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# **Request for Proposals Under the SREC-Based Financing Program**

**Atlantic City Electric Company  
Jersey Central Power & Light Company  
Rockland Electric Company**

**NERA**

Economic Consulting

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## **ARTICLE 1. Introduction**

### **1.1. Background**

- 1.1.1. Atlantic City Electric Company (“ACE”), Jersey Central Power & Light Company (“JCP&L”), and Rockland Electric Company (“RECO”), jointly known as the Electric Distribution Companies (“EDCs” or “Companies”), are issuing this Request for Proposals (“RFP”) to select solar projects (“Projects”) with which to enter into contracts for the purchase of Solar Renewable Energy Certificates (“SRECs”), based on the price of each Project’s SRECs. Through this RFP, the Companies will only contract for the purchase of SRECs for the term of the SREC Purchase and Sale Agreement (“SREC PSA”), and not for energy or capacity associated with any Project.
- 1.1.2. Capitalized terms not explicitly defined herein take on the meaning ascribed to them in the SREC PSA.
- 1.1.3. The New Jersey Board of Public Utilities (“BPU” or “Board”) adopted Renewable Portfolio Standards (“RPS”), N.J.A.C. 14:8-2.1 et seq., which require that a portion of the electricity delivered to New Jersey customers be supplied from solar electric generation systems. Suppliers to New Jersey customers must comply with the RPS either by submitting SRECs or by paying a Solar Alternative Compliance Payment (“SACP”). In response to the Board’s directive, each EDC filed an SREC-based financing program: JCP&L’s filing is dated September 30, 2008 (Docket No. EO08090840), ACE’s filing is dated October 1, 2008 (Docket No. EO08100875), and RECO’s filing is dated February 2, 2009 (Docket No. E009020097). These programs have the objective, as set by the Board, to enhance the ability of suppliers to meet the RPS. BPU Staff, the Division of Rate Counsel (“Rate Counsel”), and The Solar Alliance were parties to each EDC’s proceeding before the Board.
- 1.1.4. On March 13, 2009, ACE, JCP&L, BPU Staff, Rate Counsel, and The Solar Alliance entered into a Stipulation by which JCP&L and ACE agreed to coordinate to the extent possible and to use essentially the same SREC-based financing program. This Stipulation outlines the elements of the ACE and JCP&L SREC-based financing program. The Board approved this Stipulation in its Order dated March 27, 2009 and all remaining issues that were not resolved by the Stipulation were subsequently resolved. On December 9, 2010, these same parties entered into a Stipulation amending the ACE and JCP&L SREC-based financing program by increasing the size limit from 500 kW to 2 MW and increasing the flexibility with respect to the

developer cap. The Board approved this new Stipulation in its Order dated January 3, 2011.

- 1.1.5. On July 24, 2009, RECO, BPU Staff, Rate Counsel, and The Solar Alliance entered into a Stipulation by which RECO agreed to coordinate to the extent possible and to use a program similar to the SREC-based financing program approved for ACE and JCP&L. This Stipulation outlines the elements of RECO's SREC-based financing program. The Board approved this Stipulation in its Order dated July 31, 2009. On December 9, 2010, these same parties entered into a Stipulation amending the RECO SREC-based financing program by increasing the size limit from 500 kW to 2 MW. The Board approved this new Stipulation in its Order dated January 3, 2011.
- 1.1.6. In this document, JCP&L, ACE, RECO, BPU Staff, and Rate Counsel are together referred to as "the Parties" and "Program" refers to the coordinated SREC-Based Financing Program for ACE, JCP&L, and RECO. This document reflects changes from the December 9, 2010 Stipulations and certain administrative changes implemented pursuant to discussions at stakeholder meetings convened by BPU Staff at the direction of the Board.
- 1.1.7. ACE, JCP&L, and RECO have selected NERA Economic Consulting ("NERA") to serve as Solicitation Manager and implement the Program.

## **1.2. Overview**

- 1.2.1. Each RPS Reporting Year begins on June 1 of the preceding year and ends on May 31 of that year. The quantity of solar capacity that is planned to be solicited in RPS Reporting Year 2012, the final RPS Reporting Year for the Program, is provided in the table below. The Board reviews these quantities annually and may make adjustments based on the balance between the state solar requirements and the inventory of New Jersey solar commitments developed pursuant to this Program and independent markets. The planned quantity in the table below for the RPS Reporting Year 2012 takes into consideration the Board's review after the 2011 RPS Reporting Year. The quantities are based on the nameplate DC rating of the solar systems. In this document, MW will be used to mean MW<sub>dc</sub> unless specifically stated otherwise.

**Table 1. Planned Quantities Solicited in RPS Reporting Year 2012.**

<b>RPS Reporting Year</b>	<b>Quantity (kW)</b>			<b>Total</b>
	<b>JCP&amp;L</b>	<b>ACE</b>	<b>RECO</b>	
2012 (June 1, 2011 – May 31 2012)	10,901.678	6,925.359	2,275.705	20,102.742

- 1.2.2. In each RPS Reporting Year of the Program, the Solicitation Manager will conduct a maximum of three (3) solicitations. Each of the first two (2) solicitations in a given RPS Reporting Year will target to purchase approximately half of the planned quantity for the RPS Reporting Year. The full amount of the planned quantity to be solicited in any one particular solicitation may or may not be awarded based on the quantity of tendered projects and based on an assessment of the competitiveness of pricing resulting from the solicitation. The third solicitation in an RPS Reporting Year will be conducted if the first two (2) solicitations do not procure the full planned quantity for the RPS Reporting Year or if the Solicitation Manager recommends, and the BPU approves, a third solicitation to procure a portion of the next RPS Reporting Year’s target (as discussed further below).
- 1.2.3. In each solicitation, the Solicitation Manager will present to the Board a number of recommendations, including a recommendation on the quantity to be procured in the next solicitation. The Solicitation Manager may recommend that the quantity procured be different from the planned quantity. The Solicitation Manager may also recommend that the third solicitation include a portion of the quantity expected to be procured in the next RPS Reporting Year. Such a recommendation would be based on the results of the first two solicitations of an RPS Reporting Year and the market’s ability to respond effectively with competitive bids.
- 1.2.4. Proposals in the first solicitation for RPS Reporting Year 2010 were due on August 25, 2009. The Board rendered a decision on the results of this solicitation at its meeting held on September 30, 2009. The Board approved awards of 1.58537 MW of solar projects in the JCP&L territory.
- 1.2.5. Proposals in the second solicitation for RPS Reporting Year 2010 were due on December 11, 2009. The Board rendered a decision on the results of this solicitation at its meeting held on January 20, 2010. The Board approved awards of 4.17569 MW of solar projects in the JCP&L territory, 2.19651 MW of solar projects in the ACE territory, and 0.1496 MW of solar projects in the RECO territory.

