



**Terms of Service:** The following are the Terms of Service for this Agreement between APG&E and Customer for the purchase of electricity.

*Esta información está disponible en español. Por favor llame a APG&E al 1-(877) 544-4857 o por internet [www.apge.com](http://www.apge.com).*

**1. Agreement to Purchase Energy:** APG&E is certified as a REP by PUC and is not affiliated with any Utility. Customer hereby appoints APG&E as its limited agent for the purpose of acquiring the supplies necessary to meet its electricity needs. Delivery of electricity to Customer's Service Locations and maintenance of the electric delivery system is performed by Utility. PUC regulates distribution prices and services. FERC and ISO/RTO regulates transmission prices and services. APG&E agrees to sell, and Customer agrees to purchase and accept the quantity of electricity necessary to meet Customer's requirements based upon consumption data obtained by APG&E or the delivery schedule of Utility.

**2. Eligibility:** This Terms of Service is intended for Residential meters, as defined herein, but all Customers who enter into this Agreement are bound by its terms.

**3. Enrollment:** This Agreement shall be effective upon return of Customer-signed Agreement to, and acceptance by, APG&E. For the duration of the Rescission Period Residential Customers have the right to cancel this Agreement free of penalty or fee. Following the applicable Rescission Period, APG&E will use commercially reasonable efforts to commence service on the next available meter read date on or after Start Date.

**4. Term:** The Initial Term shall commence on the date Utility switches service to APG&E and will continue for the number of months thereafter as indicated by Contract Term selected on Schedule A. APG&E will provide Customer at least thirty (30) calendar days' notice in advance of the end of Initial Term. A final bill will be rendered after the final meter reading. Upon completion of Initial Term, if Customer does not provide consent to renewal terms, this Agreement will automatically renew, and Customer shall continue to receive electric service from APG&E at a month-to-month variable Holdover Rate, until Customer renews with APG&E or switches to another REP. If Customer automatically renews on Holdover Rate, Customer may terminate at any time without penalty. Customer may obtain the previous 24 months' average monthly billed Holdover Rates by visiting [www.apge.com](http://www.apge.com) or calling APG&E (toll free). Historical pricing is not necessarily indicative of present or future pricing.

**5. Intentionally left blank.**

**6. Metering and Measurement:** Customer and APG&E accept the quantity, quality, and measurement determined by Utility providing delivery service to Service Location, for purposes of accounting for electricity supplied under this Agreement, in accordance with the terms of the applicable tariff for retail delivery service.

**7. Switching to APG&E:** Utility may, at its discretion, charge a fee to switch Customer to APG&E. This charge will be passed through to Customer at cost. A standard switch may occur within one (1) to three (3) business days after Customer has authorized a switch to be transmitted by APG&E.

**8. Rate Plan:** Customer's Product Information and Contract Price are set forth in Schedule A to this Agreement. If this Agreement was transacted using the services of a Broker or Aggregator, then the fee charged by Broker or Aggregator to Customer for such services may be included in Price. Customer may also pay a Base Charge per month, the amount of which, if applicable, is disclosed in Agreement.

**9. Energy Usage Variance:** Energy Usage Variance is **Full Swing**. Customer's Energy Usage is not subject to a maximum or a minimum.

**10. Intentionally left blank.**

**11. Credit Requirements:** APG&E may use credit reporting agencies to document and evaluate Customer's credit and/or payment history. At the discretion of APG&E and to the extent allowed by law, APG&E may require a deposit from Customer or refuse service in accordance with PUC rules and regulations. In no event shall APG&E require security from Customer in excess of one-fifth (1/5th) of Customer's estimated annual billing.

