

Fill in this information to identify the case:

Debtor 1	United Site Services, Inc.
Debtor 2 (Spouse, if filing)	
United States Bankruptcy Court for the: District of New Jersey	
Case number	25-2360

**Official Form 410****Proof of Claim**

04/25

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Fillers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

1. Who is the current creditor?	Gexa Energy, LP	
	Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom?	

3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Siara Levine, Senior Manager - Credit Risk	Javier Rivero, Leader - Retail Operations
Name	Name	Name
601 Travis Street - Suite 1400	601 Travis Street - Suite 1400	601 Travis Street - Suite 1400
Number Street	Number Street	Number Street
Houston TX 77002	Houston TX 77002	Houston TX 77002
City State ZIP Code	City State ZIP Code	City State ZIP Code
Contact phone 954-729-1002	Contact phone 713-401-5598	Contact phone 713-401-5598
Contact email siara.levine@gexaenergy.com	Contact email javier.rivero@gexaenergy.com	Contact email javier.rivero@gexaenergy.com

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4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known)	Filed on _____ MM / DD / YYYY
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing?	



2523630260211000000000003

page 1

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor?  No  Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: 7 4 8 6

7. How much is the claim? \$ 0.00. Does this amount include interest or other charges?  No  Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.

Gexa Energy is the retail electric provider to United Site Services, Inc.

9. Is all or part of the claim secured?  No  Yes. The claim is secured by a lien on property.

**Nature of property:**

Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
 Motor vehicle  
 Other. Describe: \_\_\_\_\_

**Basis for perfection:** \_\_\_\_\_

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ \_\_\_\_\_

Amount of the claim that is secured: \$ \_\_\_\_\_

Amount of the claim that is unsecured: \$ \_\_\_\_\_ (The sum of the secured and unsecured amounts should match the amount in line 7.)

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Annual Interest Rate (when case was filed) \_\_\_\_\_ %

Fixed  
 Variable

10. Is this claim based on a lease?  No  Yes. Amount necessary to cure any default as of the date of the petition: \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff?  No  Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

No  
 Yes. Check one:

Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ \_\_\_\_\_

Up to \$3,800\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ \_\_\_\_\_

Wages, salaries, or commissions (up to \$17,150\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ \_\_\_\_\_

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ \_\_\_\_\_

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ \_\_\_\_\_

Other. Specify subsection of 11 U.S.C. § 507(a)(\_\_\_\_) that applies. \$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/28 and every 3 years after that for cases begun on or after the date of adjustment.

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(3) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.  
 I am the creditor's attorney or authorized agent.  
 I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.  
 I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 02/03/2026  
 MM / DD / YYYY



Signature

Print the name of the person who is completing and signing this claim:

	PJ	Zonsius	
Name	First name	Middle name	Last name
Title	Vice President-Commercial Sales, Gexa Energy GP, LLC, General Partners of Gexa Energy, LP		
Company	Gexa Energy, LP		
Identify the corporate servicer as the company if the authorized agent is a servicer.			
Address	601 Travis Street - Suite 1400		
	Number	Street	
	Houston		TX 77002
	City		State ZIP Code
	678-787-9419		pj.zonsius@nexteraenergy.com
Contact phone			Email

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## BUSINESS ELECTRICITY AUTHORIZATION TEXAS SMALL COMMERCIAL SALES

<u>SERVICE INFORMATION</u>	
Contract Type: <input checked="" type="checkbox"/> New Service <input type="checkbox"/> Renewal	
Business Name ("Customer"): United Site Services Inc	<input checked="" type="checkbox"/> See attached Addendum A for ESI ID and Service Commencement Date information
Contact Name: Travis Porter Email: travis.porter@unitedsiteservices.com Primary Phone: (508) 948-5840 Secondary Phone: Fax: Duns #:13-303-6850 Tax ID#:	
Preferred Language Information will be English unless the following box is checked: <input type="checkbox"/> Spanish (Español)	
<b>Tax Exemption:</b> If a non-renewing customer, a completed tax exemption certificate must accompany this Agreement. If no certificate is attached, Gexa Energy will assume that sales to Customer are subject to Taxes and will process Customer's account accordingly.	
<b>Energy Charge:</b> \$0.07970 per kWh	<b>Contract Term:</b> 60 Months
<b>Start Month/Year:</b> 8/2021	<b>Pay Terms:</b> Net SIXTEEN (16) Days
<b>Agreement, Authorization and Acknowledgement:</b> The contract documents governing Customer's purchase of electricity from Gexa Energy (this "Agreement") are comprised of the Electric Sales Terms of Service ("TOS"), attached hereto as Exhibit A (version ESMCTXTOSFPINVP080520), this Business Electricity Authorization ("BEA"), which is a part of the Customer's Terms of Service, all addenda to this BEA, and if customer is a Small Commercial Customer (as defined in the TOS), Customer's Electricity Facts Label ("EFL") and a Your Rights as a Customer document ("YRAC"). Any capitalized terms not defined in this BEA shall have the meanings set forth in the TOS. Any inconsistency between the BEA and the TOS shall be governed by the BEA. Customer hereby authorizes Gexa Energy, for the duration of this Agreement, to become its new REP and to act as its agent to perform the necessary tasks to establish Customer's electric supply account with Gexa Energy. This authorization to establish or switch Customer's provider of electric service applies to all ESI ID(s) listed on Addendum A. By signing this BEA (facsimile signature accepted as if it were an original), Customer hereby agrees, as of the Effective Date, that Customer has read and understands this Agreement (including the TOS) for the product for which Customer is enrolling and agrees to the terms and conditions set forth in the Agreement which describe the service Customer will receive. The undersigned below represents and warrants to Gexa Energy that he/she is at least eighteen (18) years of age, legally authorized to enter into this Agreement on behalf of Customer, and select or change to Gexa Energy as the retail electric provider for the ESI ID(s) listed on Addendum A. <b>This Agreement is not valid or binding unless and until signed by both Parties.</b>	
<b>Rescission:</b> If Customer is a Small Commercial Customer (as defined in the TOS) and is making a switch request, Customer has the right to rescind this Agreement within three (3) federal business days after receiving this Agreement, without penalty. The TOS explains how to exercise this right of rescission before Customer's electric service is switched to Gexa Energy.	
<b>Energy Charge and Contract Term:</b> Except as described below for variable price plans, Customer agrees that (i) during the Contract Term, Customer shall pay the unit price set forth in the EFL, and (ii) the Contract Term of service from Gexa Energy to which the Customer has agreed is set forth above.	

