



Upper Gwynedd Township

1 Parkside Place
North Wales, PA 19454

BOARD OF COMMISSIONERS ACTION ITEM REQUEST

Date: October 13, 2020
To: Sandra Brookley Zadell, Township Manager
From: Megan Weaver, Assistant Township Manager
Re: Energy Supply Renewal
Meeting Date: October 19, 2020

Background:

The Township's current energy contract with Constellation will expire on December 30, 2020. The Township since 2010 has participated in a cooperative purchasing agreement through the Municipal Utilities Alliance (MUA). The MUA was created by the Pennsylvania Municipal League of Cities and Municipalities to help municipalities with their electric procurement. Participation in the MUA provides the benefit of the bidding process without incurring the expenses of the process.

The Township's current contract with Constellation contains 20% green energy. A number of Townships have been making the decision to increase their percentage of green energy. Since rates have been very low and will yield savings in comparison to our current rates, we are recommending increasing the Township's green energy to 50%. We believe this to be a reasonable increase in working on the Township's efforts to have greener energy. The below rates are effective as of October 13, 2020 as of 5:00pm. The Township will receive updated rates the morning of their meeting on October 19, 2020 which will only be valid for 24 hours.

If the Board of Commissioner approve these rates, they will become effective various dates in December 2020 (see contract). The date will depend on the PECO account meter reading cycle. The proposed contract term will be for 60 months/5 years.

Offer Number OF-0000003190
Company Name Upper Gwynedd Township
Business Development Manager Matthew K Shortall
Price Zone PECO
Number Of Accounts/Zone 26

Fixed Components	Energy, Energy Losses, AEPS, Ancillary, Capacity, Transmission, Transmission Enhancement, TEAC Blackbox, TEAC Adjustment, ARR, TLC, RMR, FERC745, BCC, Congestion, OREC				
BANDWIDTH	100% Bandwidth				
Green Energy %	50				
Start Date	12/2/2020	12/2/2020	12/2/2020	12/2/2020	12/2/2020
Stop Date	12/21/2021	12/21/2022	12/21/2023	12/21/2024	12/21/2025
Term	12	24	36	48	60
Total Price	\$.04799	\$.04707	\$.04660	\$.04664	\$.04663
Term	3,759,321.00	7,518,642.00	11,277,963.00	15,037,284.00	18,796,605.00
Usage(kWh)					
Current Rate	0.05217	0.05217	0.05217	0.05217	0.05217
Projected Reduction	\$ 15,713.96	\$ 38,345.07	\$ 62,818.25	\$ 83,156.18	\$ 104,133.19

Budget Impact:

The Township is projected to see the saving shown above throughout the course of the 5-year contract. This will be included in the 2021 proposed budget.

Interdepartmental Action:

There is no interdepartmental action required.

Recommended Motion/Resolution/Ordinance:

Motion to authorize the Township Manager to execute the contract with Constellation for a 60 month term.



Agreement is Not Valid Unless Executed by Seller

Constellation NewEnergy, Inc. Electricity Supply Agreement – Fixed Price Solutions

UPPER GWYNEDD TOWNSHIP ("Customer") AND Constellation NewEnergy, Inc. ("Seller") AGREE AS FOLLOWS:

Defined Terms. Capitalized terms have the meanings set out in this Electricity Supply Agreement, including the attached General Terms and Conditions ("Agreement"); generally the words "you" and "your" refer to the Customer listed above and the words "we" and "us" refer to Seller, unless the context clearly requires otherwise.

Purchase and Sale of Electricity. You will purchase from us on an exclusive basis and we will supply, or cause to be supplied, all of your electricity requirements at the prices set forth below for the account(s) identified in the Account Schedule below ("Account(s)"). By signing this Agreement, you authorize us to enroll your Account(s) with your Utility so that we can supply those Account(s). You will take such actions as we request to allow us to enroll your Account(s) in a timely manner. You also give us the authority to supply you with electricity from whatever source we choose.

Your Price. You will pay charges associated with the following contract prices:

Table with 2 columns: Price Component Name, Component Contract Price Unit Of Measure. Row 1: Energy Price Non TOU, \$/kWh

The specific prices for each Account are set forth in the Account Schedule, below.

You are also responsible to pay (1) Taxes - which we will pass through to you on your bill or as part of the price of electricity, as may be required by law, rule or regulation and (2) Utility charges for delivery/distribution services if we provide you a single bill that includes Utility charges. If the Utility changes the designated rate class for any Account(s), we will have the right to adjust your fixed price to reflect extra costs we incur. Your prices are fixed for the existing term of this Agreement and only subject to change if there is a change in law and/or market structure, as described in Section 6 of the General Terms and Conditions below. The Utility charges (if any) and Taxes are charged to you as a "pass-through," which means they will change during the existing term of this Agreement if and as the related charges assessed or charged to us vary for any reason, including but not limited to the types of changes described above.

