



SPARK ENERGY, L.P.
PUCT CERTIFICATE # 10046

RESIDENTIAL TERMS OF SERVICE

ISSUE DATE: JUNE 2006 **VERSION:** SP_RES_WEB_TOS_REV3

The following terms of service pertain to all residential customers accepting service from Spark Energy as their retail electric provider. By accepting these Terms of Service, Customer agrees and is bound by all the provisions as contained within this document. During the term of this Agreement, and any extensions thereto, Spark Energy agrees to sell and deliver, or cause to be sold and delivered, to Customer, and Customer agrees to purchase and receive, or cause to be received from Spark Energy electricity, all in accordance with the terms and provisions of these Terms of Service

CONTACT INFORMATION

- a) Website: www.sparkenergylp.com
- b) Mailing Address: Spark Energy, L.P., P.O. Box 3015, Houston, TX 77253
- c) Customer Service: (888) SPARKON (772-7566)
- d) Customer Service Fax: (866) 398-8512
- e) Customer Service Email: customer@sparkenergylp.com
- f) Hours of Operation: Monday to Friday, 8:00 am to 5:00 pm CST

RIGHT OF RESCISSION

Customer has a right to cancel this agreement without penalty or fees within 3 federal business days after the date of Customer's authorization and receipt of these Terms of Service. To cancel this agreement within 3 federal business days Customer can call (888) SPARKON (772-7566) fax (866) 398-8512 or send an email to: www.customerservice@sparkenergylp.com. Please include a statement indicating Customer's request to cancel within the 3 day rescission period, Customer's name, address, phone numbers and Spark Energy contract number or ESI ID.

RENEWALS AND TERMINATION

- a) This contract is entered into for a period of 12 months beginning with the Customer's enrollment with Spark Energy. Customer has the right to terminate this contract without penalty during this period if Customer moves to another location and Customer provides thirty (30) calendar days advance written notice of Customer's intent to terminate this agreement. Customer will be responsible for invoices due to Spark Energy for consumption used by the Customer up to the date the Customer's termination date becomes effective.
- b) The minimum term of service for this agreement is 12 months.
- c) If Customer cancels or terminates this agreement prior to the minimum term of service and without consent by Spark Energy, an early termination fee applies. Customer's payment of damages to Spark Energy for early termination of this Agreement not excused in writing by Spark Energy shall be equal to twelve dollars (\$12.00) multiplied by the months remaining in the term of this Agreement. Customer shall also be liable to Spark Energy for amounts due, up to the switch date, of all outstanding charges incurred prior to cancellation by Customer. Any early termination fee will automatically be applied to customer's credit card or bank account depending on the automatic payment arrangements made during enrollment.
- d) After the end of the minimum term, Customer's service will continue automatically on a monthly basis at Spark Energy's current variable market rate. Upon expiration of specified term, customer may request to negotiate a fixed rate extension based on current market rates.
- e) Upon not less than fifteen (15) days prior written notice, Spark Energy shall have the right to terminate this Agreement without penalty if Customer fails to pay on a timely basis or otherwise defaults in its obligations under this Agreement.

PRICING AND ELECTRIC SERVICE

RETAIL ELECTRIC PROVIDER SERVICES

Customer authorizes, and Spark Energy shall: (i) act as Customer's Retail Electric Provider for all purposes; and (ii) provide all the services required of a Retail Electric Provider. Spark Energy shall have no responsibility for payment of any outstanding debts owed by Customer to the Transportation and Distribution Service Provider ("TDSP") or previous supplier of electricity.

SERVICE CHARACTERISTICS

Service shall be provided in accordance with Customer's existing connection requirements unless Customer requests a change by the TDSP and pays for the cost of that change. Customer shall not use the electric power and energy furnished hereunder as an auxiliary and supplement to any other source of power and shall not resell any capacity or energy purchased hereunder. The price to be paid by Customer to Spark Energy for all electricity purchased hereunder is reflected on the Electricity Facts Label. These prices include: (i) the fixed price of energy supply based on service area, contract term and contract price, and (ii) the Spark Energy's charges for arranging transmission and distribution services. A monthly customer charge of \$4.95, applicable taxes, and non-recurring fees will be reflected separately as itemized charges on Customer's invoice. Non-recurring fees as charged by the TDSP include, but are not limited to, out of cycle meter readings, meter test fees, disconnection and reconnection fees, etc.

OTHER CHARGES AND FEES

In addition to charges or fees specified elsewhere in this Agreement or otherwise authorized by Law, Spark Energy may assess the following additional fees and charges:

- \$30.00 for payments returned for insufficient funds by any method of payment including, but not limited to, bank or personal check, automatic payment plan account deduction or credit/debit card payments.
- \$50.00 for each disconnection and termination notice Spark Energy sends to customer.

