

**Bidding Rules for the Auctions  
Under the Competitive Bidding Process  
of Ohio Power Company**

**NERA**  
ECONOMIC CONSULTING

## Contents

Contents .....	i
<b>ARTICLE I. Introduction .....</b>	<b>1</b>
<b>I.1. Background .....</b>	<b>1</b>
<b>I.2. Overview .....</b>	<b>1</b>
<b>ARTICLE II. Information to Bidders .....</b>	<b>4</b>
<b>II.1. Information Provided to Bidders .....</b>	<b>4</b>
<b>II.2. Generic schedule .....</b>	<b>5</b>
<b>ARTICLE III. Products and Auctions .....</b>	<b>7</b>
<b>III.1. SSO Supply and Supplier Obligations .....</b>	<b>7</b>
<b>III.2. Auctions and Tranches .....</b>	<b>7</b>
<b>ARTICLE IV. Pre-Auction Processes .....</b>	<b>9</b>
<b>IV.1. Part 1 Application .....</b>	<b>9</b>
<b>IV.2. Part 2 Application .....</b>	<b>10</b>
<b>IV.3. Sanctions for Failing to Comply with the Part 1 and Part 2 Applications .....</b>	<b>14</b>
<b>IV.4. Application Processing .....</b>	<b>14</b>
<b>IV.5. Extraordinary Events .....</b>	<b>16</b>
<b>ARTICLE V. General Bidding Provisions .....</b>	<b>17</b>
<b>V.1. Rounds .....</b>	<b>17</b>
<b>V.2. Decrements .....</b>	<b>17</b>
<b>V.3. Miscellaneous Provisions .....</b>	<b>18</b>
<b>V.4. Bidding Procedures .....</b>	<b>18</b>
<b>ARTICLE VI. Bidding Rules for Single Product Auctions .....</b>	<b>19</b>
<b>VI.1. Round 1 of the Auction .....</b>	<b>19</b>
<b>VI.2. Round 2 and Subsequent Rounds .....</b>	<b>19</b>
<b>VI.3. Failure to Submit a Bid .....</b>	<b>20</b>
<b>VI.4. End of Auction .....</b>	<b>20</b>
<b>ARTICLE VII. Bidding Rules for Multiple Product Auctions .....</b>	<b>22</b>
<b>VII.1. Round 1 .....</b>	<b>22</b>
<b>VII.2. Round 2 and Subsequent Rounds .....</b>	<b>22</b>
<b>VII.3. Failure to Submit a Bid .....</b>	<b>27</b>
<b>VII.4. End of Auction .....</b>	<b>28</b>
<b>ARTICLE VIII. Post-Auction Process .....</b>	<b>29</b>
<b>VIII.1. Notification of Results .....</b>	<b>29</b>
<b>VIII.2. Execution of Master SSO Supply Agreement .....</b>	<b>30</b>
<b>ARTICLE IX. Contingency Plans .....</b>	<b>31</b>

<b>ARTICLE X. Associations and Handling of Confidential Information .....</b>	<b>32</b>
<b>X.1. Process for Reporting Associations, Identifying Concerns and Remedies .....</b>	<b>32</b>
<b>X.2. Confidential Information.....</b>	<b>33</b>
<b>X.4. Certifications and Disclosures – Part 2 Application .....</b>	<b>34</b>
<b>X.5. Miscellaneous .....</b>	<b>36</b>
<b>ARTICLE XI. Miscellaneous .....</b>	<b>38</b>
<b>XI.1. Warranty on Information .....</b>	<b>38</b>
<b>XI.2. Hold Harmless .....</b>	<b>38</b>
<b>XI.3. Bid Submissions Become AEP Ohio’s Property .....</b>	<b>38</b>
<b>XI.4. Bidder’s Acceptance .....</b>	<b>38</b>
<b>XI.5. Permits, Licenses, Compliance with the Law and Regulatory Approvals .....</b>	<b>38</b>
<b>Appendix 1. Provisional Schedule.....</b>	<b>38</b>

## **ARTICLE I. Introduction**

### **I.1. Background**

- I.1.1.** On March 30, 2012, Ohio Power Company (“AEP Ohio”) filed an Electric Security Plan (“ESP II”) that proposed a competitive bidding process (“CBP”) for energy-only auctions that would transition AEP Ohio to procuring 100% of the energy needs of its Standard Service Offer (“SSO”) customers with delivery beginning June 1, 2015 (Case No. 11-346-EL-SSO and Case No. 11-348-EL-SSO). SSO customers are customers who take retail generation service from AEP Ohio, excluding Percentage of Payment Income Plan Customers.
- I.1.2.** The Public Utilities Commission of Ohio (“Commission”) issued an Opinion and Order regarding AEP Ohio’s ESP II on August 8, 2012 (“ESP II Order”). The Commission in its ESP II Order mandated that AEP Ohio hold energy and capacity auctions for SSO customers beginning June 1, 2015.
- I.1.3.** On December 20, 2013, AEP Ohio filed an Electric Security Plan (“ESP III”) that proposed a CBP for full requirements supply (Case No. 13-2385-EL-SSO). AEP Ohio’s ESP III addressed the Commission’s mandate in the ESP II Order to hold energy and capacity auctions for SSO customers for delivery beginning June 1, 2015. Through a February 25, 2015 Opinion and a May 28, 2016 Second Entry on Rehearing in Case No.13-2385-EL-SSO and Case No. 13-2386-EL-AAM, the Commission approved a modified ESP III to be in effect from June 2015 through May 2018.
- I.1.4.** As a result of the Commission’s Order in Case No. 16-247-EL-UNC issued on March 2, 2016, AEP Ohio removed the load of Percentage of Income Payment Plan customers (“PIPP Customers”) from the SSO auction product starting with the fourth auction of AEP Ohio’s CBP under ESP III.
- I.1.5.** AEP Ohio is seeking approval of an amended Electric Security Plan (“Amended ESP III”) that would, among other modifications, extend the existing term until May 31, 2024. These bidding rules form an integral part of AEP Ohio’s application and describe the requirements for participation in the full requirements auctions to be held under the CBP over that period.
- I.1.6.** AEP Ohio has retained NERA Economic Consulting to serve as Auction Manager. The Auction Manager can be contacted by email to [AEP-CBP@nera.com](mailto:AEP-CBP@nera.com).

### **I.2. Overview**

- I.2.1.** These Bidding Rules for the Auctions Under the Competitive Bidding Process of Ohio Power Company (“CBP Rules”) describe the process and requirements for participation in the full requirements auctions to be held under the CBP as proposed as part of AEP Ohio’s Amended ESP III. Bidders also need to be familiar with other documents for the auctions including the Master SSO Supply Agreement, the Part 1 Application, and the Part 2 Application. The “CBP website”, [www.AEPOhioCBP.com](http://www.AEPOhioCBP.com), is the main source of information for bidders in the auctions as well as for other stakeholders.
- I.2.2.** AEP Ohio will seek to procure full requirements supply for its SSO customers for 12-month, 24-month, and 36-month contracts through descending clock auctions held twice

per year. The specific contract terms to be solicited in particular auctions are specified in more detail in the schedule posted to the CBP website. The delivery period for each contract is scheduled to start on the 1st of the month of June immediately following the auction.

- I.2.3. SSO Load is divided in a number of “tranches”, each representing a fixed percentage of SSO Load. Prior to each auction, the Auction Manager announces to bidders the number of tranches, the fixed percentage assigned to each tranche (the “tranche size”), as well as a figure in MW, the “MW-measure” assigned to each tranche. The Auction Manager, in consultation with Commission Staff may increase the tranche size over the course of the CBP if necessary to foster bidder interest.
- I.2.4. In the Part 1 Application, an interested party applies to become a Qualified Bidder. To become a Qualified Bidder an interested party must be a Market Buyer, a Market Seller, and a PJM Load Serving Entity (“LSE”). If the interested party cannot make this certification, it must instead certify that it has no impediments to become a Market Buyer, a Market Seller, and a PJM LSE by the start of the delivery period and that it undertakes to do so if it becomes an SSO Supplier.
- I.2.5. In the Part 2 Application, a Qualified Bidder makes a number of certifications, submits an indicative offer, and posts pre-bid security to become a Registered Bidder.
- I.2.6. The term “bidder” is used generically to refer to a prospective bidder, a Qualified Bidder, or a Registered Bidder.
- I.2.7. Each auction is conducted as a descending clock auction. A clock auction proceeds in a series of rounds. In the bidding phase of a round, each bidder states the number of tranches that it wants to supply at the price announced by the Auction Manager for each product available in an auction. The price will be in dollars per megawatt-hour. If there are more tranches bid for a product than there are tranches available in a round, the Auction Manager reduces the price for that product. The Auction Manager then announces the new price for each product available in the auction before the bidding phase of the next round opens. The auction continues and the prices tick down until the number of tranches bid for all products falls to the point where it equals the number of tranches available. When the auction ends, the bidders holding tranches in the final round are the winners. All winners receive the same price for a product.
- I.2.8. Bidders that win at an auction for which results are accepted by the Commission become “SSO Suppliers”. SSO Suppliers will assume all responsibilities of an LSE and are responsible for providing full requirements service to SSO customers of AEP Ohio and to bear all costs that are associated with this responsibility. Full requirements service includes, without limitation, energy, capacity, ancillary services, certain transmission services, as well as any other service as may be required by PJM. AEP Ohio will provide distribution services and will be responsible for Network Integration Transmission Service (“NITS”) charges and for other non-market-based FERC-approved transmission charges. Full requirements service and the LSE obligations of SSO Suppliers are defined in the Master SSO Supply Agreement.
- I.2.9. Payments to SSO Suppliers for each MWh of SSO Supply delivered of a product (SSO Supply is defined in Paragraph III.1.1) will be the auction clearing price for that product times a seasonal factor (auction clearing price is defined in Sections VI.4 and VII.4).

- I.2.10. Commission Staff will oversee the conduct of the auctions and may also retain an advisor (“Commission Consultant”) for this purpose. The Commission has a two (2) business day window from the conclusion of the auction for review of the results. The Commission may reject the results of the auction, through an Order filed within the review window, if specific criteria are met. The Commission may accept the results of the auction. If the Commission does not act within the review window, the results of the auction are deemed accepted by the Commission at the expiration of the review window. Winning bidders at the auction will execute the Master SSO Supply Agreement within three (3) days of acceptance of the results.**

## **ARTICLE II. Information to Bidders**

### **II.1. Information Provided to Bidders**

**II.1.1.** Prospective bidders and other stakeholders can visit the CBP website, [www.AEPOhioCBP.com](http://www.AEPOhioCBP.com), to obtain information and documents related to the auctions under AEP Ohio's CBP.

