method that reflects forward market conditions.

The mark for each Billing Month is the mark that is calculated on the date that the solicitation closes and will not change over the life of the contract. After the close of the SSO Forward Market Prices will change. In addition, the on-peak and off-peak loads used to calculate the MtM Exposure Amount will be adjusted monthly to reflect the most current changes.

Forward Market Prices for the months, two-month blocks or quarterly blocks where broker quotes are available will be equal to the broker quotes. In case quotes for a component of a block and for the block are both available, the Companies reserve the right not to use both the component of a block and the block if they are inconsistent with each other. However, when this inconsistency occurs, the Companies must use either the component or the block. Forward Market Prices for the months, two-month blocks or quarterly blocks where broker quotes are unavailable will be equal to the last available broker quotes or in case they have not been quoted on the broker sheets

since the solicitation closed, they will be equal to the marks set at the close of the solicitation.

At the present time MISO broker quotes are not available. The Companies will continuously monitor the forward market for delivery in MISO. If broker quotes for MISO delivery become available on a consistent basis – *i.e.*, that new quotes appear on a daily or near-daily basis and that the liquid tenor of such quotes covers a reasonable share of the delivery period under this Agreement – then the Companies will submit a request to the PUCO to switch basis for the forward quotes to MISO. SSO Suppliers will have an opportunity to provide comments to the PUCO on the Companies' request. The Companies will use reasonable discretion and prudent industry practice to assure that the new MtM Exposure Amount calculations fairly reflect both the market conditions at the time the initial marks were set and the then-current market conditions. A change in delivery point for the broker quotes used in the calculation of MtM Exposure Amount will only be made if it is approved by the PUCO.

**APPENDIX C TO SSO SUPPLIER MASTER AGREEMENT,**  
DATED \_\_\_\_\_,  
BY AND BETWEEN THE CLEVELAND ELECTRIC ILLUMINATING COMPANY,  
THE TOLEDO EDISON COMPANY AND OHIO EDISON COMPANY  
AND THE SSO SUPPLIERS

**MtM Calculation Example**

**Parameters**

On the closing day of the solicitation, the following parameters are set

1. The expected On-Peak Load per tranche.
2. The expected Off-Peak Load per tranche.
3. A table of monthly on-peak forward prices (to be used as the inception price for each month of the supply period).
4. A table of monthly on-and off-peak energy prices to determine the ratio of off-peak price to on-peak prices.

Indicative on-peak and off-peak loads per tranche will be made available 14 days prior to the solicitation.

All Energy prices are based on Cinergy Hub.

**EXAMPLE**

**Table 1 - Initial Data**  
**Broker Sheets (Quotes from Solicitation Closing Day)**

Broker	Bid/Offer	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09
Broker 1	Bid	\$76.50	\$76.50	\$64.25	\$64.35	\$60.50	\$64.00
Broker 1	Offer	\$76.75	\$76.75	\$64.50	\$64.70	\$60.75	\$64.25
Broker 2	Bid	\$76.00	\$76.00	\$64.55		\$60.90	\$63.85
Broker 2	Offer	\$76.50	\$76.50	\$64.80		\$61.25	\$64.10
Broker 3	Bid	\$76.15	\$76.15	\$64.50	\$64.50	\$60.75	\$63.85
Broker 3	Offer	\$76.45	\$76.45	\$64.75	\$64.70	\$61.25	\$64.10
<b>Average</b>	<b>Mid</b>	<b>\$76.39</b>	<b>\$76.39</b>	<b>\$64.56</b>	<b>\$64.56</b>	<b>\$60.90</b>	<b>\$64.03</b>

Broker	Bid/Offer	Jul-09	Aug-09	Sep-09	Oct-09	Nov-09	Dec-09
Broker 1	Bid	\$82.80	\$82.70	\$61.75	\$60.25	\$60.25	\$58.45
Broker 1	Offer	\$83.15	\$83.10	\$62.00	\$60.45	\$60.50	\$58.75
Broker 2	Bid		\$83.10	\$61.50		\$60.35	\$58.25
Broker 2	Offer		\$83.40	\$61.75		\$60.65	\$58.50
Broker 3	Bid	\$83.10	\$83.00	\$61.45	\$60.25	\$60.20	\$58.15
Broker 3	Offer	\$83.40	\$83.35	\$61.70	\$60.65	\$60.45	\$58.50
Average	Mid	\$83.11	\$83.11	\$61.69	\$60.40	\$60.40	\$58.43

**Table 2 - Ratio of Off-Peak to On-Peak Price**

Month	Ratio of Off-Peak to On-Peak Price
January	.72
February	.81
March	.75
April	.61
May	.55
June	.52
July	.54
August	.57
September	.50
October	.55
November	.59
December	.62



**Table 3 - Data set on the Closing Day of the Solicitation Energy (MWh/tranche)**

Data for Jan-09 through May-\_\_\_\_<sup>4</sup> so as to correspond to date indicated on Cover sheet will be used.

	On-Peak Volume <sup>5</sup>	Off-Peak Volume <sup>6</sup>	On-Peak Price <sup>7</sup>	Off-Peak Price <sup>8</sup>
Jan-09	18,158	16,483	\$ 76.39	\$ 55.00
Feb-09	16,008	14,787	\$ 76.39	\$ 61.88
Mar-09	16,909	15,918	\$ 64.56	\$ 48.42
Apr-09	14,719	14,436	\$ 64.56	\$ 39.38
May-09	15,301	13,911	\$ 60.90	\$ 33.50
Jun-09	17,175	15,671	\$ 64.03	\$ 33.30
Jul-09	17,815	16,738	\$ 83.11	\$ 44.88
Aug-09	19,661	15,893	\$ 83.11	\$ 47.37
Sep-09	14,538	15,912	\$ 61.69	\$ 30.85
Oct-09	17,015	14,148	\$ 60.40	\$ 33.22
Nov-09	16,213	15,132	\$ 60.40	\$ 35.64
Dec-09	18,741	20,691	\$ 58.43	\$ 36.23
Jan-10	18,158	16,483	\$ 75.13	\$ 54.09
Feb-10	16,008	14,787	\$ 75.13	\$ 60.86
Mar-10	16,909	15,918	\$ 64.57	\$ 48.43
Apr-10	14,719	14,436	\$ 64.57	\$ 39.39
May-10	15,301	13,911	\$ 56.30	\$ 30.97
Jun-10	17,175	15,671	\$ 84.11	\$ 46.26
Jul-10	17,815	16,738	\$ 84.11	\$ 46.26
Aug-10	19,661	15,893	\$ 59.69	\$ 32.83
Sep-10	14,538	15,912	\$ 61.40	\$ 33.77
Oct-10	17,015	14,148	\$ 61.40	\$ 33.77
Nov-10	16,213	15,132	\$ 59.43	\$ 32.69
Dec-10	18,741	20,691	\$ 72.13	\$ 39.67
Jan-11	18,158	16,483	\$ 71.13	\$ 39.12
Feb-11	16,008	14,787	\$ 62.57	\$ 34.41
Mar-11	16,909	15,918	\$ 62.57	\$ 34.41
Apr-11	14,719	14,436	\$ 56.30	\$ 30.97
May-11	15,301	13,911	\$ 81.65	\$ 44.91
Jun-11	17,175	15,671	\$ 81.65	\$ 44.91
Jul-11	17,815	16,738	\$ 54.75	\$ 30.11
Aug-11	19,661	15,893	\$ 61.40	\$ 33.77
Sep-11	14,538	15,912	\$ 61.40	\$ 33.77
Oct-11	17,015	14,148	\$ 57.12	\$ 31.42
Nov-11	16,213	15,132	\$ 74.13	\$ 40.77
Dec-11	18,741	20,691	\$ 74.13	\$ 40.77
Jan-12	18,158	16,483	\$ 59.44	\$ 32.69
Feb-12	16,808	15,123	\$ 61.44	\$ 33.79
Mar-12	16,140	16,568	\$ 54.58	\$ 30.02
Apr-12	15,420	13,834	\$ 61.25	\$ 33.69
May-12	14,606	14,478	\$ 58.85	\$ 32.37

<sup>4</sup> 2010, 2011 or 2012

<sup>5</sup> On-peak and off-peak volumes will be adjusted monthly.

<sup>6</sup> On-peak and off-peak volumes will be adjusted monthly.

<sup>7</sup> Forward price (if available). If not available, adjusted average price will be used.

<sup>8</sup> On-peak price multiplied by the off-peak/on-peak ratio.

## EXAMPLE

**Table 4 - Data on Day 1 of the Supply Period**

**Broker sheets on day 1 of the Supply Period**

Broker	Bid/Offer	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09
Broker 1	Bid	\$76.50	\$77.25	\$64.25	\$64.35	\$60.50	\$67.00
Broker 1	Offer	\$76.75	\$77.50	\$64.50	\$64.70	\$60.75	\$67.25
Broker 2	Bid	\$76.00	\$77.25	\$64.55		\$60.90	\$66.85
Broker 2	Offer	\$76.50	\$77.75	\$64.80		\$61.25	\$67.10
Broker 3	Bid	\$76.15	\$77.00	\$64.50	\$64.50	\$60.75	\$66.85
Broker 3	Offer	\$76.45	\$77.50	\$64.75	\$64.70	\$61.25	\$67.10
<b>Average</b>	<b>Mid</b>	<b>\$76.39</b>	<b>\$77.39</b>	<b>\$64.56</b>	<b>\$64.56</b>	<b>\$60.90</b>	<b>\$67.03</b>

Broker	Bid/Offer	Jul-09	Aug-09	Sep-09	Oct-09	Nov-09	Dec-09
Broker 1	Bid	\$82.80	\$82.70	\$61.75	\$60.25	\$60.25	\$58.45
Broker 1	Offer	\$83.15	\$83.10	\$62.00	\$60.45	\$60.50	\$58.75
Broker 2	Bid		\$83.10	\$61.50		\$60.35	\$58.25
Broker 2	Offer		\$83.40	\$61.75		\$60.65	\$58.50
Broker 3	Bid	\$83.10	\$83.00	\$61.45	\$60.25	\$60.20	\$58.15
Broker 3	Offer	\$83.40	\$83.35	\$61.70	\$60.65	\$60.45	\$58.50
<b>Average</b>	<b>Mid</b>	<b>\$83.11</b>	<b>\$83.11</b>	<b>\$61.69</b>	<b>\$60.40</b>	<b>\$60.40</b>	<b>\$58.43</b>

Note: For a monthly forward price from a broker to be included, both Bid and Offer must be available

**Table 5 - Data set on the Closing Day of the Solicitation Energy (MWh/tranche)**

Data for Jan-09 through May-\_\_\_\_<sup>9</sup> so as to correspond to date indicated on Cover sheet will be used.

	On-Peak Load per Tranche (MWh)	Off-Peak Load per Tranche (MWh)	Inception On-Peak	Current Day 1 On- Peak Prices	Change in On-Peak Price	Change in Off-Peak Price <sup>10</sup>	MtM
Jan-09	18,158	16,483	\$ 76.39	\$ 76.39	\$-	\$-	\$27,985
Feb-09	16,008	14,787	\$ 76.39	\$ 77.39	\$1.00	\$0.81	
Mar-09	16,909	15,918	\$ 64.56	\$ 64.56	\$-	\$-	
Apr-09	14,719	14,436	\$ 64.56	\$ 64.56	\$-	\$-	
May-09	15,301	13,911	\$ 60.90	\$ 60.90	\$-	\$-	
Jun-09	17,175	15,671	\$ 64.03	\$ 67.03	\$3.00	\$1.56	\$75,972
Jul-09	17,815	16,738	\$ 83.11	\$ 83.11	\$-	\$-	
Aug-09	19,661	15,893	\$ 83.11	\$ 83.11	\$-	\$-	
Sep-09	14,538	15,912	\$ 61.69	\$ 61.69	\$-	\$-	
Oct-09	17,015	14,148	\$ 60.40	\$ 60.40	\$-	\$-	
Nov-09	16,213	15,132	\$ 60.40	\$ 60.40	\$-	\$-	
Dec-09	18,741	20,691	\$ 58.43	\$ 58.43	\$-	\$-	
Jan-10	18,158	16,483	\$ 75.13	\$ 75.13	\$-	\$-	
Feb-10	16,008	14,787	\$ 75.13	\$ 75.13	\$-	\$-	
Mar-10	16,909	15,918	\$ 64.57	\$ 64.57	\$-	\$-	
Apr-10	14,719	14,436	\$ 64.57	\$ 64.57	\$-	\$-	
May-10	15,301	13,911	\$ 56.30	\$ 56.30	\$-	\$-	
Jun-10	17,175	15,671	\$ 84.11	\$ 84.11	\$-	\$-	
Jul-10	17,815	16,738	\$ 84.11	\$ 84.11	\$-	\$-	
Aug-10	19,661	15,893	\$ 59.69	\$ 59.69	\$-	\$-	
Sep-10	14,538	15,912	\$ 61.40	\$ 61.40	\$-	\$-	
Oct-10	17,015	14,148	\$ 61.40	\$ 61.40	\$-	\$-	
Nov-10	16,213	15,132	\$ 59.43	\$ 59.43	\$-	\$-	
Dec-10	18,741	20,691	\$ 72.13	\$ 72.13	\$-	\$-	
Jan-11	18,158	16,483	\$ 71.13	\$ 71.13	\$-	\$-	
Feb-11	16,008	14,787	\$ 62.57	\$ 62.57	\$-	\$-	
Mar-11	16,909	15,918	\$ 62.57	\$ 62.57	\$-	\$-	
Apr-11	14,719	14,436	\$ 56.30	\$ 56.30	\$-	\$-	
May-11	15,301	13,911	\$ 81.65	\$ 81.65	\$-	\$-	
Jun-11	17,175	15,671	\$ 81.65	\$ 81.65	\$-	\$-	
Jul-11	17,815	16,738	\$ 54.75	\$ 54.75	\$-	\$-	
Aug-11	19,661	15,893	\$ 61.40	\$ 61.40	\$-	\$-	
Sep-11	14,538	15,912	\$ 61.40	\$ 61.40	\$-	\$-	
Oct-11	17,015	14,148	\$ 57.12	\$ 57.12	\$-	\$-	
Nov-11	16,213	15,132	\$ 74.13	\$ 74.13	\$-	\$-	
Dec-11	18,741	20,691	\$ 74.13	\$ 74.13	\$-	\$-	
Jan-12	18,158	16,483	\$ 59.44	\$ 59.44	\$-	\$-	
Feb-12	16,808	15,123	\$ 61.44	\$ 61.44	\$-	\$-	
Mar-12	16,140	16,568	\$ 54.58	\$ 54.58	\$-	\$-	
Apr-12	15,420	13,834	\$ 61.25	\$ 61.25	\$-	\$-	
May-12	14,606	14,478	\$ 58.85	\$ 58.85	\$-	\$-	
						<b>Total</b>	<b>\$103,957</b>

<sup>9</sup> 2010, 2011 or 2012

<sup>10</sup> Change in on-peak price multiplied by ratio of off-peak price to on-peak price.

**APPENDIX D TO MASTER SSO SUPPLY AGREEMENT**  
DATED \_\_\_\_\_, 2008  
BY AND BETWEEN THE CLEVELAND ELECTRIC ILLUMINATING COMPANY,  
THE TOLEDO EDISON COMPANY AND OHIO EDISON COMPANY  
AND THE SSO SUPPLIERS

**Sample SSO Letter of Credit**

\_\_\_\_\_ (Date)

Letter of Credit No. \_\_\_\_\_

To: The Cleveland Electric Illuminating Company, The Toledo Edison Company and  
Ohio Edison Company ("Beneficiaries")

1. We hereby establish in your favor this irrevocable transferable Letter of Credit (this  
"Letter of Credit") for the account of \_\_\_\_\_ (the "Applicant"),  
in the aggregate amount of \$ \_\_\_\_\_, effective immediately and available  
to you at sight upon demand at our counters at \_\_\_\_\_ and expiring 364 days  
from date of issuance or any extension thereof (in the form of Annex 5), unless  
terminated earlier or automatically extended, in accordance with the provisions hereof  
or otherwise extended.
2. This Letter of Credit is issued at the request of the Applicant, and we hereby  
irrevocably authorize you to draw on us, in accordance with the terms and conditions  
hereof, up to the maximum amount of this Letter of Credit, subject to reduction as  
provided in paragraph 12 hereof. This Letter of Credit may be drawn upon an Event  
of Default under the SSO Master Supply Wholesale Agreement(s) between the  
Applicant and you, dated \_\_\_\_\_.

3. A partial or full drawing hereunder may be made by you on any Business Day on or prior to the expiration of this Letter of Credit by delivering, by no later than 11:00 A.M. (New York, NY time<sup>1</sup>) on such Business Day to \_\_\_\_\_ (Bank), \_\_\_\_\_ (address), (i) a notice executed by you in the form of Annex 1 hereto, appropriately completed and duly signed by an Authorized Officer of each of the Beneficiaries and (ii) your draft in the form of Annex 2 hereto, appropriately completed and duly signed by an Authorized Officer of each of the Beneficiaries. Authorized Officer shall mean President, Treasurer, any Vice President or any Assistant Treasurer.
4. We may, but shall not be obligated to, accept any request to issue a substitute Letter of Credit. Such request shall be in an Availability Certificate in the form of Annex 3 hereto by you to us for exchange for a new Letter of Credit in the amount set forth in an Availability Certificate, which amount shall not exceed the present value of this letter of credit. Upon acceptance by us of any such request to issue a substitute Letter of Credit for exchange, the new Letter of Credit shall be issued in the amount as set forth in the Availability Certificate.
5. We hereby agree to honor a drawing hereunder made in compliance with the terms and provisions of this Letter of Credit by transferring in immediately available funds the amount specified in the draft delivered to us in connection with such drawing to such account at such bank in the United States as you may specify in your draft delivered to us pursuant to Paragraph 3 hereof, by 3:00 P.M. (New York, NY time) on the date of such drawing, if delivery of this requisite document is made prior to

---

<sup>1</sup> If the issuer of the Letter of Credit is located in an area that is not in the Eastern time zone, this time and all other times in this Letter of Credit, and the definition of a business day should be adjusted accordingly

11:00 AM (New York, NY time) on a business day pursuant to Paragraph 3 herein above, but at the opening of business on the first Business Day next succeeding the date of such drawing if delivery of the requisite document is made on or after 11:00 AM (New York, NY time) on any Business Day pursuant to Paragraph 3 herein above.

