

Creditworthiness Business Practices

(Title Page)

Version Notes

(To be completed)

Introduction

(To be completed)

Executive Summary

(To be completed)

Business Process and Practices

A. Overview

Scope:

The ~~procedures/processes~~ **procedures and processes** described in these Model Business Practices apply to credit risks existing between a Supplier and a Distribution Company in the course of serving **Retail Access** ~~retail access~~ Customers, including one or more of the following:

- Risks associated with one party voluntarily (i.e., not when required by **the** Applicable Regulatory Authority) doing the billing and receiving payments for the other party when Consolidated Billing is utilized;
- Risks associated with the Supplier's purchase of distribution services for resale to its customers under Single Retail Supplier Billing;
- Risks associated with the Distribution Company being the party that provides replacement energy when a Supplier defaults;
- **(Insert another line of space here.)**
- Risks associated with receiving payment for other services one party provides another.

Risks relating to wholesale transactions between a Supplier and a Distribution Company are excluded, such as:

- Provision of transmission or upstream transportation and related ancillary services by a Distribution Company;
- Imbalance/settlement risk between a Supplier and a Distribution Company, where the Distribution Company is the effective provider of imbalance service; and
- Purchase and sale of ~~energy/capacity~~ **energy and/or capacity** for resale.

Risks to customers resulting from a Supplier's failure or withdrawal from the market are also excluded (e.g., contract prices, prepayments, deposits). **This is unclear – could be confused to mean that the standards do not include prepayments, deposits, etc., when they actually do as far as risk exposure, but not as far as risk from supplier failure or withdrawal from market. Needs clarification.**

Principles

Creditworthiness procedures should be efficient to minimize the time and effort required by the parties to ~~start/maintain~~ **start and/or maintain** a working relationship.

The evaluation process and methodology for determining credit limits and risk exposure should be reflected in the applicable Governing Documents.

Should credit evaluation process be a defined term?

The procedures and criteria used to perform a re-evaluation of creditworthiness should be the same as used for the initial determination.

Term used in Glossary is reconsideration (e.g. Event-driven reconsideration), not re-evaluation. Needs to be consistent.

Definitions

Applicable Regulatory Authority: The state regulatory agency or other local governing body that provides oversight, policy guidance, and direction to any parties involved in the process of providing energy to ~~Retail Access~~ **retail access** Customers through regulations and orders.

Applicant: The party seeking credit from another party.

Billing Party: The party performing billing services for one or more parties.

Business Day: *(Definition requested from Glossary Subcommittee)*

Suggested Definition: Any Day excluding Saturday and Sunday and excluding any Day on which banking institutions in the Creditor's state are closed because of a federal holiday. This is an excerpt from an OASIS Draft Generic Interconnection Agreement (IA) – individual IAs are filed at the FERC.

Cash Deposit: Money provided by one party to the other to secure performance of an agreement or compensate for possible loss or damage.

Certificate of Incumbency (Secretary Certificate): A document attesting to the name and signature of the officers authorized to sign the Guaranty.

Challenge: The Applicant's request for a review of the Creditor's creditworthiness determination made ~~shortly after that determination~~ **in accordance with these Model Business Practices [The word "determination" is used twice in the definition.]**

Confidential Information: Nonpublic information concerning the financial condition of the Applicant, or any of the Applicant's affiliates, that is disclosed to the Creditor by or on behalf the Applicant or Applicant's affiliates.

Consolidated Billing: The Billing Party renders a Customer bill consolidating the energy, transmission and distribution related charges of the Distribution Company and the Supplier, for which a single payment from the Customer is expected.

Credit Application Form: The Creditor's form **used** for obtaining identification and financial data about an Applicant.

Creditor: The party granting credit to another party.

Cure Period: **A provision in a contract allowing a defaulting party to fix the cause of a default, for example a repayment grace period.**

Suggested definition: **Period of time specified in an agreement that allows a defaulting party to remedy the cause of a default.**

Customer: *(Definition requested from Glossary Subcommittee)*

Distribution Company: A regulated entity that constructs and maintains the **transmission and/or** distribution facilities which deliver **retail** energy to the Customer.