**II.1.2.** The CBP website consists of the following sections:

- A 'home' page that provides general information about the CBP.
- A 'background' page with links to AEP Ohio's filings with the Commission as well as Commission Orders related to the CBP.
- An 'information' page that includes all documents and forms needed to participate in the auction, frequently asked questions, and data.
- A 'data room' that provides historical data for bidders to use in preparing their bids;
- A 'results' page that provides information regarding the results of previous auctions held under the CBP.
- A 'calendar' page that provides the timeline for the main events in the auction and the schedule of auction products during the course of the ESP.
- A 'contact us' page with the Auction Manager's contact information, a web form for participants to register for email updates, and a web form to ask a question to the Auction Manager. The Auction Manager answers each questioner individually via email. The question and answer are then posted to the FAQ portion of the information page.

**II.1.3.** The data portion of the CBP website will be updated monthly. AEP Ohio will provide historical data for bidders to use in preparing their bids. The data will be provided in useable electronic format such as Excel or CSV. The data is expected to include:

- Historical hourly load by groups (residential, small commercial and industrial, as well as large commercial and industrial);
- Customer counts;
- Switching statistics; and
- Information on municipal aggregation.

**II.1.4.** No later than eight (8) days prior to the "Part 1 Date", which is the date when Part 1 Applications are due, the Auction Manager will announce:

- A minimum starting price and a maximum starting price for the products in the auction. The "minimum and maximum starting prices" establish the range for the round 1 prices in the auction;
- The "tranche target" for each product, which is the number of tranches procured for each product in the auction;
- The "volume", which is the total number of tranches to be procured in the auction;

- The tranche size as a percentage of SSO Load; and
- The estimated MW-measure of each tranche.

II.1.5. No later than four (4) days prior to the “Part 2 Date”, which is the date when Part 2 Applications are due, the Auction Manager will update the estimated MW-measure of the tranches in the auction. At that time, the Auction Manager will also update or confirm the seasonal factors that will be applicable to the products in the auction.

II.1.6. The Auction Manager will provide additional information to Qualified Bidders and Registered Bidders on a confidential basis, as further explained below.

## II.2. Generic schedule

II.2.1. Unless noted otherwise, a “day” is a business day and all times refer to eastern prevailing time.

II.2.2. A generic schedule for events for one auction of the CBP is provided below. The provisional dates for each auction over the course of the CBP are provided in Appendix 1 to these CBP Rules.

**Table 1. Generic Schedule.**

Event	Date
Alternate guaranty process begins (if applicable)	Day -16
Bidder Information Session	Day -10
Auction Manager announces tranche targets, tranche size, MW-measure, minimum and maximum starting prices	Day -10
Alternate guaranty process ends (if applicable)	Day -5
Part 1 Window opens	Day 0
Part 1 Applications are due	Day 8
Part 1 Notification Date	Day 12
Part 2 Window opens	Day 13
Auction Manager announces any update to the MW-measure and announces seasonal factors	Day 13
Part 2 Applications are due	Day 22
Part 2 Notification Date	Day 27
Bidder User Manual Distributed	Day 27
Trial Auction for Registered Bidders	Day 28
Auction Manager informs Registered Bidders of round 1 prices	Day 29
Auction begins	Day 32
Auction Manager notifies AEP Ohio and the Commission of results	On day of auction close

<b>Event</b>	<b>Date</b>
End of Commission review period	Within two days of the auction close
Master SSO Supply Agreements Signed	Within three days of end of Commission review
Power Flow	TBD

II.2.3. The generic schedule is illustrative only and the timing of events for a particular auction may be different from the generic schedule. The actual schedule for each auction will be posted to the calendar page of the CBP website. The Auction Manager, in consultation with AEP Ohio and Commission Staff, may make changes to the schedule as circumstances warrant. Any such change will be announced to bidders and posted to the CBP website.

## **ARTICLE III. Products and Auctions**

This section summarizes the key elements of the products. The Master SSO Supply Agreement provides details on the products and the supplier obligations. The CBP website provides details about the products to be procured in a specific auction.

### **III.1. SSO Supply and Supplier Obligations**

- III.1.1. Bidders participate in the CBP to provide full requirements service for AEP Ohio's SSO customers ("SSO Supply"). SSO Supply is defined in more detail in the Master SSO Supply Agreement.
- III.1.2. "SSO customers" are customers who take retail generation service from AEP Ohio. SSO customers include customers that have reasonable arrangements under Section 4905.31, Revised Code<sup>1</sup> to the extent that such customers are not taking service from a Competitive Retail Electric Supplier. SSO customers do not include Percentage of Payment Income Plan Customers.
- III.1.3. The "Master SSO Supply Agreement" defines the specific obligations associated with providing SSO Supply.
- III.1.4. The auctions are designed to procure all elements of full requirements service for AEP Ohio's SSO customers. Each winning bidder will be responsible for fulfilling all the requirements of an LSE for the portion of AEP Ohio's SSO supply that it serves, including, without limitation, energy, capacity, ancillary services, market-based transmission service (excluding NITS), and any other service as required by PJM. AEP Ohio will provide distribution services and will be responsible for NITS charges and for other non-market-based FERC approved transmission charges. Full requirements service and the LSE obligations of SSO Suppliers are defined in the Master SSO Supply Agreement.
- III.1.5. The hourly energy requirements of the SSO supply, as measured or profiled by AEP Ohio and settled by PJM, will include distribution losses, transmission losses, and unaccounted for energy, and will be de-rated for transmission losses in accordance with PJM's settlement methodology and implementation of marginal transmission losses.

### **III.2. Auctions and Tranches**

- III.2.1. SSO Supply will be divided into a number of tranches and each tranche will represent a fixed percentage of SSO Supply.
- III.2.2. The Auction Manager may increase the tranche size to foster bidder interest. Such an increase in the tranche size would be determined by the Auction Manager in consultation with Commission Staff and announced to bidders no later than eight (8) days prior to the opening of the Part 1 Window.

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<sup>1</sup> These customers are sometimes referred to as Special Contract customers.

- III.2.3. A “product” is defined as SSO Supply for a given delivery period. The number of tranches to be procured for each product in an auction is called the tranche target and the total number of tranches to be procured in the auction is the volume.
- III.2.4. A “load cap” is a maximum number of tranches that a bidder can bid and win in an auction. The “load cap percentage” is the maximum percentage of SSO Load that a bidder can bid and win in an auction.
- III.2.5. AEP Ohio will seek to procure SSO Supply for its SSO customers through descending clock auctions for one or more of the following products: a 12-month product, a 24-month product, and a 36-month product in accordance with the schedule for the Amended ESP III posted to the “calendar” page of the CBP website. The delivery period for each contract for these products is scheduled to start on the 1st of the month of June immediately following the auction.

## **ARTICLE IV. Pre-Auction Processes**

There are two (2) parts to the application process. In the “Part 1 Application”, interested parties apply to become Qualified Bidders. In the “Part 2 Application”, each Qualified Bidder makes certifications, provides an indicative offer, and posts pre-bid security to become a Registered Bidder. The Auction Manager communicates by email during the review of the Part 1 and Part 2 Applications unless specifically instructed otherwise by a bidder.

### **IV.1. Part 1 Application**

**IV.1.1.** In the Part 1 Application, a bidder must:

- Submit an application from an individual with the power to bind the bidder;
- Agree to comply with all rules of the auction;
- Agree that if the bidder wins at the auction, the bidder will execute the Master SSO Supply Agreement with AEP Ohio and comply with the creditworthiness requirements set forth in the Master SSO Supply Agreement within three (3) days of acceptance of the auction results by the Commission;
- Show that the bidder is qualified by PJM as a Market Buyer, a Market Seller, and a PJM LSE (or, if not, certify that there exist no impediments to fulfilling these requirements by the start of the delivery period and undertake to do so if the bidder becomes an SSO Supplier);
- Certify that if the bidder becomes a Qualified Bidder, it will not disclose information regarding the list of Qualified Bidders or confidential information that may be obtained during the bidding process about Qualified Bidders;
- Provide financial statements and credit ratings; and
- Certify that if the bidder becomes a Qualified Bidder, it will not substitute another entity in its place, transfer its rights to another entity, or otherwise assign its status as a Qualified Bidder to another entity.

**IV.1.2.** The financial information provided in the Part 1 Application will be used to determine the bidder’s (or the bidder’s guarantor) credit-based tranche cap according to the table below. If the bidder or its guarantor is rated by only one (1) rating agency, that rating will be used. If the bidder or its guarantor is rated by at least two (2) rating agencies, the lower of the two (2) highest ratings will be used. The credit-based tranche cap is an overall cap in effect across all products of a given auction. The credit-based tranche cap is in effect only during the bidding process. After the Master SSO Supply Agreement has been executed by a winning bidder, the credit-based tranche cap will no longer be in effect and the SSO Supplier will be required to meet the credit terms in accordance with Article 5: Credit and Performance Security in the Master SSO Supply Agreement.

**Table 2. Credit-Based Tranche Cap.**

Credit Rating for Bidder or Guarantor			Credit-Based Tranche Cap
S&P	Moody's	Fitch	
BB and above	Ba2 and above	BB and above	No Cap
BB-	Ba3	BB-	10
Below BB-	Below Ba3	Below BB-	5
If not rated by any of these rating agencies			5

- IV.1.3. A single credit-based tranche cap is granted to affiliated bidders.
- IV.1.4. The parameters in the table above may vary over time at AEP Ohio's sole discretion.
- IV.1.5. A foreign bidder or a bidder desiring to rely on the creditworthiness of a foreign entity must, as a condition of being able to rely on the financial standing of such entity, provide drafts of additional documents required under the Master SSO Supply Agreement, such as an opinion from foreign counsel and a draft sworn certificate of the corporate secretary for evaluation by AEP Ohio.
- IV.1.6. The Part 1 Date is the last day of the "Part 1 Window", which is the period during which Part 1 Applications are processed. Part 1 Applications must be submitted to the Auction Manager no later than 12 PM (noon) on the Part 1 Date. The Auction Manager notifies bidders no later than four (4) days after the Part 1 Date whether they have met all the requirements to become a Qualified Bidder (the "Part 1 Notification Date"). The Auction Manager sends the "Part 1 Notification" to bidders that have met all the requirements to become a Qualified Bidder. The Part 1 Notification includes a summary of the pre-bid security that the Qualified Bidder must post as one of the requirements to become a Registered Bidder.
- IV.1.7. Bidders that have qualified in a prior auction under this CBP for AEP Ohio will be able to participate in an abbreviated process.
- IV.1.8. With the Part 1 Notification, the Auction Manager will send to each Qualified Bidder a list of Qualified Bidders. Further, the Auction Manager will send the list of Qualified Bidders to AEP Ohio, Commission Staff, and the Commission Consultant. All parties receiving a list of Qualified Bidders, or any information that is not publicly released, will be subject to the confidentiality requirements as specified below.

**IV.2. Part 2 Application**

- IV.2.1. A Qualified Bidder must successfully complete the Part 2 Application process in order to become a Registered Bidder that can bid in the auction. Only Qualified Bidders may submit a Part 2 Application.
- IV.2.2. A Qualified Bidder is "associated with" another Qualified Bidder if the two bidders have ties that could allow them to act in concert or that could prevent them from competing actively against each other. The competitiveness of the auction and the ability of the auction to produce competitive prices may be harmed by the coordinated or collusive behavior that associations facilitate. As the Auction Manager relies on a number of

factors to assess and promote competitive bidding, including the number of independent competitors, providing inaccurate information or insufficient disclosure of associations in the Part 2 Application is prohibited.

