

Attachment D

Part 1 Application for Duke Energy Ohio, Inc.'s Competitive Bidding Process Auctions

Name of Applicant

PART 1 APPLICATION

Duke Energy Ohio, Inc.'s CBP Auctions

INSTRUCTIONS

There are two parts to the application process.

- **Part 1 Application:** Applicants submit the Part 1 Application and all documents required therein to become Qualified Bidders for the Competitive Bidding Process ("CBP").
- **Part 2 Application:** Qualified Bidders for the CBP submit the Part 2 Application, in which they will agree to comply with the Bidding Rules and Communications Protocols, accept the terms of Duke Energy Ohio, Inc.'s ("Duke Energy Ohio") Master Standard Service Offer Supply Agreement ("Master SSO Supply Agreement"), make certifications regarding associations and handling of Confidential Information, submit Indicative Offers, and post Pre-Bid Security to become Registered Bidders.

This document is the Part 1 Application.

For further information, consult the Information Website.

Unless otherwise defined, capitalized terms in this document have the definitions provided in either the Glossary or the Master SSO Supply Agreement.

PART 1 APPLICATION SUBMISSION

To become Qualified Bidders for the Auction, Applicants must submit the following to the Auction Manager electronically through the secure Application Process by the Part 1 Application Due Date:

- 1. Electronic Application Form:** Completed Part 1 Application;
- 2. PDF Application Form:** One (1) scanned copy of the completed Part 1 Application document with all required signatures, notarized signatures where applicable, and the name of the Applicant on every page of the Application;

Name of Applicant

3. Supporting Documentation: One (1) copy of required financial statements and other requested documents supporting the Application as specified in Appendix A; and

4. Changes to Credit Documents (Optional): One (1) copy of any suggested modifications to the templates for the Pre-Bid Security Letter of Credit, the Letter of Intent to Provide a Guaranty, or the Letter of Reference ("Credit Documents") must be provided to the Auction Manager in an electronic, red-lined version. Any proposed alternate form of guaranty must be provided to the Auction Manager in an electronic form. Section 1.10 and Appendix B describe the process for submitting an alternate form of guaranty. Appendix C describes the process for submitting proposed changes to the Pre-Bid Security Letter of Credit.

Modifications to the Credit Documents and any other inquiries may be directed to the Auction Manager by email at duke-energyauctionmanager@crai.com. Inquiries also can be made through the Information Website.

The completed Part 1 Application and modifications to the Credit Documents MUST be received by the Auction Manager no later than 12:00 p.m. noon prevailing Eastern Time on the Part 1 Application due date as posted in the timeline on the Information Website.

Name of Applicant

CONFIDENTIALITY OF PART 1 APPLICATION SUBMISSIONS

All Applicants are required to comply with the Communications Protocols.

Confidentiality requirements specific to the Part 1 Application are reiterated below.

CONFIDENTIALITY OF CREDIT INFORMATION

Any information and materials that you submit in this Part 1 Application may be provided on a confidential basis to the Auction Manager Team and the Public Utilities Commission of Ohio (“PUCO” or “Commission”) and their representatives. Information that you provide in this Part 1 Application, except for information regarding bidding agreements provided in Section 1.11, may be provided on a confidential basis to representatives of Duke Energy Ohio for a creditworthiness assessment.

CONFIDENTIALITY OF QUALIFIED BIDDERS

Upon completion of the Part 1 Application process, the names of Qualified Bidders will be provided to other Qualified Bidders on a confidential basis. As part of this Part 1 Application, you are required to certify that you agree to release your name to other Qualified Bidders and that you will keep confidential the list of Qualified Bidders that is provided to you.

Name of Applicant

**PART 1 APPLICATION
Duke Energy Ohio, Inc.'s
CBP Auctions**

This Part 1 Application is the application form to become a Qualified Bidder in Duke Energy Ohio's CBP.

I. Background Information

Before completing this form, please review the Bidding Rules document for this CBP ("Bidding Rules"), the Master SSO Supply Agreement, the Communications Protocols, and other documents posted on the Information Website so that you understand the conditions under which the CBP will be conducted.

II. Confirmation of Receipt

Online delivery: If your Part 1 Application is submitted online through the Secure Application Process, an email will be sent to the Authorized Representative and Delegate to confirm receipt of the completed online application. You will still be required to submit through the online Secure Application Process or via email a scanned copy of the Part 1 Application with all required signatures.

