# DISCLOSURE STATEMENT

**Electricity Supplier: Constellation NewEnergy, Inc. ("Constellation")**
**Utility: Toledo Edison Company**

**Electricity Supply Pricing:** For the Initial Term, you will pay 5.79¢ per kilowatt-hour, multiplied by your Accounts' metered usage.

**Term of Agreement and Renewal:** Your electricity service from Constellation will start on the first available meter read following successful enrollment and continue for 36 billing cycles ("Initial Term"), unless terminated pursuant to the terms of this Agreement. Initial enrollment can take up to two months to complete. Between 45 and 90 days prior to the end of the Initial Term or Renewal Term, Constellation will send you a contract expiration notice. Constellation will provide you a second notice at least 35 days prior to expiration of the Initial Term or Renewal Term and offer to renewal for another term ("Renewal Term"). This notice will include, without limitation, the new product, pricing, the length of the Renewal Term, and any other changes to the terms and conditions ("Offer"). You will have 30 days from the date of the Offer to reject the Offer. Otherwise, the Offer will be deemed accepted by you without the need for further signature or other affirmative action by you. Absent rejection of the Offer, Constellation can renew for the Renewal Term without your affirmative consent, even when there is a change in the Pricing or other terms and conditions. If you reject the Offer in the manner directed in the Offer, your Accounts will be returned to Utility service at the end of the current Term, absent action on your part.

**Early Termination Fee:** $25

**Billing:** Constellation Consolidated Billing will be used. If you are on budget billing with the Utility upon successful enrollment with Constellation, you will continue on budget billing for your delivery charges. If you would like to request budget billing for your Constellation electricity, Constellation offers budget billing for the generation portion of your bill, but you must call Constellation at the phone number below to enroll in budget billing.

**Rescission Rights:** Unless you are already a customer of Constellation, the Utility will send you a letter confirming transfer of service upon processing of the enrollment of your Accounts and you will then have 7 days from the postmark date of that letter to cancel your enrollment, without penalty, by calling the Utility on the toll-free number provided in the letter or by providing written notice to the Utility. The Utility will provide you a cancellation number to confirm any cancellation during the rescission period.

**Deposit or Other Fees for Switching to Constellation:** Constellation reserves the right to charge a deposit of $145 if you do not meet Constellation's creditworthiness requirements. Constellation does not charge switching fees to switch to Constellation's service. Your current supplier and/or the Utility may charge such fees.

**Guarantee Period:** You may terminate this Agreement without incurring an early termination fee within 90 days after entering into it (the "Guarantee Period") by notifying Constellation that you would like to return to Utility service. Upon your termination of this Agreement during the Guarantee Period, your Accounts will be returned to Utility service on the next available meter read date and will remain responsible for payment for electricity supply and related costs and charges incurred under this Agreement. Any incentives Constellation may offer to you in connection with you entering into this Agreement require your Account to be active and in good standing at the time the incentive is fulfilled.

**Savings:** Savings are not guaranteed.

**Constellation's Contact Information:**
P.O. Box 4911, Houston, TX 77210-4911 Telephone: 855-465-1244, Contact us with any questions between the hours of 8:00 a.m. and 8:00 p.m. eastern time on weekdays, except holidays. Website: www.constellation.com.

**Contact Information:** If your complaint is not resolved after you have called Constellation and/or your Utility, or for general Utility information, you may call PUCO for assistance at 1-800-686-7826 (toll free) from 8am to 5pm weekdays, or at 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 8am to 5pm weekdays, or at http://www.pickocc.org.

**Utility's Contact Information:**

| | The Illuminating Company | Ohio Edison | Toledo Edison | Duke Energy | Columbus Souther Power | Ohio Power | Dayton Power and Light |
|---|---|---|---|---|---|---|---|
| **Emergencies** | 1.888.544.4877 | 1.888.544.4877 | 1.888.544.4877 | 1.800.543.5599 | 1.800.672.2231 | 1.800.672.2231 | 1.888.491.1357 |
| **Customer Service** | 1.800.589.3101 | 1.800.633.4766 | 1.800.447.3333 | 1.800.544.6900 | 1.800.672.2231 | 1.800.672.2231 | 1.800.672.2231 |

**General Disclosures:** Constellation is an independent seller of power and energy services, certified by the Public Utilities Commission of Ohio (PUCO). Constellation does NOT represent or act on behalf of the Utility, governmental bodies or consumer groups. The prices of Constellation are not regulated by PUCO. The Utility remains responsible for the delivery of power and energy to your premises and will continue to respond to any service calls and emergencies. Switching to Constellation will not impact your electric service reliability. You will receive written notification from the Utility confirming a switch of your electricity supplier. You may purchase electricity supply service from a retail electricity supplier, such as Constellation, or from the Utility. With this Agreement, you have received a copy of Constellation's environmental disclosure label, which will be updated from time to time on its website at www.constellation.com.