Dual Billing: *(Definition requested from Glossary Subcommittee)*

Event-driven Reconsideration: A re-evaluation of an Applicant's creditworthiness performed in response to a Material Change in its credit rating or financial condition.

Governing Documents: Documents that determine the **interactions among interactions among** parties, such as: regulatory documents (e.g., tariffs, rules, regulations), contractual agreements, and Distribution Company operational manuals.

Guarantor: ~~The entity that agrees to guarantee the Applicant's financial obligations, recognizing that such entity will be ultimately obligated to meet the Creditor's creditworthiness requirements.~~

Suggested definition: An entity that is legally bound to fulfill the guaranteed party's obligations in the event the guaranteed party does not fill its obligations.

Guaranty: A formal assurance of the Guarantor's obligation to pay up to a fixed amount to the beneficiary, upon certain conditions contained in that ~~guaranty~~ **Guaranty** being met.

Letter of Credit: A letter issued by a bank authorizing the bearer to draw **up to** a stated amount of money from the issuing bank, its branches, or other associated banks or agencies, provided that the ~~terms~~ **drawing provisions** of the letter are met.

Material Change: Any change in the Applicant's (or Guarantor's) financial or other condition that might reasonably affect the amount of unsecured credit extended to that Applicant or may impact the Applicant's ability to perform on its obligations

Non-Billing Party: The party whose charges are being combined into a statement (or invoice) prepared and rendered by another party.

Pay As You Get Paid Method: *(Definition requested from Glossary Subcommittee)*

Prepayment: Money provided by one party to the other to pay for goods or services not yet rendered, to secure performance of an agreement or compensate for possible loss or damage.

Security interest in collateral: A right, title, claim, or share in assets that exists by contract as security for payment or performance of an obligation that is acceptable to the creditor.

Single Retail Supplier Billing: The Supplier renders a Customer bill for all energy, transmission/transportation, and distribution related charges. The Supplier purchases or otherwise acquires energy, transmission/transportation and distribution related services, and therefore all charges on the bill are supplier charges. A single payment from the Customer is expected.

(New name for defined term and revised definition, 5/13-14/03 CPS Meeting)

Supplier: Persons engaged in the competitive sale of energy to end-users.

Surety Bonds: An insurance policy that covers payments to the **principal Creditor** in the event that the **Applicant fails to meet its obligations. other party does not perform under the contract.** (change per Glossary committee.)

Switch Request: A request from a Supplier to switch a Customer to begin receiving service from that Supplier. (UBP Glossary Definition)

Utility: ~~(Definition requested from Glossary Subcommittee—in case SUIS decides to use this term)~~