III. Incomplete Applications

If your Part 1 Application is incomplete or requires clarification, the Auction Manager will send a deficiency notice to your Authorized Representative by email. You will have until 12:00 p.m. noon prevailing Eastern Time on the Part 1 Application Due Date, or until 5:00 p.m. prevailing Eastern Time on the Business Day following the Business Day during which a deficiency notice is sent to you, whichever comes later, to respond. If you do not correct or adequately explain the deficiency within the time allowed, your Part 1 Application may be rejected and you may be unable to participate in the CBP. All corrections to remedy deficiencies within an Applicant's Part 1 Application must be submitted online. The Authorized Representative needs to sign and date next to the correction(s) to the Part 1 Application and send to the Auction Manager by email to duke-energyauctionmanager@crai.com or through the online Secure Application Process.

Name of Applicant

IV. Late Applications

Part 1 Applications received after the stated deadline will NOT be accepted under any circumstances.

V. Rejection of Applications

If your application is rejected, your Part 1 Application and all supporting documents will be returned to you.

VI. Notification to Qualified Bidders

If you become a Qualified Bidder for the CBP, the Auction Manager will send a Notification of Qualification to your Authorized Representative by email after the Part 1 Application Due Date.

Name of Applicant

PART 1 APPLICATION FORMS

1.1 Applicant Basic Information

Name of Applicant (Company Name)

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Legal Name of Applicant (if different from above)

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<i>Place of Incorporation, if applicable</i>	<i>Federal Tax I.D.</i>	<i>D&B DUNS #</i>

<i>Please state whether the Applicant is a corporation, partnership, etc.</i>	<i>Years in Business</i>	<i>URL for Applicant's Website</i>

<i>Has the Applicant participated in a prior Duke Energy Ohio, Inc. auction?</i>	<i>If yes, indicate the most recent auction date (month,year):</i>

Name of Applicant

1.2 Authorized Representative

The Authorized Representative is authorized to represent the Applicant in the CBP. The Authorized Representative will receive all documentation related to the CBP if and when the Applicant becomes a Registered Bidder, including any CBP procedures and Confidential Information required for the submission of bids in any trial auction and in the actual auction. The Authorized Representative must ensure that only authorized persons act on behalf of the Applicant in the CBP. The Authorized Representative is the only person authorized to distribute CBP procedures and Confidential Information and should do so in accordance with the Communications Protocols. The integrity of the CBP depends upon each Authorized Representative safeguarding Confidential Information and passwords used in the CBP.

The person designated below is the Applicant's Authorized Representative.

Last Name

Given Name(s)

Title

Street Address

City

State

Zip Code

Telephone No.

Cell Phone No.

Fax No.

Email Address

Communications with the Authorized Representative for purposes of the Part 1 Application are typically done via email.

Name of Applicant

The Applicant hereby acknowledges that any notification or other communication given by the Auction Manager to the Applicant with respect to the Part 1 Application shall be delivered by email to the email address above and shall be deemed received by the Applicant at the time of delivery, provided that where delivery occurs after 5:00 p.m. prevailing Eastern Time on a Business Day or on a day which is not a Business Day, receipt shall be deemed to occur at 8:00 a.m. prevailing Eastern Time on the following Business Day.

This certification must be signed by the Authorized Representative and the signature must be notarized.

I hereby certify that I am authorized by the Applicant to serve as Authorized Representative, to represent the Applicant both (i) in the CBP, and (ii) to represent the Applicant for purposes of this Part 1 Application. I further certify that I will be responsible for all Confidential Information regarding the CBP and I will distribute Confidential Information only to other individuals who are authorized to act on behalf of the Applicant according to the Communications Protocols.

Signature of Authorized Representative

Date

Signature and Seal from Notary Public

Date

Name of Applicant

The person designated in this section by the Applicant is the Delegate. The Delegate serves as a secondary point person for communications with the Auction Manager.

Last Name

Given Name(s)

Company Name

Title

Street Address

City

State

Zip Code

Telephone No.

Cell Phone No.

Fax No.

Email Address

Name of Applicant

1.3 Designation of the Applicant's Authorized Representative and Delegate for the CBP

This certification should be signed by an officer or director of the Applicant and should either be notarized or attested with the corporate seal. The person making this certification cannot be either the Authorized Representative or the Delegate.

I certify that I am an officer or director of the Applicant, empowered to undertake contracts and bind the Applicant. I have read and accept the Bidding Rules, the provisions contained in the Master SSO Supply Agreement, and the provisions of the Communications Protocols pertaining to bidders in the CBP.

All the information contained in this Application is true and correct to the best of my knowledge. If there are material changes to the Applicant's information provided in this Part 1 Application, I agree to notify the Auction Manager. I designate _____ to act as the Authorized Representative of the Applicant in the CBP and _____ to act as Delegate for the Authorized Representative. I am not designating myself as Authorized Representative or Delegate.