NewMix® consists of Green-e® Energy certified renewable energy certificates, sourced from wind Renewable Resources located within the United States ("RECs"). The fixed prices above include in an amount of these RECs equal to 50 percent of your load volume at the Accounts during the term of this transaction. "Renewable Resource" means any electric power generator meeting the eligibility criteria of a "New Renewable Resource" and an "Eligible Renewable Resource", as defined in the Green-e® Energy National Standard. NewMix® is Green-e® Energy certified and meets the environmental and consumer-protection standards set forth by the nonprofit Center for Resource Solutions. Learn more at www.green-e.org. The RECs included in the NewMix® product do not include any tax credits, depreciation allowances or third party subsidies of any kind.

Emissions Reduction Disclaimer. In accordance with Green-e® Energy certification requirements, RECs procured hereunder include all greenhouse gas emission reduction benefits associated with the renewable generation that produced such RECs, including carbon dioxide (CO2) reduction benefits, but do not include emission reduction benefits associated with capped and traded pollutants, including sulfur dioxide (SO2), mercury (Hg), and the oxides of nitrogen (NOX). Furthermore, Seller does not represent or warrant that the RECs procured hereunder can be used as offsets or otherwise for compliance with any emission reduction program.

Public Statements. Any press release issued by either party relating to the subject matter hereof shall be subject to prior approval by the other party. No materials disclosed to third parties under this clause shall reference the specific terms of this transaction without the prior written approval of the non-disclosing party. Customer is solely responsible for determining whether any marketing materials or other public claims made by Customer related to Customer's purchase of electricity hereunder, including but not limited to Customer's use, if any, of the Green-e® Energy logo, comply with Green-e® Energy requirements and any licensing agreement between Customer and Green-e® Energy or the Center for Resource Solutions.

Indemnification. In addition to, and not in lieu of, any indemnification provisions applicable to the parties, you agree to defend, indemnify and hold us harmless from and against all claims arising out of or related to the manufacture, sale, distribution or any other dealing with the products or your marketing/advertising materials related to this transaction, the RECs, or your use of the Green-e® Energy logo. This indemnification does not apply to the

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extent a court of competent jurisdiction makes a final determination that a Claim for which we seek indemnification was primarily caused by our willful fraud or deceit.

Change in Certification Standard. If the Green-E® Energy certification requirements are modified or repealed after execution hereof but prior to delivery of RECs hereunder, in such a way as to materially adversely affect the ability of a party to perform its obligations hereunder or the benefits to be derived by a party hereunder (each such occurrence, a "Change Event"), the parties shall use commercially reasonable efforts to reform this transaction in order to give effect to the original intention of the parties. If the parties are unable, despite such efforts, to reform this transaction within thirty (30) days following such Change Event, the matter shall be resolved in accordance with the dispute resolution provisions applicable to the parties.

Renewable Energy Certificate (REC) Product: NewMix® is a Renewable Energy Certificate (REC) product and does not contain electricity. A REC represents the environmental benefits of 1 megawatt hour (MWh) of renewable energy that can be paired with electricity. For more information, log-on to www.green-e.org/rec.

Cost Components. For each of the items listed as "Fixed" below, this means the item is included in your contract prices as set forth in the Account Schedule. For each of the items listed as "Passed Through" below, this means that you will be charged the costs associated with the line item in accordance with the definitions of each item in Section 2, Market Definitions of the General Terms and Conditions.

Energy Costs	Fixed
Ancillary Services And Other ISO Costs	Fixed
Capacity Costs	Fixed
Transmission Costs	Fixed
Line Loss Costs	Fixed
RMR Costs	Fixed
FERC Order 745 Costs	Fixed
Balancing Congestion Costs	Fixed
Transmission Reallocation Costs	Fixed

The contract prices contained in the Account Schedule have been reduced to reflect a fixed credit to you for the Auction Revenue Rights and Transmission Loss Credits associated with the Account(s). The contract prices also include any credit costs, margin, or costs associated with meeting Renewable Portfolio Standards ("RPS") at the levels required by currently applicable law. Selecting "Transmission Costs" as "Fixed" means that these costs are included in your contract price and are not subject to change unless there has been a Change in Law pursuant to Section 6 of the General Terms and Conditions below. For clarity, we will not pass through any future changes in Transmission Costs based on the UDC's regular adjustments to Network Transmission Service and Transmission Enhancement rates.

Retail Trade Transactions. At any time during the term of this Agreement, you may request the purchase of renewable energy certificates in an amount equal to a prescribed percentage of your load volume by entering into one or more Retail Trade Transactions ("RTTs") between us. If we both agree to the pricing and terms of the renewable energy certificates purchase, a separate RTT Confirmation signed by both of us will document each such purchase and be incorporated herein.