**12. Deposits:** APG&E may require an additional deposit from Customer if Customer has two (2) or more late payments or has had one (1) Disconnection of Service in the previous twelve (12) months. Service may be disconnected or terminated if a deposit is not paid within (10) days of any request for deposit. APG&E will apply any deposit held plus accrued interest, calculated at the rate approved by PUC, to the outstanding balance on the account's final bill or to the account's current balance when all of the following are satisfied: (i) Customer has paid bills for service for twelve (12) consecutive billings without having service disconnected for nonpayment and has not on more than two (2) occasions been delinquent; and (ii) the account is current. APG&E may disconnect service with or without prior written notice in accordance with PUC rules and regulations. No such deposit shall be required if the Customer is a governmental entity.

**13. Billing:** If actual meter readings are unavailable, invoices may be calculated based on estimated meter readings. Once actual meter readings are received, adjustments will be made on a subsequent invoice. Disconnection of electric service will not excuse Customer from paying any outstanding amounts owed to APG&E and Customer will be responsible to pay APG&E for any electricity used prior to Termination of this Agreement as well as any late payment charges. Customer may request up to twenty-four (24) months of billing/payment history without charge no more than twice within a twelve (12) month period. Any additional requests shall result in a fee of \$5.00 per bill period requested. Customer will receive a monthly invoice from APG&E in either paper or electronic format, or both, as requested. There is no charge for electronic formatted bills or electronic payment.

**14. Payment:** All invoices rendered are due when received and are past due if not paid within sixteen (16) days of the

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date of the bill (“Due Date”). Late payments, delinquent or past due balances will result in a late payment fee equal to 5% of the month’s past due amount. If Customer fails to pay for electric service, the above listed late fees may be applied, and APG&E will have the right to authorize disconnection of Customer’s electric service, in lieu of terminating this Agreement. APG&E will notify Customer ten (10) calendar days prior to Termination of this Agreement for non-payment. Upon satisfactory correction of the reasons for disconnection, Customer may reinstate electric service and will be charged a \$50 reconnect fee. A \$30 insufficient funds fee per transaction shall be assessed against any transaction not processed due to insufficient funds or credit availability for any method of payment including checks, bank drafts or credit card transactions. Customer is responsible for payment of all electricity consumed at the contracted Service Location; hence, APG&E may auto-debit Customer’s account without notice for any and all final amounts due after the account is in non-active status with APG&E. If a check is returned to APG&E for any reason, APG&E may auto-debit Customer’s account without notice for the amount due plus the \$30 returned check fee.

**15. Collections:** APG&E reserves the right to automatically charge the credit/debit card and/or checking account for any unpaid balances that are deemed past due and/or in collection status. If the account is referred to a collection company, APG&E reserves the right to bill a fee not to exceed 33% of the amount being collected. If the account is referred for legal action, any and all attorney fees and court costs will be billed to Customer. Customer shall be responsible for any and all fees associated with collecting on any amounts owed to APG&E, including but not limited to any fees charged by the collection agency or other entity.

**16. Taxes:** 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.

**17. APG&E Termination Rights:** Customer affirms to APG&E that Customer has provided APG&E with the correct and complete Customer name, address and contact information, and Customer does not have any outstanding balance or conflicting contractual obligations with APG&E or any other REP. If there is any evidence that any of these statements are or become untrue, that Customer has withheld pertinent information, or that Customer otherwise provided fraudulent or misrepresented information, APG&E may terminate this Agreement immediately. APG&E may end this Agreement, at no cost to APG&E, if (a) required or allowed by law, (b) Utility is unable to service Customer’s Service Location, or (c) Customer defaults or breaches this Agreement. APG&E will provide Customer (i) at least thirty (30) calendar days’ notice of Termination under this section, and (ii) at least five (5) calendar days to cure such Customer default or breach of this Agreement. If APG&E terminates this Agreement, Customer must still pay all APG&E charges through the date Customer is switched to another REP and any applicable ETFs.

**18. Intentionally left blank.**

**19. Early Termination:** If Customer terminates this Agreement prior to the end of the Initial Term for any other reason, except as expressly provided herein, Customer will be charged an Early Termination Fee (“ETF”).