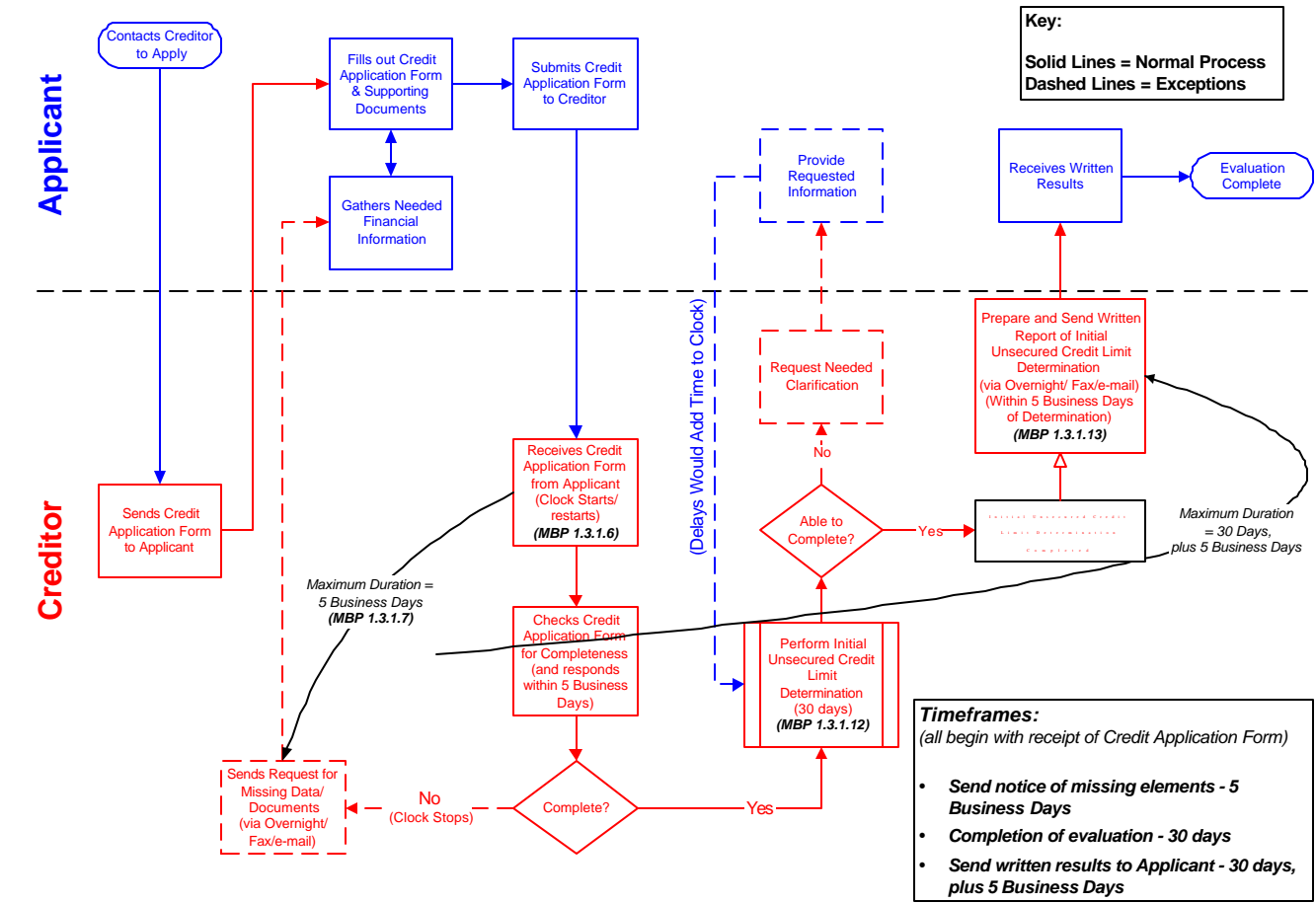
Process Flow Diagrams (Not Reviewed by SUIS yet)

SOCO Comments: *1. All references to time should be eliminated until consensus is reached on timeframes; 2. Add specific MBP section references (eg. 1.3.1.4 in first blue block) to all blocks; 3. Place each chart adjacent to its respective Section.*