Term. This Agreement will become effective and binding after you have signed this Agreement and we have counter-signed. Subject to successful enrollment of your Account(s), this Agreement shall commence on or about the date set forth under "Start Date", and end on or about the date set forth under "End Date", unless extended on a holdover basis as described in this Agreement. The dates set forth in the Account Schedule below are based on the information currently available from the Utility, and actual meter read dates are determined by the Utility. If a meter read date schedule has not been published by the Utility, we shall use our best estimate of the scheduled meter read date. The actual meter read date may occur on, before, or after the date set forth in the Account Schedule. The exact Start and End Dates under this Agreement will be determined in accordance with the Utility's actual meter read dates for the Account(s). We will use commercially reasonable efforts to begin service to the Account(s) on the actual meter read dates that occur on or closest to the Start Date(s) set forth below, unless off cycle dates are agreed by the parties. If, as a result of circumstances beyond our control we are unable to enroll one or more of the Accounts so the term can begin on or about the Start Date in the Account table, the Start Date(s) will commence on the next regularly scheduled Utility meter read date following successful enrollment of such Account(s), but the End Date(s) will remain the same. Circumstances beyond our control include, but are not limited to: (i) your failure to timely provide us with all Account related information necessary to successfully enroll the Account(s) with the Utility; (ii) your failure to assist us or confirm, as needed, in notifying the Utility that it has selected us as your supplier or (iii) any acts or omissions of the Utility (including a change in an Account's meter read cycle). We will not be responsible for any gaps in service that may occur between the termination of your service from a prior supplier and the commencement of supply from us.

Nothing in this Agreement shall be deemed to require or otherwise obligate us to offer to extend the term of this Agreement. At the end of the term of this Agreement, if for any reason you fail to renew this Agreement and/or if any Account(s) remain designated at the Utility as being served by us, we may continue to serve your Account(s) on a month-to-month holdover basis (or "Holdover Term") and will charge you the "Holdover Rate" calculated by us in our sole discretion for each billing cycle as (Holdover Metered Usage) x (Holdover Market Price + \$.015750/kWh) + Holdover Costs + Taxes. This Agreement will

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continue to govern our relationship for the supply of electricity during the Holdover Term, and either of us may terminate the Holdover Term at any time upon 45 days advance written notice to the other. As an alternative to supplying your electricity on a holdover basis following termination, expiration or cancellation of this Agreement, we may instead switch your Accounts to the applicable Utility supply service. Supply of electricity under this Agreement is conditioned upon (1) our review and approval of your creditworthiness, (2) our verification of the accuracy of all the information that you provide to us regarding your electricity usage and the Account(s), and (3) your Account(s) being accepted into the retail access program established by the Utility. We shall have the right to terminate this Agreement upon 15 days' notice without penalty if any of these conditions are not met to our satisfaction.

Your Invoice. Your invoice will contain all charges applicable to your electricity usage, including Taxes (which are passed through to you). You will receive one invoice from the Utility for Utility charges and one invoice from us for all other charges ("Dual Billing") unless we agree otherwise, or your Account(s) eligibility changes. All amounts charged are due in full within twenty (20) days of the invoice date, and we reserve the right to adjust amounts previously invoiced based upon supplemental or additional data we may receive from your Utility. Your invoices will be based on actual data provided by the Utility, provided that if we do not receive actual data in a timely manner, we will make a good faith estimate using your historical usage data and other information. Once we receive actual data we will reconcile the estimated charges and adjust them as needed in subsequent invoices. If you fail to make payment by the due date, interest will accrue daily on outstanding amounts from the due date until the bill is paid in full at a rate of 1.50% per month, or the highest rate permitted by law, whichever is less. All invoices (including adjustments to those invoices) are conclusively presumed final and accurate unless such invoices are objected to by either you or us in writing, including adequate explanation and/or documentation, within 24 months after the date such invoice was rendered, provided however, we may rebill based on post-period audits or adjustments made by the ISO, UDC, or other governmental authority, commission or agency with jurisdiction in the state in which the accounts are located.

Usage Variance. Your price is based upon your historic and/or estimated monthly usage and metered rate of consumption for each Account. You warrant and represent that you do not own any generation behind the meter or other material usage-altering measures associated with the Accounts except to the extent such generation or measures are disclosed in an exhibit to this Agreement. You agree to bear any losses, additional charges and costs to us arising from or resulting from, or relating to changes in consumption due to your behind the meter generation or other material usage-altering measures except as specifically disclosed to us. You agree to use reasonable efforts to provide us prompt prior written notice before any significant change in the anticipated usage of electricity for any Account(s) receiving service under this Agreement, including changes due to equipment outages, plant or facility shutdowns, or changes in the operating hours of a facility. If one or more of your facilities which are receiving electricity supply under this Agreement are closed, vacated, sold, consolidated or otherwise disposed of, then you may, to the extent permitted by applicable law, terminate this Agreement with respect to the corresponding Account(s) upon 30 days written notice to us, in which event you may be liable to make an early termination payment under Section 5 of the attached General Terms and Conditions. You will not be assessed an early termination payment if you close any of your facility(ies) and the corresponding Account(s) in the ordinary course of business.