Signature of Officer or Director of the Applicant

Date

Printed Name

Title

Signature and Seal from Notary Public

Date

Name of Applicant

1.4 Applicant's Legal Representative in Ohio

Please check here if the Applicant's Authorized Representative is also the Applicant's Legal Representative. The Applicant's Legal Representative in Ohio must:

- be a legal counsel or a representative agent;
- have an address in Ohio; and
- be authorized and agree to accept service of process on the Applicant's behalf.

The person designated below is the Applicant's Legal Representative or Representative Agent.

Last Name

Given Name(s)

Title

Company Name

Street Address

City

State

Zip Code

Telephone No.

Cell Phone No.

Fax No.

Email Address

This certification must be signed by the Legal Representative and the signature must be notarized.

I agree to serve as Legal Representative of the Applicant. I am authorized and I agree to receive service of process on the Applicant's behalf.

Signature of Legal Representative

Date

Signature and Seal from Notary Public

Date

Name of Applicant

1.5 Applicant's Credit Representative

The Applicant's Credit Representative is the Applicant's in-house Credit Representative who can answer questions or provide information about the Applicant's credit with respect to the requirements for the CBP.

The person designated below is the Applicant's Credit Representative.

Last Name

Given Name(s)

Title

Street Address

City

State

Zip Code

Telephone No.

Cell Phone No.

Fax No.

Email Address

Name of Applicant

4. Further, please certify that:

- a) The Applicant and its corporate officers have no indictments or pending criminal litigation in any federal, state or local jurisdiction relating to the Applicant;

Signature of Authorized Representative

Date

- b) The Applicant and its corporate officers have no criminal convictions;

Signature of Authorized Representative

Date

- c) The Applicant has no civil penalties, judgments, sanctions or consent decrees arising out of the violation of any law, rule, regulation or ordinance in connection with its business activities;

Signature of Authorized Representative

Date

- d) The Applicant has not had any permit or authority to do business in any jurisdiction revoked or suspended; and

Signature of Authorized Representative

Date

Name of Applicant

- e) The Applicant has never been barred from public bidding or sanctioned for unauthorized disclosure of confidential information.

Signature of Authorized Representative

Date

If you are unable to make these certifications in Section 1.6, subsections (1) to (4), please state which certifications you are unable to make and explain all reasons in the space given below.

Name of Applicant

1.7 Financial and Credit Information for the Applicant

Please provide the following information for the Applicant:

- a) If the Applicant is an SEC registrant, provide the Form 10-Q or Form 10-K, whichever was filed most recently with the SEC. If both the Form 10-Q and Form 10-K are unavailable, please provide most recent annual (audited) or quarterly financial information (including a balance sheet, income statement, cash flow statement, and related footnotes), accompanied by an attestation by the Applicant's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition;
- b) If the Applicant is not an SEC registrant, please provide most recent annual (audited) or quarterly financial data, including related footnotes, accompanied by an attestation by the Applicant's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition;
- c) The following information from the most recent financial report along with page references to the relevant financial filings submitted;

	Amount (\$)	Financial Document Page Number	Financial Document Source	Date of Financial Document Source
Goodwill				
Shareholders' Equity (Excluding Non-Controlling Interest)				
Net Intangible Assets				

- d) Applicant's senior unsecured debt ratings from the following three rating agencies if available;

	Rating	Date of the Rating
Moody's		
Standard & Poor's		
Fitch		

Name of Applicant

If senior unsecured debt ratings are unavailable, but corporate or issuer ratings are available, please provide the corporate or issuer ratings, and the date of the rating, along with documentation showing the name of the rating agency, the type of rating, and the rating of the Applicant:

	Rating	Date of the Rating
Moody's		
Standard & Poor's		
Fitch		

e) Is the Applicant a foreign entity?

Check 'Yes' if the Applicant has not been incorporated or otherwise formed under the laws of the United States.

Yes **No**

If the Applicant has not been incorporated or otherwise formed under the laws of the United States, the Applicant is asked to provide in addition to a) - d) above:

- i. A legal opinion acceptable to Duke Energy Ohio of counsel qualified to practice in the foreign jurisdiction in which the Applicant is incorporated or otherwise formed that the Master SSO Supply Agreement will become the binding obligation of the Applicant in the jurisdiction in which it has been incorporated or otherwise formed.
- ii. Any additional information that the Applicant wishes to give that could provide comparable credit assurances to those that are provided by other Applicants that have been incorporated or otherwise formed under the laws of the United States.

