

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission-Ordered     )  
Investigation of Marketing Practices in the     ) Case No. 14-568-EL-COI  
Competitive Retail Electric Service             )  
Market.   )

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**COMMENTS  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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**I. INTRODUCTION**

The Public Utilities Commission of Ohio (“PUCO”) opened this investigation into whether it is wrong for alternative electric suppliers to levy additional charges on the bills of Ohio’s electricity customers who signed contracts for what was marketed to them as a fixed-rate contract.<sup>1</sup> Our answer is that it is indeed wrong. Specifically, these fixed-rate contracts or variable-rate contracts with a guaranteed percent off the utility’s standard service offer (“SSO”) rate<sup>2</sup> that include a “pass-through” clause contradict the “fixed-rate” or the “guaranteed” discount (off the SSO rate.)

It has been asserted by one or more marketers that a “pass-through” clause permits a competitive retail electric service supplier (“CRES supplier” or “marketer”) to assess charges to customers in addition to the “fixed-rate” stated in their contracts.<sup>3</sup> This is an important issue for Ohio’s consumers that are often deceived and misled into

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<sup>1</sup> This investigation was opened coincident with FirstEnergy Solutions’ (“FES”) announcement that it would be charging its contract customers for RTO charges. After public outcry, FES withdrew its proposal but only with respect to residential customers.

<sup>2</sup> Although the SSO is a variable price, the “percent-off” offer is a CRES product which is a “fixed” discount. Thus, OCC will refer to the percent-off SSO offer as a fixed-rate contract.

<sup>3</sup> Entry at 1 (April 9, 2014).

believing that the “fixed-rate” language contained in CRES contracts prohibits additional charges beyond the stated price per kWh. The Office of the Ohio Consumers’ Counsel (“OCC”) appreciates this opportunity to provide comments on this critical matter for residential electric service consumers and for Ohio.

## **II. COMMENTS**

CRES suppliers should be prohibited from marketing or signing customers to a “fixed-rate” contract that also contains a “pass-through” clause allowing for additional charges to consumers’ utility bills. The PUCO should also prohibit the related and troubling CRES practice of marketing and signing customers to fixed-rate contracts that automatically renew at a month-to-month variable price. And the PUCO should also ensure that all CRES contracts contain language expressly stating the price per kWh<sup>4</sup>. These practices are unfair, misleading, deceptive and unconscionable for consumers, violating the Ohio Revised Code and the PUCO’s rules governing the minimum service requirements for CRES suppliers.<sup>5</sup>

As detailed in the following comments, the practice preys upon the disparity in technical knowledge between the consumer and the CRES supplier. This marketer practice can result in consumer dissatisfaction once customers are assessed with a charge that was not anticipated. Ironically, this dissatisfaction can cause the marketers’ customers to leave them and return to the utility’s SSO. Therefore, the CRES suppliers, through marketing “fixed-rate” contracts that contain “pass-through” clauses could hurt the marketplace. This problem further demonstrates the importance of continuing the standard service offer, which provides, among other things, a safe alternative for consumers to protect themselves from unfair, deceptive, misleading and

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<sup>4</sup> See, OCC Answer to Question “(f).”

<sup>5</sup> See, Ohio Adm. Code 4901:1-21.

unconscionable contracts. Specifically, the SSO protects consumers that do not have the time, inclination, or ability to understand the legal nuances of CRES contracts.

OCC answers the PUCO's questions as follows.

**A. Is It Unfair, Misleading, Deceptive, Or Unconscionable To Market Or Label A Contract As Fixed-Rate When It Contains A Pass-Through Clause In Its Terms And Conditions? If So, Should Labeling Of A Contract Containing A Pass-Through Clause As A Fixed-Rate Contract Be Prohibited In All CRES Contracts; Residential And Small Commercial Contracts; Or Only Residential Contracts?**

Yes. It is unfair, misleading, deceptive, and unconscionable to market or label a contract as fixed-rate if it contains a "pass-through" clause that provides the marketer with the discretion to pass on charges to consumers in addition to the rate stated in the consumer's contract.

**1. The statutory mandate.**

The Ohio Revised Code mandates that the PUCO adopt rules specifying minimum service requirements "[f]or the protection of consumers in this state." These requirements are to include "a prohibition against unfair, deceptive, and unconscionable acts and practices in the marketing, solicitation, and sale of [. . .] competitive retail electric service and in the administration of any contract for service."<sup>6</sup> The Revised Code also mandates that the PUCO rules include additional consumer protections such as ensuring that consumers are provided with a document containing "adequate, accurate and **understandable pricing and terms and conditions of service** . . . before the consumer enters into the contract for service."<sup>7</sup>

Accordingly, the PUCO developed rules prohibiting CRES providers from engaging "in unfair, misleading, deceptive, or unconscionable acts or practices related to . . . (1) [m]arketing, solicitation, or sale of a CRES, (2) [a]dministration of contracts for CRES, or (3) [p]rovision of

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<sup>6</sup> R.C. 4928.10.

<sup>7</sup> R.C. 4928.10(A)(1) (emphasis added).

CRES, including interactions with consumers.”<sup>8</sup> The PUCO’s rules also provide specific guidance on what conduct constitutes unfair, misleading, deceptive or unconscionable acts or practices.<sup>9</sup>

**2. A pass-through clause violates Ohio Adm. Code 4901:1-21-05(A)(1) and 4901:1-21-05(C)(8)(c).**

Under the PUCO’s rules, a CRES “provider that offers retail electric generation service to residential or small commercial customers shall provide, in marketing materials that include or accompany a service contract, sufficient information for customers to make intelligent cost comparisons against offers they receive from other CRES providers.”<sup>10</sup> To achieve this goal, the PUCO’s rules require that “[f]or fixed-rate offers, such information shall, at a minimum, include ...the cost per kilowatt hour for generation [and] the amount of any other recurring or nonrecurring CRES provider charges.”<sup>11</sup> Moreover, the rules specifically state that it is unfair, misleading, deceptive, or unconscionable for a CRES supplier to advertise or market a fixed price “without disclosing all recurring and nonrecurring charges.”<sup>12</sup>

A CRES provider’s marketing material must accurately state the fixed-rate and recurring and nonrecurring charges contained in the customer contract.<sup>13</sup> CRES contracts that contain “pass-through” clauses, which by definition allow for the possibility of passing on not-yet-determined variable costs,<sup>14</sup> fail to state the amount of these charges. Thus, the marketing

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<sup>8</sup> Ohio Adm. Code 4901:1-21-03(A).

<sup>9</sup> Ohio Adm. Code 4901:1-21-05(C).

<sup>10</sup> Ohio Adm. Code 4901:1-21-05(A).

<sup>11</sup> Ohio Adm. Code 4901:1-21-05(A)(1).

<sup>12</sup> Ohio Adm. Code 4901:1-21-05(C)(8)(c) and (d).

<sup>13</sup> Ohio Adm. Code 4901:1-21-12(A)(7)(a). OCC notes that “pass-through” clauses in “fixed-rate” contracts violate this provision of the Code and, thus, violate Ohio Adm. Code 4901:1-21-03(A)

<sup>14</sup> See, Model FES Agreement, Attachment 1.

materials accompanying fixed-rate contracts cannot meet the requirements of Ohio Adm. Code 4901:1-21-05(A)(1). The result is that CRES suppliers state a “fixed-rate” in the contract and advertise a “fixed-rate” in their marketing materials,<sup>15</sup> but then allow the CRES supplier to surprise the consumer with additional charges for undetermined costs such as those charged by a regional transmission organization (“RTO”), governmental entity, etc.<sup>16</sup> This practice is unfair, misleading, deceptive and unconscionable under Ohio Adm. Code 4901:1-21-05(C)(8)(c).

**3. A pass-through clause violates Ohio Adm. Code 4901:21-05(C)(8)(a).**

The CRES rules also deem it unfair, misleading, deceptive, or unconscionable to customers for a CRES supplier to “[c]laim a specific price advantage, savings, or guarantee exists if it does not.”<sup>17</sup> The word “fixed” is defined by the Merriam Webster Dictionary as “not subject to change or fluctuation.” And the term “guaranteed” is defined to mean “an assurance for the fulfillment of a condition.” Thus, by marketing to consumers a “fixed-rate” contract for electric generation, the CRES supplier is “assuring” or “guaranteeing” that the customer’s rate will not change or fluctuate from the “fixed-rate” per kWh rate stated in the advertisement and contract. Because “pass-through” clauses contained in CRES contracts allow for further fluctuation and additional costs, marketing material disclosing only the fixed price violate Ohio Adm. Code 4901:1-21-05(C)(8)(a).

**4. The Pennsylvania Public Utility Commission’s investigation.**

The Pennsylvania Public Utility Commission (“PPUC”) recently reviewed the same business practices whereby electric generation service providers were “prominently advertis[ing]

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<sup>15</sup> See, FES Advertisement, Attachment 2.

<sup>16</sup> See, AEP Energy Contract, Attachment 3; Constellation Contract, Attachment 4; FES Contract, Attachment 1; North American Power & Gas Contract, Attachment 5.

<sup>17</sup> Ohio Adm. Code 4901:1-21-05(C)(8)(a).



a fixed price and bur[y]ing] the pass-through clause far down in the fine print in the disclosure statement, or even on a second page.”<sup>18</sup> Looking to the Unfair Trade Practices and Consumer Protection Law (“UTCPL”) for guidance, the PPUC acknowledged that “[w]hile consumers are expected and encouraged to carefully review the disclosure statements, presenting a product as having a fixed price that in fact can vary for any number of reasons **could be seen as misleading.**”<sup>19</sup> This is because “the price presented to residential and small commercial consumers [in fixed-rate contracts] is supposed to be all-inclusive.”<sup>20</sup> Thus, if a marketer “is going to label a product as ‘fixed’ it cannot change during the term of the agreement.”<sup>21</sup>

In addition to gleaning the meaning of “unfair,” “misleading,” “deceptive,” and “unconscionable,” through the requirements set forth in Ohio Adm. Code 4901:1-21, the PUCO can also look to Ohio’s Consumer Sales Practices Act (“CSPA”) (which is Ohio’s counterpart to the Pennsylvania law.) The CSPA provides protection for consumers similar to the above-referenced Ohio Administrative Code rules. Under the CSPA it is an “unconscionable” act or practice for a supplier to, among other things, take advantage of the customer’s “inability” to understand an agreement.<sup>22</sup> For similar reasons, and likely because of the complexities of the retail generating market, Title 49 and the corresponding PUCO rules

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<sup>18</sup> *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, Pennsylvania Public Utility Commission Case No. M-2013-2362961, 2013 Pa. PUC LEXIS 321, Tentative Order at \*8 (May 23, 2013).

<sup>19</sup> *Id.* at \*8 (emphasis added).

<sup>20</sup> *Id.* at \*12.

<sup>21</sup> *Id.* at \*21; *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, Pennsylvania Public Utility Commission Case No. M-2013-2362961, Final Order at p. 24 (November 11, 2013).

<sup>22</sup> R.C. 1345.03(B)(1) (suppliers shall not “knowingly take [] advantage of the inability of the consumer reasonably to protect the consumer’s interests because of the consumer’s physical or mental infirmities, ignorance, illiteracy, or inability to understand the language of an agreement”).

require that “all CRES provider contracts with residential and small commercial businesses shall” set forth this information in “clear and understandable language.”<sup>23</sup>

The terms and conditions of CRES contracts are universally written in fine print and contain legalese that cannot be understood by many outside of the energy industry or the legal profession. Forcing customers to understand the nuances of RTO and other charges is an impossible task that knowingly preys upon customers’ inability to understand the complex concepts associated with the utility/energy field. The PPUC recognizes that educating consumers on “gross receipt taxes, sales tax, capacity prices, transmission tags, usage characteristics, line losses, unaccounted for energy, NITS, RTEP, RMR, generation deactivation, ancillary services, ELR, NMBs, etc.) . . . would be a daunting task.”<sup>24</sup> Nor can over 4 million Ohio residential consumers be “adequately educated to understand pass-through provisions and the cost components that can trigger them,”<sup>25</sup> in contracts from over 36 different CRES suppliers.<sup>26</sup> But Ohio customers should not need to possess an in-depth knowledge of electricity markets or legal terminology to choose an energy provider.<sup>27</sup> For these reasons, it is unfair, misleading, deceptive and/or unconscionable to offer “fixed-rate” CRES contracts that contain a “pass-through” clause; thus, violating R.C. 4928.10 and Ohio Adm. Code 4901:1-21.

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<sup>23</sup> R.C. 4928.10; Ohio Adm. Code 4901:1-21-12(B).

<sup>24</sup> *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, Final Order at p. 22.

<sup>25</sup> *Id.*

<sup>26</sup>

<http://www.energychoice.ohio.gov/ApplesToApplesComparision.aspx?Category=Electric&TerritoryId=4&RateCode=1>

<sup>27</sup> See, *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, Final Order at p. 23.

**5. The PUCO should prohibit the automatic renewal of fixed-rate contracts at a month-to month variable rate.**

This PUCO-ordered investigation seems to focus primarily on the RTO charges in CRES providers' flat-rate contracts that at least one marketer (FES) almost levied on residential consumers. But marketer contracts that contain clauses providing for automatic renewal on a month-to-month basis at a variable rate ("auto-variable")<sup>28</sup> are also unfair, misleading, deceptive, and unconscionable.<sup>29</sup> By adding such provisions, the CRES supplier intentionally creates a perception that the contract has a "fixed-rate" price advantage. But that advantage quietly disappears for customers (without notice) after a certain period of time. Thus, the auto-variable clause hurts customers by allowing the marketer to automatically charge those customers a variable-rate after having enticed them with an initial "fixed-rate."

This practice also preys upon the consumer's inability to protect himself/herself.<sup>30</sup> Certainly, the CRES suppliers know that the contract is substantially one-sided,<sup>31</sup> as indicated by the fact that the automatic renewal is usually only found in the fine print terms and conditions of a form that is not subject to negotiation. And, like the "pass-through" provisions, CRES advertising materials often do not make mention of "additional terms and conditions" or the "auto-variable" clause.<sup>32</sup> Moreover, some "fixed-rate" offers automatically renew to a variable-

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<sup>28</sup> See, IGS Energy Contract, Attachment 6.

<sup>29</sup> See, Ohio Adm. Code 4901:1-21-11(F)(1), which requires that notice be given for contract renewals except when the renewals are month-to-month.

<sup>30</sup> See, R.C. 1345.03(B)(1).

<sup>31</sup> See, R.C. 1345.03(B)(5).

<sup>32</sup> See, FES Advertisement, Attachment 2.

rate after an incredibly short period of time (e.g. 1 to 6 months).<sup>33</sup> Such CRES contracts deprive the consumer of any ability to receive a substantial benefit associated with the “fixed-rate.”<sup>34</sup>

**6. Residential customers.**

The second portion of question “(a)” in this PUCO-ordered investigation asks whether such “pass-through” clauses should be banned in residential CRES supplier contracts or also banned in contracts for non-residential customers. OCC is addressing the issues for residential consumers and is not commenting about other classes of customers.

**B. May A CRES Supplier Include A Pass-Through Clause In A Fixed-Rate Contract That Serves To Collect A Regional Transmission Organization (RTO) Charge? Is Such A Practice Unfair, Misleading, Deceptive, Or Unconscionable?**

As explained in the previous comment, it is OCC’s position that a CRES supplier may not charge customers for any “pass-through” clause in a “fixed-rate” contract. Such a practice is an unfair, misleading, deceptive, and unconscionable practice in violation of R.C. 4928.10 and Ohio Adm. Code 4901:1-21.

**C. May Increased Costs Imposed By An RTO And Billed To CRES Suppliers Be Categorized As A Pass-Through Event That May Be Billed To Customers In Addition To The Basic Service Price Pursuant To Fixed-Price CRES Contracts? Is Such A Practice, Unfair, Misleading, Deceptive, Or Unconscionable?**

The PUCO should prohibit CRES suppliers from engaging customers to sign “pass-through” or “auto-variable” clauses in “fixed-rate” contracts because it is unfair, misleading, deceptive, and unconscionable in violation of R.C. 4928.10 and Ohio Adm. Code 4901:1-21.

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<sup>33</sup> See, Verde Energy USA Ohio, LLC Contract, Attachment 7.

<sup>34</sup> See, R.C. 1345.03(B)(3).

Therefore, neither an RTO charge nor any other charge that is billed to a CRES supplier may be passed through to residential customers in such contracts.<sup>35</sup>

As stated previously, “the price presented to residential and small commercial consumers [in fixed-rate contracts] is supposed to be all-inclusive.”<sup>36</sup> Thus, all RTO charges are already included in the contract’s fixed rate and their increase during the contract’s term would not qualify as a “pass-through” event. To attempt to treat the increase as a pass-through event is unfair, misleading, deceptive or unconscionable under Ohio Adm. Code 4901:1-21-03(A).

**D. If Increased Costs Imposed By An RTO And Billed To CRES Suppliers May Be Categorized As A Pass-Through Event That May Be Billed To Customers With Fixed-Price CRES Contracts, What Types Of Pass-Through Events Should Invoke The Application Of The Pass-Through Clause By A CRES Supplier?**

As previously stated, a CRES supplier may not include a “pass-through” clause or an “auto-variable” clause in a contract that is purported to be, or marketed to consumers as a “fixed-rate” contract. The marketers’ inclusion of a pass-through charge is an unfair, misleading, deceptive, and unconscionable practice that violates Ohio law. Thus, there is no type of “pass-through” event that may invoke the application of the “pass-through” clause in a “fixed-rate” contract. If a CRES provider desires the implementation of a “pass-through” clause, it must be marketed as a “variable-rate” contract as long as it meets the protections set forth in Ohio Adm. Code 4901:1-21-05.<sup>37</sup>

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<sup>35</sup> See *supra*, OCC Answer to Question “(a).”

<sup>36</sup> *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, 2013 Pa. PUC LEXIS 321, Tentative Order at \*12.

<sup>37</sup> See, *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, Final Order at p. 25 (stating, “fixed is fixed, and everything else is variable”); see also, OCC Answer to Question “(h).”