1. Determining Initial Unsecured Credit Limit

Determining Initial Unsecured Credit Limit - Process Flow

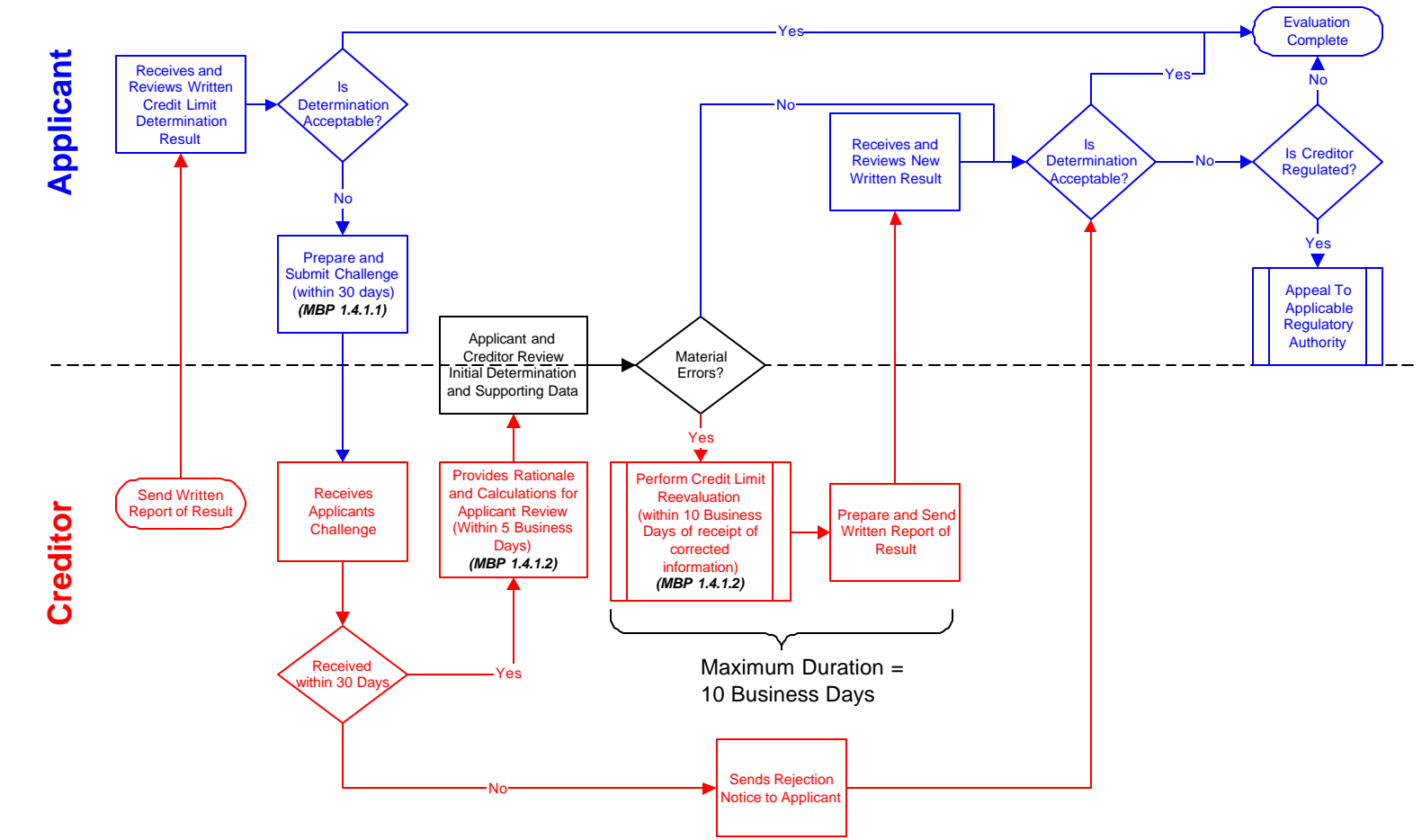
Creditworthiness Evaluation Process (Section 1.3)



