

**APPENDIX 6**

**BID ASSURANCE LETTER OF CREDIT**

**{TO BE ISSUED ON THE LETTERHEAD OF THE ISSUING BANK}**

IRREVOCABLE LETTER OF CREDIT NO.

ISSUE DATE \_\_\_\_\_

EXPIRY DATE \_\_\_\_\_

APPLICANT

[NAME]

[ADDRESS]

BENEFICIARY

RANDY FEUCHT

THE POTOMAC EDISON COMPANY

800 CABIN HILL DRIVE

GREENSBURG, PA 15601

CURRENCY      AMOUNT

USD      \*\*\*\*\*\$

WE HEREBY ISSUE IN YOUR FAVOR OUR IRREVOCABLE LETTER OF CREDIT NO: \_\_\_\_\_ FOR THE ACCOUNT OF \_\_\_\_\_ (APPLICANT) FOR AN AMOUNT OR AMOUNTS NOT TO EXCEED IN THE AGGREGATE US DOLLARS \_\_\_\_\_ AVAILABLE BY YOUR DRAFT(S) AT SIGHT ON THE BANK OF \_\_\_\_\_ (“ISSUER”) \_\_\_\_\_ (ADDRESS), EFFECTIVE \_\_\_\_\_ AND EXPIRING AT OUR COUNTERS NO LESS THAN 60 DAYS FROM THE EFFECTIVE DATE, UNLESS TERMINATED EARLIER IN ACCORDANCE WITH THE PROVISIONS OF THE BENEFICIARY’S MARYLAND REQUEST FOR PROPOSALS FOR FULL REQUIREMENTS SERVICE DATED (DATE) OR OTHERWISE EXTENDED BY AMENDMENT.

THIS LETTER OF CREDIT IS PRESENTABLE AND PAYABLE AT OUR COUNTERS AND WE HEREBY ENGAGE WITH YOU THAT DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE HONORED ON PRESENTATION IF ACCOMPANIED BY THE REQUIRED DOCUMENTS PURSUANT TO THE TERMS OF THIS LETTER OF CREDIT.

THE BELOW MENTIONED DOCUMENT(S) MUST BE PRESENTED ON OR BEFORE THE EXPIRY DATE OF THIS INSTRUMENT IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT.

1. YOUR SIGNED AND DATED STATEMENT, READING AS FOLLOWS:

“THE AMOUNT FOR THIS DRAWING, USD (INSERT AMOUNT), BEING

MADE UNDER THE BANK OF \_\_\_\_\_ (BANK) LETTER OF CREDIT NUMBER (INSERT LETTER OF CREDIT REFERENCE NUMBER), REPRESENTS AN AMOUNT DUE AND PAYABLE TO BENEFICIARY FROM APPLICANT FOR BID ASSURANCE RELATED TO THE BENEFICIARY'S MARYLAND REQUEST FOR PROPOSALS FOR FULL REQUIREMENTS SERVICE AGREEMENT DATED \_\_\_\_\_ (RFP)."

2. THIS ORIGINAL LETTER OF CREDIT AND ANY AMENDMENT(S).

IF PRESENTATION OF ANY DRAWING IS MADE ON A BUSINESS DAY (AS HEREIN DEFINED) AND SUCH PRESENTATION IS MADE ON OR BEFORE 11:00 A.M. NEW YORK TIME, ISSUER SHALL SATISFY SUCH DRAWING REQUEST ON THE NEXT BUSINESS DAY. IF THE DRAWING IS RECEIVED AFTER 11:00 A.M. NEW YORK TIME, ISSUER WILL SATISFY SUCH DRAWING REQUEST ON THE SECOND FOLLOWING BUSINESS DAY.

THIS LETTER OF CREDIT MAY BE TERMINATED UPON BENEFICIARY'S RECEIPT OF FULL PAYMENT FROM THE APPLICANT AND ISSUER'S RECEIPT OF A WRITTEN RELEASE FROM THE BENEFICIARY RELEASING THE ISSUER FROM ITS OBLIGATIONS UNDER THIS LETTER OF CREDIT ACCOMPANIED BY THE ORIGINAL LETTER OF CREDIT AND ALL AMENDMENTS.