Certain Warranties. You warrant and represent that for Account(s) located in the Commonwealth of Pennsylvania your aggregate peak load during any 12 month period is greater than 25 kilowatts.

Notices. All notices will be in writing and delivered by hand, certified mail, return receipt requested, or by first class mail, or by express carrier to our respective business addresses. Our business address is 1001 Louisiana St. Constellation Suite 2300, Houston, TX 77002, Attn: Contracts Administration. Either of us can change our address by notice to the other pursuant to this paragraph.

Customer Service. For questions about your invoice or our services, contact us at our Customer Service Department by calling toll-free 844-6-ENERGY, or by e-mail at customercare@constellation.com. Your prior authorization of us to your Utility as recipient of your current and historical energy billing and usage data will remain in effect during the entire term of this Agreement, including any renewal, unless you rescind the authorization upon written notice to us or by calling us at 1-844-6-ENERGY. We reserve the right to cancel this Agreement in the event you rescind the authorization.

Consumer Protections, State Public Utility Commission, and UDC Information. If you are a Pennsylvania consumer, you acknowledge provisions of the UDC's Electric Generation Supplier Services Tariff or Electric Generation Supplier Coordination Tariff relating to the UDC's disclosure of Customer-specific information to electric generation suppliers, and you agree to prohibit the disclosure of any such information to any electric generation supplier other than Seller during the term of this Agreement. You may change this election at any time by contacting the UDC. If there is any conflict between this Agreement and the referenced orders or tariffs, you agree that this Agreement shall control to the extent permissible under applicable law.

IN THE EVENT OF AN EMERGENCY, POWER OUTAGE OR WIRES AND EQUIPMENT SERVICE NEEDS, CONTACT YOUR APPLICABLE UTILITY AT:

UDC Name	UDC Abbreviation	Contact Numbers
Philadelphia Electric Company	PECO	1-800-841-4141

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Additional information may be obtained by contacting the Public Service Commission (“PSC”) of Maryland at: 1-800-492-0474, 6 St. Paul Street, Baltimore, MD 21202-6806, OR the PSC of the District of Columbia at: (202) 626-5100, 1333 H Street, NW, 6th Floor, East Tower, Washington, D.C. 20005, OR the Pennsylvania Public Utility Commission at: (717) 783-1740, P.O. Box 3265, Harrisburg, PA 17105-3265, OR the Delaware PSC at (302) 739-4247, **861 Silver Lake Boulevard, Cannon Building, Ste 100, Dover, DE 19904.**

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CNE Sales Rep: Matthew K Shortall G359483.40723.0 Printed: 10/13/2020

Each party has caused this Agreement to be executed by its authorized representative on the respective dates written below.

CONSTELLATION NEWENERGY, INC.

Customer: Upper Gwynedd Township

Signature: _____

Signature: _____

Printed Name:

Printed Name: Sandra Zadell

Title:

Title: Township Manager

Address: 1001 Louisiana St. Constellation Suite 2300
Houston, TX 77002

Date: _____

Address: 1 Parkside Pl
North Wales, PA 19454-2526

Attn: Contracts Administration

Fax: 888-829-8738

Fax:

Phone: 844-636-3749

Phone: 2156997777

Email:

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CNE Sales Rep: Matthew K Shortall

G359483.40723.0 Printed: 10/13/2020

GENERAL TERMS AND CONDITIONS

1. General Definitions.

"Delivery Point" means existing and future points of interconnection between your Utility's transmission system and/or distribution system and those of a third-party.

"Holdover Costs" means the sum of all costs and charges incurred by us for the retail delivery of energy, including, without limitation and as applicable, charges for transmission, capacity, ancillary service, congestion, renewable portfolio standards, collateral costs and any similar costs and charges that may be imposed on or borne by NewEnergy with respect to the Accounts (whether imposed by the ISO, the Utility, the Federal Energy Regulatory Commission or otherwise) from time to time. We will pass Holdover Costs through to you on your invoice without mark-up as part of your Holdover Rate.

"Holdover Market Price" means the ISO-published Day Ahead Locational Based Marginal Price for the ISO zone applicable to each Account expressed in \$/kWh, except for Account(s) in NYISO Zone J, where Holdover Market Price means the ISO-published Day Ahead Locational Based Marginal Price for such ISO residual zone expressed in \$/kWh. Holdover Market Prices are published hourly or sub-hourly depending on the ISO.

"Holdover Metered Usage" means your metered kilowatt-hour usage at the Accounts during the applicable billing period, as adjusted by the applicable line loss factor(s). If Customer's Account(s) are not equipped with meters that provide an hourly reading, We will use either the load profiles provided by the Utility for your class or, in the absence of such load profiles provided by the Utility on a timely basis, an otherwise reasonable allocation method established by us in order to apply Holdover Market Prices to your monthly usage.

"ISO" means PJM, or other successor or replacement entity, public or private, administering transmission reliability and control of the electricity grid.