6. If a demand for payment made by you hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give you prompt notice (not exceeding three (3) Business Days following the date of receipt of the documents) that the demand for payment was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons therefore and that we will upon your instructions hold any documents at your disposal or return the same to you. Upon being notified that the demand for payment was not effected in conformity with this Letter of Credit, you may attempt to correct any such non-conforming demand for payment to the extent that you are entitled to do so, provided, however, in such event a conforming demand for payment must be timely made in accordance with the terms of this Letter of Credit.
7. This Letter of Credit will automatically terminate and be delivered to us for cancellation on the earliest of (i) the making by you of the drawings in an amount equal to the maximum amount available to be made hereunder, (ii) the date we issue a new letter of credit in exchange for this Letter of Credit in accordance with paragraph 4 herein above, (iii) the date we receive from you a Certificate of Expiration in the form of Annex 4 hereto, or (iv) will be automatically extended without written amendment for successive additional one (1) year periods from the current or any

future extended expiry date, unless at least ninety (90) days prior to such date of expiration, we give written notice to Beneficiaries by registered or certified mail, return receipt requested, or by overnight courier, at the address set forth above, or at such other address of which prior written notice has been provided to us, that we elect not to renew this irrevocable standby Letter of Credit for such additional one (1) year period.

8. As used herein:

“Availability Certificate” shall mean a certificate substantially in the form of Annex 3 hereto, appropriately completed and duly signed by your authorized officer.

“Business Day” shall mean any day on which commercial banks are not authorized or required to close in New York, New York and any day on which payments can be effected on the Fed wire system.

9. This Letter of Credit is assignable and transferable, in accordance with Annex 6, to an entity who you certify to us in the form of Annex 6, and we hereby consent to such assignment or transfer, provided that this Letter of Credit may not otherwise be amended or modified without consent from us, you and the Applicant, and except as otherwise expressly stated herein, is subject to the Uniform Customs and Practice for Documentary Credits – 1993 Revision, ICC Publication No. 500, or any successor publication thereto (the “UCP”). Any and all transfer fees, expenses and costs shall be borne by the Applicant. This Letter of Credit shall, as to matters not governed by the UCP, be governed and construed in accordance with New York law, without regard to principles of conflicts of law. Transfers fees shall be borne by the Applicant.

10. This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, changed, amplified or limited by reference to any document, instrument or agreement referred to herein, except for Annexes 1 through 6 hereto and the notices referred to herein; and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement except as set forth above.
11. We certify that as of \_\_\_\_\_ (date) we \_\_\_\_\_  
("Bank") satisfy the senior unsecured debt rating of "A" from Standard & Poor's Rating Service.
12. The amount which may be drawn by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid through us referencing this Letter of Credit No. \_\_\_\_\_. Partial drawings are permitted hereunder.
13. Faxed document(s) are acceptable. Presentation by fax must be made to fax number \_\_\_\_\_ confirmed by telephone to \_\_\_\_\_.
14. In the event of act of God, riot, civil commotion, insurrection, war, terrorism or by any strikes or lock outs, or any cause beyond our control, that interrupts our business, and causes the place for presentation of this letter of credit to be closed for business on the last day of presentation, the expiration date of this letter of credit shall be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business.
15. This original letter of credit has been sent to the Company located at \_\_\_\_\_ above (as per Applicant's instructions). The aggregate amount paid to the Company during the validity of this Letter of Credit will not exceed the



amount of this Letter of Credit. Any demands or communications in the form of the attached Annexes (except for Annex 5) or other communications directed to us under this Letter of Credit must be signed by an Authorized Officer of the EDC. Acceptance or rejection of any amendments to this Letter of Credit or any extensions pursuant to Annex 5 must be signed by an Authorized Officer of each of the Beneficiaries.

Very truly yours,  
(Bank)

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**Annex 1 to Letter of Credit**

DRAWING UNDER LETTER OF CREDIT NO. \_\_\_\_\_

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

To: (Bank)  
(Address)

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

The undersigned is making a drawing under the above-referenced Letter of Credit in the amount specified below and hereby certifies to you as follows:

1. Capitalized terms used herein that are defined herein shall have the meanings ascribed thereto in the Letter of Credit.

2. "Pursuant to Paragraph 2 of the Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_, the undersigned is entitled to make a drawing under the Letter of Credit in the aggregate amount of \$ \_\_\_\_\_, inasmuch as there is an Event of Default under any SSO Master Supply Wholesale Agreement between the Applicant and us.

3. The amount to be received by The Cleveland Electric Illuminating Company is \$ \_\_\_\_\_, the amount to be received by The Toledo Edison Company is \$ \_\_\_\_\_ and the amount to be received by The Ohio Edison Company is \$ \_\_\_\_\_, for total equal to the aggregate amount in the previous paragraph.

4. We acknowledge that, upon your honoring the drawing herein requested, the amount of the Letter of Credit available for drawing shall be automatically decreased by an amount equal to this drawing.

Very truly yours,

The Cleveland Electric Illuminating Company

By: \_\_\_\_\_

Name:

Title:

Date:

The Toledo Edison Company

By: \_\_\_\_\_

Name:

Title:

Date:

Ohio Edison Company

By: \_\_\_\_\_

Name:

Title:

Date:

**Annex 2 to Letter of Credit**

DRAWING UNDER LETTER OF CREDIT NO. \_\_\_\_\_

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

ON [Business Day immediately succeeding  
date of presentation]

PAY TO:           The Cleveland Electric Illuminating Company

\$ \_\_\_\_\_

For credit to the account of \_\_\_\_\_.

PAY TO:           The Toledo Edison Company

\$ \_\_\_\_\_

For credit to the account of \_\_\_\_\_.

PAY TO:           Ohio Edison Company

\$ \_\_\_\_\_

For credit to the account of \_\_\_\_\_.

FOR VALUE RECEIVED AND CHARGE TO ACCOUNT OF LETTER OF CREDIT  
NO. \_\_\_\_\_ OF

(Bank)  
(Address)

The Cleveland Electric Illuminating Company

By: \_\_\_\_\_

Name:

Title:

Date:

The Toledo Edison Company

By: \_\_\_\_\_

Name:

Title:

Date:

Ohio Edison Company

By: \_\_\_\_\_

Name:

Title:

Date:

**Annex 3 to Letter of Credit**

AVAILABILITY CERTIFICATE  
UNDER LETTER OF CREDIT NO. \_\_\_\_\_

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

To: (Bank)  
(Address)

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

Each of the undersigned hereby requests that, in exchange for the above-referenced Letter of Credit, a new Letter of Credit be issued in the aggregate amount of \$ \_\_\_\_\_ (the "New Amount") and to expire on \_\_\_\_\_ (date), but otherwise in the form of this Letter of Credit.

Please acknowledge your intention to issue such new Letter of Credit in the New Amount upon the surrender of the above-referenced Letter of Credit by signing the attached acknowledgment copy hereof and forwarding it to:

Beneficiaries  
Addresses

Very truly yours,

The Cleveland Electric Illuminating Company  
By: \_\_\_\_\_  
Name:  
Title:  
Date:

The Toledo Edison Company  
By: \_\_\_\_\_  
Name:  
Title:  
Date:

Ohio Edison Company  
By: \_\_\_\_\_  
Name:  
Title:  
Date:

APPLICANT NAME

By: \_\_\_\_\_  
Name:  
Title:  
Date:

Agreed and Accepted:  
(Bank)

By \_\_\_\_\_  
Name:  
Title:  
Date:

**Annex 4 to Letter of Credit**

CERTIFICATE OF EXPIRATION  
OF LETTER OF CREDIT NO. \_\_\_\_\_

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

To: (Bank)  
(Address)

Attention: Standby Letter of Credit Unit

Ladies and Gentlemen:

The undersigned hereby certifies to you that the above referenced Letter of Credit may be cancelled without payment. Attached hereto is said Letter of Credit, marked cancelled.

The Cleveland Electric Illuminating Company

By: \_\_\_\_\_

Name:

Title:

Date:

The Toledo Edison Company

By: \_\_\_\_\_

Name:

Title:

Date:

Ohio Edison Company

By: \_\_\_\_\_

Name:

Title:

Date:

cc: \_\_\_\_\_ (Applicant Name)

**Annex 5 to Letter of Credit**

NOTICE OF EXTENSION  
OF LETTER OF CREDIT NO. \_\_\_\_\_

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

To The Cleveland Electric Illuminating Company, The Toledo Edison Company and  
Ohio Edison Company:

Re: Our Letter of Credit no. \_\_\_\_\_ presently in the aggregate  
amount of USD \_\_\_\_\_ issued for the account of  
\_\_\_\_\_ and expiring on \_\_\_\_\_.

On the expiration date of the Letter of Credit no. \_\_\_\_\_, we will issue a new  
Letter of Credit No. \_\_\_\_\_ to expire on \_\_\_\_\_ (date). This new  
Letter of Credit No. \_\_\_\_\_ will, aside from the expiration date be in the  
amount and form of our Letter of Credit No. \_\_\_\_\_.

Very truly yours,

BANK \_\_\_\_\_

By \_\_\_\_\_  
Name:  
Title:  
Date:

cc: \_\_\_\_\_ (Applicant Name)

**Annex 6 to Letter of Credit**

NOTICE OF TRANSFER  
OF LETTER OF CREDIT NO. \_\_\_\_\_

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

To:

Bank

Bank Address

To Whom It May Concern:

Re: Credit \_\_\_\_\_

Issued by \_\_\_\_\_

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

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

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

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

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

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

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

Enclosed is a certified check in the amount of \$\_\_\_\_\_ in payment of your transfer commission and in addition we agree to pay to you on demand any expenses that may be incurred by you in conjunction with this transfer.

Very Truly Yours

\_\_\_\_\_  
(signature of the Company)



The above signature with title as stated conforms to that on file with us and is authorized for the execution of said instruments.

(Name of authenticating party)

\_\_\_\_\_  
(Authorized signature of authenticating party)

Name

Title

**APPENDIX E TO SSO MASTER SUPPLY WHOLESALE AGREEMENT**  
**DATED \_\_\_\_\_, 2008**  
**BY AND BETWEEN THE CLEVELAND ELECTRIC ILLUMINATING COMPANY,**  
**THE TOLEDO EDISON COMPANY AND OHIO EDISON COMPANY**  
**AND THE SSO SUPPLIERS**

**Guaranty**

GUARANTY (this "Guaranty"), dated as of \_\_\_\_\_, made by \_\_\_\_\_ (the "Guarantor"), a corporation organized and existing under the laws of \_\_\_\_\_ in favor of The Cleveland Electric Illuminating Company, The Toledo Edison Company and Ohio Edison Company (the "Guaranteed Parties"), corporations organized and existing under the laws of the State of Ohio.

Terms not defined herein take on the meaning given to them in the SSO Master Supply Wholesale Agreement(s) dated \_\_\_\_\_. Guarantor enters into this Guaranty in consideration of, and as an inducement for Guaranteed Parties having entered into or entering into the "Agreements" with \_\_\_\_\_ [Name], a \_\_\_\_\_ [State] corporation (the "SSO Supplier"), which may involve the extension of credit by the Guaranteed Parties. Guarantor, subject to the terms and conditions hereof, hereby unconditionally and absolutely guarantees to the Guaranteed Parties the full and prompt payment when due, subject to an applicable grace period and upon demand in writing from the Guaranteed Parties to the Guarantor's attention at the address for Guarantor set forth in Article 11 hereof of any and all amounts payable by the SSO Supplier to the Guaranteed Parties arising out of the Agreement(s), and,

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of the principal and interest on any sums due and payable by the SSO Supplier as a result of an Event of Default under the Agreement(s) (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement(s)). Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall Option 1 [in no event exceed \_\_\_\_\_.] Option 2 [in no event exceed the lesser of [the credit limit amount] or the sum of the Total Exposures Amounts under the Agreement(s).] All such principal, interest, obligations and liabilities, collectively, are the "Guaranteed Obligations". This Guaranty is a guarantee of payment and not of collection.
2. The Guarantor hereby waives diligence, acceleration, notice of acceptance of this Guaranty and notice of any liability to which it may apply, and waives presentment and all demands whatsoever except as noted herein, notice of protest, notice of

dishonor or nonpayment of any such liability, suit or taking of other action by any Guaranteed Parties against, and any other notice to, any party liable thereon (including the Guarantor or any other guarantor), filing of claims with a court in the event of the insolvency or bankruptcy of the SSO Supplier, and any right to require a proceeding first against the SSO Supplier.

3. The Guaranteed Parties may, at any time and from time to time, without notice to or consent of the Guarantor, without incurring responsibility to the Guarantor and without impairing or releasing the obligations of the Guarantor hereunder, upon or without any terms or conditions: (i) take or refrain from taking any and all actions with respect to the Guaranteed Obligations, any Document or any person (including the SSO Supplier) that the Guaranteed Parties determine in their sole discretion to be necessary or appropriate; (ii) take or refrain from taking any action of any kind in respect of any security for any Guaranteed Obligation(s) or liability of the SSO Supplier to the Guaranteed Parties; or (iii) compromise or subordinate any Guaranteed Obligation(s) or liability of the SSO Supplier to the Guaranteed Parties including any security therefore.
4. Subject to the terms and conditions hereof, the obligations of the Guarantor under this Guaranty are absolute and unconditional and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by: (i) any extension, renewal, settlement, compromise, waiver, consent, discharge or release by the SSO Supplier concerning any provision of the Agreement(s) in respect of any Guaranteed Obligations of the SSO Supplier; (ii) the rendering of any judgment against the SSO Supplier or any action to enforce the same; (iii) the existence, or extent of, any release, exchange, surrender, non-perfection or invalidity of any direct or indirect security for any of the Guaranteed Obligations; (iv) any modification, amendment, waiver, extension of or supplement to any of the Agreement(s) or the Guaranteed Obligations agreed to from time to time by the SSO Supplier and the Guaranteed Parties; (v) any change in the corporate existence (including its constitution, laws, rules, regulations or powers), structure or ownership of the SSO Supplier or the Guarantor, or any insolvency, bankruptcy, reorganization or other similar proceedings affecting the SSO Supplier or its assets, the Guarantor or any other guarantor of any of the Guaranteed Obligations; (vi) the existence of any claim, set-off or other rights which the Guarantor may have at any time against the SSO Supplier, the Guaranteed Parties or any other corporation or person, whether in connection herewith or in connection with any unrelated transaction; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim; (vii) the invalidity, irregularity or unenforceability in whole or in part of the Agreement(s) or any Guaranteed Obligations or any instrument evidencing any Guaranteed Obligations or the absence of any action to enforce the same, or any provision of applicable law or regulation purporting to prohibit payment by the SSO Supplier of amounts to be paid by it under the Agreement(s) or any of the Guaranteed Obligations; and (viii) except for a failure to comply with any applicable statute of limitations, any other act or omission to act or delay of any kind of the SSO Supplier, any other guarantor, the Guaranteed Parties or

any other corporation or person or any other event, occurrence or circumstance whatsoever which might, but for the provisions of this paragraph, constitute a legal or equitable discharge of the Guarantor's obligations hereunder.

5. The Guarantor hereby irrevocably waives (a) any right of reimbursement or contribution, and (b) any right of salvage against the SSO Supplier or any collateral security or guaranty or right of offset held by the Guaranteed Parties therefor.
6. The Guarantor will not exercise any rights, which it may acquire by way of subrogation until all Guaranteed Obligations to the Guaranteed Parties pursuant to the Agreement(s) have been paid in full.
7. Subject to the terms and conditions hereof, this Guaranty is a continuing one and all liabilities to which it applies or may apply under the terms here of shall be conclusively presumed to have been created in reliance hereon. Except for a failure to comply with any applicable statute of limitations, no failure or delay on the part of the Guaranteed Parties in exercising any right, power or privilege hereunder, and no course of dealing between the Guarantor and the Guaranteed Parties, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights, powers and remedies herein expressly provided are cumulative and not exclusive of any rights, powers or remedies, which the Guaranteed Parties would otherwise have. No notice to or demand on the Guarantor in any case shall entitle the Guarantor to any other or further notice of demand in similar or other circumstances or constitute a waiver of the rights of the Guaranteed Parties to any other or further action in any circumstances without notice or demand.
8. This Guaranty shall be binding upon the Guarantor and upon its successors and assigns and shall inure to the benefit of and be enforceable by the Guaranteed Parties and its successors and assigns; provided, however, that the Guarantor may not assign or transfer any of its rights or obligations hereunder without the prior written consent of the Guaranteed Parties. The assignment rights of the Guaranteed Parties will be in accordance with the terms of the underlying Agreement(s).
9. Neither this Guaranty nor any provision hereof may be changed, waived, discharged or terminated except upon written agreement of the Guaranteed Parties and the Guarantor.
10. The Guarantor agrees that its liability as guarantor shall continue and remain in full force and effect in the event that all or any part of any payment made hereunder or any obligation or liability guaranteed hereunder is recovered (as a fraudulent conveyance, preference or otherwise) rescinded or must otherwise be reinstated or returned due to bankruptcy or insolvency laws or otherwise.

11. All notices and other communications hereunder shall be made at the addresses by hand delivery, by the next day delivery service effective upon receipt or by certified mail return receipt requested (effective upon scheduled weekday delivery day) or telefacsimile (effective upon receipt of evidence, including telefacsimile evidence, that telefacsimile was received)

If to the Guarantor:  
[To be completed]

If to the Guaranteed Parties:  
Thomas R. Sims  
Senior Business Analyst  
FirstEnergy Corp.  
76 South Main Street, 17<sup>th</sup> Floor  
Akron, OH 44308  
Telephone: 330-384-3808  
Facsimile: 330-255-1662  
simst@firstenergycorp.com

12. If claim is ever made upon the Guaranteed Parties for repayment or recovery of any amount or amounts received in payment or on account of any of the Guaranteed Obligations and the Guaranteed Parties repays all or part of such amount by reason of (a) any judgment, decree or order of any court or administrative body having jurisdiction over such payee or any of its property, or (b) any settlement or compromise of any such claim effected by such payee with any such claimant (including the Guarantor), then and in such event the Guarantor agrees that any such judgment, decree, order, settlement or compromise shall be binding upon it, notwithstanding any revocation hereof or the cancellation of the Agreement(s) or other instrument evidencing any liability of the Guarantor, and the Guarantor shall be and remain liable to the Guaranteed Parties hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by any such payee.
13. The Guarantor hereby certifies that it satisfies the Minimum Rating as defined in the Agreement(s).
14. This Guaranty shall remain in full force and effect until all Guaranteed Obligations have been fully and finally performed, at which point it will expire. The Guarantor may terminate this Guaranty upon thirty (30) days prior written notice to the Guaranteed Parties which termination shall be effective only upon receipt by the Guaranteed Parties of alternative means of security or credit support, as specified in the Agreement(s) and in a form reasonably acceptable to the Guaranteed Parties. Upon the effectiveness of any such expiration or termination, the Guarantor shall

have no further liability under this Guaranty, except with respect to the Guaranteed Obligations entered into prior to the time the expiration or termination is effective, which Guaranteed Obligations shall remain guaranteed pursuant to the terms of this Guaranty until finally and fully performed.