For variable price plans, Customer agrees that Customer shall pay the unit price on the EFL for the Customer's first Billing Cycle. For subsequent Billing Cycles, the price may change at the sole discretion of Gexa Energy in accordance with the Variable Price Product section of the TOS.

The unit price shown on the EFL provided to a Small Commercial Customer includes the Energy Charge for the supply of electricity as described in the TOS, all recurring TDU Delivery Charges, the ERCOT administrative fee, the Texas Regional Entity ("TRE") administrative fee, the PUCT Assessment fee, and any other recurring third-party fees. Specific TDU charges will vary depending on the TDU providing the services.

**Deposits:** Customer acknowledges that it understands that if Gexa Energy determines in its reasonable discretion that Customer cannot demonstrate satisfactory creditworthiness, Gexa Energy may require Customer to pay an initial cash deposit in an amount of up to one-fifth of Customer's estimated annual billing in order to enroll.

**Language:** Customer acknowledges that it prefers to receive information from Gexa Energy in the language specified above; provided, that if no language is specified, then Customer is deemed to prefer to receive information in English.

**Early Termination Fee:** With the exception of variable price plans, Customer is required to pay Gexa Energy the Early Termination Fee if supply provided by Gexa Energy to one or more ESI IDs is terminated before the end of the Contract Term. The Early Termination Fee is described in the Disclosure Table of the EFL.

United Site Services Inc

Authorized  
Signature:

E-Signed : 08/20/2021 10:53 AM CDT

*Travis Porter*

travis.porter@unitedsiteservices.com

IP: 45.24.0.159

Sertifi Electronic Signature

DocID: 20210820075310236

Print Name: \_\_\_\_\_  
Operations Manager  
Title: \_\_\_\_\_  
08/20/2021  
Date: \_\_\_\_\_

Gexa Energy, LP,

By: Gexa Energy GP, LLC, its General Partner:

Authorized  
Signature:

E-Signed : 08/20/2021 12:37 PM CDT

*Brian Landrum*

noreplysertifi@gexaenergy.com

IP: 13.110.74.8

Sertifi Electronic Signature

DocID: 20210820075310236

Print Name: \_\_\_\_\_  
President  
Title: \_\_\_\_\_  
08/20/2021  
Effective Date: \_\_\_\_\_  
Sales Representative: Dessie Sackey



## BUSINESS ELECTRICITY AUTHORIZATION TEXAS SMALL COMMERCIAL SALES

### Addendum A

**CUSTOMER NAME:** United Site Services Inc

**NOTICE TO CUSTOMER:** Notwithstanding anything to the contrary in the BEA or TOS, for each of the respective ESI IDs set forth in this Addendum A: (i) the Service Commencement Date (as that term is used in the TOS) shall be the first meter read date during or after the applicable ESI ID Start Month/Year set forth below; and (ii) the end of the Initial Term (as that term is used in the BEA and TOS) shall be the first meter read date during or after the applicable ESI ID End Month/Year set forth below.

#### ACCOUNTS INCLUDED IN AGREEMENT:

Utility Account Number	Service Address City, State and Zip	Billing Address City, State and Zip	Account Type*	Service Commencement Date	Service End Date
1008901023806049550100	19950 HUFSMITH KOHRSVILLE RD #1 TOMBALL, TX 77375	118 Flanders Rd Westborough, MA 01581	N	08/19/2021	08/19/2026

N = New Account; or E = Renewal/Existing Account

**NOTICE TO CUSTOMER:** Notwithstanding any provision in the Agreement to the contrary, the following shall apply: It is possible that, for various reasons, the TDU will not enroll some or all the Accounts listed above and the TDU will so advise Gexa (such unenrolled Accounts being referred to as "UE Accounts"). In such case, Gexa will provide written notice to Customer of Customer's UE Accounts. All UE Accounts shall be automatically **deleted** from this Addendum A without an amendment hereto (i.e., an amendment signed by both Parties) and Gexa shall not be required to serve such UE Accounts.

**Customer Initials:** TP  
E-Signed

08/20/2021

**Date:** \_\_\_\_\_  
08/20/2021

**Gexa Energy, LP Initials:** BL  
E-Signed

**Date:** \_\_\_\_\_



## BUSINESS ELECTRICITY AUTHORIZATION

### TEXAS SMALL COMMERCIAL SALES

### TERMS OF SERVICE

**BUSINESS ELECTRICITY AUTHORIZATION:** These Terms of Service ("TOS") explain the details of your electricity supply from Gexa Energy, LP ("Gexa Energy" or "we" or "us"). This TOS document, together with your written, telephonic or electronic (including internet) enrollment authorization, as applicable, and any related enrollment documentation or records, including any addenda thereto, the Electricity Facts Label ("EFL") and Your Rights as a Customer document ("YRAAC"), constitute your agreement with Gexa Energy (collectively, the "Agreement" or "Business Electricity Authorization"). Any inconsistency between these contract documents shall be governed by the TOS.