CHANGE OF LAW

Upon the occurrence of a change of law relating to the wholesale or retail electricity market in the Electric Reliability Council of Texas (ERCOT) resulting in new or modified fees, or a PUCT mandated change to the customer's TDSP, a charge will be billed to the customer as a separate line item or an adjustment to the price.

TAXES

Except as otherwise specified herein, Customer is liable for and shall pay all taxes applicable to the sale of capacity and energy incurred by Spark Energy for Customer's account. If Customer is a tax-exempt entity, Customer shall provide Spark Energy with the necessary certificates and/or documentation to qualify for such status. Customer shall also be liable for all assessments and other charges imposed by any governmental authority, including but not limited to, the PUCT and Gross Receipts tax on the sale of electricity by Spark Energy to Customer.

METERING

The supply of energy and capacity under this Agreement shall be measured at the delivery point by the TDSP providing the delivery service in accordance with the terms of the applicable tariff for retail delivery service. Spark Energy and Customer shall be bound by the measurement from the meters owned, installed, maintained and read by the TDSP.

REP'S RIGHTS

Termination of Service: Service will be terminated for non-payment. Non-payment of Customer's account will serve as notice of Customer's cancellation. Customer will receive a written notice stating that Customer's service will be terminated for failure to pay and Customer's service will be terminated. If Customer is unable to pay his or her bill by the due date, Customer should contact Spark Energy immediately.

DISCONNECTION OF SERVICE – WITH NOTICE

As of June 1, 2004, the Public Utility Commission of Texas (PUCT) allows REPs to request disconnection of Customer's service if payment has not been received by the final due date. A REP having disconnection authority may authorize the disconnection of a customer's electric service after proper notice for any of the following reasons:

- a) failure to pay any outstanding bona fide debt for electric service owed to the REP or to make deferred payment arrangements by the date of disconnection stated on the disconnection notice.
- b) failure to comply with the terms of a deferred payment agreement made with the REP;
- c) violation of the REP's terms and conditions on using service in a manner that interferes with the service of others or the operation of nonstandard equipment, if a reasonable attempt has been made to notify the customer and the customer is provided with a reasonable opportunity to remedy the situation;
- d) failure to pay a deposit as required by §25.478 of the Customer Protection Rules enacted by the PUCT (relating to Credit Requirements and Deposits); or
- e) failure of the guarantor to pay the amount guaranteed, when the REP has a written agreement, signed by the guarantor, which allows for disconnection of the guarantor's service.

If Customer pays after a disconnection order has been sent to the TDSP, every effort will be made to cancel the order; however, there may be additional charges that Customer will be responsible for, including a 5% late fee and an \$80.00 Drop Reversal fee. If Customer pays after Customer has been dropped to the Provider of Last Resort ("POLR") and Customer desires to continue service with Spark Energy, Customer will have to re-apply for service.

The disconnection notice will:

- Not be issued before the first day after the bill is due
- Be a separate mailing than Customer's regular invoice with a stated date of disconnection and the words "disconnection notice" displayed

- Have a final due date in the disconnection notice that is not a holiday, weekend day, or any other day that our personnel are not available to take payments, and that is not less than ten days after the notice is issued

If Customer's service is disconnected, Customer's final bill will be reconciled. Disconnection does not release Customer from responsibility to pay his or her bill in full. If Customer does not pay his or her bill in full, collection efforts will result.

Disconnection is prohibited for the following reasons:

- Delinquency in payment for electric service by a previous occupant of the premises if the occupant is not of the same household;
- Failure to pay for any charge that is not related to electric service;
- Failure to pay for a different type or class of electric service unless charges for such service were included on that account's bill at the time service was initiated;
- Failure to pay charges arising from an under billing, except for charges related to theft of service;
- Failure to pay disputed charges until a determination as to the accuracy of the charges has been made by the REP;
- Failure to pay disputed charges while an informal complaint has been filed and is pending or a complaint that has been formally docketed with the PUCT is pending;
- Failure to pay charges arising from an under billing due to any faulty metering, unless the meter has been tampered with;
- Failure to pay an estimated bill other than a bill rendered pursuant to an approved meter-reading plan, unless the bill is based on an estimated meter read by the TDSP;
- Spark Energy will not abandon Customer or a service area without advance written notice to Customer and the Commission. In the event Customer's REP terminates service due to abandonment, Spark Energy will not collect or attempt to collect penalties from the Customer;
- Spark Energy will not terminate service for a billing period in which the provider receives a pledge, letter of intent, purchase order, or other notification that an energy assistance provider is forwarding sufficient payment to continue service provided that such pledge, letter of intent, purchase order, or other notification is received by the due date stated on the termination notice, and the customer, by the due date in the termination notice, either pays or makes payment arrangements to pay any outstanding debt not covered by the energy assistance provider. If an energy assistance provider has requested historical usage data, Spark Energy will extend the final due date on the termination notice from day to day commencing from the date the usage data was requested until it is provided; and
- Spark Energy will allow at least 45 days for an energy assistance provider to honor a pledge, letter of intent, purchase order, or other notification.