- 1.2.6. Proposals in the third solicitation for RPS Reporting Year 2010 were due on March 5, 2010. The Board rendered a decision on the results of this solicitation at its meeting held on April 28, 2010. The Board approved awards of 9.218318 MW of solar projects in the JCP&L territory and 0.11466 MW of solar projects in the ACE territory. In its decision on the results of this solicitation, the Board ordered that unfilled quantities for RPS Reporting Year 2010 be added to the planned quantities for RPS Reporting Year 2011.
- 1.2.7. Proposals in the first solicitation for RPS Reporting Year 2011 were due on June 11, 2010. The Board rendered a decision on the results of this solicitation at its meeting held on August 4, 2010. The Board approved awards of 3.537705 MW of solar projects in the JCP&L territory and 0.394240 MW of solar projects in the ACE territory.
- 1.2.8. Proposals in the second solicitation for RPS Reporting Year 2011 were due on October 14, 2010. The Board rendered a decision on the results of this solicitation at its meeting held on December 16, 2010. The Board approved awards of 8.606865 MW of solar projects in the JCP&L territory, 0.361325 MW of solar projects in the ACE territory, and 0.544000 MW of solar projects in the RECO territory.
- 1.2.9. Proposals in the third solicitation for RPS Reporting Year 2011 were due on February 17, 2011. The Board rendered a decision on the results of this solicitation at its meeting held on March 30, 2011. The Board approved awards of 6.758329 MW of solar projects in the JCP&L territory, 9.007908 MW of solar projects in the ACE territory, and 0.799695 MW of solar projects in the RECO territory.
- 1.2.10. The Board ordered that the following quantities would be planned for this solicitation in RPS Reporting Year 2012:

**Table 2. Planned Quantities: First Solicitation of RPS Reporting Year 2012.**

<b>EDC</b>	<b>Quantity (kW)</b>
ACE	3,462.680
JCP&L	5,450.839
RECO	2,275.705
<b>Total</b>	<b>11,189.224</b>

- 1.2.11. There will be two (2) segments based on the size of the Project. The first and smaller segment will include Projects less than or equal to 50 kW. The second and larger segment will include Projects greater than 50 kW but less than or equal to 2 MW. For ACE and JPC&L,

the Board has established an aspirational goal that approximately 25% of the Projects be from the smaller segment. For RECO, the Board has established an aspirational goal that approximately 50% of the Projects be from the smaller segment. The size of a Project is based on the nameplate DC rating of the solar system. In this document, kW will be used to mean kW<sub>dc</sub> unless specifically stated otherwise.

- 1.2.12. No Projects greater than 2 MW will be considered. A portion (of 2 MW or less) of a Project that exceeds 2 MW in the aggregate will not be considered.
- 1.2.13. Projects that received or will receive a rebate from the Customer On-Site Renewable Energy (“CORE”) Program in force from 2001 to 2008 are not eligible to present a Proposal under this RFP.
- 1.2.14. A Proposal is a response to this RFP. As a condition of qualification, only Projects that have successfully completed the Initial Application process under the SREC Registration Program (“SRP”) or the Renewable Energy Incentive Program (“REIP”) administered by the Board are eligible to submit a Proposal in this RFP. Under the Initial Application process of the SRP or the REIP, the Project is assigned an application number (the “NJCEP Application Number”).<sup>1</sup> As part of the Initial Application process to the SRP, residential Projects 10 kW or below as well as non-profit/public Projects 50 kW or below that intend on submitting a Proposal to the EDCs’ SREC-Based Financing Program may apply at the same time for an EDC Solar Financing Incentive (“ESFI”) of 50 cents per Watt.
- 1.2.15. A “Customer” is a ratepayer in ACE’s, JCP&L’s or RECO’s service territory at the premises or facility where the Project will reside. A “Host” is an individual or entity that owns the premises or facility where the Project will reside. A “Developer” is an entity that contracts with the Customer to install and operate the Project. A “Proponent” is an individual or entity that submits any part of a Proposal under the Program. The “Owner” is an individual or company that owns the Project. A “Successful Project” is a Project that receives an award under this Program as determined by the Board. An Owner of a Successful Project that signs the SREC PSA is a “Seller”.
- 1.2.16. An Owner is required to agree in the Proposal to the terms and conditions of the SREC PSA. An Owner is required to agree to an inspection of the completed Project to ensure that the SRECs

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<sup>1</sup> NJCEP stands for New Jersey’s Clean Energy Program.

generated by the Project are eligible for use in complying with the RPS. An Owner is required to agree to the installation of a meter to record the output of the Project (the “SREC Meter”) in an enclosure adjacent to the existing EDC meter and in accordance with the EDC’s requirements and any applicable regulatory standards. The Owner is required to agree that the SREC Meter will be owned by the EDC in whose territory the Project resides but that the installation and arrangements for the installation of the SREC Meter will be at the Project’s sole cost and expense. An Owner is also required to agree to arrange for net metering arrangements with the EDC.

- 1.2.17. Information regarding each EDC’s requirements for the installation of the SREC Meter is provided on the Web site for the Program.
- 1.2.18. Proponents are required to submit a Pricing Proposal. The Pricing Proposal includes a Price and a Duration. The Price is an amount in dollars and cents for an SREC. The Duration is a number of years between ten (10) and fifteen (15) years. The Owner of a Successful Project would receive the Price for each SREC transferred to the EDC under the SREC PSA for the Duration. The Proponent must submit a single Price for a given Project so that the Price obtained for all SRECs transferred is the same. The Owner of a Successful Project will begin to transfer SRECs through the PJM Environmental Information Service Generator Attribute Tracking System (“PJM-EIS-GATS”) to the EDC when the Project has been constructed, and registered, inspected and certified, and when all requirements of the SREC PSA have been met.
- 1.2.19. Proposals from Projects that have completed the Initial Application process under the SRP or the REIP and from Proponents who can commit to satisfying all other qualification requirements are evaluated on a price-only basis. For each EDC, all Projects are ranked using the Net Present Value (“NPV”) of the payment stream for one SREC. For Projects in the ACE or JCP&L service territories, the developer cap is then applied. The developer cap across all solicitations in a given RPS Reporting Year is set at 20% of the planned quantities for that RPS Reporting Year. For Projects in the RECO service territory, an affiliate cap is then applied. The affiliate cap across all solicitations in a given RPS Reporting Year is set at 50% of the planned quantity for that RPS Reporting Year. The affiliate cap applies to all affiliates of RECO that are not regulated by the Board.
- 1.2.20. The Solicitation Manager may or may not recommend any or all of the Projects selected in this manner. There will be a confidential price

limit above which bids will not be accepted and the Solicitation Manager will review the Prices for competitiveness. The Solicitation Manager may recommend that not all Projects be awarded an SREC PSA whether or not the quantity bid was sufficient to meet the planned quantity.

