**Sample BGS-RSCP Bid Bond Form**

BY THIS BOND

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as Principal (“the Principal”), and

Name of Bidder

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Surety

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Legal Title of Surety

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address of Surety

as Surety (“the Surety”), are held and firmly bound unto Atlantic City Electric Company (“ACE”), Jersey Central Power & Light Company (“JCP&L”), Public Service Electric and Gas Company (“PSE&G”), and Rockland Electric Company (“RECO”), each individually an “EDC”, or collectively “the EDCs”, as Obligees in the sum of *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* (“the Bond Penalty”), for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal (a) has submitted a Part 1 Application, dated the \_\_\_\_ day of \_\_\_\_\_\_, 20\_\_, to the Auction Manager acting on behalf of the EDCs, to become a Qualified Bidder in the auction process for the provision of Fixed-Price Basic Generation Service (the “BGS-RSCP Auction”); (b) is submitting a Part 2 Application, dated the \_\_\_ day of \_\_\_\_\_\_, 20\_\_, to the Auction Manager acting on behalf of the EDCs, to become a Registered Bidder in the BGS-RSCP Auction, and has thereby indicated its intention to submit legally binding bids to serve full requirements tranches of BGS-RSCP Load (the “Bid”); (c) is in compliance with the Association and Confidential Information Rules; (d) has agreed to be bound by the BGS-RSCP Auction Rules (the “Rules”); and (e) has agreed to the terms of the BGS-RSCP Supplier Master Agreement.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

1. has made any omission or misrepresentation in its application to participate in the BGS-RSCP Auction (Part 1 Application or Part 2 Application), or has violated the Rules, and such omission, misrepresentation or violation materially affects the determination of the winning bids in the BGS-RSCP Auction; or
2. has a winning bid in the BGS-RSCP Auction and fails to execute the BGS-RSCP Supplier Master Agreement within three (3) business days of the certification of the BGS-RSCP Auction results by the New Jersey Board of Public Utilities (the “Board”) as specified in the Rules; or
3. has a winning bid in the BGS-RSCP Auction and fails to meet the creditworthiness requirements of the BGS-RSCP Supplier Master Agreement within three (3) business days of the certification of the BGS-RSCP Auction results by the Board as specified in the Rules;

then within two (2) business days of receipt of written demand from any one or more of the four EDCs, the Principal shall pay, in immediately available funds, the demanded portion of the Bond Penalty, up to its full amount. The written demand of an EDC shall include (a) the dollar amount to be forfeited; (b) a statement that the demand arises from the occurrence of one or more of the above conditions, specifying which condition or conditions has or have occurred; and (c) the demanding EDC’s banking instructions for payment. Payment shall be made in accordance with such banking instructions. All four EDCs may make a request for payment and the amount requested by all four EDCs combined shall in no event exceed the Bond Penalty. Any demand to the Principal for payment of all or part of the Bond Penalty must be dated and sent by overnight courier not later than eight (8) business days after the date the Board has certified the BGS-RSCP Auction results or has rejected the Bid.

If the Principal refuses to make payment or fails to make payment within two (2) business days of receipt of written demand in accordance with the terms set out above, then any one or more of the EDCs may make demand upon the Surety. Within two (2) business days of receipt of written demand from any one or more of the four EDCs, the Surety shall pay, in immediately available funds, the demanded portion of the Bond Penalty, up to its full amount. The written demand of an EDC shall include (a) a copy of the demand sent to the Principal; (b) a statement that the demand on the Surety arises from the Principal’s refusal to pay or failure to pay within two (2) business days. Payment shall be made in accordance with the EDC’s or EDCs’ banking instructions in the demand to the Principal. All four EDCs may make a request for payment and the amount requested by all four EDCs combined shall in no event exceed the Bond Penalty. Any demand to the Surety for payment of all or part of the Bond Penalty must be dated and sent by overnight courier not later than thirteen (13) business days after the date the Board has certified the BGS-RSCP Auction results or has rejected the Bid.

The Surety and the Principal hereby agree that their obligation will remain in full force for sixty (60) calendar days after the date of execution of this Bond**.**

Thereafter this Bond shall be void.

This Bond shall be construed and interpreted in accordance with and governed by the laws of the State of New York, without regard to choice-of-law principles.

Any controversy or claim arising out of or relating to this Bond or the breach thereof shall be settled by arbitration administered by the American Arbitration Association as set forth in Appendix A.

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_.

Principal: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Surety: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Corporate Seal (where appropriate)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Authorized Signature Authorized Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed name and title Printed name and title

I hereby certify that the Surety has an insurer financial strength rating of at least “A”

by Standard & Poor’s or insurance financial strength rating of at least “A2” by Moody’s.

Surety: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed name and title

**Appendix A: ARBITRATION**

The parties signed below agree that any controversy or claim arising out of or relating to the foregoing Bond or the breach thereof shall be settled by arbitration administered by the American Arbitration Association (“AAA”) in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in United States District Court for the District of New Jersey. The AAA shall appoint a single neutral arbitrator. The place of arbitration shall be the State of New Jersey. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the arbitration, including required travel and other expenses of the arbitrator, AAA representatives, and any witness and the cost of any proof produced at the direct request of the arbitrator, shall be borne by the party initiating the arbitration. Any award by the arbitrator shall be limited to the Bond Penalty for which a written demand is received from the EDC or EDCs as described above in the Bond. The EDCs, the Principal, and the Surety are bound, each to each other, by this agreement. Each such party agrees that it may be joined as an additional party to an arbitration involving other parties under this clause. If more than one arbitration is begun under this agreement and any party contends that two or more arbitrations are substantially related and that the issues should be heard in one proceeding, the arbitrator in the first-filed of such proceedings shall determine whether, in the interests of justice and efficiency, the proceedings should be consolidated before that arbitrator.

Principal: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Surety: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Corporate Seal (where appropriate)

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Authorized Signature Authorized Signature

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Printed name and title Printed name and title

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date Date

ACE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ JCP&L: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Corporate Seal (where appropriate) Corporate Seal (where appropriate)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Authorized Signature Authorized Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed name and title Printed name and title

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date Date

PSE&G: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ RECO: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Corporate Seal (where appropriate) Corporate Seal (where appropriate)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Authorized Signature Authorized Signature

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Printed name and title Printed name and title

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Date Date