- IV.2.3. In the Part 2 Application, each Qualified Bidder will make a number of certifications regarding associations to ensure that the bidder is participating independently of other Qualified Bidders and to ensure the confidentiality of information regarding the auction. These certifications are provided below in Article X. Qualified Bidders that are unable to make all these certifications may be required to make additional undertakings and may be subject to specific rules regarding the load caps, as specified more fully in the Rules and Protocols for Participation by Associated Bidders.
- IV.2.4. In the Part 2 Application, each Qualified Bidder must also:
- Submit an indicative offer;
  - Submit a preliminary interest in each product when there are several products in the auction; and
  - Post pre-bid security sufficient to support its indicative offer at the maximum starting price.
- IV.2.5. A Qualified Bidder's "indicative offer" specifies two (2) numbers of tranches. The first number represents the number of tranches that the Qualified Bidder is willing to supply at the minimum starting price for all products in the auction and the second number represents the number of tranches that the Qualified Bidder is willing to supply at the maximum starting price for all products in the auction.
- IV.2.6. The indicative offer must be such that:
- The number of tranches specified in the indicative offer at the minimum starting price does not exceed the number of tranches specified at the maximum starting price;
  - The number of tranches at the maximum starting price does not exceed the load cap, which is set at 80% of the volume;
  - The number of tranches at the maximum starting price, together with the number of tranches won in previous auctions that overlap the delivery period of the products in the auction, do not exceed the credit-based tranche cap.
- IV.2.7. A Qualified Bidder's "preliminary interest" for a product specifies two (2) numbers of tranches. The first number represents the number of tranches that the Qualified Bidder is willing to bid for that product at the maximum starting price and the second number represents the number of tranches that the Qualified Bidder is willing to bid for that product at the minimum starting price. The preliminary interest at a given price (the minimum starting price or the maximum starting price) must not exceed the indicative offer at that price. However, the sum of the preliminary interests across all products at a given price may exceed the indicative offer at that price.
- IV.2.8. The indicative offer is important in two (2) respects. First, the Auction Manager may use the indicative offers and preliminary interests to inform the setting of the round 1 prices. Second, the indicative offer at the maximum starting price determines the bidder's "initial eligibility", which is the maximum number of tranches that a bidder can bid in the first round of the auction.

- IV.2.9. Each Qualified Bidder must post pre-bid security sufficient to support its indicative offer at the maximum starting price.**
- Each bidder must post a pre-bid letter of credit or cash in an amount of \$500,000 per tranche of the bidder's indicative offer at the maximum starting price;
  - To the extent that the maximum amount of pre-bid security required per tranche exceeds \$500,000, each bidder that relies on the financial standing of a guarantor must, in addition to a pre-bid letter of credit or cash, provide a "letter of intent to provide a guaranty", which is a document executed by an authorized representative of the guarantor;
  - To the extent that the maximum amount of pre-bid security required per tranche exceeds \$500,000, a bidder may also be required to submit a "letter of reference", which is a document from a financial institution in support of the bidder's indicative offer;
  - If a bidder is advised that a letter of intent to provide a guaranty and/or a letter of reference is required for a given amount, a bidder may elect instead to increase its pre-bid letter of credit or cash by that amount;
  - A foreign bidder or a bidder desiring to rely on the creditworthiness of a foreign entity must, as a condition of being able to rely on the financial standing of such entity, provide the executed additional documents required under the Master SSO Supply Agreement, such as an opinion from foreign counsel and a draft sworn certificate of the corporate secretary for evaluation by AEP Ohio, incorporating all changes required by AEP Ohio upon review of the draft documents submitted with the Part 1 Application. A bidder that does not satisfy this requirement will be subject to the credit-based tranche cap and will be required to provide the pre-bid security required when such bidder may not rely on the financial standing of such entity.

Each Qualified Bidder will be advised of the pre-bid security that it must post with its Part 2 Application in its Part 1 Notification. The maximum amount of pre-bid security required per tranche is determined on the basis of the Independent Credit Requirement per Tranche ("ICRT") due at the time of execution of the Master SSO Supply Agreement and will be announced prior to each auction.

- IV.2.10. A Bidder that posts cash must request wire instructions from the Auction Manager and must acknowledge the conditions under which such cash may be drawn.**
- IV.2.11. The standard form of the pre-bid letter of credit and other credit documents that are acceptable to AEP Ohio will be posted to the CBP website.**
- IV.2.12. Pre-bid security will remain in full force, at a minimum, until the tenth (10<sup>th</sup>) day after the start of the auction. Subsequently, a bidder's pre-bid letter of credit or cash will be returned: (a) as soon as practicable after the Commission's decision on the auction results if the bidder has won no tranches, and (b) as soon as practicable after the bidder has signed the Master SSO Supply Agreement and has complied with all creditworthiness requirements of the Master SSO Supply Agreement for the tranches that it has won.**
- IV.2.13. AEP Ohio can collect on the pre-bid letter of credit or AEP Ohio can draw upon cash posted if a bidder wins tranches but fails to sign the Master SSO Supply Agreement or fails to comply with the creditworthiness requirements within three (3) days of acceptance of the auction results by the Commission.**

- IV.2.14.** Bidders will have an opportunity to request modifications to the standard credit instruments in advance of qualification. All modifications accepted to these credit instruments for the benefit of a single bidder will be made available to all bidders on an optional basis. The prospective bidder, in its Part 2 Application, must provide the required executed credit documents that either use the standard form or incorporate only those modifications to the standard form that are acceptable to AEP Ohio.
- IV.2.15.** Bidders will have the opportunity once a year to participate in an Alternate Guaranty Process in advance of qualification. AEP Ohio and the Auction Manager will consider only an alternate form of guaranty if it has been used by the guarantor in its normal course of business. The Alternate Guaranty Process, including specific criteria for approval, is described in the Alternate Guaranty Process document. In particular, the alternate form of guaranty must provide credit protections to AEP Ohio and its customers that are substantially similar to the credit protections provided to AEP Ohio by the standard form of guaranty. A supplier unable to use the standard form of guaranty provided as Attachment D to the Master SSO Supply Agreement may submit an alternate form of guaranty for consideration by AEP Ohio including any required modifications, revisions, and other documents identified as necessary for acceptability by AEP Ohio.
- IV.2.16.** Part 2 Applications must be submitted to the Auction Manager no later than 12 PM (noon) on the Part 2 Date. Qualified Bidders will be notified by the Auction Manager whether they have met all the requirements to become a Registered Bidder no later than five (5) days after the Part 2 Date (the "Part 2 Notification Date"). The Auction Manager sends the "Part 2 Notification" to bidders that have met all the requirements to become a Registered Bidder. With the Part 2 Notification, the Auction Manager will send to each Registered Bidder its initial eligibility, the list of Registered Bidders, and the total initial eligibility in the auction across all Registered Bidders. The "total initial eligibility" is the sum across all Registered Bidders of the indicative offers at the maximum starting price. Qualified Bidders, in their Part 2 Applications, will have undertaken to maintain the confidentiality of the list of Registered Bidders and the total initial eligibility, and to destroy documents including electronic files with this information provided by the Auction Manager within five (5) days of the Commission decision on the auction results.
- IV.2.17.** No later than three (3) days before the auction, the Auction Manager will inform all Registered Bidders of the round 1 prices in the auction. The round 1 prices will be no higher than the maximum starting price and no lower than the minimum starting price. The Auction Manager will set the round 1 prices.
- IV.2.18.** The Auction Manager may reduce the volume prior to the auction if indications of interest are such that doing so is required to promote more competitive bidding. The reduction in volume would be effected by reducing the number of tranches to be procured from each product in proportion to its initial tranche target. The Auction Manager will advise bidders of this fact.
- IV.2.19.** The Auction Manager will also provide to AEP Ohio, Commission Staff and Commission Consultant the list of Registered Bidders and the total initial eligibility in the auction.

### **IV.3. Sanctions for Failing to Comply with the Part 1 and Part 2 Applications**

- IV.3.1. Sanctions can be imposed on a bidder for failing to disclose information relevant to determining associations, for coordinating with another bidder, or for failing to abide by any of the certifications that it will have made in its Part 1 and Part 2 Applications.
- IV.3.2. Such sanctions can include, but are not limited to, termination of the Master SSO Supply Agreement, loss of all rights to provide SSO supply for AEP Ohio to serve any load won by such bidder, forfeiture of financial guarantees and other fees posted or paid, prosecution under applicable state and federal laws, debarment from participation in future competitive bidding processes, and other sanctions that may be appropriate.
- IV.3.3. The Auction Manager, in its report submitted to the Commission at the conclusion of the auction, will make a recommendation on a possible sanction for any bidder that violates any of its undertakings under the Part 1 or the Part 2 Application process or that fails to disclose information required by the Part 1 or the Part 2 Application process.

### **IV.4. Application Processing**

- IV.4.1. The Auction Manager, for the purposes of the auction, provides all notifications to the Representative by email unless specifically instructed otherwise by a bidder. Any notification or other written communication from the Auction Manager to a bidder that is sent by email will be sent to the email addresses provided for the Representative and the Representative's Nominee(s) as defined in Paragraph IV.4.5. Any such notification or communication will be deemed received by the bidder at the time of delivery or transmission, provided that when delivery or transmission occurs after 6 PM on a business day or occurs on a day that is not a business day, receipt will be deemed to occur at 9 AM on the following business day.
- IV.4.2. Bidders submit to a two-step application process. Part 1 Applications are submitted during the Part 1 Window. The last day of the Part 1 Window is the Part 1 Date. All materials for the Part 1 Applications must be received by 12 PM (noon) on the Part 1 Date.
- IV.4.3. The Part 1 Application consists of the online Part 1 Form and attachments that are uploaded to the "application website". Bidders will be provided logon credentials for the application website upon submitting an expression of interest to the Auction Manager.
- IV.4.4. The Auction Manager reviews a Part 1 Application on the day of receipt and provides the bidder with an assessment of whether or not the Part 1 Application is complete and consistent with the requirements. If a bidder receives a notice from the Auction Manager that the Part 1 Application is deficient or requires clarification, and if the bidder does not respond by the time required in the notice, the bidder will not be qualified. A bidder provides any additional information that is required exclusively through the online Part 1 Form or through upload of attachments to the application website. Any communication from the bidder to the Auction Manager by email, for example to advise the Auction Manager that the online Part 1 Form has been updated, should be addressed to AEP-CBP@nera.com.
- IV.4.5. Appendix B to the Part 1 Form may be used at any time by the Representative to provide contact information for up to four (4) individuals to be included in electronic

communications from the Auction Manager (the Representative himself or herself, as well as three “Nominees”).