THE TERM "BUSINESS DAY" AS USED HEREIN MEANS ANY DAY OTHER THAN (I) A SATURDAY, (II) A SUNDAY, OR (III) A DAY ON WHICH BANKING INSTITUTIONS LOCATED IN THE CITY OF NEW YORK, NEW YORK ARE REQUIRED OR AUTHORIZED BY LAW TO BE CLOSED.

APPLICANT'S FILING OF A BANKRUPTCY, RECEIVERSHIP OR OTHER DEBTOR-RELIEF PETITION, AND/OR APPLICANT'S DISCHARGE THEREUNDER, SHALL IN NO WAY AFFECT THE LIABILITY OF [BANK] UNDER THIS LETTER OF CREDIT AND [BANK] SHALL ALWAYS REMAIN LIABLE TO [BENEFICIARY] UP TO, BUT NOT BEYOND, THE STATED EXPIRY DATE OF THIS LETTER OF CREDIT FOR THE FULL AMOUNT OF APPLICANT'S OBLIGATIONS HEREIN TO [BENEFICIARY] NOT TO EXCEED THE AVAILABLE AMOUNT IN THIS LETTER OF CREDIT.

ADDITIONAL TERMS AND CONDITIONS:

1. ALL COMMISSIONS AND OTHER BANKING CHARGES WILL BE BORNE BY THE APPLICANT.
2. THIS LETTER OF CREDIT MAY NOT BE TRANSFERRED OR ASSIGNED.
3. THIS LETTER OF CREDIT IS IRREVOCABLE.
4. THIS LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY

PRACTICES (1998) OF THE INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590 ("ISP98") OR SUCH LATER REVISION (S) OF THE ISP AS MAY BE HEREAFTER ADOPTED. AS TO MATTERS NOT GOVERNED BY ISP98, THIS LETTER OF CREDIT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, INCLUDING, TO THE EXTENT NOT INCONSISTENT WITH ISP98, THE UNIFORM COMMERCIAL CODE AS IN EFFECT IN THE STATE OF NEW YORK. THIS LETTER OF CREDIT MAY NOT BE AMENDED, CHANGED OR MODIFIED WITHOUT THE EXPRESS WRITTEN CONSENT OF THE BENEFICIARY AND THE ISSUER.

5. THE BENEFICIARY SHALL NOT BE DEEMED TO HAVE WAIVED ANY RIGHTS UNDER THIS LETTER OF CREDIT, UNLESS THE BENEFICIARY OR AN AUTHORIZED AGENT OF THE BENEFICIARY SHALL HAVE SIGNED A DATED WRITTEN WAIVER. NO SUCH WAIVER, UNLESS EXPRESSLY SO STATED THEREIN, SHALL BE EFFECTIVE AS TO ANY TRANSACTION THAT OCCURS SUBSEQUENT TO THE DATE OF THE WAIVER, NOR AS TO ANY CONTINUANCE OF A BREACH AFTER THE WAIVER.
6. A FAILURE TO MAKE ANY PARTIAL DRAWINGS AT ANY TIME SHALL NOT IMPAIR OR REDUCE THE AVAILABILITY OF THIS LETTER OF CREDIT IN ANY SUBSEQUENT PERIOD OR OUR OBLIGATION TO HONOR YOUR SUBSEQUENT DEMANDS FOR PAYMENT MADE IN ACCORDANCE WITH THE TERMS OF THIS LETTER OF CREDIT.

WE CONFIRM THAT THE ELECTRONIC PDF FILE OF THE LETTER OF CREDIT AND ANY AMENDMENT(S) TRANSMITTED VIA E-MAIL TO: \_\_\_\_\_ IS THE OPERATIVE INSTRUMENT. THE BENEFICIARY MAY USE THE ELECTRONIC PDF FILE OF THE LETTER OF CREDIT NO. \_\_\_\_\_ AND ANY AMENDMENT(S) AS THE "ORIGINAL" LETTER OF CREDIT AND ORIGINAL AMENDMENTS. ANY PRINTED HARDCOPIES WILL BE COPIES ONLY AND CANNOT BE TREATED AS THE ORIGINAL LETTER OF CREDIT OR ORIGINAL AMENDMENTS.

AUTHORIZED SIGNATURE: \_\_\_\_\_  
TITLE: \_\_\_\_\_

PLEASE DIRECT ANY WRITTEN CORRESPONDENCE, INCLUDING DRAWING OR INQUIRIES TO:  
[BANK NAME, ADDRESS AND PHONE NUMBER]