- 1.2.21. The Solicitation Manager will make preliminary recommendations and will share these recommendations with the Parties within nine (9) days<sup>2</sup> of the receipt of the Pricing Proposals. The Parties will have ten (10) days to comment on the preliminary recommendations. The Solicitation Manager will then have ten (10) days before it makes its final recommendations to the Board. The Board will be expected to render a decision on the Projects recommended by the Solicitation Manager within five (5) days of the recommendations being submitted to the Board or at the next scheduled agenda meeting. This schedule is subject to adjustment if, for example, the timing for an activity falls on a weekend or holiday.
- 1.2.22. Successful Projects under the Program are those that receive an award as determined by the Board. Owners of Successful Projects must provide a cash deposit within fourteen (14) days of Board approval. The deposit will be returned or forfeited as explained in Paragraph 5.2.8. Owners of Successful Projects must enter into the SREC PSA within five (5) business of appropriate notice from the EDC. Such notice will be issued no earlier than forty-five (45) days from the date of service of a Board Order approving the results of the solicitation.
- 1.2.23. Each Owner commits to complete construction of the Project within one year of execution of the SREC PSA.
- 1.2.24. If the Owner of a Successful Project does not enter into the SREC PSA within the timeframe specified in Paragraph 1.2.22, the Owner will lose its cash deposit. The Owner may re-submit a Proposal for the same Successful Project in a future solicitation at the same or at the lower price. The Owner of a Successful Project is prohibited from re-submitting a Proposal for the same Successful Project in a future solicitation at a higher price, except as provided in Paragraph 3.2.12.

### **1.3. General Process for Submission**

- 1.3.1. The Proposal is in three (3) parts. The first part is an Expression of Interest (“EOI”). The EOI is due four (4) business days before the

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<sup>2</sup> A day refers to a calendar day, unless explicitly specified otherwise.

second part of the Proposal, which is the Pricing Proposal. The Solicitation Manager will send to each Proponent that submits an EOI confidential information that the Proponent will use to submit its Pricing Proposal electronically through a secure file transfer system. The due date for the Pricing Proposal is called “Bid Day”. The Solicitation Manager will evaluate all Pricing Proposals on a price-only, anonymous basis. The third part of the Proposal is the response to the qualification requirements. The qualification package is due on Bid Day, the same day that the Pricing Proposal is due. Based on the evaluation of the Pricing Proposals, the Solicitation Manager may evaluate the qualification package for only a portion of the Proposals that are submitted.

- 1.3.2. Each Proponent must comply with all requirements of the EOI as described in Article 2.
- 1.3.3. Each Proponent must comply with the instructions for the submission of Pricing Proposals, which are provided by the Solicitation Manager upon receipt of the Proponent’s complete EOI. The Proponent must submit its Pricing Proposal exclusively through the use of the Bid Form as described further in Article 3. A sample Bid Form is attached as Appendix 3. On the Bid Form, each Proponent is exclusively identified through its NJCEP Application Number. Any Bid Form that contains extraneous information will not be evaluated.
- 1.3.4. Each Proponent must comply with all qualification requirements as described in Article 4. The qualification requirements include providing evidence that the Project has successfully completed the Initial Application process under the SRP or the REIP, certifying that the Project is new, committing to leaving the Pricing Proposal open for a period of one hundred and twenty (120) days from Bid Day, and providing all documents required by this RFP.
- 1.3.5. The submission of a Pricing Proposal constitutes the Proponent’s and the Owner’s acknowledgement and acceptance of all the terms and conditions of this RFP, regardless of the outcome of the solicitation or the outcome of the Proponent’s Proposal.
- 1.3.6. The Proponent, at its own cost and expense, shall hold harmless, indemnify, and defend ACE, JCP&L, RECO and the Solicitation Manager and their subsidiaries, affiliates, successors and assigns, and each and every one of their respective past, present, or future officers, directors, trustees, employees, shareholders, executors, administrators, successors and assigns, other than entities that are

also Proponents, against any and all manner of past, present or future claims, demands, disputes, controversies, complaints, suits, actions, proceedings or allegations of any kind which in any manner relate to, arise out of, or result from any false statement in the Proposal or breach of any covenant by the Proponent set forth herein.

**1.4. Information Provided to Proponents**

1.4.1. The EDCs and the Solicitation Manager have established a Web site dedicated to this Program. Proponents and other stakeholders can visit the Web site to obtain information and documents related to this RFP. The Web site address is [www.NJEDCSolar.com](http://www.NJEDCSolar.com). Proponents should ensure that they are using the most current documents for any given solicitation.

1.4.2. The Web site consists of the following sections:

- a home page that provides announcements of interest;
- a page that provides all documents and forms needed to submit a Proposal in this RFP, as well as relevant Board Orders;
- a calendar that provides the timeline for the main events in this RFP;
- a web form that Proponents can use to register to the Web site and get automatic updates;
- a web form that Proponents can use to ask questions and where the Solicitation Manager will answer each questioner individually via email;
- an FAQ page where the questions from Proponents and answers by the Solicitation Manager are posted; and
- a list of announcements made to registrants to the Web site.

1.4.3. The Solicitation Manager has established the schedule below for this solicitation, in accordance with the guidelines provided by the Stipulations. All dates starting with the preliminary review of recommendations with the Parties are tentative.

**Table 3. Timeline of the First Solicitation of RPS Reporting Year 2012.**

<b>EVENT</b>	<b>DATE</b>
Posting of Updated RFP Documents	Friday, April 29, 2011
Deadline for Expression of Interest	Monday, June 6, 2011
Deadline to Cure Deficiencies	Thursday, June 9, 2011

<b>EVENT</b>	<b>DATE</b>
Bid Day: Deadline for Pricing Proposals	Friday, June 10, 2011
Deadline for qualification materials	Friday, June 10, 2011
Notifications on Completeness of qualification materials	Friday, June 17, 2011
Solicitation Manager Reviews Preliminary Recommendations with the Parties (tentative)	Monday, June 20, 2011
Deadline for Input by the Parties (tentative)	Tuesday, June 28, 2011
Solicitation Manager Submits Recommendations to the Board (tentative)	Thursday, July 7, 2011
Expected Board Meeting (tentative)	Monday, July 25, 2011
Announcement of results (tentative)	Tuesday, August 2, 2011
Execution of PSA (tentative)	Friday, September 16, 2011

## **1.5. Documents**

1.5.1. This RFP consists of a total of six (6) documents. This main document is called the “RFP Rules”. The following documents are appended to the RFP Rules:

- Appendix 1: SREC Purchase and Sale Agreement
- Appendix 2: Expression of Interest Form
- Appendix 3: Sample Bid Form
- Appendix 4: Project Proposal Summary Sheet
- Appendix 5: Certifications and Checklist for Qualifications