- IV.4.6. A bidder is qualified pursuant to a successful Part 1 Application if its Part 1 Application is received on or before 12 PM (noon) on the Part 1 Date and if its Part 1 Application is complete and consistent with all requirements. All bidders that are qualified pursuant to a successful Part 1 Application are “Qualified Bidders”. The Auction Manager will notify each bidder regarding its status by the Part 1 Notification Date. Along with the Part 1 Notification, the Auction Manager will also send to each Qualified Bidder a list of all Qualified Bidders and a creditworthiness assessment that details the pre-bid security to be provided with the Part 2 Application.
- IV.4.7. Qualified Bidders that wish to participate in the auction must also submit a Part 2 Application to the Auction Manager. Only Qualified Bidders may submit Part 2 Applications. Part 2 Applications are processed during a specific timeframe, the “Part 2 Window”. The last day of the Part 2 Window is the Part 2 Date. All materials for the Part 2 Applications must be received by 12 PM (noon) on the Part 2 Date.
- IV.4.8. The Part 2 Application consists of the online Part 2 Form and pre-bid security. The Part 2 Application requires the submission of an indicative offer as well as an executed pre-bid letter of credit or cash. A bidder may also be required to submit a letter of intent to provide a guaranty, proposed guaranty, supplemental documents (i.e. legal opinion(s) of guarantor’s counsel) and/or a letter of reference from a financial institution. For auctions with several products, bidders must also submit preliminary interest in each product. The pre-bid security instruments must be provided in a form acceptable to AEP Ohio and must be sufficient to support the indicative offer at the maximum starting price.
- IV.4.9. The Auction Manager reviews a Part 2 Application on the day of receipt and provides the bidder with an assessment of whether or not the Part 2 Application is complete and consistent with the requirements. If a bidder receives a notice from the Auction Manager that the Part 2 Application is deficient or requires clarification, and if the bidder does not respond by the time required in the notice, the bidder will not be registered. A bidder provides any additional information that is required exclusively through the online Part 2 Form or through sending pre-bid security in the manner appropriate to the specific pre-bid security instrument. Any communication from the bidder to the Auction Manager by email, for example to advise the Auction Manager that the online Part 2 Form has been updated, should be addressed to AEP-CBP@nera.com.
- IV.4.10. A bidder is registered pursuant to a successful Part 2 Application if its Part 2 Application is received on or before 12 PM (noon) on the Part 2 Date and if its Part 2 Application is complete and consistent with the requirements. All bidders that are registered pursuant to a successful Part 2 Application are “Registered Bidders”. The Auction Manager will notify each bidder regarding its status by the Part 2 Notification Date. Along with the Part 2 Notification, the Auction Manager will also send to each Registered Bidder a list of all Registered Bidders, the total initial eligibility in the auction, as well as the Bidder User Manual. Neither the list of Registered Bidders nor the total initial eligibility in the auction will be released publicly.

#### **IV.5. Extraordinary Events**

- IV.5.1.** An extraordinary event must be agreed to by AEP Ohio and the Auction Manager. Such events could include, but are not limited to, the advent of war, the disruption of a major supply source, or other events that could affect significantly the cost of supply.
- IV.5.2.** This section is applicable to a situation where AEP Ohio and the Auction Manager agree that an extraordinary event has occurred between the time at which the minimum starting price and the maximum starting price are announced and the day on which bidding starts.
- IV.5.3.** The Auction Manager may determine that, due to extraordinary events, the minimum starting price and the maximum starting price require revision. The Auction Manager will determine the revised minimum starting price and revised maximum starting price. The Auction Manager may also revise the schedule for the auction. The Auction Manager will announce to bidders any revision to the maximum starting price, to the minimum starting price, or to the schedule.
- IV.5.4.** If the indicative offers and preliminary interests have already been received, the Auction Manager will require new indicative offers and preliminary interests from bidders based on the revised minimum starting price and revised maximum starting price. The Auction Manager will establish a schedule that affords bidders sufficient time to revise their indicative offers, preliminary interests, and pre-bid security.

## **ARTICLE V. General Bidding Provisions**

### **V.1. Rounds**

- V.1.1. The auction format is a multiple-round descending-price clock auction.
- V.1.2. Each round of the auction is divided into three (3) phases: a bidding phase, a calculating phase, and a reporting phase.
- V.1.3. In the “bidding phase” of the round, bidders place bids. A bidder can modify its bid as long as the bidding phase of the round is open. The valid bid is the last received bid that is submitted and verified during the bidding phase and processed by the Auction Software. A valid bid is a firm commitment to supply the number of tranches indicated at the price of the round and a valid bid cannot be rescinded. A bidder with positive eligibility must submit a bid in every round (even when the bidder’s bid does not change).
- V.1.4. The “calculating phase” immediately follows the bidding phase. In the calculating phase of the round, the Auction Manager tabulates the results of that round’s bidding phase and calculates the prices for the next round. During this phase, bidders cannot submit bids and bidders do not yet have access to the results from that round’s bidding phase.
- V.1.5. The “reporting phase” immediately follows the calculating phase. In the reporting phase of the round, the Auction Manager informs the bidders of the results of that round’s bidding phase. Each bidder privately receives the results of its own bid from that round. All bidders are informed of the going prices for the next round’s bidding phase and are provided with a range of total excess supply in the auction. The “going prices” in a round are the prices at which the Auction Manager is soliciting bids in that round.
- V.1.6. The Auction Manager provides the times of the start and end of each phase of the rounds to the bidders with the Bidder User Manual. The schedule is subject to change at the Auction Manager’s discretion and bidders will be advised of any changes in the schedule through the Auction Software.

### **V.2. Decrements**

- V.2.1. The percentage decrease of the going price for a product from one round to the next is called a “decrement”. The Auction Manager will define a relationship whereby the decrement for a product will be positively related to the difference between the number of tranches bid and the tranche target for that product. This relationship may differ by product.
- V.2.2. The decrement relationships, in the form of an equation or a table, will be provided to bidders in the Bidder User Manual.
- V.2.3. The Auction Manager has the discretion in any round to override the decrement relationship for any product. The Auction Manager would advise bidders when it uses such discretion.
- V.2.4. Prices will be rounded off to the nearest cent.

### **V.3. Miscellaneous Provisions**

- V.3.1. The Auction Manager can call a time-out to the auction at any time during a round. A “time-out” will suspend activity in the auction. It is intended that a “time-out” will last a period generally less than one hour; however, the Auction Manager retains the discretion to suspend activity for a longer period if necessary. Whenever a time-out is called, the Auction Manager reports to all bidders how long the time-out is expected to last.
- V.3.2. If there is insufficient supply for the tranches to ensure competitive bidding, the Auction Manager will reduce the volume. The reduction in volume would be effected by reducing the number of tranches to be procured from each product in proportion to its initial tranche target. The Auction Manager will advise bidders of such reductions. The criteria that could lead to such a reduction will be determined prior to the auction but will not be announced to bidders. Once certain pre-specified criteria have been met, the discretion to reduce the volume will be eliminated and there will be no reduction in volume. Thus, any exercise of this discretion would be more likely in the earlier rounds of the auction.
- V.3.3. A bidder with zero eligibility will lose its ability to view the auction results through the Auction Software within three (3) rounds.

### **V.4. Bidding Procedures**

- V.4.1. The primary bidding method for the auction is the electronic submission of bids through the Auction Software. The Auction Manager will hold a trial auction for the purposes of bidder training. Participation at the trial auction is optional.
- V.4.2. The secondary bidding method for the auction is by phone. If a bidder is experiencing technical difficulty and cannot submit a bid using the Auction Software, the bidder calls a technical assistant who enters the bidder’s bid on the bidder’s behalf.
- V.4.3. It is the bidder’s sole and entire responsibility to submit a bid on time whether using the primary or secondary bidding method.

## **ARTICLE VI. Bidding Rules for Single Product Auctions**

### **VI.1. Round 1 of the Auction**

- VI.1.1. The round 1 price is announced to Registered Bidders no later than three (3) days prior to the start of the auction.
- VI.1.2. A “bid” consists of the number of tranches that the bidder wants to supply at the going price of the round (for round 1, this is the round 1 price).
- VI.1.3. A bid in round 1 must satisfy the following condition: the number of tranches bid cannot exceed the bidder’s initial eligibility. The bidder’s initial eligibility is the number of tranches in the bidder’s indicative offer at the maximum starting price. Because the number of tranches in the indicative offer at the maximum starting price cannot exceed the load cap, the number of tranches bid in round 1 will also be at or below the load cap.
- VI.1.4. A bidder is not required to bid in round 1 the same number of tranches as in the bidder’s indicative offer at the maximum starting price. A bidder may bid fewer tranches than the bidder’s initial eligibility (including bidding zero tranches).
- VI.1.5. If the number of tranches bid by all bidders exceeds the number of tranches available, the auction proceeds to round 2. During the reporting phase of round 1, the Auction Manager informs all bidders of the going price for round 2 as well as a range of total excess supply. The going price for round 2 is lower than the round 1 price. The “total excess supply” is the greater of: (i) zero; or (ii) the number of tranches bid less the tranche target. The possible ranges of total excess supply will be provided to bidders in the Bidder User Manual.
- VI.1.6. During the reporting phase of round 1, the Auction Manager informs each bidder individually of the result of its bid. In particular, the Auction Manager informs each bidder of its “eligibility” for round 2, which is the maximum number of tranches that the bidder can bid in round 2. The eligibility of a bidder for round 2 is the number of tranches that the bidder bid in round 1.

### **VI.2. Round 2 and Subsequent Rounds**

- VI.2.1. A bid specifies the number of tranches that the bidder wants to supply at the going price for the round.
- VI.2.2. In round 2 and in any subsequent round, a bid must satisfy the following condition: the number of tranches bid cannot exceed the bidder’s eligibility for that round. A bidder’s eligibility in a round is the number of tranches the bidder bid in the previous round.
- VI.2.3. A bidder can either select to bid the same number of tranches as it bid in the previous round or it can select to bid fewer tranches. A bidder cannot increase the number of tranches bid from the previous round. As stated in Paragraph VI.1.3., the number of tranches bid in round 1 is at or below the load cap. Thus, the number of tranches bid by a bidder is at or below the load cap for the entire auction.

- VI.2.4. If a bidder selects to bid fewer tranches than in the previous round, the bidder “withdraws” tranches from the auction. The bidder is required to specify an exit price for the tranches that the bidder is withdrawing. An “exit price” is a last and best offer for the tranches withdrawn. An exit price must be less than or equal to the going price in the previous round and must be greater than the going price in the current round. A bidder that withdraws tranches loses the eligibility associated with these tranches and forfeits the right to bid these tranches for the remainder of the auction.
- VI.2.5. If there are more tranches bid than are available in a round, the auction proceeds to the next round. In the reporting phase of the current round, the Auction Manager informs all bidders of the going price for the next round as well as a range of total excess supply for the current round.
- VI.2.6. In the reporting phase, the Auction Manager also reports privately to each bidder the bidder’s eligibility for the next round. The eligibility of a bidder for the next round is the bidder’s eligibility for the current round less the number of tranches withdrawn in the current round.
- VI.2.7. A bidder that bids zero (0) tranches can no longer win at the auction if the auction proceeds to the next round. Such a bidder loses its access to the Auction Software no earlier than the round in which the bidder bids zero (0) tranches. Such a bidder loses its access to the Auction Software no later than three (3) rounds after it has no remaining obligation.
- VI.2.8. If it is not the case that the number of tranches bid by all bidders exceeds the number of tranches available, the auction ends in the reporting phase of the round. The Auction Manager informs bidders of the auction clearing price. The Auction Manager informs each bidder of the number of tranches it has won at the auction clearing price.