**SPANISH LANGUAGE (IDIOMA ESPAÑOL):** Your contract documents are available in Spanish by contacting us at 713 961 9399 or toll free at (866) 961 9399 (outside Houston). Usted puede obtener los documentos de su contrato comunicándose con nosotros al 713 961 9399 o sin cargos al (866) 639-8118 (fuera de Houston).

**24 HOUR SERVICE OUTAGE REPORTING:** Should an outage occur, Customer should contact the appropriate transmission and distribution utility:

ONCOR: (888) 313-4747  
CENTERPOINT ENERGY: (800) 332-7143  
AEP TEXAS: (866) 223-8508  
TEXAS NEW MEXICO POWER: (888) 866-7456

#### **GEXA ENERGY AND PUCT CONTACT INFORMATION:**

REP NAME:	Gexa Energy, LP
BUSINESS NAME:	Gexa Energy
CERTIFICATE NO.:	10027
INTERNET ADDRESS:	<a href="http://www.gexaenergy.com">www.gexaenergy.com</a>
EMAIL ADDRESS:	<a href="mailto:tx@gexaenergy.com">tx@gexaenergy.com</a>
MAILING ADDRESS:	20455 State Highway 249, Suite 200 ATTN: Contract Administration Houston, TX 77070
TELEPHONE NUMBER:	866-961-0200
FAX:	866-550-4392
OFFICE HOURS OF OPERATION:	Monday - Friday: 8:00 a.m. - 5:00 p.m., CT. Closed holidays.
PUCT:	1-888-782-8477 (TTY 1-800-735-2988) <a href="mailto:customer@puc.state.tx.us">customer@puc.state.tx.us</a>

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Customer Service: 866-961-9399; Fax: 866-550-4392; Email: [TX@gexaenergy.com](mailto:TX@gexaenergy.com)

## 1. DEFINITIONS.

"Additional Pass-Through Charges" means any costs and charges arising from a Change in Law, Material Usage Deviation Charges and/or Sub-metering Charges.

"Average Monthly Charge" means, with respect to each ESI ID terminated, the amount that would be due to Gexa Energy under this Agreement for the Energy Charge assuming the Customer's average monthly usage of each relevant ESI ID; provided, that if an average monthly usage cannot be determined due to a limited term of supply by Gexa Energy or any other circumstance, such average monthly usage as calculated by Gexa Energy.

"BEA" or "Business Electricity Authorization" means the Agreement entered into between Gexa Energy and Customer.

"Billing Cycle" means, for each ESI ID, the period between successive monthly meter read dates during the term of this Agreement.

"Change in Law" means a change in law, regulation, rule, ordinance, order or decree by a governmental authority (including ERCOT) or the implementation of an existing law, regulation, rule, ordinance, order or decree by a governmental authority (including ERCOT), including, without limitation, TDU tariffs and ERCOT Protocols (including, without limitation, those affecting any fees, costs, or charges imposed by ERCOT), changes in market rules, changes in load profiles, changes in how ERCOT calculates usage, changes in nodal and zonal definitions, changes in nodal protocols as currently constituted and documented. A "change," as used above, includes, without limitation, any amendment, modification, nullification, suspension, repeal, finding of unconstitutionality or unlawfulness or any change in construction, calculation, interpretation or administration.

"Contract Documents" means this TOS, the EFL and YRAAC document.

"Contract Term" means the period commencing on the Service Start Date and continuing thereafter for the fixed number of months designated as the Contract Term ("fixed Contract Term"), or the month-to-month period, all as specified in the Enrollment Documents and the EFL, provided, however, that the Contract Term shall end on the meter read date for the last billing month of the Contract Term. If Customer is a Small Commercial Customer on a fixed rate product, then notwithstanding any contrary provision in this Agreement, the Contract Term shall end on the end date of the contract specified by Gexa Energy in a bill or otherwise; provided, that Gexa Energy may bill the Monthly Charge until the first meter read after the end date of the contract. Further, if an end date of the contract is specified for any Customer that is not a Small Commercial Customer in a bill or otherwise, then notwithstanding any contrary provision in this Agreement, the Contract Term shall end on the date through which Gexa Energy bills the Monthly Charge.

"Customer" or "you" is the applicant or person or entity identified as Customer in the Enrollment Documents.

"Customer Delivery Point" means the point of interconnection between the TDU facilities and Customer's electric meter.

"Early Termination Fee" is described in the Disclosure Table of the EFL.

"Effective Date" is one of the following, as applicable, (i) for an internet enrollment, the date when Customer's application to receive electricity supply from Gexa Energy is completed through Gexa Energy's website without condition or rejection; (ii) for a telephonic enrollment, the date when the Parties agree to enter into this Agreement via Gexa Energy's call center; or (iii) for a written enrollment, the date specified as the Effective Date on the enrollment authorization.

"EFL" is the Electricity Facts Label.

"Energy Charge" is the charge per kWh for the electricity generation supply provided to Customer by Gexa Energy during the Contract Term as specified in the Enrollment Documents and the EFL.

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"Energy Usage" means Customer's total metered energy usage for the ESI ID(s) subject to this Agreement measured in kilowatt hours ("kWh") for the applicable period.

"Enrollment Documents" means Customer's written, telephonic or internet enrollment authorization, as applicable, and any related enrollment documentation or records, which for a written enrollment shall include the Addendum A.

"ERCOT" means the Electric Reliability Council of Texas.

"ESI ID" means the Customer's Electric Service Identifier referenced in the Enrollment Documents.