2. Challenging Initial Unsecured Credit Limit

Challenging Initial Unsecured Credit Limit - Process Flow

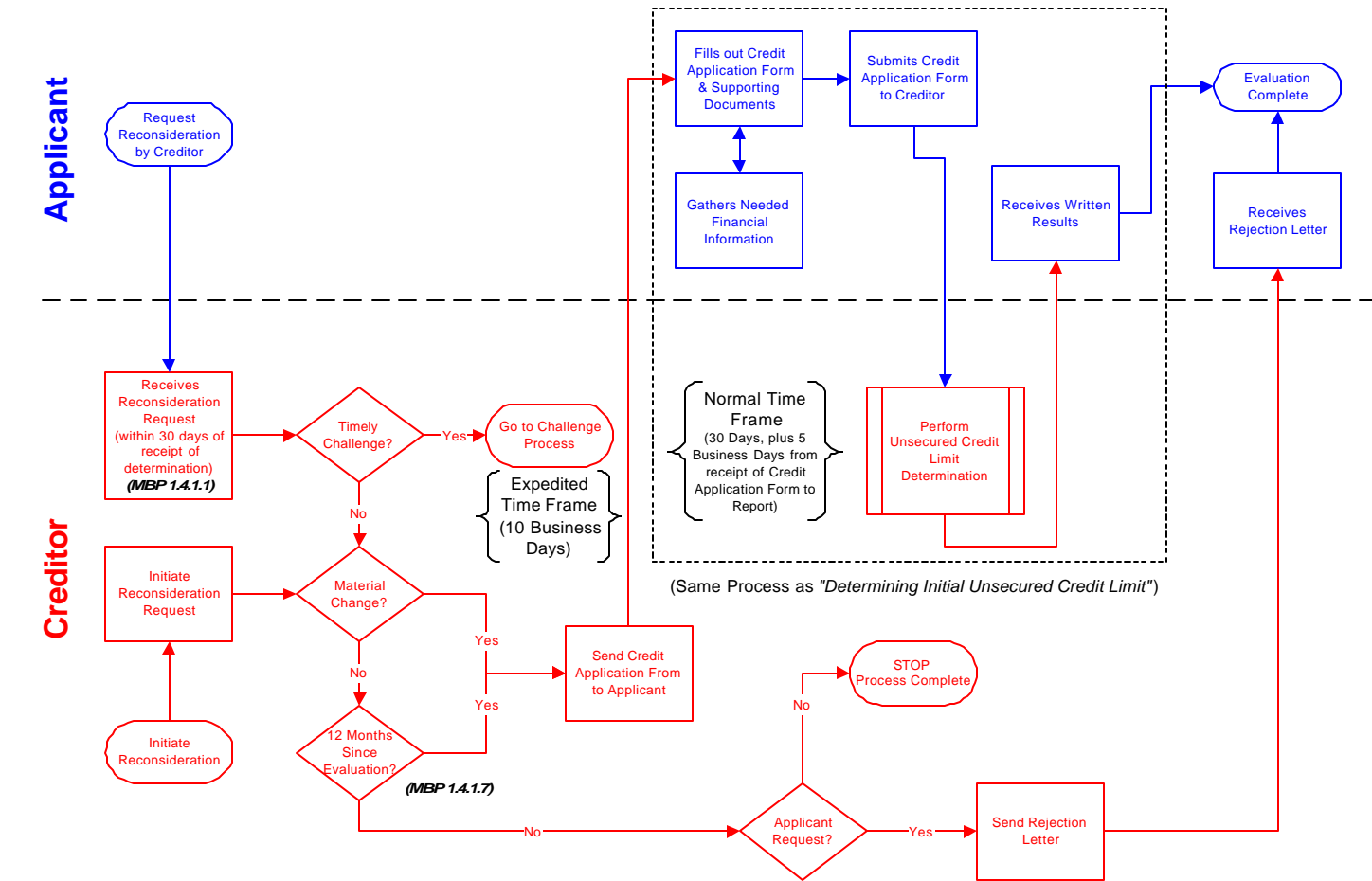
Creditworthiness Evaluation Process (Section 1.4)



3. Reconsideration of Unsecured Credit Limit

Reconsideration of Unsecured Credit Limit - Process Flow

Creditworthiness Evaluation Process (Section 1.4)



B. Model Business Practices

1.1 Overall

1.1.1 Model Business Practices

- 1.1.1.1 Either the Supplier or the Distribution Company may take on the role of Applicant or Creditor.
- 1.1.1.2 The Applicant should provide the Creditor with the telephone number, e-mail address, facsimile number and mailing address of up to two authorized representatives who are designated to receive creditworthiness communications. The Creditor should provide comparable information to the Applicant. Both the Applicant and the Creditor should promptly notify the other party of any changes in this information. Both parties should manage internal distribution of communications that are received.
- 1.1.1.3 General information concerning the evaluation process and methodology for calculating credit exposure for various risks should be publicly available so that Applicants have access to the requirements prior to making their application.

1.1.2 Datasets

None

1.1.21.1.3 Models - Are these the flow charts?

1.1.3

None

1.2 Determination of Risk Exposure -

1.2.1 Model Business Practices

1.2.1.1 The credit exposure should be based on the dollar amount determined to be at risk and the period of time during which it remains at risk.

1.2.1.2 The same criteria and methodology for calculating credit exposure should be used for Applicants presenting a given risk, such as the risk associated with Consolidated Billing or the risks associated with providing replacement power when a Supplier ~~Defaults~~ defaults. **Is “default” supposed to be a defined term? If not, it does not need to be capitalized here.**

1.2.1.3 Specific methodologies should be developed, where applicable, for each of the major types of risks that incorporate the dollar amount at risk and the period of time it remains at risk.