## **ARTICLE 2. Expression of Interest (EOI)**

### **2.1. Requirements**

- 2.1.1. A Proponent must submit an EOI using the form provided as Appendix 2 to these RFP Rules for each Project for which the Proponent is submitting a Proposal.
- 2.1.2. If, in a previous solicitation, a Proponent submitted a complete EOI for a Project and the Project did not receive an award, the Proponent is not required to resubmit an EOI in order to submit a Proposal for that Project in the current solicitation.
- 2.1.3. Using an EOI Form, the Proponent provides a single email address, the email address for the primary contact, and the Project's NJCEP Application Number. The NJCEP Application Number is the number assigned to the Project under the Initial Application process of the SRP or the REIP. The Solicitation Manager will send information necessary for the submission of the Pricing Proposal to the email address provided.
- 2.1.4. Using an EOI Form, the Proponent must provide contact information for a Representative who will be submitting the Pricing Proposal for the Project. The contact information for the Representative must include: (i) name; and (ii) phone number. The Proponent may also provide an alternate phone number and a facsimile number for the Representative.
- 2.1.5. Using the EOI Form, the Proponent may also provide contact information for a second individual (the "Alternate").
- 2.1.6. The Solicitation Manager will attempt to contact the Representative or the Alternate on Bid Day at the phone numbers provided should the Pricing Proposal be incomplete or require clarification.

### **2.2. Submission and Processing**

- 2.2.1. The deadline for submission of EOIs is 12:00 PM (noon) Eastern Prevailing time ("EPT") on Monday, June 6, 2011.
- 2.2.2. The EOI must include all information required as described in Section 2.1.

- 2.2.3. Each Proponent who has not submitted for a Project a complete EOI in a previous solicitation must submit the EOI for that Project electronically by email to the Solicitation Manager at [NJSolar@nera.com](mailto:NJSolar@nera.com).
- 2.2.4. If an EOI is incomplete or requires clarification, the Solicitation Manager will contact the Representative by phone and explain the nature of the deficiency. The Solicitation Manager will email a deficiency notice to the Proponent. The Proponent will have until the Cure Deficiency deadline (as defined in Paragraph 2.2.6) to respond by re-submitting an EOI that is complete and consistent with the requirements.
- 2.2.5. No later than thirty (30) calendar days before the Cure Deficiency deadline, the Solicitation Manager will email all Proponents that submitted a complete EOI in a previous solicitation for a Project that did not receive an award. The Solicitation Manager will confirm that the EOI is complete for the Project and will state that the EOI does not need to be submitted again as part of a Proposal for that Project in the current solicitation.
- 2.2.6. The Cure Deficiency deadline is Thursday, June 9, 2011 at 5:00 PM EPT. If a Proponent to whom a deficiency notice is issued does not respond or provide a complete EOI consistent with all the requirements by that time, the Proponent will not be able to submit a Pricing Proposal or participate further in this solicitation.
- 2.2.7. When an EOI is complete and satisfies all the requirements, the Solicitation Manager sends the following to the Proponent electronically, at the email address provided: (i) instructions for the electronic file transfer of the Pricing Proposal; (ii) a Web site address for access to the electronic file transfer system; (iii) a password unique to the Proponent; and (iv) a Bid Form unique to the Project and pre-populated with the Project's NJCEP Application Number. The username for the electronic file transfer site is the Proponent's email address.
- 2.2.8. No more than one EOI can be submitted for a given NJCEP Application Number and Project.

## **ARTICLE 3. Pricing Proposal**

### **3.1. Requirements**

- 3.1.1. The Proponent must submit its Pricing Proposal exclusively through the use of the Bid Form as described in this Article. A sample Bid Form is provided as Appendix 3. The Bid Form to be used by a Proponent for a given Project is provided by email to the Proponent upon receipt of a complete EOI. On the Bid Form, each Project must be exclusively identified through its NJCEP Application Number. Any Bid Form that contains extraneous information will not be evaluated.
- 3.1.2. The Bid Form for a Project is pre-populated with a Project's NJCEP Application Number. A Proponent is required to submit the following information on the Bid Form: (i) the Price; (ii) the Duration; (iii) the size of the Project; and (iv) the EDC territory in which the Project resides.
- 3.1.3. The Price must be expressed in dollars and cents per SREC. This Price is the price for an SREC that the Owner would receive for each SREC transferred to the EDC under the SREC PSA if the Project receives an award.
- 3.1.4. The Duration is the number of years during which the Owner would receive the Price for each SREC transferred to the EDC under the SREC PSA if the Project receives an award. The Duration must be an integer greater than or equal to 10 and less than or equal to 15.
- 3.1.5. The size of the Project must be expressed in kilowatts ("kW") and must be rounded to the third decimal. The size of the Project must correspond to the size of the Project approved as part of the Initial Application process under the SRP or the REIP. The size of a Project is based on the nameplate DC rating of the solar system. In this document, kW is used to mean kW<sub>dc</sub> unless specifically stated otherwise.
- 3.1.6. The Project size must be less than or equal to 2 MW. A portion (of 2 MW or less) of a Project that exceeds 2 MW in the aggregate will not be considered.
- 3.1.7. The EDC service territory in which the Project resides must be the service territory of JCP&L, or ACE, or RECO.

- 3.1.8. The Proponent will be required to acknowledge on the Bid Form that the Proponent has read and understood the terms of this RFP. By submitting the Pricing Proposal, the Proponent accepts all of the terms and conditions of this RFP.

### **3.2. Submission and Processing**

- 3.2.1. The deadline for submission of the Pricing Proposal is 12:00 PM (noon) EPT on Friday, June 10, 2011.
- 3.2.2. Each Proponent must submit its Pricing Proposal exclusively through the use of the Bid Form provided to the Proponent upon receipt of a complete EOI. On the Bid Form, each Project is identified solely by its NJCEP Application Number. A Bid Form that identifies the Project, Customer, or Developer in any other manner, including through the use of the Project name, Proponent name, or any other identifying information, will not be evaluated.
- 3.2.3. For a given Project, each Proponent must provide all information required by the Bid Form as described in Section 3.1. Only Bid Forms that are completely and duly filled out will be evaluated. Each Proponent must refrain from providing any information not strictly required by the Bid Form. A Bid Form with extraneous information will not be evaluated.
- 3.2.4. Each Proponent must comply with the instructions for the submission of Pricing Proposals, which are provided by the Solicitation Manager upon receipt of the Proponent's complete EOI. Each Proponent must submit a complete Bid Form for a Project using the file transfer system designated by the Solicitation Manager. The file transfer system requires an email address and a password. Each Proponent must use, as its email address, the email address provided with the EOI. The Solicitation Manager provides to each Proponent a unique password that the Proponent must use in submitting the Bid Form for a Project.
- 3.2.5. The Solicitation Manager provides to each Proponent the confidential information necessary for submission of the Bid Form upon completion of the EOI. A Proponent may submit the Pricing Proposal for a Project at any time after receiving such confidential information from the Solicitation Manager but in no event after the deadline of 12:00 PM (noon) EPT on Friday, June 10, 2011. Pricing Proposals received after the deadline will not be evaluated.