"Event of Default" means, with respect to Customer, the occurrence of any of the following:(i) failure to make timely payment of all amounts due hereunder; (ii) failure to post a security deposit under the provisions of the "Credit and Deposit Requirements" Section herein within ten (10) days of a written request therefor; (iii) breach of any warranty or representation to Gexa Energy; (iv) failure to take exclusively from Gexa Energy, at any time during the Contract Term, the full requirements electric supply for any or all of the ESI ID(s) covered by the Agreement; (v) default on any material obligation under this Agreement (other than as provided in subparts (i), (ii), (iii) and (iv) above); (vi) Customer (A) makes an assignment for the benefit of creditors, (B) files a petition or otherwise authorizes the commencement of a proceeding under the Bankruptcy Code or similar law for protection of creditors, or has such petition filed against it, (C) otherwise becomes bankrupt or insolvent, or (D) is unable to pay its debts as they fall due; or (vii) subject to the "Assignment" Section of this Agreement, Customer enters into a merger with, or sells substantially all of its assets to, another entity that fails to assume Customer's obligations under this Agreement.

"Gexa Energy" or "we" or "us" means Gexa Energy, LP, a Texas limited partnership.

"Holdover Period" is defined in the "Term" Section of this TOS.

"Late Payment Penalty" means a one-time fee of five percent (5%) assessed on invoices for the Monthly Charge that are not paid when due.

"Load Zone" means a group of electrical buses assigned to the same zone under Nodal Protocol Section 3.4, Load Zones.

"LMP" means either the day ahead or real time ERCOT Settlement Point Price for the applicable settlement location in which the Customer meter is located. The election of day-ahead or real-time shall be indicated in the EFL. If no specific ERCOT Settlement Point Price is indicated, then the day ahead ERCOT Settlement Point Price settlement will be used. LMP is expressed in \$/MWh and shall have no minimum price per MWh.

"Monthly Charge" means the sum of: (i) the product of Customer's Energy Usage during a Billing Cycle and the applicable price, as described in the EFL, or, if the EFL is not provided to Customer prior to the end of the fixed Contract Term, the price of the default variable product as described in the "Pricing" Section of the TOS; (ii) Pass-Through Charges (including, without limitation, Additional Pass-Through Charges and the charges described in the "Change in Law" Section of this TOS) , if any; and (iii) Taxes.

"Party" means either Gexa Energy or Customer, and "Parties" means both Gexa Energy and Customer.

"Pass-Through Charges" means any non-recurring charges as described in the "Summary of Gexa Energy Non-Recurring Charges" Section of this TOS, any non-recurring TDU charges and/or non-recurring third-party fees and charges, and/ or Additional Pass-Through Charges. Examples of non-recurring TDU charges are those arising from a move-in or switch, such as self-selected meter reads; service connection, disconnection, or reconnection fees; and meter tampering charges. Pass-Through Charges may be treated as an adjustment to the Energy Charge or may be passed through to Customer, at Gexa Energy's sole option.

"PUCT" means the Public Utility Commission of Texas.

"REP" means retail electric provider.

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"Seller Delivery Point" means the point of interconnection between a third-party transmission or delivery system and the TDU transmission or delivery system.

"Service Start Date" means the date on which the TDU switches the Customer's respective ESI ID(s) to Gexa Energy; during or after the applicable Service Start Date (Month/Year) specified in the Enrollment Documents, provided that, in the case of a renewal of electric supply already being provided by Gexa Energy to Customer, the Service Start Date means the day following the termination or expiration of Customer's most immediately preceding agreement with Gexa Energy.

"Small Commercial Customer" means a non-residential customer that has a peak demand of less than fifty (50) kW during any twelve-month period, unless the customer's load is part of an aggregation program whose peak demand is in excess of fifty (50) kW during the same twelve-month period.

"Taxes" means all federal, state, municipal or other governmental taxes, duties, fees, levies, premiums, assessments, surcharges, withholdings, or any other charges of any kind relating to the sale, purchase or delivery of electricity, including, without limitation, gross receipts taxes, together with all interest, penalties or other additional amounts imposed thereon, but excluding taxes on net income.

"TDU Delivery Charges" means those recurring charges payable to the TDU in connection with transmission and distribution of electricity pursuant to this Agreement, including, without limitation, all charges allowed or required by the PUCT, ERCOT or any other governmental or regulatory authority or any third parties.

"Transmission and Distribution Utility" or "TDU" means a utility that owns electric transmission and/or distribution facilities that deliver electricity to the facilities to which the ESI ID(s) pertain.

## **2. RESCISSION, FIXED TERM PRODUCT QUALIFICATION AND DISCONNECTION NOTICES.**

**NOTICE TO SMALL COMMERCIAL CUSTOMERS REGARDING RESCISSION:** If Customer is switching its electric service to Gexa Energy from another REP and Customer is a Small Commercial Customer (as defined above), Customer has the right to cancel this Agreement with Gexa Energy without any fee or penalty of any kind within three (3) federal business days of receiving the Contract Documents. To do so, Customer may call Gexa Energy at (713) 961 9399 or toll free at 866 961 9399 (outside Houston) to talk to a representative or leave a message, or Customer may fax Gexa Energy toll-free at (866) 550 4392, during or after the office hours of operation, on or before the third federal business day. This right to rescind does not extend to service requests for establishing electric service at a new location (also known as a "move-in").