**20. Early Termination Fee:** For Residential Service Locations ETF will be charged as detailed in Schedule A. For non-Residential Service Locations ETF will be applied as follows:

Annual kWh of Dropped Meters	Early Termination Fee
<100,000	\$50 per unused month
100,001 - 200,000	\$100 per unused month
200,001 - 300,000	\$150 per unused month
300,001 - 400,000	\$200 per unused month
400,001+	\$250 per unused month

**21. Customer Information Release:** Customer’s execution of this Agreement shall constitute authorization for APG&E to obtain and review certain information from Customer’s Utility, including consumption history. This authorization will remain in effect during Initial Term and any Renewal Term of this Agreement. APG&E will take reasonable steps to protect Customer’s personal information as required by applicable law and PUC. APG&E is prohibited from disclosing certain Customer Information (Social Security number, account number(s), phone number, or billing data) without Customer’s written consent except as required for APG&E collections and reporting, participating in Universal Service Fund programs, or assigning a Customer’s Agreement to another REP.

**22. Disputes or Complaints:** Customer shall contact APG&E with any questions or concerns. If a dispute arises, APG&E and Customer agree to negotiate in good faith. If negotiations fail, then APG&E and Customer may by mutual agreement submit the dispute to mediation or may choose to submit the dispute for a final and binding arbitration conducted in accordance with the American Arbitration Association (AAA) by a single arbitrator selected through the procedures of the AAA. Arbitrations shall be held in Harris County, Texas. At any time during a dispute Customer may contact PUC. During the pendency of a dispute Customer is not obligated to pay specific disputed amounts. Medium and Large Commercial Customers, as defined herein, understand and agree that PUC Customer Protection Rights afforded to Residential and Small Commercial Customers, as defined herein, are not applicable.

**23. Non-Discrimination:** APG&E does not discriminate, deny service, or require a prepayment or deposit for service based on a customer’s race, creed, color, religion, national origin, ancestry, sex, gender, marital status, sexual preference, age, lawful source of income, level of income, disability, familial status, geographic location, location of a customer in an economically distressed geographic area, receipt of public assistance income, or qualification for low income or energy efficiency services.

**24. Regulatory Change:** If there is a Regulatory Change which causes APG&E to incur new or additional, fees, costs,

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or charges, APG&E reserves the right to pass through such fees, costs or charges associated with Regulatory Change to Customer without markup. The changes addressed in this Section may impact any, or all, of the fees, costs, charges, prices, rates, or components covered in this Agreement, whether such items are described as "fixed," "variable," "included," "passed through" or otherwise.

**25. Force Majeure:** "Force Majeure" shall mean any cause not reasonably within the control of the party claiming suspension and which by exercise of due diligence, such party is unable to prevent or overcome, including but not limited to, any act or cause which is deemed a Force Majeure by Utility or any transmitting entity. If either party is unable, wholly or in part, by Force Majeure to perform or comply with any obligations or conditions of this Agreement, such party shall give immediate written notice, to the maximum extent practicable, to the other party. Such obligations or conditions, so far as they are affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, and such party shall be relieved of liability and shall suffer no prejudice for failure to perform the same during the period. The party claiming suspension of obligations must in good faith attempt to mitigate and/or terminate the Force Majeure.

**26. Governing Law and Venue:** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Texas and venue shall be proper in Harris County, Texas. The provisions of the Uniform Commercial Code ("UCC") shall apply to this Agreement and electricity shall be a "good" for purposes of the UCC. The UCC can be viewed at [www.statutes.legis.state.tx.us](http://www.statutes.legis.state.tx.us).

**27. Assignment:** Customer may not assign this Agreement, in whole or in part, or any of its rights or obligations hereunder without the prior written consent of APG&E. APG&E may without Customer's consent: (a) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial agreement; (b) transfer or assign this Agreement to an affiliate of APG&E; (c) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of APG&E; and/or (d) transfer or assign this Agreement to another REP. Upon any such assignment, Customer agrees that APG&E shall have no further obligations hereunder.