- 3.2.6. If a Proponent submits its Pricing Proposal on Friday, June 10, 2011 between 9 AM and 12 PM, the Solicitation Manager will confirm receipt by phone within thirty (30) minutes. The Solicitation Manager will either confirm that the Bid Form is complete and consistent with the requirements of Section 3.1 or detail the ways in which the Bid Form is deficient. Deficient Bid Forms will not be evaluated. A Proponent whose Bid Form is deficient may resubmit the Bid Form provided that the resubmitted Bid Form is received prior to the deadline of noon on Friday, June 10, 2011.
- 3.2.7. If a Proponent submits its Pricing Proposal between 9 AM and 5 PM on any business day prior to June 10, 2011, the Solicitation Manager will confirm receipt by phone by 6 PM on that business day. If a Proponent submits its Pricing Proposal after 5 PM on a business day or on a day that is not a business day, the Solicitation Manager will confirm receipt by 6 PM on the next business day. The Solicitation Manager will either confirm that the Bid Form is complete and consistent with the requirements of Section 3.1 or detail the ways in which the Bid Form is deficient. A Proponent whose Bid Form is deficient may resubmit the Bid Form provided that the resubmitted Bid Form is received prior to the deadline of noon on June 10, 2011.
- 3.2.8. To confirm receipt by phone, the Solicitation Manager will use the contact information for the Representative provided in the EOI. If the Representative is not available, the Solicitation Manager will use the contact information for the Alternate if provided in the EOI.
- 3.2.9. A Bid Form submitted by a Proponent for a Project supersedes any previously submitted Bid Forms submitted by that Proponent for that Project. The Solicitation Manager evaluates only the last Bid Form for a Project submitted before the deadline that is complete and consistent with the requirements of Section 3.1.
- 3.2.10. A Proponent who experiences technical difficulty submitting its Pricing Proposal must promptly inform the Solicitation Manager by phone. Technical assistants will be available to resolve any such difficulties. Should such difficulties not be resolved by Bid Day, the Proponent will be instructed to submit its Pricing Proposal by fax and phone the Solicitation Manager immediately once the Pricing Proposal is transmitted. The Solicitation Manager will acknowledge receipt by phone and require the Proponent to confirm all information on the Bid Form.
- 3.2.11. No more than one Pricing Proposal will be evaluated for a given NJCEP Application Number and Project in a solicitation. If more than

one Pricing Proposal is submitted in a given solicitation, the last Pricing Proposal received before the deadline is the Pricing Proposal that will be evaluated.

- 3.2.12. If the Owner of a Successful Project in a previous solicitation did not enter into the SREC PSA within the timeframe specified in Paragraph 1.2.22, a Pricing Proposal for the same Successful Project may be re-submitted in this solicitation at the same or at a lower price. The Proponent must ask the Solicitation Manager in advance of the deadline for submission of EOIs to specify the documents that the Proponent will be required to submit to have the Project re-considered. A Pricing Proposal may not be re-submitted at a higher price for the same Successful Project unless: (a) the Owner of the Project provided the cash deposit for the Successful Project in the previous solicitation within the timeframe specified in Paragraph 1.2.22; and (b) the period between the submission of Pricing Proposals is no less than six (6) months. For purposes of this Paragraph, a Project is the “same” Project as a previously Successful Project if the Projects are in the same location and have the same NJCEP Application Number.
- 3.2.13. A Price that is not expressed in dollars and cents per SREC will automatically be rejected. A Price that has more than two (2) decimals will be rounded to the nearest cent.

## **ARTICLE 4. Qualification Package**

### **4.1. Requirements**

- 4.1.1. A Proponent must submit a qualification package to satisfy the requirements of this Article. The Proponent must complete two forms, the “Project Proposal Summary Sheet” and the “Certifications and Checklist for Qualifications”, provided as Appendix 4 and Appendix 5, respectively to these RFP Rules, and available electronically on our Web site. The Proponent must provide all documents required by these forms as explained in this Section 4.1.
- 4.1.2. Using the Project Proposal Summary Sheet (provided as Appendix 4 to these RFP Rules and available electronically on our Web site), each Proponent is required, as part of its qualification package, to provide the following information: (i) name of Project; (ii) size of Project; (iii) location of Project; (iv) description of equipment including name of manufacturer; (v) name and address of Customer; (vi) Customer utility tariff rate schedule; (vii) Customer account number; (viii) name and address of Developer; (ix) name of the Developer’s parent company, defined as an entity with a majority ownership interest in the Developer (direct parent and ultimate parent, if applicable); (x) identity of the Owner; and (xi) identity of the Host.
- 4.1.3. As part of its qualification package, each Proponent must provide contact information of an individual who can answer questions regarding the qualification materials. This individual must be available from Friday, June 10, 2011 to Friday, June 17, 2011 to provide any additional materials or clarifications requested by the Solicitation Manager. This individual may be, but is not required to be, the Representative named in the EOI. This individual may specify whether the individual prefers its correspondence with the Solicitation Manager by fax or by email. The individual must specify a fax number or an email address. The Proponent provides this information by completing section 2 (the “Contact Information” section) of the Certifications and Checklist for Qualifications form that is provided as Appendix 5 to these RFP Rules and that is available electronically on our Web site.
- 4.1.4. Each Owner must certify that the Project has all of the following characteristics:
- the Project is for the construction of a solar electric (Photovoltaic or PV) system that produces electricity directly from sunlight;

- the Project is not yet interconnected and the Proponent will not request interconnection prior to the Board Order on the results of this solicitation;
- the Project will not be interconnected at transmission voltages; and
- the Project has not received and will not receive a rebate from the CORE Program in force from 2001 to 2008.

The Owner makes these certifications by completing section 3 (the “Certifications” section) of the Certifications and Checklist for Qualifications form that is provided as Appendix 5 to these RFP Rules and that is available electronically on our Web site.

4.1.5. As part of its qualification package, each Owner must agree to the terms of the SREC PSA without modifications including:

- the requirement for an inspection of the Project at the Owner’s sole cost and expense to verify and certify that the SRECs generated by Seller’s Project are eligible for use in complying with the New Jersey RPS;
- the requirement for the installation at Owner’s expense of an EDC kilowatt-hour meter (“SREC Meter”) located in an enclosure adjacent to the existing EDC meter in accordance with the EDC’s standards and any applicable regulatory standards;
- the requirement that the SREC Meter be capable of measuring the electricity generated from the continued operation of the Project throughout the term of the SREC PSA so as to be reported to the EDC and PJM-EIS-GATS;
- the requirement for the Owner to agree to arrange for net metering arrangements with the EDC that meets the requirements of the Board’s net metering rules and any applicable EDC tariff provisions.