15. The Guarantor represents and warrants that: (i) it is duly organized and validly existing under the laws of the jurisdiction in which it was organized and has the power and authority to execute, deliver, and perform this Guaranty; (ii) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over the Guarantor is required on the part of the Guarantor for the execution, delivery and performance of this Guaranty except for those already made or obtained; (iii) this Guaranty constitutes a valid and legally binding agreement of the Guarantor, and is enforceable against the Guarantor, except as the enforceability of this Guaranty may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditor's rights generally and by general principles of equity; and (iv) the execution, delivery and performance of this Guaranty by the Guarantor have been and remain duly authorized by all necessary corporate or comparable action and do not contravene any provision of its \_\_\_\_\_ [insert appropriate corporate organizational document, such as Declaration of Trust, Limited Liability Agreement, Articles of Incorporation or by-laws] or any law, regulation or contractual restriction binding on it or its assets.
16. This Guaranty and the rights and obligations of the SSO Supplier and the Guarantor hereunder shall be construed in accordance with and governed by the laws of the State of Ohio. The Guarantor and Guaranteed Parties jointly and severally agree to the exclusive jurisdiction of State and federal courts located in the State of Ohio over any disputes arising or relating to this Guaranty and waive any objections to venue or inconvenient forum. The Guarantor and Guaranteed Parties each hereby irrevocably waive any and all rights to trial by jury with respect to any legal proceeding arising out of or relating to this Guaranty.
17. This writing is the complete and exclusive statement of the terms of this Guaranty and supersedes all prior oral or written representations, understandings, and agreements between the Guaranteed Parties and the Guarantor with respect to subject matter hereof. The Guaranteed Parties and the Guarantor agree that there are no conditions to the full effectiveness of this Guaranty.
18. Every provision of this Guaranty is intended to be severable. If any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable. This Guaranty may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.
19. No Trustee or shareholder of Guarantor shall be held to any liability whatsoever for any obligation under this Guaranty, and such Guaranty shall not be enforceable

against any such Trustee in their or his or her individual capacities or capacity. This Guaranty shall be enforceable against the Trustees of Guarantor only as such, and every person, firm, association, trust or corporation having any claim or demand arising under this Guaranty and relating to Guarantor, its shareholders or Trustee shall look solely to the trust estate of Guarantor for the payment or satisfaction thereof.

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be executed and delivered as of the date first above written to be effective as of the earliest effective date of any of the Agreement(s).

[GUARANTOR]

By: \_\_\_\_\_  
Title:

Accepted and Agreed to:

The Cleveland Electric Illuminating Company,  
The Toledo Edison Company  
and Ohio Edison Company  
By: \_\_\_\_\_  
Title:

# CPB 2009 and Beyond Communication Protocols

## Contents

CPB 2009 and Beyond Communication Protocols.....	i
Contents .....	i
I. Introduction.....	1
II. Objectives .....	3
III. Treatment of Confidential Information.....	4
A. Treatment of Confidential Information concerning the CBP available to the CBP Manager, the EDUs and the PUCO. ....	4
1. List A Information .....	5
2. List B Information.....	7
3. List C Information.....	10
4. List D Information .....	12
B. Confidential Information for Bidders .....	15
1. Confidential Information .....	15
2. Confidentiality Obligations for Bidders.....	17
C. Summary of Information Dissemination During the CBP.....	18
Appendix A: Summary of Obligations, Discretion and Procedures for List A, B, C and D Personnel Involved in the CBP .....	22
Appendix B: Signature Page on Confidentiality for Lists A, B, C and D .....	26
Appendix C: Confidentiality Agreement During Bidding for the CBP Manager .....	27
Appendix D: Summary of Bidder Non-Disclosure Requirements .....	29
Appendix E: Bidder Signature Page .....	31

## Exhibit H



# COMMUNICATION PROTOCOLS

## CBP 2009 AND BEYOND

### I. Introduction

This document describes the information that is anticipated to be generated by the Competitive Bidding Process (CBP) being proposed by the FirstEnergy Ohio electric distribution utilities ("EDUs") to acquire SSO supply for periods after December 31, 2008.

Each year, the EDUs will conduct a CBP. The first process is to be conducted in 2008 and is referred to as "2009 CBP", as it procures supply for periods beginning January 1, 2009. This document describes the proposed undertakings of the CBP Manager, the EDUs, the Public Utilities Commission of Ohio ("PUCO") Staff, the PUCO Advisor<sup>1</sup>, the PUCO, and the parties ("bidders") participating in the CBP. By "CBP Manager", we mean any member of the CBP Manager Team (CBP Manager Team). By "PUCO Advisor", we mean any member of the team of PUCO advisors, should any be retained by the PUCO and the PUCO Staff. By bidders, we mean all entities that are prospective, potential, or actual bidders in one or several of the Solicitations of the CBP.

The document also addresses in summary fashion the CBP, Solicitation and general bidding report information that will be kept confidential. Generally the acronym CBP is used to refer to the process of procuring SSO supply through a series of Solicitations in a twelve-month period. A Solicitation is one procurement event in the CBP. Bidding in a Solicitation will lead to the generation of round information and reports which must be given special treatment with respect to confidentiality. When the term CBP is used it encompasses all Solicitations in the CBP. When the term Solicitation is used it encompasses the application, qualification, registration of bidders, bidding, as well as PUCO review of the results. The CBP Rules address exactly what information is kept confidential by bidders and for what time period.

---

<sup>1</sup> This document makes provisions assuming that the PUCO Staff elects to utilize an Advisor.

The PUCO Opinion and Order of April 6, 2005 in Case 04-1371-EL-ATA was used as a guide as to what information should be kept confidential. In that Order, the Commission stated the principle that all records of the CBP should be made public unless the material is of a nature that would reveal proprietary information of a participant or its release would be detrimental to the administration of future CBPs. To fulfill that objective, the clearing prices and names of the winners of all Solicitations within a CBP will be kept confidential until at least 30 days after the last Solicitation.. This provides protection for bidders' bargaining positions in the market when making supply arrangements. Without this protection any counterparty could know the obligations faced by the winning supplier, hampering its negotiating position and raising prices for customers. Further, the identity of all bidders that filed Part 1 or Part 2 applications in the CBP and the indicative offers, would be kept confidential for at least eighteen months from the date of the last Solicitation in order not to reveal confidential information of bidders. The PUCO may elect to keep these data confidential for longer, if it decides that this would benefit future CBPs. The actual round by round bids by bidders would be kept confidential for as long as the EDUs are continuing to procure power through a CBP or a similar process. This is necessary to ensure that bidders do not obtain information that would provide them with insights on other bidders' bidding strategies and valuations and that may harm competitiveness of future Solicitations. The actual applications will be kept confidential to protect information supplied by bidders on a confidential basis, encourage full disclosure, and encourage participation.

These procedures are constructed on the premise that the information deemed confidential by the PUCO should be protected at all stages of the process to protect the integrity of the CBP. The CBP Rules as approved by the PUCO will specifically address certain aspects of maintaining confidentiality of the information generated by the CBP by bidders as detailed in Section I.E. These protocols elaborate upon the means by which confidentiality is to be maintained by all parties through adherence to the procedures in this document. There may be information not specifically contemplated at this time by this document that should nevertheless be maintained as confidential. Should the CBP Manager recognize that such additional information should be kept confidential, the CBP Manager will establish additional procedures in keeping with the principles provided in this document, and will inform personnel from the EDUs, PUCO Staff and the PUCO Advisor.

## **II. Objectives**

This document and its procedures follow four main objectives:

- The first objective is to establish a fair and equitable process for all bidders by ensuring all of them have equal access to information necessary to evaluate the bidding opportunity and to prepare their bids in a timely manner, and by ensuring that all bidders have equal access to information.
- The second objective is to ensure that any information generated by the CBP that could harm the competitive position of bidders, if released, be kept confidential.
- The third objective is to guarantee that confidential information is only provided to those parties to whom it is deemed relevant for the conduct and management of the CBP.
- The fourth objective is to ensure that information that if released could harm the competitiveness of future CBPs is kept confidential from all entities including bidders.

These objectives will be accomplished by following two guiding principles. The first is that there shall be one communication point for bidders: all communication to prospective and actual bidders shall be through the CBP Manager. The second guiding principle is that the CBP Manager shall distribute the substance of information that goes first to one or more prospective or actual bidders to all bidders. These two guiding principles ensure all bidders have equal access to information. Only the CBP Manager answers inquiries from bidders and once an inquiry is answered, the information is disseminated to all bidders by or under the supervision of the CBP Manager.

The CBP Manager also ensures that the information generated by the CBP that could harm the competitive position of bidders, if released, is kept confidential by those who have access to such information. This type of information is described in more detail in Sections III and IV. Keeping this information confidential is one of the most important tools to maximize participation in the CBP. To accomplish this, this document lays out in detail the procedures by which such information will not be accidentally released. This includes clearly identifying

information that should be kept confidential, identifying the obligations of parties having access to this information, and the practical procedures that all parties involved in the process should follow. Also, the last part of this document contains five appendices: Appendix A provides a summary of obligations, discretion and procedures for lists A, B, C and D personnel. Appendix B presents the signature pages that all parties on those lists will sign. Appendix C presents the confidentiality agreement the CBP Manager Team will sign while bidding is on-going. Appendix D provides an overview of bidder non-disclosure obligations. Appendix E presents the signature page that bidders will be required to execute regarding treatment of confidential information.

### **III. Treatment of Confidential Information**

The CBP generates both public and confidential information. All CBP information, including confidential information, is available to the CBP Manager, and it is the CBP Manager who is responsible for distributing this information to the relevant parties. Public information is any information to which all parties (i.e., bidders, the EDUs, PUCO Staff, PUCO Advisor, the public and the media) can have access. As discussed in Section V of the CBP Rules, confidential information is any information that would reveal proprietary information of a participant or any material, which upon its release would be detrimental to the administration of the future CBPs. Public information is posted to the CBP web site and is made available to everyone, while confidential information is only available to certain personnel of the different parties involved in the CBP – those on lists A, B, C, or D. Part A of this Section III deals with confidential information that will be made available to the EDUs, the PUCO and its Advisor, and the CBP Manager. Part B of this Section III deals with confidential information to which bidders, either registered or qualified, will have access.

#### **III. A. Treatment of Confidential Information concerning the CBP available to the CBP Manager, the EDUs and the PUCO**

The present section discusses treatment of confidential information, written or oral, that will be generated during the CBP and that may be made available to the EDUs, the PUCO Staff and PUCO Advisor, and by the CBP Manager. This section outlines the procedures on how this information is to be communicated between the different parties involved in the CBP, namely the

CBP Manager, the EDUs, PUCO Staff and the PUCO Advisor. It also outlines who is responsible for administering and releasing different types of information and to whom. For this purpose, all personnel involved in the CBP are classified into different lists (i.e., Lists A, B, C or D) depending on the type of confidential information to which they need access to perform their function in the CBP. The members of different lists will also adhere to certain undertakings regarding the confidential information to which they have access. The section is split into the different lists of personnel outlining the different types of CBP information that will be disseminated and also establishes how this information is to be communicated and disseminated among the personnel that belong to the different lists. It is understood that once information is released by the PUCO, this information is no longer confidential and any undertakings described here no longer apply.

For purposes of information dissemination related to the CBP there are four lists: List A, List B, List C, and List D. List A recipients are those that may receive information regarding the identity of bidders and the questions that they may ask. List B recipients are those that may receive information contained in the Application Forms of bidders for each Solicitation. List C recipients are those that will receive general bidding information and results. List D recipients are those that will receive information regarding bids by individual bidders.

### **III. A. 1. List A Information**

Information available to individuals on List A is information on bidders resulting from inquiries regarding the CBP. All inquiries from prospective bidders and other interested parties, even if the question concerns public information, must be referred to and disseminated by the CBP Manager. Direct questions from parties not directly participating in the process, such as the general public and customers will also be answered by the CBP Manager although the EDUs are free to provide their customers, security analysts and utilities or regulators from outside Ohio with public information and with their view of the CBP.

Confidential information that may be available to List A personnel consists of:

- The identity of a party asking a question to the CBP Manager;

- The identity of prospective bidders directing inquiries to the PUCO Staff or PUCO Advisor or the EDUs;
- Inferences that can be made from a question asked by a bidder; and
- Data that may be requested by bidders and that FirstEnergy believes must be provided on a confidential basis.

#### ***List A Members***

Confidential information related to inquiries from bidders is only provided to List A members. List A includes all resource persons upon which the CBP Manager may rely to answer questions from bidders. List A is comprised of all the personnel of the CBP Manager Team, designated PUCO Staff, designated personnel from the PUCO Advisor, and designated representatives from the EDUs. For the EDUs, List A includes credit, data, regulatory, rate design, MISO, and contract experts.

All individuals from List A may share the information that reveals the identity of a bidder only with other individuals on List A. This procedure protects bidders who have an expectation that their identity will not be made public or revealed to other bidders when they submit a question or a comment to the CBP Manager. Additionally, any information available to these parties that is not posted on the web site can be shared only with other parties on List A. List A personnel will agree to abide to their confidentiality obligations by the signing the confidentiality agreement attached as Appendix B.

#### ***List A Confidentiality Obligations and Communication***

All personnel from and representing the EDUs refer all questions, inquiries, comments and requests regarding the Solicitation process that come from a bidder to the CBP Manager. The CBP Manager is under an obligation to remind all parties that the information is to be held confidential in accordance with the procedure outlined above. The general intent of this procedure is to ensure that all bidders are provided with the same information regarding the CBP and to prevent a bidder from being inadvertently favored.

Any information communicated to the CBP Manager as a result of contact with a bidder can be shared with personnel from the EDUs on List A. The explicit identity of bidders will be routinely redacted from the information that the CBP Manager communicates to the List A EDU personnel. Discussion that involves some but not all bidders and any EDU personnel should also involve the CBP Manager.<sup>2</sup> It is the CBP Manager's responsibility to ensure that any information given to one or more bidders during such discussions is provided promptly to all bidders. The CBP Manager has the ability to disseminate this information through the FAQ section of the web site or through an announcement sent to the bidder list.

All personnel from PUCO Staff and the PUCO Advisor will also refer all questions, inquiries, comments and requests regarding the CBP that come from a bidder to the CBP Manager. PUCO Staff and the PUCO Advisor (if any) will be asked by the CBP Manager to help answer questions that may require the expertise and procedural knowledge of PUCO Staff. The PUCO Advisor and PUCO Staff may only discuss information that reveals the identity of bidders and share this information with the CBP Manager and with other persons on List A. The CBP Manager will obtain answers to questions directed to the PUCO or PUCO Staff from the PUCO Staff and make sure that these questions and answers are posted as FAQs on the CBP web site. The general intent of this procedure is to ensure that all bidders are provided with the same information and that no bidder is accidentally favored.

The PUCO Advisor will not grant interviews to the press regarding the CBP except as it relates to a description of its role as Advisor to the PUCO.

### **III. A. 2. List B Information**

Information available to List B is information regarding the two-part application process held for each Solicitation. Submitted Part 1 and 2 Applications contain confidential information that may only be discussed with personnel from List B. The Part 1 and Part 2 Applications will be received and processed by the CBP Manager. A bidder submits financial information along

---

<sup>2</sup> Such discussions are not expected in the normal course and as noted above EDU personnel will refer all requests for information by potential bidders to the CBP Manager. However, it is possible that there may be information exchanged in discussions between the EDUs and potential bidders, for example, to receive bidder comments on credit or contract issues, and this procedure is in place to ensure that any information exchanged will be made available to all potential bidders.

with its Part 1 Application. Only Processed Application Information (defined below) will be provided to EDU personnel on List B. All other information obtained from the Part 1 and Part 2 Applications will be available only to the CBP Manager, PUCO Staff and PUCO Advisor.

Confidential information to List B non-EDU personnel consists of:

- List of qualified bidders
- List of registered bidders
- Completed Part 1 and Part 2 Application Forms
- Attachments to the Application Forms

The following information is excluded from the above when provided to List B EDU personnel:

- Whether an applicant is part of a bidding agreement or consortium;
- Any indicative offer information specific to a particular bidder;
- Any information regarding a bidder's inability to make a certification or declaration of an association.

The three items above are not shared with personnel of the EDUs even if these individuals are on List B. It is the responsibility of the CBP Manager, PUCO Staff, and the PUCO Advisor to ensure that they do not communicate this information to the EDUs.



### ***List B Members***

List B includes the named representatives of the EDUs on an as-needed basis (e.g. credit representative), the CBP Manager including its legal advisor, PUCO Staff and the PUCO Advisor. The CBP Manager is responsible for ensuring that in any written material provided to the EDU personnel on List B the three items mentioned above are excluded. List B personnel will agree to abide to their confidentiality obligations by signing the confidentiality agreement attached as Appendix B.

### ***List B Confidentiality Obligations and Communication***

List B members should keep confidential application information and can only share it with other individuals on List B. Application information of this type includes the completed Application Forms themselves, any attachments, any summaries of information contained in the applications, and any document that refers to information contained in the applications.

The CBP Manager will discuss associations and certifications with members of its team only on a need-to-know basis. The CBP Manager will brief the PUCO Staff and PUCO Advisor regarding potential association and certification problems and decide whether a meeting of the CBP Manager together with the PUCO Staff and PUCO Advisor is warranted to resolve problematic associations. In the case of problematic associations and certifications, the Part 2 Application materials will be shown to the PUCO Staff and PUCO Advisor.

The CBP Manager is responsible for making sure that all List B personnel are advised of their obligations.

### **Communication between the CBP Manager and the EDUs**

The CBP Manager will only provide to the EDUs (throughout this section, “the EDUs” will mean List B personnel from the EDUs) the information to which they have access as described above.

The general information regarding the applications, such as the number of applicants and the general level of creditworthiness must be kept confidential. The EDU personnel responsible

for assessing the creditworthiness of Part 1 applicants will communicate the results of their assessment only to other List B personnel. The CBP Manager will put this assessment together with other qualification criteria to decide whether to qualify applicants. The EDU personnel responsible for assessing whether credit instruments in the Part 2 Application are acceptable to the EDUs will communicate any concerns only to the CBP Manager. The CBP Manager will write a letter to the bidder outlining the EDUs' concerns and the EDUs will evaluate any re-submitted credit instruments.

#### Communication between the CBP Manager and the PUCO Staff and Advisor

The CBP Manager can provide the PUCO Staff and the PUCO Advisor with all application information. PUCO Staff and the PUCO Advisor will appropriately secure any information they receive.

The PUCO Staff and PUCO Advisor may find it necessary to brief the PUCO on information obtained through the Application process. Such briefings will be conducted confidentially. Subsequently, the PUCO Staff may release information as directed by the PUCO with the exception of information that reveals any information provided by bidders in confidence on their applications or any information as to the indicative offer of any specific bidder.

### **III. A. 3. List C Information**

Information available to List C is information regarding bidding that will be generally available through reports of the CBP Manager to all bidders. This information is referred to as general report information. This information is confidential and generally consists of the bidding schedule, the excess supply range in each round, and the prices in each round. The general report information may only be discussed with personnel from List C. Aside from knowing that bidding has begun, the public and media have no access to information regarding the progress of the bidding from the time that the bidding starts until the PUCO announces that the bidding is over and it is considering the results, at which point the public and media know that the bidding is over. The public and media will learn the names of the winning bidders and the final prices no earlier than thirty days after the last Solicitation in a given CBP.