An Applicant that has not been incorporated or otherwise formed under the laws of the United States and that does not provide this information or any information that could provide comparable assurances of creditworthiness will be required to post the maximum Pre-Bid Security with its Part 2 Application.

Name of Applicant

Further, if such an Applicant becomes an SSO Supplier, it will be required to submit additional documents as detailed in Article 5 of the Master SSO Supply Agreement, including:

- A legal opinion of counsel qualified to practice in the foreign jurisdiction in which the SSO Supplier is incorporated or otherwise formed that this Agreement is, or upon the completion of execution formalities will become, the binding obligation of the SSO Supplier in the jurisdiction in which it has been incorporated or otherwise formed;
- The sworn certificate of the corporate secretary (or similar officer) of such SSO Supplier that the person executing the Agreement on behalf of the SSO Supplier has the authority to execute the Agreement and that the governing board of such SSO Supplier has approved the execution of the Agreement; and
- The sworn certificate of the corporate secretary (or similar officer) of such SSO Supplier that the SSO Supplier has been authorized by its governing board to enter into agreements of the same type as the Master SSO Supply Agreement.

Is the Applicant and/or its parent:

	<u>Applicant</u>		<u>Parent</u>	
	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
Operating under federal bankruptcy laws or bankruptcy laws in any jurisdiction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Subject to pending litigation or regulatory proceedings (in state court, or in federal court, or from regulatory agencies, or in any other jurisdiction) which could materially impact the Applicant's and/or parent's financial condition?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Subject to collection lawsuits or outstanding judgments that could impact solvency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Name of Applicant

Please provide a statement disclosing any existing, pending, or past adverse rulings, judgments, litigation, contingent liabilities, revocations of authority, administrative, regulatory (State, FERC, SEC or DOJ) investigations, and any other matters relating to financial or operational status for the past three years that arise from the sale of electricity or natural gas, or that materially affect current financial or operational status.

Name of Applicant

1.8 Guarantor Information

The Guarantor information is required only if the Applicant expects to have a third-party act as a Guarantor should the Applicant become an SSO Supplier.

Please check here if this section does not apply to you because you will not have a third-party act as a Guarantor and proceed to the next section.

Basic Information for the Guarantor

Name of Guarantor

Legal Name of Guarantor (if different from above)

Place of Incorporation, if applicable

Federal Tax I.D.

D&B DUNS #

Please state whether the Guarantor is a corporation, partnership, etc.

Years in Business

Guarantor's Contact Information

Last Name

Given Name(s)

Title

Street Address

City

State

Zip Code

Telephone No.

Cell Phone No.

Fax No.

Email Address

Name of Applicant

The Guarantor's Credit Representative

The Guarantor's in-house Credit Representative is the individual who can answer questions or provide information about the Guarantor's credit with respect to the requirements for the CBP.

The person designated below is the Guarantor's Credit Representative.

Last Name

Given Name(s)

Title

Street Address

City

State

Zip Code

Telephone No.

Cell Phone No.

Fax No.

Email Address

Please provide the following information for the Guarantor:

- a) If the Guarantor is an SEC registrant, provide the Form 10-Q or Form 10-K, whichever was filed most recently with the SEC. If both the Form 10-Q and the Form 10-K are unavailable, please provide most recent annual (audited) or quarterly financial information (including a balance sheet, income statement, cash flow statement, and related footnotes), accompanied by an attestation by the Guarantor's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition.
- b) If the Guarantor is not an SEC registrant, please provide most recent annual (audited) or quarterly financial data, including related footnotes, accompanied by an attestation by the Guarantor's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition.

Name of Applicant

- c) The following information from the most recent financial report, along with page references to the relevant financial filings submitted:

	Amount (\$)	Financial Document Page Number	Financial Document Source	Date of Financial Document Source
Goodwill				
Shareholders' Equity (Excluding Non-Controlling Interest)				
Net Intangible Assets				

- d) Guarantor's senior unsecured debt ratings from the following three rating agencies, if available;

	Rating	Date of the Rating
Moody's		
Standard & Poor's		
Fitch		

If senior unsecured debt ratings are unavailable, but corporate or issuer ratings are available, please provide the corporate or issuer ratings, and the date of the rating, along with documentation showing the name of the rating agency, the type of rating, and the rating of the Guarantor:

	Rating	Date of the Rating
Moody's		
Standard & Poor's		
Fitch		

Name of Applicant

- e) Is the Applicant relying on the financial standing of a foreign entity ("Foreign Guarantor")?

Check 'Yes' if the Guarantor has not been incorporated or otherwise formed under the laws of the United States.