The Owner makes these certifications by completing section 3 (the “Certifications” section) of the Certifications and Checklist for Qualifications form that is provided as Appendix 5 to these RFP Rules and that is available electronically on our Web site.

4.1.6. As part of its qualification package, each Owner must certify that it is not part of a bidding agreement with another Proponent. The Owner makes these certifications by completing section 3 (the “Certifications” section) of the Certifications and Checklist for

Qualifications form that is provided as Appendix 5 to these RFP Rules and that is available electronically on our Web site.

- 4.1.7. As part of its qualification package, each Owner must further make the following certifications:
- the Owner will leave its Pricing Proposal open for a period of one hundred and twenty (120) days from Bid Day;
  - if the Proponent becomes a Successful Proponent, the Owner of the Project will sign the SREC PSA within five (5) business days of being given a Final Notice of Award by the EDC and, if the Owner of the Project is not the same individual or entity as the Host, will provide three (3) originals of Appendix C to the SREC PSA with original signatures from the Host. (The EDC will give such notice no earlier than forty-five (45) days after the date of service of the Board Order, as further explained in Article 5);
  - the Owner of the Project will provide PJM-EIS-GATS with a signed Schedule A (Generator Owner's Consent) when required to do so under the SREC PSA.

The Proponent makes these certifications by completing section 3 (the "Certifications" section) of the Certifications and Checklist for Qualifications form that is provided as Appendix 5 to these RFP Rules and that is available electronically on our Web site.

- 4.1.8. As part of its qualification package, a Proponent must identify the Owner of the Project and must identify the Host. The Proponent provides this information by completing section 4 (the "Customer Acknowledgment" section) and section 5 (the "Appendix C to SREC PSA" section) of the Certifications and Checklist for Qualifications form that is provided as Appendix 5 to these RFP Rules and that is available electronically on our Web site.
- 4.1.9. If the Owner of the Project is not the same individual or entity as the Host, the Proponent must submit one (1) electronic copy in pdf format of Appendix C to the SREC PSA signed by the Host. The Owner of the Project may instead submit three (3) originals of Appendix C to the SREC PSA with original signatures from the Host, in which case the Solicitation Manager will transmit these signature pages to the EDC if the Board approves the Proposal for the Project. As a further courtesy to Proponents, the Solicitation Manager will, at the Proponent's request, prepare Appendix C to the SREC PSA based on information submitted by the Proponent in its Project Proposal

Summary Sheet provided, however, that such request and such Project Proposal Summary Sheet be submitted at [NJSolar@nera.com](mailto:NJSolar@nera.com) by the deadline for submission of EOIs.

- 4.1.10. As part of its qualification package, a Proponent must provide an acknowledgment from the Customer. If the Customer is the Owner, the Customer acknowledges that the Customer will sign the SREC PSA if the Project receives an award. If the Customer is not the Owner, the Customer acknowledges that the Customer will agree to net metering arrangements with the EDC and acknowledges that the Owner will sign the SREC PSA if the Project receives an award. The Proponent provides this information by completing section 4 (the “Customer Acknowledgment” section) of the Certifications and Checklist for Qualifications form that is provided as Appendix 5 to these RFP Rules and that is available electronically on our Web site.
- 4.1.11. The Proponent confirms that the Proponent is submitting all required documents by completing section 6 (the “Checklist” section) of the Certifications and Checklist for Qualifications form that is provided as Appendix 5 to these RFP Rules and that is available electronically on our Web site.
- 4.1.12. As part of its qualification package, each Proponent must show that the Project has successfully completed the Initial Application process under the SRP or the REIP administered by the Board. To satisfy this requirement, each Proponent provides all of the following:
  - A copy of the acceptance letter for the Project from the Office of Clean Energy or its designees under the Initial Application process of the SRP or the REIP; and
  - A copy of the completed application materials under the SRP or the REIP, including all attachments.
- 4.1.13. The Proponent is solely responsible for knowing and understanding the requirements of the SRP or the REIP.
- 4.1.14. No more than one qualification package can be submitted in a given solicitation for a given NJCEP Application Number and Project.

## **4.2. Submission and Processing**

- 4.2.1. The deadline for submission of the qualification materials is 12:00 PM (noon) EPT on Friday, June 10, 2011.

- 4.2.2. Each Proponent must submit one (1) electronic copy of the Project Proposal Summary Sheet (provided as Appendix 4 to these RFP Rules and available electronically on our Web site), in MS Word format, by email to the Solicitation Manager at [NJSolar@nera.com](mailto:NJSolar@nera.com).
- 4.2.3. Each Proponent must submit three (3) originals of the Certifications and Checklist for Qualifications (provided as Appendix 5 to these RFP Rules and available electronically on our Web site) with original signatures and one (1) copy of all other required documents by overnight delivery service to: Solicitation Manager, One Gateway Center, Suite 720, Newark, NJ 07102 (Phone: (973) 297-0880 and Fax: (973) 297-0246).
- 4.2.4. Each Proponent must provide all required qualification materials as described in Section 4.1. A Proponent's Pricing Proposal may only be recommended for an award by the Solicitation Manager if the Proponent's qualification materials are complete and consistent with the requirements of Section 4.1.
- 4.2.5. The Solicitation Manager will acknowledge the receipt of qualification materials generally on the business day that they are received. The Solicitation Manager will send two (2) such acknowledgments if receipt of the Project Proposal Summary Sheet by email and receipt of the remainder of the qualification materials by overnight delivery service do not occur on the same business day. The Solicitation Manager sends any such acknowledgement to the individual identified in the Certifications and Checklist for Qualifications form. If the Solicitation Manager receives a portion of the qualifications materials that does not include the Certifications and Checklist for Qualifications form, the Solicitation Manager sends any such acknowledgment to the individual identified in the Expression of Interest form. The Solicitation Manager sends any such acknowledgment by email or facsimile, at the Proponent's option.
- 4.2.6. The Solicitation Manager will process the qualification materials only after the evaluation of Pricing Proposals has been completed. The qualification materials for a Proponent who does not submit a Pricing Proposal that is complete and consistent with Section 3.1 will not be processed.
- 4.2.7. No later than Monday, June 13, 2011 at 6 PM EPT, the Solicitation Manager will send a notice to each Proponent, which states one of the following: (i) the qualification materials are complete and no further action is required on the part of the Proponent; or (ii) the qualifications materials will not be evaluated and will be returned to

the Proponent and no further action is required on the part of the Proponent; or (iii) the qualifications materials were evaluated and found to be deficient.

- 4.2.8. If the qualifications materials are deficient, the Proponent has until 4 PM EPT on Friday, June 17, 2011 to provide any clarifications or additional materials requested by the Solicitation Manager. All Proponents with deficient qualifications materials are strongly encouraged to submit any clarifications or additional materials earlier to allow time for any issues that may remain to be resolved. No later than Friday, June 17, 2011 at 6 PM EPT, the Solicitation Manager will send a final notice to such Proponent, which states one of the following: (i) the qualification materials are complete; or (ii) the qualifications materials remain deficient and the Proponent's Project will not be recommended for an award.