**28. Limitations of Liability:** FOR BREACH OF ANY PROVISION OF THIS AGREEMENT FOR WHICH AN EXPRESS REMEDY IS PROVIDED, SUCH EXPRESS REMEDY SHALL BE THE SOLE AND EXCLUSIVE REMEDY. THE BREACHING PARTY'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER DAMAGES AT LAW OR IN EQUITY SHALL NOT APPLY. IF NO EXPRESS REMEDY IS PROVIDED, APG&E'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES AT LAW OR IN EQUITY ARE HEREBY WAIVED. IN NO EVENT SHALL CUSTOMER OR APG&E 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 A BREACH OF THIS AGREEMENT.

**29. Severability:** If any provision of this Agreement is held by a court or regulatory agency of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force without being invalidated in any way.

**30. Representations and Warranties:** UNLESS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, APG&E PROVIDES, AND CUSTOMER RECEIVES NO WARRANTIES, EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE AND APG&E SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. The electricity sold under this Agreement will meet the applicable Utility's quality standards and will be supplied from a variety of sources. Customer represents and warrants that Service Location identified on Schedule A is strictly a residential facility.

**31. Delay or Failure to Exercise Rights:** No partial performance, delay or failure on the part of APG&E in exercising any rights under this Agreement and no partial or single exercise thereof shall constitute a waiver of such rights or of any other rights hereunder.

**32. Parties Bound:** This Agreement is binding upon the parties hereto and their respective successors and legal assigns.

**33. Customer Protection Rights:** Residential and Small Commercial Customers, as defined herein, enjoy certain protections as specified in PUC Substantive Rules Section 25.471. Medium or Large Commercial Customers, as defined herein, hereby waive these Customer Protections.

**34. Change in these Terms of Service and/or Electricity Facts Label:** APG&E will provide Customer with no less than fourteen (14) calendar days' advance written notice of any material change in these Terms of Service and/or Electricity Facts Label ("Change in Terms"), unless such Change in Terms benefits Customer. Upon receiving notice of Change in Terms, Customer shall have the right to terminate service until the effective date of Change in Terms, with no ETF due.

**35. Critical Care and Chronic Condition Residential Customers:** To be designated as a Critical Care or Chronic Condition Customer, the commission-approved application form must be submitted to Utility by a physician. Eligibility shall be determined by Utility in cooperation of Customer. PUC's standardized application is available on the state's website at <https://www.puc.texas.gov/industry/electric/forms> or by calling APG&E (toll free).

**36. Assistance Paying Your Bill:** Benefits may be available to qualified low-income Residential Customers. For more information contact Texas Lifeline at 1-866-454-8387 (toll free) or visit <https://www.puc.texas.gov/consumer/lowincome/Assistance.aspx>. Deposits may be waived if Customer is (i) 65 years of age or older and not currently delinquent, or (ii) a victim of family violence as defined in the Texas Family Code §71.004

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and provides a certification letter in the format developed by the Texas Council.

**37. Budget Billing:** APG&E offers levelized monthly payments (“Budget Billing”) to Residential and Small Commercial Customers based on (i) the previous 12 months of usage at Customer’s Service Locations or (ii) the estimated annual usage for Service Locations if a full 12-months of history is unavailable. After 12 months on Budget

Billing Payment, APG&E will true-up Customer’s account. APG&E will then (i) credit the account for any over-billed amount; (ii) bill the account for any under-billed amount; and/or (iii) recalculate your payments for the next 12 months based on any under or over-billing. Budget Billing is available to all customers who are not delinquent in payment at the time of enrollment. Customers with questions regarding Budget Billing may contact APG&E.