**QUALIFICATION FOR FIXED TERM PRODUCT:** In order to qualify to enroll for a fixed term product, Customer's average electricity usage for all ESI IDs set forth on the BEA must be 75,000 kWh or less per month (the "Maximum Average Electricity Usage"). Customer hereby represents and warrants that the aggregate average monthly electricity usage of the ESI ID(s) set forth on the BEA is and will remain below the Maximum Average Electricity Usage. If at any time during the Contract Term, Customer's average monthly electricity usage for such ESI IDs is more than the Maximum Average Electricity Usage, Gexa Energy may terminate this Agreement without any liability or payments whatsoever to Customer by Gexa Energy and Customer will be subject to an Early Termination Fee.

**NOTICE TO SMALL COMMERCIAL CUSTOMERS REGARDING TERMINATION AND DISCONNECTION.** To terminate this Agreement, Customer may call or fax Gexa Energy at the contact numbers provided above. Customer may be subject to an Early Termination Fee. If Customer's termination requires a self-selected meter read by the TDU, Customer will be charged a fee established by the TDU. Regardless of the method or reason for termination of the Agreement, Customer is responsible for payment of all outstanding charges incurred through the date on which the termination is effected by the TDU. If Customer is a Small Commercial Customer, Customer may terminate electric service without penalty if Customer moves to another premises and provides Gexa Energy with evidence confirming that Customer has moved and Customer's forwarding address. Gexa Energy may order disconnection of Customer's electric service for non-payment as provided in this Agreement.

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**3. SERVICES.** During the term of this Agreement, Gexa Energy shall sell to Customer and Customer shall purchase from Gexa Energy Customer's electricity requirements for the ESI ID(s) specified in this Agreement, and Customer shall obtain such electricity requirements for such ESI ID(s) exclusively from Gexa Energy on the terms and conditions specified in this Agreement. Gexa Energy shall cause all such electricity to be delivered to the Seller Delivery Point(s) and Customer shall receive such electricity at the Customer Delivery Point(s). Notwithstanding the foregoing, Gexa Energy shall be under no obligation to supply any ESI IDs under a residential rate class and, if Gexa Energy does supply such ESI IDs, Customer hereby represents and warrants to Gexa Energy that such ESI IDs are used for commercial or governmental purposes.

**4. CUSTOMER INFORMATION.** Customer hereby authorizes Gexa Energy to obtain Customer's current and historical usage data from the TDU, payment and credit history and other information reasonably requested by Gexa Energy. Customer agrees, upon request, to provide Gexa Energy with facility descriptions, operating information, ESI IDs and locations, and such other information available to Customer reasonably required by Gexa Energy. Customer will provide prior written notice to Gexa Energy if Customer's contact information (including telephone number) provided by Customer hereunder or in connection with this Agreement changes for any reason or if Customer no longer has authority to direct calls at the telephone number provided as contact number. Customer's monthly usage for all ESI IDs shall not depart materially from the expected usage of such ESI ID(s) as such usage is determined by Gexa Energy. Customer shall pay Gexa Energy any losses and/or costs and charges reasonably associated with such material departures from its expected usage (such charges, "Material Usage Deviation Charges"). If Customer is a multi-family housing customer and the agreement includes a master metered account or any other account meter that is sub-metered at any time during the term of the agreement entered into with such customer, Customer shall pay Gexa Energy any losses and/or costs and charges reasonably associated with such sub-metering (such charges, "Sub-metering Charges"). If Customer is not a Small Commercial Customer, Material Usage Deviation Charges and Sub-Metering Charges will be assessed to Customer in Gexa Energy's Monthly Charge(s) as an Additional Pass-Through Charge.

**5. ENROLLMENT.** Provided Customer has submitted complete and correct enrollment information to Gexa Energy, Gexa Energy shall use commercially reasonable efforts to submit market orders to ERCOT as are necessary for the TDU to enroll Customer's ESI ID(s) with Gexa Energy for electricity supply. Gexa Energy's submission of market orders may be delayed due to events beyond its reasonable control including, but not limited to, submission of an incomplete, improperly completed, unclear, or inaccurate enrollment documentation by or on behalf of Customer, as reasonably determined by Gexa Energy. Customer agrees to cooperate with Gexa Energy's efforts with respect to enrollment. Gexa Energy shall not be held liable to Customer for delay or failure in enrolling Customer's ESI ID(s) if such delay or failure was due in whole or in part to any cause beyond Gexa Energy's control. Further, notwithstanding any provision in the Agreement to the contrary, it is possible that, for various reasons such as the ESI ID not existing, ESI ID not active or ESI ID is not the "first in", some or all the ESI IDs cannot be enrolled. In such case, Gexa Energy will use reasonable efforts to advise Customer of Customer's un-enrolled ESI IDs. All such un-enrolled ESI IDs shall be automatically deleted from service under this Agreement without an amendment hereto (i.e., an amendment signed by both Parties) and such failure to enroll will be an early termination by Customer. Gexa Energy shall not be required to serve such un-enrolled ESI ID(s).

**6. TERM.** This Agreement shall become effective on the Effective Date with electric service commencing for each ESI ID on the Service Start Date and continuing thereafter for the Contract Term, as specified in the Enrollment Documents and the EFL.

If Customer is enrolled in a plan with a fixed Contract Term and upon expiration of such Contract Term, Customer's ESI ID(s) are not successfully switched by the TDU to another REP, or Gexa Energy and Customer do not enter into a new or renewal Agreement, this Agreement shall continue on a month-to-month basis and Customer shall be supplied under a default variable product plan until Gexa Energy and Customer enter into a new or renewal Agreement, or either Party terminates this Agreement and the TDU switches Customer's ESI ID(s) to another REP, or Gexa Energy terminates this Agreement and disconnects Customer's ESI ID(s) from supply as provided under this Agreement (such period, the "Holdover Period"). If Customer is a Small Commercial Customer, a contract expiration notice will be sent to Customer at least fourteen (14) days prior to the end of the fixed Contract Term, and the Holdover Period shall begin following the end of the fixed Contract Term.