**E. Is It Unfair, Misleading, Deceptive, Or Unconscionable When A CRES Provider Prominently Advertises A Fixed Price, But The Contract Also Contains A Pass-Through Clause That Is Significantly Less Prominent (I.E., Is Displayed Far Down In The Fine Print Or On A Second Page Of The Terms And Conditions)?**

Yes, it is an unfair, misleading, and deceptive practice for a CRES provider to prominently advertise a “fixed-price” when the contract also contains a “pass-through” clause that is significantly less prominent. But allowing “pass-through” charges at all in “fixed-rate” contracts is wrong for Ohio consumers, even if the “pass-through” term is more prominently displayed. Nevertheless, inasmuch as the PUCO has inquired into this issue of display size and location, OCC will respond.

Companies, including CRES suppliers, have a long history of attempting to bury additional charges, provisions, and fees that are not necessarily consistent with the associated marketing materials. These tactics include using smaller font to describe terms and conditions that are unfavorable to consumers (e.g. surcharges, arbitration, and/or “pass-through” costs).

The PUCO just recently issued a Finding and Order amending Ohio Adm. Code 4901:1-21-06 to mandate that the terms and conditions of CRES marketing contracts at a minimum “must be printed in dark ink on white or pastel paper and be **ten-point type or greater.**”<sup>38</sup> But ten-point type would not solve the problems here for consumers (not that OCC thinks any increase in font size will solve the problem for consumers when the problem should be solved by banning the “pass-through” charges in “fixed-rate

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<sup>38</sup> *In the Matter of the Commission’s Review of its Rules for Competitive Retail Electric Service Contained in Chapter 4901:1-21 and 4901:1-24 of the Ohio Administrative Code*, Case No. 12-1924-EL-ORD, Supplemental Finding and Order, at Attachment A, p. 4 (emphasis added).

contracts). The “pass-through” language in marketer contracts should be as prominently displayed as the promotional language claiming a “fixed” or “guaranteed” price.

Another tactic is placing information on another page of a multiple page contract, where a consumer may be less likely to look for it. The contracts and marketing materials then display favorable terms (e.g. “fixed-rate”) more prominently so that the contract is viewed more favorably by the consumer who is considering whether to enter the contract. CRES contracts and marketing materials appear to utilize the exact same practices, which often mislead and deceive customers into purchasing energy.<sup>39</sup> For that reason, the PPUC took issue with the “fine print” associated with the terms and conditions of CRES contracts.<sup>40</sup>

In fact, prominently advertising a “fixed-price” when the contract also contains a “pass-through” clause is also an unconscionable practice. The very nature of less prominently presenting the “pass-through” clause when CRES contracts are marketed as “fixed rate” offers and/or where the contracts purports to be a “fixed rate” contract, evidences an intention to evade customer detection.<sup>41</sup> What’s more, the less prominent verbiage found in the terms and conditions is often overly-complicated and not understandable to the average citizen, further demonstrating an attempt to prey upon customers’ inability to understand the utility/energy industry.<sup>42</sup> The PUCO should find that such practices violate R.C. 4928.10 and Ohio Adm. Code 4901:1-21.

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<sup>39</sup> See, FES Contract, Attachment 1; *see also*, Constellation Contract, Attachment 4.

<sup>40</sup> See, *Use of Fixed Price Labels for Products With a Pass-Through Clause*, 2013 Pa. PUC LEXIS 321 at \*12.

<sup>41</sup> R.C. 1345.03(B)(1) provides it is unconscionable to “knowingly tak[e] advantage of the inability of the consumer reasonably to protect the consumer’s interests because of the consumer’s physical or mental infirmities, ignorance, illiteracy, or inability to understand the language of an agreement.

<sup>42</sup> See, OCC Response to Question “(f).”

**F. Should A Pass-Through Clause That Refers To Acronyms Such As “RTO,” “NERC,” Or “PJM” Be Required To Define These Acronyms? If So, Should Definitions Be Required In Residential And Small Commercial Contracts, Or Only Residential Contracts?**

Consistent with the position asserted throughout these Comments, OCC maintains that costs imposed by an RTO and billed to a CRES provider may not be categorized as a “pass-through” event that may be billed to customers with a “fixed-price” CRES contract. Billing customers in that circumstance violates R.C. 4928.10 and Ohio Adm. Code 4901:1-21. Nevertheless, to the extent CRES contracts contain references to “RTO,” “NERC,” “PJM,” or other utility-specific and/or energy-specific terminology, the contract should certainly include definitions of those acronyms.

Providing the definition alone, however, would likely be meaningless for the vast majority of residential consumers. That is because the average residential consumer does not understand (nor should be expected to understand) electric markets to this level of granularity. The Pennsylvania Commission stated that “many of them still struggl[e] with the basic distinctions of generation, transmission and distribution.”<sup>43</sup> Therefore, the PUCO should not only ensure that CRES contracts define such acronyms, but that those definitions are briefly explained in a way that is understandable to the layperson signing the contract.

In addition, all CRES contract language, not just the acronyms, should be understandable to the layperson that is signing the contracts. The Ohio Revised Code and PUCO rules mandate that CRES contracts with residential and small commercial businesses shall set forth contractual information in “clear and understandable language.”<sup>44</sup> Similarly, the PPUC found that

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<sup>43</sup> *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, Pennsylvania Public Utility Commission Case No. M-2013-2362961, Final Order at p. 24 (November 11, 2013).

<sup>44</sup> R.C. 4928.10(A)(1); Ohio Adm. Code 4901:1-21-12(B).



“customers are best served by labels and terms that are precise, straightforward, transparent, and in plain language.”<sup>45</sup> Otherwise, consumers would not be able to make “informed decisions,” and “intelligent cost comparisons.”<sup>46</sup>

But, as the PPUC recently recognized “even if a consumer read the entire disclosure, most are not sophisticated enough to understand what is meant by terms such as ‘RTO, NERC, PJM,’ etc., and just what kind of pricing changes could result.”<sup>47</sup> And even if they were defined, consumers “do not have the experience, sophistication and intimate knowledge of the energy industry to understand transmission, capacity and other complicated terms.”<sup>48</sup> Nor does the average consumer have the time to develop such knowledge and understanding.

Yet, the terms and conditions in most (if not all) CRES contracts are written in such a way that only an exceptional few in the industry and among lawyers could understand. “Consumers, when faced with such an array of terms and acronyms, could find it much simpler to just not shop or “remain on default service.”<sup>49</sup> Failure to provide understandable definitions violates the law set forth in R.C. 4925.10 and Ohio Adm. Code 4901:1-21.

In addition, the PUCO must ensure that “fixed-rate” CRES contracts describe the specific price per kWh. It has come to OCC’s attention that some CRES supplier contracts do not ever expressly state the price of the generation commodity in the contract.<sup>50</sup> Some CRES

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<sup>45</sup> *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, Pennsylvania Public Utility Commission Case No. M-2013-2362961, Final Order at p. 24 (November 11, 2013).

<sup>46</sup> Ohio Adm. Code 4901:1-21-02(A)(1)(b); 4901:1-21-05(A).

<sup>47</sup> *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, 2013 Pa. PUC LEXIS 321, Tentative Order at \*8.

<sup>48</sup> *See, Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, 2013 Pa. PUC LEXIS 321, Tentative Order at \*12.

<sup>49</sup> *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, Pennsylvania Public Utility Commission Case No. M-2013-2362961, Final Order at p. 23 (November 11, 2013).

<sup>50</sup> APG&E Contract, Attachment 8.

suppliers' contracts, instead, cross-reference a price identified electronically on the CRES suppliers' web site or orally during telephonic enrollment.<sup>51</sup> Failure to state the price per kWh in the contract, however, is a direct violation of Ohio Adm. Code 4901:1-21-12(B)(7)(a) and should not be allowed.<sup>52</sup>

With respect to the second question posed in section (f) of the PUCO-ordered investigation in this matter, it is OCC's position that understandable definitions of terms such as "RTO" "PJM" and "NERC," to the extent they exist, should be required in residential CRES supplier contracts.

**G. Could Permitting Pass-Through Clauses In Residential And/Or Small Commercial CRES Contracts Labeled As Fixed-Rate Contracts Have An Adverse Effect On The CRES Market?**

Yes, permitting "pass-through" clauses in residential CRES contracts that purport to be "fixed-rate" contracts or variable-rate contracts with a "guaranteed percent off of the SSO," has an adverse effect on the CRES market. It also further demonstrates the importance of the SSO, which provides a safe alternative for consumers to protect themselves from these unfair, deceptive, misleading and unconscionable contracts that are difficult for the average consumer to understand. When faced with the same issue, the PPUC found that if CRES suppliers "were to invoke such a clause and pass through costs to the customer via an increase in the rate, residential and small commercial customers are likely to be confused and dissatisfied with the [CRES suppliers] as well as the marketplace."<sup>53</sup> "As a result, these customers may be unwilling

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<sup>51</sup> Integrys Energy Services Contract, Attachment 9.

<sup>52</sup> "All competitive retail electric service (CRES) provider customer contracts shall include . . . the cost per kilowatt hour for generation service . . ."

<sup>53</sup> *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, 2013 Pa. PUC LEXIS 321, Tentative Order at \*\*8-9.

to shop for their electricity supply in the future”<sup>54</sup> and “the popularity of [long term offers] could quickly decline if consumers are faced with increases, especially significant ones, due to the pass-through provision during the term.”<sup>55</sup> This could have a negative impact on customers’ perception of the fairness of the electricity market and their ability to succeed in the market.

Moreover, “‘regulatory pass-through’ costs that could be imposed (via FERC rulings, PJM tariff filings, etc.) are likely to be complicated to explain to consumers.”<sup>56</sup> These difficulties will be experienced at the PUCO call center. But these difficulties will also be felt at the electric distribution utility call centers that are usually only equipped to respond to routine matters, not complicated issues like RTO emergencies and transmission costs. These difficulties are “likely to create customer dissatisfaction with the electric shopping experience.”<sup>57</sup> The associated “customer dissatisfaction could lead to complaints to the Commission, legislators and possibly the media.”<sup>58</sup> “The combination of these potential effects could have a very adverse effect on the competitive retail market.”<sup>59</sup>

These same concerns arise, and are perhaps even more detrimental to the market, when CRES fixed-rate contracts automatically renew at a variable rate. Just as when customers are charged for “hidden” RTO costs via “pass-through” clauses, customers that find themselves on a variable rate that exceeds the “fixed-rate” (that they were once promised) are likely to have a negative view of the CRES market. In a market that is already inherently suspect to many consumers because of the unintelligible contracts, the “auto-variable” clauses are a pervasive

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<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at \*13.

<sup>56</sup> *Id.* at \*\*1-12.

<sup>57</sup> *Id.*

<sup>58</sup> *Id.* at \*\*8-9.

<sup>59</sup> *Id.* at \*9.

problem that causes further distrust in the CRES market. The PUCO should prohibit “pass-through” clauses that allow for additional charges and automatic renewals on a variable-rate. This prohibition “will continue to improve fair and equitable competition in the marketplace,” by “enhance[ing] marketing and sales practices of competitive retail electric service providers.”<sup>60</sup>

**H. What Alternative Label Should Be Used On A Contract With A Pass-Through Clause That Has An Otherwise Fixed- Rate?**

Once again, the PUCO should conclude that costs imposed by an RTO and billed to a CRES provider may not, under R.C. 4928.10 or Ohio Adm. Code Chapter 4901:1-21, be categorized as a “pass-through” event that may be billed to customers with a “fixed-rate” CRES contract. The PPUC already found that this practice is an “unacceptable” practice that is neither transparent nor fair to consumers.”<sup>61</sup>

Therefore, the PUCO should ban use of “fixed-rate”<sup>62</sup> unless it is a true “fixed-rate” contract. A true fixed-rate contract does not allow for any contingent costs, charges, or fees (e.g. RTO costs or variable rates upon renewal). In other words, “fixed means fixed”<sup>63</sup> such that a “‘fixed price’ product must not change in price during the term of the agreement.”<sup>64</sup> Therefore, to the extent CRES suppliers intend to market contracts that contain “pass-through” clauses,

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<sup>60</sup> Entry, at Commissioner Slaby’s concurring opinion.

<sup>61</sup> *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, 2013 Pa. PUC LEXIS 321, Tentative Order at \*14.

<sup>62</sup> *Id.*

<sup>63</sup> *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, Final Order at p.25.

<sup>64</sup> *Id.* at p. 24.

they should not be marketed or referred to as a “fixed-rate” and instead should be labeled as “variable-prices.”<sup>65</sup>

### **III. CONCLUSION**

OCC thanks the PUCO for this investigation aimed at protectin Ohio’s consumers. This protection is needed from the unfair, deceptive, misleading and unconscionable business practices that have been employed by some of the CRES suppliers doing business in this state.

Respectfully submitted,

BRUCE J. WESTON  
OHIO CONSUMERS’ COUNSEL

/s/ Michael J. Schuler

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<sup>65</sup> *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, 2013 Pa. PUC LEXIS 321, Tentative Order at \*14-15.

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the *Comments* was served on the persons stated below *via* electronic transmission, this 9<sup>th</sup> day of May, 2014.

/s/ Michael J. Schuler

Michael J. Schuler

Assistant Consumers' Counsel

### **SERVICE LIST**

[William.wright@puc.state.oh.us](mailto:William.wright@puc.state.oh.us)

[kjoseph@napower.com](mailto:kjoseph@napower.com)

[cgelo@napower.com](mailto:cgelo@napower.com)

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## FirstEnergy Solutions Corp. – Residential Terms and Conditions

These Terms and Conditions together with the enrollment materials are your Agreement for electric generation service with FirstEnergy Solutions Corp. ("FES"). Please keep a copy for your records.

FES is certified by the Public Utilities Commission of Ohio ("PUCO") to offer and supply electric generation services in Ohio and is an affiliate of Ohio Edison, The Toledo Edison, and The Cleveland Electric Illuminating companies. As a Competitive Retail Electric Service ("CRES") provider, FES will supply the electric generation to Columbus Southern Power Company, your Electric Distribution Utility ("EDU"), based on your usage. Your EDU then distributes or delivers the electricity to you. FES sets the generation prices and charges that the customers pay. The PUCO regulates distribution prices and services. The Federal Energy Regulatory Commission regulates transmission prices and services.

### DEFINITIONS:

**Generation Charge** – Charge for the production of electricity.

**Transmission Charge** – Charge for moving high voltage electricity from a generation facility to the distribution lines of an EDU.

**Distribution Service** – Basic service for delivering electricity over a distribution system to a customer from the transmission system.

**RTO** – Regional Transmission Organization.

**Right of Rescission** – If you are a new or returning customer to FES, your EDU will send you a confirmation letter once you have been enrolled to receive generation service from FES. You have a right to rescind your enrollment within seven (7) calendar days following the postmark date of the confirmation letter by following the instructions contained in the letter. The Right of Rescission only applies when a customer switches to a generation supplier and not on renewal enrollments. Your EDU will not send a confirmation notice upon any renewal of this Agreement.