### Definitions

- **Agreement** – applicable Schedule A, Terms of Service, and any Amendment(s) or Addendum(s) thereto.
- **Ancillary Services** – costs associated with services necessary to support the transmission of electricity from generating sources to Customer and other ISO costs not otherwise included in any of the defined cost components in this Agreement.
- **Annual kWh** – commercially reasonable calculation or estimate of annualized kWh used or to be used by service location.
- **APG&E** – DBA for contracting entity identified as Seller in Schedule A to this Agreement.
- **Basis** – difference in price between energy delivered to the hub and Energy delivered to Customer’s load zone.
- **Customer** – Buyer as identified in Schedule A to this Agreement. Referred to as Customer, Buyer, or you.
- **Energy** – electrical energy supplied to load zone corresponding to Customer’s Service Location as required to meet Customer’s usage requirements. If Energy is listed as passed through on Schedule A such Energy will be settled real-time.
- **Energy Usage** – Customer’s metered kWh.
- **Energy Usage Variance** – is the amount by which Customer’s Energy Usage may surpass or fall short of the monthly expected kWh without incurring an Energy Usage Variance Charge.
- **Energy Usage Variance Charge** – is the incremental charge to Customer for Energy Usage Variances in excess of allowable Energy Usage Variance per Schedule A.
- **Governmental Authority** – federal, state, local, municipal or other governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise jurisdiction over APG&E, Customer or any transaction contemplated herein.
- **Holdover Rate** – a market-based month-to-month energy supply charge calculated using APG&E costing methodology, that may change with changes in market inputs. There is not a limit on how much the Holdover Rate may change from one billing cycle to the next.
- **Hub Energy** – energy delivered to the commercial energy trading hub corresponding with Customer’s delivery point.
- **Initial Term** – the number of Month(s) as specified in Schedule A of this Agreement.
- **ISO/RTO** – Independent System Operators or Regional Transmission Organizations that manage the flow of electricity on the electric grid.
- **Kilowatt (kW)** – a measure of demand for power; 1,000 watts.
- **Kilowatt-hour (kWh)** – the basic unit of measure of electric energy consumption.
- **Large Commercial Customer** – a non-residential customer with peak demand at or above one megawatt (MW) in the previous 12-month period.
- **Line Losses** – cost of energy that is lost during transmission from the energy source (generators) to Customer, including Unaccounted for Energy (UFE).
- **Medium Commercial Customer** – a non-residential retail customer with peak demand of 50 kW or greater, but less than 1,000 kW, in the previous 12-month period.
- **MW** – a measure of demand for power; 1,000,000 watts.
- **PUC** – Public Utility Commission of Texas.
- **REP** – Retail Electric Provider. An entity licensed by PUC to offer and supply electric generation services. A REP buys wholesale electricity, delivery service, and related services, prices electricity for customers, and sells electricity at retail. Under this Agreement your REP is APG&E.
- **Regulatory Change** – means the introduction of any new, or change in, law, rate, charge, load profiles, network transmission obligations, demand response programs, resource or fuel adequacy programs, RPS or other renewable energy requirements, Utility or ISO/RTO operations, market structure, congestion zone design, Utility tariffs and/or ISO/RTO rules or protocols.
- **Renewable Portfolio Standards (“RPS”) Costs** – means the costs associated with meeting renewable portfolio standards at the levels required by currently applicable law.
- **Rescission Period** – Residential and Small Commercial Customers have the right to cancel this agreement within three (3) federal business days of receiving this Terms of Service by contacting APG&E (toll free) or via email. Please include your name, address, phone number, account number, and the last four (4) digits of your Social Security Number in your rescission request.
- **Residential** – non-Commercial Customer that is (1) an end user, consuming energy at Customer’s place of residence for personal, family or household purposes, (2) not a re-seller of electricity and (3) classified as residential by applicable Utility.