"Taxes" means all taxes, duties, fees, levies, premiums or any other charges of any kind, whether direct or indirect, relating to the sale, purchase or delivery of electricity, together with all interest, penalties or other additional amounts imposed, including but not limited to gross receipts, sales, consumption, use, value added, kWh, commercial activity or other privilege tax, and any other tax (whether in effect as of the effective date of this Agreement or thereafter) imposed by any governmental entity.

"Utility" or "UDC" means your local electric distribution utility owning and/or controlling and maintaining the distribution system required for delivery of electricity to the Accounts.

2. Market Definitions. "Ancillary Services And Other ISO Costs" means for any billing period the applicable charges regarding ancillary services as set forth in the applicable ISO Open Access Transmission Tariff ("OATT") and for other ISO costs not otherwise included in any of the defined cost components in this Agreement. We will determine your monthly Ancillary Services And Other ISO Costs based on your \$/kWh share of our cost for Ancillary Services And Other ISO Costs incurred with respect to all of our customers within the applicable ISO service territory or in the form of an otherwise reasonable allocation method as we may determine from time to time based on how Ancillary Services And Other ISO Costs are assessed by the ISO.

"Auction Revenue Rights" are revenue credits resulting from the annual financial transmission rights auction conducted by the ISO that are awarded to us with respect to our customers' transmission peak load contribution.

"Balancing Congestion Costs" means any costs or charges imposed by the ISO in complying with the Federal Energy Regulatory Commission's Order on

Rehearing and Compliance regarding Docket Nos. EL16-6-002, EL16-6-003 and ER16-121-001 (January 31, 2017).

"Capacity Costs" means a charge for fulfilling the capacity requirements for the Account(s) imposed by the ISO or otherwise. Capacity Costs includes, but is not limited to, the cost for procuring Capacity Performance resources (as currently required and defined by the ISO) in accordance with the provisions of Federal Energy Regulatory Commission Order on Proposed Tariff Revisions (Docket No. ER15-623-000, et al, issued June 9, 2015).

"Energy Costs" means a charge for the cost items included in the Locational Marginal Price for the ISO residual zone identified in the Account Schedule

"FERC Order 745 Costs" means any costs or charges imposed by the ISO on load served by NewEnergy in accordance with complying with the provisions of Federal Energy Regulatory Commission ("FERC") in Order No. 745 18 CFR Part 35 (March 15, 2011). Any modifications or conditions to the treatment of FERC Order 745 Costs under the ISO tariff or otherwise shall be deemed a change in law pursuant to Section 6 of the General Terms and Conditions of this Agreement.

"Line Loss Costs" means the distribution charges imposed by the Utility in connection with the supply of electricity by us to you in accordance with this Agreement, which are calculated based on a percentage of your kilowatt-hour consumption during the applicable period times.

"Non Time Of Use" or "NTOU" means all hours of each day.

"RMR Costs" or "Reliability-Must-Run Costs" means the generation deactivation charges and other such charges, if any, imposed by the ISO on load served in a particular load zone to recover the cost for any generation units that plan to retire but are required by the ISO to run for reliability purposes beyond their intended retirement date, in accordance with the applicable ISO rules and OATT provisions. Beginning on June 1, 2015, Pennsylvania Electric Company (PECO) will be responsible for collecting any new RMR Costs that are incurred during the term of this Agreement on your Utility charges for delivery/distribution services. If at any time during the term of this Agreement PECO discontinues collecting RMR Costs and we again become responsible for collecting them, we will pass those costs through to you.

"Transmission Costs" means the charge for Network Transmission Service and Transmission Enhancement Charges, each as identified in the applicable OATT Tariff for the provision of transmission service by the ISO within the UDC's service territory and expressly excluding costs separately detailed as Transmission Reallocation Costs as defined below. You will be responsible for any applicable Transmission Cost Enhancement Charges on your Delivery Charges in the following Pennsylvania UDCs: MetEd, Penelec, Penn-Power, West Penn-Power and PECO.

"Transmission Loss Credits" means the credit amounts applicable to the Accounts under the ISO's marginal loss construct.

"Transmission Reallocation Costs" means a charge or credit, as applicable, imposed by the ISO specifically for: (i) the Current Recovery Charges; and (ii) the Transmission Enhancement Charge Adjustments (each of (i) and (ii) as defined in the settlement agreement approved by FERC as of May 31, 2018 in Docket Number EL05-121-009 for the time periods identified therein and implemented in the OATT Schedule 12-C Appendices A and C, respectively, and as may subsequently be amended). Any modifications or conditions to the treatment of the Transmission Reallocation Costs under the ISO tariff or otherwise shall be deemed a change in law pursuant to Section 6 below. You will be responsible for any applicable Transmission Reallocation Costs on your Delivery Charges in the following Pennsylvania UDCs: MetEd, Penelec, Penn-Power, West Penn-Power and PECO.

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"UDC Peak" means the hours designated as peak from time to time by the Utility.

"UDC Off Peak" means all hours other than UDC Peak hours.