For Consolidated Billing, issues include:

- Total dollar amount billed;
- Whether the Billing Party assumes the Non-Billing Party’s receivables or the Pay As You Get Paid method is employed; and
- When assuming receivables, typical Customer payment behavior (**\$ Dollars** past due, **% Percentage** late, **% Percentage** uncollectable, etc.).

For risks associated with the Distribution Company providing replacement energy when a Supplier defaults, issues include:

- Responsibilities if a Supplier defaults;
- Amount of load served by the defaulting Supplier; and
- Cost of replacement energy.

For services one party provides to another, issues include:

- Total dollar amount for services provided; and
- Payment terms.

1.2.2 Datasets

None

1.2.3 Models

None

1.3 Determination of Initial Unsecured Credit Limit

1.3.1 Model Business Practices

1.3.1.1 Unsecured credit limits should be determined using the same criteria and methodology for all Applicants presenting a given risk, such as the risk

associated with Consolidated Billing or the Distribution Company providing replacement energy when a Supplier defaults.

1.3.1.2 Determination of the amount of credit to extend to a particular Applicant may be based on Applicant-Creditor agreement, regulatory policy, or both.

1.3.1.3 The Creditor should make available to all Applicants a Credit Application Form that includes a checklist of required supporting financial documents.

Note: remove extra line here.

1.3.1.4 The Applicant should submit to the Creditor the original and two copies of the completed Credit Application Form and three sets of the required supporting financial documents.

Note: remove extra line here.

1.3.1.5 The Applicant should submit the Credit Application Form and supporting documents using a method that verifies that delivery took place, such as requiring a signature or requesting a return receipt.

1.3.1.6 Timelines for processing a creditworthiness evaluation should begin when the Credit Application Form, complete with all required supporting documents, is received by the Creditor.

1.3.1.7 The Creditor should evaluate the Applicant's Credit Application Form and all supporting financial documents for completeness and notify the Applicant of any missing elements within five (5) business days of receipt. Such notification should be in writing and specify the elements needed to complete the application. The notice should be delivered by overnight delivery, facsimile, or e-mail. The creditworthiness evaluation process timelines will be re-started when the Creditor receives the missing elements.

1.3.1.8 The supporting financial documents submitted with the Credit Application Form should cover at least a two-year period and include the most recent quarter for which financial data is available. For private companies the year-end financials should be audited and include notes and debt schedules, if available.

1.3.1.9 The Applicant may present evidence of its rating level from a recognized rating agency(ies).

1.3.1.10 Supporting financial documents may include:

- Two most recent annual reports;
- **Is SEC a defined term? SEC is not defined term.** Most recent **SEC** Form 10-K and 10-Q and any independent auditor's letter to management or, if **SEC** Form 10-K is unavailable, substitute audited annual financial information (including a balance sheet, income statement, cash flow statement with notes, and any independent auditor's letter to management); and
- Most recent quarterly or monthly financial information (including a balance sheet, income statement, and cash flow statement with

notes) accompanied by all attestations required by the **SEC** that the information submitted is true, correct and a fair representation of Applicant's financial condition.

- 1.3.1.11 When the creditworthiness requirement is being met through a Guaranty, the creditworthiness requirements that apply to the Applicant also apply to the Guarantor. ~~–~~ In addition to submitting supporting financial documents, the Guarantor should provide documentation of the Guaranty, as applicable.