### TERMS AND CONDITIONS OF SERVICE

1. **Eligibility.** Only residential customer accounts that are on rate code(s) 013 or 014 (referred to here as "Customer") are eligible for this offer, except that the following customers are not eligible for this offer: (1) any customer accounts participating in energy assistance or low-income rate programs that will pay a higher rate or that will be otherwise negatively affected under this Agreement; (2) any customer of an electric cooperative or municipally owned utility; or (3) any net metered customers. FES reserves the right to refuse enrollment to any Customer with an outstanding balance. No other rate codes will be accepted.
2. **Basic Service Prices.** During the term of this Agreement, you agree to pay FES a fixed price of 7.01 cents per kilowatt-hour for a combined Transmission, Generation, and Generation Related Charges ("Retail Electric Service"). In addition to FES' charges, you will be charged by your EDU for distribution and various other charges. In addition to the charges described above, if any RTO or similar entity, EDU, governmental entity or agency, North American Electric Reliability Corporation or other industry reliability organization, or court requires a change to the terms of the Agreement, or imposes upon FES new or additional charges or requirements, or a change in the method or procedure for determining charges or requirements, relating to your Retail Electric Service under this Agreement (any of the foregoing, a "Pass-Through Event"), which are not otherwise reimbursed to FES, Customer agrees that FES may pass through any additional cost of such Pass-Through Event, which may be variable, to Customer. Changes may include, without limitation, transmission or capacity requirements, new or modified charges or shopping credits, and other changes to retail electric customer access programs.
3. **Length of Agreement.** Your Retail Electric Service from FES, under the terms of this Agreement, will commence with the next available meter reading following any applicable rescission period, the acceptance of the enrollment request by FES (at its discretion and consistent with Paragraph 7 below), and the processing of the enrollment by your EDU. Your Retail Electric Service will continue until your June 2016 meter read date, unless renewed in accordance with Paragraph 8. a) At any time during the initial term of this Agreement, you may switch to another available FES retail product without penalty. If you switch to another product you will be subject to the terms and conditions applicable to the new product, which may be different from the terms and conditions contained in this Agreement.
4. **Billing.** You will continue to receive a single bill from your EDU that will contain both your EDU and FES charges. FES reserves the right to unilaterally modify this billing format/pricing in the event the EDU is unable or unwilling to provide consolidated billing in this format or changes the calculation of the Price to Compare. FES does not offer budget billing. If you do not pay your bill by the due date, FES may cancel this Agreement after giving you a minimum of fourteen (14) days written notice. Upon cancellation you will be returned to your EDU as a customer for Retail Electric Service. You will remain responsible to pay FES for any Retail Electric Service used before this Agreement is cancelled, as well as any late payment charges. Further, your failure to pay EDU charges may result in your electric service being disconnected in accordance with the EDU tariff until the entire balance is paid in full.
5. **Penalties, Fees and Exceptions.** Your EDU may charge you switching fees. If you do not pay the full amount owed FES by the due date of the bill, FES may charge a 1.5% per month late payment fee.
6. **Cancellation/Termination Provisions.** If this Agreement is not rescinded during any applicable rescission period, then your enrollment will be complete. Thereafter, you may terminate this Agreement, without penalty, only if you move out of the EDU service territory or into an area where FES will charge a different price or if you switch to another FES retail product pursuant to Section 3. a) above. *There will be a \$100.00 charge if you terminate this Agreement for any other reason, except as expressly provided herein. Should you cancel Retail Electric Service with FES and return to standard offer service with your EDU, you may not be served under the same rates, terms, and conditions that apply to other EDU customers.* Customer and FES both agree that the following will constitute force majeure events under this Agreement and that FES shall have the right to terminate or modify the agreement without liability if: (1) the Electric Security Plan (ESP), Market Rate Offer (MRO) and/or Competitive Bid Process (CBP), or other generation procurement process results in a Price To Compare (PTC) that is equal to or less than the comparable annualized generation and transmission rates and riders in effect as of the effective date of this Agreement or (2) the PUCO approves or implements a phase-in credit for generation and/or transmission charges of the EDU or takes any other action which affects the PTC or otherwise does not allow the EDU to reflect the full cost to procure generation and transmission in the PTC or other regulatory action. In the event that the program is terminated, you will be returned to your EDU's standard service offer.
7. **Customer Consent and Information Release Authorization.** By choosing to accept this offer from FES, you understand and agree to the terms and conditions of this Agreement with FES. You authorize FES to obtain your information from your EDU that includes, but is not limited to: billing history, payment history, historical and future electricity usage, meter readings, and characteristics of electricity service. FES reserves the sole right to determine if your credit standing is satisfactory before accepting your enrollment request. This Agreement shall be considered fully executed by FES following acceptance of your enrollment request by FES, the end of any applicable rescission period, and subsequent acceptance of the enrollment by your EDU.
8. **Contract Expiration / Automatic Renewal.** At the end of its term, this Agreement will expire, or at FES' option, automatically renew for a term less than or equal to its initial term unless you affirmatively cancel the Agreement. The termination fee during any renewal term will be \$25. You will receive two notifications from FES in the thirty-five (35) to ninety (90) days that precede either the expiration date of this Agreement or the effective date of any changes FES proposes to its terms of service. The first notice will be a written one. In these advance notifications FES will explain your options, which may include renewing the Agreement, the specified rate, proposed changes if any, and what actions you must take to cancel the Agreement. You are responsible for arranging your Retail Electric Service upon the expiration of the Agreement.
9. **Dispute Procedures.** Contact FES with any questions concerning the terms of service by phone at 1-888-254-6359 (toll-free) M-F 8 a.m. – 5 p.m. EST or in writing at 341 White Pond Drive B2, Attn: Contract Administration, Akron, OH 44320. Our web address is [www.fes.com](http://www.fes.com). If your complaint is not resolved after you have called your electric supplier and/or your electric utility, or for general utility information, residential and business customers may contact the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) or TTY at 1-800-686-1570 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays or at [www.PUCO.ohio.gov](http://www.PUCO.ohio.gov). Residential customers may also contact the Ohio Consumers' Counsel (OCC) for assistance with complaints and utility issues at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays or at [www.pickocc.org](http://www.pickocc.org).
10. **Miscellaneous.** You have the right to request from FES, twice within a twelve (12) month period, up to twenty-four (24) months of payment history, without charge. FES will not release your Social Security number and/or account number(s) without your written consent except for the FES' collections and reporting, participating in programs funded by the universal service fund, pursuant to section 4928.54 of the Revised Code, or assigning a Customer's contract to another CRES provider. FES' environmental disclosure statement is available for viewing on our website – [www.fes.com](http://www.fes.com). FES will make the required quarterly updates to the statement electronically on our website and will also provide the information upon request. FES may assign its rights to another, including any successor, in accordance with the rules and regulations of the PUCO. FES assumes no responsibility or liability for the following items that are the responsibility of the EDU: operation and maintenance of the EDU's electrical system, any interruption of service, termination of service, or deterioration of the EDU's service. In the event of a power outage, you should contact your EDU. Customer is responsible for providing FES with accurate account information. If said information is incorrect, FES reserves the right to reprice the applicable account(s) or terminate the Agreement. FES reserves the right to return Customer to the EDU if Customer's rate code is changed and the account is no longer eligible for this program. Customer authorizes, but does not obligate, FES to exercise Customer's governmental aggregation opt-out rights.
11. **Warranty.** FES warrants title and the right to all electricity sold hereunder. THE WARRANTIES SET FORTH IN THIS PARAGRAPH ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE.

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Switching to FirstEnergy Solutions takes just minutes. And with no cancellation fee, you have nothing to lose.



**Call 1-877-404-2070 or visit [fes.com/NoCancelDayton](http://fes.com/NoCancelDayton) to enroll.**  
And please have your current electric bill handy.

**Don't wait. This offer ends 5/17/13.**

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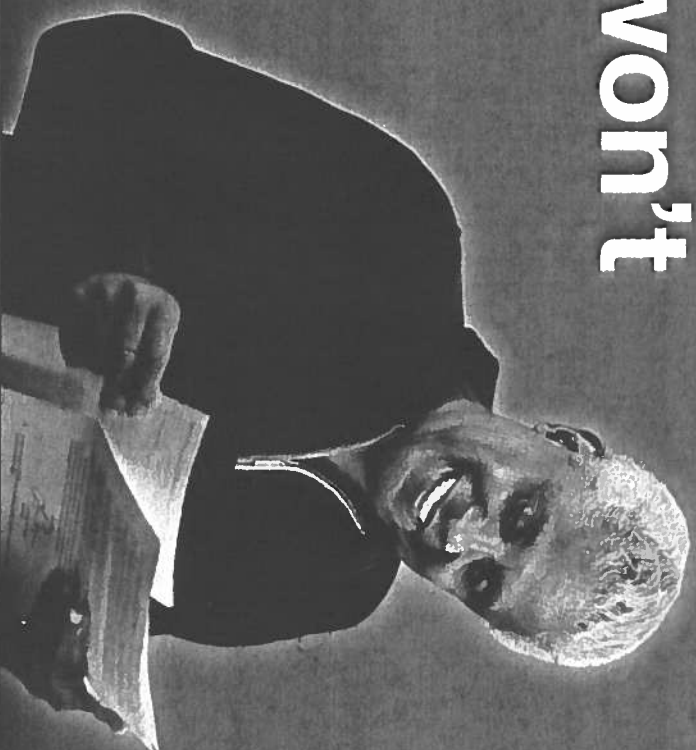
FirstEnergy Solutions is an unregulated subsidiary of FirstEnergy Corp., and an affiliate of Ohio Edison, Toledo Edison and The Illuminating Company.

NC-DPL-4/2



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## RESIDENTIAL TERMS &amp; CONDITIONS

("Agreement")

TERM	GENERATION SERVICE CHARGES	CANCELLATION FEE	CONTRACT RENEWAL	OTHER
Through December 2014 billing cycle ("Term").	7.69 cents per kWh for Green-e® Energy Certified 100% Wind-generated electricity Generation and Transmission Services. Price excludes taxes, utility Distribution Service charges and other non-bypassable utility charges and fees.	You may cancel within the 7-calendar day rescission period without penalty. <u>If you terminate after the rescission period, you will incur a fee equal to the number of months remaining in the Term multiplied by \$10.</u> See Section 6 for details.	Your Agreement will continue on a month-to-month basis, and you will pay a variable price per kWh. You will not be subject to a cancellation fee while taking service on a month-to-month basis. See Section 8 for details.	N/A

**CONDITIONS.** These Terms and Conditions (this "Agreement") are your agreement for Generation Service and applicable Transmission Services with AEP Energy, Inc. ("AEP Energy"). Please keep a copy of this Agreement for your records. AEP Energy is certified by the Public Utilities Commission of Ohio ("PUCO") to offer and supply Generation Service in Ohio. As a Competitive Retail Electric Service ("CRES") provider, AEP Energy will supply the electric generation and provide applicable transmission services to your Electric Distribution Utility ("EDU") based on your usage. Your EDU then distributes or delivers the electricity to you. Your Distribution Service will remain with your current EDU, which is regulated by the PUCO.

**DEFINITIONS:** "Competitive Retail Electric Service Provider" or "CRES" provider means, as defined by Chapter 4901:1-21 of the Substantive Rules applicable to electric service providers, an entity that sells electric energy to retail customers in Ohio. "Generation Service" means the production of electricity. "Generation-Related Charges" means those charges or costs associated with the production, procurement and supply of electricity. "Non-bypassable utility charges and fees" means those EDU charges and fees payable by you regardless of whether the EDU or a CRES provides Generation Service. "Transmission Service" means moving high voltage electricity from a generation facility to the distribution lines of an EDU. "Distribution Service" means the physical delivery of electricity to customers by the EDU.

**RIGHT OF RESCISSION.** Once you have been enrolled to receive Generation Service from AEP Energy, your EDU will send you a confirmation letter. You have the right to rescind your enrollment without penalty within seven (7) calendar days following the postmark date of the confirmation letter by contacting your EDU and following the instructions contained in the letter. The Right of Rescission only applies when you initially switch to AEP Energy and not upon renewal. Your EDU will not send a confirmation notice upon any renewal of this Agreement.

## TERMS AND CONDITIONS OF SERVICE

1. **Eligibility.** Residential customer accounts that are on residential rates codes and are not enrolled in the Percentage of Income Plan Program (PIPP) are eligible for this offer from AEP Energy. AEP Energy reserves the right to refuse enrollment to any residential customer with an outstanding, unpaid electric bill.
2. **Basic Service Prices.** During the term of this Agreement, you agree to pay AEP Energy a price for all applicable combined Transmission Service, Generation Service and Generation-Related Charges as specified in "Generation Service Charges" listed above including any applicable taxes, if any. For the "Term" listed above, all kilowatt-hours ("kWh") of electric energy metered by the EDU shall be billed at the rate per kWh specified above. In addition to AEP Energy's charges, you will be charged by your EDU for Distribution Service and other EDU charges and fees. An average residential customer, using 750 kWh of electricity on a monthly basis, would incur approximately \$40 to \$50 per month in such EDU charges and fees. Also, AEP Energy will charge you for any and all fees, costs, and obligations for transmission services imposed by a Regional Transmission Organization ("RTO"), such as PJM Interconnection, LLC, or an Independent System Operator (ISO), such as the Midwest Independent Transmission System Operator (MISO) or any successor organizations (collectively, referred to as the RTO), that are not otherwise reimbursed to AEP Energy, regardless of whether such charges are greater than, less than, or equal to the charges the Customer currently pays for these services ("RTO/Transmission and Ancillary Services Charges"). AEP Energy will pass through to you any RTO/Transmission and Ancillary Services Charges, which may be variable, related to AEP Energy's providing electricity to you and any additional or increased fees or charges that are beyond AEP Energy's reasonable control. That could include, but not be limited to, fees for switching, disconnecting, reconnecting or maintaining electric service or equipment, changes to capacity related charges, transmission or transmission-related charges, or changes to retail electric customer access programs, that are imposed by law, rule, regulation or tariff, or PUCO rule or order. These charges or fees will be passed through to you and added to your price.
3. **Length of Agreement.** Your service from AEP Energy will begin with the next available meter-reading following: a) the seven (7) day rescission period; b) the acceptance of the enrollment request by AEP Energy (at its discretion and consistent with Paragraph 7 below), and c) processing of the enrollment by your EDU, and will continue for the Term, unless otherwise terminated or renewed, ending on the meter read for the last month of service.
4. **Billing.** You will continue to receive a single bill from your EDU that will contain both your EDU and AEP Energy charges. AEP Energy does offer budget billing for AEP Energy's charges. If you do not pay your bill by the due date, AEP Energy may cancel this Agreement after giving you a minimum of fourteen (14) days written notice. Upon cancellation you will be returned to your EDU as a customer. You will remain responsible to pay AEP Energy for any electricity used before this Agreement is cancelled as well as any late payment charges. Further, your failure to pay EDU charges may result in your electric service being disconnected in accordance with the EDU tariff.
5. **Penalties, Fees and Exceptions.** Your EDU may charge you a switching fee. If you do not pay the full amount owed to AEP Energy by the due date of the bill, AEP Energy may charge a late payment fee up to one and one-half (1.5%) percent of the outstanding balance per month, or the maximum legally allowed interest rate, whichever is lower until such payment is received by AEP Energy. AEP Energy reserves the right to demand adequate assurances from you in the form of prepayment or other form of credit support in the event you fail to make payments in accordance with the terms herein. Customers requiring financial assurance will be required to post that assurance within 3 business days of notice.
6. **Cancellation/Termination Provisions/Failure to Pay.** If this Agreement is not rescinded during the rescission period, enrollment will be sent to your EDU. You may terminate this Agreement, without penalty, if you move outside AEP Energy's service area or into an area where AEP Energy charges a different price, by providing AEP Energy with a thirty (30) day written notice prior to such move. Any failure to pay your bill shall be deemed a breach of this Agreement permitting AEP Energy to terminate this Agreement upon fourteen (14) days advance written notice. There will be a charge as specified in "Cancellation Fee" above if you terminate this Agreement for any other reason, except as expressly provided herein, or breach this Agreement in accordance with the preceding sentence. Should you cancel service with AEP Energy and return to standard offer service with your EDU, you may not be served under the same rates, terms, and conditions that apply to other EDU customers.
7. **Customer Consent and Information Release Authorization.** By accepting this offer from AEP Energy, you understand and agree to the terms and conditions of this Agreement with AEP Energy. You authorize AEP Energy to obtain information from the EDU that includes, but is not limited to: billing history, payment history, historical and expected electricity usage, meter-readings, and characteristics of electricity service. AEP Energy reserves the right to check your credit with a consumer credit reporting agency to determine if your credit standing is

satisfactory before accepting your enrollment request. This Agreement shall be considered executed by AEP Energy following: a) acceptance of your enrollment request by AEP Energy; b) the end of the seven (7) day rescission period, and c) acceptance of enrollment by your EDU.

8. **Contract Renewal.** Upon expiration of the Term, this Agreement will automatically renew on a month-to-month basis at a variable price per kWh, based upon the applicable RTO prevailing market and business conditions for electricity at the EDU load zone or equivalent market delivery point, plus an adder of up to \$0.05 per kWh. No cancellation fee shall apply during such renewal period. Your price will include Generation-Related Charges, but will not include charges for Distribution Service and other EDU charges and fees and taxes. You may obtain next month's variable price by calling an AEP Energy Service Representative at the toll-free telephone number set forth in Section 16. Pricing is generally available on the 15th business day of each month for the next billing cycle. At any time after the Term, Customer may contact AEP Energy to enroll in the then current price plan. AEP Energy can renew this Agreement without Customer's affirmative consent even when there is a change in the rate or other terms and conditions.

9. **Dispute Procedures.** Contact AEP Energy with any questions concerning the terms of service by phone at 1-866-258-3782 (toll-free) M-F 8AM – 7PM EST or in writing at AEP Energy, PO Box 3489, Chicago, IL 60654. Our web address is AEPRetailEnergy.com. If your complaint is not resolved after you have called AEP Energy and/or your EDU, or for general utility information, residential and business customers may contact the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) or TTY at 1-800-686-1570 (toll free) from 8:00 AM – 5:00 PM EST weekdays or at [www.PUCO.ohio.gov](http://www.PUCO.ohio.gov). Residential customers may also contact the Ohio Consumers' Counsel for assistance with complaints and utility issues at 1-877-742-5622 (toll free) from 8:00 AM – 5:00 PM EST weekdays, or [www.pickocc.org](http://www.pickocc.org).

10. **Miscellaneous.** You have the right to request from AEP Energy, twice within a 12-month period, up to 24 months of payment history, without charge. AEP Energy is prohibited from disclosing a Customer's social security number and/or account number(s) without the Customer's affirmative written consent except for AEP Energy's collections and reporting, participating in programs funded by the universal service fund pursuant to section 4928.54 of the Revised Code, or assigning a Customer's contract to another CRES provider. AEP Energy assumes no responsibility or liability for the following items that are the responsibility of the EDU: operation and maintenance of the EDU's electrical system, any interruption of service, termination of service, or deterioration of the EDU's service. In the event of a power outage, you should contact your local EDU. You are responsible for providing AEP Energy with accurate account information. If said information is incorrect, AEP Energy reserves the right to re-price the applicable account(s). AEP Energy reserves the right to re-price any account(s) or return you to the EDU if your rate code or meter type is changed and/or the account is no longer eligible for this program. Any notice, demand or other communication to be given hereunder, including, without limitation, any renewal or termination notice, shall be in writing and delivered to the address or email address maintained on file for you. You authorize, but do not obligate AEP Energy, to exercise your government aggregation opt-out rights. AEP Energy's environmental disclosure statement is available for viewing on our website at AEPEnergy.com. You agree that AEP Energy will make the required quarterly updates to the statement electronically on our website. We will also provide the information to you upon request.

11. **Warranty and Force Majeure.** AEP Energy warrants title and the right to all electricity sold hereunder. THE WARRANTIES SET FORTH IN THIS PARAGRAPH ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE. AEP Energy will make commercially reasonable efforts to provide your electric service, but does not guarantee a continuous supply of electricity. Certain causes and events are out of the reasonable control of AEP Energy and may result in interruptions in service. AEP Energy is not liable for damages caused by acts of God, changes in laws, rules or regulations or other acts of any governmental authority (including the Commission or RTO), accidents, strikes, labor troubles, required maintenance work, inability to access the local distribution utility system, nonperformance by the EDU or any other cause beyond the control of AEP Energy's reasonable control.

12. **REMEDIES.** UNLESS OTHERWISE EXPRESSLY PROVIDED HEREIN, ANY LIABILITY UNDER THIS AGREEMENT WILL BE LIMITED TO DIRECT, ACTUAL DAMAGES AS THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, INCLUDING LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, WHETHER IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISIONS OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT. THE LIMITATIONS IMPOSED ON REMEDIES AND DAMAGE MEASUREMENT WILL BE WITHOUT REGARD TO CAUSE, INCLUDING NEGLIGENCE OF ANY PARTY, WHETHER SOLE, JOINT, CONCURRENT, ACTIVE OR PASSIVE; PROVIDED NO SUCH LIMITATION SHALL APPLY TO DAMAGES RESULTING FROM THE WILLFUL MISCONDUCT OF ANY PARTY.