### **VI.3. Failure to Submit a Bid**

- VI.3.1. It is the bidder’s sole and entire responsibility to submit a bid on time whether using the primary or secondary bidding method. If a bidder with positive eligibility does not submit a bid in a round, the bidder is assigned a “default bid”. A default bid is a bid placed on behalf of the bidder that consists of the minimum number of tranches that the bidder could have bid.
- VI.3.2. The default bid in round 1 is zero tranches for all products and the bidder cannot be a winner at the auction.
- VI.3.3. The default bid in round 2 and all subsequent round is zero tranches. The exit price is equal to the going price in the previous round.

### **VI.4. End of Auction**

- VI.4.1. If the number of tranches bid by all bidders in the final round exactly equals the number of tranches that are available, the auction clearing price is the going price in the final round.
- VI.4.2. If the number of tranches bid by all bidders in the final round falls short of the number of tranches available, the Auction Manager first accepts all bids at the going price of the

final round. The Auction Manager then ranks the withdrawn tranches in ascending order of their exit price. The Auction Manager accepts enough tranches to award all available tranches, in order, starting with the lowest exit price. The auction clearing price is the exit price associated with the last awarded tranche and is the lowest price at which sufficient supply is bid for the tranches available.

- VI.4.3. If the Auction Manager must award some but not all of the tranches from two (2) or more bidders that named the same exit price, the Auction Manager chooses at random, for each tranche, the bidder that will be awarded the tranche. For the first tranche needed at the tied exit price, the probability that a bidder is chosen is the number of tranches that the bidder has withdrawn at the exit price divided by the total number of tranches withdrawn at the exit price. If a second tranche is needed at the tied exit price, the Auction Manager again will choose at random the bidder whose tranche will be retained. The probability that any one bidder is chosen is the number of tranches that the bidder has withdrawn at the exit price and that have not yet been awarded divided by the total number of tranches withdrawn at the exit price and that have not yet been awarded. The Auction Manager repeats this procedure until all tranches available are awarded.
- VI.4.4. The Auction Manager selects withdrawn tranches that are a result of default bids only if all bids at the going price and all tranches withdrawn by bidders (and not by default) are not sufficient to meet the number of tranches available. If the Auction Manager must award withdrawn tranches that are the result of default bids and two (2) or more bidders have default bids, the Auction Manager chooses at random, for each tranche, the bidder that will be awarded the tranche, in a procedure analogous to that described in the preceding paragraph.

## **ARTICLE VII. Bidding Rules for Multiple Product Auctions**

### **VII.1. Round 1**

- VII.1.1. The round 1 prices are announced to Registered Bidders no later than three (3) days prior to the start of the auction.
- VII.1.2. A “bid” consists of the number of tranches that the bidder wants to supply of each product at the going prices of the round (for round 1, these are the round 1 prices).
- VII.1.3. A bid in round 1 must satisfy the following condition: the total number of tranches bid across all products cannot exceed the bidder’s initial eligibility. The bidder’s initial eligibility is the number of tranches in the bidder’s indicative offer at the maximum starting price. Because the number of tranches in the indicative offer at the maximum starting price cannot exceed the load cap, the number of tranches bid in round 1 will also be at or below the load cap.
- VII.1.4. A bidder is not required to bid in round 1 the same total number of tranches across all products as the number of tranches in the bidder’s indicative offer at the maximum starting price. A bidder may bid fewer tranches than the bidder’s initial eligibility (including bidding zero tranches).
- VII.1.5. If the number of tranches bid by all bidders exceeds the number of tranches available for at least one product, the auction proceeds to round 2. During the reporting phase of round 1, the Auction Manager informs all bidders of the going prices for round 2 as well as a range of total excess supply. The “excess supply” for a product is the number of tranches bid less the tranche target. The “total excess supply” is the sum across all products of the greater of: (i) zero; or (ii) the excess supply for the product; plus any free eligibility, as defined below in Paragraph VII.2.17. The going price for round 2 for a product is lower than the round 1 price if and only if the number of tranches bid for that product was greater than the tranche target for that product. The possible ranges of total excess supply will be provided to bidders in the Bidder User Manual.
- VII.1.6. During the reporting phase of round 1, the Auction Manager informs each bidder individually of the result of its bid. In particular, the Auction Manager informs each bidder of its “eligibility” for round 2, which is the maximum number of tranches that the bidder can bid in round 2. The eligibility of a bidder for round 2 is the total number of tranches that the bidder bid in round 1.

### **VII.2. Round 2 and Subsequent Rounds**

- VII.2.1. A bid specifies the number of tranches that the bidder wants to bid of each product at the going prices of the round.
- VII.2.2. In round 2 and in any subsequent round, a bid must satisfy the following condition: the total number of tranches bid across all products cannot exceed the bidder’s eligibility for that round. A bidder’s eligibility in round 2 is the number of tranches the bidder bid in round 1. A bidder’s eligibility in round 3 and any subsequent round is the bidder’s eligibility in the immediately preceding round less any tranches withdrawn in the immediately preceding round, as further defined below.

- VII.2.3. A bidder can either select to bid the same total number of tranches as it bid in the previous round or it can select to bid fewer tranches. A bidder cannot increase the total number of tranches bid from the previous round. As stated in Paragraph VII.1.3, the total number of tranches bid in round 1 is at or below the load cap. Thus, the total number of tranches bid by a bidder is at or below the load cap for the entire auction.
- VII.2.4. If a bidder selects to bid fewer tranches across all products than in the previous round, the bidder is requesting to “withdraw” tranches from the auction for at least one product. A bidder can only withdraw tranches from a product when the price for that product has ticked down from the previous round. The bidder is required to specify an exit price for the tranches that the bidder is withdrawing from a product. An “exit price” is a last and best offer for the tranches withdrawn from a product. An exit price for a product must be less than or equal to the going price in the previous round for that product and must be greater than the going price in the current round for that product. The exit price is the same for all tranches withdrawn from a product but exit prices for different products need not be the same. A bidder that withdraws tranches loses the eligibility associated with these tranches and forfeits the right to bid these tranches for the remainder of the auction. A bidder that requests to withdraw tranches from a product may see its request refused, as explained further below.
- VII.2.5. If a bidder selects to bid the same number of tranches across all products as in the previous round, the bidder may request a “switch”, which means that the bidder decreases the number of tranches bid for one or more products and increases the number of tranches bid for one or more products while leaving the total number of tranches bid unchanged. As is the case when a bidder is reducing the number of tranches bid on a product because the bidder is requesting to withdraw tranches, a bidder can reduce the number of tranches bid on a product through a switch only if the price for that product has ticked down from the previous round. A bidder may increase the number of tranches bid on a product whether or not the price for that product has ticked down. A bidder that requests a switch may be required to provide switch priorities, as defined further below. A bidder that requests a switch may see its request refused, as explained further below.
- VII.2.6. A bidder may both withdraw and switch tranches, which means that the bidder bids on fewer tranches than in the previous round in total but that the bidder increases the number of tranches bid on at least one product. If a bidder is both switching and withdrawing, a bidder can reduce tranches on a particular product only if the going price for that product has decreased from the previous round.
- VII.2.7. The Auction Manager fills the tranche target of a product in price order. First, the Auction Manager uses tranches bid at the going price, then the Auction Manager denies requests to withdraw and retains tranches starting with those bid at the lowest exit prices, and as necessary, the Auction Manager denies requests to switch and retains tranches at the last price at which these tranches were freely bid.
- VII.2.8. The Auction Manager relies on exit prices when the number of tranches bid on a product at the going price falls short of that product’s tranche target due to reductions from withdrawals or due to reductions from withdrawals and switches. The Auction Manager will then refuse some or all requests to withdraw, as needed to fill the tranche target of the product. The tranches with lower exit prices are “retained” first, and they are retained at the exit price that the bidder has named. A bidder loses the eligibility corresponding to the withdrawn tranches even if the withdrawn tranches from the product are retained.

Any withdrawn tranches that are retained in a round will be released (and the request to withdraw will be accepted at that later point) if new tranches for the product are bid at the going price and serve to fill the tranche target for that product in place of the withdrawn tranches.

- VII.2.9. If two or more bidders are tied at an exit price, and if the Auction Manager must retain some but not all the tranches from these tied bidders to fill the tranche target of a product, then the Auction Manager, for each tranche to be retained, will choose at random the bidder whose tranche is retained. For the first tranche needed at the tied exit price, the probability that a bidder is chosen is the number of tranches that the bidder has bid at the exit price divided by the total number of tranches bid at the exit price. If a second tranche is needed at the exit price, the Auction Manager again will choose the bidder whose tranche will be retained at random. The probability that any one bidder is chosen is the number of tranches that the bidder has bid at the exit price and that have not yet been retained divided by the total number of tranches bid at the exit price and that have not yet been retained. The Auction Manager repeats this procedure until the tranche target for the product is filled.
- VII.2.10. When there are three (3) or more products in the auction, a bidder may increase the number of tranches bid on more than one product. In that case, the bidder must assign a unique switch priority to each of the products for which the bidder is increasing the number of tranches bid. A switch priority of '1' is the highest priority and it is assigned to only one product; the next highest priority is '2' and it is assigned to a different and unique product, etc. A "switch priority" indicates that, if the request to switch is partially but not completely accepted, the bidder prefers that the tranches of the product with the highest priority be increased first (followed by the product with the next highest priority, etc.).
- VII.2.11. The Auction Manager will deny requests to switch only when, to keep the tranche target of a product filled, the Auction Manager must retain all tranches that were withdrawn out of that product (if any) and must deny some, or all, reductions from that product that come from switches. A "denied switch" is a tranche that the Auction Manager retains in this manner. The denied switches are retained at the price at which they were last freely bid. When there are three (3) or more products in the auction, the Auction Manager will use the switch priorities provided by a bidder when, to keep the tranche target for a product filled, the Auction Manager must deny some, but not all, reductions from that product that come from that single bidder's switch. The Auction Manager will fill the needed number of tranches for that product by denying the lowest priority (1 is the highest priority) switch first, and then successively denying higher priority switches until the tranche target is met.
- VII.2.12. If there are several bidders that requested switches, and some, but not all switches must be denied, for each tranche of the tranche target that must be filled by denying a reduction from a switch, the Auction Manager chooses at random the bidder whose switch is denied. For the first switch that must be denied, the probability that the Auction Manager chooses a tranche bid by a bidder requesting a switch is the number of tranches by which the bidder's bid on the product is reduced by the switch and that could be denied, divided by the total number of tranches by which the number of tranches bid on the product is reduced by switches from all bidders and that could be denied. If a second switch must be denied, the Auction Manager again chooses at random the bidder whose switch will be denied. The probability that the Auction Manager chooses a tranche bid by a bidder requesting a switch is the number of tranches by which the bidder's bid on the product is reduced by the switch and that could have but have not yet been denied,

divided by the total number of tranches by which the number of tranches bid on the product is reduced by all switches from bidders and that could have been but have not yet been denied. The Auction Manager repeats this procedure until the tranche target for the product is filled.

