



A PHI Company

**Atlantic City Electric Company (ACE) Third Party Supplier Application to Participate in Retail Choice (the "Application") in New Jersey**

An applicant shall forward this completed and signed application, and accompanying information to the following address:

Mailing Address: Attn: Scott Razze, 79NC82 Manager, Supplier Relations Atlantic City Electric PO Box 9239 Newark, DE 19714-9239	Shipping Address: Attn: Scott Razze, 79NC82 Manager, Supplier Relations Atlantic City Electric 401 Eagle Run Road Newark, DE 19702
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An applicant will not be eligible to be a Third Party Supplier (TPS) until ACE approves the application and the applicant and ACE execute the Third Party Supplier Agreement.

Please provide the following information:

**1. Applicant / Company**

Applicant Name \_\_\_\_\_  
 State of Incorporation (please mark N/A if not incorporated) \_\_\_\_\_  
 Years in Business \_\_\_\_\_  
 Federal Tax ID \_\_\_\_\_ D&B DUNS # \_\_\_\_\_  
**Credit or Financial Contact Person**  
 First and Last Name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Address \_\_\_\_\_  
 City, State, Zip Code \_\_\_\_\_  
 E-mail Address \_\_\_\_\_  
 Telephone (\_\_\_\_) \_\_\_\_\_  
 Facsimile (\_\_\_\_) \_\_\_\_\_  
 Parent Company \_\_\_\_\_ State of Incorporation \_\_\_\_\_

Will the Applicant's Parent Company or an Affiliate be the credit support provider (e.g., guarantee)? Yes \_\_\_\_\_ No \_\_\_\_\_  
 If yes, identify by name the credit support provider:  
 Parent Company \_\_\_\_\_ State of Incorporation \_\_\_\_\_  
 Affiliate \_\_\_\_\_ State of Incorporation \_\_\_\_\_

**2. Banking Information - ACH Instructions for Customer Remittances**

Bank Name: \_\_\_\_\_ ABA #: \_\_\_\_\_  
 Contact: \_\_\_\_\_ Account #: \_\_\_\_\_  
 Address: \_\_\_\_\_ Name on the account: \_\_\_\_\_  
 City, State: \_\_\_\_\_ Phone #: \_\_\_\_\_  
 Zip Code: \_\_\_\_\_



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**3. Bank Reference**

Bank Name: \_\_\_\_\_ Account Officer: \_\_\_\_\_  
Address: \_\_\_\_\_ Account #: \_\_\_\_\_  
Telephone #: \_\_\_\_\_  
City, State: \_\_\_\_\_  
Zip Code: \_\_\_\_\_

**4. Supplemental Data**

*Please provide the following information for you and your parent or affiliate company providing credit support:*

- a) Two (2) most recent Annual Reports;
- b) Most recent SEC Form 10-K and 10-Q; or, if SEC Form 10-K is unavailable, please substitute with audited annual financial information (including a balance sheet, income statement, and cash flow statement);
- c) Most recent quarterly or monthly financial information (including a balance sheet, income statement, and cash flow statement) accompanied by an attestation by Applicant’s Chief Financial Officer that the information submitted is true, correct and a fair representation of Applicant’s financial condition.
- d) Long-Term Bond Rating (LTD Rating)
 

Moody’s _____	S&P _____
Fitch _____	Duff & Phelps _____
- e) Credit Support Provider LTD Rating
 

Moody’s _____	S&P _____
Fitch _____	Duff & Phelps _____

Please provide proof of the following:

- f) New Jersey BPU License/Exp. Date: \_\_\_\_\_
- g) PJM Certification \_\_\_\_\_
- h) Electronic Data Interchange Capabilities Tested on \_\_\_\_\_
- i) Year 2000 System Compliance



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**5. Alternate Credit Arrangements**

If the Applicant is unable to provide ACE with the above-mentioned information or to demonstrate that it has and maintains Investment Grade bond ratings from two of the rating agencies listed in the Third Party Supplier Agreement, the Applicant must make alternative credit arrangements in an amount equal to \$2,800 per MW of Capacity Obligation for CIEP customers, \$9,000 per MW of Capacity Obligation for Residential BGS-FP customers, and \$6,000 per MW of Capacity Obligation for non-residential BGS-FP customers. The alternative credit arrangements are described in the Third Party Supplier Agreement in Appendix B1, B2, and B3 and forms are provided as attachments to this Application.