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If Customer is enrolled in a plan with a month-to-month term, this Agreement shall become effective as of the Effective Date, with electric service commencing for each ESI ID on the Service Start Date, and continuing thereafter month-to-month until Gexa Energy and Customer enter into a new Agreement, or either Party terminates this Agreement and the TDU switches Customer's ESI ID(s) to another REP, or Gexa Energy terminates this Agreement and disconnects Customer's ESI ID(s) from supply as provided under this Agreement.

**7. PRICING.** The price that Customer agrees to pay for the Energy Usage is as provided on the EFL. In addition to the price, Customer agrees to pay any Pass-Through Charges and all applicable Taxes which shall be reflected on the monthly bill. Customer's accounts will be deemed taxable until proper tax exemption documentation is received by Gexa Energy. If Customer is a renewing customer and Customer has provided tax exemption documentation in connection with the previous agreement, Customer does not need to provide Gexa Energy with new tax exemption documentation if Customer's tax exempt status has not changed.

**FIXED RATE PRODUCT:** A fixed rate product has a Contract Term of three (3) months or more. During the Contract Term, Customer will pay the price set forth on the EFL. Such price may vary from the disclosed amount to reflect actual changes in the TDU charges, changes to recurring third party fees (including, but limited to, the ERCOT or TRE administrative fees), or in accordance with the "Change in Law" Section of this TOS, but otherwise will not change during the term.

**VARIABLE PRICE PRODUCT:** Variable price products are month-to-month contracts with a Contract Term of 31 days or less and for which the price may vary as determined by Gexa and as disclosed on the EFL. If Customer is enrolled in a variable price plan, the variable price is determined solely by Gexa Energy in its sole discretion. The variable price typically does not reflect business or market conditions (including current and future market prices) or changes to those conditions. The variable price will likely significantly exceed the price per unit under this Agreement and/or contract prices charged by other REPs to their customers. The following are some, but not all, of the material factors that can influence Gexa Energy's determination of the initial variable price and any subsequent changes to the variable price: (i) the current and future expected prices for wholesale electric supply (including an analysis of the supply and demand factors affecting these prices, if desired) and Gexa Energy's desired risk premiums on any pricing; (ii) Gexa Energy's supply position in the market and its comfort level with respect to those positions; (iii) Gexa Energy's expected gross margin, target gross and profit margins, and desired revenues; (iv) Gexa Energy's customer counts and attrition; and/or (ix) the prices charged by competitors. The variable price may also change in accordance with the "Change in Law" Section of this TOS.

**INDEXED PRODUCT:** Indexed products may be for a term of three (3) months or more, or may be month-to-month. If Customer is enrolled in an indexed price plan, the price may vary in accordance with a pre-defined pricing formula as set forth in the EFL. The price of a month-to-month indexed product may increase or decrease each month, as further described in the EFL. The price of indexed plans may also vary in accordance with the "Change in Law" Section of this TOS.

**DEFAULT VARIABLE PRODUCT DURING THE HOLDOVER PERIOD:** During the Holdover Period, if any, Customer shall be served on a month-to-month basis under a default variable product plan. The price of the default variable product plan may change each month at the sole discretion of Gexa Energy. If Customer is a Small Commercial Customer, the initial price of such default variable product plan will be specified in the EFL that will be sent to Customer prior to the end of the fixed Contract Term. If Customer is not a Small Commercial Customer, the EFL may not be provided and the price of the default variable product plan is set forth on Gexa Energy's website at [www.gexaenergy.com](http://www.gexaenergy.com) in the "For Business" section under "Legal Notices and Terms".

**8. BILLING AND FEES.** Unless the Parties agree in writing to alternate payment arrangements, Customer consents to be billed monthly for services provided hereunder. Each bill will consist of the Monthly Charge (including Taxes), or multiple Monthly Charges, if Gexa Energy defers Monthly Charges as provided below, and Customer agrees to pay such Monthly Charges. Customer agrees to pay each such bill on or before sixteen (16) days (unless agreed otherwise in writing) after the billing date on Customer's invoice or the postmark date on the invoice envelope, whichever is later. Gexa Energy may elect to defer sending monthly bills for all periods where actual usage is not available from the TDU. If any amounts are not paid when due, Gexa Energy shall have the right to assess the Late Payment Penalty and may report delinquent balances and related information to a credit agency.

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Gexa Energy may also assess a twenty-five dollar (\$25) fee against any transaction not processed due to insufficient funds or credit availability for any method of payment, including checks, bank drafts or credit card. Any payment that is returned unpaid or not processed by Customer's financial institution will be treated as if Gexa Energy received no payment at all. If Customer has two (2) or more returned payments during any twelve (12) month period, Customer shall pay the bills by money order or cash until the Parties agree otherwise in writing. Gexa Energy is not responsible for notifying Customer of dishonored checks or returned electronic payments. If Customer participates in the auto-bill-payment program or the Budget Billing Program and a Customer's payment is dishonored for any reason, Gexa Energy reserves the right to remove the Customer from the program.

If the TDU fails to timely obtain or transmit a meter reading, Gexa Energy reserves the right to issue or cause to be issued a bill to Customer based on its estimated Energy Usage and charges during the Billing Cycle. Gexa Energy will include or cause to be included in any subsequent bill from Gexa Energy, adjustments related to previous billings, including estimates, previous billing errors, meter read errors, or other errors or omissions. Gexa Energy may apply any credit balance on a particular ESI ID to a balance owed on any other Customer ESI ID. If Customer disputes a bill, Customer must pay any undisputed portion of the bill by the due date specified in the applicable payment terms. If the unpaid, disputed portion of the bill is subsequently resolved in favor of Gexa Energy, the Late Payment Penalty will be applied to such unpaid amounts. One time per calendar year, Customer may request a copy of its billing records at no charge. Any additional requests may result in a fee of five dollars (\$5) per bill period requested.