Confidential Information available to List C consists of:

- List of Qualified and Registered Bidders;
- Total Initial eligibility for a Solicitation;
- Going prices in any round;
- Range of excess supply in any round;
- The fact that the bidding has ended;
- Extraordinary events;
- The status or success of bidder training;
- Information (such as web site address, IDs and password) necessary to view general report information;
- The round in progress at any point in time;
- The final prices for any product prior to release by the PUCO; and
- The names of the winning bidders and the quantity of each product won by each bidder.

The PUCO Staff, the CBP Manager, and the PUCO Advisor may hold a conference call if decisions need to be taken regarding an extraordinary event. The CBP Manager alone may initiate communication with the EDUs during bidding to inform them of extraordinary events.

### ***List C Members***

List C includes the CBP Manager Team, the PUCO and PUCO Advisor, and the List C personnel of the EDUs. The EDUs will select personnel that will be on List C. For the remainder of this section, the EDUs personnel can be understood to mean the List C personnel of the EDUs.

List C personnel will agree to abide to their confidentiality obligations by the signing the confidentiality agreement attached as Appendix B.

### ***List C Confidentiality Obligations and Communication***

List C information discussed in this section may only be discussed with personnel from List C in a location where reasonable measures have been taken so that unauthorized personnel cannot unintentionally have access to this information.

The EDUs, the CBP Manager, PUCO Staff, and the PUCO Advisor will keep in mind that the information is only to be discussed with individuals on List C and that this information may not be discussed or referred to in a public place. List C personnel will abide by the undertaking of their confidentiality agreement. The EDUs and PUCO Staff will view the general report information in a way that ensures that personnel from the EDUs or PUCO Staff who should not have access to this information cannot accidentally view the information. For example, the EDUs and PUCO Staff may choose to view the information from a remote location. Any electronic storage or transmittal of this information will be encrypted. All hard copy records stored will be maintained in a locked and secure location.

### **III. A. 4. List D Information**

Information available to List D is round by round bidding detail including bids by bidder, extension requests by bidder, and recess requests by bidder. It is referred to as round information. The round information associated with the CBP may only be discussed with personnel from List D.

Confidential Information available to List D is round information and consists of:

- The status or success of any particular bidder's participation in training;
- Information (such as user IDs, passwords and web site addresses) required for participation in the training or in bidding;

- Round results and bids by round, as well as any other bidding results derived therefrom;
- The status of bidding;
- The status of participation of any bidder;
- Information provided by bidders to the CBP Manager during bidding exclusive of such information available from publicly available documents.

#### ***List D Members***

List D is comprised by the personnel who have access to the round information. List D personnel from the CBP Manager will abide by the undertaking of their confidentiality agreement, which is Appendix C. No round information will be discussed with individuals not on List D, and no round information will be discussed outside the CBP Manager's office. List D is comprised by:

- The CBP Manager and any legal advisor to the CBP Manager;
- PUCO Representatives and the PUCO Advisor.

List D personnel will agree to abide by their confidentiality obligations by signing the confidentiality agreement attached as Appendix C.

#### ***List D Confidentiality Obligations and Communication***

Round information discussed in this section may only be discussed with personnel from List D in a location where reasonable measures have been taken so that unauthorized personnel cannot unintentionally have access to this information. Any electronic storage or transmittal of this information will be encrypted. All hard copy records stored will be maintained in a locked and secure location.

The confidentiality of round information will continue after the CBP. Table 2 below summarizes the information that will be available to each party. Each party will maintain the confidentiality of List C information by releasing information available to List C personnel only to individuals on List C and/or discussing information available to List C personnel only with individuals on List C. Each party will maintain the confidentiality of List D information by releasing information available to List D personnel only to individuals on List D and/or discussing information available to List D personnel only with individuals on List D. The CBP Manager will inform all individuals on Lists C and D of the confidentiality requirements.

#### CBP Manager

The CBP Manager has access to all CBP information. The CBP Manager is mindful of the sensitivity of confidential information and will impress upon all staff that it is crucial for no information to leave or be discussed outside the CBP Manager's Office. Each day of bidding, all members of the CBP Manager team will execute a Confidentiality Agreement certifying that CBP Manager personnel will not discuss, disclose or reveal any round information to anyone outside the CBP Manager Office. The Confidentiality Agreement that CBP Manager personnel will sign is attached as Appendix C.

#### EDUs

The CBP Manager will prepare a final report for the PUCO at the end of each Solicitation. The report will be provided in draft form to the EDU personnel on List C with all appropriate information redacted. That is, the EDUs will not learn new information regarding bids from the report. Table 1 and Table 2 detail what information will be available to the EDUs during the various phases of the CBP.

### PUCO Staff and PUCO Advisor

Representatives from the PUCO Staff and PUCO Advisor may be present at the CBP Manager's Office during the bidding. These individuals will be on List D and have access to the round information, as well as bid results in a format agreed to by the CBP Manager, PUCO Staff Representatives and the PUCO Advisor before bidding begins. All CBP Manager Team personnel and representatives from the PUCO Staff and PUCO Advisor that will be present at the CBP Manager's Office will also be on List D. All paper copies of the bidding results will remain in the CBP Manager Office. The PUCO Advisor and the PUCO Staff Representatives on List D will brief the PUCO as appropriate during bidding or after bidding has been completed.

## **III. B. Confidential Information for Bidders**

This section deals with confidential information to which bidders will have access. Bidders also have obligations to keep from disclosing certain information. This section provides a list of what information and documents are considered confidential, and discuss bidders' confidentiality obligations. Bidders' obligations regarding confidentiality are set forth in the CBP Rules. Bidders will be required to accept and acknowledge these obligations in the application process and to reaffirm these obligations prior to receiving a password and all other necessary information to submit bids. Appendix D provides an overview of bidder confidentiality obligations for reference. Appendix E provides the signature page that bidders will have to execute prior to receiving the password and all other necessary information to submit bids.

### **III. B. 1. Confidential Information**

Information that bidders must keep confidential consists of confidential information regarding the CBP and confidential information regarding bidding strategy as set forth in the CBP Rules.

*Confidential information regarding the CBP* includes the following information applicable to each Solicitation within the CBP<sup>3</sup>:

- the list of qualified bidders,
- the list of registered bidders,
- the initial eligibility,
- a bidder's bids,
- a bidder's indicative offer,
- if a bidder is a winner in the CBP,
- the status of a bidder's participation,
- the status of bidding,
- any information made available to bidders during bidding,
- all reports of results and announcements made by the CBP Manager to any one bidder, and,
- the clearing price for any product prior to release by the PUCO.

*Confidential information regarding the CBP* also includes all information necessary to submit bids (c.g., passwords) and any communications from the CBP Manager, such as memoranda, emails, manuals, letters or faxes containing confidential information related to the CBP.

*Confidential information relative to the bidding strategy* includes the following information applicable to any Solicitation within the CBP:

- the quantities a bidder wishes to serve,

---

<sup>3</sup> A more comprehensive definition is provided in the CBP Rules.



- the bidder's estimation of the value of a tranche,
- the bidder's estimation of the risks associated with serving SSO Load, and
- a bidder's contractual arrangement for power with a party to serve the SSO Load were the bidder to be a winner.

### **III. B. 2. Confidentiality Obligations for Bidders**

A bidder will be required in its Part 1 Application to certify that if it becomes a qualified bidder, the prospective bidder will not disclose confidential information regarding the CBP including the list of qualified bidders, including the number of qualified bidders, the identity of any or all qualified bidders, or the fact that an entity has not been qualified for further participation in the Solicitation. The bidders also must certify that it will destroy any document distributed by the CBP Manager that lists the qualified bidders within five (5) days of the Commission deciding whether to approve the results.

A qualified bidder will be required in its Part 2 Application to certify that it does not have any knowledge of Confidential Information relative to the bidding strategy of any other qualified bidder, that it will not disclose Confidential Information relative to its own bidding strategy, and that it will not, at any time, disclose Confidential Information regarding the CBP, including the total initial eligibility, the list of registered bidders, and the fact that an entity has not been registered for further participation.

Following a successful Part 2 Application, the registered bidder will be required to certify that it will continue to abide by its prior commitment to maintain the confidentiality of information regarding the CBP. The registered bidder will be required to do so before obtaining essential information for bidding.

If the PUCO approves the results, the clearing prices and the names of the winners may not be released until 30 days after the last Solicitation in a given CBP. After the PUCO approves the results for a given Solicitation, a winner may itself release information regarding the number of tranches it has won and the products that the winner will be serving, and a losing bidder may

itself release information only regarding the fact that it participated in the Solicitation. Prices may not be released at this time. The winners and losing bidders otherwise continue to be bound by their certifications as described previously. All bidders must destroy all documents containing confidential information obtained in a given Solicitation within 5 days of the PUCO decision on the results.

Sanctions can be imposed on a qualified bidder for releasing Confidential Information or disclosing information during the CBP. Such sanctions can include, but are not limited to, any one or more of the following: the loss of all rights to provide tranches won in the CBP by such bidder; the forfeiture of letters of credit and other fees posted or paid; liquidated damages of \$100,000; action (including prosecution) under applicable state and/or federal laws; attorneys' fees and court costs incurred in any litigation that arises out of the bidder's improper disclosure; debarment from participation in future Solicitations in the CBP and/or future CBPs; and/or other sanctions that the PUCO may consider appropriate.

Should such an event occur, the CBP Manager in consultation with PUCO Staff will make a recommendation regarding a sanction. The PUCO will be the final arbiter of any sanction.

### III. C. Summary of Information Dissemination During the CBP

A summary table of which parties have which information at various times during the CBP is provided below.

**Table 1. Who Knows What During Bidding**

	List C	List D	Bidders
<b>During Bidding</b>			
Going prices	X	X	X
Names of bidders with bids in a round		X	(1)

	List C	List D	Bidders
# of tranches by bidder		X	(1)
Round information other than common information		X	(1)

(1) A bidder knows its own bids during bidding, but not the bids of other bidders.

**Table 2. Who Knows What After Bidding Closes**

	List C	List D	Bidders	Public
Clearing Prices	X	X	X	
Winning Bidders for each product*		X	(1)	
# of tranches by winning bidder for each product*		X	(2)	
Bid data submitted during bidding		X	(3)	
CBP Manager Final report (and PUCO Advisor post-solicitation assessment if applicable)	(4)	(4)		

	List C	List D	Bidders	Public
<b>If PUCO Decides to Accept Solicitation Results</b>				
Clearing Prices	X <sup>4</sup>	X	X	(5)
Winning bidders for each product*	X	X	X	(5)
# of tranches by winning bidder for each product*	X	X	(2)	
Bid data submitted during solicitation**		X	(3)	
CBP Manager Final report (and PUCO Advisor post-solicitation assessment if applicable)	X	X		
<b>If PUCO Decides to Reject Solicitation Results</b>				
Clearing Prices	X	X	X	(5)
Winning bidders for each product*		X	(1)	
# of tranches by winning bidder for each product*		X	(2)	
Bid data submitted during solicitation		X	(3)	
CBP Manager Final report (and PUCO Advisor post-solicitation assessment if applicable) redacted	(4)	(4)		

Note: No earlier than one month before the supply period the PUCO will publicly release the number of tranches that each winning bidder will serve.

\* “Winning bidder” means “tentative winning bidder” prior to PUCO approval of the results (such approval may not occur).

(1) A bidder knows whether it is a (tentative) winning bidder. A bidder does not know the names of any other (tentative) winning bidders unless and until the PUCO accepts the bidding results.

(2) A bidder knows how many tranches of each product, if any, it has sold to the EDUs. A bidder does not know the names of any other (tentative) winning bidders unless and until the PUCO accepts the bidding results.

(3) A bidder knows its bids during bidding, but not other bids.

(4) PUCO Staff and the PUCO may receive from their Advisor a post-solicitation assessment in addition to the CBP Manager Final Report. The EDUs receive a redacted version of the CBP Manager Final Report. The CBP Manager also prepares a Public Report.

<sup>4</sup> List C will also include individuals that must execute the contract with winning bidders and communicate with winning bidders to help effect supply obligations.

(5) This information may become public no earlier than thirty (30) days after the last Solicitation in a CBP has ended. The PUCO may decide at this time whether to release clearing prices by Solicitation or just a product average over all Solicitations in the CBP.

## **Appendix A: Summary of Obligations, Discretion and Procedures for List A, B, C and D Personnel Involved in the CBP**

The present section summarizes the obligations that all personnel involved in the CBP will respect regarding the treatment of confidential information. Confidential information can only be released to and discussed with personnel on Lists A, B, C and D as provided in these communication procedures.

### **List A: Summary of Obligations, Discretion and Procedures**

1. The EDUs, the PUCO Advisor and PUCO Staff refer all inquiries and questions from bidders to the CBP Manager;
2. The EDUs, the CBP Manager, the PUCO Staff, and the PUCO Advisor must select the personnel that will be included on List A;
3. FirstEnergy employees representing the EDUs who are on List A, and who may also be performing services for FirstEnergy Solutions, will be identified to PUCO Staff and to the PUCO Advisor. Such personnel will recognize explicitly their obligations not to communicate any information about the CBP to FirstEnergy Solutions;
4. All List A personnel must receive List A and a statement of their obligations including a duty to not disclose any non-public information to those not on List A. All List A personnel must acknowledge receipt of these materials to the CBP Manager (the list of personnel and the statement of obligations) by returning the executed signature page of Appendix B;
5. Any update to List A will be immediately communicated to the CBP Manager who will email the update to all the parties on List A;
6. The information provided to bidders is provided to all bidders without discrimination by the CBP Manager;
7. The CBP Manager can communicate information received from bidders in the form of a question or a comment, to individuals only on List A. The CBP Manager

communicates questions for the purposes of eliciting the expertise of EDU personnel or PUCO Staff. The CBP Manager does not necessarily redact all information that could imply the identity of the bidder;

8. Whenever the CBP Manager communicates information regarding bidders to an individual on List A, the CBP Manager has the obligation to remind personnel to keep information received concerning bidders confidential;

9. In any interaction between bidders and the EDUs, the CBP Manager is present and the CBP Manager disseminates any information that has come to light during this interaction to all bidders;

10. The CBP Manager may contact bidders directly in order to seek information about the CBP. The CBP Manager has the discretion to approach new parties to solicit their interest in the CBP.

**List B: Summary of Obligations, Discretion and Procedures**

1. The EDUs, the CBP Manager, the PUCO Staff, and the PUCO Advisor must select the personnel that will be on List B.

2. All List B personnel must receive List B and a statement of their obligations. (See Appendix B). All List B personnel must acknowledge receipt of these materials to the CBP Manager (the list of personnel and the statement of obligations) by returning the executed signature page of Appendix B. PUCO Staff, the PUCO Advisor, and the CBP Manager must keep in mind that List B personnel from the EDUs do not have access to all List B information.

3. Any update to List B will be immediately communicated to the CBP Manager, who will email the update to all the parties on List B.

4. EDU personnel on List B who may also be performing services for FirstEnergy Solutions will be identified to PUCO Staff and to the PUCO Advisor. Such personnel will recognize explicitly their obligations not to communicate any information about the CBP to FirstEnergy Solutions;

5. The CBP Manager provides the List B information to the List B personnel. All summaries and documents produced by the CBP Manager are marked "Confidential: CBP Application Information". The CBP Manager provides additional information from the Application Forms to PUCO Staff and the PUCO Advisor deemed appropriate.

6. Qualified Bidders and Registered Bidders will have certified that they will not disclose the list of Qualified Bidders, the list of Registered Bidders, and the initial eligibility.

The CBP Manager will ensure that information regarding bidding agreements, bidding consortia, and associations are disclosed only on a need-to-know basis to members of its own team. The CBP Manager will ensure that the PUCO Advisor consults any relevant document from the Applications on the premises of the CBP Manager Office.

**List C and D: Summary of Obligations, Discretion and Procedures**

1. The EDUs, the CBP Manager, the PUCO Staff, and the PUCO Advisor must select the personnel that will be on List C. The CBP Manager, PUCO Advisor, and PUCO Staff must designate List D individuals.

2. EDU personnel on List C who may also be performing services for FirstEnergy Solutions will be identified to PUCO Staff and to the PUCO Advisor. Such personnel will recognize explicitly their obligations not to communicate any information about the CBP to FirstEnergy Solutions;

3. All List C personnel must receive List C and a statement of their obligations and must acknowledge their obligations by returning the executed signature page of Appendix B. List C may not be modified after the registration of the bidders except under extraordinary circumstances. List C should include all personnel who will be required to execute the contracts with winning bidders and communicate with bidders regarding credit and other supply responsibility information;



4. Representatives from PUCO Staff, representatives from the PUCO Advisor and the CBP Manager are on List D. List D personnel will be mindful that List C personnel have access only to general report information.

5. All List D personnel must receive List D and a statement of their obligations. List D personnel from the CBP Manager Team will sign a Confidentiality Agreement and return the signature page to the CBP Manager each day of the Solicitation. Other List D personnel acknowledge their obligations by returning the executed signature page of Appendix B

6. The List C personnel must view the general report information in a way that minimizes the possibility of accidental disclosure. List C personnel can discuss general report information only with other List C personnel. List C personnel must not discuss this information in a public setting.

7. There is no communication with the media or the public while bidding is in progress or while the PUCO is evaluating the results except for the CBP Manager stating when the bidding has started.

8. List C and D personnel will not release or discuss, except with other List C and D personnel, any clearing price information not released by the PUCO.

## **Appendix B: Signature Page on Confidentiality for Lists A, B, C and D**

I acknowledge that I have read and understand the obligations regarding treatment of confidential information related to the CBP for List \_\_\_\_.

I certify that I have abided by its terms up until today and that I agree to continue to abide by its terms and conditions. I acknowledge that I may be subject to potential injunctive action to enforce this confidentiality agreement, as well as liability from parties participating in the 2009 CBP should I be found in violation of this confidentiality agreement.

\_\_\_\_\_  
Signed by

\_\_\_\_\_  
Date

Please return the signed form to the CBP Manager Office or Fax to:

CBP Manager Team

XXX St. XX FL

Columbus, Ohio 43XXX

Fax No. (614) xx-xxxx

## **Appendix C: Confidentiality Agreement for the CBP Manager**

### **CONFIDENTIALITY AGREEMENT**

Any information regarding bidding in the CBP is of a highly confidential nature. Confidential information regarding bidding includes, but is not limited to:

- Any information relating to a bidder including, but not limited to, the bidder's identity, any information pertaining to the bidder's bidding strategy, particular bids submitted by the bidder, the bidder's eligibility, the bidder's remaining recess requests or bidding extensions, the exercise by a bidder of an extension or a recess, information provided to the bidder to enable the bidder to bid such as the bidder's identifier and password, the bidder's use of the back-up bidding procedure, the particular round results for a bidder, the bidder's participation status in bidding, the bidder's financial circumstances, the bidder's contractual arrangements for power – whether such information is obtained directly from the bidder, through reports of bidding results, or inferred from conversation with the bidder;
- Any information relating to the progress of the bidding, including but not limited to, the going prices for the round, eligibility in a round, the reason for time-outs for the bidding, round results for any particular bidder in any particular round, the number of bidders remaining in the bidding, the number of recesses requested or the number of extensions requested or granted, the identities of active bidders, the expected duration of the bidding;
- Any information relating to the bids by product in the bidding, including but not limited to the going prices in any particular round, the exit prices submitted or any other information that could reveal a bidder's bidding strategy.

