



Electricity Purchase and Sale Terms and Conditions

The City of Cleveland, Ohio ("City") selected Constellation Energy Services, Inc. ("Seller") to supply the aggregation and to administer enrollments. While the Buyer identified during the telephonic or electronic enrollment process ("Buyer") has utility account(s) ("Account(s)") that were not included in the opt-out aggregation program ("Program"), Buyer desires to enroll into the Program at this time. Seller and 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. Eligibility: To be eligible for the Program, Buyer and the Accounts to be served (i) must be located within the City's jurisdictional boundaries, (ii) must be in good standing with Cleveland Electric Illuminating Company ("Utility") (including payment history), and (iii) may not be under a Utility special arrangement or percentage of income payment plan (PIPP).

2. Term and Renewal: This Agreement shall become binding on the Effective Date, provided 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) eligibility of Buyer and the Accounts, (b) successful enrollment by the Utility, and (c) passage of the Rescission Period without effective cancellation by Buyer. Successful enrollment by the Utility is dependent upon (i) the eligibility of the Accounts, as set forth above and as determined by the Utility, to take from a retail electric supplier and (ii) the accuracy and completeness of any information submitted by Buyer and the City. Service will commence on the first available meter read dates following successful enrollment with the Utility and shall remain in effect through the **July 2017** meter read ("Initial Term"), unless terminated pursuant to the terms of this Agreement or unless extended by a period not to exceed one month by agreement of the City and Seller. In the event ineligibility is not ascertained until after service commences, Seller shall provide notice of the same to Buyer and return Buyer to the Utility. Buyer shall have the opportunity to opt-out of the Aggregation at least every three years without penalty.

3. Rescission Period: 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, ("Rescission Period") by calling the Utility on the toll-free number provided in the letter or by providing written notice to the Utility.

4. Price and RECs: **a. Price:** For each billing cycle of Initial Term, Buyer shall pay a Fixed Rate of **\$0.0701 per kWh**, 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. The Parties acknowledge that current PUCO rules require disclosure of certain third party intermediary and governmental aggregator fees (herein identified as the "City Fee"). The City's administrative and energy efficiency fee of \$0.0003 per kWh has been included in the Fixed Rate. 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.

b. RECs: The Price for the Initial Term includes the cost of voluntary renewable energy credits ("RECs") representing the environmental attributes from electricity generated by a nationally-sited wind resources in an amount equal to **50%** of the Account(s) usage during the Initial Term ("Voluntary RECs"). By contacting Seller toll-free at (855) 879-1253 or at www.constellation.com/oh-cleveland, Buyer may (a) reject the Voluntary RECs by contacting Seller or (b) increase the amount of RECs to 100% (less any percentage of the Account(s) already supported by REC purchases as a result of the Ohio renewable energy portfolio standard). In the event the type of REC to be sold no longer meet certain requirements of the City as detailed in Seller's agreement with the City, the City and Seller may mutually agree on an acceptable replacement REC.

5. Billing and Payment: 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 may cause the Utility to correct previous invoices in the event of invoicing errors. Seller's charges or credits not invoiced through the Utility 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 offers budget billing for generation charges (except in Duke territory) and Buyer should contact Seller at the phone number identified in Section 10 to elect budget billing. Seller does not offer budget billing for generation charges in Duke territory, but Buyer may contact the Utility for information on whether the Utility offers budget billing for Seller's charges.

<p>6. 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.</p>
<p>7. 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 AND, FURTHER, IN NO CASE SHALL SELLER’S LIABILITY EXCEED THE AMOUNT OF BUYER’S SINGLE LARGEST MONTHLY INVOICE DURING THE PRECEDING 12 MONTHS..</p>
<p>8. Environmental Disclosure: Seller’s environmental disclosure label, which will be updated from time to time, is available on Seller’s website.</p>
<p>9. 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 at any time without early termination fees, including if Buyer moves outside of Seller’s service area or into an area where the Seller charges a different price. 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.</p>
<p>10. 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.</p>
<p>11. Questions, Complaints and Concerns: Buyer may contact Seller 24 hours per day, 7 days per week at (855) 879-1253. Seller’s mailing address is 1716 Lawrence Drive, DePere, WI 54115, and its website is www.constellation.com/oh-cleveland. Seller will attempt to resolve all customer complaints in a timely manner and will respond to all complaints within 3 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) from 8a.m. to 5p.m. weekdays, or at www.PUCO.ohio.gov. Hearing or speech impaired customers may contact the 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 a.m. to 5 p.m. weekdays, or at www.pickocc.org.</p>
<p>12. 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, Buyer warrants the 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 Ohio 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.</p>