# ELECTRICITY PURCHASE AND SALE TERMS AND CONDITIONS

1. **Purchase of Electricity Supply:** Constellation NewEnergy, Inc. ("Constellation") agrees to sell and the customer identified during the enrollment process ("you") agree to buy your full requirements of electricity and any other service identified in the Disclosure Statement for the accounts identified during the enrollment process ("Accounts") in the utility territory identified on the Disclosure Statement ("Utility") in accordance with the terms of these Electricity Purchase and Sale Terms and Conditions and the Disclosure Statement provided herewith (collectively, this "Agreement"). The "Effective Date" is the date agreed to by both you and Constellation. Both you and Constellation may be referred to herein as a "Party" and, collectively, you and Constellation may be referred to as the "Parties".

2. **Term and Renewal:** This Agreement shall become binding on the Effective Date, provided however, the obligations of Constellation to sell and schedule electricity for the Utility's delivery to the Accounts and your obligations to purchase, take and pay for electricity supply for the Accounts shall be for the Term identified in the Disclosure Statement (subject to successful enrollment by the Utility and Section 6 below). This Agreement may also be renewed as described in the Disclosure Statement.

3. **Pricing:** For the Initial Term, the Pricing shall be described in the Disclosure Statement, which does not include the Utility's delivery charges or any applicable taxes. From time to time, Constellation may experience an increase in costs related to the electricity and other services identified on the Disclosure Statement that results from the implementation of new, or changes (including changes to formula rate calculations) to existing, Laws, or other requirements or changes in administration or interpretation of Laws or other requirements ("Change in Law"). "Law" means any law, rule, regulation, ordinance, statute, judicial decision, administrative order, ISO business practices or protocol, Utility or ISO tariff, rule of any commission or agency with jurisdiction in Ohio. If Constellation experiences a Change in Law and would like to request a change to the material terms of this Agreement as a result, Constellation may send notice requesting mutual agreement to the modification. You will then have the opportunity to, within 30 days of the notice from Constellation, affirmatively consent to the Agreement changes and remain on our service with the modified Agreement terms. If you do not consent, this Agreement will be terminated without any further obligation by you except for paying any unpaid balance as of the termination date, and you will be returned to electricity supply with your Utility. "ISO" means the independent system operator or regional transmission organization responsible for the service territory governing your account, or any successor or replacement entity.

4. **Billing, Payment and Credit:** If Utility Billing was noted during the in the Disclosure Statement, you will be invoiced for Constellation's charges and the Utility's delivery charges by the Utility on the invoice(s) you receive from the Utility. Such billing and payment shall be subject to the applicable Utility rules regarding billing and payment procedures. Constellation's charges or credits not invoiced through the Utility shall be invoiced directly by Constellation. If Dual Billing is noted in the Disclosure Statement, you will be invoiced by the Utility for Utility charges and by Constellation for Constellation's charges. If Constellation Consolidated Billing was noted in the Disclosure Statement, you will be invoiced by Constellation for Constellation's charges and the Utility's delivery charges on the invoice(s) you receive from Constellation. For Dual Billing and Constellation Consolidated Billing, you shall pay within twenty one (21) days from the invoice date in accordance with invoice instructions. Payments not received by Constellation by the due date are deemed past due and shall accrue interest daily on the unpaid balance from the due date until payment is received at the lesser of 1.5% per month or the maximum amount allowable by law. You agree to pay Constellation's costs incurred in collecting amounts owed to Constellation (which also includes delivery charges if Constellation Consolidated Billing is noted on the Disclosure Statement), including reasonable attorneys' fees and returned check charges. If you fail to pay your invoices on time, you authorize Constellation to report such failures to one or more credit reporting agencies. Consistent with applicable law, Constellation uses uniform income, deposit and credit requirements in determining whether to offer service to our customers. You hereby authorize Constellation to perform a credit check on you. If you do not meet Constellation's creditworthiness standards prior to enrollment or during the Initial Term or any Renewal Term, Constellation may request, and if requested you must provide, a deposit of $145.00. Deposits shall earn interest at a rate of 3% per annum after such deposit has been held for 180 days. If an invoice is not paid by the due date, Constellation may apply the deposit to the unpaid balance. After 12 months of timely payments or upon termination of this Agreement, Constellation will apply the deposit as an invoice credit. Constellation may correct or cause the Utility to correct previous invoices in the event of invoicing errors. All invoices (including adjustments to those invoices) are conclusively presumed final and accurate unless such invoices are objected to by either you or us in writing, including adequate explanation and/or documentation, within 24 months after the date such invoice was rendered, provided however, we may rebill based on post-period audits or adjustments made by the ISO, the Utility, or other governmental authority, commission or agency with jurisdiction in Ohio.

5. **Taxes:** Any tax levied against Constellation by any governmental entity that must be paid by Constellation, exclusive of Constellation's income tax or taxes levied on Constellation's real or personal property, shall be passed through to and paid by you. You must provide Constellation with any applicable exemption certificates.