DISCONNECTION OF SERVICE – WITHOUT NOTICE

Electric service may be disconnected without notice for the following reasons:

- A known dangerous condition exists, in which event; prior notice will be given, if possible. Notice will be provided by phone or posted on the door of the residential unit as soon as practicable after service is disconnected;
- Service was connected by a person without authority and without an Agreement;
- Service is reconnected without authority after being disconnected for failure to pay;
- There is evidence of tampering with equipment of the transmission or Local Distribution Utility, municipally owned utility or electric cooperative; and
- There is evidence of theft of service.

If service was disconnected because a dangerous situation existed, Customer must correct the situation to have Customer's service reconnected. Once Customer notifies Spark Energy that corrective action has been taken, service can be reconnected.

INVOICES, PAYMENTS AND DEPOSITS

- (a) Invoices for sums due hereunder shall be rendered monthly in electronic format, as agreed upon by enrolling for electric service with Spark Energy. Invoices shall be rendered monthly to Customer at the Billing Address as specified in the Electric Service Agreement Customer agreed to at the time Customer enrolled for electric service with Spark Energy or at such other address as directed by Customer in writing. Upon written request, Customer may receive an invoice in paper format via US Mail at Customer's designated billing address.
- (b) All invoices rendered hereunder are due when rendered and are past due if not paid within sixteen (16) days from the date of invoice (the "Due Date"). If Customer fails to pay the full amount of any invoice by its Due Date, unless Customer has provided Spark Energy with written notice disputing all or some of the charges prior to the Due Date, the Customer shall also pay Spark Energy the sum of a penalty equal to 5% on the uncontested and unpaid balance. If a contested amount is later determined to be accurate, Customer shall also pay Spark Energy 5% on that amount.
- (c) In the event the Customer has multiple service locations, Customer is responsible for the terms and aggregate liability of all charges under such Customer contracts.

- (d) If Customer disputes any invoice or portion thereof, it shall do so in writing prior to the Due Date and shall provide REP with all substantiation, documentary and otherwise, of the claim. If negotiations between the parties fails to resolve the dispute, then the entire invoice shall be due and owing and interest shall accrue from the Due Date of such invoice.

BILL PAYMENT OPTIONS

Automatic Payment – Customers plan requires automatic payment via 1) direct debit from a checking or savings account; or 2) by using a debit / credit card. Payment will automatically be deducted from Customer's account on the due date of the invoice.

In the event Customer is unable to pay an invoice on time, the following payment options are available.

Bill Payment Assistance Program – An energy assistance bill pay program may be available to customers who cannot pay their bills and require financial assistance. This program is funded by contributions from Spark Energy customers.

Payment Arrangements – If Customer cannot pay invoice on time, please call Spark Energy immediately. Spark Energy, in its sole discretion, may allow Customer to pay the outstanding bill after its Due Date but before the Due Date of the next bill. If Spark Energy issues a disconnection notice before a payment arrangement is made, but a payment arrangement is subsequently agreed to by Spark Energy and Customer, the disconnection will be suspended until after the date of the payment agreed to in such payment arrangement. If payment is not received by the due date of the payment arrangement, no further notice will be provided, and the electric service will be disconnected.

Deferred Payment Plans - Customer may be eligible for a deferred payment plan if the Customer cannot pay his/her bill on time; provided that (1) Customer has not received 2 termination notices within the past 12 months, (2) Customer does not have a deferred payment for a previous balance, or (3) the Customer has not been serviced by Spark Energy for 3 months. A deferred payment plan may include a 5% penalty for late payment. Customer's electric service may still be terminated and disconnected if Customer does not meet the requirements of the deferred payment plan. Any deferred payment plan will include an initial payment of 25% of the outstanding balance, and the remaining balance to be paid over at least three billing cycles.