If Customer is a "governmental entity" as defined in the Prompt Payment Act ("PPA"), Tex. Government Code, Chapter 2251, then, notwithstanding any contrary provisions in this Agreement, a payment by Customer shall become overdue as provided in the PPA, billing disputes shall be resolved as provided in the PPA, and interest on overdue payments shall be calculated and remitted in accordance with the PPA. As provided in the PPA: (i) "governmental entity" means a state agency or a political subdivision of the state of Texas; (ii) "state agency" means (A) a board, commission, department, office or other agency in the executive branch of state government that is created by the constitution or a statute of the state of Texas, including a river authority and an institution of higher education as defined by Section 61.003 of the Education Code, (B) the legislature or a legislative agency, or (C) the Supreme Court of Texas, the Court of Criminal Appeals of Texas, a court of appeals, a state judicial agency, or the State Bar of Texas; and (iii) "political subdivision" means (A) a county, (B) a municipality, (C) a public school district, or (D) a special-purpose district or an authority.

**9. BUDGET BILLING PROGRAM.** If Customer is a Small Commercial Customer, Gexa Energy offers a budget billing program (the "Program") that allows qualified customers to pay an equal budget bill amount each month subject to the following terms. To qualify for the Program, Customer cannot be delinquent in payments to Gexa Energy.

The budget bill amount is calculated using the last twelve (12) months' usage history of the ESI ID(s), if available, adjusted by a representative annual growth factor of four percent (4%) or more, as determined by Gexa Energy for the initial 12-month term on the Program, multiplied by Customer's current price per kWh, plus any applicable Taxes or fees, all divided by twelve (12). Customer will be billed this amount each month for the next twelve (12) months. If less than twelve (12) months' usage history is available for the service address, Gexa Energy will project the budget bill amount. Customer is also responsible for paying any non-recurring charges from the TDU or other non-recurring third party fees in addition to Customer's budget bill amount. Customer will receive a statement with Customer's calculated budget bill amount after Customer has been accepted into the Program. Customer is responsible for paying the budget bill amount each billing cycle by the bill due date, even if the bill shows a credit balance. Participation in the Program does not cancel Customer's obligation to pay for all actual usage.

Gexa Energy may modify the Customer's budget bill amount at any time to reflect changes in Customer's usage, price (if applicable) or for other authorized reasons. In addition, if Customer has enrolled in the Budget Billing program, Customer will continue in the Program after Customer's fixed Contract Term has expired, if Customer has not switched to another REP or the Agreement has not been otherwise terminated. At that time Customer will receive a credit towards Customer's account, if Customer has paid Gexa Energy more than Customer owes. If Customer has paid Gexa Energy less than Customer owes, Customer must pay Gexa Energy the difference; but that difference will be amortized over the next twelve (12) month period and added to Customer's monthly program payment.

Notwithstanding the above paragraph, if Customer's participation in the Program or the Agreement is canceled or terminated for any reason or Customer's electric service is disconnected, any credit or unpaid balance will appear on the final or other subsequent bill. Customer may opt out of the Program at any time by providing written notification of the Customer's desire to be removed from the program to the following address: Gexa Energy; 20455 State Highway, Suite 200; Houston, TX 77070; Attention: Budget Billing, or Customer may opt out via email by sending notice to [budget.billing@gexaenergy.com](mailto:budget.billing@gexaenergy.com). Customer may also contact customer service at: (713) 961-9399 or toll-free (866) 961-9399 (outside Houston).

**10. CREDIT AND DEPOSIT REQUIREMENTS.** Gexa Energy reserves the right to request a credit history on an applicant or customer for service prior to offering service and require a deposit from anyone who does not meet Gexa Energy's credit standards. Gexa Energy may refuse to provide electric supply to any applicant or customer for one or more of the reasons specified in the PUCT Substantive Rule 25.477 (See <http://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/25.477/25.477.pdf>), as amended.

If Gexa Energy determines in its reasonable discretion that Customer cannot demonstrate satisfactory creditworthiness, Gexa Energy may require Customer to pay an initial cash deposit or provide other credit support in an amount of up to one-fifth of Customer's estimated annual billing. If, at any time, Gexa Energy determines in its reasonable discretion that there has been a material adverse change in Customer's credit status or that Customer cannot demonstrate satisfactory creditworthiness, or if Customer fails to timely pay all amounts due or there otherwise exists a default with respect to Customer under this Agreement, Gexa Energy may require Customer to pay a cash deposit or provide other credit support in an amount reasonably satisfactory to Gexa Energy in addition to any existing or other cash deposit or credit support.

Notwithstanding the foregoing paragraphs, (i) Gexa Energy will not require an initial deposit from an existing Small Commercial Customer unless such Customer was late paying a bill more than once during the last twelve (12) months of service or had service terminated or disconnected for nonpayment during the last twelve (12) months of service, and (ii) Gexa Energy will not require an additional deposit from an existing Small Commercial Customer if the average of the customer's actual billings for the last twelve (12) months are at least twice the amount of the original average of the estimated billings and a termination or disconnection notice has been issued or the account disconnected within the previous twelve months.

