# EXHIBIT 3

# DELMARVA POWER & LIGHT COMPANY
# 2015
# REQUEST FOR PROPOSALS
# FOR
# FULL REQUIREMENTS WHOLESALE ELECTRIC POWER SUPPLY
# IN
# DELAWARE

**Dated**
**October 1, 2014**

**Request for Proposals**
**For**
**Full Requirements Wholesale Electric Power Supply**
**Table of Contents**


**Appendices** ..... 3
**1. Introduction** ..... 4
**2. Services Requested** ..... 5
**2.1. Supply Requirement Overview** ..... 5
**2.2. Product Definition** ..... 6
**2.3. Multi-Tranche Process** ..... 7
**2.4. Reverse Auction** ..... 8
**2.5. Supplier Step-Up Provision** ..... 10
**2.6. Customer Restrictions** ..... 10
**3. Eligibility of Applicants** ..... 11
**3.1. Overview of Eligibility** ..... 11
**3.2. Submittal of Expression of Interest** ..... 11
**3.3. Confidentiality Agreement** ..... 11
**3.4. Submittal of Applicant's PJM and FERC Qualifications** ..... 11
**3.5. Submittal of Credit Application and Financial Information** ..... 12
**3.6. Cure Time for Deficiencies in Qualification Requirements** ..... 13
**3.7. Alternative Forms of Performance Assurance** ..... 13
**4. Proposals** ..... 13
**4.1. Bid Format** ..... 13
**4.2. Submittal of Proposals** ..... 14
**4.3. Confirmation of Proposal Receipt** ..... 15
**4.4. Conforming Proposals** ..... 15
**4.5. Expiration of Proposals** ..... 15
**4.6. Evaluation of Proposals** ..... 15
**5. Full Requirements Service Agreement** ..... 15
**6. Schedule for RFP Process** ..... 15
**7. RFP Website** ..... 17
**8. Reserved Rights** ..... 18
**8.1. Bidder Elimination Right** ..... 18
**8.2. FSA Termination Right** ..... 18
**9. Miscellaneous** ..... 18
**9.1. Warranty on Information** ..... 18
**9.2. Hold Harmless** ..... 19
**9.3. Proposals Become Delmarva Property** ..... 19
**9.4. Bidder's Acceptance** ..... 19
**9.5. Permits, Licenses and Compliance with the Law** ..... 19
**9.6. Proprietary Information** ..... 19
**9.7. Disclosure of Awarded Bid Information** ..... 19
**9.8. Regulatory Approvals** ..... 20

## Appendices

1. Expression of Interest Form
2. Confidentiality Agreement
3. PJM Qualification Certification Form
4. FERC Authorization Certification Form
5. Credit Application
6. World Energy Solutions Supplier Agreement
7. Full Requirements Service Agreement

# Request for Proposals
# For
# Full Requirements Wholesale Electric Power Supply

## 1. Introduction

Delmarva Power & Light Company (Delmarva) provided electric supply service to Delaware customers through fixed price power supply tariffs offered by Delmarva pursuant to settlements filed with the Delaware Public Service Commission ("Commission") as part of electric restructuring (Docket No. 99-163) and the merger involving Delmarva and Potomac Electric Power Company (Docket No. 01-194). These offers and Delmarva's obligation to provide Standard Offer Service ("SOS") expired as of April 30, 2006. In October 2004, the Commission established Docket No.04-391 to investigate and determine: (a) which entity will act as the SOS supplier in the Delmarva service territory as of May 2006; and (b) what prices will be charged for SOS in the Delmarva service territory as of May 2006. On March 22, 2005 the Commission issued Order No. 6598 addressing certain major policy issues including determining that the SOS shall be provided by Delmarva using a wholesale model (Phase 1). On July 18, 2005, a Phase 2 settlement was presented to the Commission proposing the terms and conditions for provision of electric service at the end of the current fixed price offers. Also included in the settlement was a brief description of the Bid Plan procedures and the Request For Proposal (RFP) process. On September 16, 2005 a detailed Bid Plan which consisted of the Full Requirements Service Agreement ("FSA") and the RFP was filed with the Commission. On October 11, 2005 in Order No. 6746, the Delaware Public Service Commission approved the settlement agreement by which Delmarva will procure SOS to customers through the competitive selection of wholesale supply. The Bid Plan was approved on October 11, 2005 in Order No.6746 and the first wholesale competitive bid process was completed in February 2006.

On April 6, 2006, the Delaware Legislature enacted the "Electric Utility Retail Customer Supply Act of 2006". On June 20, 2006 the Commission issued Order No. 6943 initiating a process to revisit the RFP procedures to explore and determine what changes, if any, should be made to the RFP procurement process previously accepted by the Commission in Order No. 6746. On October 3, 2006 the Commission approved consensus recommendations for improving the process and adopted certain additional recommendations related to contested issues. On September 18, 2007, the Commission issued Order No. 7284 approving consensus recommendations and the revised RFP and FSA for the 2008 process to be in place by October 1, 2007.

In mid-year 2008, Delmarva executed four long-term contracts for wind energy and Renewable Energy Credits ("RECs") in amounts to meet its Delaware obligations under the Renewable Energy Portfolio Standards Act. On July 29, 2008, Delmarva filed an application with the Commission to modify the process by which it procures electricity for SOS customers by removing the requirement that wholesale electricity suppliers provide RECs to Delmarva. On August 19, 2008, the Commission approved the application in Order No. 7432. On October 7, 2008, the Commission issued Order No. 7461, which provides that SOS supply be procured

using the World Energy reverse auction process for contracts effective June 1, 2009 and beyond. On October 6, 2009, the Commission issued Order No. 7670 in Docket No 04-391 modifying the RFP and FSA for the 2010 process to be in place by October 7, 2009. On September 21, 2010, the Commission issued Order No. 7846 in Docket No. 04-391 modifying the RFP and FSA for the 2011 process to be in place by October 6, 2010. On September 20, 2011, the Commission issued Order No. 8038 in Docket No. 04-391 modifying the RFP and FSA for the 2012 process to be in place by October 5, 2011. On September 18, 2012, the Commission issued Order No. 8216 in Docket No. 04-391 modifying the RFP and FSA for the 2013 process to be in place by October 3, 2012. On September 26, 2013, the Commission issued Order No. 8460 in Docket No. 04-391 modifying the RFP and FSA for the 2014 process to be in place by October 2, 2013. On May 13, 2014, the Commission issued Order No. 8562, which closed Docket No. 04-391. On September 30, 2014 in Docket No. 14-144, the Commission issued Order No. ____ modifying the RFP and FSA for the 2015 process to be in place by October 1, 2014.

This RFP reflects the improved wholesale bidding process set forth in Docket No.04-391 to solicit proposals from suppliers interested in providing Fixed Price SOS ("FP-SOS") to Delmarva for the customer Service Types and terms indicated in Section 2.2 (Product Definition). The RFP is for full requirements wholesale supply service to meet the needs of Delmarva's SOS retail load obligations in Delaware as described in the settlement and further described in the RFP. Fixed Price SOS bids will only be accepted through the World Energy web-based auction platform.

## 2. Services Requested

### 2.1. Supply Requirement Overview

Delmarva is requesting full requirements wholesale supply service generally including energy, capacity, ancillary services and losses, but excluding renewable energy obligations and network integration transmission service. A supplier of full requirements service will have an obligation stated as a specific percentage of Delmarva retail load for specific Service Types, and as such, full requirements service encompasses any changes in customers' demand for any reason.

In order to mitigate wholesale suppliers' exposure to the volumetric risk associated with the Medium General Service-Secondary FP-SOS, Large General Service-Secondary FP-SOS and General Service-Primary FP-SOS Service Types an increment load pricing mechanism, as described in the FSA, has been included in this solicitation. Generally, upon a date certain associated with each awarded bid block, Delmarva will determine the specific amount of capacity peak load contribution (PLC) in megawatts (MW) represented by each awarded bid block (base load). As set forth in Section 2.3 (Multi-Tranche process), each bid block equates to a specific and fixed percentage of the load, and at the time of this RFP, such percentage equates to about 50 MW. However, over time as Delmarva load changes, the MW equivalency of such fixed percentage shall change accordingly. The supplier will be paid its awarded bid price for such base load plus any additional load up to 5 MW per awarded bid block. For load exceeding the base load plus 5 MW per awarded bid block, that "incremental" load will become the

responsibility of Delmarva. If load declines below the base load in an amount that equals 3 MW per awarded bid block, a new base load is established at the former base load less 3 MW per awarded bid block.

The specific definition of full requirements service and associated responsibilities are stated in the FSA, which is included as part of this RFP document as Appendix 7. The PLC associated with the customer classes for which Delmarva is soliciting wholesale supply in this RFP is stated in the following table using data as of July 17, 2014. Two representations of PLC are provided. The first represents that portion of the PLC associated with customers, currently receiving SOS from Delmarva, for whom wholesale supply will be solicited in the RFP. The second represents an equivalent proportion of the PLC associated with customers currently eligible for a specific Service Type within Delmarva service territory. These PLCs will be updated to a date closer to when the RFP is issued.

| | Capacity PLC Megawatts as of July 17, 2014 | |
|---|---|---|
| Service Type | SOS | Eligible |
| Residential and Small Commercial & Industrial FP-SOS | 273.7 | 310.3 |
| Medium General Service-Secondary FP-SOS | 145.4 | 283.9 |
| Large General Service-Secondary FP-SOS | 19.6 | 114.2 |
| General Service-Primary FP-SOS | 20.4 | 398.3 |
| Total | **459.1** | **1106.7** |

Pursuant to the Docket No. 04-391 Phase 2 settlement agreement, the composition of Delmarva's portfolio of contracts will target the following load percentages for each contract term for the various Service Types. The specific contracts for which Delmarva is soliciting in this RFP are indicated in Section 2.2 (Product Definition).