Yes **No**

If the Guarantor has not been incorporated or otherwise formed under the laws of the United States, the Guarantor is asked to provide, in addition to a) - d) above:

- i. A legal opinion acceptable to Duke Energy Ohio of counsel qualified to practice in the foreign jurisdiction in which the Guarantor is incorporated or otherwise formed that the Guaranty will become the binding obligation of the Guarantor in the jurisdiction in which it has been incorporated or otherwise formed.
- ii. Any additional information that the Guarantor wishes to give that could provide comparable credit assurances to those that are provided by other Guarantors that have been incorporated or otherwise formed under the laws of the United States.

An Applicant whose Guarantor has not been incorporated or otherwise formed under the laws of the United States and that does not provide this information or any information that could provide comparable assurances of creditworthiness will be required to post the maximum Pre-Bid Security with its Part 2 Application.

Further, if an Applicant with such a Guarantor becomes an SSO Supplier, the Guarantor will be required to submit additional documents as detailed in Article 5 of the Master SSO Supply Agreement, including:

- A legal opinion of counsel qualified to practice in the foreign jurisdiction in which the Guarantor is incorporated or otherwise formed that this Guaranty is, or upon the completion of execution formalities will become, the binding obligation of the Guarantor in the jurisdiction in which it has been incorporated or otherwise formed;
- The sworn certificate of the corporate secretary (or similar officer) of such Guarantor that the person executing the Guaranty on behalf of the Guarantor has the authority to execute the Guaranty and that the governing board of such Guarantor has approved the execution of the Guaranty; and

Name of Applicant

- The sworn certificate of the corporate secretary (or similar officer) of such Guarantor that the Guarantor has been authorized by its governing board to enter into agreements of the same type as the Guaranty.

Is the Guarantor and/or its parent (if applicable):

	<u>Guarantor</u>		<u>Parent</u>	
	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
Operating under federal bankruptcy laws or bankruptcy laws in any jurisdiction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Subject to pending litigation or regulatory proceedings (in state court, or in federal court, or from regulatory agencies, or in any other jurisdiction) that could materially impact the Guarantor's and/or parent's financial condition?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Subject to collection lawsuits or outstanding judgments that could impact solvency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Name of Applicant

Please provide a statement disclosing any existing, pending, or past adverse rulings, judgments, litigation, contingent liabilities, revocations of authority, administrative, regulatory (state, FERC, SEC or DOJ) investigations and any other matters relating to financial or operational status for the past three years that arise from the sale of electricity or natural gas, or that materially affect current financial or operational status of the Guarantor.

Name of Applicant

1.9 Additional Certifications

The CBP Bidding Rules, the Master SSO Supply Agreement, the Communications Protocols, and the Information Website include important information that an Applicant should understand prior to participating in the CBP.

- a) Please certify that you have read the CBP Bidding Rules and that you will comply with these rules.

Signature of Authorized Representative _____
Date

- b) Please certify that you have read the Master SSO Supply Agreement and that you accept its terms. Please also certify that if you become a winning Bidder, you will execute the Master SSO Supply Agreement within three (3) Business Days following the close of the auction:

Signature of Authorized Representative _____
Date

Name of Applicant

- c) Please certify that if you qualify to participate in the CBP, you will not disclose at any time information regarding the list of Qualified Bidders in the CBP, including but not limited to the number of Qualified Bidders, the identity of any one of the Qualified Bidders (including yourself), or the fact that an entity has not qualified for participation in the CBP. Further, please certify that you will destroy any document distributed by the Auction Manager that lists the Qualified Bidders within five (5) days of the close of the bidding, or earlier if so instructed by the Auction Manager.

Signature of Authorized Representative Date

- d) No Qualified Bidder in the CBP shall substitute another party, transfer its rights to another party, or otherwise assign its status as a Qualified Bidder to another party. Any such substitutions, transfers, or assignments shall be null and void and will result in the exclusion of the Qualified Bidder from the CBP. Please certify that you agree to the limitation set forth in this paragraph.

Signature of Authorized Representative Date

The Bidding Rules and Communications Protocols include restrictions on the disclosure of Confidential Information. For purposes of the following certifications, the definition of Confidential Information relative to bidding strategy is defined according to Section 12.2 of the Bidding Rules:

- e) Please certify that you agree not to disclose any Confidential Information relative to bidding strategy to any party that may have an effect on the participation of another bidder, prospective bidder, or on any of the bids that another bidder would be willing to submit.