- VII.2.13. When there are three (3) or more products in the auction, a bidder that is both switching and withdrawing can reduce the number of tranches bid for more than one product, and increase the number of tranches bid for at least one product. In that case, the bidder will be asked to specify which tranches are withdrawn and which tranches are switched. The tranche or tranches that the bidder specifies to be withdrawn are the tranche(s) for which the bidder will name an exit price. The bidder may also be required to specify switch priorities if the bidder is increasing the number of tranches bid on more than one product.
- VII.2.14. If total excess supply is strictly positive in a round, that is, there are more tranches bid than are available for at least one product or there is free eligibility as defined below in Paragraph VII.2.17, the auction proceeds to the next round. In the reporting phase of the current round, the Auction Manager informs all bidders of the going prices for the next round. The Auction Manager provides to all bidders a range for the total excess supply for the round that has just been completed.
- VII.2.15. In the reporting phase, the Auction Manager also reports privately to each bidder the bidder's eligibility for the next round and the result of the bidder's own bid.
- If a bidder requested withdrawals or switches, and if all requests are accepted, the Auction Manager reports the bid made.
  - If the bidder requested to withdraw tranches from a product and some or all of these tranches are retained, the Auction Manager informs the bidder of the number of withdrawn tranches that are being retained and the exit price at which these tranches are retained. While eligibility to bid these tranches in the auction is lost for the remainder of the auction, these tranches still remain as binding offers by the bidder until the request to withdraw is granted (which may or may not occur). If these tranches are retained until the end of the auction, the bidder wins the tranches.
  - If a bidder requested a switch, and if some or all of these are denied, the Auction Manager informs the bidder of the number of tranches for which the switch is denied and the prices at which these tranches are retained, which is the last price at which the tranches were freely bid.
  - If a bidder had one or more tranches retained from a requested withdrawal in a prior round, these tranches may be released and the withdrawal granted in the current round as new tranches bid at the going price replace the tranches retained from withdrawals in filling the tranche target. In that case, the Auction Manager reports privately to a bidder if a tranche (that had been withdrawn from a product and that had been retained) is now being released and thereby irrevocably removed from the auction.
  - If a bidder had denied switches in a prior round, the Auction Manager continues to report in the current round that some or all of these switches are being denied in subsequent rounds as long as they are still needed to fill the product's tranche target. These tranches may be "outbid" as new tranches bid at the going price replace the denied switches in filling the tranche target.

- VII.2.16. If switches from more than one bidder are retained, and if not all denied switches are outbid, the Auction Manager chooses at random, for each denied switch that will be outbid, the bidder whose switch will be outbid. For the first denied switch that is outbid, the probability that the Auction Manager chooses a bidder's denied switch is the bidder's number of denied switches divided by the total number of denied switches for that product. If a second denied switch must be outbid, the Auction Manager again will choose at random the bidder whose denied switch will be outbid. The probability that the Auction Manager chooses a bidder's denied switch is the bidder's number of denied switches that have not yet been outbid divided by the total number of denied switches that have not yet been outbid. The Auction Manager repeats this procedure until the required number of denied switches has been outbid.
- VII.2.17. A tranche from a denied switch for a bidder that is outbid by another bidder becomes "free eligibility" in the next round. A tranche of free eligibility must be bid on a product in the round in which it becomes available or the eligibility for that tranche will be lost. A tranche of free eligibility can be bid on any product. If a tranche of free eligibility is not bid and thus not used to increase the number of tranches bid on a product, then the tranche of free eligibility is considered to be withdrawn. When a tranche of free eligibility is withdrawn, the bidder does not name an exit price and the tranche will not be retained.
- VII.2.18. A tranche from a denied switch for a bidder that is outbid by that same bidder becomes a tranche bid at the going price. If a bidder has retained tranches on a product from a denied switch and if this bidder bids new tranches for this same product at the going price, the bidder will be deemed to have bid all tranches at the going price for that product. Tranches from the denied switch become tranches that are bid at the going price.
- VII.2.19. If withdrawn tranches from more than one bidder had been retained at the same exit price, and if not all retained tranches at that exit price are being released, the Auction Manager chooses at random the bidder or bidders whose tranches are released and thereby irrevocably removed from the auction. For the first retained tranche that should be released, the probability that a bidder is chosen is the bidder's number of retained tranches for the product at the tied exit price divided by the total number of retained tranches at that exit price for that product. If a second retained tranche needs to be released, the Auction Manager again will choose at random the bidder whose retained tranche will be released, and the probability that any one bidder is chosen is the bidder's number of retained tranches at the tied exit price that have not yet been released divided by the total number of retained tranches at the tied exit price that have not yet been released. The Auction Manager repeats this procedure until the required number of tranches has been released.
- VII.2.20. A bidder has no remaining obligation when the bidder has zero eligibility and has no retained withdrawals. A bidder that has no remaining obligation can no longer win at the auction. Such a bidder loses its access to the Auction Software no earlier than the round after the bidder has been first informed that it has no remaining obligation. Such a bidder loses its access to the Auction Software no later than three (3) rounds after it has no remaining obligation.
- VII.2.21. If the total excess supply is zero in a round, the auction ends in the reporting phase of the round. The auction ends for all products at the same time. The Auction Manager informs bidders of the auction clearing price for each product. The Auction Manager informs each

bidder of the number of tranches it has won of each product at that product's auction clearing price.

### **VII.3. Failure to Submit a Bid**

**VII.3.1.** It is the bidder's sole and entire responsibility to submit a bid on time whether using the primary or secondary bidding method. If a bidder with positive eligibility does not submit a bid in a round, the bidder is assigned a "default bid". A default bid is a bid placed on behalf of the bidder that consists of the minimum number of tranches that the bidder could have bid for each product.

**VII.3.2.** The default bid in round 1 is zero tranches for all products and the bidder cannot be a winner at the auction.

**VII.3.3.** The default bid in round 2 and all subsequent rounds is described in this paragraph.

- If the bidder had some tranches of free eligibility, these tranches are deemed to be withdrawn and are irrevocably removed.
- If, in the previous round, a bidder did not bid any tranches on a product at the going price and, in the reporting phase of that round, the Auction Manager reported that the bidder did not have any retained withdrawals or denied switches for that product, then the bidder is assigned zero tranches for that product.
- If, as of the reporting phase in the previous round, a bidder had some tranches on a particular product at the going price for the previous round, and if the product's price ticked down from the previous round to the current round, then the bidder is deemed to have withdrawn all tranches at the highest exit price, namely the price from the previous round. All tranches with a lower exit price are retained first, followed by tranches with the same exit price named by bidders that have submitted a bid in the current round, followed by tranches withdrawn by bidders with a default bid.
- If, as of the reporting phase in the previous round, a bidder had some tranches on a particular product at the going price for that round, and/or retained withdrawals, and/or denied switches; if the product's price did not tick down from the previous round to the current round; and if there is excess supply for the product in the current round, so that the price will tick down in the next round, then: (i) all withdrawals that were previously retained are released and the bidder has no remaining obligation from those tranches; (ii) all switches that had previously been denied are outbid and the bidder is assigned free eligibility for those tranches; (iii) all tranches previously bid at the going price are bid again on the product at the going price. If the bidder does not bid in the next round these tranches will be withdrawn and assigned the highest exit price.
- If, as of the reporting phase in the previous round, a bidder had some tranches on a particular product bid at the going price, and/or retained withdrawals, and/or denied switches; if the product's price did not tick down from that round to the current round; and if there is no excess supply for the product in the current round so that the price will not tick down in the next round, then: (i) any tranches bid at the going price continue to be bid at the going price; (ii) if any new tranches were bid on the product at the going price in the current round, the denied switches (if any) of bidders that have been assigned default bids are outbid first, before the denied switches of bidders that have submitted a bid in the current round are outbid. If more than one bidder has

been assigned a default bid, and if some but not all denied switches from such bidders are outbid, then for each denied switch that must be outbid, the Auction Manager chooses at random among the default bidders the bidder whose switch is outbid, in a procedure analogous to that used for bidders that submitted a bid; (iii) if any new tranches were bid on the product at the going price in the current round, and if all denied switches from default bidders and from bidders that submitted a bid are outbid, retained withdrawals are released, starting with the highest named exit price. For a given exit price, tranches from bidders that have been assigned default bids (if any) are released first, before the retained withdrawals of bidders that have submitted a bid in the current round. If more than one bidder has been assigned a default bid, and if some but not all of the retained withdrawals from such bidders must be released at a given exit price, then for each retained withdrawal that must be released, the Auction Manager chooses at random among the default bidders the bidder whose withdrawn tranche is released, in a procedure analogous to that used for bidders that submitted a bid.

#### **VII.4. End of Auction**

- VII.4.1. If, the tranche target for a product in the final round is completely filled with tranches bid at the going price from the final round, the winners are those that submitted bids at the going price in the final round. The auction clearing price for that product is the going price from the final round.
- VII.4.2. If, to fill the tranche target for a product in the final round, withdrawn tranches must be retained, but no switches were denied, then the winners are the bidders that submitted bids at the going price from the final round and the bidders that submitted the lowest of the exit prices. If, to fill the tranche target of a product in the final round, the Auction Manager must use some but not all the tranches from two or more bidders tied at the same exit price, then the Auction Manager, for each tranche, will choose at random the bidder whose tranche is retained. The auction clearing price given to all winners is the last exit price that was accepted to fill the tranche target.
- VII.4.3. If, to fill the tranche target for a product in the final round the Auction Manager must deny requests to switch, then the winners are the bidders that submitted bids at the going price from the final round, the bidders that withdrew tranches (if any), and the bidders whose requests to switch (by reducing the number of tranches of that product) were denied. The auction clearing price received by all winners is the price at which the denied switches were last freely bid.

## **ARTICLE VIII. Post-Auction Process**

### **VIII.1. Notification of Results**

**VIII.1.1.** At the conclusion of the auction, the Auction Manager prepares a report on the auction results, which will:

- Include a determination of whether the competitive bidding process rules were followed and if not, whether the violation was such as to invalidate the results of the auction;
- Recommend a possible sanction for any bidder that violates any of its undertakings under the Part 1 or the Part 2 Application process or that fails to disclose information required by the Part 1 or the Part 2 Application process;
- Identify for each product the winning bidders, the number of tranches won by each winning bidder, and the auction clearing price;
- Report any issues with the conduct of the auction; and
- Include an assessment of whether the bidding process was competitive.