Please provide an estimate of the initial amount Capacity Obligation in MWs you plan to serve:

Residential \_\_\_\_\_  
 Commerical \_\_\_\_\_  
 CIEP \_\_\_\_\_

**6. Representations**

	<u>Applicant</u>		<u>Parent</u>		<u>Affiliate</u>	
	Yes	No	Yes	No	Yes	No
<i>Is the applicant and/or their parent (and/or the affiliate providing credit support):</i>						
a) Operating under federal bankruptcy laws?	___	___	___	___	___	___
b) Subject to pending litigation or regulatory proceedings in state or federal courts and/or agencies which could impact the Applicant's and/or Parent's financial condition?	___	___	___	___	___	___
c) Subject to collection lawsuits or outstanding judgements which could impact solvency?	___	___	___	___	___	___

d) Mandatory disclosure of prior bankruptcy declarations by Applicant and/or predecessor

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



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### 7. Electronic Exchange of Documents

*Please provide the following information as it is required for exchanging business documents via EDI*

- a) What VAN service do you currently utilize? \_\_\_\_\_
- b) What is your Sender/Receiver qualifier and ID? \_\_\_\_\_
- c) Name of EDI Business Contact: \_\_\_\_\_
- d) Phone number of EDI Business Contact: \_\_\_\_\_
- e) E-mail address of EDI Business Contact: \_\_\_\_\_
- f) Name of EDI Technical Contact: \_\_\_\_\_
- g) Phone number of EDI Technical Contact: \_\_\_\_\_
- h) E-mail address of EDI Technical Contact: \_\_\_\_\_

### 8. Certification, Authorization, and Signature

ACE will treat all financial statements provided by Applicant in a confidential manner.

**Applicant will notify ACE, Retail Settlement Operations, if any financial, credit or electronic document exchange information changes.**

**Applicant certifies that the information herein is complete and accurate to the best of Applicant's knowledge, information and belief, and that the individual signing below is an authorized Representative of the Third Party Supplier.**

Applicant herein authorizes ACE to obtain any information that may be required relative to this Applicant hereby from any source, including Applicant's financial and trade references. Applicant also hereby authorizes each source to provide such information.

Legal Name of Applicant: \_\_\_\_\_

Signature of Authorized Representative: \_\_\_\_\_

Name (Please Print): \_\_\_\_\_

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

Sworn Before: \_\_\_\_\_

Date: \_\_\_\_\_



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Third Party Supplier (TPS) Contact Information Form

TPS Name as on Contract: \_\_\_\_\_

State (where energy will be supplied - to which the information on this form applies): \_\_\_\_\_

PJM Supplier Short Name (6 chars or less): \_\_\_\_\_

Registration Contact: \_\_\_\_\_

Last Name

First Name

Contact Phone Number: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_ Extn: \_\_\_\_\_

Email: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip \_\_\_\_\_

Contact for PJM: \_\_\_\_\_

Last Name

First Name

Contact Phone Number: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_ Extn: \_\_\_\_\_

Email: \_\_\_\_\_

Supplier Contact information as it is to appear on the confirmation letters/customer bills (Name limited to maximum of 15 characters if supplier will be using utility consolidated billing):

Supplier Name: \_\_\_\_\_ Cust. Svc. Phone #: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Supplier Billing contact information (for Atlantic billing to TPS):

Primary Billing Contact: \_\_\_\_\_

Last Name

First Name

Contact Phone Number: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_ Extn: \_\_\_\_\_

Email address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip \_\_\_\_\_

Supplier Retail Billing contact (for Atlantic to send usage information if needed, e.g. EDI difficulties):

Retail Billing Contact: \_\_\_\_\_

Last Name

First Name

Contact Phone Number: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_ Extn: \_\_\_\_\_

Email address: \_\_\_\_\_

Supplier Enrollment contact (for Atlantic to contact Supplier if needed):

Enrollment Contact: \_\_\_\_\_

Last Name

First Name

Contact Phone Number: ( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_ Extn: \_\_\_\_\_

Email address: \_\_\_\_\_



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## GUARANTY

Guaranty, dated as of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_ a, \_\_\_\_\_ corporation (the "Guarantor"), in favor of Atlantic City Electric Company (the "Beneficiary").