13. **Customer Liability and Indemnification of AEP Energy.** You assume full responsibility for power furnished to you at the delivery point(s) and on your side of the delivery point(s), and agree to and shall indemnify, defend, and hold harmless AEP Energy, its parent company and all of its affiliates, and all of their respective managers, members, officers, directors, shareholders, associates, employees, servants, and agents from and against all claims, losses, expenses, damages, demands, judgments, causes of action, and suits of any kind (hereinafter collectively referred to as "Claims"), including Claims for personal injury, death, or damages to property occurring at the delivery point(s) or on your side of the delivery point and upon the premises(s), arising out of or related to the electricity and/or your performance under the Agreement.

14. **Assignment.** Customer shall not assign this Agreement or its rights hereunder without the prior written consent of AEP Energy. AEP Energy may, without the consent of Customer, assign this Agreement to another CRES provider, including any successor, in accordance with the rules and regulations of the PUCO.

15. **Choice of Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Ohio without giving effect to any conflicts of law principles which otherwise might be applicable.

16. **Contact Information.** AEP Energy, PO Box 3489, Chicago, IL 60654. For more information call (866) 258-3782 or visit AEPEnergy.com.

17. **The electricity supply service provided to you will include renewable energy sourced from renewable resources in the amount equal to 100% of your load volume during the term of this Agreement.** AEP Energy's product is a 100% nationally wind-generated electricity product and is certified by Green-e® Energy, which requires companies to provide their customers with this notice of price, terms and conditions of service. For more information about Green-e Energy, write Green-e Energy, 1012 Torrey Ave, 2nd Floor San Francisco, CA 94129 or log onto [www.green-e.org](http://www.green-e.org), or call toll-free 1-888-63-GREEN.



**Environmental Disclosure - Quarterly Comparison**  
**AEP Energy**  
**Projected Data for the Calendar Year 2013**  
**Actual Data for the Period 01/01/13 to 9/30/13\***

<div><div>Generation Resource Mix -</div><div>A comparison between the sources of generation projected to be used to generate this product and the actual resources used during the period.</div></div>	<div><div><div><div>Projected</div><div>73.0%</div></div><div><div>Actual</div><div>73.0%</div></div></div><div><div><div>Coal</div><div>Nuclear</div><div>Natural Gas</div><div>Oil</div><div>Wind</div><div>Hydro</div><div>Biomass</div></div><div><div>Coal</div><div>Nuclear</div><div>Natural Gas</div><div>Oil</div><div>Wind</div><div>Hydro</div><div>Biomass</div></div></div></div>										
<div><div>Environmental Characteristics -</div><div>A description of the characteristics associated with each possible generation resource.</div></div>	<div><div>Biomass Power</div><div>Coal Power</div><div>Hydro Power</div><div>Natural Gas Power</div><div>Nuclear Power</div><div>Oil Power</div><div>Other Sources</div><div>Solar Power</div><div>Unknown Purchased Resources</div><div>Wind Power</div></div>	<div><div>Air Emissions and Solid Waste</div><div>Air Emissions and Solid Waste</div><div>Wildlife Impacts</div><div>Air Emissions and Solid Waste</div><div>Radioactive Waste</div><div>Air Emissions and Solid Waste</div><div>Unknown Impacts</div><div>No Significant Impacts</div><div>Unknown Impacts</div><div>Wildlife Impacts</div></div>									
<div><div>Air Emissions – Product-specific</div><div>projected and actual air emissions for this period compared to the regional average air emissions.</div></div>	<div><div><div><div>Sulphur Dioxides</div><div>Nitrogen Oxides</div><div>Carbon Dioxide</div></div><div><div>Actual</div><div>Projected</div></div></div><div><div>Regional Average</div></div></div>										
<div><div>Radioactive Waste -</div><div>Radioactive waste associated with the product.</div></div>	<div><table><tr><th>Type:</th><th>Quantity:</th><th></th></tr><tr><td>High-Level Radioactive Waste</td><td>Unknown</td><td>LBs./1,000 kWh</td></tr><tr><td>Low-Level Radioactive Waste</td><td>Unknown</td><td>Ft.<sup>3</sup>/1,000 kWh</td></tr></table><div><div>AEP Energy purchases all of it's electric energy from the wholesale market. The above generation resource mix is based on EIA reporting of regional generation resources. AEP Energy does not have access to information regarding the radioactive waste produced by nuclear generation in the region.</div></div></div>		Type:	Quantity:		High-Level Radioactive Waste	Unknown	LBs./1,000 kWh	Low-Level Radioactive Waste	Unknown	Ft. <sup>3</sup> /1,000 kWh
Type:	Quantity:										
High-Level Radioactive Waste	Unknown	LBs./1,000 kWh									
Low-Level Radioactive Waste	Unknown	Ft. <sup>3</sup> /1,000 kWh									
<div><div>With in-depth analysis, the environmental characteristics of any form of electric generation will reveal benefits as well as costs. For further information, visit us online at <a href="http://AEPenergy.com">AEPenergy.com</a> or contact AEP Energy at 1-866-258-3782.</div></div>											

\*Environmental Disclosure label is based on the most accurate data available to AEP Energy as of December 4th, 2013.

Version: 13.12.04OH\_ED

## 2014 PROSPECTIVE PRODUCT CONTENT LABEL<sup>1</sup>

This is a renewable energy certificate (REC) product. For every unit of renewable electricity generated, an equivalent amount of RECs is produced. The purchase of RECs supports renewable electricity generation, which helps reduce conventional electricity generation in the region where the renewable generator is located. You will continue to receive one electricity bill from your utility.

AEP Energy delivers a 100% Green-e<sup>®</sup> Energy Certified wind energy product. This product matches 100% of your estimated electricity usage with national Green-e Energy certified RECs. This product is made up of the following renewable resources:

Green-e Energy Certified New <sup>2</sup> Renewables		Generation Location
-Biomass	0%	
-Geothermal	0%	
-Eligible hydroelectric <sup>3</sup>	0%	
-Solar	0%	
-Wind	100%	National supply could be sourced from any of the following states including but not limited to: Texas, Iowa, Illinois and Pennsylvania
<b>TOTAL</b>	<b>100%</b>	

1. Actual figures may vary according to resource availability. We will annually report to you the actual resource mix of the RECs you purchased during the preceding year.

2. New Renewables come from generation facilities that first began commercial operation on or after January 1, 2000.

3. Eligible hydroelectric facilities are defined in the Green-e Energy National Standard ([http://www.green-e.org/getcert\\_re\\_stan.shtml](http://www.green-e.org/getcert_re_stan.shtml)) and include facilities certified by the Low Impact Hydropower Institute (LIHI) ([www.lowimpacthydro.org](http://www.lowimpacthydro.org)); facilities that are run-of-the-river hydropower facilities with a total rated nameplate capacity equal to or less than 5 MW; and facilities comprised of a turbine in a pipeline or a turbine in an irrigation canal.

For comparison, the average (2002-2006) mix of energy sources supplying the US includes: Coal (49%), Nuclear (20%), Oil (3%), Natural Gas (18%), Large Hydroelectric (7%), Other Fossil (1%), and Renewables (2%). (from U.S. Department of Energy/Energy Information Administration)

The average home in the United States uses 900 kWh per month. [Source: U.S. EPA]

For specific information about this REC product, please contact AEP Energy, (866) 258-3782, [www.AEPenergy.com](http://www.AEPenergy.com).



Green-e Energy certifies that AEP Energy meets the minimum environmental and consumer protection standards established by the non-profit Center for Resource Solutions. For more information on Green-e Energy certification requirements, call 1-888-63-GREEN or log on to [www.green-e.org](http://www.green-e.org).





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## TERMS & CONDITIONS

### CONSTELLATION ENERGY TERMS AND CONDITIONS OF SERVICE OHIO RESIDENTIAL COMPETITIVE RETAIL ELECTRIC SERVICE COMPETITIVE RETAIL ELECTRIC SERVICE PROVIDER CERTIFICATE NUMBER 00-0003E(6).

#### Purchase of Retail Electric Service

Constellation NewEnergy, Inc. ("Constellation Energy") agrees to sell, and you agree to buy, your full requirements for residential retail electric service at the price and on the terms and conditions specified in this agreement (the "Contract"). Price and other terms of this Contract are subject to change as provided below. Constellation Energy reserves the right to revoke its electricity offer for any reason at any time prior to your acceptance of this Contract. Throughout this Contract, the words "you" and "your" refer to the customer who has signed this Contract. The words "we", "us" and "our" refer to Constellation Energy. Constellation Energy is an independent seller of retail electric service certified by the Public Utilities Commission of Ohio and is not representing or acting on behalf of the electric utility responsible for your service territory, i.e. Cleveland Electric Illuminating ("CEI"), Toledo Edison ("TE"), Ohio Edison ("OE"), Duke Energy ("Duke"), Ohio Power Company ("OPC"), or Columbus Southern Power Company ("CSPC") (as applicable, the "Utility") or any governmental bodies, consumer agencies or other groups. You will receive written notification from the Utility confirming a pending switch of your retail electric supplier.

#### Term

The initial term of the Contract will be 36 months (the "36 Month Plan") based on your election, beginning at the next meter read date after the Utility processes your enrollment (the "Effective Date"). Your switch to Constellation Energy as your alternative retail electric supplier may take up to 2 billing cycles to take effect.

#### Guarantee Period

You may terminate this Contract without incurring an early termination fee within 90 days after entering into it (the "Guarantee Period") by notifying the Utility that you would like to return to Utility service. You must also notify us in writing or by calling our customer care center at 1-877-997-9995. Upon your termination of this Contract during the Guarantee Period, we will return you to being supplied by the Utility at your next available meter read date and you will remain responsible for payment for electricity and related costs and charges incurred under this Contract through such meter read date. Any incentives we may offer in connection with you entering into this Contract will be provided to you after the Guarantee Period has expired without you terminating our Contract.

#### Fixed Pricing

By choosing the 36 Month Plan, your price for power and energy service will be 7.99 cents per kilowatt-hour (kWh) plus all applicable taxes from the Effective Date through the meter read date 36 months after the Effective Date. While we will supply your competitive retail electric service, your Utility will continue to provide distribution and related services necessary to deliver electricity to you.

#### Participation in PIPP and Credit Arrearage Programs

Participation in the Percentage of Income Payment Program ("PIPP") administered by the Ohio Department of Development or a credit arrearage program administered by your Utility may affect your eligibility to take service from a competitive retail electric service provider. **You represent that you are not currently approved for or enrolled in PIPP or any such Utility program.** If you become approved for either the PIPP or your Utility's arrearage crediting program while taking service under this Contract, you must advise us and your Utility in writing in order to be switched to the Utility's standard offer service after the next meter read date.

#### Other Pricing Terms

The fixed price charged for retail electric service under this Contract reflects competitive market conditions, was not set or approved by the Public Utilities Commission of Ohio and does not include any applicable taxes or Utility fees or charges. We will not charge you a fee for entering into this Contract, but the Utility may charge you a switching fee to switch your retail electric service. We will not charge you a fee for terminating this Contract at the end of the then-applicable Contract term as provided in the "Term" and "Renewal" sections. Under certain other circumstances, you may be responsible for payment of an early termination fee as provided in the "Termination" section below.



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## Rescission

The Utility will provide you an enrollment confirmation notice and such notice will inform you of your rescission rights. You have the right to rescind this Contract within seven (7) calendar days following the postmark date on the Utility's enrollment confirmation notice either by (i) calling the Utility at the designated toll-free or local telephone number provided on such notice or (ii) providing written notice to the Utility to the address provided in the notice. Your written rescission notice will be effective as of the postmark date. If you make such a request to rescind our Contract within that timeframe, your enrollment with Constellation Energy will be cancelled and you will not incur an early termination fee. Upon rescission in accordance with applicable law, this Contract is cancelled and neither party shall have any further obligation.

## Price Comparison

Please note that the Utility's standard offer rates likely will change from time to time and therefore Constellation Energy cannot guarantee savings compared to the Utility's standard offer rates during the term of this Contract or any renewals. If savings were promised to you, such savings were calculated against the Utility's standard offer Residential Service ('R-R' rate for CSPC; 'RS' rate for all others) as of the date of this offer. You acknowledge that we have disclosed to you the basis of this comparison prior to entering into this Contract and that any savings we show are not guaranteed for the entire term of this Contract or for any renewals.

## Renewal

**THIS CONTRACT WILL AUTOMATICALLY RENEW AS DESCRIBED IN THIS SECTION. IN ORDER TO CANCEL BEFORE AN AUTOMATIC RENEWAL OF THIS CONTRACT, PLEASE NOTIFY US IN WRITING OR BY PHONE AS DESCRIBED IN THIS SECTION.** Unless terminated earlier as provided in the "Termination" section, not fewer than 45 days nor more than 90 days prior to the expiration date of the then-current term of this Contract, Constellation Energy will provide a first written notice to you of this Contract's upcoming renewal. We will provide a second written notice to you not less than 35 days prior to expiration of the then-current term of this Contract. The second contract renewal notice will set forth the proposed Fixed Price for the renewal term, the proposed length of the renewal term, the bill cycle in which service under the new term will begin and any other proposed changes to the terms and conditions of this Contract. **UNLESS YOU NOTIFY US IN WRITING OR BY CALLING US AT 1-877-997-9995 WITHIN 30 DAYS AFTER THE DATE YOU RECEIVE THE SECOND CONTRACT RENEWAL NOTICE THAT YOU DO NOT DESIRE TO RENEW THIS CONTRACT, YOU WILL BE DEEMED TO HAVE IRREVOCABLY AND UNCONDITIONALLY AGREED TO RENEW THIS CONTRACT ON THE TERMS AND CONDITIONS SET FORTH IN THE RENEWAL NOTICE.**

## Initiation of Service

**THE PURPOSE OF THIS DOCUMENT IS TO AUTHORIZE CONSTELLATION ENERGY TO CHANGE YOUR COMPETITIVE RETAIL ELECTRIC SERVICE SUPPLIER AND, BY ENTERING INTO THIS CONTRACT, YOU AUTHORIZE CONSTELLATION ENERGY TO UNDERTAKE WHATEVER STEPS MAY BE NECESSARY TO ACCOMPLISH YOUR SWITCH.** Constellation Energy will begin providing retail electric service to you on the next applicable meter read date after the Utility processes your enrollment and your service will continue throughout the term of this Contract. The Utility will notify you of the date on which your retail electric service from Constellation Energy will begin. Constellation Energy's retail electric service will be delivered to your residence using the Utility's electricity distribution wires. You represent and warrant that the retail electric supply being purchased under this Contract is to be used solely for residential purposes. Constellation Energy's obligations under this Contract are conditioned on you providing complete and accurate information and on you remaining a Utility distribution customer eligible for consolidated billing throughout the term under residential electric rate class "RS".



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## Billing and Payment

Your Utility will provide a consolidated bill that will include both Utility charges and Constellation Energy's charge for competitive retail electric service. Charges for your retail electric service will be due and payable when your Utility bill is due at the billing address provided in your Utility bill. You acknowledge that the Utility may provide us with your billing and payment information. You will be invoiced for Constellation Energy's charges under this Contract at the applicable price set forth in the "Fixed Pricing" section above (or, during any renewal period, under any revised price, terms and conditions as may be established as described in the "Renewal" section above) multiplied by your electricity usage as measured by the Utility in kWh during the applicable billing period. You agree to accept the measurements as determined by the Utility for purposes of accounting for the amount of power and energy services provided by us under this Contract. If the Utility is unable to read your meter, the Utility will estimate your usage and your charges will be calculated accordingly and adjusted on a future bill. Supplying you under this Contract is conditioned on the Utility accepting our enrollment of your account for consolidated billing by the Utility. If you are not eligible for consolidated billing, you need to remedy that restriction with the Utility before we can serve you. Should the Utility cease providing consolidated billing for your account and/or commence billing us for any charges relating to you, we will bill you and you will pay us for all such charges. You will be billed additional charges, including taxes and charges to transmit and distribute the electricity to your home, from the Utility consistent with its filed tariffs. You are responsible for paying any new or increased taxes, fees or other charges imposed on us or you in connection with our supply of electric generation to you during the term of this Contract. We will notify you if any new or increased taxes, fees or other charges are imposed. Constellation Energy reserves the right to change billing methods.

## Average Monthly Payment

We are offering Average Monthly Payment for our charges in addition to the Budget Billing offered by the Utility for Utility charges. You may elect Average Monthly Payment at any time by contacting our customer care department as long as you are not past due on your payments and are eligible for Utility consolidated billing. Average Monthly Payment allows you to pay your amounts due to us based on a daily average calculation of your prior months' charges by dividing your actual charges by the number of days in your invoice periods. More specifically, for each billing period we serve you we will determine a daily average charge by dividing our total actual charges for that period by the number of days in such billing cycle. When calculating your current bill we add up all daily average charges available for the last 24 billing cycles (including for the current month) and divide that amount by the number of billing months to determine the current daily average charge. We then multiply that current daily average charge by the number of days in the current billing cycle to determine your current bill amount. We will true up your account based on your actual charges upon termination of service or if you wish to discontinue Average Monthly Payment. We also reserve the right to true-up your charges if we materially over- or under-collected amounts payable to us. For more information or to sign-up on Average Monthly Payment, contact our customer care center at 1-877-997-9995.

## Late or Insufficient Payment

When the Utility issues you a consolidated bill, all invoiced balances under this Contract that are not paid in full by the due date will be subject to the Utility's late payment policies and procedures. If Constellation Energy directly invoices you, you are required to pay our invoices by the due date set forth in the invoice, which will be 20 days from the date the invoice was mailed. We reserve the right to charge you interest for any past due invoice amount at 1.5% per month or the highest amount permissible under applicable law, whichever is less. In addition, you agree to pay us our costs incurred in collecting amounts owed us, including reasonable attorney's fees and returned check charges. If you make a payment for an amount less than the total amount due, we may accept such payment without prejudice to any other rights or remedies that we may have against you and we may apply it to your account(s) as a partial payment. In addition, if you fail to remit payment in a timely fashion, you authorize us to report the delinquency to one or more credit-reporting agencies.