**VIII.1.2.** The Auction Manager transmits its report to the Commission and the Commission Consultant. The Auction Manager advises the winning bidders in the auction when the report has been transmitted to the Commission.

**VIII.1.3.** The Commission has a two (2) business day window from the conclusion of the auction for review of the results. The Commission may reject the results of the auction, through an Order filed within the review window, based upon a report from the Auction Manager or the Commission Consultant that the auction violates a specific CBP rule in such a manner so as to invalidate the auction or if the Commission determines that one or more of the following criteria were not met:

- The auction was oversubscribed on the basis of the indicative offers received in the Part 2 Application;
- There were four or more bidders;
- No bidder won more than 80% of the tranches available at the start of the auction.

Otherwise, the Commission shall accept the auction results.

**VIII.1.4.** The Commission may announce its acceptance of the results of the auction. If the Commission does not act within the review window, the results of the auction are deemed accepted by the Commission at the expiration of the review window.

**VIII.1.5.** Upon acceptance of the auction results by the Commission:

- The Auction Manager will notify AEP Ohio of the identity of the winning bidders and the number of tranches won by each winning bidder for each product. The Auction Manager will confirm the auction clearing price for each product. The Auction Manager will also provide contact information for the winning bidders so as to enable AEP Ohio to contact the winning bidders to execute necessary documents.

- The Auction Manager will notify each winning bidder of how many tranches the bidder has won for each product and the Auction Manager will confirm the auction clearing price for each product.
- The Auction Manager also will notify the unsuccessful bidders that they have not won any tranches.

VIII.1.6. The names of the winning bidders, the number of tranches won by each bidder for each product, and the auction clearing price for each product will remain confidential until released publicly by the Commission or as required by law.

## **VIII.2. Execution of Master SSO Supply Agreement**

VIII.2.1. Each winning bidder and AEP Ohio will execute the Master SSO Supply Agreement within three (3) days of acceptance of the auction results by the Commission.

VIII.2.2. Each winning bidder must demonstrate compliance with the creditworthiness requirements set forth in the Master SSO Supply Agreement within three (3) days of acceptance of the auction results by the Commission.

VIII.2.3. AEP Ohio can collect on the pre-bid letter of credit or AEP Ohio can draw upon cash posted if a winning bidder does not execute the Master SSO Supply Agreement within three (3) days of acceptance of the auction results by the Commission, if it fails to demonstrate compliance with the creditworthiness requirements set forth in the Master SSO Supply Agreement, or if it fails to agree to any of the terms of the Master SSO Supply Agreement. If AEP Ohio exercises its right to collect on the pre-bid letter of credit or to draw upon cash posted, then any contractual rights or other entitlements of the winning bidder will terminate immediately without further notice by AEP Ohio. In addition, the winning bidder will be liable for damages incurred by AEP Ohio, which will be determined in accordance with the terms of the Master SSO Supply Agreement as though the winning bidder were a defaulting party to the Master SSO Supply Agreement.

VIII.2.4. The payment to SSO Suppliers for tranches won of a product will be the auction clearing price for that product times a seasonal factor. The seasonal factor for the summer, paid to the winning bidder from June 1 through September 30, will be higher than or equal to one (1). The seasonal factor for the winter, paid to the winning bidder in the remaining months, will be less than or equal to one (1). AEP Ohio will calculate the seasonal factors in advance of each auction in response to changing market conditions. The seasonal factors will be provided to bidders no later than four (4) days prior to the Part 2 Date and will be constant during the duration of the Master SSO Supply Agreement.

## **ARTICLE IX. Contingency Plans**

- IX.1.1.** In certain circumstances purchases may be made under the Contingency Plans implemented through Paragraphs IX.1.2, IX.1.3, IX.1.4 and IX.1.5 or that are otherwise approved by the Commission. Costs of Contingency Plans will be deemed prudent and passed through AEP Ohio's retail rates.
- IX.1.2.** If an auction fails to procure all needed SSO Supply, the unfilled tranches will be offered in the next auction under the CBP. If the delivery period for the unfilled tranches starts prior to the next scheduled auction under the CBP, AEP Ohio will procure SSO Supply in PJM-administered markets. In that case, AEP Ohio will procure such SSO Supply from the start of the delivery period until the last day of the month after the month during which the auction in which the unfilled tranches are offered is held.
- IX.1.3.** If unfilled tranches are re-bid in an auction, and they remain unfilled after being offered at auction a second time, AEP Ohio will procure SSO Supply in PJM-administered markets for the remainder of the delivery period of the unfilled tranches.
- IX.1.4.** If an SSO Supplier defaults, the defaulted tranches will be offered in the next auction under the CBP, as long as the default occurs prior to the Auction Manager's announcement of the products available at auction and as long as the delivery period of the defaulted tranches is at least six months. The delivery period of the defaulted tranches would start on the first day of the second month after the month during which the auction in which the defaulted tranches are offered is held. If necessary, AEP Ohio will procure SSO Supply in PJM-administered markets for the defaulted tranches until an SSO Supplier wins such tranches at the auction or for the remainder of the delivery period as the case may be.
- IX.1.5.** If defaulted tranches are offered at auction but are not filled, they become unfilled tranches, and they will be offered in the next auction under the CBP. If such unfilled tranches are re-bid in an auction, and they remain unfilled after being offered at auction a second time, AEP Ohio will procure SSO Supply in PJM-administered markets for the remainder of the delivery period of the defaulted tranches.
- IX.1.6.** All costs incurred by AEP Ohio in connection with a supplier default and with any Contingency Plan will be deemed prudent and passed through AEP Ohio's retail rates. The costs of purchases and/or sales made under the Contingency Plan associated with a defaulting supplier will be offset by amounts recovered from the supplier, liquid security or guarantees; however, the pass-through of any excess costs will not be limited to the amount of any such recovery. In some cases, such as when the termination costs incurred by AEP Ohio pursuant to the Master SSO Supply Agreement as a result of the supplier default are less than the costs that would have been incurred absent the default, payments may be due to the defaulting supplier. Such payments to the defaulting supplier will be deemed prudent costs associated with procuring supply for SSO Load and will be passed through AEP Ohio's retail rates.
- IX.1.7.** Any changes that the Commission may require concerning the timing and nature of replacement purchases may affect the costs of replacement supply for SSO Load in the event that not all available tranches are procured in any auction or a winning supplier defaults. The consequences of such changes will be borne by defaulting suppliers or passed through AEP Ohio's retail rates to the extent that they affect replacement costs.

## **ARTICLE X. Associations and Handling of Confidential Information**

### **X.1. Process for Reporting Associations, Identifying Concerns and Remedies**

- X.1.1.** A prospective bidder applying to qualify to bid will be required to disclose in its Part 1 Application any bidding agreement or arrangement in which it may have entered. A prospective bidder will be required to certify in its Part 1 Application that, should it qualify to participate, it will not disclose information regarding the list of Qualified Bidders. A prospective bidder also will be required to certify that it accepts the terms of the Master SSO Supply Agreement and, should it win tranches, it will sign the applicable Master SSO Supply Agreement and comply with all creditworthiness requirements by the stated deadline.
- X.1.2.** Once entities are qualified to bid, each Qualified Bidder will be asked in its Part 2 Application to make a number of certifications, each detailed in Section X.4 below, and each bidder may be required to provide additional information to the Auction Manager if a certification cannot be made. Each Qualified Bidder will be asked to certify that it will undertake to appropriately restrict its disclosure of Confidential Information Relative to Bidding Strategy and Confidential Information Regarding the Auction, as defined below. A Qualified Bidder also will be asked to certify that it has not and will not come to any agreement with another Qualified Bidder with respect to bidding in the auction, except as disclosed and approved by the Auction Manager in its Part 1 Application.
- X.1.3.** If a bidder cannot make all the certifications required, the Auction Manager will decide within five (5) days following the deadline to submit the Part 2 Application on a course of action on a case-by-case basis. To decide on this course of action, the Auction Manager may make additional inquiries to understand the reason for the inability of the bidder to make the certification. The Rules and Protocols for Participation by Associated Bidders provide specific procedures that will be followed when bidders that are associated with one another submit the Part 1 and Part 2 Applications to participate in an auction.
- X.1.4.** If Qualified Bidders do not comply with additional information requests by the Auction Manager regarding certifications required in the Part 2 Application, the Auction Manager may reject the application.
- X.1.5.** Sanctions may be imposed on bidders for failing to properly disclose information relevant to determining associations, for coordinating with another bidder without disclosing this fact, for releasing Confidential Information or disclosing information during the auction (aside from only the specific exceptions provided above with respect to entities explicitly named in the Part 1 Application as entities that are part of a bidding agreement or other arrangement, to an Advisor; or bidders with which it is associated). Such sanctions can include, but are not limited to, any one or more of the following: termination of the Master SSO Supply Agreement; the loss of all rights to serve any tranches won by such bidder; the forfeiture of letters of credit and other fees posted or paid; action (including prosecution) under applicable state and/or federal laws; attorneys' fees and court costs incurred in any litigation that arises out of the bidder's improper disclosure; debarment from participation in future competitive bidding processes; and/or other sanctions that may be appropriate. In such an event, the Auction Manager, in its report submitted to the Commission at the conclusion of the auction, will make a recommendation on a possible sanction.

## **X.2. Confidential Information**

- X.2.1. “Confidential Information Relative to Bidding Strategy” means information relating to a bidder’s bids, whether in writing or verbally, which if it were to be made public likely would have an effect on any of the bids that another bidder would be willing to submit. Confidential Information Relative to Bidding Strategy includes (but is not limited to): a bidder’s strategy; a bidder’s indicative offer; a bidder’s preference to bid on one product rather than another; the quantities that a bidder wishes to supply; the bidder’s estimation of the value of a tranche of one or more products; the bidder’s estimation of the risks associated with providing SSO Supply; and a bidder’s contractual arrangements for purchasing power to provide SSO Supply were the bidder to win tranches in the auction.
- X.2.2. “Confidential Information Regarding the Auction” means information that is not released publicly by the Commission, AEP Ohio, or the Auction Manager and that a bidder acquires as a result of participating in the auction, whether in writing or verbally, which if it were to be made public could impair the integrity of current or future auctions, impair the ability of AEP Ohio to hold future competitive bidding processes, or harm consumers, or injure bidders or applicants. Confidential Information Regarding the Auction includes (but is not limited to): the list of Qualified Bidders, the list of Registered Bidders, the initial eligibility, the status of a bidder’s participation, and all non-public reports of results and announcements made by the Auction Manager to any or all bidders during the auction.
- X.2.3. Absolute protection from public disclosure of the bidders’ data and information submitted as part of the CBP cannot be provided. By participating in the auction, each bidder acknowledges and agrees to the confidentiality provisions set forth herein, as well as any limitations thereto.
- X.2.4. In addition, the bidder agrees the bidder’s data and information submitted as part of the CBP will be disclosed if required by any federal, state or local agency (including, without limitation, the Commission) or by a court of competent jurisdiction. However, AEP Ohio will endeavor to notify the bidder in advance of such disclosure. In any event, neither AEP Ohio nor the Auction Manager, nor any of their employees or agents, will be responsible to the bidders or any other party, or liable for any disclosure of such designated materials before, during or subsequent to the auction. Notwithstanding the above, AEP Ohio and the Auction Manager reserve the right to use and communicate publicly and/or to third parties any and all information/data submitted as part of the CBP in any proceedings before FERC, the Commission, and any other regulatory body and the courts, if necessary, without the prior consent/approval of, or notice to, any such bidder.