### 2.2. Product Definition

In this RFP, Delmarva is soliciting full requirements wholesale service for the terms indicated below.

| | Term Description |
|---|---|
| Residential and Small Commercial & Industrial (RSCI) FP-SOS: | 36-Month Term, June 1, 2015 - May 31, 2018 |
| Medium General Service - Secondary | |

| | |
|---|---|
| (MGS) FP-SOS: | 12-Month Term, June 1, 2015 - May 31, 2016 |
| Large General Service - Secondary (LGS) FP-SOS: | 12-Month Term, June 1, 2015 - May 31, 2016 |
| General Service - Primary (GS-P) FP-SOS: | 12-Month Term, June 1, 2015 - May 31, 2016 |

### 2.3. Multi-Tranche Process

The selection of proposals by Delmarva in this solicitation will be conducted through a multi-tranche process following the contract term portfolio criteria stated in Section 2.1 (Supply Requirement Overview). As specified in Section 6 (Schedule for RFP Process), this process will allow for up to three tranches to fulfill Delmarva's requests for its various Service Types. The process is designed, however, such that Delmarva requests are fully met in no more than two tranches, as set forth below. Any remaining tranche(s) will be reserved for use only if Delmarva requests go unfulfilled in the prior tranche(s). If multi-year contracts are applicable, the load associated with each tranche will be further divided among the contract terms. The load within each tranche and for each contract term is further divided into bid blocks. Each bid block represents a certain and specific percentage of the associated load, as of the date indicated in the header of the capacity PLC table in Section 2.1 (Supply Requirement Overview). The bid block design for this solicitation is as follows.

| | Contract Term | | |
|---|---|---|---|
| | 12-Month | 36-Month | Total |
| **Residential and Small Commercial & Industrial FP-SOS** | | **33.3333%** | 100.0% |
| Approximate Total PLC, MW | | 273.7 | 821.1 |
| Block Size, % | | 5.5556% | |
| Approximate Block Size, MW | | 45.6 | |
| Total # of Blocks | | 6 | 6 |
| Tranche 1 Blocks | | 3 | 3 |
| Tranche 2 Blocks | | 3 | 3 |
| **Medium General Service-Secondary FP-SOS** | 100.0% | | 100% |
| Approximate Total PLC, MW | 145.4 | | 145.4 |
| Block Size, % | 33.3333% | | |
| Approximate Block Size, MW | 48.5 | | |
| Total # of Blocks | 3 | | 3 |

| | | |
|---|---|---|
| Tranche 1 Blocks | 2 | 2 |
| Tranche 2 Blocks | 1 | 1 |
| **Large General Service-Secondary** | | |
| **FP-SOS** | 100.0% | 100% |
| Approximate Total PLC, MW | 19.6 | 19.6 |
| Block Size, % | 100.0% | |
| Approximate Block Size, MW | 19.6 | |
| Total # of Blocks | 1 | 1 |
| Tranche 1 Blocks | 1 | 1 |
| **General Service-Primary** | | |
| **FP-SOS** | 100.0% | 100% |
| Approximate Total PLC, MW | 20.4 | 20.4 |
| Block Size, % | 100.0% | |
| Approximate Block Size, MW | 20.4 | |
| Total # of Blocks | 1 | 1 |
| Tranche 1 Blocks | 1 | 1 |

*Unfilled Tranche Targets:*

The number of blocks in each tranche for each contract term is a Delmarva target. If the amount of conforming bids in any tranche is unable to meet that tranche's targets, then the unfilled portion of that tranche will be included in the next tranche, and the targets in the next tranche will be revised accordingly. If in the last tranche in which bids are being solicited, as set forth above for any Service Type, any multi-year contract targets are not met, then conforming surplus single-year bids will fill the deficiencies. If in the last tranche there are not sufficient conforming surplus single-year bids to fill a multi-year contract target deficiency, or if the single-year contract target has not been met, then the remaining reserve tranche(s) will be conducted to solicit for any deficiencies.

### 2.4. Reverse Auction

Within each tranche and for each FP-SOS bid block offered by Service Type, there is a single auction conducted on the World Energy web-based auction platform. The energy price offers shall be in terms of $/MWh. Each auction will open and close as shown below and will be conducted in accordance with the following schedule:

Tranche 1- December 1, 2014

| Service Type/Offer | Auction No. | Open | Close | Input Price Offer |
|---|---|---|---|---|
| RSCI /1 block | 1 | 10:00 AM | 10:30 AM | $/MWhr |
| RSCI /1 block | 2 | 10:00 AM | 10.45 AM | $/MWhr |

| | | | | |
|---|---|---|---|---|
| RSCI /1 block | 3 | 10:00 AM | 11:00 AM | $/MWhr |
| | | | | |
| MGS /1 block | 4 | 10:00 AM | 11:15 AM | $/MWhr |
| MGS /1 block | 5 | 10:00 AM | 11:30 AM | $/MWhr |
| | | | | |
| LGS /1 block | 6 | 10:00 AM | 11:45 AM | $/MWhr |
| | | | | |
| GS-P /1 block | 7 | 10:00 AM | 12:00 PM | $/MWhr |

Tranche 2- February 2, 2015

| Service Type/Offer | Auction No. | Open | Close | Input Price Offer |
|---|---|---|---|---|
| RSCI /1 block | 1 | 10:00 AM | 10:30 AM | $/MWhr |
| RSCI /1 block | 2 | 10:00 AM | 10:45 AM | $/MWhr |
| RSCI/ 1 block | 3 | 10;00 AM | 11:00 AM | $/MWhr |
| | | | | |
| MGS /1 block | 4 | 10:00 AM | 11:15 AM | $/MWhr |

Bids will only be accepted through the World Energy web-based auction platform to be held on December 1, 2014 and February 2, 2015 in accordance with the schedule specified in Section 6 (Schedule for RFP Process) starting at 10:00 AM EPT. The bid block auctions will be held at http://www.wesplatform.com, which is the auction website.

During each auction, bidders will be able to see all the bids they have posted and the current low bid. All bids shall be anonymous.

In order to access and use the auction website, eligible bidders will be contacted by World Energy Solutions, Inc., the proprietor of the auction website, and will be required to sign a Supplier Agreement with World Energy Solutions before being issued a password to access the auction website. Appendix 6 contains the World Energy Solutions Supplier Agreement. In addition, all eligible bidders must agree to pay a required fee to World Energy Solutions, for any auction awards made by Delmarva to the bidders as a result of this RFP. All bids submitted must be inclusive of this fee. Bidders who fail to satisfy all the Pre-Bid requirements in Section 3 in a timely manner will be denied access to the auction website and such bidders will not be able to participate in the Auction.

All costs and expenses associated with developing and/or submitting a bid in response to this RFP and/or any related activity following the submission of any such bid shall be borne by the bidder.

Questions regarding the auction process should be directed to Sean Perry of World Energy by email to sperry@worldenergy.com or telephone at 1-800-578-0718 no later than 5:00 pm EPT on Friday November 28, 2014. All questions and their answers shall be posted on the Delmarva DE RFP Website.

Interested bidders are invited to call into a pre-bid teleconference on the auction process to be

held in mid October2014. The call in number is 1-866 779 0773 and the meeting number is *2771999*. Please remember to enter the * sign before and after the meeting number. Participants will be able to ask questions only during the open floor portion of the call. For purposes of this teleconference, it is not required that individual or company names be identified when questions are asked. The teleconference will include a demonstration of the auction platform. Internet access will be required for this demonstration.

### 2.5. Supplier Step-Up Provision

As set forth in the FSA, in the event of an early termination of a FSA, all other wholesaler suppliers serving Delmarva FP-SOS load, pursuant to the Delaware Public Service Commission Orders and approved settlement in Docket No. 04-391, will have the option to take a full or partial pro-rata share of the load for the balance of the terminated FSA term, under the same pricing, terms and conditions of the terminated FSA. Such option to take a pro-rata share of the load will include a transfer to the step-up supplier of any rights associated with congestion management. The supplier to which the option is offered shall meet any additional collateral requirements related to the step-up of its obligation. If any supplier does not exercise its option to increase its obligation, the other suppliers will have the option to take a pro-rata share of the amount of the increased obligation that such supplier declined to take. A supplier's pro-rata share will be the ratio of the supplier's load obligation, stated on a capacity PLC basis, to the total load being served under FSAs pursuant to the Delaware Public Service Commission Orders and approved settlement in Docket No. 04-391, excluding the terminated FSA and, if applicable, FSAs under which suppliers decline to exercise their step-up option in part or full.

### 2.6. Customer Restrictions

The FP-SOS procurement set forth in this RFP is to meet the supply needs for those customers that "choose not to choose" to take supply from a competitive retail supplier; are unable to obtain supply from competitive retail suppliers; or have been served by a competitive retail supplier, but, for any reason returns to FP-SOS. All customers other than General Service-Transmission are eligible for FP-SOS. Customers within the General Service-Transmission classification will be eligible for an hourly priced standard offer service (HPS) provided by Delmarva. HPS will also be available to the General Service-Primary classification subject to the restrictions described below.

*Residential and Small Commercial & Industrial FP-SOS:*

Pursuant to the Docket No. 04-391 Phase 2 settlement agreement, subject to Delmarva customer enrollment rules and tariffs, customers may leave and return to FP-SOS at any time without switching restrictions.

*Medium General Service-Secondary; Large General Service-Secondary; General Service-Primary FP-SOS:*

Pursuant to the Docket No. 04-391 Phase 2 settlement agreement, subject to Delmarva customer enrollment rules and tariffs, customers may leave and return to FP-SOS at any time without switching restrictions. For the General Service-Primary customers an additional option is

available to take HPS if an affirmative election is made and certain metering requirements are met prior to when bids for FP-SOS are due.