Disclosure of any such confidential information that may cause competitive harm to the parties involved in the CBP and may compromise the CBP. Any person who participates in the management of the FirstEnergy CBP in any capacity or observes the bidding is subject to the following measures designed to protect the strict confidentiality of bidding information, and must acknowledge and agree to adhere to these measures.

1. All bidding information shall be used solely for purposes of performing duties related to the management of the FirstEnergy CBP and shall not be revealed or used, directly or indirectly, by any person receiving it for or in connection with any other purpose of any kind;
2. All persons who gain access to any bidding information shall be and are hereby prohibited and enjoined from disclosing or using such bidding information except as required for the conduct of the CBP;
3. All persons to whom bidding information is disclosed shall take reasonable and appropriate precautions to avoid misuse, loss, and/or unauthorized disclosure of bidding information;
4. Bidding information shall not be disclosed, repeated, given, shown, made available, or communicated in any way to anyone other than members of the CBP Manager Team, PUCO Representatives present at the CBP Manager Office and on List D, the PUCO Advisor representative(s) present at the CBP Manager Office and on List D, or NERA's academic and legal advisors on List D, as necessary to carry out the CBP;
5. Should there be any question as to whether information is confidential bidding information, it will be presumed to be confidential and subject to these requirements unless and until the CBP Manager under instructions of the EDUs and PUCO Representatives authorizes its disclosure in writing.

I acknowledge that I have read and understand this Confidentiality Agreement. I certify that I have abided by its terms up until today and that I agree to continue to abide by its terms and conditions. I acknowledge that I may be subject to potential injunctive action to enforce this confidentiality agreement, as well as liability from parties participating in the CBP should I be found in violation of this confidentiality agreement.

---

Signed by

---

Date

## **Appendix D: Summary of Bidder Non-Disclosure Requirements**

Bidder non-disclosure requirements are found in the CBP Rules. This attachment excerpts those requirements.

For each Solicitation, bidders will be required to make the following certifications. This is a partial list of certifications that address confidentiality.

1. A prospective bidder must certify that if it becomes a qualified bidder, the prospective bidder will not disclose information regarding the list of qualified bidders, including the number of qualified bidders, the identity of any or all qualified bidders, or the fact that an entity has not been qualified for further participation.

2. A qualified bidder must certify that it will not disclose Confidential Information relative to its own bidding strategy except to entities that were explicitly named in its Part 1 Application as entities with whom the bidder has entered into a bidding agreement, or a joint venture for the purpose of participating in the Solicitation, or a bidding consortium, or any other arrangement pertaining to participating in the Solicitation, to bidders with which it is associated as disclosed through certification 5, to its Advisor, and to its financial institution.

3. A qualified bidder must certify that if it becomes a registered bidder, the qualified bidder will not, at any time, disclose information regarding the total initial eligibility or the list of registered bidders, including the number of registered bidders, the identity of any or all registered bidders, or the fact that an entity has not been registered for further participation in the Solicitation.

4. A qualified bidder must certify that it will not, at any time, disclose any Confidential Information regarding the CBP other than to: i) entities explicitly named in the Part 1 Application as entities with which the qualified bidder has entered into a bidding agreement, or a joint venture for the purpose of participating in the CBP, or a bidding consortium, or any other arrangement pertaining to participating in the CBP; or ii) its Advisor; or iii) bidders with which it is associated as disclosed through certification 5.

Following a successful Part 2 Application, the registered bidder will be required to certify that it will continue to abide by its prior commitment to maintain the confidentiality of information regarding the CBP. The registered bidder will be required to do so before obtaining critical information essential to submit bids.

## Appendix E: Bidder Signature Page

**To Be Returned to the CBP Manager No Later Than xxxxxxxx \_\_\_\_, 2008**

Bidder Authorized Representative

Date :

CBP Manager

To: CBP Manager

From: Bidder Authorized Representative

RE: Representations regarding the Solicitation

This is to confirm that I have now received the letter from the CBP Manager confirming my status as a Registered Bidder.

I will receive a Confidential Information packet after I have executed in full and returned this letter by fax to the CBP Manager. I will send the original of this letter subsequently by courier. The Confidential Information packet includes information essential to submit bids.

I make the following representations:

(I) I certify that I will continue to abide by all certifications and commitments made in the Part 1 Application and the Part 2 Application.

---

Authorized Representative

---

Date

*continued*

(2) I understand that I am the only person authorized to distribute Confidential Information to other representatives of my company. The integrity of the process depends upon each Authorized Representative safeguarding Confidential Information regarding the CBP. I understand that this Confidential Information is to be used only for the purposes of participation in the CBP.

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Date

(3) As Authorized Representative, I will ensure that only authorized persons act on behalf of my company in submitting bids.

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Date

(4) I certify that I will destroy all documents provided by the CBP Manager that contain Confidential Information within one week of the Commission deciding whether to approve the results, including but not limited to, the list of Qualified Bidders and the list of Registered Bidders.

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Date

(5) I understand that failure to adhere to any of the certifications or commitments made in the Part 1 and 2 Applications, or failure to adhere to certifications (1) through (4) in this letter may result in sanctions, including, but not limited to, loss of all rights to serve any SSO Load won, forfeiture of financial guarantees and other fees posted or paid, prosecution under applicable state and federal laws, or any other sanctions that the Commission deems appropriate.

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Date

*continued*



(6) I understand that during bidding, all telephone calls to the CBP Manager and to Technical Assistants will be recorded. Calls are recorded for bid verification purposes and a written transcript of such calls may be made. I consent on behalf of my company, and all authorized persons that will act on behalf of my company during bidding, to the recording and transcription of such telephone calls. I further consent to the CBP Manager's use of any such recordings and transcripts for purposes related to the CBP.

---

Authorized Representative

Date

Please return the signed form to the CBP Office and Fax to:

CBP Manager Team

XXX St. XX FL

Columbus, Ohio 43XXX

Fax No. (614) xx-xxxx



## **CONTINGENCY PLANS**

The Companies believe the proposed competitive bidding process will be successful in providing for the total power supply required to reliably serve their Standard Service Offer customers. However, there is the possibility this will not turn out to be the case, and contingency plans are needed. There may be an insufficient number of bidders in a single bidding process or a winning bidder may default on its obligations before or during the delivery period or regulatory approvals which may be required may not be obtained. Regardless of the cause, the Companies believe two general contingency plans will address the majority of the potential circumstances.

1. A specific competitive bidding process is not fully subscribed or a winning bidder defaults, but a subsequent competitive bidding process is scheduled for the same or different products.
2. An insufficient number of bids is received and no more solicitations for the unfilled product are scheduled or the contract with one or more of the winning bidders is no longer effective and this occurs after all scheduled solicitations for the product.

If any of these outcomes occur, the determination will be made by the Competitive Bid Manager in consultation with the Companies and Commission staff to implement the respective Contingency Plan(s).

## **Contingency Plan 1**

**A specific competitive bidding process is not fully subscribed or a winning bidder defaults, but a subsequent competitive bidding process is scheduled for the same or different products.**

In this set of circumstances the Companies will include unfilled tranches in a previously scheduled, subsequent solicitation. If any tranches remain unfilled after the final solicitation scheduled, Contingency Plan 2 will be implemented.

## **Contingency Plan 2**

**An insufficient number of bids is received and no more solicitations for the unfilled product are scheduled or the contract with one or more of the winning bidders is no longer effective and this occurs after all scheduled solicitations for the product.**

In this set of circumstances, the Companies, will first offer the unfilled tranches to the remaining winning suppliers at the previously determined price(s), assuming all contractual and credit obligations have been met. This offer will be made first, to winning suppliers who can assume the additional business and remain under the volume cap. If this first step does not provide the necessary supply, suppliers who would exceed the volume cap by assuming the additional tranches will be approached and offered the unfilled tranches. In the event tranches remain unfilled, the Companies, at their option, will purchase necessary physical supply for the remaining tranches through MISO-administered markets. The procurements will be made at prevailing day-ahead

Companies' zonal (FE.FESR) spot market prices. To mitigate the price risk of the spot market, the Companies will enter the financial market and purchase fixed priced on-peak and off-peak standard product financial swaps for the delivery period at the Companies' zonal pricing point (FE.FESR) or at a comparable liquid MISO trading hub. The net cost or gain of these spot and forward purchases will be included in the purchased power expenses used in the quarterly reconciliation calculation.

<b>Competitive Bidding Process by Load Class</b> <b>Timetable for the March 2008 Solicitation</b>		
<b>Activity</b>	<b>Timing</b> <b>No later than (in business days)</b>	<b>Date</b>
Generation Plan Filed		Monday, July 9, 2007
Expected PUCO decision on Generation Plan		Thursday, November 1, 2007
Electronic Data Room Activated		Friday, November 2, 2007
Announcement of minimum and maximum starting prices, number and size of tranches, load caps, Bid Participation Fee	10 days before Part 1 Application	Monday, December 10, 2007
Information Session for Bidders		Wednesday, December 12, 2007
Deadline to submit Part 1 Application		Tuesday, January 29, 2008
Applicants are notified of Part 1 Application Results	3 days after the deadline for Part 1 Applications	Friday, February 1, 2008
Update to MW-measure of tranches, if necessary	10 days before Part 2 Application	Monday, February 4, 2008
Deadline to submit Part 2 Application		Wednesday, February 20, 2008
Applicants are notified of Part 2 Application results	5 days after the deadline for Part 2 Applications	Wednesday, February 27, 2008
Tranche Fee is announced	6 days before the start of bidding	Tuesday, March 4, 2008
Registered Bidders Tutorial		Tuesday, March 4, 2008
CBP Manager provides additional information on CBP parameters to bidders (decrements, excess supply, etc.)	6 days before the start of bidding	Tuesday, March 4, 2008
Practical Training Registered Bidders		Thursday, March 6, 2008
CBP Manager informs Registered Bidders of starting prices	3 days before the start of bidding	Wednesday, March 12, 2008
Bidding Starts		Monday, March 17, 2008
CBP Manager submits a confidential report to the PUCO	1 day after bidding ends	(depends on date of close of bidding)
Commission decision on results	2 days after bidding ends	(depends on date of close of bidding)
Winning Suppliers sign SSO Agreements	3 days after Commission decision, if Commission approves results	(depends on date of close of bidding)

<b>Competitive Bidding Process by Slice of System Timetable for the January 2008 Solicitation</b>		
<b>Activity</b>	<b>Timing No later than (in business days)</b>	<b>Date</b>
Generation Plan Filed		Monday, July 9, 2007
Expected PUCO decision on Generation Plan		Thursday, November 1, 2007
Electronic Data Room Activated		Friday, November 2, 2007
Announcement of minimum and maximum starting prices, number and size of tranches, load caps, Bid Participation Fee	10 days before Part 1 Application	Tuesday, November 13, 2007
Information Session for Bidders		Wednesday, November 14, 2007
Deadline to submit Part 1 Application		Friday, November 30, 2007
Applicants are notified of Part 1 Application Results	3 days after the deadline for Part 1 Applications	Wednesday, December 5, 2007
Update to MW-measure of tranches, if necessary	10 days before Part 2 Application	Wednesday, December 19, 2007
Deadline to submit Part 2 Application		Friday, January 4, 2008
Applicants are notified of Part 2 Application results	5 days after the deadline for Part 2 Applications	Friday, January 11, 2008
Tranche Fee is announced	6 days before the start of bidding	Monday, January 14, 2008
Tutorial for Registered Bidders		Monday, January 14, 2008
CBP Manager provides additional information on CBP parameters to bidders (decrements, excess supply, etc.)	6 days before the start of bidding	Monday, January 14, 2008
Practical Training for Registered Bidders		Tuesday, January 15, 2008
CBP Manager informs Registered Bidders of starting prices	3 days before the start of bidding	Thursday, January 17, 2008
Bidding Starts		Wednesday, January 23, 2008
CBP Manager submits a confidential report to the PUCO	1 day after bidding ends	(depends on date of close of bidding)
Commission decision on results	2 days after bidding ends	(depends on date of close of bidding)
Winning Suppliers sign SSO Agreements	3 days after Commission decision, if Commission approves results	(depends on date of close of bidding)

# Workpapers



In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company  
Competitive Bidding Process for Standard Service Offer Electric Generation Supply, Accounting Modifications Associated With Reconciliation  
Mechanism and Phase In, and Tariffs for Generation Service Case No. 07- \_\_\_\_\_ -EL-ATA, and Case No. 07- \_\_\_\_\_ -EL-AAM

# Seasonal and On/Off Peak Factors

WP C-1.B

Supporting Documents		(1)		(2)	
		WP C-1.B.1, WP C-1.B.2, WP C-1.B.3		WP C-1.B.4	
		\$/MWh	\$/MWh	(C) = (A)/(B)	(D) = (C) * (B)
Residential		(A)	(B)	(C)	(D)
1	Summer to Annual, All Hours	72.28	55.09	1.312	101.214%
2	Non Summer to Annual, All Hours	48.16	55.09	0.874	101.214%
3	On Peak to All Hours (Summer Only)	95.15	72.28	1.316	
4	On Peak to All Hours (Non-Summer Only)	61.70	48.16	1.281	
5	Off Peak to All Hours (Summer)	47.60	72.28	0.659	
6	Off Peak to All Hours (Non Summer Only)	35.20	48.16	0.731	
7					
General Service: Small					
8	Summer to Annual, All Hours	67.06	53.73	1.248	100.254%
9	Non Summer to Annual, All Hours	48.59	53.73	0.904	100.254%
10	On Peak to All Hours (Summer Only)	85.96	67.06	1.282	
11	On Peak to All Hours (Non-Summer Only)	60.12	48.59	1.237	
12	Off Peak to All Hours (Summer)	41.02	67.06	0.612	
13	Off Peak to All Hours (Non Summer Only)	33.45	48.59	0.688	
14					
15					
General Service: Large					
16	Summer to Annual, All Hours	59.40	48.63	1.221	99.806%
17	Non Summer to Annual, All Hours	44.79	48.63	0.921	99.806%
18	On Peak to All Hours (Summer Only)	79.82	59.40	1.344	
19	On Peak to All Hours (Non-Summer Only)	57.57	44.79	1.285	
20	Off Peak to All Hours (Summer)	37.90	59.40	0.638	
21	Off Peak to All Hours (Non Summer Only)	31.52	44.79	0.704	
22					
23					
Total					
24	Summer to Annual, All Hours	65.89	52.16	1.263	100.297%
25	Non Summer to Annual, All Hours	46.95	52.16	0.900	100.297%
26					
27					

(1) based on load weighted LMP data from July 2005 to Dec 2006

(2) Adjustment to make sample data consistent with test case volumes

## Loss Factors - Class

## WP C-1.C

Line No.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																								</
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	----

- (1) Wholesale kWhs from the workpapers filed in Case No. 07-551-EL-AIR: WPE4.1p page 4  
(2) Retail kWhs from the workpapers filed in Case No. 07-551-EL-AIR: WPE4.1p page 3

GENERATION CASH WORKING CAPITAL  
For the Twelve Months Ended February 29, 2008

Line No.	Description	TOTAL OHIO COMPANIES				
		Annual	Lag Days	Weighted	Cash	
		Amounts		Dollar	Working	
		(A)	(B)	(C) = (A) * (B)	Capital	(D) = (C) / 365
1	Retail Generation Revenues	\$3,325,653,618 (5)	40.0 (3)	\$133,166,647,930		\$364,840,131
2	Supplier Expenses	3,320,465,599 (4)	35.8 (1)	\$118,777,797,990		\$325,418,625
3	CAT Expense	5,188,020 (2)	88.3 (2)	\$458,102,135		\$1,255,074
4	Total Expenses	3,325,653,618.41	35.9	\$119,235,900,125		\$326,673,699
5	CWC Impact (Line 1 - Line 4)	0	4.2	13,930,747,805		38,166,432
6	Average Weighted Cost %					9.07% (6)
7	ROR on CWC Impact (Line 5 x Line 6)					<u>\$3,460,814</u>

## NOTES:

- (1) Per the Master Supply Agreement, Payment by the Supplier for the charges incurred is due on the first Business Day after the 19th day of each calendar month in the month after the service period.