## Credit

Constellation Energy reserves the right to determine if your credit standing is satisfactory for originating or continuing retail electric service under this Contract. Consistent with applicable law, Constellation Energy uses uniform income, deposit and credit requirements in determining whether to offer service to our customers. You hereby authorize Constellation Energy to perform a credit check on you.



## Termination

Constellation Energy may terminate this Contract upon at least 14 days prior written notice to you for any non-payment or the occurrence of a Force Majeure event as described in this Contract. If we terminate this Contract as a result of any non-payment, you will be charged a termination fee of \$25.

You may terminate this Contract without an early termination fee if we are no longer able to serve you or if you move into a service area where we are able to serve you at a price different than the agreed-upon price in this Contract. You may also terminate this Contract during the Guarantee Period in accordance with the "Guarantee Period" section above without incurring an early termination fee. In all other cases, if you terminate this Contract prior to the end of the applicable term, other than upon 14 days prior written notice due to our material breach, you will be charged a termination fee of \$25.

Upon any termination of this Contract, you will return to receiving standard offer service from the Utility unless you have selected another competitive retail electric service provider. The effective date of any termination will be the next applicable meter read date after expiration of the required notice period. Upon any termination, you will remain responsible for all obligations, including payment for electricity and related costs and charges incurred under this Contract prior to the effective date of termination including any applicable termination fee. The delivery of electricity to you cannot be terminated or interrupted by the Utility as a result of any dispute between you and Constellation Energy but may be terminated by the Utility for nonpayment of Utility charges in accordance with the Utility's tariff. The Utility will continue to respond to any service calls and emergencies and switching to Constellation Energy will not impact your electric service reliability. If the Utility purchases the right to receive your payments under this Contract, your payment obligations may become Utility charges for purposes of termination of service.

## Assignment, Address Change

Constellation Energy may assign, subcontract or delegate all or any part of our rights and/or obligations under this Contract, including your payment obligations under this Contract, without your consent after providing any notice required by applicable law. You may not assign any of your rights or obligations under this Contract without our prior written consent. If you move, you may terminate our Contract without incurring an early termination fee, but you will be responsible for paying for all electricity supplied to your old address until the date this Contract is terminated in accordance with its terms. If you move within the Utility's service territory, you must contact the Utility (please reference "Contact Information" for toll free numbers) in order to obtain new account and meter numbers for your new residence. Please contact us if you would like us to serve you again at your new location.

## Change in Pricing and Other Terms

In addition to Constellation Energy's right to revise the price, terms and conditions of this Contract as provided in the "Renewal" section above, this Contract may be revised at any time by Constellation Energy upon the occurrence of any event beyond its reasonable control that materially increases the obligations of Constellation Energy or the cost of performing such obligations under this Contract. If we request such a change, Constellation Energy will provide you notice of the changed prices and/or terms and conditions and you will have an opportunity to terminate this Contract without any further obligation by notifying us in writing within 30 days after the date of the notice of the new prices and/or terms and conditions, in which case your retail electric service will terminate effective as of the next meter read date after expiration of the required notice period. You will remain responsible for any unpaid balance as of the termination date but we will not assess a termination payment.

## Information Release Authorization

Throughout the term, you authorize Constellation Energy to obtain information from the Utility that includes, but is not limited to, account name, account number, billing address, service address, telephone number, standard offer service type, historical and future electricity usage, rate classification, meter readings, characteristics of electricity service and, when charges hereunder are included on your Utility bill, billing and payment information from the Utility. You authorize Constellation Energy to release such information to third parties that need to know such information in connection with your retail electric service and to Constellation Energy's affiliates and subcontractors. These authorizations will remain in effect as long as this Contract is in effect. You may rescind these authorizations at any time by either calling or providing written notice to us at the number and/or address provided below under the Contact Information section of the Contract. We reserve the right to reject your enrollment or terminate this Contract in the event these authorizations are rescinded. We are prohibited from disclosing your social security number and/or account number(s) without your affirmative written consent except for our collections and credit reporting, participation in programs funded by the universal service fund, pursuant to Ohio Revised Code Section 4928.52, or assigning your contract to another competitive retail electric service provider.





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## Dispute Resolution

If you have a billing or other dispute involving our service, please contact us at 1-877-997-9995. You must still pay your bill in full, but may deduct the specific amount in dispute while the charges remain in dispute. If your complaint is not resolved after you have called us or the Utility, or for general Utility information, you may contact the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) or for TTY at 1-800-686-1570 (toll free), from 8:00 a.m. to 5:00 p.m. weekdays, or at [www.puco.ohio.gov](http://www.puco.ohio.gov). You may also contact the Ohio Consumers' Counsel for assistance with complaints and utility issues at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at [www.pickocc.org](http://www.pickocc.org).

## Limitation of Liability; Jury Trial Waiver

You agree that neither Constellation Energy nor any of its affiliates or subcontractors will be liable for any damages or claims for matters within the control of the Utility or the ISO-controlled electricity grid, which include maintenance of electric lines and systems, service interruptions, loss or termination of service, deterioration of electric services, meter readings or injury to persons or damage to property caused by the delivery or supply of electricity. Neither Constellation Energy nor any of its affiliates or subcontractors will be responsible for any failure to commence or terminate retail electric service on the date specified herein due to any failure or delay in enrolling you with the Utility. Constellation Energy's liability will be limited to direct actual damages only, which will not exceed the amount of your single largest monthly invoice during the preceding 12 months. In no event will Constellation Energy or any of its affiliates or subcontractors be liable for any punitive, incidental, consequential, exemplary, indirect, third-party claims or other damages whether based on contract, warranty, tort, negligence, strict liability or otherwise, or for lost profits arising from any breach or nonperformance of this Contract. BOTH YOU AND CONSTELLATION ENERGY AGREE IRREVOCABLY AND UNCONDITIONALLY TO WAIVE ANY RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION, SUIT OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS CONTRACT OR THE TRANSACTIONS CONTEMPLATED BY THIS CONTRACT.

## Force Majeure

We do not transmit or deliver electricity and causes and events out of our reasonable control ("Force Majeure Events") may result in interruptions in service. We will not be liable for any such interruptions or any other failure to perform under this Contract caused by a Force Majeure Event. We are not and will not be liable for damages caused by Force Majeure Events, including but not limited to acts of God; acts of any governmental authority; accidents; strikes; labor disputes; required maintenance work; inability to access the Utility's system; non-performance by the Utility, including, but not limited to, a facility outage on its distribution lines; changes in laws, rules or regulations of any governmental authority; or any cause beyond our reasonable control.

## Miscellaneous

Except with respect to Constellation Energy's affiliates and subcontractors under the "Limitation of Liability; Jury Trial Waiver" section, there are no third party beneficiaries of this Contract. Any payments due under this Contract, all provisions relating to the payment and collection thereof, and the provisions contained in the "Limitation of Liability; Jury Trial Waiver" section above, will survive expiration or termination for any reason. This Contract constitutes the entire agreement between you and Constellation Energy. No statement, promise or inducement made by either party not contained in this Contract will be valid or binding. Any reference to days or periods will mean calendar days. You have the right to request from Constellation, twice within a twelve-month period, up to twenty-four months of your payment history without charge.



## Contact Information

CONSTELLATION NEWENERGY, INC.'S OHIO COMPETITIVE RETAIL ELECTRIC SERVICE PROVIDER CERTIFICATE NUMBER IS 00-0003E(6). Should you have any questions about your Constellation NewEnergy contract or Constellation NewEnergy charges on your invoice, please contact us between the hours of 7:00 a.m. and 7:00 p.m. central time on weekdays, except holidays. Our toll-free number is 1-877-997-9995. We can be reached by email at: [home@constellation.com](mailto:home@constellation.com) or by mail at: Constellation NewEnergy, Inc., c/o Residential Care, 1221 Lamar Street, Suite 750, Houston, TX 77010. You may also visit us at our website: [www.home.constellation.com](http://www.home.constellation.com). Please contact us at this address to provide all notices under this Contract and contact us at this address or phone number to resolve any disputes regarding this Contract.

For emergencies relating to your service, such as a power outage, please call your local Utility at:

	The Illuminating Company	Ohio Edison	Toledo Edison	Duke Energy	Columbus Southern Power	Ohio Power
<b>Emergencies</b>	1-888-544-4877	1-888-544-4877	1-888-544-4877	1-800-543-5599	1-800-672-2231	1-800-672-2231
<b>Customer Service:</b>	1-800-589-3101	1-800-633-4766	1-800-447-3333	1-800-544-6900	1-800-672-2231	1-800-672-2231

The Public Utilities Commission of Ohio toll free number is 1-800-686-7826 and their website address is [www.puco.ohio.gov](http://www.puco.ohio.gov).

## Constellation Refer A Friend Program Terms & Conditions

This Refer-A-Friend Program ("Program") pertains to Constellation NewEnergy, Inc., Constellation Energy Power Choice, Inc., Constellation Energy Gas Choice, Inc., and BGE HOME Products & Services, LLC doing business as Constellation (collectively "Constellation") residential electricity or natural gas supply customers referring other residential electricity or natural gas supply customers to Constellation. Your participation in this Program is subject to these Program Terms & Conditions.

### Program Summary

This Program is available to our current residential electricity supply customers that have an active account with us and are current on all payments owed to us (each a "Referrer"). Constellation will reward Referrers through issuance of Constellation Visa® Prepaid Card in the amount of \$50 for each Qualified Referral (as defined below) or in the form of bill credits or other equivalent consideration as detailed below. This Program cannot be combined with other reward programs or special offers. Void where prohibited.

### Term/Termination

This Program is effective through December 31, 2014 unless terminated earlier by Constellation. We may terminate your participation in this Program or cancel this Program at any time in our sole discretion, but these Program Terms & Conditions will continue to apply to Qualified Referrals made prior to such termination or cancellation unless your participation is terminated because of a violation of these Program Terms & Conditions. Failure to comply with any of these Program Terms & Conditions or any fraud or abuse relating to the accrual of rewards under the Program by you or anyone acting on your behalf may result in the immediate termination of your membership in the Program, cancellation of your Program account and/or forfeiture of any outstanding Program rewards. In the event of any fraud, misconduct, or suspected fraud or misconduct by you or anyone acting on your behalf or under your password, Constellation reserves the right to suspend access to your account indefinitely pending investigation.

### Qualified Referrals

"Qualified Referral" is any residential customer located in a state where we provide residential electricity or gas supply that (i) is not currently enrolled or under contract with Constellation or otherwise supplied by us, (ii) satisfies our enrollment requirements, (iii) enrolls with us for residential electricity supply, (iv) provides your valid Referral Code upon enrollment, (v) continues to receive residential electricity supply from us for at least 60 consecutive calendar days and (vi) has made payment in full of any bills due to Constellation. Each Qualified Referral may only be credited to a single Referrer. By participating in this Program, you agree that we will make the final determination whether anyone you refer to us meets all requirements to be considered a Qualified Referral.



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## Rewards

The maximum cash or cash equivalent rewards that you may earn through this Program and other promotions offered by us is \$575 per calendar year. For any amounts in excess thereof we will issue you a non-refundable bill credit on your current residential supply agreement with us, which bill credit for any given month shall not exceed the amounts payable to us. We reserve the right to provide you with an alternative to our Constellation Visa® Prepaid Cards or bill credits such as a gift card or other form of consideration of equal value.

## Account

As a Constellation customer you have the opportunity to access some of the data regarding your referrals and rewards through our online portal. This portal allows you to log in and view your current plan details, the status of your referrals (note: referral status is only available after a Qualified Referral has enrolled with us – statuses are either successful, unsuccessful or pending), view and track annual potential rewards, and share your unique referral code or link with friends and family.

## Changes

We reserve the right at any time and in our sole discretion to cease to proceed with all or any part of this Program or to alter, change, modify or assign the terms or content of this program. If any of the Program Terms & Conditions are changed or amended in any way, we will promptly publish such variation or amendment on our website at [home.constellation.com](http://home.constellation.com). It is your responsibility to check the Terms & Conditions page of the Program website regularly to determine whether these Terms & Conditions have been modified. If you do not agree to any modification of these Terms & Conditions, you must immediately cease participation in the Program. All previous Program offers will no longer be valid with respect to any Qualified Referrals made after the date of such change. Bill credits or other payment amounts are subject to change at any time, and such changes will apply to Qualified Referrals made after the date of such change. Additional restrictions may apply.

## Confidentiality

In connection with your participation in this Program, you may receive confidential and proprietary information from us, including sensitive customer data, which you agree to keep confidential and not to disclose to any third party except as necessary in connection with your participation in this Program. You also hereby authorize us to release any such information regarding your account to someone referred by you as necessary to enroll such potential customers with us. It is your responsibility to keep the access codes we provided for your account confidential.

## Referral Communications; Guidelines on Endorsements and Testimonials

We are providing you with tools to share your referral code and link with your friends and family, as well as suggested language to use when making such referrals. You are not authorized to make any other marketing claims, including claims of savings or the nature of Constellation service, as part of this Program. Any communications that you do make in connection with referrals must be honest and accurate. As part of your participation in the Program, you understand and agree that you are responsible for making truthful and accurate statements in connection with any referrals, and can be held liable for any false or misleading statements you make. You must disclose in any referral communication the fact that you are a Constellation customer, and that you may receive a \$50 reward for any successful referral.

Any emails that you send under the Program must comply with federal CAN-SPAM Act requirements. The tools we have provided to allow you to share your referral code or link include the information required under the CAN-SPAM Act, and allow us to honor recipient opt-out requests as required by the Act. You understand and agree that you are not permitted under the Program to send out emails or share your code or link through other social media other than through the tools provided by us.

You are solely responsible for complying with the requirements of this section, and we will not be responsible for your failure to do so. Failure to comply with these requirements will result in immediate termination of your Program participation and forfeiture of any remaining Program credits. In addition, you will be responsible for any resulting damages.

## Independent Contractor Relationship

You acknowledge and agree that nothing herein authorizes you to act on our behalf nor on behalf of our parents and affiliates and that nothing herein shall be construed to constitute a or imply a joint venture, employer-employee relationship, partnership or association between you and us, our its parent or their respective affiliates. You acknowledge that you enrolled in this Program at your own risk and as an independent contractor.



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## **Indemnification**

By participating in this Program, you agree to indemnify and hold harmless Constellation, its parent and their respective affiliates from and against any and all damages, costs, expenses, claims or liabilities of any kind, including third party claims, whether pending or threatened, including without limitation, reasonable attorneys' fees and court costs, incurred by any of them arising out of or related to your participation in this Program or breach of these Program Terms & Conditions.

## **Warranty Disclaimers; Limitation of Liability**

YOU EXPRESSLY AGREE THAT YOUR PARTICIPATION IN THE PROGRAM IS AT YOUR OWN RISK. THE PROGRAM IS MADE AVAILABLE TO YOU ON AN "AS IS" BASIS WITHOUT WARRANTY OR ANY KIND, EXPRESS OR IMPLIED. NEITHER CONSTELLATION, ITS PARENT OR ANY OF THEIR AFFILIATES, THROUGH THESE PROGRAM TERMS & CONDITIONS, MAKES ANY WARRANTY REGARDING THE PROGRAM, AND WE EXPRESSLY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL CONSTELLATION, ITS PARENT OR ANY OF THEIR AFFILIATES BE LIABLE FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES OR DAMAGES FOR LOSS OF PROFITS, REVENUE, USE, OR DATA AS A RESULT OF CLAIMS, WHETHER BROUGHT IN CONTRACT OR TORT, ARISING OUT OF OR CONNECTED WITH THESE PROGRAM TERMS & CONDITIONS OR THIS PROGRAM, EVEN IF CONSTELLATION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **Acceptance and Jurisdiction**

By participating in the Program, you agree that you have read, understand and will abide, and be bound, by these Program Terms & Conditions. These Program Terms & Conditions shall be governed in all respects in accordance with the laws of the State of Maryland without regard to the conflict or choice of law rules thereof. The federal and state courts located in Baltimore, Maryland shall have exclusive jurisdiction over any dispute arising hereunder and by participating in this Program you consent to same.

## **General**

You may not assign the right to participate in this Program to any other party. We may assign these Program Terms & Conditions or assign or delegate any of our rights or responsibilities hereunder to independent contractors or other third parties. We shall not be deemed to have waived any of our rights or remedies hereunder unless such waiver is in writing and executed by our authorized representative. No delay or omission by us in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies.



## Electricity Supply Agreement with North American Power and Gas, LLC

### Customer Disclosure Statement and Terms of Service

Retain a copy for your records.  
Version 1

Customer is fully authorized to enter into this Agreement for North American Power and Gas, LLC ("NAP") to supply generation supply services ("Supply Service") to Customer electric account, subject to eligibility requirements of Customer Utility (each "Utility" being as specified in Customer's Enrollment Form or Welcome Letter) and acceptance by NAP. This Agreement authorizes NAP to commence Supply Service and switch Customer's supply of electricity from the Utility or another Certified Retail Electric Supplier ("CRES"). Customer affirms that Customer is not currently enrolled in the Percentage of Income Payment Program and is not a member of a government aggregation program. Customer further affirms that Customer is not currently in arrears or default on Customer's bill with Customer's Utility. The Customer Disclosure Statement and Terms and Conditions, together with applicable Enrollment Form and/or Welcome Letter, and any Renewal Notice (if applicable) constitute your entire Generation Supply Agreement ("Agreement") with NAP and supersede any oral or written statements made in connection with this Agreement or Customer Supply Service. "We", "us" or "our" refers to NAP, and "Customer", "you" or "your" refers to the Customer identified on the Enrollment Information Form.

This Agreement is subject to the following terms and conditions:

**Eligibility** –This Agreement is available to Customers receiving service under the Utility's residential rates (Residential Customers) who do not participate in the Percentage of Income Payment Plan.

**Nature of the Services** - Upon the effective date of this Agreement, NAP agrees to provide electric generation supply, as specified in the Customer Disclosure Statement). In return, the Customer agrees to receive and pay for that Service.