## 3. Eligibility of Applicants

### 3.1. Overview of Eligibility

The purpose of the eligibility process is to provide information to the applicants regarding their eligibility to bid. An applicant is eligible to bid if if it is a registered Purchasing-Selling Entity ("PSE") with NERC/Reliability*First* Corporation and, in a timely and complete fashion, it submits an Expression of Interest Form, executes the Confidentiality Agreement, certifies that it meets the PJM membership and FERC authorization requirements stated in Section 3.4 (Submittal of Applicant's PJM and FERC Qualifications), its, or its guarantor's, unsecured senior long-term debt is currently rated by Standard & Poor's Ratings Group, Fitch Investor Services or Moody's Investor Services, and submits the Credit Application and associated financial information requested in Section 3.5 (Submittal of Credit Application and Financial Information).

### 3.2. Submittal of Expression of Interest

Applicants interested in participating in this RFP are required to express their non-binding interest to bid by completing and submitting the Expression of Interest Form (Appendix 1). An electronic copy of the Expression of Interest Form will be made available to applicants for completion on the Delmarva DE RFP website. The applicant will not be eligible to submit proposals until such submission has been provided to Delmarva. Upon submission of the Expression of Interest Form, an applicant will be issued a password to access a website containing additional information related to this RFP.

### 3.3. Confidentiality Agreement

An applicant and Delmarva will be required to execute the Confidentiality Agreement (Appendix 2) electronically. An electronic copy of the Confidentiality Agreement can be found on the Delmarva DE RFP website. The applicant will not be eligible to submit proposals until such agreement has been executed.

Once the agreement is received from the applicant, Delmarva will complete the execution of the agreement and electronically return the fully executed agreement to the applicant.

### 3.4. Submittal of Applicant's PJM and FERC Qualifications

An applicant must certify that it is a member of the PJM Interconnection, LLC (PJM) and qualified as a market buyer and market seller in good standing able to secure generation or otherwise obtain and deliver electricity in PJM through compliance with all applicable requirements of PJM to fulfill a full requirements obligation. In addition, an applicant must certify that it has been authorized by the Federal Energy Regulatory Commission (FERC) to make sales of energy, capacity and ancillary services at market based rates. The PJM Qualification Certification Form (Appendix 3) and the FERC Authorization Certification Form (Appendix 4) can be found on the Delmarva DE RFP website. Such certifications must be

signed by a signatory with the authority to act on behalf of the applicant. Applicants are required to submit such certifications no later than the due date noted in Section 6 (Schedule for RFP Process). The applicant will not be eligible to submit bids until such certifications have been provided to Delmarva. In the event the applicant has previously submitted such documents for qualification to participate in a neighboring PHI SOS jurisdiction for the same RFP year, such documents can be referenced to meet this requirement. If, however, the applicant's good-standing membership with PJM or its FERC authorization has been adversely affected since submittal of the original documents, it is the responsibility of the applicant to immediately notify Delmarva of such events. Once notified, Delmarva will make any appropriate adjustments to the applicant's eligibility status.

### 3.5. Submittal of Credit Application and Financial Information

Applicants are required to submit the Credit Application (Appendix 5) and associated financial information to Delmarva no later than the Application and Financial Information due date noted in Section 6 (Schedule for RFP Process). An electronic copy of the Credit Application can be found on the Delmarva DE RFP website. The applicant should send the complete application and the associated financial information electronically. In the event the applicant has previously submitted such credit application and financial information for qualification to participate in a neighboring PHI SOS jurisdiction for the same RFP year, such documents can be referenced to meet this requirement. If, however, the applicant's credit rating has downgraded since submittal of the original documents, it is the responsibility of the applicant to immediately notify Delmarva of such event. Once notified, Delmarva will make any appropriate adjustments to the applicant's eligibility status.

All submitted information must be in the English language, and financial data denominated in United States currency, and conform to generally accepted accounting principles (GAAP) in the United States. If the applicant's financial information is consolidated with other entities, then it is the applicant's responsibility to extract and submit as separate documents all data and information related solely to the applicant. This must include all financial information, associated notes and all other information that would comprise a full financial report conforming to GAAP. If the applicant's, or its Guarantor's, financial data does not meet the above criteria, the following information is required in order to determine eligibility:

a. Most recent audited annual financial information (including a balance sheet, income statement, and cash flow statement).
b. Most recent quarterly or mid-year audited financial information; if audited quarterly or mid-year financial information is not available, please provide most recent quarterly or mid-year financial information accompanied by an attestation by the applicant's, or its Guarantor's Chief Financial Officer (or other approved authority) that the information submitted is true, correct and a fair representation of the applicant's or Guarantor's financial condition.
c. Credit Rating information (including rating, rating agency and date of rating).
d. A legal opinion acceptable to Delmarva of counsel qualified to practice in the foreign jurisdiction in which the Guarantor, if applicable, is incorporated or otherwise formed that the 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.

e. Any additional information the applicant or its Guarantor wish to give that could provide comparable credit assurances to those that are provided by other applicants or Guarantors whose financial data is denominated in the United States currency, and conform to generally accepted accounting principles (GAAP) in the United States.

Applicants are urged to provide the materials necessary to establish eligibility as soon as practicable. Delmarva will endeavor, on a best efforts basis, to notify applicants of any deficiencies in their submittals by the earlier of two weeks from the time the applicant submits its material to Delmarva or the date by which Delmarva must issue applicant's eligibility status as indicated in Section 6 (Schedule for RFP Process). However, Delmarva does not bear any responsibility for failure to notify applicants of deficiencies prior to the date indicated in Section 6 (Schedule for RFP Process) for the issuance of the applicants' eligibility status. Early submittal of materials will provide the greatest flexibility to correct deficiencies prior to the deadline. Delmarva will notify applicants as soon as Delmarva has determined that they have met the eligibility requirements. In the event the applicant's information is not submitted by the due date or submitted in an incomplete fashion, the applicant will be eliminated from further consideration in the first tranche of this RFP. Therefore, it is in the applicant's best interest to submit its credit and financial information early in the process, allowing some time to cure incomplete information before the due date.

### 3.6. Cure Time for Deficiencies in Qualification Requirements

In the event that an applicant has not met all of the qualification requirements under Section 3 (Eligibility of Applicants) so as to not be eligible to submit proposals in the first tranche, such applicant will be allowed to cure any such deficiency and participate in subsequent tranches, if the deficiency is cured no later than two weeks prior to the due date of proposals for the next tranche.

### 3.7. Alternative Forms of Performance Assurance

Subsequent to the awarding of a contract to a supplier, an instrument of performance assurance to secure Delmarva's exposure during the term of the FSA may be required, as set forth in the FSA. Any performance assurance required of the supplier determined in accordance with the FSA may be in the form of cash, LOC, or other security acceptable to Delmarva. An acceptable Performance Assurance LOC form is provided as Exhibit C in the FSA. If an applicant prefers to use an alternative LOC form for the performance assurance, the applicant must provide such alternative form along with its Credit Application and financial information. If an applicant intends to use security other than cash or LOC, Delmarva requests that the applicant describe such other security at the time it submits its Credit Application and financial information. The acceptability of such alternative LOC form or such other form of security will be at the sole discretion of Delmarva, and such acceptability will be communicated to the applicant no later than the time indicated in Section 6 (Schedule for RFP Process) for the issuance of the applicants' eligibility status.

## 4. Proposals

### 4.1. Bid Format

Price Quotes for Bid Block Offered - Auctions will be held by tranche, service type, and bid block, for a total of eleven separate full-requirements wholesale electric supply products. The price offers for each auction shall be for Summer Energy and Non-Summer Energy. The energy price offers shall be in terms of $/MWh. All MWh energy shall be at the customer premise or retail meter-level. As set forth in the FSA, the MWh of energy shall be equivalent to the amount of energy reported as the supplier's obligation by Delmarva to PJM adjusted for losses in accordance with Delmarva initial and subsequent retail load settlement process. The Delmarva summer period begins on May 1 and ends on August 31, and its non-summer period begins on September 1 and ends on April 30. All price quotes are limited to two decimal places. A successful supplier will be paid its winning bid prices by season as entered and submitted into the World Energy auction platform. The prices will be paid by service type by season and will not change over the length of the contract term. The successful supplier and Delmarva will confirm the prices by executing a Transaction Confirmation Letter in accordance with the FSA.

Volume Weighting Factors - The preliminary Summer and Non-Summer factors, listed below, are provided by Delmarva. The energy factors represent Delmarva estimates of the portion of the specified Service Type load within the specified term and season based on historical distribution load data. As stated, these factors are derived from historical data, which may or may not be representative of future behavior of electricity consumption. These factors will be updated prior to the Tranche 1 auction date.

| **Volume Weighting Factors (%)** | | |
|---|---|---|
| Service Type | Summer | Non-Summer |
| GS-P | 37.93 | 62.07 |
| LGS | 38.00 | 62.00 |
| MGS | 37.75 | 62.25 |
| RSCI | 37.44 | 62.56 |

Load Weighted Average Price - The Load Weighted Average Energy Price is determined by summing the load weighted price quotes derived by applying the corresponding seasonal volume weighting factors to the respective seasonal price quotes. The Load Weighted Average Energy Price is the single parameter that will be used to compare all offers within each auction.

### 4.2. Submittal of Proposals

Product Bids will only be accepted through the World Energy web-based auction platform to be held on December 1, 2014 and February 2, 2015 in accordance with the schedule specified in Section 2.4 (Reverse Auction) and Section 6 (Schedule for RFP Process).

A bid submitted in response to this solicitation, shall a) constitute the Bidder's acknowledgment and acceptance of all the terms, conditions and requirements of this Request For Proposals, and b) shall constitute a firm offer to supply service in accordance with the Full Requirements Service Agreement and applicable Delaware regulations. This offer is not subject to any contingencies or conditions precedent and, if accepted by Delmarva, the Bidder must agree to execute the Full Requirements Service Agreement in a timely manner as set forth in Section 6 (Schedule for RFP Process) of this Request For Proposals.