For a Parental Guaranty:

- Certificate of Incumbency of the individual signing the contract and/or ancillary documents
- Board resolution or bylaws demonstrating that the Guarantor can guarantee this type of transaction for the Applicant

For a Third-Party Guaranty:

- Certificate of Incumbency of the individual signing the contract and/or ancillary documents
- Board resolution or bylaws demonstrating that the Guarantor can guarantee this type of transaction for the Applicant
- Agency agreement that ties the Guarantor to the Applicant

For a Foreign Guarantor:

- Certificate of Incumbency of the individual signing the contract and/or ancillary documents
- Board resolution, or equivalent (e.g., Articles of Association/Organization), with a copy of the bylaws demonstrating that the Guarantor has the authority to enter into such a Guaranty
- Legal opinion that states a judgment for the Creditor would be enforceable in the country of the Guarantor

~~1.3.1.12 The Creditor should complete the creditworthiness evaluation within (x) Days (*Reliant suggested 5 business days*) of receipt of all required documents. ~~–~~~~

The Creditor should complete the creditworthiness evaluation within (x) Days. The value for (x) should be specified in the appropriate Governing Documents.

- 1.3.1.13 The Creditor should provide the results of the creditworthiness evaluation to the Applicant in writing within five (5) business days of completing the evaluation. The results should be delivered by overnight delivery, facsimile,

or e-mail. The notice should include the rationale for the determination of the risk exposure and unsecured credit limits.

1.2.21.3.2 Datasets

None

1.3.3 Models

None

1.4.11.4 *Reconsideration of Unsecured Credit Limit Model Business Practices*

- 1.4.1.1 An Applicant should be granted an opportunity to ~~challenge~~ **Challenge** an initial unsecured credit limit determination. The Challenge should be submitted within thirty (30) days of receiving the written notification of the initial unsecured credit limit determination.
- 1.4.1.2 The Creditor should respond to a timely Challenge within five (5) business days of receipt by providing the rationale for its determinations and any calculations supporting the resulting credit limit. The Creditor should also review with the Applicant the data used as input to ensure there were no errors or missing data that impacted the result. If there were material errors or omissions, the Creditor should re-evaluate the Applicant's creditworthiness within ten (10) business days of receipt of corrected information.
- 1.4.1.3 If the Applicant remains dissatisfied with the outcome of the creditworthiness evaluation by a Creditor who is regulated, it may elevate its Challenge to the Appropriate Regulatory Authority.
- 1.4.1.4 An Applicant should notify the Creditor of any adverse Material Change in its financial condition within three (3) business days of such change.
- 1.4.1.5 A Creditor may re-evaluate the creditworthiness of an Applicant whenever it becomes aware of an adverse Material Change in the Applicant's financial condition.
- 1.4.1.6 An Applicant may request an Event-Driven Reconsideration when there has been a favorable Material Change in its financial status, such as an upgrading by a major bond rating agency.
- 1.4.1.7 In addition to Event-Driven Reconsiderations, an Applicant may request a re-evaluation of its creditworthiness no more than once every twelve months.

1.2.21.4.2 Datasets

1.4.2

None

1.4.3 Models

None

1.5 Disqualification/Remedies

1.5.1 Model Business Practices

- 1.5.1.1 Whenever the Creditor's risk exposure exceeds the amount covered by the Applicant's security arrangements, the Creditor may immediately require additional security appropriate to the amount of additional risk exposure.
- 1.5.1.2 Whenever the Creditor's risk exposure becomes less than the amount covered by the Applicant's security arrangements, the Creditor should comply with the Applicant's request for an immediate reduction in the security held appropriate to the amount of risk exposure.

- 1.5.1.3 Requests for security, additional security or reduction of security should be in writing and delivered by overnight delivery, facsimile, or e-mail.
- 1.5.1.4 When a Creditor requests security or a **Cash Deposit** ~~deposit~~ and the required security or **Cash Deposit** ~~deposit~~ is not tendered within the period specified in the appropriate Governing Documents (e.g., Billing Services Agreement), the Creditor may begin taking actions to reduce its exposure, including:
- (If the Applicant is a Supplier) Cease processing any Switch Requests that add to the Customers served by the Applicant;
 - Moving any of the Applicant's Customers currently on Applicant Consolidated Billing to Dual Billing, effective on the Customer's next normally scheduled bill;
 - Reducing the sales of any other products or services the Creditor may have been selling to the Applicant until the credit exposure no longer exceeds the Applicant's credit limit; and/or
 - Taking remedial action, including disqualification of the Applicant, as allowed by the Applicable Regulatory Authority.
- 1.5.1.5 When the Applicant is a Supplier and it can partially, but not fully, meet a request for security or deposit in the time period specified in the appropriate Governing Documents, it can avoid disqualification by reducing the risk exposure it presents to the Distribution Company to an amount commensurate with the amount of security or deposit tendered.