**Term** - This Agreement becomes effective upon expiration of the rescission period described in the **Right to Rescind** section of this Agreement and shall continue, subject to the provisions of this Agreement, for the term indicated in the Customer Enrollment Form or Welcome Letter (Initial Term), unless and until the Agreement is renewed. Service will commence with the first meter reading after the Utility processes your enrollment. After the Initial Term this Agreement shall continue on a month to month basis.

**Right to Rescind** - You can rescind your acceptance of this Agreement with no penalty within seven (7) calendar days from the postmark date on the confirmation notice that will be sent to you by the Utility. Rescissions may be made to the Utility in writing or by telephone by contacting the Utility as provided in the confirmation notice.

**Price** - The price to Customer for Supply Service received under this Agreement during the Initial Term is stated in the Customer Enrollment Information Form or Welcome Letter. For any price plan selected, Customer will incur additional service and delivery charges from the Utility. Each month Customer's bill will be calculated by multiplying (i) the rate of electricity per kWh (ii) the amount of electricity used in the billing cycle plus (iii) applicable taxes, fees, and charges levied by the Utility for generation supply and other services. Rates for any of the plans listed below may be higher or lower than Utility's rate in any given month.

#### **Fixed Price Options**

- **Fixed Rate Plan.** If Customer has chosen a Fixed Rate product, Customer Price per kWh is guaranteed not to change during Initial Term. Following the end of the Initial Term, and unless an alternative pricing provision is negotiated between the Parties, the Price for Service shall thereafter be variable month to month Agreement.

#### **Variable Price Options**

- **Variable Rate Plan.** If Customer has chosen a variable rate product, Customer Price per kWh will be established and vary each month, based upon such factors as, based upon numerous factors, including but not limited to the costs incurred by NAP to provide the Service, through procurement in RTO-administered and/or other short-term markets, as well as the costs for supply and associated products that NAP requires to meet

your electric generation supply requirements (including, without limitation, energy, imbalance energy, losses, capacity, transmission, ancillary services, alternative and renewable energy requirements, other RTO charges, taxes and any other required products or services). If Customer's Utility pro-rates between months, if a billing cycle spans across more than one month, Customer's Utility will apply the Variable Rates pro-rated based on the Utilities billing methodology. The Variable Rate will be set in NAP's discretion and may vary from month to month based on NAP's assessment of applicable market conditions, and publicly available data and indices, historic and projected supply and hedging costs, prior months pricing and balancing costs, projected average customer bill amounts and Utility pricing. Customer Variable Price may be higher or lower than the price offered in the initial or any following months while NAP is providing Supply Service. Savings are not guaranteed. Customer may contact NAP at its contact information to obtain previous months rates. At any time, Customer may ask NAP to convert Customer rate plan from Variable to Fixed at NAP's then current Fixed Rate, if available.

- **Variable Rate with Introductory Period.** If Customer has chosen a Variable Rate Plan with an Introductory Period, Customer introductory electric generation supply rate is set forth in Customer's Enrollment Form or Welcome Letter (the "Introductory Rate"). At the end of the Introductory Period, Customer's rate will be a Variable Rate as described above.

**Electronic Notices** - If Customer signed up for NAP service online (at the NAP website) and/or consented online during the enrollment process to electronic service of all notices, including but not limited to, terms of service, welcome letter, environmental disclosure labels, late notices, termination notices, invoices and any other notices and/or disclaimers. All documents, with the exception of any notice (including Renewal Notice) that is required by PUCO regulations to be mailed in paper form, will be electronically sent to the e-mail address provided by Customer to NAP and not mailed in paper form to the Customer's address on file ("regular mail"). It is the Customers continuing obligation to ensure that the e-mail address on file with NAP is kept up to date. Should the Customer require that a paper copy of any of these items be sent to them by regular mail, one will be so provided by NAP upon Customer's request. Should the Customer opt to receive all of these items by regular mail, the Customer can do so by contacting NAP at its contact information in this Agreement.

**Billing and Payments** - For each account, you will receive one monthly bill from the Utility with its charges and our charges, and you will continue to pay your bill following the Utility's billing and payment policies. We do not offer budget billing or summary billing for Service under this Agreement. If Customer currently pays under the budget bill payment plan of the Utility, this service may remain available. The Utility's charges include distribution (delivery) service and all non-bypass able charges of the Utility that are approved by the Public Utilities Commission of Ohio (PUCO). If you have any questions regarding the Utility charges, please contact them directly. Failure to pay the Utility charges may result in disconnection as provided for in the Utility's tariff. If you do not pay your bill on time, you may incur late fees. You may also forfeit your ability to choose another Certified Retail Electric Supplier until arrearages are paid. In addition, we may require reasonable credit assurance as provided in Section 8 of this Agreement. We may cancel this Agreement upon fourteen (14) days written notice for non-payment and automatically return you to the Utility's standard offer service. NAP reserves the right to issue an invoice to Customer directly. Such a direct invoice would include NAP's Supply Service price and may also contain applicable taxes. If NAP bills Customer and if Customer does not pay Customer's bill on time, NAP may charge Customer a late payment fee, not in excess of the rate charged by the Utility, and collection costs incurred due to Customer's late payment or non-payment. All returned checks will be subject to the maximum fee allowed by law. If Customer fails to pay Customer's bill or meet any agreed upon payment arrangements, Utility may terminate Customer's Supply Service in accordance with any applicable Utility's tariffs, and Customer's Agreement with NAP may be automatically terminated, leading to an early termination fee (if applicable). Utility may charge Customer switching fees if Customer changes Customer's CRES during the term of this agreement. Until the cancellation or termination of this agreement becomes effective, Customer agrees to pay for any electricity NAP supplied to Customer. Upon Customer's request, NPA will timely provide Customer's payment history for up to twenty-four months of electric supply service to Customer without charge.

**Contract Renewal; Notification of Change;** – At the expiration of the Initial Term, this Agreement will continue month-to-month at the then current market based

**competitive variable price until cancelled by either party on more than 15 days written notice.** If NAP materially changes its terms and conditions other than variable market-based pricing, NAP must receive customer's affirmative consent not less than 30 days or more than 60 days prior to the new terms taking effect. You are responsible for arranging your electric supply upon the expiration or termination of this Agreement.

**Contract Cancellation** Customer may terminate this Agreement after the recession period, by contacting NAP at its contact information listed in the Contact Us section of this Agreement. There is no early termination fee charged under a Variable Rate Plan. If the Customer enrolled in a Fixed Rate Plan and terminates this contract prior to the expiration date of the Initial Term, or subsequent Renewal Term of this Agreement, the Customer will be charged an early termination fee of ten dollars (\$10.00) per month for each month remaining on the Agreement. This Agreement will automatically terminate without penalty if I move and the requested service location is not served by the Utility, or if I move to an area not served by NAP; otherwise, I can contact the Utility at least thirty (30) days prior to moving and request a service transfer within the Utility service area. This Agreement will also automatically terminate without penalty if NAP takes action to return me to the Utility's sales service in accordance with this Agreement. If the PUCO, the Utility, or the Independent System Operator ("ISO") decides to end or change the program, including any change in governing law or regulation under which NAP purchases power in any manner that physically prevents or legally prohibits NAP from performing under the terms of this Agreement, NAP may also cancel this contract on fourteen (14) days advance written notice.

**Credit and Deposit** - Prior to the acceptance of this Agreement by NAP, we may conduct a credit check to determine your initial creditworthiness. You consent to said credit check and agree that if you do not satisfy our credit standards, we may request reasonable credit assurance to accept this Agreement, which may include requiring a deposit based on 60 days of NAP estimated charges. No interest will be paid on a required deposit. In addition, we may require reasonable credit assurance if you do not pay your bill on time. Any cash deposit will be allocated to any balance owed to us at the time of your final bill with NAP charges, and any remaining amount will be returned to you.

**Actions of Governmental and Regulated Entities** – If action is taken by the Utility, applicable regional transmission organization, transmission provider, or any federal, state or local governmental authorities which materially changes the amounts charged by such entities to us or charged by such entities to our wholesale supplier and charged to us, or which materially changes the manner in which we provide Service to you, we may, in our sole discretion, elect to adjust the price for Service under this Agreement to account for any such cost increases or other changes.

**Environmental Disclosure** - Our environmental disclosure information is provided with this Agreement and is shown at our website.

You agree that we may make required quarterly updates electronically at our website. We will also provide the information to you at no charge upon request.

#### **Contact Information**

**Contact Us** - You can reach us:

- By mail at 20 Glover Avenue, Norwalk, CT 068510
- By telephone toll-free at 1-888-313-9086
- Internet: [www.napower.com](http://www.napower.com)
- Our business hours are 9:00 AM to 5:00 PM Eastern Standard Time, Monday through Friday.

**Questions and Disputes** - If you have a complaint that is not resolved after you have called us and/or your electric Utility, or for general utility information you may contact the PUCO for assistance toll-free at 1-800-686-7826, from 8 AM to 5 PM, weekdays, or at [www.puco.ohio.gov](http://www.puco.ohio.gov). Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio Relay Service). The Ohio Consumers' Counsel (OCC) represents residential utility Customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at [www.pickocc.org](http://www.pickocc.org).

**Access To and Release of Information By NAP** - You agree that the Utility may provide us with any information we need to help us serve you, including your meter readings, billing records, consumption records, and projections. You also agree that we may provide Utility with a copy of this Agreement, and you authorize the Utility to treat a copy of this Agreement as the original during the term. We will not release your

account number or social security number without your written consent, except for our own credit and collection purposes, for permitted assignments of this Agreement or (as to your account number) for governmental aggregation, or as otherwise required by law.

**Successors and Assigns** – We may assign this Agreement to an affiliate or third party, in whole or in part, and will provide you with forty-five (45) days written notice of any assignment.

**Miscellaneous** - You have the right to request your Service payment history from us twice within a 12 month period for up to the 24 month period predating the request without charge. You may be charged a switching fee by the Utility, and if you switch back to the Utility you may not be served at the same rates, terms and conditions as other Utility customers. NAP will not separately charge a switching fee. You are solely responsible for any contract termination fees or other fees or damages assessed by any other competitive retail electric supplier. You authorize, but do not obligate us to exercise your government aggregation opt-out rights.

**LIMITATION OF REMEDIES, LIABILITY AND DAMAGES** - THE REMEDY IN ANY CLAIM OR SUIT BY YOU AGAINST US WILL BE LIMITED TO THE LESSER OF THE DIRECT ACTUAL DAMAGES, OR THE AMOUNT PAID TO US UNDER THIS AGREEMENT FOR THE SIX MONTH PERIOD PRIOR TO THE OCCURRENCE THAT GAVE RISE TO SUCH CLAIM. IN NO EVENT WILL NAP BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGES. UNLESS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, NORTH AMERICAN POWER PROVIDES AND CUSTOMER RECEIVES NO WARRANTIES, EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE AND NAP SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**Facsimile and Electronic Signatures** - This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all signatures delivered by facsimile and/or electronically shall be as effective as original signatures.

**My Electric Supply Contract with Interstate Gas Supply, Inc.**

FAEP-749-I12MV-RES-20140507

**Keep for your records**

<b>Term Box</b>	
<b>Utility:</b>	American Electric Power-Ohio ("AEP")
<b>Price Plan</b>	Fixed Rate
<b>Initial Term Price</b>	Standard Fixed Rate: 7.4900 cents per kilowatt hour (kWh).
<b>Initial Term</b>	The Initial Term of this Agreement will continue 12 months monthly billing cycles
<b>Renewal Term(s)</b>	Following the Initial Term, this Agreement will automatically renew month to month thereafter at a monthly variable price as described in the Renewal Price section of this Agreement
<b>Cancellation Fee</b>	For Residential Customer: None For Non-Residential Customers: \$25 per month remaining on my Initial Term

**Term:** The Initial Term of this agreement ("Agreement") between me the customer and Interstate Gas Supply, Inc. ("IGS Energy") will begin with the first billing cycle my enrollment or rate change is confirmed with AEP and will continue through the Initial Term stated in the Term Box. After the Initial Term, this Agreement shall renew as described in the Term Box. IGS Energy will supply the commodity portion of my electricity and AEP will continue to be my Electric Delivery Company ("EDC"). Within 3 business days of enrollment, IGS Energy will notify the EDC to transfer electric commodity services to IGS Energy. If I am currently an IGS Energy electric customer, IGS Energy reserves the right to reject or rescind this enrollment or to require me to pay the applicable cancellation fee for my existing electric service agreement to be eligible for this Agreement.

**Regulatory:** Competitive electric retail services ("CRES Program") are subject to ongoing Public Utilities Commission of Ohio ("PUCO") and AEP jurisdiction and I understand that if the CRES Program is terminated or materially altered, this Agreement may be terminated by me or IGS Energy without penalty. I also understand that if the EDC may, upon approval of the PUCO, charge a fee for switching to the CRES Program.

**Initial Term Price:** My Initial Term Price is as described in the Term Box. If I am, or have agreed to become, an IGS Energy natural gas customer in addition to being an IGS Energy electricity customer, I understand that my Initial Term Price may be a non-standard price ("Bundled Electricity Price") and may be available to me only because I am or have agreed to become an IGS Energy natural gas customer in addition to being an IGS Energy electricity customer. I also understand that if I cease to be an IGS Energy natural gas customer at any time during my Initial Term, IGS Energy reserves the right to discontinue my Bundled Electricity Price and revert me to a standard monthly variable rate as more fully described below in the Renewal Term Price section of this Agreement for the remainder of my Initial Term without further notice to me. I am responsible for, and my Initial Term Price does not include, applicable taxes and/or EDC charges, including service and delivery charges, which will be billed by the EDC.

**Renewal Term Price:** Following the Initial Term this Agreement will automatically renew as described in the Term Box without the need for my affirmative consent. During the Renewal Term(s) my price may change monthly, up or down, and will be calculated each meter reading schedule based upon costs which include, but are not limited to, energy, transmission, capacity, ancillary services, congestion management, renewable energy credits, ISO system fees, utility charges and other market price related factors, plus IGS Energy costs, expenses and margins. This monthly price does not include applicable taxes and/or EDC charges, including service and delivery charges. IGS Energy reserves the right to make changes to the terms of this Agreement, including price and pricing methodology and term for any Renewal Term(s). If changes are made to this Agreement notice will be made at least 30 days prior to the changes becoming effective. If I do not cancel the Agreement at that time this Agreement will continue under the revised terms thereafter, and such terms will become effective without my affirmative consent. IGS Energy reserves the right to lower my price at any time for any month or months and thereafter return my price to the last noticed price, without providing me with notice of either.

**Customer Rescission Period:** If I am a new customer to IGS Energy this Agreement may be rescinded by me with no cancellation fee by contacting the EDC in writing or by telephone at the number provided on the confirmation notice within 7 business days from the post-mark date of the confirmation notice sent by the EDC ("Rescission Period"). If I am an existing IGS Energy electric customer I will not receive a confirmation notice from the EDC but, in the event I decide to cancel this Agreement, I will be returned to my previous Agreement with IGS Energy without penalty under this Agreement.

**Cancellation:** I can cancel this Agreement by providing notice of not less than 30 days to IGS Energy or as otherwise provided in a renewal notice, subject to any applicable cancellation fee stated in the Term Box. Cancellation notices provided after the EDC deadline may result in an additional month(s) of service beyond the contract period at the new price, which I agree to pay, as the effective date of all cancellations are subject to EDC guidelines. I understand that if I switch my service to another supplier or back to the EDC an EDC switching fee may apply under the EDC's tariff and if I return to the EDC sales service I may not be served under the same rates, terms, and conditions that apply to other customers served the EDC.

**Contact and Dispute Resolutions:** In the event of a billing dispute or issues regarding volume or metering, I should contact the EDC at the number listed on their bill. For other questions or concerns about pricing, I can contact the IGS Energy choice department by phone weekdays from 8:00 a.m. to 8:00 p.m. ET at 877-915-4447, by fax 1-800-584-4839, in writing at P.O. Box 9060, Dublin, OH 43017, or through their web site at [www.IGSEnergy.com](http://www.IGSEnergy.com). Also, I can contact IGS Energy through e-mail at [choice@IGSEnergy.com](mailto:choice@IGSEnergy.com). If my questions or concerns or complaint are not resolved after I have called IGS Energy or my EDC, or for general utility information, residential and business customers may contact the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) or for TTY toll free at 1-800-686-1570 (toll free), from 8:00 a.m. to 5:00 p.m. weekdays, or at [www.puco.ohio.gov](http://www.puco.ohio.gov). The Ohio Consumer's Counsel ("OCC") represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) from 8 a.m. to 5 p.m. weekdays, or at <http://www.pickocc.org>

**Assignment:** This Agreement is assignable by IGS Energy without my consent subject only to required regulatory approvals. IGS Energy will use its best efforts to give the EDC and me thirty (30) days written notice prior to any assignment.

**Security Deposits:** Irrespective of whether my electricity supply charges are included in my EDC bill or billed separately by IGS Energy, IGS Energy reserves the right to require a security deposit as a condition of enrollment or, as described more fully below, during the term of this Agreement in the event I fail to pay for my electricity supply charges in a timely fashion.

**Billing:** For my convenience I will receive only one bill, which will be issued by the EDC each month and will contain IGS Energy's electric supply charge plus applicable taxes and all of the EDC's delivery and other applicable charges, including any late fees assessed by the EDC. I agree to continue to pay the EDC for the entire electric bill under the EDC's payment terms and conditions. If I fail to pay my bill within the EDC's payment terms IGS Energy reserves the right to charge a monthly late fee of 1.5% of the amount past due, calculated from the EDC due date on my bill. I understand and agree that although I remit my payments to the EDC, ultimately if I fail to make my payment to the EDC for the electricity commodity component of my bill supplied by IGS Energy, I will owe the unpaid amount to IGS Energy in which case IGS Energy may bill me directly for unpaid balances and seek collection if necessary. Additionally, if I fail to timely pay my IGS Energy charges billed by either the EDC or IGS Energy, IGS Energy may in its sole discretion terminate this Agreement with fourteen (14) days written notice or require a security deposit in order to continue service under this Agreement. If I pay a security deposit to IGS Energy under this Agreement, IGS Energy will return my security deposit, minus the balance of any outstanding monies owed to IGS Energy, upon my service terminating with IGS Energy. If I fail to provide a deposit within 20 days of a request, IGS Energy reserves the right to terminate this Agreement without additional notice. Deposits can be used by IGS Energy to off-set unpaid past-due amounts. Additionally, if I fail to pay my EDC invoices on time, which include IGS Energy charges, the EDC may disconnect my service, according to tariff guidelines. I may request twice within a 12 month period, at no charge, up to 24 months of my payment history for services rendered by IGS Energy. Other than for operation, maintenance, assignment and transfer of my account or, where IGS Energy is performing billing services, or for collections, IGS Energy will not disclose my account number to any other third party without my affirmative written consent or electronic authorization or pursuant to a court or PUCO order and that, other than for credit checking and credit reporting, IGS

Energy will not disclose my social security number without my affirmative written consent or pursuant to court order. I authorize IGS Energy to obtain my billing payment and usage history from the EDC.