### 4.3. Confirmation of Proposal Receipt

Confirmation of receipt of a bidder's proposal will appear on the World Energy auction platform electronically.

### 4.4. Conforming Proposals

In order for a proposal(s) to be conforming, the proposal(s) must be:

- submitted using the World Energy web-based auction;
- submitted by the due date(s) and due time; and
- submitted by an eligible applicant.

Proposals deviating from the above criteria will be deemed non-conforming and eliminated from further consideration. Any such elimination of proposals will be communicated by Delmarva to the relevant bidder(s) as soon as practicable.

### 4.5. Expiration of Proposals

A bidder's proposal(s) shall expire at the earlier of the time Delmarva notifies the bidder that its proposal has been rejected or at midnight on the scheduled day of awarding bids within each tranche, as indicated in Section 6 (Schedule for RFP Process).

### 4.6. Evaluation of Proposals

As described in Section 4.1, the Load Weighted Average Energy Price is the single parameter that will be used to compare all offers within each auction. A successful supplier will be paid its winning bid prices by season as entered and submitted into the World Energy auction platform.

In the event that comparable offers from different suppliers have equivalent Load Weighted Average Energy Prices (rounded-up to two decimal places, $0.01/MWh, in the World Energy auction platform), and such Load Weighted Average Energy Term Price qualifies to be awarded a contract, the bid that is submitted first into the auction platform is the winning bid.

## 5. Full Requirements Service Agreement

The FSA to be executed as a result of this RFP is provided as Appendix 7. The FSA contains the parties' rights and obligations for providing and receiving full requirements wholesale electric supply, including those rights and obligations associated with performance assurance. No provision within the FSA is negotiable. There will be a master FSA executed with each supplier under which separate Transaction Confirmations will be executed for the specific Service Types and auctions.

## 6. Schedule for RFP Process

The solicitation and selection process will be carried out in accordance with the schedule below. However, pursuant to Docket No. 04-391, the Commission reserves the right to alter the

Services Requested in Section 2 of this RFP five days prior to the auction dates. Such alteration will not occur unless there are exceptional market-altering events directly prior to the date on which bids are submitted.

| Activity | Date |
|---|---|
| RFP Website goes active with due diligence information | Oct 1, 2014 |
| Solicitation for Expressions of Interest | Oct 1 |
| Pre-Bid Conference | Mid Oct |
| | |
| Confidentiality Agreement due | Oct 24 |
| Credit Application and financial information due | Oct 24 |
| Alternative Letter of Credit Form(s) due, if applicable | Oct 24 |
| Alternative Form of Performance Assurance due, if applicable | Oct 24 |
| PJM and FERC qualifications due | Oct 24 |
| | |
| Issue applicants' eligibility status | Oct 31 |
| World Energy Solutions Supplier Agreement due | Nov 12 |
| Issue any revisions to 1st tranche bid block targets | Nov 24 |
| 1st tranche auctions begin (10:00 AM EPT) | Dec 1 |
| 1st tranche auctions end (12:00 PM EPT) | Dec 1 |
| Award 1st tranche bids | Dec 1 |
| Execute 1st tranche FSAs and transactions | Dec 3 |
| Execute Guaranty Agreement, if applicable | Dec 3 |
| Approve 1st tranche transactions | Dec 4 |
| | |
| Issue any revisions to 2nd tranche bid block targets | Jan 26, 2015 |
| 2nd tranche auctions begin (10:00 AM EPT) | Feb 2 |
| 2nd tranche auctions end (11:00 AM EPT) | Feb 2 |
| Award 2nd tranche bids | Feb 2 |
| Execute 2nd tranche FSAs and transactions | Feb 4 |
| Execute Guaranty Agreement, if applicable | Feb 4 |
| Approve 2nd tranche transactions | Feb 5 |
| | |
| If necessary, issue 3rd tranche bid block targets | Feb 9 |
| 3rd tranche auction(s) | Feb 17 |
| Award 3rd tranche bids | Feb 17 |
| Execute 3rd tranche FSAs and transactions | Feb 18 |
| Execute Guaranty Agreement, if applicable | Feb 18 |
| Approve 3rd tranche transactions | Feb 19 |
| | |
| Post Commission consultant's report | |
| 3rd tranche is not conducted by Delmarva | Mar 2 |
| 3rd tranche is conducted by Delmarva | Mar 16 |
| | |
| Post retail prices | Mar 27 |

| | |
|---|---|
| Contract delivery period begins | June 1 |

As set forth above and in the FSA, the process for fully executing and approving a FSA and/or transactions within all tranches will be as follows:

- Monday: auctions are held, bids are awarded and Delmarva will electronically submit a partially executed FSA and/or transactions to the awarded bidder;
- Wednesday: by 2:00 p.m. EPT, the bidder will electronically return a fully executed FSA and/or transactions to Delmarva.
- Wednesday: by close of business, Delmarva will submit a copy of the fully executed transactions to the Delaware Public Service Commission for review and determination of compliance with the Delmarva Bid Plan;
- Thursday: transactions will be deemed to be in compliance with the Utility Bid Plan and approved by the Commission unless the Commission orders otherwise.

## 7. RFP Website

Information related to this RFP will be posted on the Delmarva RFP website at www.delmarva.com/derfp. This website will be accessible by those parties submitting an Expression of Interest Form or retail electricity suppliers that have been qualified by Delmarva to provide retail electric supply services in the Delmarva service territory pursuant to Delmarva Electricity Supplier Coordination Tariff. The information will include:

a. RFP with the following appended documents

- Expression of Interest Form
- Confidentiality Agreement
- PJM Qualification Certification Form
- FERC Authorization Certification Form
- Credit Application
- World Energy Solutions Supplier Agreement
- Full Requirements Service Agreement with the following appended documents
  - Transaction Confirmation Example
  - Performance Assurance Letter of Credit
  - Sample PJM Invoice
  - Methodology for Calculation of Mark to Market (MTM) Exposure
  - MTM Example Calculation for a Transaction
  - Form of Guaranty
  - Form of Notice
  - Increment Load Example
  - PJM Declaration of Authority

b. Docket No. 04-391 Phase 1 Order No.6598, Phase 2 Settlement Agreement, Phase 2 Order No. 6746 and Order No. 6943.

c. PJM Website Link

d. Historic, hourly, premise-level, unrestricted (excludes load reductions from demand-side services that qualify as resources in PJM), distribution load data for all eligible customers (in aggregate) within each Service Type and each customer class or partial customer class within each Service Type. Data provided will be the latest available.

e. Historic, hourly, premise-level, unrestricted (excludes load reductions from demand-side services that qualify as resources in PJM), SOS load data within each Service Type and each customer class or partial customer class within each Service Type. Data provided will be the latest available.

f. Estimated loss factors associated with each Service Type and each customer class or partial customer class within each Service Type

g. Current capacity PLCs and Network Service Peak Load contribution (NSPL) for all eligible customers (in aggregate) within each Service Type and each customer class or partial customer class within each Service Type

h. Current capacity PLCs and NSPLs for all SOS customers (in aggregate) within each Service Type and each customer class or partial customer class within each Service Type

i. Historic customer migration data (in aggregate) on a PLC basis, an NSPL basis, and number of customer accounts basis, for each service type, and each customer class or partial customer class within each Service Type.

j. Seasonal (summer/non-summer) volume weighting factors by Service Type.

k. Questions and answers

Delmarva Power will update the above data from time to time.

## 8. Reserved Rights

### 8.1. Bidder Elimination Right

If in the course of the solicitation process, any bidder is found to provide faulty information, misrepresent its financial or operational characteristics or omit any pertinent information, Delmarva reserves the right to eliminate such bidder from the solicitation process.

### 8.2. FSA Termination Right

If a bidder who engages in any conduct described in Section 8.1 is successful in being awarded a bid and executes the FSA and/or transactions, Delmarva reserves the right to terminate the FSA and pursue remedies as outlined in the FSA.

## 9. Miscellaneous

### 9.1. Warranty on Information

The information provided in the RFP, or on the Delmarva DE RFP website, has been prepared to assist bidders in evaluating the solicitation. It does not purport to contain all the information that may be relevant to a bidder in satisfying its due diligence efforts. Delmarva

makes no representation or warranty, expressed or implied, as to the accuracy or completeness of the information, and shall not, individually or as a corporation, be liable for any representation expressed or implied in the RFP or any omissions from the RFP, or any information provided to a bidder by any other source.

A bidder should check the Delmarva website frequently, to ensure that it has obtained the latest documentation and information. Neither Delmarva nor its representatives shall be liable to a bidder or any of its representatives for any consequences relating to or arising from the bidder's use of outdated information.

### 9.2. Hold Harmless

Bidder shall hold Delmarva harmless of and from all damages and costs, including but not limited to legal costs, in connection with all claims, expenses, losses, proceedings or investigations that arise as a result of the RFP or the award of a bid pursuant to the RFP.

### 9.3. Proposals Become Delmarva Property

Subject to the Confidentiality Agreement, all proposals submitted by each bidder pursuant to this solicitation shall become the exclusive property of Delmarva.

### 9.4. Bidder's Acceptance

The submission of a proposal to Delmarva shall constitute a bidder's acknowledgment and acceptance of all the terms, conditions and requirements of this solicitation and the FSA and or transactions.

Bidder and its representatives irrevocably agree to submit to the personal jurisdiction of any Delaware State or Federal court and any appellate court thereof in respect of any action, dispute or proceeding arising out of this solicitation process, including but not limited to the execution, implementation and performance of a FSA.