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- **Small Commercial** – non-residential customer with peak demand in previous 12-month period of less than 50 kW.
- **Taxes** – any and all taxes and fees imposed on purchase or sale of electricity by any Governmental Authority. Customer will be responsible for, pay, and indemnify APG&E for all Taxes hereunder where not already included in Contract Price on Schedule A, whether imposed on Customer or APG&E. APG&E may collect such Taxes from Customer by increasing APG&E’s charges for such Taxes.
- **Transmission** – Network Service Peak Load (“NSPL”) is determined and provided by Utility for each of Customer’s Utility account number(s). Transmission obligations are administered by applicable ISO/RTO and are determined using Customer’s NSPL and applicable rates. Changes in Transmission Costs are based on adjustments by ISO/RTO or Utility to applicable rates or Customer’s NSPL.
- **Transmission Costs** – charge for Network Integration Transmission Service (“NITS”) and Transmission Enhancement Charges (“TEC”), each as identified in the applicable Open Access Transmission Tariff (“OATT”) for the provision of transmission service by ISO within Utility’s service territory.
- **Utility** – utility providing facilities for the jurisdictional transmission and distribution of electricity to retail customers. Also referred to as a Transmission and Distribution Service Provider (“TDSP”).
- **Utility and PUC Charges** – charges or surcharges from a Utility arising from or related to and including but not limited to (i) transmission and distribution of electricity (other than Network Integration Transmission Service), (ii) stranded or transition costs and any other similar types of costs, and (iii) system reliability, rate recovery, future payback of under-collections, amortization of above market purchases or energy load repurchases, public purpose programs and all similar items.
- **Voluntary Renewable Energy Credits (“RECs”)** – renewable energy sold by APG&E will be supplied from a variety of renewable generating sources including but not limited to wind, solar, biomass, or small hydro generators. APG&E will ensure that the appropriate number of RECs are retired to authenticate the amount of renewable energy purchased by Customer.

CONTACT INFORMATION	
APG&E Contact Information:	APG&E Entity and License #
Customer Service Hours: Mon-Thu 9am-8pm ET / 8am-7pm CST; Fri 9am-6pm ET / 8am-5pm CST; Sat 10am-2pm ET / 9am-1pm CST Phone: 1-877-544-4857 (toll free) E-mail: <a href="mailto:customer@apge.com">customer@apge.com</a> 6161 Savoy Drive, Suite 500, Houston, TX 77036 General Office Hours: 8am - 5pm Mon-Fri (CST) Website: <a href="http://www.apge.com">www.apge.com</a>	AP Gas & Electric (MD), LLC MPSC Certificate #IR-2231
	AP Gas & Electric (NJ), LLC NJBPU License #ESL-0112
	AP Gas & Electric (NY), LLC NY PSC License # 6023AP
	AP Gas & Electric (OH), LLC PUCO License #12-541E(1)
	AP Gas & Electric (PA), LLC PAPUC License #A-2010-2192731
	AP Gas & Electric (TX), LLC PUCT License #10105
<b>EMERGENCY SERVICE:</b> In the event of an electric outage, service interruption, or other emergency, the Customer should immediately contact the local Utility, listed below.	
<b>State of Texas</b>	
<b>ONCOR ELECTRIC DELIVERY</b> 1-888-313-4747 <b>CENTERPOINT ENERGY</b> 1-800-332-7143 <b>AEP TEXAS NORTH and AEP TEXAS CENTRAL</b> (WTU, CP&L) 1-877-373-4858 <b>TEXAS NEW MEXICO POWER</b> 1-888-866-7456	<b>Public Utility Commission of Texas (“PUCT”)</b> Office of Customer Protection, P.O. Box 13326, Austin, TX 78711-3326 Phone: (512) 936-7120 or in Texas (toll free) 1-888-782-8477; TTY (512) 936-7136, and Relay Texas (toll free) 1-800-735-2989 Fax: (512) 936-7003 E-mail: <a href="mailto:customer@puc.state.tx.us">customer@puc.state.tx.us</a> Website: <a href="http://www.puc.state.tx.us">www.puc.state.tx.us</a>