3. Cash deposit and other security. At any time, we may require that you provide information to us so that we may evaluate your creditworthiness. We reserve the right to require that you make a cash deposit or provide other security acceptable to us (or increase such deposit or security) if your financial obligations to us increase under this Agreement, or if, in our opinion, your credit, payment history, or ability to pay your bills as they come due becomes a concern. You will deliver any required cash deposit or other required security (or any increase therein) within 5 days of our request.

4. Default under this Agreement. You will be in default under this Agreement if you fail to: pay your bills on time and in full; provide cash deposits or other security as required by Section 3 above; or perform all material obligations under this Agreement and you do not cure such default within 5 days of written notice from us; or if you declare or file for bankruptcy or otherwise become insolvent or unable to pay your debts as they come due.

5. Remedies upon default; Early Termination Payment. If you are in default under this Agreement, in addition to any other remedies available to us, we may terminate this Agreement entirely, or solely with respect to those Accounts adversely affected by such default, and switch your Account(s) back to UDC service (consistent with applicable regulations and UDC practices); and/or you will be required to pay us an early termination payment to compensate us for all losses we sustain due to your default, including:

- all amounts you owe us for electricity provided to you;
- the positive difference, if any, between (A) the price you would have paid us under this Agreement had it not been terminated early (including our margin), less the then-current market price of electricity and services under terms substantially similar to the terms of this Agreement, as reasonably calculated by us based on information available to us internally or supplied by one or more third parties; multiplied by (B) the estimated undelivered volume of electricity you would consume through the end of the term, as reasonably calculated by us; and
- all costs (including attorneys' fees, expenses and court costs) we incur in collecting amounts you owe us under this Agreement.

The parties agree that any early termination payment determined in accordance with this Section is a reasonable approximation of harm or loss, and is not a penalty or punitive in any respect, and that neither party will be required to enter into a replacement transaction in order to determine or be entitled to a termination payment.

6. Changes in law, market structure, and/or your electricity needs or classifications. If a change in or implementation of (a) law, rule, regulation, ordinance, statute, judicial decision, administrative order, ISO operating guidelines, ISO protocols, zonal boundary definitions, Utility tariffs, and the like (including resource adequacy or renewable portfolio standards or other renewable energy requirements), or (b) electricity market structure, causes our costs under this Agreement to increase, we will have the right to pass such increased costs on to you. The changes described in this Section may change any or all of the charges described in this Agreement, whether described as "fixed," "variable," "pass-through" or otherwise. Your first bill

reflecting increased costs will include a bill insert describing the increase in costs in reasonable detail.

7. Events beyond either of our reasonable control. If something happens that is beyond either of our reasonable control that prevents either of us from performing our respective obligations under this Agreement, then whichever one of us cannot perform will be relieved from performance until the situation is resolved. Examples of such events include: acts of God, fire, flood, hurricane, war, terrorism; declaration of emergency by a governmental entity, the ISO or the Utility; curtailment, disruption or interruption of electricity transmission, distribution or supply; regulatory, administrative, or legislative action, or action or restraint by court order or other governmental entity; actions taken by third parties not under your or our control, such as the ISO or a Utility. Such events shall not excuse failure to make payments due in a timely manner for electricity supplied to you prior to such event. Further, if such an event prevents performance for more than 30 days, then whichever one of us whose performance was not prevented by such events shall have the right to terminate this Agreement without penalty upon 30 days' written notice to the other.

8. Delivery point and indemnification obligations. We will deliver electricity to the Delivery Point. Title and risk of loss related to the electricity transfer to you at the Delivery Point, and you are responsible for all transmission, distribution, and other costs (including Taxes and other fees) related to the final delivery to the facilities to which the Accounts relate as well as your use of the electricity. While we will arrange for the delivery of electricity to you by your Utility, we will have no liability or responsibility for matters within the control of the Utility or the ISO-controlled grid, which include maintenance of electric lines and systems, service interruptions, loss or termination of service, deterioration of electric services, or meter readings. EACH PARTY (THE "INDEMNIFYING PARTY") WILL DEFEND, INDEMNIFY AND HOLD THE OTHER PARTY HARMLESS FROM ANY AND ALL CLAIMS (INCLUDING CLAIMS FOR PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE), LOSSES, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES), DAMAGES, SUITS, CAUSES OF ACTION AND JUDGMENTS OF ANY KIND ARISING HEREUNDER WHILE TITLE AND RISK OF LOSS ARE VESTED IN THE INDEMNIFYING PARTY.

9. Limitation on Liability. IN NO EVENT WILL EITHER PARTY OR ANY OF ITS RESPECTIVE AFFILIATED COMPANIES BE LIABLE FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST OPPORTUNITIES OR LOST PROFITS NOT CONTEMPLATED BY SECTION 5. Each party's total liability related to this Agreement, whether arising under breach of contract, tort, strict liability or otherwise, will be limited to direct, actual damages. Direct, actual damages payable to us will reflect the early termination payment calculation in Section 5. Each party agrees to use commercially reasonable efforts to mitigate damages it may incur. NO WARRANTY, DUTY, OR REMEDY, WHETHER EXPRESSED, IMPLIED OR STATUTORY, ON OUR PART IS GIVEN OR INTENDED TO ARISE OUT OF THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE.