Signature of Authorized Representative Date

Name of Applicant

- f) Please certify that, to the extent Confidential Information relative to bidding strategy is disclosed within your organization or to a third party, you will ensure that sufficient precautions are taken to ensure that such Confidential Information is not made public or made available to another Bidder. Such precautions include, but are not limited to confidentiality agreements, non-disclosure agreements, firewalls, and other contractual or structural protections that would maintain the confidential nature of a Bidder's bidding strategy.

Signature of Authorized Representative

Date

If unable to make the certifications requested above, please identify the nature of your need to disclose Confidential Information without sufficient precautions to ensure that such Confidential Information is not made public or made available to another bidder.

Name of Applicant

1.10 Alternate Guaranty Forms

A prospective SSO Supplier that wishes to rely on a Guarantor can use the standard form of guaranty (Attachment D to the Master SSO Supply Agreement) and be assured that the standard form of guaranty is acceptable to Duke Energy Ohio. Alternatively, Duke Energy Ohio will consider alternate forms of guaranty if they are submitted with this Part 1 Application. Also, you may submit an alternate form of guaranty that was previously approved.

The Alternate Guaranty Form must satisfy the requirements specified in Appendix B.

Please check here if this section does not apply to you because you are not submitting an alternate form of guaranty and proceed to the next section. Otherwise please read Appendix B and complete this section.

The Authorized Representative acknowledges by signing below that he/she has read the requirements of Appendix B and that he/she believes that the proposed Alternate Guaranty Form complies with these requirements:

Signature of Authorized Representative

Date

Please check below to show that you are including all required documents.

- The proposed form of alternate guaranty;
- Certification that the alternate guaranty has been in general use by the Applicant in its ordinary course of business over the past twelve months;
- An enforceability opinion with respect to the alternate form of guaranty from counsel; and
- Previously approved alternate form of guaranty.

Name of Applicant

1.11 Bidding Agreements

Please note that Duke Energy Ohio will not review information provided in this section.

Please check here ___ if you will be bidding independently and not as a party to any bidding agreement with another party or through any other arrangement involving joint or coordinated bidding with any other party and proceed to the next section.

Otherwise, please indicate below whether you are a party to or a part of a bidding agreement, a joint venture, a bidding consortium, or other arrangements for purposes of participating in the CBP or pertaining to bidding in the CBP. Please also provide the names of the other parties to the bidding agreement or other arrangement.

Other parties to the arrangement:

- | | |
|--|---|
| <input type="checkbox"/> Bidding Agreement | <input type="checkbox"/> Bidding Consortium |
| <input type="checkbox"/> Joint Venture | <input type="checkbox"/> Other (define) |

If you are part of a bidding agreement, bidding consortium or joint venture, you must nominate a single party to the bidding agreement, bidding consortium or joint venture to fulfill the creditworthiness requirements. This party may have a Guarantor. Please indicate below which party from the bidding agreement, bidding consortium, or joint venture will be fulfilling the creditworthiness requirements:

Name of the single Party fulfilling the creditworthiness requirements:

The Authorized Representative of the party named above must sign here to acknowledge the fact that this party has agreed to fulfill the creditworthiness requirements:

Signature of Authorized Representative

Date

Name of Applicant

1.12 Justification of Omissions

If you are unable to provide all documents or all information requested in this Part 1 Application, please justify fully any omissions in the space provided below.

Name of Applicant

Appendix A – Enclosures to the Part 1 Application

This is a checklist of documents to be enclosed with this Part 1 Application. Please submit only one copy of required supporting documents to the application unless noted otherwise.

- A copy of the completed Part 1 Application with all required signatures and notarized signatures of Sections 1.2, 1.3 and 1.4 [*Instructions Part 1*]

For the Applicant:

- A copy of the signature page of the applicable PJM Agreements as that term is defined in the Master SSO Supply Agreement [*Section 1.6*]
- If the Applicant is an SEC registrant, provide the Form 10-Q or Form 10-K, whichever was filed most recently with the SEC. If both the Form 10-Q and Form 10-K are unavailable, please provide most recent annual (audited) or quarterly financial information (including a balance sheet, income statement, cash flow statement, and related footnotes), accompanied by an attestation by the Applicant's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition [*Section 1.7*]
- If the Applicant is not an SEC registrant, please provide most recent annual (audited) or quarterly financial data, including related footnotes, accompanied by an attestation by the Applicant's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition [*Section 1.7*]
- Senior unsecured debt ratings or, if unavailable, corporate or issuer ratings [*Section 1.7*]
- If the Applicant has not been incorporated or otherwise formed under the laws of the United States, (i) a legal opinion acceptable to Duke Energy Ohio of counsel qualified to practice in the foreign jurisdiction in which the Applicant is incorporated or otherwise formed that the Master SSO Supply Agreement will become the binding obligation of the Applicant in the jurisdiction in which it has been incorporated or otherwise formed, and (ii) any additional information that the Applicant wishes to give that could provide comparable credit assurances to those that are provided by other Applicants that have at least two credit ratings from accepted credit ratings agencies. [*Section 1.7*]