**Moving/Termination:** I understand that this contract will automatically terminate, without penalty, if I relocate outside the EDC service territory or if I relocate within the current EDC service territory and the EDC assigns a new account number or Service Delivery Identifier ("SDI").

**Environmental Disclosure:** The approximate generation resource mix and environmental characteristics of the power supply that will be secured to provide services under this Agreement are described in the accompanying environmental disclosure statement.

**Eligibility / Limitation of Liability / Jurisdiction:** This Agreement is for only residential customers in the AEP service territory. By entering into this Agreement, I represent and agree that the account(s) served by IGS Energy under this Agreement is (are) residential or small commercial account(s) that consume less than 100,000 KWH annually and that I am not an existing IGS Energy customer. IGS Energy reserves the exclusive right, at any time, to not enroll or to terminate my service locations that do not meet the preceding criteria and return me to the EDC (or previous IGS Energy product, whichever is applicable) with no penalty to IGS Energy. **Also, I represent that I am current on my EDC bill at the time of enrollment with IGS Energy and I understand that this representation is a condition of enrollment with IGS Energy. If IGS Energy determines through the enrollment process with the EDC that I have not met this condition, IGS Energy can in its sole discretion, 1) void my enrollment without notice and without penalty to IGS Energy or 2) require a security deposit to be paid as a condition of enrollment.** Furthermore, participation in the program is subject to the rules of the EDC and customers are sometimes terminated from the residential program either in error or for being in arrears. In such instances, I can contact the EDC to correct the problem and be reinstated in the residential program. Regardless of the reason for termination, in no case will the original term be extended for months that I was unable to participate nor will IGS Energy have any liability for any early termination or for any months that I was unable to participate in the program. IGS Energy assumes no liability or responsibility for losses or consequential damages arising from items associated with the EDC including, but not limited to: operations and maintenance of their system; any interruption of service; termination of service; or deterioration of service, nor does IGS Energy assume responsibility or liability for damages arising from any in-home or building damages and in addition shall not be responsible for any indirect, consequential, special or punitive damages whether arising under contract, tort (including negligence or strict liability) or any other legal theory. The parties agree that if issues relating to this Agreement cannot be resolved through the PUCO as detailed under "Contract and Dispute Resolution" above or if suit is filed, any legal action involving this Agreement shall be brought only in a court of the State of Ohio sitting in Franklin County, Ohio or the United States District Court sitting in Franklin County, Ohio. I submit to the personal jurisdiction in such courts and irrevocably waive any objections that I have or might have in the future to such courts as the proper forum for any and all actions arising under this Agreement. The parties agree that this Agreement shall be interpreted under the laws of the State of Ohio, regardless of Ohio's choice of law provisions.



Environmental Disclosure Information – Quarterly Comparisons																														
IGS Energy																														
Projected Data for the 2013 Calendar Year																														
Actual Data for the Period 1/1/2013 to 12/31/2013																														
<b>Generation Resource Mix -</b> A comparison between the sources of generation projected to be used to generate this product and the actual resources used during this period.	<div><div>Projected</div><table><tr><td>Hydro</td><td>1%</td></tr><tr><td>Natural Gas</td><td>8%</td></tr><tr><td>Oil</td><td>0.5%</td></tr><tr><td>Coal</td><td>65.5%</td></tr><tr><td>Wind</td><td>1.5%</td></tr><tr><td>Biomass</td><td>0.5%</td></tr><tr><td>Nuclear</td><td>16%</td></tr></table></div>	Hydro	1%	Natural Gas	8%	Oil	0.5%	Coal	65.5%	Wind	1.5%	Biomass	0.5%	Nuclear	16%	<div><div>Actual</div><table><tr><td>Hydro</td><td>1%</td></tr><tr><td>Natural Gas</td><td>14.5%</td></tr><tr><td>Oil</td><td>0.5%</td></tr><tr><td>Coal</td><td>65.5%</td></tr><tr><td>Wind</td><td>1.5%</td></tr><tr><td>Biomass</td><td>1%</td></tr><tr><td>Nuclear</td><td>16%</td></tr></table></div>	Hydro	1%	Natural Gas	14.5%	Oil	0.5%	Coal	65.5%	Wind	1.5%	Biomass	1%	Nuclear	16%
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Nuclear	16%																													
<b>Environmental Characteristics–</b> A description of the characteristics associated with each possible generation resource.	<table><tr><td>Biomass Power</td><td>Air Emissions and Solid Waste</td></tr><tr><td>Coal Power</td><td>Air Emissions and Solid Waste</td></tr><tr><td>Hydro Power</td><td>Wildlife Impacts</td></tr><tr><td>Natural Gas Power</td><td>Air Emissions and Solid Waste</td></tr><tr><td>Nuclear Power</td><td>Radioactive Waste</td></tr><tr><td>Oil Power</td><td>Air Emissions and Solid Waste</td></tr><tr><td>Other Sources</td><td>Unknown Impacts</td></tr><tr><td>Solar Power</td><td>No Significant Impacts</td></tr><tr><td>Unknown Purchased Resources</td><td>Unknown Impacts</td></tr><tr><td>Wind Power</td><td>Wildlife Impacts</td></tr></table>	Biomass Power	Air Emissions and Solid Waste	Coal Power	Air Emissions and Solid Waste	Hydro Power	Wildlife Impacts	Natural Gas Power	Air Emissions and Solid Waste	Nuclear Power	Radioactive Waste	Oil Power	Air Emissions and Solid Waste	Other Sources	Unknown Impacts	Solar Power	No Significant Impacts	Unknown Purchased Resources	Unknown Impacts	Wind Power	Wildlife Impacts									
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<b>Air Emissions –</b> Product-specific projected and actual air emissions for this period compared to the regional average air emissions.	<div><div>◇ Actual</div><div>▨ Projected</div></div> <div>Regional Average</div>																													
<b>Radioactive Waste –</b> Radioactive waste associated with the product.	<table><tr><th>Type:</th><th>Quantity:</th></tr><tr><td>High-Level Radioactive Waste</td><td>Lbs./1,000 kWh</td></tr><tr><td>Low-Level Radioactive Waste</td><td>Ft³/1,000 kWh</td></tr></table> <p>Note: The generation of this product involves the use of x% of unknown purchased resources. The air emissions and radioactive waste associated with these unknown resources are not included in these charts.</p>	Type:	Quantity:	High-Level Radioactive Waste	Lbs./1,000 kWh	Low-Level Radioactive Waste	Ft³/1,000 kWh																							
Type:	Quantity:																													
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With in-depth analysis, the environmental characteristics of any form of electric generation will reveal benefits as well as costs. For further information, contact IGS Energy at <a href="http://www.igsenergy.com">www.igsenergy.com</a> or by phone at 1-800-280-4474.																														

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## Verde Energy USA Ohio, LLC - Terms and Conditions of Service

Verde Energy USA Ohio, LLC, OH License 12-489 E (1), with a business address of 101 Merritt Seven Corporate Park, Second Floor, Norwalk, CT 06851 ("Verde"), will supply you ("Customer") with electricity in the service territory of your local distribution company ("Utility"), subject to these Terms and Conditions of Service ("Agreement"):

1. **Price:** During the first six (6) months of service, Verde will supply electricity to Customer at a 100% renewable fixed generation rate of \$0.0799 per kWh. After the first six (6) months of service, Verde will supply electricity to Customer at a 100% renewable variable generation rate that may change monthly with market conditions. Verde will purchase and retire renewable energy certificates ("RECs") or attributes to ensure that an amount equal to 100% of Customer's electricity usage is generated by renewable sources. Customer shall also pay and be responsible for all other amounts related to the purchase and delivery of electricity, including applicable taxes and service and delivery charges from the Utility. Verde will serve on the supply portion of Customer's electricity bill. All other services currently supplied by the Utility will continue to be supplied by the Utility. No deposit is required by Verde for service.

2. **Term:** Verde is authorized to switch Customer's utility supplier for the generation service charge. This Agreement will start when the Utility completes Customer's enrollment with Verde. Service with Verde will begin with the next available meter reading after processing of the request by the Utility and Verde. The Utility may charge switching fees to Customer. Customer will be responsible for the termination of any existing supplier agreement. This Agreement will continue until terminated by either Customer or Verde in accordance with this Agreement. If Customer switches back to the Utility, Customer may or may not be served under the same rates, terms, and conditions that apply to other customers served by the Utility.

3. **Right of Rescission & Termination:** Residential and small commercial customers shall have the right to rescind this Agreement within 7 calendar days following the postmark date on the Utility's confirmation notice by calling the Utility at the designated local or toll-free number or by written notice to the Utility, which is effective as of the date of the postmark. Either Verde or Customer may terminate this Agreement at any time, for any reason and without an early termination fee. Verde may terminate this Agreement on least 14 calendar days written notice should Customer fail to pay the bill or fail to meet any agreed-upon payment arrangements. The termination will become effective when the Utility switches Customer's account from Verde to the new supplier selected by Customer, to the Utility or to such other default provider established for Customer's account. Termination will not relieve Customer of any payment obligations for electricity provided to Customer by Verde prior to termination.

4. **Billing:** Customer will continue to receive one monthly electric bill from the Utility. Payment is due to the Utility in accordance with its standard billing practices. Failure to pay electric utility charges may result in Customer being disconnected in accordance with the electric utility tariff. Customer has the right to request from Verde, twice within a twelve month period, up to twenty-four months of Customer's payment history without charge. Verde will support budget billing to the extent that CRES budget billing is supported by the Utility.

5. **Emergency:** For any service question or in the event of an emergency, such as a power failure or a downed power line, Customer should contact AEP OH at 1-800-672-2231.

6. **Customer Relocation:** If Customer moves to a new address within Verde's service territory, Customer should contact Verde in order to re-enroll at the new location.

7. **Changes to Agreement:** Verde may change, modify or amend this Agreement at any time (each a "Change"). Each Change will be made by Verde in the manner required by applicable law. Each Change will be posted on Verde's website ([www.lowcostpower.com](http://www.lowcostpower.com)), and Customer will receive individual notice of the Change if required by applicable law. Customer should review the website periodically for applicable Changes. Customer's continued use of Verde's products and services following a Change constitutes Customer's acceptance of this Agreement as so Changed.

8. **Assignment:** Customer may not assign this Agreement without Verde's written consent. Verde may

assign this Agreement or the revenues or proceeds due it hereunder; (a) in connection with any financing; (b) to any of its affiliates; (c) to anyone succeeding to all or substantially all of Verde's assets or business in the State of Ohio; or (d) to another supplier licensed by the Public Utilities Commission of Ohio. This Agreement is binding upon Customer and Verde, and each party's heirs, successors and permitted assigns. Verde is prohibited from disclosing Customer's social security number and/or account number(s) without Customer's consent except for Verde's own collections and credit reporting, participation in programs funded by the universal service fund, pursuant to section 4928.52 of the Ohio Revised Code, or assigning a customer contract to another CRES provider.

**9. Notice:** Subject to Paragraph 7 above, any notice will be considered to have been made if mailed or emailed to the address for Customer in Verde's records.

**10. Disputes:** Customer may contact Verde regarding this Agreement or any dispute related to this Agreement at 1-800-388-3862 24 hours a day, 7 days a week. Verde will attempt to resolve the dispute in an efficient, fair and timely manner. Verde will report the results of its investigation to Customer. If your complaint is not resolved after you have called Verde and/or your Utility, or for general utility information, residential and business customers may contact the Public Utilities Commission of Ohio ("PUCO") for assistance at 1-800-686-7826 (toll free) or for TTY at 1-800-686-1570 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at [www.PUCO.ohio.gov](http://www.PUCO.ohio.gov). Hearing or speech impaired customers may contact PUCO via 7 1-1 (Ohio relay service). Residential customers may also contact the Ohio Consumers' Counsel for assistance with complaints and utility issues at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at [www.pickocc.org](http://www.pickocc.org).

**11. Warranty Disclaimer:** VERDE EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**12. LIMITATION OF LIABILITY:** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL (INCLUDING LOST PROFITS OR REVENUE), INCIDENTAL, INDIRECT, OR PUNITIVE DAMAGES FOR CLAIMS ARISING UNDER THIS AGREEMENT.

**13. Force Majeure:** Neither party shall be liable to the other for any delay or failure to perform caused by an event of Force Majeure. "Force Majeure" means events beyond a party's reasonable control, including, without limitation, acts of God, strikes, terrorism, wars, lightning, hurricanes, blizzards, floods, civil disturbances, shortages, unavailability of transmission facilities, and actions of any governmental authority or the Utility that materially impair a party's ability to perform.

**14. Cash Back Bonus:** In order to redeem any cash back bonus offer, Customer must complete the form listed on Verde's web site, attach a copy of the first monthly bill showing Verde as the electric supply company and mail to Verde within six (6) months of the date of the first monthly bill. Customer must have enrolled with Verde directly (not any other supplier) and have an active account with Verde to be eligible. Limit one cash back bonus per customer.

**15. Entire Agreement:** This Agreement sets forth the entire agreement between Customer and Verde and supersedes any oral or written statements made in connection with this Agreement. This Agreement is governed by the laws of the State of Ohio.

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#### APG&E – Residential & Small Commercial Fixed Rate Terms and Conditions

The following is your Terms and Conditions with AP Gas & Electric (OH), LLC ("APG&E") for the purchase of electricity. Please retain a copy for your records.

AP Gas & Electric (OH), LLC ("APG&E") is certified by the Public Utilities Commission of Ohio ("PUCO") to offer and supply electric generation services in Ohio and is not affiliated with any Electric Distribution Company ("EDC") and/or local distribution company. As a Competitive Retail Electric Service ("CRES") provider, APG&E will supply the electric generation to your EDC based on your usage. Your EDC then distributes or delivers the electricity to you. APG&E sets the generation price and charges that the customers pay. The PUCO regulates distribution prices and services. The Federal Energy Regulatory Commission ("FERC") and/or PJM Interconnection ("PJM") regulates transmission prices and services.

**Right of Rescission** – once you have been enrolled to receive generation service from APG&E, your EDC will send a confirmation letter. If you are a residential or small commercial customer with total annual usage below 700,000 kWh, you have the right to rescind enrollment within seven (7) calendar days following the postmark date of the confirmation letter by following the instructions within the letter. The Right of Rescission only applies when a customer switches to a generation supplier. It does not apply on renewal enrollments. Your EDC will not send a confirmation notice upon any renewal of this Agreement, even when there is a change in the rate or other terms and conditions.

#### 1. Definitions:

- **Agreement** – the Terms and Conditions, Electricity Enrollment Authorization Form, Environmental Disclosure Statement and any Amendments as it may be amended or restated from time to time.
- **Distribution Charge** – charge on each customer's bill for delivering electricity over a distribution system from the transmission system to a Customer.
- **EDC** – abbreviation for customer's "Electric Distribution Company".
- **Generation Charge** – charge on each customer's bill for the production of electricity.
- **Initial Term** – time period during which customer will receive a fixed price, as specified in the Electricity Enrollment Authorization Form.
- **kWh** – abbreviation for the basic unit of measure of electric energy, "kilowatt hours".
- **Transmission Charge** – charge on each customer's bill for moving high voltage electricity from a generation facility to the distribution lines of an EDC.
- **RTO** – Regional Transmission Organization

2. **Eligibility:** Any residential or commercial customer accounts ("Customer") with annual usage that does not exceed 700,000 kWh per account and does not exceed 1,000,000 kWh in aggregate for multiple accounts are eligible for this offer from APG&E. APG&E reserves the right to refuse enrollment to any Customer with an outstanding balance.

3. **Term:** APG&E shall use its best efforts to commence service on the meter read date in the start month stated in this Agreement, following the applicable seven (7) day rescission period, the acceptance of the enrollment request by APG&E, and the processing of the enrollment by your EDC. Service shall continue through the term specified in this Agreement unless sooner terminated as provided herein ("Initial Term"). This Agreement will automatically default to market rate until renewal or switch by Customer.

4. **Price:** APG&E's rate for residential and small commercial customers is set forth in this Agreement as a price per kWh. You agree to pay APG&E a fixed price for combined electric Transmission, Generation and Generation Related Charges. In addition to APG&E's charges, you will be charged by your EDC for Distribution Charges and various other charges. In addition to the charges described above, if any RTO or similar entity, EDC, governmental entity or agency, North American Electric Reliability Corporation and other industry reliability organization, or court requires a change to the terms of this Agreement, or imposes upon APG&E new or additional charges or requirement relating to your electric supply under this Agreement, which are not otherwise reimbursed to APG&E, Customer agrees that APG&E may pass through any additional cost of such event, which may be variable, to Customer. Changes may include, without limitation, transmission or capacity requirements, new or modified charges or shopping credits, and other changes to retail electric customer access programs.

5. **Billing and Payment:** You will receive a consolidated bill from your EDC for both your APG&E and EDC charges. APG&E does not offer budget billing. If you do not pay your bill by the due date, APG&E may cancel this Agreement after giving you a minimum of fourteen (14) days written notice. Upon cancellation, you will be returned to your EDC as a Customer. You will be responsible to pay APG&E for any electricity used prior to the cancellation of this Agreement as well as any late payment charges. APG&E reserves the right to unilaterally modify this billing format/pricing if such a conversion will facilitate more timely billing, collections and/or payment in the event the EDC is unable or unwilling to provide consolidated billing in this format. Furthermore, your failure to pay EDC charges may result in your electric service being disconnected in accordance with the EDC tariff.