6. **Rejection, Termination, and Remedies:** Constellation reserves the right to terminate this Agreement for any non-payment of any amounts owed to Constellation under this Agreement or any other default under this Agreement by you with at least 14 days written notice. In addition to non-payment, Constellation also reserves the right to reject your enrollment or terminate this Agreement for the following defaults: you (a) fail to meet or maintain satisfactory credit standing as determined by Constellation, including failing to provide a requested deposit; (b) fail to meet minimum or maximum threshold consumption levels as determined by Constellation; (c) fail to be eligible for Utility consolidated billing or the Utility's purchase of receivables program, as applicable; (d) rescind your authorization detailed in the "Information Release" section below; (e) attempt to assign this Agreement without Constellation's consent; (f) provide any false, inaccurate or misleading information to Constellation or the Utility; (g) you are or become enrolled in the Utility's Percentage of Income Payment Program or other credit arrearage programs; or (h) are or become ineligible for supplier consolidated billing with the Utility. You may terminate without an early termination fee ("Permitted Termination") (1) during and as explained in any applicable "Guarantee Period" identified in the Disclosure Statement, or (2) as explained in the "Early Termination Fee" section in the Disclosure Statement, or (3) if you move. If Constellation terminates this Agreement as a result of your default or if you terminate for any reason other than the Permitted Terminations, Constellation may charge an early termination fee in the amount detailed on the Disclosure Statement. The Parties agree that damages would be difficult to quantify upon a default and further agree that the early termination fee is not a penalty. A failure to pay a Utility invoice may result in disconnection by the Utility in accordance with the Utility's tariff. If you return to Utility service, you may not be served on the same terms or rates as those that apply to other customers of the Utility.

7. **Limitations:** Neither Constellation nor any of its affiliates shall 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. Constellation's delivery obligations cease at the Utility interconnect. **ALL ELECTRICITY SUPPLY SOLD HEREUNDER IS PROVIDED "AS IS", AND CONSTELLATION 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 CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES AND, FURTHER, IN NO CASE SHALL CONSTELLATION'S LIABILITY EXCEED THE AMOUNT OF YOUR SINGLE LARGEST MONTHLY INVOICE DURING THE PRECEDING 12 MONTHS**.

8. **Force Majeure:** Causes and events out of Constellation's reasonable control ("Force Majeure Events") may result in interruptions in service. Constellation will not be liable for any such interruptions or any other failure to perform under this Agreement caused by a Force Majeure Event. Constellation is 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 the Utility's distribution lines; changes in laws, rules or regulations of any governmental authority; or any cause beyond our reasonable control.

9. **Information Release:** You authorize Constellation to obtain information from the Utility related to the Accounts including without limitation account name, account number, billing address, service address, telephone number, standard offer service type, historical electricity usage, rate classification, meter readings, characteristics of electricity supply, and billing and payment information. You authorize Constellation to release such information to third parties and to Constellation's affiliates and subcontractors. These authorizations will remain in effect as long as this Agreement is in effect. You may rescind these authorizations at any time by either calling or providing written notice to Constellation at contact information provided. Constellation is prohibited from disclosing your social security number and/or account number(s) without your affirmative written consent, except for the purpose of collections and credit reporting, participation in programs funded by the universal service fund, pursuant to section 4928.54 of the Revised Code, or assigning this Agreement to another certified retail electric provider. You may request from Constellation, twice within a 12-month period, up to 24 months of your payment history without charge.

10. **Disputes:** For questions about this Agreement you may call Constellation using the contact information provided in the Disclosure Statement. Constellation will refer all issues to a representative who in good faith will use reasonable efforts to reach a mutually satisfactory solution. If your complaint is not resolved after you have called Constellation, or for general utility information, as a residential or business customer you may contact the public utilities commission of Ohio ("PUCO") using the contact information provided in the Disclosure Statement. **BOTH YOU AND CONSTELLATION AGREE IRREVOCABLY AND UNCONDITIONALLY TO WAIVE ANY RIGHT TO TRIAL BY JURY OR TO INITIATE OR BECOME A PARTY TO ANY CLASS ACTION CLAIMS IN RESPECT OF ANY ACTION, SUIT OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS CONTRACT.** Nothing in this Agreement shall impair your right to make an informal or a formal complaint to the PUCO.

11. **Miscellaneous:** Contact information for Constellation, the Utility and the applicable state Commission is provided in the Disclosure Statement. The Agreement shall be governed by and construed in accordance with the laws of the State where the Account(s) reside, without regard for the conflicts of law provisions thereof. Subject to regulatory approvals and any required notice from Constellation, Constellation may assign this Agreement without your consent. You may assign this Agreement only with Constellation's prior written consent. The Agreement (including without limitation the Accounts and other information identified during the enrollment process) shall be considered the entire agreement between the Parties, superseding all verbal and written understandings. This Agreement shall only be amended in a writing signed by both Parties or in accordance with the Renewal process identified in the Disclosure Statement. The individual undertaking the enrollment process on your behalf warrants that he or she is authorized to (a) enter into this Agreement on your behalf, (b) make decisions with respect to the Accounts, and (c) enroll with and change the Accounts' electricity supplier to Constellation and make the billing election identified on the Disclosure Statement. You should contact the Utility in the event of an electric emergency at the phone numbers identified on the Disclosure Statement. Future correspondence may be sent by Constellation to you via first class mail, postcard, and/or electronic mail.