### 9.5. Permits, Licenses and Compliance with the Law

Supplier shall obtain all licenses and permits that may be required by any governmental body or agency necessary to conduct supplier's business or to perform hereunder. Supplier's subcontractors, employees, agents and representatives of each in performance hereunder shall comply with all applicable governmental laws, ordinances, rules, regulations, orders and all other governmental requirements.

### 9.6. Proprietary Information

The treatment of proprietary and confidential information of a bidder's and of Delmarva is addressed in the Confidentiality Agreement (Appendix 2).

### 9.7. Disclosure of Awarded Bid Information

As set forth in the Phase 2 settlement agreement and further modified by the Commission in Docket No. 04-391, certain information related to the winning bidders and their awarded bids

will be made public 21 calendar days from the date of the Commission's award of bids for the final tranche.. Such information is as follows:

- Aggregate information about bids received and winning bids;
- Names of winning bidders for each customer class;
- Percentage of load won by each winning bidder (by name) for each customer class;

### 9.8. Regulatory Approvals

As indicated in Section 6 (Schedule for RFP Process), the executed transactions will be contingent upon the Delaware Public Service Commission and any necessary FERC approvals. The transactions will be deemed approved by the Delaware Commission unless the Commission orders otherwise within the two days following the execution of the transactions. Bidder agrees to cooperate, to the fullest extent necessary, to obtain any and all required State, Federal or other regulatory approvals of the FSA and/or transactions resulting from its proposal(s).

# Appendix 1

## Expression of Interest Form (on RFP Website)

This response is an indication of our interest in the Delmarva Power & Light Request For Proposals to provide wholesale full requirements service beginning [date of first day of delivery period].

Company*: _____

Contact Name*: _____

Contact Title*: _____

Address*: _____

City*: _____

State*: _____

Zip*: _____

Phone Number*: _____

Fax Number*: _____

E-mail Address*: _____

**Note completion of all fields is required.* Upon Delmarva's receipt of this Expression of Interest Form, a password will be issued to respondent to access a website containing additional information related to this RFP.

# Appendix 2

## Confidentiality Agreement

[Name and Address of Company]

[Date]

Ladies and Gentlemen,

This letter is a Confidentiality Agreement between _____("Utility") and _____ ("the Company") in connection with the Company's intent to participate in the Request for Proposals ("RFP") to provide Full Requirements Wholesale Electric Power Supply to serve a portion of the Utility's Residential and Small Commercial & Industrial FP-SOS, Medium General Service-Secondary FP-SOS, Large General Service-Secondary FP-SOS and General Service- Primary FP-SOS. This Confidentiality Agreement also pertains to the rights and obligations of the Utility and the Company in the event the Company ultimately is selected as a winner in the RFP and provides service pursuant to the Full Requirements Service Agreement ("FSA"). Utility and the Company hereby agree to accept, and to be bound by the terms of this Agreement.

DEFINITIONS:

(a) The following terms have the following meanings:

1. "Agreement" is this Confidentiality Agreement.

2. "Delaware PSC" has the meaning set forth in Section 3(b).

3. "Confidential Information" has the meaning set forth in Section 5.

4. "Party" means Utility or the Company.

5. "Parties" means Utility and the Company collectively.

6. "Representatives" means the officers, directors, employees, advisors, lenders, and other persons, including but not limited to any affiliates who are actively and directly participating in evaluating, responding to, negotiating and consummating the RFP and/or the response to the RFP and/or performing under the FSA. A person or entity is not a "Representative" unless that person or entity agrees to preserve the confidentiality of the

Confidential Information in accordance with the terms of this Agreement.

7. "Third Parties" means a party or parties other than Utility, the Company or their respective Representatives.

(b) Other capitalized terms used in this Agreement have the meaning set forth in this Agreement and/or the Request for Proposals dated _____ and/or the FSA.

TERMS:

1. Condition Precedent. The Utility and the Company shall execute this Agreement as a condition precedent to Utility's furnishing to the Company or the Company furnishing to the Utility a copy of any Confidential Information.

2. Purpose. The purpose of this Agreement is to protect the confidentiality of the Confidential Information and to restrict the use and disclosure of that information in the manner set forth below.

3. Limitations on Use and Disclosure. (a) A Party shall use the other Party's Confidential Information only for the purpose of evaluating, responding to, negotiating and consummating the RFP and/or the response to the RFP, and/or consummating the FSA, and not for any other purpose. Neither Party shall disclose to Third Parties any information about the Utility's or Company's participation in the RFP or execution of an FSA, or the terms or conditions or any other facts relating thereto, including the fact that discussions are taking place with respect thereto, the status of those discussions, or the fact that Confidential Information has been made available by or to the Utility or Company or their Representatives. Provided, however, as set forth in the Phase 2 settlement agreement and further modified by the Delaware Public Service Commission in Docket No. 04-391, the Utility shall publicly disclose aggregate information about bids received and winning bids, the names winning bidders for each customer class, and the percentage of load won by each winning bidder (by name) for each customer class, 21 calendar days from the date of the Commission's award of bids for the final tranche.

(b) Notwithstanding the foregoing or any other provision of this Agreement, the Utility may share any Confidential Information with the Delaware Public Service Commission, its Staff, or the Consultant working for the Delaware Public Service Commission pursuant to Section III of the Settlement Agreement approved by the Commission in Order No.6746 (collectively "Delaware PSC"). Any such information shared will be designated as confidential, and the Utility will ask the Delaware PSC to hold and use it on a confidential basis. To the extent that the Delaware Division of the Public Advocate and its representatives and/or consultants (collectively "DPA") enter into a confidentiality agreement to hold any shared information confidentially, Utility may also share Confidential Information with DPA for the purposes of DPA's review of the results of the RFP.

4. Disclosure upon Default. Notwithstanding the foregoing or any other provision of the Agreement, the Utility may disclose Confidential Information in the event of a Supplier Default, as provided for in the FSA. The Utility may disclose to any Company with whom it has executed

an FSA and who is not a Defaulting Supplier, the contract price of the Defaulting Supplier for the purpose of allowing the Company to make the election provided for in Section 4.11 of the FSA.

5. Definition of Confidential Information. Confidential Information shall consist of oral, electronic and written information that is confidential, proprietary, or generally not available to the public. Whenever possible, such Confidential Information shall be marked prior to or at the time of disclosure as being "Confidential Information". Confidential Information in the case of information provided by Utility to the Company shall include, without limitation, all data, reports, interpretations, forecasts or records relating to Utility and/or its customers, and any other document created by Utility or others which directly or indirectly relates to all or any portion of the bid evaluation information provided to the Company by Utility. Confidential Information in the case of information provided by the Company to the Utility shall include, without limitation, all data, reports, interpretations, forecasts, bids, credit information, credit collateral amounts, bidder identity, and shall also include information prepared by the Company that includes directly or indirectly Confidential Information furnished by Utility.

6. Non-Confidential Information. Notwithstanding the provisions of Section 5, information shall not be deemed confidential that (i) becomes generally available to the public; (ii) is already known to the receiving Party at the time of receipt by the receiving Party; or (iii) is acquired after such receipt from a Third Party not known to the receiving Party to be prohibited from making disclosures. The receiving Party shall give prompt notice to the other Party in the event it believes that any of the other Party's information in its possession is not Confidential Information as a result of the provisions of this Section 6.

7. Property of Utility or the Company. Confidential Information belonging to Utility shall consist of Confidential Information supplied by Utility to the Company and shall also include the portion of Confidential Information furnished by the Company to Utility that incorporates Confidential Information furnished to the Company by Utility. Confidential Information belonging to the Company consists of all other Confidential Information supplied by the Company to Utility. Utility and the Company acknowledge that each Party's Confidential Information is and at all times remains the sole and exclusive property of that Party, who, it is agreed, has the exclusive right, title, and interest to its Confidential Information. Neither Party grants any right or license, by implication or otherwise, as a result of the provision of Confidential Information to the receiving Party.

8. Disclosure Prohibited Except Where Explicitly Permitted. Neither Party shall disclose or use the other Party's Confidential Information without the other Party's prior written consent except as explicitly stated in Sections 3, 4, 9 and 10 of this Agreement.

9. Disclosure For Bid Evaluation Purposes. A Party may disclose the other Party's Confidential Information to its Representatives for the purposes set forth in Section 3. The obligations and restrictions under this Agreement that apply to a Party also apply to a Party's Representatives.

10. Disclosure to Governmental Authorities. A Party (the "disclosing Party") may also

disclose the other Party's Confidential Information to any governmental, judicial, or regulatory authority ("Authority") requiring such Confidential Information; provided that, the disclosing Party (a) promptly informs the other Party of the substance of any inquiries, requests or requirements in order to afford the other Party an opportunity to attempt to prevent or limit the disclosure of the Confidential Information; (b) makes a good faith effort to persuade the Authority (i) that submission of the Confidential Information should not be required, or, if that effort fails, (ii) that submission of the Confidential Information on a non-public basis should be permitted; and (c) endeavors in good faith to protect the Confidential Information provided to an Authority from disclosure to Third Parties. If an Authority orders the disclosing Party to disclose any documents containing the other Party's Confidential Information, the disclosing Party shall a) attempt to obtain from the other Party, if the Authority allows the time, a "Public Disclosure Copy", or b) if the Authority does not allow such time, shall prepare itself a "Public Disclosure Copy" in which the Confidential Information has been redacted to the extent that such redaction is permitted by the Authority requiring disclosure. Confidential Information disclosed pursuant to this Section 10 on a non-public basis shall not lose its status as Confidential Information by virtue of such non-public disclosure.
Notwithstanding the foregoing, the Parties agree that either party may be required to provide Confidential Information to FERC in order to comply with FERC Form 1 or FERC transaction reporting requirements. Each Party agrees that to the extent it is required to provide FERC any such information, the Party required to provide such information will provide only the information that is reasonably necessary to comply with such reporting requirements and shall not be required to comply with the provisions of Section 10 of this Agreement unless there have been substantive changes to the information required for FERC reporting purposes.