1.5.2 Datasets

None

1.2.21.5.3 Models

None

1.6 Security Instruments

1.6.1 Model Business Practices

- 1.6.1.1 Creditors should offer the option of one or more of the following forms of secured credit to those Applicants who do not qualify for sufficient unsecured credit for the risks that they present.
- Prepayment
 - Cash Deposit
 - Letter of Credit
 - Guaranty
 - Surety Bonds

- Security Interest in Collateral

Such credit option(s) should be acceptable to the Creditor, provided that the Creditor's acceptance should not be unreasonably withheld, and **held** in accordance with standard industry practices.

Note: Does standard industry practices need to be defined term (like Good Utility Practices?) The Creditor and Applicant may mutually agree that the Applicant will provide other forms of credit options.

1.6.2 Datasets None

1.2.21.6.3 Models

None

1.7 Calling on Security

1.7.1 Model Business Practices

1.7.1.1 **The** Creditor may call upon the security posted by the Applicant as specified in applicable agreements or tariffs, or after all of the following events occur:

- The Creditor provides notice to the Applicant of its intent to call upon the security posted by the Applicant unless the Applicant makes payment within the Cure Period.;Written notice of default is provided to the Applicant; and
- Payment is not made within the Cure Period,

- 1.7.1.2 The same criteria and methodology for establishing the length of the Cure Period should be used for all Applicants presenting a given risk, such as the risk associated with Consolidated Billing or an entity acting as the Default Provider.
- 1.7.1.3 The length of the Cure Period for various risks should be publicly available so that Applicants have access to the requirements prior to making their application.
- 1.7.1.4 The Creditor may call upon the security posted by the Applicant without prior notice if the Applicant files a petition for bankruptcy (or equivalent, including the filing of an involuntary petition in bankruptcy against the Applicant, if the petition is not dismissed within 20 days).
- 1.7.1.5 A Distribution Company acting as the Creditor may immediately call upon the security posted by the Applicant (that is a Supplier) without prior notice if the Applicant for any reason ceases to provide service to all of its customers within the Distribution Company's service territory.

1.2.21.7.2 Datasets

None

1.2.21.7.3 Models

None

1.8 Confidentiality

1.8.1 Model Business Practices

1.8.1.1 The fact that an Applicant has applied for credit and the informational content of the creditworthiness evaluation process should be used only for the purpose of establishing the Applicant's financial status in order to enable the parties to enter into contracts for the products/services to be provided. This information should be deemed confidential, and should not be subject to public disclosure. However, the Creditor may report its historical credit experience with the Applicant to credit agencies.

Note: should this reporting be done without the knowledge of the Applicant? Would the Creditor need to get the Applicant to sign something saying they acknowledge that the Creditor could disclose this information? Needs more specificity. This is not consistent with Non-Disclosure Agreement shown in MBP.

1.8.1.2 When entering into the creditworthiness evaluation process the Applicant and the Creditor should execute a non-disclosure agreement, unless non-disclosure is provided for within the Governing Documents.

Note: Should Non-Disclosure Agreement be capitalized? This sounds like somewhat of a requirement. If the Applicant doesn't care, why should an Agmt be executed?

1.8.1.3 If the Creditor is required to disclose Confidential Information to the Applicable Regulatory Authority, it will:

- Notify the Applicant in writing prior to doing so, and
- Cooperate with the Applicant in seeking a protective order or other appropriate remedy from the Applicable Regulatory Authority.

Note: This is not necessarily consistent with the Non-Disclosure Agreement.

1.2.21.8.2 Datasets

None

1.8.3 Models **(Not Reviewed by SUIS yet)**

1.8.3.1 Model Non- Disclosure Agreement

(Review stopped here on 5/15/03)

NAESB – SUIIS Creditworthiness Draft 8-3 in proposed new format
SOCO Comments in **red bold font**, deleted words in **blue strikethrough font**.

see separate document