## **X.3. Certifications and Disclosures – Part 1 Application**

- X.3.1. Each bidder must disclose any bidding agreement or any other arrangement in which the prospective bidder may have entered and that is related to its participation in the auction. A prospective bidder that has entered into such an agreement or arrangement must name the entities with which the prospective bidder has entered into a bidding agreement, or a joint venture for the purpose of participating in the auction, or a bidding consortium, or any other arrangement pertaining to participating in the auction. A bidding consortium is a group of separate businesses or business people joining together to submit joint bids in the auction.

- X.3.2. Each bidder must certify that if the bidder qualifies to participate in the auction, the bidder will not disclose at any time information regarding the list of Qualified Bidders, including but not limited to the number of Qualified Bidders, the identity of any one of the Qualified Bidders (including the bidder itself), or the fact that an entity has not qualified for participation in the auction. A bidder unable to make this certification must identify the entity receiving such information and must explain the reasons for such disclosure.
- X.3.3. Each bidder must certify that it agrees to destroy any document distributed by the Auction Manager that lists the Qualified Bidders within five (5) days of the decision on auction results by the Commission, or earlier if so instructed by the Auction Manager.
- X.3.4. Each bidder must certify not to disclose any Confidential Information Relative to Bidding Strategy to any party that may have an effect on the participation of another bidder, prospective bidder, or on any of the bids that another bidder would be willing to submit. This certification must hold until the Commission's decision on auction results. A bidder unable to make this certification must identify the entity receiving such information and must explain the reasons for such disclosure.
- X.3.5. Each bidder must certify that, to the extent Confidential Information Relative to Bidding Strategy is disclosed within the bidder's organization or to a third party, the bidder will ensure that sufficient precautions are taken to ensure that such Confidential Information is not made public or made available to another bidder. Such precautions include, but are not limited to confidentiality agreements, non-disclosure agreements, firewalls, and other contractual or structural protections that would maintain the confidential nature of a bidder's bidding strategy. If unable to make this certification, the bidder is required to identify and explain any instances where such precautions were not taken and any breach of confidentiality that may have occurred as a result.

#### **X.4. Certifications and Disclosures – Part 2 Application**

- X.4.1. A Qualified Bidder is associated with another Qualified Bidder if the two bidders have ties that could allow them to act in concert or that could prevent them from competing actively against each other. The competitiveness of the auction and the ability of the auction to produce competitive prices may be harmed by the coordinated or collusive behavior that associations facilitate. As the Auction Manager relies on a number of factors to assess and promote competitive bidding, including the number of independent bidders, providing inaccurate information or insufficient disclosure of associations in the Part 2 Application is prohibited.
- X.4.2. Each bidder will consult the list of Qualified Bidders provided with the Part 1 Notification in order to determine whether it can make the certifications. Unless noted otherwise, the certifications apply from the time of qualification of bidders until three days after the decision on auction results by the Commission.
- X.4.3. Each bidder must certify that it is not associated with another Qualified Bidder. A bidder that is unable to make this certification must identify the Qualified Bidder(s) with which it is associated and the nature of the association.
- X.4.4. Each bidder must certify that, other than parties explicitly named in the Part 1 Application as parties with whom it has entered into a bidding agreement, joint venture for the purpose of bidding in the auction, bidding consortium or other arrangement pertaining to

bidding in the auction, the bidder has not entered into any agreement with another Qualified Bidder, directly or indirectly, regarding bids in the auction, including, but not limited to, the amount to bid at certain prices, when or at what prices bids are to be withdrawn, or the amount of exit prices.

- X.4.5. An Advisor is an entity or person(s) that will be advising or assisting a bidder with bidding strategy in the auction, with estimation of the value of tranches, or with the estimation of the risks associated with providing SSO supply. Each bidder must certify to one of the following: (i) the bidder has not retained an Advisor; or (ii) the bidder has retained an Advisor, the Advisor will not provide any similar advice or assistance to any other Qualified Bidder, and the Advisor will not be privy to Confidential Information relative to another Qualified Bidder's bidding strategy; or (iii) the bidder has retained an Advisor that will provide similar advice or assistance to another Qualified Bidder, or that will be privy to Confidential Information Relative to another Qualified Bidder's Bidding Strategy, but appropriate protections have been put into place to ensure that the Advisor does not serve as a conduit of information between, or as a coordinator of the bidding strategies of, multiple bidders. A bidder that is unable to make this certification must name the Advisor and the Qualified Bidder(s) concerned.
- X.4.6. Each bidder must certify that it is not a party to any contract for the purchase of power that might be used as a source for SSO supply, and that (i) would require the disclosure of any Confidential Information (Confidential Information Relative to Bidding Strategy or Confidential Information Regarding the Auction) to the counterparty under such a contract; or (ii) that would require the disclosure of any Confidential Information (Confidential Information Relative to Bidding Strategy or Confidential Information Regarding the Auction) to any other party; or (iii) that would provide instructions, direct financial incentives, or other inducements for the bidder to act in a way determined by the counterparty in the agreement and/or in concert with any other bidder in the auction. Notwithstanding the above, a bidder may, during negotiations prior to the auction for contractual arrangements as a source for SSO supply were the bidder to be a winner at the auction, discuss with the counterparty to such arrangements the nature of the standard products to be purchased, the volume, and the price at which the bidder is willing to buy these products, so long as such arrangements do not result in violation of (i), (ii) or (iii) above. A bidder that is unable to make this certification must disclose the contractual terms that prevent the bidder from making the certification, identify the counterparty, and if applicable, the party to whom information disclosure must be made under the terms of the contract.
- X.4.7. Each bidder must certify that it does not have any knowledge of Confidential Information relative to the Bidding Strategy of any other Qualified Bidder. A bidder that is unable to make this certification must name the other Qualified Bidder(s) and the nature of the Confidential Information.
- X.4.8. Each bidder must certify that it will not disclose Confidential Information Relative to its Bidding Strategy except to: (i) bidders that were explicitly named in the Part 1 Application as parties with which it has entered into a bidding agreement, joint venture for the purpose of bidding in the auction, bidding consortium, or other arrangement pertaining to bidding in the auction; (ii) bidders with which it is associated as disclosed in the Part 2 Application; (iii) its Advisors; and (iv) its financial institution. A bidder that is unable to make this certification must identify the entity receiving such information and must explain the reasons for such disclosure.

- X.4.9. Each bidder must certify that, other than entities with which it is affiliated and other than bidders with which it has entered into a bidding agreement, or joint venture for purposes of the auction, bidding consortium, or other arrangement pertaining to the auction, no party has agreed to defray any of the costs of participating in the auction, including the cost of preparing the bid, the cost of any financial guarantees, or any other participation cost. A bidder that is unable to make this certification must identify the party defraying the participation cost and the bidder must provide an explanation.
- X.4.10. Each bidder must agree that the submission of any bid in the auction creates a binding and irrevocable offer to provide SSO Supply under the terms set forth in the Master SSO Supply Agreement and that a binding and enforceable contract to provide SSO Supply with respect to the number of tranches that the bidder wins in the auction shall arise under the Master SSO Supply Agreement. The bidder is reminded that AEP Ohio can collect on the pre-bid letter of credit or AEP Ohio can draw upon cash posted upon failure to execute the Master SSO Supply Agreement within three (3) days of the acceptance of the auction results by the Commission.
- X.4.11. The certifications in the following paragraphs apply from the date on which the certifications are made.
- X.4.12. Each bidder must certify that if the bidder is registered to participate in the auction, the bidder will not disclose at any time information regarding the initial eligibility across all bidders in the auction or the list of Registered Bidders, including but not limited to the number of Registered Bidders, the identity of any one of the Registered Bidders (including the bidder itself), or the fact that an entity has not been registered for participation in the auction. A bidder that is unable to make this certification must identify the party receiving such information and must explain the reasons for such disclosure.
- X.4.13. Each bidder must certify that the bidder will not disclose any Confidential Information Regarding the Auction to any party except to its Advisors and to bidders with which the bidder is associated as disclosed in the Part 2 Application. A bidder that is unable to make this certification must identify the entity receiving such information and must explain the reasons for such disclosure.
- X.4.14. Each bidder must certify that the bidder will destroy all documents, written or electronic, provided by the Auction Manager that contain Confidential Information Regarding the Auction within five (5) days of the decision on auction results by the Commission, or earlier if so instructed by the Auction Manager. A bidder that is unable to make this certification must provide an explanation.

## **X.5. Miscellaneous**

- X.5.1. The Commission may publicly release the auction clearing price for each product and the names of the winning bidders in the auction. The Commission may choose to release additional information.
- X.5.2. After acceptance of the results, a winning bidder itself may release information regarding the number of tranches it has won, and a non-winning bidder itself may release information only regarding the fact that it participated in the auction. The winning bidders and the non-winning bidders otherwise continue to be bound by their certifications as

described previously. In particular, no winning bidder and no non-winning bidder itself can reveal the auction clearing prior to release of such information by the Commission.

## **ARTICLE XI. Miscellaneous**

### **XI.1. Warranty on Information**

XI.1.1. The information provided for the auction, including but not limited to information provided on the CBP website, has been prepared to assist bidders in evaluating the auction process. It does not purport to contain all the information that may be relevant to a bidder in satisfying its due diligence efforts. Neither AEP Ohio nor the Auction Manager make any representation or warranty, expressed or implied, as to the accuracy or completeness of the information, and shall not, either individually or as a corporation, be liable for any representation expressed or implied in the auction process or any omissions from the auction process, or any information provided to a bidder by any other source. A bidder should check the CBP website frequently to ensure it has the latest documentation and information. Neither AEP Ohio, nor the Auction Manager, nor any of their 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 information.

### **XI.2. Hold Harmless**

XI.2.1. Bidder shall hold AEP Ohio and the Auction Manager 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 in connection with the auction process or the award of a bid pursuant to the auction process.

### **XI.3. Bid Submissions Become AEP Ohio's Property**

XI.3.1. All bids submitted by bidders participating in the auction will become the exclusive property of AEP Ohio upon conclusion of the auction.

### **XI.4. Bidder's Acceptance**

XI.4.1. Through its participation in the auction process, a bidder acknowledges and accepts all the terms, conditions and requirements of the auction process and the Master SSO Supply Agreement.

### **XI.5. Permits, Licenses, Compliance with the Law and Regulatory Approvals**

XI.5.1. Bidders shall obtain all licenses and permits and status that may be required by any governmental body, agency or organization necessary to conduct business or to perform hereunder. Bidders' 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.

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