11. Termination of RFP Participation. If the Company determines that it does not wish to proceed with the RFP, or if the Utility excludes the Company from the RFP for any of the reasons set forth in the RFP, it will immediately notify the other Party of that decision. In such case, or if the RFP is not consummated, upon the written request of the Party (the "requesting Party"), the other Party (the "receiving Party") shall not retain and shall promptly return to the requesting Party all the requesting Party's written Confidential Information in the possession of the receiving Party or its Representatives, except for the portion ("said portion") of the requesting Party's Confidential Information that may be found in analyses, compilations, or other documents prepared by, or for, the receiving Party and its Representatives. The said portion and any oral Confidential Information furnished by the requesting Party and not so requested or returned will be held by the receiving Party and kept subject to the terms of this Agreement, or destroyed.

12. Liability and Relief. A Party or any of its Representatives shall be liable for any breach of this Agreement. In the event a non-breaching Party or its Representatives shall have knowledge of any breach of the confidentiality of, or the misappropriation of, any of the Confidential Information, the non-breaching Party shall promptly give notice thereof to the breaching Party. The non-breaching Party shall be entitled to specific performance or other equitable relief by way of injunction or otherwise, if the other Party or any of its Representatives breach or threaten to breach any of the provisions of this Agreement. Such remedy shall not be deemed to be the exclusive remedy available to the non-breaching Party, but shall be in addition to all other available remedies. Neither failure nor delay by the non-breaching Party, in

exercising any of its rights or privileges herein, shall operate as a waiver nor shall any single or partial exercise preclude any other or further exercise of any right, power or privilege.

13. Representatives, Successors and Assigns. This Agreement shall be binding upon and for the benefit of the Parties, and their respective Representatives, successors, and permitted assigns. Neither Party may assign its rights or obligations hereunder without prior written consent of the other Party.

14. Controlling Law. This Agreement shall be governed by and construed in accordance with the laws of the state of Delaware without regard to conflicts of laws rules or principles

15. Full Compliance Required. The failure in any instance to insist on full compliance with the terms of this Agreement shall not be deemed to be a waiver of the right to insist upon full compliance with these terms thereafter.

16. Signatures. The signatures below establish each Party's agreement to the terms hereof.

17. Termination. This Agreement shall terminate three years from the date hereof.

| **COMPANY** | **UTILITY** |
| --- | --- |
| By _____ | By _____ |
| Title _____ | Title _____ |

## Appendix 3
## PJM Qualification Certification Form

I, _____ ("Agent") am an authorized signatory for _____ ("Company") and hereby certify that Company is a member of the PJM Interconnection, LLC ("PJM") and qualified as a market buyer and market seller in good standing able to secure generation or otherwise obtain and delivery electricity in PJM through compliance with all applicable requirements of PJM to fulfill a full requirements obligation.

Signed: _____

Date: _____

Type or Print Name: _____

Title: _____

Company: _____

# Appendix 4

## FERC Authorization Certification Form

I, _____ ("Agent") am an authorized signatory for _____ ("Company") and hereby certify that Company has been authorized by the Federal Energy Regulatory Commission ("FERC") to make sales of energy, capacity and ancillary services at market based rates, pursuant to the Federal Power Act and the provisions of FERC's regulations promulgated thereunder. The Company's authorization to make such sales at market based rates was granted in Docket No(s). _____

Signed: _____

Date: _____

Type or Print Name: _____

Title: _____

Company: _____

# Appendix 5

## Credit Application

The following information will be used to assess the applicant's creditworthiness.

1. **Company Information**
   Type of Business
   __ Corporation
   __ Limited Liability Company
   __ Joint Venture
   __ Other (describe)

   Applicant Organization
   Legal Corporate Name:
   Street Address:
   City, State, Zip Code:
   Dun & Bradstreet Number:
   Federal Tax ID Number:

   Applicant Credit Contact Name
   Name:
   Title:
   Phone Number:
   Fax Number:
   Email Address:

   For Corporation/Limited Liability Companies
   Date and State of Incorporation/Registration:
   Registered Agent Name:
   Street Address:
   City, State, Zip Code:

   For Limited Partnerships
   Name of General Partner:
   Address of General partner/Registered Agent:
   City, State, Zip Code:

2. **Application for Credit Basis**
   This application for credit is to be based on the creditworthiness of the Applicant indicated below.
   __ The applicant listed under section 1.

__ The parent company listed below.

Parent Guarantor Company
Legal Corporate Name:
Street Address:
City, State, Zip Code:
Dun & Bradstreet Number:
Federal Tax ID Number:

**3. Credit Information**

The Applicant indicated in section 2 is required to submit the most recent 2 years of financial statements audited by a firm of certified public accountants of national standing. Indicate below what statements are being submitted.

__ Annual Report

__ 10K

__ 10Q

__ Other (describe)

In the event the above information is inadequate to appropriately assess the Applicant's creditworthiness, the Applicant must provide evidence of its capability to provide collateral instruments, its capability to borrow and other sources of liquidity

All submitted information must be in the English language, and financial data denominated in United States currency, and conform to generally accepted accounting principles (GAAP) in the United States. If the Applicant's financial information is consolidated with other entities, then it is the Applicant's responsibility to extract and submit as separate documents all data and information related solely to the Applicant. This must include all financial information, associated notes and all other information that would comprise a full financial report conforming to GAAP. If the applicant's, or its Guarantor's, financial data does not meet the above criteria, the following information is required in order to determine eligibility:

a. Most recent audited annual financial information (including a balance sheet, income statement, and cash flow statement).

b. Most recent quarterly or mid-year audited financial information; if audited quarterly or mid-year financial information is not available, please provide most recent quarterly or mid-year financial information accompanied by an attestation by the applicant's, or its Guarantor's Chief Financial Officer (or other approved authority) that the information submitted is true, correct and a fair representation of the applicant's or Guarantor's financial condition.

c. Credit Rating information (including rating, rating agency and date of rating).

d. A legal opinion acceptable to the Utilities of counsel qualified to practice in the foreign jurisdiction in which the Guarantor, if applicable, is incorporated or otherwise formed that the 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.

e. Any additional information the applicant or its Guarantor wish to give that could provide comparable credit assurances to those that are provided by other applicants or Guarantors whose financial data is denominated in the United States currency, and conform to generally accepted accounting principles (GAAP) in the United States.

Has the applicant or predecessor company declared bankruptcy in the last 5 years?
__ Yes
__ No

Are there any pending bankruptcies or other similar state or federal proceedings, outstanding judgments or pending claims or lawsuits that could affect the solvency of the applicant?
__ Yes
__ No

If the answer is "Yes" to either of the above questions, please provide an addendum to this application describing the situation and how it affects the applicant's ability to meet or not to meet its credit obligations.

Applicant's Credit Ratings
Standard & Poors
Last Rating Date:
Senior Unsecured Long Term Debt Rating:
Moody's
Last Rating Date:
Senior Unsecured Long Term Debt Rating:
Fitch
Last Rating Date:
Senior Unsecured Long Term Debt Rating:

Along with the above information, attach the latest review from each of the agencies.

**4. Authorization**

Applicant hereby represents and warrants that all statements and representations made herein, including any supporting documents, are true to the best of Applicant's knowledge and belief. The undersigned authorized official of the Applicant warrants that the Applicant agrees to be bound by these representations. The applicant authorizes the above listed entities to release data requested by Delmarva necessary to perform a credit check in connection with Applicant's interest to bid on the Full Requirements Wholesale Electric Power Supply RFP.

Applicant's Company Name: _____

Signature of Authorized Official: _____

Name of Authorized Official *(print)*:_____

Title of Authorized Official *(print)*: _____

Date Signed: _____

# Appendix 6

# WORLD ENERGY SOLUTIONS SUPPLIER AGREEMENT

## WHOLESALE PARTICIPANT AGREEMENT

THIS WHOLESALE PARTICIPANT AGREEMENT (the "Agreement"), effective this ____ day of _____ 20__ (the "Effective Date"), is made and entered into, by and between World Energy Solutions, Inc., a Delaware corporation ("World Energy"), having offices at 100 Front Street, Worcester, Massachusetts 01608, and _____, a _____ corporation ("Participant"), having offices at _____. World Energy and the Participant are collectively referred to herein as the "Parties" and each individually is referred to herein as a "Party." This Agreement constitutes Agreement No. _____ for the purposes of record-keeping by the Parties.

## RECITALS

**WHEREAS**, World Energy operates an Exchange on which registered energy participants may participate in Non-Binding Auctions, through which such Participants provide Bids or Offers to meet Customers' requirements for natural gas, electric capacity, electric energy, environmental and other commodity supplies based on information regarding energy related requirements posted by the Customer;

**WHEREAS**, Participant desires to license access to the Exchange in order to become a Participant and to participate in such Non-Binding Auctions and World Energy wishes to grant such license subject to the terms and conditions set forth herein;

**NOW THEREFORE**, in consideration of the mutual promises contained herein, and other valuable and sufficient consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. Definitions

1.1 "Affiliate" of a Party means (i) any other party controlling, controlled by, or under common control with such Party or (ii) any other person or entity in any way affiliated with such party, where "control" of an entity means ownership of fifty percent (50%) or more of the voting or ownership rights of an entity.

1.2 "Auction" means an RFP that is provided to prospective participants via the Exchange or, at World Energy's discretion, another communication medium. Such RFP sets forth a Customer's projected energy needs, the maximum or minimum bid permitted by such Customer (in the case of reverse or forward auctions, respectively), and other information which may be useful for participants to prepare their bids.

1.3 "Bid" means an offer to buy a specific quantity of a commodity at a stated price.