6. **Taxes and Laws:** Customer will pay all applicable taxes, fees and charges associated with the purchase of electric service under this Agreement. APG&E will not be liable for any taxes not paid by Customer. This Agreement shall be construed and enforced in accordance with the laws of the State of Ohio without giving effect to any conflicts of law principles which otherwise might be applicable.

7. **Cancellation/Termination Rights:** If this Agreement is not rescinded during the rescission period, enrollment will be sent to your EDC. You may terminate this Agreement, without penalty, if you move outside the CRES provider's service area or into an area where the

CRES provider charges a different price, by providing APG&E with a thirty (30) day written notice.

If you terminate this Agreement prior to the end of the Initial Term for any other reason, except as expressly provided herein, you will be charged a termination fee ("Early Termination Fee") as follows:

**Residential:** \$0 Early Termination Fee.

**Commercial:** An Early Termination Fee shall be the sum of: (i) all remaining estimated unpurchased quantities of electricity of the contract volume through the end of the term ("Remaining Volume"), multiplied by the positive difference, if any, between the contract price minus a current market based rate determined by APG&E in a commercially reasonable manner plus (ii) an amount equal to \$0.002 per kWh of the Remaining Volume, which represents the parties' estimated amount of the transaction costs to APG&E associated with Customer's default, which are not reasonably able to be discerned, and which amount is not a penalty for such default.

8. **Force Majeure:** Customer and APG&E both agree that the following will constitute force majeure events under this Agreement and that APG&E shall have the right to terminate or modify the Agreement without liability if: (1) the Electric Security Plan ("ESP"), Market Rate Offer ("MRO") and/or Competitive Bid Process ("CBP"), or other generation procurement process results in a Price to Compare ("PTC") that is equal to or less than the comparable annualized generation and transmission rates and riders in effect as of the effective date of this Agreement; (2) the PUCO approves or implements a phase-in credit for generation and/or transmission charges of the EDC or takes any other action which affects the PTC or otherwise does not allow the EDC to reflect the full cost to procure generation and transmission in the PTC; (3) Customer does not receive PJM RPM priced capacity for any accounts served under this Agreement; or (4) other regulatory action. In the event that the Agreement is terminated, you will be returned to your EDC's standard service offer. Upon termination with APG&E and return to standard service offer with your EDC, you may not be served under the same rates, terms, and conditions that apply to other EDC customers.

9. **Dispute Resolution:** Customer may contact APG&E with any questions concerning the terms of service by phone at 1-888-797-4537 (toll free) M-F 8am-5pm and Sat 9am-1pm Central Standard Time (except federal and state holidays), in writing at 6161 Savoy Drive, Suite 500, Houston, Texas 77036, or by email at [cs@apgellc.com](mailto:cs@apgellc.com). If your complaint is not resolved after you have called your EDC and/or supplier, or for general utility information, residential and business customers may contact the PUCO for assistance at 1-800-686-7826 (toll free) or TTY at 1-800-686-7826 (toll free) M-F 8am-5pm Eastern Standard Time or at [www.PUCO.ohio.gov](http://www.PUCO.ohio.gov). The Ohio consumers' counsel (OCC) represents residential utility customers in matters before the PUCO. The OCC can be contacted at 1-877-742-5622 (toll free) M-F 8am-5pm Eastern Standard Time or at [www.pickocc.org](http://www.pickocc.org).

10. **Information Release Authorization:** Customer hereby authorizes APG&E to obtain and review information regarding Customer's consumption history from the EDC. This information may be used by APG&E and any of its affiliates, agents or representatives to determine whether it will commence and/or continue to provide energy supply service to Customer and shall not be disclosed to a third party unless required by law. This authorization will remain in effect during the Initial Term and any renewal term of this Agreement. APG&E reserves the right to cancel this Agreement in the event Customer rescinds the authorization upon fifteen (15) calendar days' prior written notice.

11. **Miscellaneous:** APG&E is prohibited from disclosing a Customer's Social Security number and/or account number(s) without the Customer's written consent except for APG&E collections and reporting, participating in programs funded by the universal service fund, pursuant to section 4928.54 of the Revised Code, or assigning a Customer's contract to another CRES provider. APG&E's environmental disclosure statement is available for viewing on our website at [www.apge.com](http://www.apge.com). You agree that APG&E will make the required quarterly updates to the statement electronically on our website. APG&E will also provide the information upon request. APG&E may assign its rights to another, including any successor, in accordance with the rules and regulations of the PUCO. APG&E assumes no responsibility or liability for the following items that are the responsibility of the EDC: operation and maintenance of the EDC's electrical system, any interruption of service, termination of service, or deterioration of the EDC's services. Your EDC may charge switching fees. You have the right to request from APG&E, twice within a twelve (12) month period, up to twenty-four (24) months of payment history, without charge. Customer is responsible for providing APG&E with accurate account information. If said information is incorrect, APG&E reserves the right to re-price the applicable account(s) or terminate the Agreement. APG&E reserves the right to return any Customer to the EDC if the Customer's rate code is changed and the account is no longer eligible for this program. Customer authorizes, but does not obligate, APG&E to exercise Customer's governmental aggregation opt-out rights. In the event of a power outage, you should contact your local EDC.

Ohio Edison:	1-800-633-4766
Cleveland Electric Illuminating:	1-800-589-3101
Toledo Edison:	1-800-447-3333
Cincinnati Gas & Electric/Duke Ohio:	1-877-543-5599
AEP Ohio Power/Columbus Southern:	1-800-277-2177
Dayton Power & Light:	1-877-468-8243

12. **Warranty:** APG&E warrants title and the rights to all electricity sold hereunder. The warranties set forth in this paragraph are exclusive and are in lieu of all other warranties, whether statutory, express or implied, including but not limited to any warranties of merchantability, fitness for a particular purpose or arising out of any course of dealing or usage of trade.



## Electricity Purchase and Sale Terms and Conditions

Integrus Energy Services, Inc. ("Seller") and Buyer identified electronically on Seller's website or verbally during the telephonic enrollment process ("Buyer") (individually referred to as "Party" and collectively as "Parties") agree to the following Electricity Purchase and Sale Terms and Conditions ("Agreement"), as of the date agreed to electronically by Buyer using Seller's website or telephonically during the telephonic enrollment process (the "Effective Date"):

**1. Initial Term; Renewal:** This Agreement shall become binding on the Effective Date, however, the obligation of Seller to sell and schedule electricity for delivery to Buyer and the obligation of Buyer to purchase, take and pay for electricity is contingent upon: (a) successful enrollment by the Utility identified electronically on Seller's website during the electronic enrollment process or verbally during the telephonic enrollment process (the "Utility") of the Utility accounts identified by Buyer electronically on Seller's website or verbally during the telephonic enrollment process (the "Accounts") and (b) if applicable, the passage of the Rescission Period (defined in Section 2) without effective cancellation by Buyer. Successful enrollment by the Utility is dependent upon (i) the eligibility the Accounts, as determined by the Utility and the Public Utilities Commission of Ohio ("PUCO"), to take from a retail electric supplier, (ii) Seller's determination, in its sole discretion, of price availability, and (iii) the accuracy and completeness of the information submitted by Buyer electronically on Seller's website during the electronic enrollment process or verbally during the telephonic enrollment process. Service shall not commence until the later of (a) the Initial Term Start Date or (b) the first meter read following successful enrollment by the Utility and continue through the number of billing cycles identified electronically during the electronic enrollment process on Seller's website or verbally during the telephonic enrollment process ("Initial Term"), unless terminated pursuant to the terms of this Agreement. **Between 45 and 90 days prior to the end of the Initial Term or any Renewal Term (as applicable, the "Current Term"), Seller may send Buyer an offer for a new Term. This offer will include, without limitation, details on the new Pricing and the new Term ("Offer"). In the event Seller does not receive Buyer's rejection of the Offer within 14 days, the Offer, including the offered Pricing and Term, will be deemed accepted by Buyer without the need for further signature or other affirmative action by Buyer. In addition, Seller shall send another notice no less than 35 days prior to the end of the Current Term (which may be in the form of a letter by first class mail, a telephone call, or an email). If Buyer rejects the Offer or if Seller does not send an Offer, the Accounts shall be returned to the Utility's service at the end of the Current Term.**

**2. Rescission Period:** Unless the Accounts are already on Seller's electricity supply, the Utility will send Buyer a letter confirming transfer of service upon processing of Buyer's enrollment and Buyer will have 7 days from the postmark date of that letter to cancel its enrollment, without penalty, by calling the Utility on the toll-free number provided in the letter or by providing written notice to the Utility.

**3. Price:** For each billing cycle of Initial Term, Buyer shall pay the Fixed Rate per kWh electronically on Seller's website at the time of electronic enrollment or verbally during the telephonic enrollment process, multiplied by the billing cycle usage for the Accounts. Both Parties recognize that Seller's charges include tariff charges that are set forth by the Utility, transmission provider, regional transmission organization or independent system operator ("RTO/ISO"), the Federal Energy Regulatory Commission, PUCO, and/or any other state or governmental agency having jurisdiction (each an "Authorized Entity"). Seller may pass through to Buyer, without markup as a separate line item or as an updated Fixed Rate, (a) any increase in such tariff charges or (b) other increase in Seller's cost to provide electricity that result from an addition to, a change in, or change in interpretation by an Authorized Entity of, or change in administration by an Authorized Entity of, tariffs, operating protocols, laws, regulations, or other requirements of an Authorized Entity, as applicable. Buyer will also incur delivery and other additional service charges from the Utility. Switching fees may apply when service is established with Seller, but Buyer will not be charged separately by Seller for a switching fee. If Buyer switches back to the Utility, Buyer may not be served under the same rates, terms, and conditions that apply to other customers served by the Utility. The Choice program is under the ongoing jurisdiction of the PUCO.

**4. Billing, Payment and Credit Requirements:** Buyer will be invoiced by the Utility for both Seller's charges and the Utility's delivery charges. Such billing and payment (including fees associated with late payments) shall be subject to the applicable Utility rules regarding billing and payment procedures. Seller's charges or credits not invoiced through the Utility (including early termination fees pursuant to Section 8) shall be invoiced or credited, respectively, directly by Seller. Any such charges shall be due within 21 days following the invoice date and payments not received by the due date will be deemed past due and shall accrue interest on the unpaid balance from the due date until payment is received at a rate of 1.5% per month of the unpaid balance, provided that such percentage does not exceed the maximum amount allowable by law. Seller does not offer budget billing for generation charges, but Buyer may contact the applicable Utility for information on whether the Utility offers budget billing for Seller's charges.

**5. Taxes:** Any tax levied against Seller by any governmental entity, exclusive of Seller's income tax or taxes levied on Seller's real or personal property, that must be paid by Seller shall be passed through to and borne and reimbursed by Buyer. Buyer must provide Seller with any applicable exemption certificates. Buyer shall pay any such taxes unless Seller is required by law to collect and remit such taxes, in which case Buyer shall reimburse Seller for all amounts so paid.

**6. Limitations: ALL ELECTRICITY SOLD HEREUNDER IS PROVIDED "AS IS", AND SELLER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT, WHETHER IN AGREEMENT, IN TORT**

**(INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES.**

**7. Environmental Disclosure:** The disclosure provided herewith describes the generation resource mix and environmental characteristics of the electricity. To receive this disclosure by e-mail, Buyer may request such by contacting Seller.

**8. Termination; Remedies:** Seller may terminate Buyer's service under this Agreement for non-payment with at least 14 days written notice. Failure to pay Utility invoices may result in Buyer being disconnected in accordance with the Utility tariff. Buyer may terminate this Agreement without penalty if Buyer moves outside of Seller's service area or into an area where the Seller charges a different price. In the event (a) (1) Buyer terminates this Agreement with respect to an Account by failing take electricity for such Account before the end of the Current Term (except as permitted in this Agreement) or (2) Seller terminates this Agreement as a result of Buyer's failure to pay, Seller reserves the right to charge early termination fees. The early termination fees shall total \$25 per Account. The Parties expressly acknowledge that if Buyer defaults, damages would be difficult to ascertain and quantify and agree that this provision for calculating damages is reasonable in light of the anticipated or actual harm and is not a penalty.

**9. Force Majeure:** Except for Buyer's obligation to pay Seller timely, neither Party shall be liable to the other for failure to perform an obligation if the non-performing Party was prevented from performing due to an event beyond the reasonable control, that could not be remedied by the exercise of due diligence and that was not reasonably foreseeable, including without limitation, acts of God, a condition resulting in the curtailment of electricity supply or interruption or curtailment of transmission on the electric transmission and/or distribution system, interruption of Utility service, terrorist acts or wars, and force majeure events of the Utility or RTO/ISO.

**10. Questions, Complaints and Concerns:** Buyer may contact Seller 24 hours per day, 7 days per week at the following numbers: for Accounts in AEP territory 1-888-340-2017; for Accounts in Duke territory 1-855-836-6593; for Accounts in DP&L territory 1-888-491-1357; and for Accounts in First Energy territory 1-855-879-1249. Seller's mailing address is 1716 Lawrence Drive, DePere, WI 54115, and its website is [www.integrityenergy.com](http://www.integrityenergy.com). Seller will attempt to resolve all customer complaints in a timely manner and will respond to all complaints within 5 business days of receipt. If Buyer's complaint is not resolved after Buyer has called Seller and/or the Utility, or for general utility information, residential and business customers may contact the PUCO for assistance at 1-800-686-7826 (toll-free), or for TTY toll free at 1-800-686-1570 (toll-free), from 8a.m. to 5:00p.m. weekdays, or at [www.PUCO.ohio.gov](http://www.PUCO.ohio.gov). Residential customers may also contact the Ohio Consumers' Counsel for assistance with complaints and utility issues at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at [www.pickocc.org](http://www.pickocc.org).

**11. Miscellaneous:** Buyer hereby authorizes the Utility to release data to Seller regarding Buyer's historical or current billing and usage data. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio and any applicable Utility tariffs. Buyer appoints Seller as its agent for the purposes of effectuating delivery, including for receipt of billing and usage data from the Utility. Title, possession, control of the electricity, and risk of loss will pass from Seller to Buyer at the interconnect between the applicable RTO/ISO's transmission system and the Utility's distribution system. Subject to regulatory approvals and notice from Seller, Seller may assign this Agreement without Buyer's consent. Buyer may assign this Agreement only with Seller's prior written consent. This Agreement constitutes the entire agreement between the Parties, superseding all verbal and written understandings. The Parties acknowledge and agree that (a) this Agreement constitutes a "forward contract" and/or "forward agreement" within the meaning of title 11 of the United States Code (the "Bankruptcy Code"), (b) each Party is a "forward contract merchant" within the meaning of the Bankruptcy Code, (c) for purposes of this Agreement, each Party is not a "utility" within the meaning of Section 366 of the Bankruptcy Code, and (d) each Party agrees to waive and not to assert the applicability of Section 366 of the Bankruptcy Code in any bankruptcy proceeding wherein such Party is a debtor, and (e) each Party further agrees to waive the right to assert that the other Party is a provider of last resort. This Agreement shall only be amended in a writing signed by both Parties. By agreeing to the terms and conditions herein, each individual additionally warrants that he or she is authorized to enter into this Agreement on behalf of the Party and Accounts for which it was made. Buyer should contact the Utility in the event of an electricity emergency. Seller is prohibited from disclosing Buyer's social security number and/or account number(s) without Buyer's affirmative written consent, except for the purpose of (i) Seller's collections and credit reporting, (ii) participation in programs funded by the universal service fund, (iii) pursuant to section 4928.54 of the Revised Code, or (iv) assigning this Agreement to another certified retail electric provider. Buyer may request from Seller, twice within a 12-month period, up to 24 months of Buyer's payment history without charge.



## Environmental Disclosure Information

### Integritys Energy Services, Inc. Projected Data for 2014 Calendar Year

<p><b>Generation Resource Mix-</b></p> <p>A comparison between the sources of generation used to produce this product and the historic regional average supply mix.</p>	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p><b><u>Projected</u></b></p> </div> <div style="text-align: center;"> <p><b><u>Actual</u></b></p> </div> </div>																				
<p><b>Environmental Characteristics-</b></p> <p>A description of the characteristics associated with each possible generation resource.</p>	<table border="1"> <tbody> <tr><td>Biomass Power</td><td>Air Emissions and Solid Waste</td></tr> <tr><td>Coal Power</td><td>Air Emissions and Solid Waste</td></tr> <tr><td>Hydro Power</td><td>Wildlife Impacts</td></tr> <tr><td>Natural Gas Power</td><td>Air Emissions and Solid Waste</td></tr> <tr><td>Nuclear Power</td><td>Radioactive Waste</td></tr> <tr><td>Oil Power</td><td>Air Emissions and Solid Waste</td></tr> <tr><td>Other Sources</td><td>Unknown Impacts</td></tr> <tr><td>Solar Power</td><td>No Significant Impacts</td></tr> <tr><td>Unknown Purchased Resources</td><td>Unknown Impacts</td></tr> <tr><td>Wind Power</td><td>Wildlife Impacts</td></tr> </tbody> </table>	Biomass Power	Air Emissions and Solid Waste	Coal Power	Air Emissions and Solid Waste	Hydro Power	Wildlife Impacts	Natural Gas Power	Air Emissions and Solid Waste	Nuclear Power	Radioactive Waste	Oil Power	Air Emissions and Solid Waste	Other Sources	Unknown Impacts	Solar Power	No Significant Impacts	Unknown Purchased Resources	Unknown Impacts	Wind Power	Wildlife Impacts
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With in-depth analysis, the environmental characteristics of any form of electric generation will reveal benefits as well as costs.  
For further information, contact Integritys Energy Services, Inc. by phone at (866) 977-5669 or at [www.integritysenergy.com](http://www.integritysenergy.com).

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Summary: Comments Comments by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Schuler, Michael J.