Level and Average Billing – This program allows Customer to pay approximately the same monthly amount for electric service, subject to a semi annual adjustment based on actual consumption. This program is offered to any Customer who is not currently delinquent in payment to Spark Energy and who has been a customer of Spark for a minimum of 3 months. Spark Energy may bill or credit any overbilling or underbilling, as appropriate, at least once every twelve months. Spark Energy may collect under-recovered costs and/or refund any over-recovered amounts from Customer annually or upon termination of service to the Customer. Spark Energy may initiate normal collection activity if Customer fails to meet payment terms.

CREDIT AND DEPOSITS

(i) **Initial Deposits.** Customer may be required to post a security deposit with Spark Energy prior to receiving service from Spark Energy, if customer is unable to demonstrate creditworthiness as specified in § 25.478 of the PUCT Substantive Rules. If a security deposit by Customer is required, in no event shall Spark Energy require the amount of such security deposit to be in excess of (1) the sum of the next two month's estimated usage or (2) one-fifth (1/5) of the estimated annual billing. Customer deposits held by Spark Energy will be refunded to customer as a credit to an invoice for electric service provided to Customer if no late payments have been applied to Customer's account after 12 consecutive months.

Customer's properly verified eligibility in low income discount programs may pay any required deposit in excess of \$50 in two equal installments. The first installment is payable no later than (10) days and the second installment is payable no later than (40) forty days from the date of the Company's issuance of written notice to the applicant of the deposit requirement.

Any security deposits shall be kept in a separate account and shall not be commingled with Spark Energy's funds. In the event that Customer is past due more than once during the last 12 months of service or had service disconnected for nonpayment during the last 12 months of service, Spark Energy may require an additional deposit.

(ii) **Additional Deposits.** Additional deposits may be requested from Customer if:
1.) the average of the customer's actual billings for the last 12 months are at least twice the amount of the original average of the estimated annual billings; and
2.) a termination or disconnection notice has been issued or the electric service has been disconnected within the previous 12 months. Spark Energy may require the Customer to post an additional deposit within ten days after Spark Energy has requested the additional deposit.

Spark Energy may terminate or disconnect service if the additional deposit is not received within ten days of the request, provided a written disconnection notice has been issued to the Customer. A disconnection notice may be combined with or issued concurrently with the written request for the additional deposit.

(iii) **Interest on Deposits.** Spark Energy shall pay interest on deposits at an annual rate at least equal to that established by the Public Utility Commission of

Texas on December 1 of the preceding year, pursuant to Texas Utilities Code §183.003 (Vernon 1998) (relating to Rate of Interest). If a deposit is refunded within 30 days of the date of deposit, no interest payment will be paid. If the REP keeps the deposit for more than 30 days, payment of interest shall be made retroactive to the date the deposit was received by the REP.

- Payment of interest to the customer shall be made annually, if requested in writing by the Customer, or at the time the deposit is returned or credited to the Customer's account.
- The deposit shall cease to draw interest on the date it is returned or credited to the Customer's account.

If Customer is unable to pay its bill on time, Customer should contact Spark Energy immediately. Spark Energy may allow Customer to pay the outstanding bill after its due date, but before the due date of the next bill. If customer has been under-billed by \$50 or more or the bill comes due during an extreme weather emergency, Spark Energy may offer a payment plan or alternative payment arrangement.

COLLECTION AND ATTORNEY FEES

In the event Customer defaults in the prompt payment of amounts due under these Terms and Service, Spark Energy reserves the right to assess any and all fees or charges related to the collection of delinquent balances. Spark Energy may use the services of debt collection agencies, consumer reporting agencies and other remedies as allowed by law to collect any unpaid balances on Customer's account.

RISK OF LOSS AND INDEMNITY

WARRANTIES

Spark Energy warrants that it will deliver to Customer, Customer's capacity and energy requirements in accordance with this Agreement, free and clear of all liens, claims and encumbrances arising prior to the delivery point or points. Customer shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of the capacity and energy after receipt at the delivery point or points. **OTHER THAN AS SET FORTH IN THIS PARAGRAPH, SPARK ENERGY MAKES NO REPRESENTATION OR WARRANTIES, EITHER EXPRESSED OR IMPLIED, WITH REGARD TO THE PROVISION OF CAPACITY AND ENERGY AND DISCLAIMS ANY AND ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BY NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

INDEMNITY

SPARK ENERGY AND CUSTOMER SHALL, AND EACH HEREBY DOES, INDEMNIFY, DEFEND, AND HOLD THE OTHER PARTY HARMLESS FROM ANY CLAIMS ARISING FROM ANY ACT OR INCIDENT OCCURRING WHEN TITLE TO CAPACITY AND ENERGY IS VESTED IN THE INDEMNIFYING PARTY.