1.4 "Customer" means a third party that enters into an agreement with World Energy for the solicitation of offers/bids to meet that Customer's needs for energy.

1.5 "Exchange" means World Energy's on-line procurement system on which Participant and Customers can post and/or bid on RFPs to engage in energy transactions.

1.6 "Fee Addendum" means a notice that is sent by email from World Energy to Participant upon a Transaction following a Non-Binding Auction to confirm the details of the Transaction, including the Transaction Fee for fixed fee Transactions or the rate for calculation of the Transaction Fee for volume based Transactions, as applicable.

1.7 "Intellectual Property Rights" means any trade secrets, patents, copyrights, trademarks, know-how, moral rights and similar rights of any type under the laws of any governmental authority, domestic or foreign, including all applications and registrations relating to any of the foregoing.

1.8 "Non-Binding Auction" means an Auction where Participants respond to the Customer's requirements provided in the RFP with notional and/or executable Offers regarding pricing and terms of sale but enter into a final agreement with Customer confirming the arrangement off-line following Customer's acceptance of the Offer.

1.9 "Offer" means an indication of willingness to sell at a given price; opposite of Bid, the price level of the offer may be referred to as the "ask".

1.10 "RFP" means a request for proposal on the Exchange in the form of a Non-Binding Auction.

1.11 "Term" has the meaning set forth in Section 6 below.

1.12 "Transaction" means, for each RFP, an agreement between Participant or any of its Affiliates and the Customer or any of its Affiliates in which Participant or such Affiliate agree to provide to or receive from such Customer or such Affiliate energy to buy or sell supplies as specified in the RFP, which agreement is executed within eighteen (18) months of the date when the bidding on such RFP is closed. World Energy typically utilizes the Exchange for most Transactions; however, World Energy retains the right to utilize whatever communication medium is in the best interest of the Customer.

1.13 "Transaction Fee" means the fee payable from Participant to World Energy for each Transaction, in an amount equal to the product of the rate per unit set forth in the applicable Fee Addendum multiplied by the applicable number of units, as specified in the Fee Addendum, which Participant physically or financially supplies to or receives from the Customer.

2. License Grant

2.1 Subject to the terms and conditions of this Agreement, World Energy hereby grants to Participant, for the term of this Agreement, a non-exclusive, non-transferable, non-

sublicensable license to access and use the Exchange and any related documentation, solely for Participant's own internal use. Specifically, but without limitation, under no circumstances shall internal use include the processing of information for any third party or for the purpose of competing with World Energy.

2.2 No licenses to any Intellectual Property Rights of World Energy are granted or shall be implied hereunder except to the extent necessary for exercise of Participant's rights under Section 2.1 hereof.

2.3 Participant may not modify, copy, distribute, transmit, display, perform, reproduce, publish, license, reverse engineer, decompile, create derivative works from, transfer, or sell any information, software, products or services obtained from the Exchange.

2.4 Participant agrees not in any way to tamper with the functionality of the Exchange or to copy pages from the Exchange or their content except where expressly permitted on the Exchange. Without limiting the foregoing, Participant agrees not to transmit any material to the Exchange that contains any viruses, Trojan horses, worms, or other computer programming routines that may damage, interfere with, intercept, copy or misappropriate any system, data or information relating to the Exchange.

2.5 Participant agrees to use the Exchange pursuant to applicable local, state, and federal laws. Participant agrees, therefore, not to use these services to conduct any business or activity or solicit the performance of any activity that is prohibited by law.

3. Ownership

Participant agrees and acknowledges that World Energy or its third-party providers retains ownership of all right, title and interest to all portions of the Exchange and documentation and all intellectual property rights therein, and that, other than the license granted herein, Participant shall not obtain or claim any rights in or ownership interest to the Exchange, or any associated Intellectual Property Rights.

4. Use of the Exchange; User Name and Password

5.1. In order to use the Exchange, World Energy shall provide Participant with a user name and password which Participant must use in order to gain access to the Exchange. Participant shall keep its user name and password in strictest confidence, limiting access and disclosure to those employees of Participant with a need to know. Participant hereby assumes all responsibility and liability associated with the use of such user name and password by its employees or any other persons to whom Participant or any of its employees disclose such information.

4.2 In consideration of the Participant's use of the Exchange, Participant shall: (a) provide true, accurate, current and complete information to World Energy, (b) maintain and promptly update the information to keep it accurate and complete, and (c) not make any speculative, false, or fraudulent posting of information, requests for proposals or Bids or Offers. Fraudulent posting of such information will be considered a breach and shall result in immediate termination of Participant's access to the Exchange.

4.3 World Energy may, in its sole reasonable discretion, with or without notice, suspend or terminate Participant's use of the Exchange. World Energy reserves the right to make any and all changes to the Exchange in its sole discretion.

4.4 World Energy may record telephone conversations where authorization is given, and Participant specifically consents to the making and use of any such recordings.

4.5 Participant hereby agrees to use the Exchange solely for its internal use and will not sell, lease, store or provide, directly or indirectly, the Exchange or any portion thereof to any third party. Participant agrees to protect World Energy's proprietary rights in the Exchange, to comply with reasonable requests made by World Energy to protect World Energy's contractual, statutory and common law rights in the Exchange.

4.6 Participant acknowledges that its use of the Exchange may be restricted or limited as a result of federal, state or other applicable laws, the regulations and rules of the local Public Utilities Commission, the Securities and Exchange Commission, or other regulatory organizations. Participant shall act in accordance with all restrictions and limitations so imposed, and it will be a material breach of this Agreement for Participant to evade any such restrictions and/or limitations.

4.7 PARTICIPANT ACKNOWLEDGES AND AGREES THAT WORLD ENERGY IS NOT IN ANY WAY RESPONSIBLE FOR COMPLETION OF A CONTRACT BETWEEN PARTICIPANT AND A CUSTOMER. ANY TRANSACTIONS MUST BE COMPLETED BY PARTICIPANT AND THE APPLICABLE CUSTOMER OUTSIDE THE SCOPE OF THIS AGREEMENT AND THE EXCHANGE. NO BINDING COMMITMENT BETWEEN PARTICIPANT AND A CUSTOMER IS CREATED THROUGH THIS AGREEMENT OR THE EXCHANGE.

5. Fees and Payment Terms.

5.1. Participant hereby agrees to pay to World Energy each Transaction Fee payable on energy supplies that were awarded to the Participant during the auction process and actually executed by the Customer and Participant.

*For the RFPs designated as having known fixed quantities,* payment is due 30 days after the Participant has been notified regarding the award of the RFP.

*For the RFPs designated as having unknown or variable quantities,* the awarded Participant hereby agrees to pay World Energy each Transaction Fee payable on energy supplies that were measured as having been physically or financially supplied by the Participant and paid for by the Customer in a calendar month, payment is due within ten (10) days of the end of each such calendar month.

5.2. Upon a Transaction following a Non-Binding Auction, World Energy shall email a Fee Addendum to Participant to confirm the details of the Transaction, including the Transaction Fee for fixed fee Transactions or the rate for calculation of the Transaction Fee for volume based Transactions, as applicable. Upon receipt of this Fee Addendum, Participant shall have five (5) business days to reply via email with acceptance of the Fee Addendum or dispute any elements of the Fee Addendum. After this period, the Fee Addendum is considered accepted by the Participant. Unless otherwise stated in the RFP, Participant agrees that payment of the Transaction Fee stated in the Fee Addendum shall be due in accordance with the terms of the Agreement upon Participant's receipt of the Fee Addendum. No additional signed writing shall be required between Participant and World Energy obligating Participant to pay such fees.

5.3. All Transaction Fees payable hereunder shall be paid in United States Dollars and sent to the address set forth in Section 11.6 hereof. No Transaction Fees are refundable or cancelable, except as set forth in Section 5.7.

5.4. Participant agrees to make and keep full and accurate books and records in sufficient detail to enable Transaction Fees payable to World Energy hereunder to be determined. *An electronic record will accompany each payment to World Energy indicating the amount of units consumed, service period, and Transaction Fee owed World Energy.* World Energy shall have the right to make an audit of the books and records of Participant that pertain to the calculation of Transaction Fees. World Energy shall treat as confidential all information obtained in such audit and shall not disclose the same to others, except to the extent necessary to enforce World Energy's rights hereunder. On five (5) days' prior written notice to Participant, World Energy or its representative shall have full access to the books and records of Participant necessary to confirm whether Transaction Fees are due to World Energy under this Agreement, and World Energy shall have the right to make copies thereof at Participant's expense. World Energy shall have such access during normal business hours. Prompt adjustment shall be made to reflect the results of such audit. If it is determined following such audit that any Transaction Fee for the period covered by such audit was not paid by Participant, then Participant shall reimburse World Energy for the reasonable out-of-pocket costs of such audit incurred by World Energy within thirty (30) days after World Energy's demand therefor, along with the shortfall of payments of Transaction Fees, and with interest on the shortfall amount at the rate applicable to late payments hereunder as set forth below.

5.5. All overdue payments shall bear interest of the lesser of (i) the rate of one and one-half percent (1.5%) per month or (ii) the maximum rate allowed by law, in either case plus World Energy's cost of collection (including reasonable attorney's fees).

5.6 Participant shall be solely responsible for the payment of any and all taxes arising, out of Participant's use of the Exchange, including, but not limited to, any sales, use, access and/or business taxes, excluding taxes based on the income of World Energy.

5.7. If a Transaction is terminated for any reason, all Transaction Fees applicable to that Transaction will cease on the effective date of contract termination. If Participant is later paid for any portion of the energy purchased by Customer from Participant under an RFP, whether by voluntary payment or damages, Participant shall immediately pay to World Energy the portion of the applicable Transaction Fee allocable to the paid energy amount.

6. Term and Termination

6.1. The Term of this Agreement shall commence on the Effective Date and continue until terminated pursuant to this Section 6.