Name of Applicant

For the Guarantor:

- If the Guarantor is an SEC registrant, provide the Form 10-Q or Form 10-K, whichever was filed most recently with the SEC. If both the Form 10-Q and Form 10-K are unavailable, please provide most recent annual (audited) or quarterly financial information (including a balance sheet, income statement, cash flow statement, and related footnotes), accompanied by an attestation by the Guarantor's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition *[Section 1.8]*
- If the Guarantor is not an SEC registrant, please provide most recent annual (audited) or quarterly financial data, including related footnotes, accompanied by an attestation by the Guarantor's Chief Financial Officer that the information submitted is true, correct and a fair representation of the Applicant's financial condition *[Section 1.8]*
- Senior unsecured debt ratings or, if unavailable, corporate or issuer ratings *[Section 1.8]*
- If the Guarantor has not been incorporated or otherwise formed under the laws of the United States, (i) a legal opinion acceptable to Duke Energy Ohio of counsel qualified to practice in the foreign jurisdiction in which the Guarantor is incorporated or otherwise formed that the Guaranty will become the binding obligation of the Guarantor in the jurisdiction in which it has been incorporated or otherwise formed, and (ii) any additional information that the Guarantor wishes to give about the Guarantor's financial standing that could provide comparable credit assurances to those that are provided by other Guarantors that have at least two credit ratings from accepted credit rating agencies. *[Section 1.8]*

If the Applicant is proposing an Alternate Guaranty Form:

- Proposed form of alternate guaranty *[Section 1.10]*
- Certification that the alternate guaranty has been in general use by the Applicant in its ordinary course of business over the past twelve months *[Section 1.10]*
- An enforceability opinion with respect to the alternate form of guaranty from counsel *[Section 1.10]*
- Previously approved alternate form of guaranty. *[Section 1.10]*

Name of Applicant

Appendix B – Alternate Guaranty Forms (Optional)

The **criteria** used to review the alternate form of guaranty are as follows:

1. The alternate guaranty must be a financial guaranty; performance guarantees are not acceptable.
2. The alternate guaranty must be an unconditional guaranty of payment of all amounts due by the SSO Supplier to Duke Energy Ohio under the Master SSO Supply Agreement. The Master SSO Supply Agreement must be expressly identified and the satisfaction of obligations through performance may not be authorized.
3. The alternate guaranty may be terminated upon not less than thirty (30) days advance written notice to Duke Energy Ohio and termination shall not discharge liabilities and obligations of the Guarantor that have been incurred before the effective date of the termination.
4. The alternate guaranty must be accompanied by a certification that this form of guaranty, subject to changes needed to conform to the specific requirements of Duke Energy Ohio, has been in general use by the submitting party in its ordinary course of business over the past twelve months.
5. The alternate guaranty must be a guaranty of payment and not of collection.
6. Assignment of the alternate guaranty shall not be permitted except with the prior written consent of Duke Energy Ohio.
7. The Applicant must provide an enforceability opinion with respect to the alternate form of guaranty from its counsel. The accompanying enforceability opinion must be from a law firm of national (i.e., United States) standing, must not be weaker than would be industry norm and must contain only those qualifications that would be typical. The opinion shall name Duke Energy Ohio and explicitly state that Duke Energy Ohio is entitled to rely on the opinion.

The alternate forms of guaranty will be reviewed in accordance with the following process:

- Upon receipt of the Part 1 Application, the Auction Manager will redact the proposed alternate form of guaranty to remove any information identifying the Applicant. The Auction Manager will then forward the redacted version to a credit and legal representative of Duke Energy Ohio.
- The credit representative and legal representative will determine whether the alternate form of guaranty provides sufficient assurances of payment, taking into account the following considerations:
 - i. whether the alternate form of guaranty conforms with the specific requirements identified by Duke Energy Ohio (listed above);