FORCE MAJEURE

- If either Party is rendered unable by Force Majeure to carry out, in whole or in part, its obligations under this Agreement and such Party gives notice and full details of the event to the other Party as soon as practicable after the event, then during the period of such Force Majeure, but for no longer period, the obligations of the Party affected by the event (other than the obligation to make payments, then due or becoming due with respect to performance prior to the event) shall be excused to the extent required. The Party affected by the Force Majeure shall take all reasonable steps to remedy the effect of the Force Majeure event.
- Force Majeure shall mean any act or event that is beyond the reasonable control, and without the fault or negligence of, the Party whose performance under the Agreement is adversely affected, interrupted, or precluded by the event. A Force Majeure event includes, but is not limited to, an act of God; labor disturbance; act of public enemy; war; insurrection; riot; embargo; fire; storm; lightning; flood; explosion; breakage or accident due to machinery or equipment; acts of other parties, including ERCOT, aggregators, other Retail Electric Providers, qualified scheduling entities, TDSPs, and the respective employees and agents of such parties; a curtailment order, regulation, or restriction imposed by a governmental, military, or lawfully established civil authority; and any other condition beyond the reasonable control and without the fault of either Party.

NOTICES

Notices shall be given as provided herein to the designees listed at the end of this Agreement and shall be deemed to have been duly delivered if hand delivered or sent by United States certified or registered mail, return receipt requested, postage prepaid, or by Federal Express or similar overnight delivery service.

ASSIGNMENT

This Agreement shall be binding upon and inure to the benefit of, and may be performed by the successors and assignors of the Parties, except that no assignment, pledge or other transfer of this Agreement by either Party shall operate to release the assignor, pledgor, or transferor of any of its obligations under this Agreement. Notwithstanding any other provision of this Agreement, Customer agrees that Spark Energy shall have the right to assign this Agreement, together with all rights and obligations hereunder, to Spark Energy's electricity supplier, or such supplier's designee. Nothing in this provision shall deny Spark Energy or Customer of any benefits obtained, or relieve them of any obligations, duties, and responsibilities incurred, prior to any assignment under this provision.

RESOLUTION OF DISPUTES

The Parties shall in good faith negotiate all disputes. If negotiations fail, then the Parties may, by mutual agreement, submit the dispute to mediation or chose to submit the dispute for a final and binding arbitration conducted in accordance with the rules of the American Arbitration Association (AAA) by a single arbitrator selected through the procedures of the AAA. Arbitrations shall be held in Harris County, Texas or as mutually agreed to by the Parties.

MISCELLANEOUS

GOVERNING LAW

This Agreement was executed in the State of Texas and shall in all respects be governed by, interpreted, construed and enforced in accordance with the laws thereof, without regard to principles of conflicts of laws. Venue shall be in Harris County, Texas.

CONFIDENTIALITY

Neither Party shall disclose the terms of this Agreement to any third party (other than such parties lenders, counsel, accountants or other advisors) except in order to comply with any applicable law, order, rule, or regulation.

ENTIRE AGREEMENT

This Agreement along with the enrollment materials agreed to by Customer constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes any other agreements, written or oral, between the parties concerning the subject matter of the Agreement.

NO WAIVER.

No waiver by either Party of any default by the other Party under this Agreement shall operate as a waiver of a future default whether of a like or different character.

AMENDMENT

These Terms of Service may be amended by Spark Energy from time to time. Spark Energy will provide written notice to Customer at least 45 days in advance of any material change in these Terms of Service. Upon receipt of this written notice, Customer may decline any material change in the terms of service and terminate the terms of service agreement without penalty. Spark Energy is not required to provide notice for material changes that benefit the Customer or for changes mandated by a regulatory agency. The changes will become binding and effective on the date stated in the notice unless Customer terminates his or her agreement.

SEVERABILITY

Should any provision of this Agreement for any reason be declared invalid or unenforceable by final and applicable order by a court or any regulatory body having jurisdiction, such decisions shall not affect the validity of the remaining portions, and the remaining portions shall remain in effect as if this Agreement had been agreed to without the invalid portion. In the event any provision of this Agreement is declared invalid, the Parties shall promptly renegotiate to restore this Agreement as near as possible to its original intent and effect.

SURVIVAL

The provision of this Agreement concerning payment, confidentiality, and indemnification shall survive the termination or expiration of this Agreement.

STATEMENT OF NON-DISCRIMINATION

Spark Energy shall not deny service or require a prepayment or deposit for service based on a customer's race, creed, color, national origin, ancestry, sex, marital status, source of income, if legal, disability, familial status, location of a customer in an economically distressed geographic area, or qualification for low income or energy efficiency services.