Mid-point of service (365/12/2)	15.2
Lag for billing (2*2/7)	0.6
Lag time for payment	20.0
	<u>35.8</u>

- (2) Commercial Activity Tax Expenses are calculated as 0.156% of Revenues (i.e. 60% of 0.26%).  
Lag days are calculated as follows:

## Ohio Commercial Activity Tax

1st quarter 2007 paid on 5/10/07, 2nd quarter 2007 paid 8/9/07

3rd quarter 2007 paid 11/9/07 4th quarter 2007 paid 2/9/08

First 2 months of 2008 paid on 5/10/2008

Service date is 3/1/07-2/29/08 year midpoint,

	Lag Days	8/30/07 % of Total Paid	Weighted Lag
05/10/07	(112.5)	8.3%	(9.4)
08/09/07	(21.5)	25.0%	(5.4)
11/19/07	80.5	25.0%	20.1
02/09/08	162.5	25.0%	40.6
05/10/08	253.5	16.7%	42.3
		100.0%	<u>88.3</u>

- (3) Revenues Lag Days are weighted average of Ohio Co's, Source: WPB-5.0b filed in Case No. 07-551-EL-AIR  
(4) For Amount, Source: WP C-2.A column J, line 21.  
(5) Revenues equal the sum of the expenses.  
(6) Illustrative Value

Annual Rate Calculations  
OE, TE and CEI combined

WP C-1.B.1

Line No.		General Service - General Service -				General Service - General Service -				Supporting Documents	
		Residential		Total		Residential		Total		Total	Total
		(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)		
1	All Hours	9,837,376,540	9,311,450,199	11,126,292,802	20,275,119,282	636,208,247,916	595,907,906,894	680,806,205,203	1,912,922,360,013	(4)	(4)
2	Sum July - Dec 05	8,424,558,475	8,504,082,577	10,803,954,625	27,732,595,678	360,459,756,363	372,020,111,437	453,126,993,597	1,185,606,861,427	(4)	(4)
3	Sum Jan - June 06	9,471,149,209	9,127,208,654	10,998,038,858	29,596,397,721	445,672,117,679	414,532,401,475	474,548,162,820	1,334,852,683,973	(4)	(4)
4	Average July - Dec (Average of lines 1 and 3)	9,654,262,875	9,219,329,397	11,062,166,230	29,935,758,601	540,940,182,797	505,220,154,184	577,727,184,012	1,623,887,520,993	(4)	(4)
5	Total - Annualized (Sum of lines 2 and 4)	18,078,621,350	17,723,411,974	21,866,120,855	57,668,954,179	907,399,599,191	877,240,265,621	1,030,854,177,609	2,909,494,382,421	(4)	(4)
6	On Peak <sup>(2)</sup>	4,948,737,988	5,320,807,982	5,643,048,243	15,912,594,123	410,510,224,192	426,583,986,666	452,743,012,560	1,289,817,223,418	(4)	(4)
7	Sum July - Dec 05	4,216,017,318	4,901,930,623	5,582,179,812	14,700,127,752	226,132,676,698	262,296,857,275	297,624,460,694	786,053,994,666	(4)	(4)
8	Sum Jan - June 06	4,620,980,849	5,119,574,040	5,503,842,533	15,244,197,422	281,484,393,834	290,569,862,983	308,230,181,736	880,292,438,553	(4)	(4)
9	Average July - Dec (Average of lines 7 and 9)	4,784,859,374	5,220,191,011	5,573,945,388	15,578,395,173	345,997,309,013	358,566,924,824	380,490,597,148	1,085,054,630,985	(4)	(4)
10	Total - Annualized (Sum of lines 8 and 10)	9,000,876,690	10,122,121,634	11,155,525,200	30,278,523,524	572,129,985,711	620,863,762,099	678,115,057,843	1,871,108,625,652	(4)	(4)
11	Off Peak	4,888,638,642	3,980,642,156	5,483,244,359	14,362,525,158	225,658,023,724	160,343,920,228	228,063,192,643	623,105,136,594	(4)	(4)
12	Sum July - Dec 05	4,208,541,159	3,602,161,954	5,221,774,813	13,032,467,526	134,327,079,696	109,723,254,163	155,502,532,902	399,552,856,751	(4)	(4)
13	Sum Jan - June 06	4,850,168,361	4,007,634,612	5,494,297,324	14,352,200,300	164,187,723,845	123,962,538,492	166,409,981,064	454,560,243,421	(4)	(4)
14	Average July - Dec (Average of lines 15 and 17)	4,659,403,501	3,999,136,396	5,488,030,842	14,357,362,729	194,942,873,784	146,633,229,380	197,236,386,864	538,832,690,008	(4)	(4)
15	Total - Annualized (Sum of lines 16 and 18)	9,077,944,660	7,601,290,340	10,710,595,654	27,369,830,655	329,289,953,480	296,376,483,323	352,739,119,766	938,385,556,769	(4)	(4)
16	Mark Up for Loss & UFE	(I)	(J)	(K)	(L)					(4)	(4)
17	Average Peak Load, KW	4,682,318	3,683,879	3,150,516	11,516,714						
18	Total Annualized Yearly Load, RTC, KWh	18,078,621,350	17,723,411,974	21,866,120,855	57,668,354,179						
19	Designated Network Resource, Capacity Payments <sup>(3)</sup> , \$/Kw-year	(M)	(N)	(O)	(P)	(Q)					
20											
21											
22											
23											
24											
25											
26											
27											
28											
29											
30											
31											
32											
33											
34											
35											
36											
37											
38											
39											
40											
41											
42											
43											
44											
45											
46											
47											
48											
49											
50											
51											
52											
53											

<sup>(1)</sup> LMP is MISO Real time Locational Marginal Pricing for the FESR Load Zone, by hour  
<sup>(2)</sup> On peak is 7:00 to 22:00 Mon - Friday, excluding NERC holidays  
<sup>(3)</sup> Based on actual data for MISO Designated Network Resource Payments, Penn Power, Jan through May 2007  
<sup>(4)</sup> Source Document: BU WP C-1 B.1.A Annual Output of all hourly volumes, including distribution losses & UFEs, by class

**Summer Rate Calculations**  
OE, TE and CEI combined

WP C-1.B.2

Line No.	Residential			General Service - Small			General Service - Large			Total	Supporting Documents
	(A) KWh	(B) KWh	(C)	(D) KWh	(E)	(F)	(G)	(H)			
1	3,871,006.269	3,460,487.939	3,858,975.770	11,200,469.978	272,323,864.016	232,964,427.773	248,620,222.053	253,908,513.842	(4)		
2	1,416,297.935	1,516,548.942	1,891,005.803	4,823,852.881	65,553,180.746	89,148,857.336	81,740,370.164	216,405,408.246	(4)		
3	3,754,156.845	3,447,150.477	3,934,751.272	11,136,058.094	231,812,619.000	200,517,997.315	216,549,587.875	648,880,204.790	(4)		
4	3,812,681.557	3,453,819.208	3,901,853.521	11,168,264.286	252,098,421.508	216,741,212.544	232,584,904.964	701,394,359.016	(4)		
5	5,228,879.492	4,970,368.150	5,792,869.324	15,992,116.966	317,631,422.254	285,688,069.880	314,325,275.128	917,844,767.263	(4)		
6											
7	1,991,309.471	1,992,228.105	1,988,981.609	5,942,517.184	173,602,003.932	164,862,745.567	162,018,511.923	500,488,261.822	(4)		
8	760,474.762	901,597.644	987,749.611	2,659,822.017	44,072,568.859	51,151,516.379	56,355,869.459	151,579,954.697	(4)		
9	1,516,164.541	1,954,519.484	1,987,654.426	5,868,335.450	150,796,313.872	143,627,420.276	143,511,125.698	437,934,860.945	(4)		
10	1,953,737.006	1,978,371.294	1,973,318.018	5,905,426.317	162,199,158.652	154,245,083.121	152,764,819.311	469,209,061.384	(4)		
11	2,714,211.767	2,879,968.938	2,971,067.828	8,565,248.334	206,271,727.811	205,398,599.500	209,120,688.770	620,788,015.081	(4)		
12											
13											
14											
15	1,879,696.799	1,468,261.835	1,909,994.161	5,257,952.794	98,721,560.084	68,101,681.806	86,601,710.130	253,425,252.020	(4)		
16	655,923.174	614,951.297	893,256.193	2,164,030.664	21,490,811.887	17,995,340.957	25,384,500.705	64,870,453.549	(4)		
17	1,837,892.304	1,482,653.993	1,947,096.846	5,267,723.143	81,016,305.028	58,690,577.039	73,038,461.178	210,945,343.245	(4)		
18	1,858,644.551	1,475,447.914	1,928,545.503	5,262,837.969	89,889,082.556	62,496,128.423	79,820,085.654	232,185,297.633	(4)		
19	2,514,667.725	2,090,399.211	2,821,601.696	7,426,868.632	111,359,694.443	80,481,470.380	105,204,586.359	297,055,751.182	(4)		
20											
21											
22	Mark Up for Loss & UFE	(J)	(K)	(L)					(4)		
23		7.45%		6.53%							
24	Average Peak Load, KW										
25	Total Annualized Yearly Load, RTC, KWh										
26		4,682,318	3,683,879	3,150,516	11,516,714						
27	Designated Network Resource, Capacity Payments <sup>(a)</sup> , \$/KW-year										
28		7.80									
29		(N)	(O)								
30		=(M) * line 24 / line 25 * 1000	=(P)	=(Q)							
31	Capacity, All Hours, \$/KW-year										
32	Total Annualized Yearly Load, On Peak, KWh										
33		2,714,211.767	2,879,968.938	2,971,067.828	8,565,248.334						
34											
35	Capacity, On Peak, \$/KW-year										
36		13.46	9.98	8.27	10.49						
37											
38	All Hours Rate \$/MWh	line 5									
39											
40	Rate \$/MWh, including losses and UFEs										
41											
42											
43	All Hours Rate, including losses and Capacity, \$/MWh										
44	On Peak Rate \$/MWh	line 11									
45											
46	Rate \$/MWh, + losses										
47											
48	On Peak Rate, including losses and Capacity, \$/MWh										
49	Off Peak Rate \$/MWh	line 19									
50											
51	Off Peak Rate \$/MWh, including losses, \$/MWh										
52											

<sup>(a)</sup> LMP is MISO Real-time Locational Marginal Pricing for the FESR Load Zone, by hour

<sup>(b)</sup> On peak is 7:00 to 22:00 Mon - Friday, excluding NERC holidays

<sup>(c)</sup> Based on actual data for MISO Designated Network Resource Payments, Penn Power, Jan through May 2007

<sup>(d)</sup> Summer is defined as June, July and August

<sup>(e)</sup> Source Document: BU WP C-1.B.2.A Summer Output of all hourly volumes, including distribution losses & UFEs by class

Non-Summer Rate Calculations  
OE, TE and CEI combined

Line No		General Service - Residential			General Service - Small			General Service - Large			Total	Supporting Documents
		(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)		
		KWh	KWh	KWh	KWh	KWh	KWh	KWh	KWh	KWh		
1	All Hours	5,966,370,271	5,850,562,200	7,257,316,832	19,074,649,303	263,884,383,900	362,943,479,121	432,185,983,150	1,159,013,846,171	=(E)+(F)+(G)		(4)
2	Sum July - Dec 05	7,008,280,540	6,987,533,636	8,912,948,821	22,908,742,997	294,896,575,647	302,873,254,101	371,386,623,493	989,196,453,181			(4)
3	Sum Jan - June 06	5,716,992,365	5,680,058,177	7,083,288,588	18,480,339,128	213,859,498,679	214,014,404,159	258,098,574,945	685,972,477,783			(4)
4	Average July - Dec (Average of lines 1 and 3)	5,841,681,318	5,765,510,189	7,160,302,709	18,767,494,216	288,871,941,289	288,478,941,640	345,142,279,047	922,453,161,977			(4)
5	Total - Annualized (Sum of lines 2 and 4)	12,849,941,858	12,753,043,824	15,073,251,530	41,876,237,213	583,768,516,936	591,352,195,741	716,528,902,480	1,931,649,615,158			(4)
6												
7	On Peak <sup>(1)</sup>	2,957,428,428	3,328,581,877	3,684,066,534	9,970,076,939	236,908,220,260	261,701,240,699	290,724,500,637	789,333,961,596			(4)
8	Sum July - Dec 05	3,455,542,555	4,000,332,979	4,584,430,202	12,040,305,735	182,060,107,838	211,145,340,886	241,288,591,235	634,474,039,970			(4)
9	Sum Jan - June 06	2,704,816,908	3,155,057,556	3,515,988,107	9,375,861,971	130,688,079,862	146,942,442,707	164,727,055,038	442,357,577,608			(4)
10	Average July - Dec (Average of lines 7 and 9)	2,831,122,368	3,241,819,717	3,600,227,370	9,622,969,455	183,788,150,061	204,321,841,703	227,725,777,838	615,845,769,602			(4)
11	Total - Annualized (Sum of lines 8 and 10)	6,296,964,923	7,242,152,696	8,184,457,572	21,713,275,190	365,838,257,900	413,467,182,599	468,954,365,073	1,250,319,809,571			(4)
12												
13												
14												
15	Off Peak	3,008,941,843	2,522,380,323	3,573,250,198	9,104,572,364	126,976,163,640	101,242,239,422	141,461,482,513	369,679,884,574			(4)
16	Sum July - Dec 05	3,552,717,986	2,987,200,657	4,328,518,620	10,868,437,262	112,836,467,609	91,727,913,205	130,118,032,198	334,682,413,212			(4)
17	Sum Jan - June 06	3,012,176,056	2,525,000,621	3,547,300,479	9,084,477,156	83,171,418,816	67,071,961,452	93,371,519,907	243,614,900,175			(4)
18	Average July - Dec (Average of lines 15 and 17)	3,010,558,950	2,523,680,472	3,560,275,339	9,094,524,760	105,073,751,228	84,157,099,937	117,415,501,210	306,647,392,375			(4)
19	Total - Annualized (Sum of lines 16 and 18)	6,563,276,535	5,510,891,129	7,888,793,958	19,962,952,023	217,910,259,037	178,885,013,143	247,534,533,407	641,329,805,587			(4)
20												
21												
22	Mark Up for Loss & UFE	(I)	(J)	(K)	(L)							(4)
23		6.02%	4.78%	0.46%	3.44%							
24												
25												
26												
27												
28	Designated Network Resource, Capacity Payments <sup>(2)</sup> , \$/KW-year	(M)	(N)	(O)	(P)	(Q)						
29		7.80										
30		(O)										
31	Capacity, All Hours, \$/KW-year	0.00	0.00	0.00	0.00	0.00						
32	Total Annualized Yearly Load, On Peak, KWh	2,714,211,767	2,879,968,938	2,971,067,628	8,565,248,334							
33												
34												
35												
36	Capacity, On Peak, \$/KW-year											
37												
38												
39												
40												
41												
42												
43												
44												
45												
46												
47												
48												
49												
50												
51												
52												

(1) LMP is MISO Real time Locational Marginal Pricing for the FESR Load Zone, by hour  
(2) On peak is 7:00 to 22:00 Mon - Friday, excluding NERC holidays  
(3) Based on actual data for MISO Designated Network Resource Payments, Perm Power Jan through May 2007  
Non Summer is defined as September through May  
(4) Source Document: BU WP C-1 B.3 A Non Summer Output of all hourly volumes, including distribution losses & UFEs, by class

**Adjustment Factor Calculation  
Test Case to Sample Data**

WP C-1.B.4

Residential	Total KWh (A)	Summer KWh (B)	Non-Summer KWh (C)	Supporting Document
Total Test Case Volume	17,200,852,019	4,470,776,144	12,730,075,875	(1)
Factors calculated from Sample Data		1.312	0.874	WP C-1.B

Solve equation, for  $A_F$   
Where:

$$A_F = \frac{\text{Total Volume}}{(\text{Summer Volume} \times SF_O) + (\text{Non Summer Volume} \times NSF_O)}$$

$$= \frac{17,200,852,019}{(4,470,776,144 \times 1.312) + (12,730,075,875 \times .874)}$$

$$= 101.214\%$$

General Service - Small	Total KWh (A)	Summer KWh (B)	Non-Summer KWh (C)	Supporting Document
Total Test Case Volume	16,652,130,335	4,524,482,715	12,127,647,621	(1)
Factors calculated from Sample Data		1.248	0.904	WP C-1.B

Solve equation, for  $A_F$   
Where:

$$A_F = \frac{\text{Total Volume}}{(\text{Summer Volume} \times SF_O) + (\text{Non Summer Volume} \times NSF_O)}$$

$$= \frac{16,652,130,335}{(4,524,482,715 \times 1.248) + (12,127,647,621 \times .904)}$$

$$= 100.254\%$$

General Service - Large	Total KWh (A)	Summer KWh (B)	Non-Summer KWh (C)	Supporting Document
Total Test Case Volume	22,086,284,277	5,959,174,273	16,127,110,004	(1)
Factors calculated from Sample Data		1.221	0.921	WP C-1.B

Solve equation, for  $A_F$   
Where:

$$A_F = \frac{\text{Total Volume}}{(\text{Summer Volume} \times SF_O) + (\text{Non Summer Volume} \times NSF_O)}$$

$$= \frac{22,086,284,277}{(5,959,174,273 \times 1.221) + (16,127,110,004 \times .921)}$$

$$= 99.806\%$$

Total	Total KWh (A)	Summer KWh (B)	Non-Summer KWh (C)	Supporting Document
Total Test Case Volume	55,939,266,632	14,954,433,132	40,984,833,500	(1)
Factors calculated from Sample Data		1.263	0.900	WP C-1.B

Solve equation, for  $A_F$   
Where:

$$A_F = \frac{\text{Total Volume}}{(\text{Summer Volume} \times SF_O) + (\text{Non Summer Volume} \times NSF_O)}$$

$$= \frac{55,939,266,632}{(14,954,433,132 \times 1.263) + (40,984,833,500 \times .900)}$$

$$= 100.297\%$$

(1) Annual Retail KWhs from the workpapers filed in Case No. 07-551-EL-AIR  
Seasonal Data from these Source Files:  
BU WP C-1.B.4.A - Provides OE seasonal volumes, by class and by old rate designation  
BU WP C-1.B.4.B - Provides TE seasonal volumes, by class and by old rate designation  
BU WP C-1.B.4.C - Provides CEI seasonal volumes, by class and by old rate designation  
BU WP C-1.B.4.D - Provides summary of total FE companies seasonal volumes

# Slice of System Auction (Class) Allocation Factor Derivation

WP C-2.A

Line No.	Class	Retail	(A)	(B)	(C)	(D)	Revenue =Retail GWh x Illustrative Rate	Revenue =Retail GWh x Illustrative Rate	Revenue =Retail GWh x Illustrative Rate	Distribution Loss Factor
			GWh (1)	G + T (current) =(C)/(A)*100 ¢/kWh (1) (2)		See Notes \$(000,000) \$(000,000)	=(D)*(K) \$(000,000)	=(D)*(N) \$(000,000)		
Source Files:										
1	Residential		17,201	5.98	1,029	1,012	1,008	1,012	1,012	1.0628
2	Small		17,138	6.65	1,139	1,009	1,258	1,263	1,263	1.0628
3	Large (GP)		4,708	5.76	271	277	248	249	249	1.0291
4	Large (GSU)		5,050	4.22	213	297	237	238	238	1.0100
5	Large (GT)		12,329	3.66	451	726	556	558	558	1.0000
6	Ohio Total		56,425	5.50	3,103	3,321	3,307	3,321	3,321	1.0415
7										
8										
9	Wholesale									
10	Class			G + T (current) including Delta Revenue		Initial Ratio to Total	Delta Revenue	Adjustment	Ratio to Total	Final
11			(H)	(I)	(J)	(K)	(L)	(M)	(N)	
12			=(A)*(G)	=(J)/(H)*100	=(C)+(L)+(M)	= (I) Class/Total			See Notes	
13			GWh	¢/kWh	\$(000,000)	¢/kWh	\$(000,000)	\$(000,000)	¢/kWh	
14	Source Files:						(3)	(4)		
15										
16	Residential		18,281	5.63	1,029	0.996	0	0	1.000	
17	Small		18,215	7.04	1,283	1,247	44	100.0	1.252	
18	Large (GP)		4,845	5.06	245	0.896	10	-35.6	0.900	
19	Large (GSU)		5,100	4.50	230	0.797	32	-15.6	0.800	
20	Large (GT)		12,329	4	534	0.766	131	-48.8	0.769	
21	Ohio Total		58,769	5.65	3,321	1.000	217	0		

## Notes:

(D) = (A) Class \* (J) Total / (A) Total

(N) = (K) Class \* (D) Total / (E) Total

Source Data:

(1) Annual Retail KWhs from the workpapers filed in Case No. 07-551-EL-AIR

Small KWhs include ST&TR and remainder POL, Source Filename: WP C-2.A.3

(2) T is adjusted based on 7/01/07 increase, Source Filename: BU WP C-2.A.1.A

(3) Delta Revenue, Source Filename: WP C-2.A.1 (Small) and WP C-2.A.2 (Large)

Small Delta Revenue includes \$20M for ST&TR and \$5 for POL, Source Filename: WP C-2.A.3