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- ii. whether the alternate form of guaranty provides substantially similar credit protections to the credit protections provided to Duke Energy Ohio by the standard form of guaranty; and
 - iii. whether the alternate form of guaranty includes defenses in favor of the Guarantor not found in the standard form of guaranty. The Duke Energy Ohio representative may also identify specific changes that would permit the alternate form of guaranty to be acceptable, if such changes are of a limited nature.
- The credit representative and legal representative shall inform the Auction Manager of its decision no later than seven (7) Business Days following the Part 1 Application Due Date.
- Upon receipt of the Duke Energy Ohio's decision, the Auction Manager will notify the Applicant of Duke Energy Ohio's decision. The Duke Energy Ohio's decision will either state:
 - i. The proposed alternate guaranty is acceptable to Duke Energy Ohio in the form in which it was submitted.
 - ii. The proposed alternate guaranty is not acceptable to Duke Energy Ohio in the form in which it was submitted, but would be acceptable subject to specific changes of a minor nature. The correspondence from the Auction Manager will set forth the required changes.
 - iii. The proposed alternate guaranty is not acceptable to Duke Energy Ohio.
- If specific changes are required to the proposed alternate guaranty, the Applicant will be required to resubmit the alternate guaranty form with changes identified by Duke Energy Ohio on the Business Day following the Business Day during which the Auction Manager notified the Applicant of Duke Energy Ohio's decision. No later than three (3) Business Days after the Applicant's resubmission, the Auction Manager will notify the Applicant of Duke Energy Ohio's final decision.

A potential bidder that had secured approval for an alternate form of guaranty for a prior Duke Energy Ohio CBP and that wishes to use the same alternate form of guaranty can renew this approval for any CBP by submitting:

1. The alternate form of guaranty for the prior Duke Energy Ohio CBP;
2. The enforceability opinion for the prior Duke Energy Ohio CBP;
3. A certification that the text of the alternate form of guaranty is exactly the same as the alternate form of guaranty that had been previously approved for the prior Duke Energy Ohio CBP;
4. A certification that the text of the enforceability opinion is the same as the enforceability opinion that had been previously approved for the prior Duke Energy Ohio CBP.

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If a potential bidder submits the materials as specified above, the alternate form of guaranty will be approved. If a potential bidder had secured approval for an alternate form of guaranty for a prior Duke Energy Ohio CBP but is unable to provide the materials as specified above, the potential bidder must resubmit the alternate form of guaranty and all supporting documentation as specified in the Minimum Requirements for the Alternate Form of Guaranty section above and these materials will be re-evaluated according to the criteria set forth in this document.

All proposing parties that become Qualified Bidders under the Part 1 Application process, but whose alternate guaranty are rejected by Duke Energy Ohio, are required to submit with their Part 2 Application a supplemental certification that the Applicant unconditionally accepts all terms and conditions of the Master SSO Supply Agreement.

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Appendix C – Draft Letter of Credit for the Pre-Bid Security (Optional)

The standard form of the Letter of Credit presented in this section is in a form acceptable to Duke Energy Ohio and will be posted to the Information Website. However, an Applicant has the option to submit a draft Letter of Credit clearly identifying proposed changes in an electronic, redlined version by email with their Part 1 Application to duke-energyauctionmanager@crai.com.

Duke Energy Ohio will assess, in its sole and exclusive discretion, whether such modifications are acceptable. The Qualified Bidder, in its Part 2 Application, must provide the required executed Letter of Credit that either uses the standard form or incorporates only those modifications to the standard form accepted by Duke Energy Ohio upon review of the Part 1 Application. The draft Letter of Credit will be reviewed in accordance with the following process:

- Upon receipt of the Part 1 Application, the Auction Manager will redact the draft Letter of Credit to remove any information identifying the Applicant. The Auction Manager will then forward the redacted version to a credit and legal representative of Duke Energy Ohio.
- The credit and legal representative will determine whether such modifications are acceptable. The credit and legal representative shall inform the Auction Manager of its decision no later than seven (7) Business Days following the Part 1 Application Due Date.
- Upon receipt of the Duke Energy Ohio's' decision, the Auction Manager will notify the Applicant of Duke Energy Ohio's decision. Duke Energy Ohio's decision will either state:
 - The draft Letter of Credit is acceptable to Duke Energy Ohio in the form in which it was submitted.
 - The draft of Letter of Credit is not acceptable to Duke Energy Ohio in the form in which it was submitted but would be acceptable subject to specific changes of a minor nature. The correspondence from the Auction Manager will set forth the required changes.
 - The draft Letter of Credit is not acceptable to Duke Energy Ohio.
- If specific changes are required to the draft Letter of Credit, the Applicant will be required to resubmit the draft Letter of Credit with changes identified by Duke Energy Ohio on the Business Day following the Business Day during which the Auction Manager notified the Applicant of the Duke Energy Ohio's decision. No later than three (3) Business Days after the Applicant's resubmission, the Auction Manager will notify the Applicant of Duke Energy Ohio's final decision.

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End of Part 1 Application