10. Dispute Resolution. THIS AGREEMENT WILL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA WITHOUT GIVING EFFECT TO

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ANY CONFLICTS OF LAW PROVISIONS. WE BOTH AGREE THAT EXCLUSIVE JURISDICTION AND VENUE FOR THE ADJUDICATION OF ANY SUIT, CLAIM, ACTION OR OTHER PROCEEDING, WHETHER AT LAW OR IN EQUITY, RELATING TO THIS AGREEMENT WILL BE IN HARRISBURG, PA. WE ALSO BOTH AGREE IRREVOCABLY AND UNCONDITIONALLY TO WAIVE ANY RIGHT TO A TRIAL BY JURY OR TO INITIATE OR BECOME A PARTY TO ANY CLASS ACTION CLAIMS WITH RESPECT TO ANY ACTION, SUIT OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

11. Relationship of Parties; Representations and Warranties. We are an independent contractor, and nothing in this Agreement establishes a joint venture, fiduciary relationship, partnership or other joint undertaking. We are not acting as your consultant or advisor, and you will **not rely** on us in evaluating the advantages or disadvantages of any specific product or service, predictions about future energy prices, or any other matter. Your decision to enter into this Agreement and any other decisions or actions you may take is and will be based solely upon your own analysis (or that of your advisors) and not on information or statements from us. You represent (i) you are duly organized and in good standing under the Laws of the jurisdiction of your formation; (ii) you are authorized and qualified to do business in the jurisdiction necessary to perform under this Agreement; (iii) execution, delivery and performance of this Agreement are duly authorized and do not violate any of your governing documents or contracts or any applicable Law; and (iv) if you are a Governmental Entity, you further warrant (a) you have complied with all applicable bidding and procurement laws in awarding this Agreement, (b) you will not claim immunity on the grounds of sovereignty or similar grounds from enforcement of this Agreement; and (c) you will obtain all necessary budgetary approvals, appropriations and funding for all of your obligations under this Agreement, the failure of which shall not be an excuse for Governmental Entity's performance or failure to perform hereunder and upon request will provide proof of such authority. "Governmental Entity" means a municipality, county, governmental board or department, commission, agency, bureau, administrative body, joint action agency, court or other similar political subdivision (including a public school district or special purpose district or authority), or public entity or instrumentality of the United States or one or more states.

12. Confidentiality. Consistent with applicable regulatory requirements, we will hold in confidence all information obtained by us from you related to the provision of services under this Agreement and which concern your energy characteristics and use patterns, except that we may, consistent with applicable law and regulation, disclose such information to (a) our affiliates and such affiliates' employees, agents, advisors, and independent contractors, (b) third parties representing you in this purchase of electricity, and (c) other third parties, if the information (i) is presented in aggregate and (ii) cannot be reasonably expected to identify you. Except as otherwise required by law, you will agree to keep confidential the terms of our Agreement, including price.

13. Miscellaneous Provisions. If in any circumstance we do not provide notice of, or object to, any default on your part, such situation will not constitute a waiver of any future default of any kind. If any of this Agreement is held legally invalid, the remainder will not be affected and will be valid and enforced to the fullest extent permitted by law and equity, and there will be

deemed substituted for the invalid provisions such provisions as will most nearly carry out our mutual intent as expressed in this Agreement. You may not assign or otherwise transfer any of your rights or obligations under this Agreement without our prior written consent. Any such attempted transfer will be void. We may assign our rights and obligations under this Agreement. This Agreement contains the entire agreement between both of us, supersedes any other agreements, discussions or understandings (whether written or oral) regarding the subject matter of this Agreement, and may not be contradicted by any prior or contemporaneous oral or written agreement. A facsimile copy with your signature will be considered an original for all purposes, and you will provide original signed copies upon request. Except as otherwise explicitly provided in this Agreement, no amendment to this Agreement will be valid or given any effect unless signed by both of us. Applicable provisions of this Agreement will continue in effect after termination or expiration of this Agreement to the extent necessary, including those for billing adjustments and payments, indemnification, limitations of liability, and dispute resolution. This Agreement is a "forward contract" and we are a "forward contract merchant" under the U.S. Bankruptcy Code, as amended. Further, we are not providing advice regarding "commodity interests", including futures contracts and commodity options or any other matter, which would cause us to be a commodity trading advisor under the U.S. Commodity Exchange Act, as amended. **The terms of any purchase order (PO) you send to us or any alterations, additions, or modifications you make to the preprinted terms of this Agreement shall be void and without any effect unless we agree in writing.**

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2020 PROSPECTIVE PRODUCT CONTENT LABEL¹

NewMix® is a Renewable Energy Certificate (REC) product and does not contain electricity. A REC represents the environmental benefit of 1 megawatt hour (MWh) of renewable energy that can be paired with electricity. For more information, see www.green-e.org/rec.