(4) Adjustments made to achieve desired Final Ratios



Seasonal and On/Off Peak Factors

WP C-2.B

		(1)	(1)	(2)		
Supporting Documents		WP C-2.B.1, WP C-2.B.2, WP C-2.B.3			WP C-2.B.4	
		\$/MWh	\$/MWh			Final Factor
		(A)	(B)	(C) = (A)/(B)	(D)	(E) = (C) * (D)
<b>Residential</b>						
1	Summer to Annual, All Hours	72.28	55.09	1.312	101.214%	1.328
2	Non Summer to Annual, All Hours	48.16	55.09	0.874	101.214%	0.885
3	On Peak to All Hours (Summer Only)	95.15	72.28	1.316		
4	On Peak to All Hours (Non-Summer Only)	61.70	48.16	1.281		
5	Off Peak to All Hours (Summer)	47.60	72.28	0.659		
6	Off Peak to All Hours (Non Summer Only)	35.20	48.16	0.731		
7						
<b>General Service: Small</b>						
9	Summer to Annual, All Hours	67.06	53.73	1.248	100.254%	1.251
10	Non Summer to Annual, All Hours	48.59	53.73	0.904	100.254%	0.906
11	On Peak to All Hours (Summer Only)	85.96	67.06	1.282		
12	On Peak to All Hours (Non-Summer Only)	60.12	48.59	1.237		
13	Off Peak to All Hours (Summer)	41.02	67.06	0.612		
14	Off Peak to All Hours (Non Summer Only)	33.45	48.59	0.688		
15						
<b>GP</b>						
17	Summer to Annual, All Hours	62.04	50.51	1.228	100.202%	1.231
18	Non Summer to Annual, All Hours	46.23	50.51	0.915	100.202%	0.917
19	On Peak to All Hours (Summer Only)	81.94	62.04	1.321		
20	On Peak to All Hours (Non-Summer Only)	59.51	46.23	1.266		
21	Off Peak to All Hours (Summer)	38.71	62.04	0.624		
22	Off Peak to All Hours (Non Summer Only)	32.08	46.23	0.694		
23						
<b>GSUB</b>						
25	Summer to Annual, All Hours	61.68	49.95	1.235	99.572%	1.230
26	Non Summer to Annual, All Hours	45.60	49.95	0.913	99.572%	0.909
27	On Peak to All Hours (Summer Only)	82.11	61.68	1.331		
28	On Peak to All Hours (Non-Summer Only)	58.07	45.60	1.273		
29	Off Peak to All Hours (Summer)	38.70	61.68	0.627		
30	Off Peak to All Hours (Non Summer Only)	31.90	45.60	0.700		
31						
<b>GT</b>						
33	Summer to Annual, All Hours	57.34	47.36	1.211	99.754%	1.208
34	Non Summer to Annual, All Hours	43.91	47.36	0.927	99.754%	0.925
35	On Peak to All Hours (Summer Only)	77.88	57.34	1.358		
36	On Peak to All Hours (Non-Summer Only)	57.00	43.91	1.298		
37	Off Peak to All Hours (Summer)	37.25	57.34	0.650		
38	Off Peak to All Hours (Non Summer Only)	31.17	43.91	0.710		
39						
<b>Total</b>						
41	Summer to Annual, All Hours	65.89	52.16	1.263	100.297%	1.267
42	Non Summer to Annual, All Hours	46.95	52.16	0.900	100.297%	0.903

(1) based on load weighted LMP data from July 2005 to Dec 2006

(2) Adjustment to make sample data consistent with test case volumes

### Loss Factors - Slice of System

### WP C-2.C

Line No.	Cleveland Electric Illuminating (CEI)	Wholesale (1)		Retail (2)		Losses %		Loss Factor %		KEY
		(A)	(B)	(C)	(D)	(A) - (B) / (A)	(A) - (B) / (B)	(C) - (D)	(E)	
1	RES	5,958,427,955	5,584,281,120	6.28%	6.70%					RES Residential
2	GSS	8,183,283,843	7,669,431,906	6.28%	6.70%					GSS General Service - Small
3	GP	473,894,696	460,091,938	2.91%	3.00%					GP General Primary
4	GSU	3,915,966,485	3,912,054,431	0.10%	0.10%					GSU General Subtransformer
5	GT	2,137,467,024	2,137,467,024	0.00%	0.00%					GT General Transmission
6	Total	20,669,040,004	19,763,326,419	4.38%	4.58%					
7										
8	<u>Ohio Edison (OE)</u>									
9	RES	9,777,706,152	9,163,735,850	6.28%	6.70%					GP PRIMARY
10	GSS	7,686,950,761	7,204,265,005	6.28%	6.70%					GSU SUB-T
11	GP	3,314,014,519	3,217,489,824	2.91%	3.00%					GSU SUB-T WITH XFRMR CHARGE
12	GSU	988,478,355	987,490,865	0.10%	0.10%					GSU SUBTRANSMISSION
13	GT	5,418,301,940	5,418,301,940	0.00%	0.00%					GT TRANSM & XFRMR CHARGE
14	OE Total	27,185,451,727	25,991,283,485	4.39%	4.59%					GT TRANSMISSION
15										GS POL
16	<u>Toledo Edison (TE)</u>									GS SEC
17	RS	2,617,174,998	2,452,835,049	6.28%	6.70%					GS SECONDARY
18	GS	2,496,001,555	2,339,270,435	6.28%	6.70%					RES RES
19	GP	1,194,072,340	1,159,293,534	2.91%	3.00%					GS Street Ltg
20	GSU	105,948,800	105,842,957	0.10%	0.10%					GS Traffic
21	GT	4,616,438,546	4,616,438,546	0.00%	0.00%					
22	TE Total	11,029,636,238	10,673,680,521	3.23%	3.33%					
23										
24	<u>Total Ohio Companies</u>									
25	RS	18,353,309,105	17,200,852,019	6.28%	6.70%					
26	GS	18,366,236,159	17,212,967,347	6.28%	6.70%					
27	GP	4,981,981,555	4,836,875,296	2.91%	3.00%					
28	GSU	5,010,393,641	5,005,388,253	0.10%	0.10%					
29	GT	12,172,207,510	12,172,207,510	0.00%	0.00%					
30	Total Ohio Companies	58,884,127,969	56,428,290,424	4.17%	4.35%					

(1) Wholesale kWhs from the workpapers filed in Case No. 07-551-EL-AIR: WPE4.1p page 4

(2) Retail kWhs from the workpapers filed in Case No. 07-551-EL-AIR: WPE4.1p page 3

**Delta Revenues: General Service - Small - Class Procurement**

WP C-2.A.1

OE			Sales (1) GWh (A)	Curr G+T (1) (2) ¢/kWh (B)	Standard (3) Rate, ¢/kWh (C)	Delta ¢/kWh (D) = (C) - (B)	Delta Revenue =(D) * (A)
1	Rate 21	GS21- General Service	6,453	7.46			
2	Rider 22	GS22 Space heating	253	3.22			
3	POL	GS33 - Private Outdoor Lighting	2	3.99	7.46	3.46	0.06
4	Manual Bills	Special contracts	20	5.55	7.46	1.91	0.39
5	Special	Special contracts	319	8.26		-	-
6	Total		7,047	7.33			

TE							
7	GS618	Sm Water & Waste	9	2.98			
8	GS605	Lg Water & Waste	5	7.35			
9	GS661, GS663	Sm General Service	2	8.69			
10	GS616	Sm School	18	8.71			
11	GS614	Lg School	4	6.66			
12	GS667	General Service	365	8.41			
13	GS669	Sm General Service	1,043	7.27			
14	GS628	Med General Service - Primary	558	6.46			
15	GS600	Space Conditioning (2nd Meter)	62	1.92			
16	GS800	GS Space Condition	15	2.03			
17	GS673, GS671	Gen Serv Heating	93	6.98			
18	GS647	Lg GS PV-45 - Primary	5	5.50			
19	GS630	Outdoor Night Lighting	2	1.16	7.27	6.12	0.11
20	MANUAL	Special contracts	18	3.72	7.27	3.55	0.65
21	GS SPC	Special Contracts	110	6.38	7.27	0.89	0.98
22	Total		2,306	6.98			

**CEI (No Delta Rev Recovery)**

23	GS105	General Service	1,161	7.07			
24	GS102	Electric Space Conditioning	273	2.04			
25	GS125	Sm General Service	2,465	7.32			
26	GS145	Medium General Service	1,852	5.76			
27	GS130	All Electric Lg General Service	364	4.68			
28	GS175	Lg General Service Secondary	531	5.25			
29	GS116	Sm School	22	7.23			
30	GS135	Lg School	21	4.94			
31	GS150	Low Load Factor (Proposed Rate will be )	7	16.20			
32	GS101	Opt.Elect Proc HTG & Elect Boil	190	2.92	7.32	4.40	8.34
33	GS100	General Commercial	2	6.75			
34	GS120	Lg Commercial	12	7.36			
35	GS140	Industrial	4	17.38			
36	GS926	Outdoor Night Lighting	2	4.40	7.32	2.92	0.06
37	SPC Unique b 1/09	SpecialContracts exp. B 1/09	164	5.93	7.32	1.39	2.27
38	MAN b 1/09	SpecialContracts exp. B 1/09	52	4.44	7.32	2.88	1.49
39	SPC b 1/09	Special Contracts exp. before 1/09	160	4.53	7.32	2.79	4.48
41	SPC a 1/09	Special Contracts exp. after 1/09	17	4.32	7.32	3.00	0.52
42	Total		7,299	6.18			
43	Delta Revenue - Small Excluding ST, TR, and some POL						Total 19.29

**Source Data:**

- (1) Annual Retail KWhs and current G and T rates from preliminary workpapers utilized in Case No. 07-551-EL-AIR
- (2) T is adjusted based on 7/01/07 increase, Source Filename: BU WP C-2.A.1.A
- (3) Standard Rate (Curr G+T) assumed to be old rate code with the most GWh's, shown shaded.

**Delta Revenues: General Service - Large - Class Procurement**

WP C-2.A.2

OE			Sales (1) GWh (A)	Curr G+T (1) (2) ¢/kWh (B)	Standard (3) Rate, ¢/kWh (C)	Delta ¢/kWh (D) = (C) - (B)	Delta Revenue = (D) * (A)
1	GP	Rate 21	GS Secondary	192	6.48		
2		Rider 22	GS Heating (2nd Meter)	0.44	3.82		
3		Rate 23	GS Large	2,520	6.32		
4		Rate 28	GS High Use Manufacturing	124	3.84		
5		Manual	Special Contracts	264	5.09	6.32	1.23
6		Special Contracts	Special Contracts	18	7.42		3.24
7		Total		3,118	6.13		
10	GSU	Rate 21	GS Secondary	4	6.57		
12		Rate 23	GS Large	691	5.49		
13		Rate 28	GS High Use Manufacturing	21	4.44		
16		Manual	Special Contracts	208	4.36	5.49	1.12
17		Special Contracts	Special Contracts	64	3.90	5.49	1.58
18		Total		987	5.13		
19	GT	Rate 21	GS Secondary	3	6.57		
21		Rate 23	GS Large - Trans	1,456	5.43		
22		Rate 28	High Use Manufacturing	1,006	4.09		
25		Manual	Manual Bills	2,448	3.46	5.43	1.97
26		Special Contracts	Special Contracts	576	3.39	5.43	2.03
27		Total		5,489	4.09		

TE			Sales (1) GWh (A)	Curr G+T (1) (2) ¢/kWh (B)	Standard (3) Rate, ¢/kWh (C)	Delta ¢/kWh (D) = (C) - (B)	Delta Revenue = (D) * (A)
28	GP	GS605	Medium Water & Waste	35	0.10		
29		GS614	Lg School	8	6.30		
30		GS620	Lg General Service	12	7.01		
31		GS669	Sm General Service	21	7.40		
32		GS628	Med General Service	478	5.65		
33		GS600 (Discount Rate)	Space Conditioning (2nd Meter)	1	1.87		
34		GS800 (Discount Rate)	Op Elec Process Heating	32	0.67	5.65	4.99
35		GS673, GS671	Gen Serv Heating	1	8.25		
36		GS647	Large General Service	389	8.15		
37		GS630	Outdoor Night Lighting	2	1.16		
38		MANUAL	Special Contracts	116	3.79	5.65	1.86
39		GP SPC	Special Contracts	30	4.50	5.65	1.15
40		TOTAL		1,124	5.33		
41	GSU	GS628	Medium General Service	2	6.55		
42		GS647	Large General Service	20	5.34		
43		MANUAL	Special Contracts	84	1.66	5.34	3.68
44		Total		106	2.44		
45	GT	GS605	Medium Water & Waste	60	0.48		
46		GS620	Lg General Service	4	4.09		
47		GS669	Sm General Service	0.02	7.12		
48		GS628	Med General Service	9	7.23		
49		GS800 (Discount Rate)	Op Elec Process Heating	10	0.95	4.40	3.45
50		GS647	Large General Service	263	4.40		0.36
51		MANUAL	Special Contracts	1,192	3.30	4.40	1.10
52		GT SPC	Special Contracts	3,082	3.27	4.40	1.13
53		Total		4,620	3.31		

(1) Annual Retail KWhs and current G and T rates from preliminary workpapers utilized in Case No. 07-551-EL-AIR

(2) T is adjusted based on 7/01/07 increase, Source Filename: BU WP C-2.A.1.A

(3) Standard Rate (Curr G+T) assumed to be old rate code with the most GWh's, shown shaded.

## Delta Revenues: General Service - Large - Class Procurement

WP C-2.A.2

CEI				Sales (1) GWh (A)	Curr G+T (1) (2) ¢/kWh (B)	Standard (3) Rate, ¢/kWh (C)	Delta ¢/kWh (D) = (C) - (B)	Delta Revenue = (D) * (A)
54	GP	GS102	Electric Space Conditioning	3	2.12			
55		GS125	Sm General Service	4	7.31			
56		GS145	Medium General Service	40	5.72			
57		GS130	All Electric Lg General Service	57	4.21			
58		GS175	Lg General Service	124	4.74			
59		GS116	Sm School	1	7.02			
60		GS140	Industrial	0.5	5.38			
63		SPC b 1/09	Special Contracts exp. before 1/09	67	5.20			
64		MAN a 1/09	Special Contracts exp. after 1/09	12	3.80	4.74	0.95	0.11
65		SPC a 1/09	Special Contracts exp. after 1/09	160	3.19	4.74	1.55	2.48
66		Total		486	4.28			
67	GSU1	GS125	Sm General Service	2	7.74			
68		GS145	Medium General Service	28	6.02			
69		GS130	All Electric Lg General Service	26	4.34			
70		GS175	Lg General Service	296	4.63			
71		GS140	Industrial	16	5.36			
72		MAN b 1/09	Special Contracts exp. before 1/09	12	4.00	4.63	0.63	0.07
73		SPC b 1/09	Special Contracts exp. before 1/09	179	3.45	4.63	1.18	2.11
75		SPC a 1/09	Special Contracts exp. after 1/09	29	4.17	4.63	0.45	0.13
76		Total		588	4.32			
77	GSU2	GS105	General Service	2	6.88			
78		GS102	Electric Space	25	2.08			
79		GS125	Sm General Service	64	6.94			
80		GS145	Medium General Service	237	5.82			
81		GS130	All Electric Lg General Service	86	4.33			
82		GS175	Lg General Service Subtr	1,061	4.57			
83		GS150	Low Load Factor	0.2	27.10			
84		GS101	Process Heating	22	3.04	4.57	1.53	0.34
85		GS120	Large Commercial	8	5.83			
86		GS140	Industrial	16	5.55			
87		MAN b 1/09	Special Contracts exp. before 1/08	245	3.87	4.57	0.69	1.70
88		SPC b 1/09	Special Contracts exp. before 1/09	587	3.86	4.57	0.71	4.15
89		MAN a 1/09	Special Contracts exp. after 1/09	337	2.93	4.57	1.63	5.51
90		SPC a 1/09	Special Contracts exp. after 1/09	677	2.83	4.57	1.74	11.81
91		Total		3,369	3.99			
92	GT	GS175	Lg General Service Trans	47	4.35			
93		SPC b 1/09	Special Contracts exp. before 1/09	551	4.21	4.35	0.14	0.78
94		SPC a 1/09	Special Contracts exp. after 1/09	1,623	3.01	4.35	1.35	21.84
95		Total		2,221	3.34			

Delta Revenue - Large

Total

173.11

## Source Data:

- (1) Annual Retail KWhs and current G and T rates from preliminary workpapers utilized in Case No. 07-551-EL-AIR
- (2) T is adjusted based on 7/01/07 increase, Source Filename: BU WP C-2.A.1.A
- (3) Standard Rate (Curr G+T) assumed to be old rate code with the most GWh's, shown shaded.