6.2 Either Party may terminate this Agreement upon thirty (30) days prior written notice; provided that, upon any termination of this Agreement, the license granted in Section 2 and all other rights of the Parties under this Agreement shall terminate, except that, notwithstanding the foregoing, the rights and obligations under Sections 3, 5, 6, 7, 8, 9, 10, and 11 herein shall continue in full force and effect.

7. Indemnity.

7.1. World Energy agrees to indemnify, defend and hold harmless Participant and its officers, directors, employees, agents, successors and assigns from and against any and all losses, liabilities, damages, penalties and claims and all related costs and expenses (including reasonable attorneys' fees) related to claims made by third parties against Participant alleging that the use of the Exchange by Participant infringes the patents, copyrights, trademarks or service marks or other intellectual property rights of such third parties (a "Third Party Infringement Claim").

7.2. Participant agrees to indemnify, defend and hold harmless World Energy and its officers, directors, employees, agents, successors and assigns from and against any and all losses, liabilities, damages, penalties and claims and all related costs and expenses (including reasonable attorneys' fees) related to claims (i) that Participant or Participant's use of the Exchange are restricted or barred by any governmental rule, regulation or statute and/or (ii) based on dispute between Participant and a Customer or any other third party other than a Third Party Infringement Claim.

7.3. Each Party agrees to promptly notify the indemnifying party in writing of any indemnifiable claim. The indemnifying party shall control the defense and settlement of an indemnifiable claim. The indemnified party shall cooperate in all reasonable respects with the indemnifying party and its attorneys in the investigation, trial, defense and settlement of such claim and any appeal arising therefrom. The indemnified party may participate in such investigation, trial, defense and settlement of such claim and any appeal arising therefrom, through its attorneys or otherwise, at its own cost and expense. No settlement of a claim that involves a remedy other than the payment of money by the indemnifying party shall be entered

into without the consent of the indemnified party, which consent shall not be unreasonably withheld.

7.4. Should the Exchange become, or in World Energy's sole discretion be likely to become, the subject of any claim or action for infringement, World Energy may (a) procure for Participant the right to continue using the Exchange as contemplated hereunder; (b) modify the Exchange to render the Exchange non-infringing; or (c) if the foregoing alternatives are not reasonably available to World Energy, terminate this Agreement without any further obligation or liability whatsoever to Participant.

8. Warranties and Disclaimer.

8.1. WORLD ENERGY MAKES NO WARRANTY WHATSOEVER AS TO THE EXCHANGE, THE ACCURACY OF CUSTOMER INFORMATION, OR ANY SERVICES PROVIDED BY WORLD ENERGY HEREUNDER, EXPRESS OR IMPLIED. PARTICIPANT EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE EXCHANGE IS PROVIDED BY WORLD ENERGY AND ANY THIRD PARTY PROVIDERS ON AN "AS IS", "AS AVAILABLE" BASIS AT PARTICIPANT'S SOLE RISK. WORLD ENERGY EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT.

8.2. WORLD ENERGY, AND ITS OFFICERS, AFFILIATES, EMPLOYEES AND AGENTS SHALL HAVE NO LIABILITY, CONTINGENT OR OTHERWISE, TO PARTICIPANT OR TO THIRD PARTIES, FOR THE ACCURACY, TIMELINESS, COMPLETENESS, RELIABILITY, PERFORMANCE OR CONTINUED AVAILABILITY OF THE EXCHANGE OR FOR DELAYS OR OMISSIONS THEREIN, OR FOR INTERRUPTIONS IN THE DELIVERY OF THE EXCHANGE OR ANY SERVICES OFFERED BY WORLD ENERGY THEREUNDER. WORLD ENERGY SHALL NOT HAVE ANY RESPONSIBILITY TO INFORM PARTICIPANT OF ANY DIFFICULTIES EXPERIENCED BY WORLD ENERGY OR ANY THIRD PARTIES WITH RESPECT TO USE OF THE EXCHANGE OR TO TAKE ANY ACTION IN CONNECTION THEREWITH. FURTHER, WORLD ENERGY SHALL HAVE NO DUTY OR OBLIGATION TO VERIFY, CORRECT, COMPLETE OR UPDATE ANY INFORMATION DISPLAYED ON THE EXCHANGE.

9. Disclaimer and Limitation of Liability.

9.1. IN NO EVENT SHALL EITHER PARTY OR THEIR RESPECTIVE OFFICERS, AFFILIATES, EMPLOYEES AND AGENTS BE LIABLE TO THE OTHER PARTY FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF DATA, INTERRUPTION OF BUSINESS, OR FOR SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, MULTIPLE, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES OF ANY KIND, WHETHER BASED IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION, NEGLIGENCE), WARRANTY, GUARANTEE OR ANY OTHER LEGAL OR EQUITABLE GROUNDS, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF

SUCH DAMAGES.

9.2. TO THE EXTENT ALLOWED BY APPLICABLE LAW, IN NO EVENT SHALL WORLD ENERGY'S LIABILITY ARISING HEREUNDER EXCEED THE AMOUNT OF FEES DUE BY PARTICIPANT TO WORLD ENERGY UNDER THIS AGREEMENT.

9.3. NEITHER PARTY SHALL MAKE REPRESENTATIONS OR WARRANTIES TO ANY THIRD PARTY ON BEHALF OF THE OTHER PARTY AND IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY REPRESENTATION OR WARRANTY MADE TO ANY THIRD PARTY BY THE OTHER PARTY. THE LIMITATIONS CONTAINED IN THIS SECTION 9 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT AND APPLY NOTWITHSTANDING THE VALIDITY OF THE LIMITED REMEDIES PROVIDED FOR IN THIS AGREEMENT.

10. Use of Information; Confidentiality.

10.1. Participant's Information. The name and pricing information (if applicable) that Participant may provide to World Energy via the Exchange, together with information regarding the manner in which Participant uses the Exchange, will not be processed or disclosed by World Energy except as contemplated by this Agreement. Participant agrees that World Energy may share with other parties aggregate information, gathered by World Energy in the course of its operation of the Exchange. "Aggregate Information" is information that describes the habits, pricing data, usage patterns and/or demographics of Participant and other users as a group but does not describe or reveal Participant's identity.

10.2. World Energy's Information. Participant shall not disclose the terms and conditions of this Agreement or any Fee Addendum hereto, including without limitation the fees charged to Participant by World Energy, to any third party without the express prior written consent of World Energy.

11. General Provisions

11.1. Independent Contractors. Neither Party is an agent or representative of the other Party and neither Party shall have any right, power or authority to enter into any agreement for or on behalf of, or incur any obligation or liability, or to otherwise bind, the other Party.

11.2. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any other written or oral agreement or understanding with respect to the subject matter hereof. The terms and conditions of this Agreement may not be modified or amended other than by a writing signed by both Parties.

11.3. Severability of Provisions. In the event that any provision of this Agreement is found to be invalid or unenforceable pursuant to judicial decree or decision, the remainder of this Agreement shall remain valid and enforceable according to its terms.

11.4. Assignment. This Agreement shall inure to the benefit of and be binding upon the Parties hereto, their successors and permitted assigns. None of the rights, duties and obligations

of any Party hereunder may be assigned without the prior written consent of the other Party; provided, however, that each Party may assign this Agreement to an Affiliate or to the surviving entity in a merger or consolidation in which it participates, or to a purchaser of all, or substantially all, of its businesses related to this Agreement so long as such surviving entity or purchaser shall expressly assume, in writing, the performance of all of the applicable terms of this Agreement.

11.5. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts without giving effect to applicable conflict of laws provisions. Each Party hereby agrees to the exclusive jurisdiction of the courts in Worcester County, Massachusetts.

11.6. Notices. Except as specifically provided in this Agreement, all notices required hereunder shall be in writing and shall be given by personal delivery, overnight courier service, registered mail, or via facsimile transmission, to the Parties at their respective addresses or facsimile number set forth set forth above, facsimile number for World Energy at (508) 459-8101 and for Participant at _____, or at such other address(es) or facsimile number as shall be specified in writing by such Party to the other Party in accordance with the terms and conditions of this Section 11.6. All notices shall be deemed to have been given on the day of actual receipt thereof.

11.7. Waiver. No waiver of any provision of this Agreement, or any rights or obligations of either Party under this Agreement, shall be effective, except pursuant to a written instrument signed by the Party or Parties waiving compliance, and any such waiver shall be effective only in the specific instance and for the specific purpose stated in such writing. The failure of either Party to require the performance of any term of this Agreement or the waiver of either Party of any breach under this Agreement shall not operate or be construed as a waiver of any other provision hereof, nor shall it be construed as a waiver of any subsequent breach by the other Party hereto.

11.8. Force Majeure. Either Party shall be excused from any delay or failure in performance hereunder (excluding payment obligations) caused by reason of any occurrence or contingency beyond its reasonable control, including but not limited to, acts of God, earthquake, labor disputes and strikes, riots, war, common carrier interruptions, breakdown in facilities and government requirements. The obligations and rights of the Party so excused shall be extended on a day-to-day basis for the period of time equal to that of the force majeure event.

11.9. Execution in Counterparts and by Facsimile. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument. This Agreement may be executed and delivered by facsimile and the Parties agree that such facsimile execution and delivery shall have the same force and effect as delivery of an original document with original signatures.

IN WITNESS WHEREOF, the Parties have duly executed and delivered this Agreement as of the date first set forth above.

| WORLD ENERGY SOLUTIONS, INC. | | [INSERT PARTICIPANT NAME] | |
|---|---|---|---|
| By: | _____ | By: | _____ |
| Print Name: | _____ | Print Name: | _____ |
| Title: | _____ | Title: | _____ |
| Date: | _____ | Date: | _____ |

# Appendix 7

# Full Requirements Service Agreement