## **ARTICLE 5. Bid Evaluation and Post-Bid Process**

### **5.1. Bid Ranking**

- 5.1.1. The Solicitation Manager will not recommend a Proposal for which the Pricing Proposal, the EOI, or the qualification materials are incomplete or fail to respond to any requirement under this RFP. Proposals may fail to be recommended, may fail to receive an award, or may fail to receive a contract with the EDC for any of the following reasons, without limitation: (i) failure to provide clarification or additional information regarding the qualification materials, EOI, or Pricing Proposal as requested by the Solicitation Manager; (ii) illegal conduct, attempts or the appearance of attempts to improperly influence the consideration or ranking of the Proposals; and (iii) failure to honor any of the representations made in the Proposal.
- 5.1.2. The Solicitation Manager ranks Pricing Proposals for each EDC separately.
- 5.1.3. NERA personnel will be divided in two (2) teams, the “Bidder Support Team” and the “Bid Evaluation Team”. The Bidder Support Team will answer any questions from Proponents during the Pricing Proposal submission process and will verify any Pricing Proposal submitted by facsimile. Members of the Bidder Support Team will not communicate any information regarding the identities of the Proponents to the Bid Evaluation Team. The Bidder Support Team compiles the Pricing Proposals that are complete and consistent with this RFP. The Bid Evaluation Team ranks the Pricing Proposals. The identities of the Proponents will not be disclosed to the Bid Evaluation Team, which is the personnel of the Solicitation Manager who ranks the Pricing Proposals.
- 5.1.4. For each EDC, the Solicitation Manager ranks Pricing Proposals according to the NPV of payments under the SREC PSA for each SREC. The Solicitation Manager uses 6.87% as the discount rate for JCP&L, 6.66% for ACE, and 7.68% for RECO. The Yearly Factor is equal to  $1 / (1 + \text{Discount Rate})^{\text{Year}}$ . For example, the NPV of the payments in year 1 for JCP&L would be  $(1/1.0687)$ , or 0.9357; the NPV of payments in year 2 would be  $(1/1.0687)^2$ , or 0.8756; and so on, as shown in the table below.

**Table 4. NPV Factors for JCP&L, ACE and RECO.**

EDC		JCP&L		ACE		RECO	
Discount Rate		6.87%		6.66%		7.68%	
Year	Calendar Year	Yearly Factor	Cumulative	Yearly Factor	Cumulative	Yearly Factor	Cumulative
1	2012	0.9357		0.9376		0.9287	
2	2013	0.8756		0.8790		0.8624	
3	2014	0.8193		0.8241		0.8009	
4	2015	0.7666		0.7727		0.7438	
5	2016	0.7173		0.7244		0.6908	
6	2017	0.6712		0.6792		0.6415	
7	2018	0.6281		0.6368		0.5957	
8	2019	0.5877		0.5970		0.5532	
9	2020	0.5499		0.5597		0.5138	
10	2021	0.5146	7.0660	0.5248	7.1353	0.4771	6.8079
11	2022	0.4815	7.5475	0.4920	7.6273	0.4431	7.2510
12	2023	0.4505	7.9980	0.4613	8.0886	0.4115	7.6625
13	2024	0.4216	8.4196	0.4325	8.5211	0.3822	8.0447
14	2025	0.3945	8.8141	0.4055	8.9266	0.3549	8.3996
15	2026	0.3691	9.1832	0.3802	9.3068	0.3296	8.7292

- 5.1.5. The NPV for a Project will be the price of an SREC provided in the Pricing Proposal multiplied by the Cumulative Factor provided in the table above. For example, a 10-year PSA for JCP&L with a contract price of \$375/SREC would have an NPV of  $\$375 \times 7.0660 = \$2,650$ .
- 5.1.6. The Solicitation Manager will make an initial selection by accepting Projects to fill the planned quantity based on the lowest NPV. The first rejected Project is the first Project for which the quantity selected exceeds the planned quantity by more than 150 kW, or the first Project for which the Price is not competitive (as determined by the Solicitation Manager in accordance with Paragraph 5.1.14), whichever comes first.
- 5.1.7. For Projects in the ACE and JCP&L service territories, the Solicitation Manager will apply the developer cap to the initial selection of Projects. The developer cap across all solicitations in a given RPS Reporting Year is set at 20% of the planned quantities for ACE or JCP&L in that RPS Reporting Year. The Board has exempted RECO from this requirement.
- 5.1.8. For ACE and JCP&L, the Solicitation Manager will apply the developer cap to each Developer, whether or not the Developer is the Proponent. The Solicitation Manager will require the Proponent to disclose the Developer's majority owner and ultimate parent as part of the qualification package.

- 5.1.9. The Solicitation Manager will apply the developer cap so that the combined awards across all solicitations in a given RPS Reporting Year for a given EDC (ACE or JCP&L) that are associated with any one Developer, or any combination of affiliated Developers under the same majority ownership, do not exceed 20% of the planned quantity for that EDC in that RPS Reporting Year by more than the larger of: (a) 150 kW; or (b) if the Program is undersubscribed in the prior Reporting Year, 30% of the system size of the last accepted Proposal associated with that Developer (or any combination of affiliated Developers under the same majority ownership). If a Developer, or any combination of affiliated Developers under the same majority ownership, exceeds the developer cap by more than the amount specified above, the Solicitation Manager will remove from consideration one or more Projects with higher NPVs from the Developer (or combination of affiliated Developers under the same majority ownership) so that the Developer (or any combination of affiliated Developers under the same majority ownership) no longer exceeds the developer cap.
- 5.1.10. The Solicitation Manager may recommend to the Board that the application of the developer cap for ACE and JCP&L in connection with a solicitation be modified. Such modification may be made to take into account the level of subscription of the Program or comments by the Parties in response to the Solicitation Manager's preliminary recommendations. The developer caps for the 2012 RPS Reporting Year are shown in the table below.

**Table 5. Quantity and Developer Caps (2012 RPS Reporting Year).**

<b>EDC</b>	<b>PLANNED QUANTITY</b>	<b>DEVELOPER CAP</b>
JCP&L	10,901.678 kW	2,180.336 kW
ACE	6,925.359 kW	1,385.072 kW

- 5.1.11. For Projects in the RECO service territory, and only for Projects in the RECO service territory, the Solicitation Manager will apply the affiliate cap to the initial selection of Projects. The affiliate cap across all solicitations in a given RPS Reporting Year is set at 50% of the planned quantity for that RPS Reporting Year (2,275.705 kW for the 2012 RPS Reporting Year). The Solicitation Manager will apply the affiliate cap so that the awards in this solicitation for RECO that are associated with all affiliates of RECO that are not regulated by the Board do not exceed 50% of the planned quantity by more than 50

kW. If affiliates of RECO together exceed the affiliate cap by more than 50 kW, the Solicitation Manager will remove from consideration one or more Projects proposed by the affiliates starting with the Project with the highest NPV so that the affiliates no longer exceed the affiliate cap. The Solicitation Manager may recommend to the Board that the application of the affiliate cap for RECO be modified to take into account level of subscription of the Program or comments by the Parties in response to the Solicitation Manager's preliminary recommendations.