1. **Guaranty.** In consideration of the Beneficiary having entered into, or entering into a Third Party Supplier Agreement by and between \_\_\_\_\_ (the "Company"), an affiliate of the Guarantor, and the Beneficiary (the "Agreement"), the Guarantor irrevocably and unconditionally guarantees to Beneficiary, its successors and assigns, the prompt payment when due, subject to any applicable grace period, of all of the Company's present and future obligations and liabilities of all kinds to Beneficiary arising out of the Agreement. Guarantor's liability under this Guaranty and the Beneficiary's right to recover under same shall be limited to an aggregate amount of \$\_\_\_\_\_. Guarantor acknowledges that it will benefit directly or indirectly from the transactions to be entered into between the Beneficiary and the Company.

2. **Nature of Guaranty.** This Guaranty constitutes a guarantee of payment when due and not of collection. In the event that any payment of the Company in respect of any Obligations is rescinded or recovered from Beneficiary as a preference or fraudulent transfer under the Federal Bankruptcy Code, or any applicable state law, the Guarantor shall remain liable hereunder in respect to such Obligations as if such payment had not been made. This Guaranty shall continue to be effective whether or not Guarantor, Company, or Beneficiary merges or consolidates with or into another entity, loses its separate legal identity or ceases to exist. **GUARANTOR SHALL NOT BE REQUIRED TO PAY SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES (WHETHER OR NOT ARISING FROM A PARTY'S NEGLIGENCE) TO BENEFICIARY, EXCEPT TO THE EXTENT THAT THE PAYMENTS REQUIRED TO BE MADE PURSUANT TO THE OBLIGATIONS UNDER THE AGREEMENT ARE DEEMED TO BE SUCH DAMAGES. IF AND TO THE EXTENT ANY PAYMENT MADE PURSUANT TO THE OBLIGATIONS UNDER THE AGREEMENT IS DEEMED TO CONSTITUTE LIQUIDATED DAMAGES, THE PARTIES ACKNOWLEDGE AND AGREE THAT DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE AND THAT SUCH PAYMENT CONSTITUTES A REASONABLE APPROXIMATION OF THE AMOUNT OF SUCH DAMAGES, AND NOT A PENALTY.**

3. **Consents, Waivers and Renewals.** Guarantor agrees that Beneficiary may, at any time and from time to time, without notice to or consent of the Guarantor and without impairing or releasing the obligations of the Guarantor hereunder: (1) make any change in the terms of any Obligation or liability of the Company to Beneficiary, (2) take or fail to take any action of any kind in respect of any security for any Obligation or liability of the Company to Beneficiary, (3) exercise or refrain from exercising any rights against the Company or others, or (4) compromise or subordinate any Obligation or liability of the Company to Beneficiary including any security therefore.

4. **Expenses.** The Guarantor agrees to pay on demand all out-of-pocket expenses (including the reasonable fees and expenses of Beneficiary's counsel) in any way relating to the enforcement or protection of the rights of Beneficiary hereunder; provided, that the Guarantor shall not be liable for any expenses of Beneficiary if no payment under this Guaranty is due.

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5. **Subrogation.** The Guarantor will not exercise any rights which it may acquire by way of subrogation until all the Obligations to Beneficiary shall have been paid in full. Subject to the foregoing, upon payment of all the Obligations, the Guarantor shall be subrogated to the rights of Beneficiary against the Company, and Beneficiary agrees to take such steps as the Guarantor may reasonably request, at the Guarantor's expense, to implement such subrogation.

6. **Setoffs and Counterclaims.** Guarantor reserves to itself all rights, counterclaims and other defenses which the Company is or may be entitled to arising from or out of the Agreement, except for defenses arising out of the bankruptcy, insolvency, dissolution or liquidation of the Company, the power or authority of Beneficiary to enter into the Agreement, and to perform its Obligations thereunder, and the lack of validity or enforceability of the Company's Obligations under the Agreement or any transaction thereunder.

7. **No Waiver; Cumulative Rights.** No failure or delay on the part of Beneficiary to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Beneficiary of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power. Each and every right, remedy and power hereby granted to Beneficiary or allowed it by law or other agreement shall be cumulative and not exclusive of any other, and may be exercised by Beneficiary from time to time.

8. **Waiver of Notice.** The Guarantor waives notice of the acceptance of this Guaranty presentment, demand, notice of dishonor, protest, notice of any sale of collateral security and all other notices whatsoever.

9. **Representation and Warranties.**

(a) The Guarantor is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has full corporate power to execute, deliver and perform this Guaranty.