**Delta Revenues: General Service - Small**

**WP C-2.A.3**

Street, Traffic, and Private Outdoor Lighting

Delta Revenue calculations for items not included in GS detail by old rate

LINE NO.	COMPANY	G + T (current)			old GS Standard		Delta		WORKPAPER REF.
		(A) GWh	(B) ¢/kWh	(C) \$(000,000)	(D) ¢/kWh	(E) ¢/kWh	(F) \$(000,000)	(G)	
				$=(A)*(B)/100$		$=(D)-(B)$	$=(A)/100*(E)$		
	Source:	See col. G	See col. G		WP C-2.A.1				
1	OE	7,047	7.33	517					WP C-2.A.1 Line 6
2	TE	2,306	6.98	161					WP C-2.A.1 Line 22
3	CEI	7,299	6.18	451					WP C-2.A.1 Line 42
4	GS- SMALL	16,652		1,129					
5									
6	OE	150	3.52	5	7.46	3.94	5.91		BU WP C-2.A.1.D Line 19
7	TE	49	1.09	1	7.27	6.18	3.05		BU WP C-2.A.1.E Line 31
8	CEI	170	0.73	1	7.32	6.59	11.22		BU WP C-2.A.1.F Line 34
9	ST & TR	370		7			20.19		
10									
11	OE	37	4.75	2	7.46	2.71	0.99		BU WP C-2.A.1.D Line 14
12	TE	12	1.08	0	7.27	6.19	0.77		BU WP C-2.A.1.E Line 29
13	CEI	67	2.45	2	7.32	4.87	3.26		BU WP C-2.A.1.F Line 31
14	POL	116		4			5.03		
15									
16	OE	7,234		524			6.90		
17	TE	2,368		162			3.83		
18	CEI	7,536		454			14.49		
19	TOTAL GS-SMALL	17,138		1,139			25.22		

**Notes:**

T is adjusted based on 7/01/07 increase, Source Filename: BU WP C-2.A.1.A



**Summer Rate Calculations**  
OE, YE and CEI combined

Line No		General Service - Residential				General Service - Small				GP	General Service - GSUB				GT	Total	Service Document
		(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)		(I)	(J)	(K)	(L)			
1	All Hours	3,871,008,269	3,460,487,939	892,431,860	918,172,807	2,053,371,003	11,200,468,978	272,323,861,016	232,964,427,773	58,311,431,754	59,718,110,779	130,589,679,521	130,589,679,521	753,908,513,842	(4)		
2	Sum Jan - June 05	1,416,237,935	1,516,548,942	427,582,472	426,737,279	1,040,686,053	4,623,852,681	65,582,847,936	69,146,857,336	18,748,854,488	18,748,854,488	44,287,567,796	44,287,567,796	216,450,403,245	(4)		
3	Sum July - Dec 05	3,754,136,645	3,447,150,477	908,182,365	912,570,694	2,113,988,183	11,136,059,594	231,812,613,000	200,517,997,315	51,076,819,105	51,282,247,863	114,190,520,907	114,190,520,907	648,880,204,190	(4)		
4	Average July - Dec (Average of lines 1 and 3)	3,812,581,557	3,453,819,208	900,212,127	915,371,801	2,083,179,593	11,168,264,286	232,068,241,508	216,741,212,544	54,694,125,430	55,500,679,321	122,390,100,214	122,390,100,214	701,984,359,016	(4)		
5	Total - Annualized (Sum of lines 2 and 4)	5,228,979,492	4,970,368,150	1,323,894,599	1,342,109,080	3,126,865,646	15,992,116,966	317,931,422,254	285,858,069,880	73,387,073,326	74,450,533,769	166,687,685,010	166,687,685,010	917,844,757,263	(4)		
6	On Peak	1,931,309,471	1,992,226,105	475,905,777	478,845,214	1,004,229,618	5,942,517,184	173,602,003,932	164,862,745,967	39,333,881,520	39,347,826,018	83,016,804,386	83,016,804,386	500,483,281,822	(4)		
7	Sum Jan - June 05	750,474,762	780,397,644	235,086,888	232,977,130	528,685,592	2,659,822,017	44,072,568,859	51,151,516,379	13,310,140,723	13,305,862,289	29,838,666,447	29,838,666,447	151,579,954,897	(4)		
8	Sum July - Dec 05	1,937,992,504	1,964,518,441	483,109,389	478,280,207	1,028,254,850	8,688,338,435	150,796,213,972	143,627,420,276	35,073,934,403	34,759,703,334	73,677,482,981	73,677,482,981	437,934,890,945	(4)		
9	Average July - Dec (Average of lines 7 and 8)	1,953,737,006	1,978,371,294	479,508,073	477,562,711	1,015,242,234	5,905,428,317	152,199,158,952	144,254,053,121	37,213,937,961	37,203,767,676	78,947,143,674	78,947,143,674	469,209,061,384	(4)		
10	Total - Annualized (Sum of lines 9 and 10)	2,714,211,767	2,879,968,938	714,584,962	710,539,841	1,543,932,826	8,565,248,334	206,271,727,811	205,336,599,500	50,524,048,684	50,410,629,965	108,186,010,120	108,186,010,120	620,789,016,081	(4)		
11	Off Peak	1,879,696,799	1,468,261,835	415,525,083	439,327,692	1,054,141,386	5,257,952,794	98,721,860,084	68,101,681,806	18,957,530,234	20,071,284,761	47,572,875,193	47,572,875,193	253,425,252,020	(4)		
12	Sum Jan - June 05	655,823,174	614,951,297	188,456,583	183,760,149	511,000,460	2,164,030,664	21,490,611,887	17,995,340,957	5,382,807,176	5,542,982,179	14,458,701,350	14,458,701,350	64,070,453,549	(4)		
13	Sum July - Dec 05	1,837,992,504	1,482,633,993	420,083,025	436,290,485	1,045,723,333	5,267,723,133	81,869,308,256	56,890,577,039	16,002,884,703	16,522,538,530	40,513,037,945	40,513,037,945	210,945,343,245	(4)		
14	Average July - Dec (Average of lines 12 and 13)	1,858,844,551	1,475,447,914	420,083,025	437,809,090	1,055,932,359	5,267,723,133	81,869,308,256	56,890,577,039	16,002,884,703	16,522,538,530	40,513,037,945	40,513,037,945	210,945,343,245	(4)		
15	Total - Annualized (Sum of lines 14 and 15)	2,514,667,725	2,090,399,211	509,299,637	631,569,239	1,580,932,820	7,426,956,532	111,359,694,443	80,431,470,380	22,863,024,545	23,335,903,824	58,501,657,690	58,501,657,690	297,055,751,182	(4)		
16	Mark Up for Loss & UFE	(M)	(N)	(O)	(P)	(Q)	(R)								(4)		
17	Average Peak Load, KW	4,682,318	3,682,879	824,528	853,442	1,472,546	11,516,714										
18	Total Annualized Yearly Load, RTC, KW/h	5,228,879,492	4,970,368,150	1,323,894,599	1,342,109,080	3,126,865,646	15,992,116,966										
19	Designated Network Resource, Capacity Payments <sup>a</sup> , \$/kWh-year																
20	Capacity, All Hours, \$/KW-year																
21	Total Annualized Yearly Load, On Peak, KW/h	2,714,211,767	2,879,968,938	714,584,962	710,539,841	1,543,932,826	8,565,248,334										
22	Capacity, On Peak, \$/KW-year																
23	All Hrs line 5																
24	Rate \$/MWh																
25	Rate \$/MWh, including losses and UFEs																
26	All Hours Rate, including losses and Capacity, \$/MWh																
27	On Peak line 11																
28	Rate \$/MWh																
29	Rate \$/MWh, including losses and Capacity, \$/MWh																
30	On Peak Rate, including losses and Capacity, \$/MWh																
31	Off Peak line 19																
32	Rate \$/MWh																
33	Rate \$/MWh, including losses and Capacity, \$/MWh																
34	On Peak Rate, including losses and Capacity, \$/MWh																
35	Off Peak line 19																
36	Rate \$/MWh																
37	Rate \$/MWh, including losses and Capacity, \$/MWh																
38	On Peak Rate, including losses and Capacity, \$/MWh																
39	Off Peak line 19																
40	Rate \$/MWh																
41	Rate \$/MWh, including losses and Capacity, \$/MWh																
42	On Peak Rate, including losses and Capacity, \$/MWh																
43	Off Peak line 19																
44	Rate \$/MWh																
45	Rate \$/MWh, including losses and Capacity, \$/MWh																
46	On Peak Rate, including losses and Capacity, \$/MWh																
47	Off Peak line 19																
48	Rate \$/MWh																
49	Rate \$/MWh, including losses and Capacity, \$/MWh																
50	On Peak Rate, including losses and Capacity, \$/MWh																
51	Off Peak line 19																
52	Rate \$/MWh																

<sup>a</sup> LMP is MISO Real time Locational Marginal Pricing for the FESR Load Zone, by hour  
<sup>b</sup> On peak is 7:00 to 22:00 Mon - Friday, excluding NERC holidays  
<sup>c</sup> Based on actual data for MISO Designated Network Resource Payments, Penn Power Jan through May 2007  
<sup>d</sup> Summer is defined as June, July and August  
<sup>e</sup> Source: BU WP C-2.B.2.A Summer Output of all hourly volumes, including distribution losses & UFEs, by class



NOVEMBER 1991

Line No.	General Service - Residential				General Service - Small				General Service - GP				General Service - GSUB				General Service - GT				Total			
	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)	(O)	(P)	(Q)	(R)	(S)	(T)	(U)	(V)		
1	All Hours	Sum July - Dec 05	5,966,370,271	5,966,370,271	1,614,745,252	1,634,461,049	4,008,109,732	19,074,649,303	363,864,383,900	363,864,383,900	363,864,383,900	363,864,383,900	363,864,383,900	363,864,383,900	363,864,383,900	363,864,383,900	363,864,383,900	363,864,383,900	363,864,383,900	363,864,383,900	363,864,383,900	363,864,383,900		
2	Sum Jan - June 06	7,008,290,540	6,987,533,636	1,938,784,510	1,881,335,689	4,994,828,622	22,908,742,957	294,964,575,647	302,873,254,101	82,008,560,553	93,383,730,702	93,383,730,702	93,383,730,702	93,383,730,702	93,383,730,702	93,383,730,702	93,383,730,702	93,383,730,702	93,383,730,702	93,383,730,702	93,383,730,702	93,383,730,702		
3	Sum July - Dec 06	5,716,992,365	5,690,068,177	1,580,702,800	1,573,449,761	3,906,138,034	18,460,338,128	213,859,436,679	214,014,404,159	58,798,402,029	57,798,402,029	57,798,402,029	57,798,402,029	57,798,402,029	57,798,402,029	57,798,402,029	57,798,402,029	57,798,402,029	57,798,402,029	57,798,402,029	57,798,402,029	57,798,402,029		
4	Average July - Dec (Average of lines 1 and 3)	5,841,681,318	5,765,510,159	1,597,724,026	1,603,365,800	3,966,622,883	18,767,424,216	288,878,941,640	288,878,941,640	78,396,336,351	78,396,336,351	78,396,336,351	78,396,336,351	78,396,336,351	78,396,336,351	78,396,336,351	78,396,336,351	78,396,336,351	78,396,336,351	78,396,336,351	78,396,336,351	78,396,336,351		
5	Total - Annualized (Sum of lines 2 and 4)	12,849,941,888	12,755,045,824	3,584,508,626	3,585,291,489	8,953,451,505	41,676,237,213	583,768,576,936	583,768,576,936	151,513,982,211	151,513,982,211	151,513,982,211	151,513,982,211	151,513,982,211	151,513,982,211	151,513,982,211	151,513,982,211	151,513,982,211	151,513,982,211	151,513,982,211	151,513,982,211	151,513,982,211		
6	On Peak	Sum July - Dec 05	3,328,581,877	3,328,581,877	860,195,003	851,106,701	1,972,754,930	9,970,076,939	238,908,220,280	261,701,240,699	58,004,979,301	58,004,979,301	58,004,979,301	58,004,979,301	58,004,979,301	58,004,979,301	58,004,979,301	58,004,979,301	58,004,979,301	58,004,979,301	58,004,979,301	58,004,979,301		
7	Sum Jan - June 06	3,455,542,555	4,000,332,979	1,047,693,384	1,046,990,976	2,480,745,841	12,040,305,735	182,060,107,838	211,145,940,896	55,233,696,800	55,233,696,800	55,233,696,800	55,233,696,800	55,233,696,800	55,233,696,800	55,233,696,800	55,233,696,800	55,233,696,800	55,233,696,800	55,233,696,800	55,233,696,800	55,233,696,800		
8	Sum July - Dec 06	2,704,816,308	3,155,057,556	809,892,950	808,905,158	1,877,290,599	9,975,861,971	130,889,079,862	146,942,442,707	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391		
9	Average July - Dec (Average of lines 7 and 9)	2,831,122,368	3,241,819,717	845,043,677	829,953,929	1,925,027,754	9,975,861,971	130,889,079,862	146,942,442,707	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391	38,939,079,391		
10	Total - Annualized (Sum of lines 8 and 10)	6,286,664,923	7,242,152,698	1,892,737,080	1,878,946,056	4,474,173,606	21,713,275,150	365,953,257,900	415,487,182,599	108,705,726,036	107,679,825,437	252,608,817,600	1,250,316,808,571											
11	Off Peak	Sum July - Dec 05	3,008,941,843	2,522,380,323	754,550,249	763,355,148	2,035,344,802	9,104,572,354	126,976,163,640	101,242,238,422	29,959,411,372	31,088,058,458	80,404,012,883											
12	Sum Jan - June 06	3,552,717,998	2,987,200,657	869,091,126	834,344,713	2,505,082,761	10,868,437,262	112,936,467,809	91,727,913,205	26,774,863,463	28,219,521,254	75,123,047,462	354,882,473,212											
13	Sum July - Dec 06	3,012,176,056	2,523,000,821	750,810,450	764,644,594	2,031,845,435	9,084,477,156	83,171,418,816	67,071,981,452	19,859,322,038	20,141,212,684	57,370,984,885	243,614,900,175											
14	Average July - Dec (Average of lines 15 and 17)	3,010,568,950	2,523,630,472	752,880,350	773,899,871	2,033,995,118	9,094,524,760	105,073,791,228	84,157,059,937	24,914,936,505	25,614,635,521	66,587,498,784	306,647,392,375											
15	Total - Annualized (Sum of lines 18 and 19)	6,583,276,985	5,510,891,129	1,641,771,476	1,708,344,393	4,538,677,859	19,982,962,023	217,810,259,037	175,865,013,143	51,689,230,368	53,534,156,774	142,011,146,266	641,326,805,567											
16	Mark Up for Loss & LFE																							
17																								
18																								
19																								
20																								
21																								
22																								
23																								
24																								
25																								
26																								
27																								
28																								
29																								
30																								
31																								
32																								
33																								
34																								
35																								
36																								
37																								
38																								
39																								
40																								
41																								
42																								
43																								
44																								
45																								
46																								
47																								
48																								
49																								
50																								
51																								

<sup>(a)</sup> LMP is MISO Real time Locational Marginal Pricing for the FESR Load Zone, by hour

(2) On peak is 7:00 to 22:00 Mon - Friday, excluding NEBC holidays

Off-peak is 7:00 to 22:00 Mon - Friday, excluding NERC Holidays

Based on actual data for MISO Designated Network

<sup>(a)</sup> Next Summer is defined as September through May

# Adjustment Factor Calculation

WP C-2.B.4

## Test Case to Sample Data

Residential	Total KWh (A)	Summer KWh (B)	Non-Summer KWh (C)	Supporting Document
Total Test Case Volume	17,200,852,019	4,470,776,144	12,730,075,875	(1)
Factors calculated from Sample Data		1.312	0.874	WP C-2.B

Solve equation, for  $A_f$   
Where:

$$\begin{aligned}
 A_f &= \text{Adjustment Factor} \\
 SF_0 &= \text{Summer Factor, original} \\
 NSF_0 &= \text{Non Summer Factor, original} \\
 A_f &= \frac{\text{Total Volume}}{(\text{Summer Volume} \times SF_0) + (\text{Non Summer Volume} \times NSF_0)} \\
 &= \frac{17,200,852,019}{(4,470,776,144 \times 1.312) + (12,730,075,875 \times .874)} \\
 &= 101.214\%
 \end{aligned}$$

## General Service - Small

General Service - Small	Total KWh (A)	Summer KWh (B)	Non-Summer KWh (C)	Supporting Document
Total Test Case Volume	16,652,130,335	4,524,482,715	12,127,647,621	(1)
Factors calculated from Sample Data		1.248	0.904	WP C-2.B

Solve equation, for  $A_f$   
Where:

$$\begin{aligned}
 A_f &= \text{Adjustment Factor} \\
 SF_0 &= \text{Summer Factor, original} \\
 NSF_0 &= \text{Non Summer Factor, original} \\
 A_f &= \frac{\text{Total Volume}}{(\text{Summer Volume} \times SF_0) + (\text{Non Summer Volume} \times NSF_0)} \\
 &= \frac{16,652,130,335}{(4,524,482,715 \times 1.248) + (12,127,647,621 \times .904)} \\
 &= 100.254\%
 \end{aligned}$$

## GP

GP	Total KWh (A)	Summer KWh (B)	Non-Summer KWh (C)	Supporting Document
Total Test Case Volume	4,707,631,039	1,244,437,370	3,463,193,669	(1)
Factors calculated from Sample Data		1.228	0.915	WP C-2.B

Solve equation, for  $A_f$   
Where:

$$\begin{aligned}
 A_f &= \text{Adjustment Factor} \\
 SF_0 &= \text{Summer Factor, original} \\
 NSF_0 &= \text{Non Summer Factor, original} \\
 A_f &= \frac{\text{Total Volume}}{(\text{Summer Volume} \times SF_0) + (\text{Non Summer Volume} \times NSF_0)} \\
 &= \frac{4,707,631,039}{(1,244,437,370 \times 1.228) + (3,463,193,669 \times .915)} \\
 &= 100.202\%
 \end{aligned}$$

100.202%

## GSUB

GSUB	Total KWh (A)	Summer KWh (B)	Non-Summer KWh (C)	Supporting Document
Total Test Case Volume	5,049,844,739	1,433,959,458	3,615,885,281	(1)
Factors calculated from Sample Data		1.235	0.913	WP C-2.B

Solve equation, for  $A_f$   
Where:

$$\begin{aligned}
 A_f &= \text{Adjustment Factor} \\
 SF_0 &= \text{Summer Factor, original} \\
 NSF_0 &= \text{Non Summer Factor, original} \\
 A_f &= \frac{\text{Total Volume}}{(\text{Summer Volume} \times SF_0) + (\text{Non Summer Volume} \times NSF_0)} \\
 &= \frac{5,049,844,739}{(1,433,959,458 \times 1.235) + (3,615,885,281 \times .913)} \\
 &= 99.572\%
 \end{aligned}$$

99.572%

## GT

GT	Total KWh (A)	Summer KWh (B)	Non-Summer KWh (C)	Supporting Document
Total Test Case Volume	12,328,808,499	3,280,777,445	9,048,031,054	(1)
Factors calculated from Sample Data		1.211	0.927	WP C-2.B

Solve equation, for  $A_f$   
Where:

$$\begin{aligned}
 A_f &= \text{Adjustment Factor} \\
 SF_0 &= \text{Summer Factor, original} \\
 NSF_0 &= \text{Non Summer Factor, original} \\
 A_f &= \frac{\text{Total Volume}}{(\text{Summer Volume} \times SF_0) + (\text{Non Summer Volume} \times NSF_0)} \\
 &= \frac{12,328,808,499}{(3,280,777,445 \times 1.211) + (9,048,031,054 \times .927)} \\
 &= 99.764\%
 \end{aligned}$$

99.764%

## Total

Total	Total KWh (A)	Summer KWh (B)	Non-Summer KWh (C)	Supporting Document
Total Test Case Volume	55,939,265,632	14,954,433,132	40,984,833,500	(1)
Factors calculated from Sample Data		1.263	0.900	WP C-2.B

Solve equation, for  $A_f$   
Where:

$$\begin{aligned}
 A_f &= \text{Adjustment Factor} \\
 SF_0 &= \text{Summer Factor, original} \\
 NSF_0 &= \text{Non Summer Factor, original} \\
 A_f &= \frac{\text{Total Volume}}{(\text{Summer Volume} \times SF_0) + (\text{Non Summer Volume} \times NSF_0)} \\
 &= \frac{55,939,265,632}{(14,954,433,132 \times 1.263) + (40,984,833,500 \times .900)} \\
 &= 100.297\%
 \end{aligned}$$

100.297%

<sup>(1)</sup> Annual Retail KWhs from the workpapers filed in Case No. 07-551-EL-AIR  
Seasonal Data from these Sources Files:  
BU WP C-1.B.4.A - Provides OE seasonal volumes, by class and by old rate designation  
BU WP C-1.B.4.B - Provides TE seasonal volumes, by class and by old rate designation  
BU WP C-1.B.4.C - Provides CEI seasonal volumes, by class and by old rate designation  
BU WP C-1.B.4.D - Provides summary of total FE companies seasonal volumes