- 5.1.12. If there is a tie for the last accepted Project, the Solicitation Manager makes a recommendation to the Board on how to fill the planned quantity. The Solicitation Manager may consider a number of factors in making this recommendation, including whether the aspirational goal for the smaller segment has been met and the quantity expected to be left unfilled at the end of the RPS Reporting Year. .
- 5.1.13. For each of ACE and JCP&L, the Solicitation Manager will obtain a final selection of Projects after ranking the Projects based on the NPV, applying the develop cap to each Developer, and considering any ties. For RECO, the Solicitation Manager will obtain a final selection of Projects after ranking the Projects based on the NPV, applying the affiliate cap, and considering any ties. Each Project included into the final selection for each EDC has an NPV that is no higher than the NPV of Projects that are excluded, with the possible exception of Projects that are excluded in the application of the developer cap or the affiliate cap. For each EDC, the Solicitation Manager will make initial recommendations based on the final selection of Projects that have complied with all requirements of this RFP.
- 5.1.14. The planned quantity may or may not be met. There will be a confidential price limit above which bids will not be accepted and, as part of the selection process, the Solicitation Manager will review the Prices for competitiveness. The Solicitation Manager may recommend that not all Projects be awarded an SREC PSA whether or not the quantity bid was sufficient to meet the planned quantity.

## **5.2. Post-Bid Process**

- 5.2.1. The Solicitation Manager will make preliminary recommendations regarding the awards and will share these recommendations with the Parties within nine (9) days after Pricing Proposals are due.
- 5.2.2. Within ten (10) days after receiving the preliminary recommendations from the Solicitation Manager, the Parties will send their

recommendations to the Solicitation Manager regarding the price above which bids should not be accepted.

- 5.2.3. The Solicitation Manager will consider the input from the Parties and will develop its final recommendations. The Solicitation Manager will present these final recommendations in a confidential report to the Board twenty (20) days after presenting its preliminary recommendations. The final recommendations include proposed awards to Projects that submitted complete and compliant Proposals and recommendations for the parameters of the next solicitation.
- 5.2.4. Staff will present the Solicitation Manager's recommendations to the Board, which will decide whether to accept or reject each award. This decision is expected within five (5) days of the Solicitation Manager making its recommendations to the Board or at the next scheduled agenda meeting.
- 5.2.5. Once the Board renders a decision on the results, the Solicitation Manager will prepare for each segment the following information for public release on the Board's and/or the Solicitation Web site:
  - total number and total MW of Projects that submitted Proposals;
  - total number and total MW of Projects that received awards;
  - total number and total MW of Projects that were rejected; and
  - the low and average prices of the accepted Projects.
- 5.2.6. The Solicitation Manager will communicate to each Proponent who did not receive an award the reason for the rejection.
- 5.2.7. If the Board accepts the results of the solicitation, the Solicitation Manager will provide to each Proponent of a Successful Project an Initial Notice of Award, which shall not become binding until the SREC PSA is signed pursuant to Paragraph 5.2.9. In the Initial Notice of Award, the Solicitation Manager will identify the Project that has been awarded an SREC PSA and will provide contact information for the EDC. The Solicitation Manager will also include the amount of the cash deposit that Successful Proponents must make within fourteen (14) days of Board approval.
- 5.2.8. The amount of the cash deposit is \$75 per kW, provided that this amount will not be less than \$500 and will not exceed \$20,000. If the Owner of a Successful Project does not enter into the SREC PSA

within the timeframe specified in Paragraph 1.2.22, the Owner will lose its cash deposit. Otherwise, the deposit will be returned, without interest, at the Commencement Date (as defined in the SREC PSA) or will be forfeited in accordance with General Term and Condition A.11 of the SREC PSA.

- 5.2.9. Reasonably promptly after the service of a Board Order approving the results of the solicitation, the EDC will provide to the Owner of a Successful Project a draft of the SREC PSA. This draft is for the convenience of the Proponents, but has no legal effect. The SREC PSA will not be executed until the Board Order is no longer subject to appeal and then only if the Proponent otherwise continues to meet the requirements to receive an executed SREC PSA. The SREC PSA will become legally binding only upon full execution.
- 5.2.10. The EDC will send to the Owner of a Successful Project a “Final Notice of Award” once the Board Order is no longer subject to appeal which will be no earlier than forty-five (45) days after the date of service of the Board Order. The Owner must sign the SREC PSA within five (5) business days of being given such a notice by the EDC and provide, if required, three (3) originals of Appendix C to the SREC PSA with original signatures from the Host. The Appendix C is required if the Owner of the Project is not same individual or entity as the Host.
- 5.2.11. The specific timing of activities provided in this section is subject to adjustment if, for example the timing for an activity falls on a weekend or holiday.
- 5.2.12. The Owner may request that the EDC approve a modification in the size (kW) of the actual constructed Project of up to 10%. The EDC will approve such a modification provided that the Project continues to satisfy all other requirements related to this Program and that this modification: (a) does not change the segment to which the Project belongs; (b) does not cause the Developer Cap to be exceeded; and (c) does not cause the Project to exceed 2 MW.

## **ARTICLE 6. Reserved Rights**

- 6.1.1. JCP&L, ACE, RECO, or the Solicitation Manager will not be liable to any Proponent or any other party for failure to obtain an award or for failure to execute an SREC PSA. Nothing herein may be construed to bind JCP&L, ACE, and RECO unless and until the Board has made awards to certain Projects. The RFP Rules describe the procedures that the Solicitation Manager expects to follow in selecting Projects for recommendation to the Board but each Proponent agrees and acknowledges that the Board alone renders a definitive decision on the Projects that receive awards under this Program. Nothing herein may be construed to bind JCP&L, ACE, and RECO to make any payments to a given Project unless and until an SREC PSA has been executed for a given Project and is effective. Once effective, it is the SREC PSA and not these RFP Rules or any documents relating thereto that will govern the relationship between and the responsibilities of the parties.
- 6.1.2. The Solicitation Manager reserves the right to reject Proposals submitted in response to this solicitation that are incomplete, or do not conform with the requirements of these RFP Rules, or are submitted beyond the deadline for submission, or are submitted by a Proponent that tries to unduly influence in any way the evaluation process.

# NERA

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NERA Economic Consulting