NewMix® matches 50% of your electricity usage for the term of the contract.

The product will be made up of the following renewable resources.

Green-e® Energy Certified New ² Renewables in NewMix®		Generation Location
-Wind	100%	National
TOTAL	100%	

1. These figures reflect the renewables that we have contracted to provide. Actual figures may vary according to resource availability. We will annually report to you before August 1 of next year in the form of a Historical Product Content Label the actual resource mix of the RECs.

2. New Renewables come from generation facilities that first began commercial operation within the past 15 years.

For comparison, the average mix of energy sources in 2018 supplying the US includes: Coal (28%), Nuclear (19%), Oil (0%), Natural Gas (32%), Large Hydroelectric (7%), Wind (7%), Biomass (1%), Solar (2%), Petroleum (less than 1%), Geothermal (less than 1%) and Other (1%). (from U.S. Department of Energy/Energy Information Administration)

For specific information about this REC product, please contact Constellation NewEnergy, Inc., 844-636-3749, customercare@constellation.com, www.constellation.com.



NewMix® is Green-e® Energy certified and meets the environmental and consumer-protection standards set forth by the non-profit Center for Resource Solutions. Learn more at www.green-e.org.

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ACCOUNT SCHEDULE:

For: Upper Gwynedd Township

The Pricing set forth below is only valid until 5:00 PM Eastern Prevailing Time on October 13, 2020

We shall have no obligation to enroll or supply electricity to any account(s) that are not identified on the Account Schedule below.

Please verify that your specific information is COMPLETE and ACCURATE.

Your review and acceptance of this information will help ensure accurate future invoices

Notes: Accounts or Service Addresses listed in the Account(s) Schedule may be updated or replaced with a new account number issued by the UDC, ISO or other entity.

THIS DOCUMENT MAY BE RETURNED TO SELLER BY FAX TO (888)-829-8738 OR AS OTHERWISE DIRECTED.

No. of Service Accounts: 26

UDC	UDC Account Number	Service Address	Start Date	End Date	Energy Price Non TOU (\$/kWh)
PECO	0005156025	Merck PS 3C Broad Street, Lansdale, PA 19446	12/03/20	12/02/25	\$0.04663
PECO	0214400502	1 Parkside Place Pav, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	0225800201	P.O. Box 1 Merck Ent., west Point, PA 19486-0001	12/02/20	12/01/25	\$0.04663
PECO	0383063125	Morris Road PS BriarGlen, Lansdale, PA 19446	12/02/20	12/01/25	\$0.04663
PECO	0535900202	1 Parkside PI Theater, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	0817801605	400 Parkside Place, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	0850000605	Parkside PI PHILCO FORD, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	1127401005	Parkside PI, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	2082064035	North Wales Rd. Pump Station, NORTH WALES, PA 194542003	12/11/20	12/10/25	\$0.04663
PECO	2699000203	Morris Rd PUMP STA, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	3138015052	Cassel Road PS, Lansdale, PA 19446	12/22/20	12/21/25	\$0.04663
PECO	3623400100	Supplee Road, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	3628801408	Parkside PL FOOD STD, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	3932701209	Dickerson Rd, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	3940101002	1 Parkside PI Garage, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	4088093005	Upper Gwynedd Municipal Authority, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	4241501108	Parkside PL GAZEBO, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663

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PECO	4835800908	Sumneytown Pi& Parkside Gwynedd, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	6386201102	Morris RD East of BERKS ST, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	6720001300	P.O. Box 1 Ravenwood DEV., West Point, PA 19486-0001	12/02/20	12/01/25	\$0.04663
PECO	7929401507	N OF BROAD ST, 0 MORRIS RD, WEST POINT, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	9200901203	P.O. Box 1 Lansdale Clinic, West Point, PA 19486-0001	12/02/20	12/01/25	\$0.04663
PECO	9510001909	Parkside Place Village of, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	9807301504	Parkside Pl EMEG, West Point, PA 19486-0000	12/02/20	12/01/25	\$0.04663
PECO	9812301103	P.O. Box 1, West Point, PA 19486- 0001	12/02/20	12/01/25	\$0.04663
PECO	9819200306	P.O. Box 1 General Account, West Point, PA 19486-0001	12/02/20	12/01/25	\$0.04663

TO ACCEPT THE PRICING ABOVE, PLEASE FAX A SIGNED COPY OF THIS AGREEMENT TO US AT 888-829-8738.

Payments to Certain Third-Parties: You acknowledge that your price includes a fee that Constellation will remit to Pennsylvania Municipal League ("Third Party") in connection with its efforts to facilitate our entering into this Agreement. Third Party is acting on your behalf as your representative and is not a representative or agent of Constellation.

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