(b) The execution, delivery and performance of this Guaranty have been and remain duly authorized by all necessary corporate action and do not contravene any provision of law or of the Guarantor's constitutional documents or any contractual restriction binding on the Guarantor or its assets.

(c) This Guaranty constitutes the legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms, subject to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles.

10. **Assignment.** The Guarantor shall not assign its rights, interest or obligations hereunder to any other person without the prior written consent of the Beneficiary and any purported assignment absent such consent is void.



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11. **Notices.** All notices or other communications to the Guarantor shall be in writing and shall be given in the same manner and with the same effect as set forth in the Agreement. The Guarantor's address for notices is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

The Beneficiary's address for notices is as follows:

<u>Mailing Address:</u>	<u>Shipping Address:</u>
Attn: Scott Razze, 79NC82	Attn: Scott Razze, 79NC82
Manager, Supplier Relations	Manager, Supplier Relations
Atlantic City Electric	Atlantic City Electric
PO Box 9239	401 Eagle Run Road
Newark, DE 19714-9239	Newark, DE 19702

or such other address as either the Guarantor or Beneficiary shall from time to time specify to the other party.

12. **Termination.** This is a continuing Guaranty of all present and future Obligations of the Company to the Beneficiary. This Guaranty shall terminate the earlier to occur \_\_\_\_\_ or at any time upon written notice by Beneficiary to Guarantor, which termination shall become effective on the eleventh (11th) day after the date of receipt by the Guarantor of such notice. Notwithstanding the foregoing, this Guaranty shall continue to apply to all Obligations of the Company to the Beneficiary pursuant to the Agreement entered into before the effective date of termination.

13. **GOVERNING LAW. THIS GUARANTY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REFERENCE TO CHOICE OF LAW DOCTRINE. GUARANTOR AND BENEFICIARY JOINTLY AND SEVERALLY AGREE TO THE NON-EXCLUSIVE JURISDICTION OF STATE AND FEDERAL COURTS LOCATED IN THE STATE OF NEW JERSEY OVER ANY DISPUTES ARISING OR RELATING TO THIS GUARANTY.**

14. **Waiver of Right to Trial by Jury.** Each party hereby irrevocably waives any and all rights to trial by jury with respect to any legal proceeding arising out of or relating to this Guaranty or any Obligations arising under the Agreement.

IN WITNESS WHEREOF, the Guarantor has caused its duly authorized officer to execute and deliver this Guaranty as of the date first above written. The Guaranty becomes effective concurrent with the effective date of the Agreement according to its terms.

Guarantor: \_\_\_\_\_

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



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Date

Atlantic City Electric Company  
Supplier Relations 79NC82  
PO Box 9239  
Newark, DE 19714-9239

RE:

Gentlemen:

We hereby establish our irrevocable Letter of Credit # \_\_\_\_\_ in your favor for payment of all of \_\_\_\_\_ (the "Company's") present and future obligations and liabilities of all kinds to Atlantic City Electric Company ("ACE") in an amount not to exceed a total of \_\_\_\_\_ arising out of the Third Party Supplier Agreement (the "Agreement") including, but not limited to, the cost incurred by ACE of the Company's customers returning to Basic Generation Service due to a Company default as defined in the Agreement. This Letter of Credit shall expire on \_\_\_\_\_, and is irrevocable except upon mutual written consent of ACE and \_\_\_\_\_ unless renewed as hereinafter provided.

It shall be a provision of the Letter of Credit that it will automatically renew for one year from the listed expiration date unless we send written notice to ACE at the addresses listed below within 60 days of the expiration date to advise you that this Letter of Credit will not be renewed.

All drafts of this Letter of Credit should be addressed to the undersigned at:

**Mailing Address:**

Attn: Scott Razze, 79NC82  
Manager, Supplier Relations  
Atlantic City Electric  
PO Box 9239  
Newark, DE 19714-9239

**Shipping Address:**

Attn: Scott Razze, 79NC82  
Manager, Supplier Relations  
Atlantic City Electric  
401 Eagle Run Road  
Newark, DE 19702

All drafts of this Letter of Credit must be accompanied by a statement by an authorized office of ACE, indicating that the drafts are made in accordance with Letter of Credit# \_\_\_\_\_ and stating that the Company is in default with respect to the Agreement.

This Letter of Credit is neither transferable nor assignable.

This Letter of Credit is subject to the Delaware Uniform Commercial Code.

Sincerely,

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