Cash deposits held more than thirty (30) days will accrue interest from the date of receipt at the annual rate established by the PUCT and such accrued interest will be applied annually to Customer's account. After termination of this Agreement or disconnection of service, Gexa Energy will apply any cash deposit plus any unpaid accrued interest toward any outstanding balance on Customer's final bill and will refund any remaining deposit. Gexa Energy may apply any deposit on a particular ESI ID to a balance owed on any other ESI ID supplied hereunder. Any such cash deposit plus any unpaid accrued interest will be refunded by means of a credit to a Small Commercial Customer's bill(s) once such Customer has made twenty-four (24) consecutive payments without the assessment of any Late Payment Penalty.

**11. TERMINATION OF AGREEMENT BY CUSTOMER.** If Customer terminates this Agreement, in whole or in part as to any ESI ID(s), before the end of the Contract Term, Customer shall pay Gexa Energy the Early Termination Fee as well as all amounts due for electric service. If Customer terminates the Agreement, in whole or in part as to any ESI ID(s), after the end of the Contract Term, Customer shall pay Gexa Energy all amounts due for electric service. If Customer is a Small Commercial Customer, Customer may terminate this Agreement without penalty if Customer moves to another premises and provides Gexa Energy with evidence confirming that Customer has moved and Customer's forwarding address. If Customer terminates this Agreement as provided in this Section, Customer shall be obligated to pay for the electricity and related services provided to Customer pursuant to this Agreement prior to the date that such termination becomes effective, including Late Payment Penalties, if applicable.

Customer and Gexa Energy agree that, whether imposed under this Section or the following Section of the TOS, the Early Termination Fee and any other amounts recoverable under this Agreement are a reasonable estimate of loss and not a penalty. Gexa Energy is not required to enter into any replacement transaction in order to determine or charge the Early Termination Fee.

**12. TERMINATION OF AGREEMENT AND DISCONNECTION OF CUSTOMER'S SERVICE BY GEXA ENERGY.** Gexa Energy reserves the right to terminate this Agreement and disconnect Customer's service under this Agreement if an Event of Default has occurred with respect to Customer. If service is terminated in accordance with this Section, Customer shall pay Gexa Energy any Early Termination Fee due as well as all amounts due for electric service. Gexa Energy will notify Customer of its intent to disconnect electric service at least ten (10) days prior to the effective date of the disconnection.

If payment in the amount specified in the disconnect notice is not received by the date specified in the notice, and a disconnection transaction has been processed by Gexa Energy, Customer's account will be charged a fifteen dollar (\$15) disconnection fee. This fee will be assessed regardless of whether Customer's electric service is actually disconnected by the TDU. In addition, Customer's account will be charged a fifteen dollar (\$15) reconnection fee in the event that Gexa Energy processes a reconnect transaction for the account. These fees are in addition to those disconnection and reconnection fees that may be assessed by Customer's TDU.

Disconnection of electric service by Gexa Energy will not excuse Customer from paying any outstanding amounts owed to Gexa Energy. Gexa Energy may also disconnect Customer's electric service on any other grounds permitted by PUCT Substantive Rule 25.483 (See <http://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/25.483/25.483.pdf>), as amended. Gexa Energy may arrange for service to be disconnected without prior notice to Customer if one or more of the following conditions or events occur: there exists a known dangerous condition; service has been connected without authority by a person who has not made application for service; service has been reconnected without authority after disconnection for nonpayment; there has been tampering with the equipment of the transmission and distribution utility, municipally owned utility, or electric cooperative; or where there is evidence of theft of service.

**13. TITLE, RISK OF LOSS AND INDEMNIFICATION.** Title and risk of loss to the electricity sold hereunder shall pass from Gexa Energy when it is delivered to the Seller Delivery Point. Customer shall indemnify and defend Gexa Energy and its affiliates from all claims for any loss, damage, or injury to persons or property arising from or relating to the distribution or consumption of electricity at the Customer Delivery Point of or downstream of the Customer Delivery Point.

**14. FORCE MAJEURE.** Gexa Energy shall be excused from performance of its obligations under this Agreement, in whole or in part, to the extent caused by and during an event of Force Majeure (as defined herein); provided that Gexa Energy shall provide notice of such event to Customer and use commercially reasonable efforts to avoid the effects of such event and resume performance as soon as is commercially practicable. As used herein, "Force Majeure" means any act, condition, event or occurrence that is beyond Gexa Energy's reasonable control including, without limitation, an act of God or public enemy, storm, earthquake, or other natural forces, war, riot, public disturbance, labor action, or the acts or omissions of anyone not a Party to this Agreement, including the TDU.

**15. CHANGE IN LAW.** Notwithstanding any provision to the contrary in this Agreement, (i) if Customer is a Small Commercial Customer and there are any changes in the Transmission and Distribution Utility (TDU) charges, changes to the ERCOT or Texas Regional Entity administrative fees charged to loads, or changes resulting from federal, state or local laws that impose new or modified fees or costs, Gexa Energy may adjust the price or pass-through such new or modified fees or costs to Customer; or (ii) if Customer is not a Small Commercial Customer and there is a Change in Law and such Change in Law results in Gexa Energy incurring additional costs and expenses in providing the services contemplated herein, such additional costs and expenses shall be the Customer's responsibility and will be assessed to Customer in Gexa Energy's Monthly Charge(s) as an Additional Pass-Through Charge.

**16. NONDISCRIMINATION.** Gexa Energy does not deny service, require a prepayment or deposit for service or otherwise discriminate based on a customer's race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, level of income, disability, familial status, location in an economically distressed geographic area, or qualification for low income or energy efficiency services. Gexa Energy does not and will not boycott Israel during the term of this Agreement.

**17. WAIVER OF CUSTOMER RIGHTS AND PROTECTIONS.** If Customer is not a Small Commercial Customer, Customer waives its rights under the Substantive PUCT Customer Protection Rules for Retail

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Electric Service with the exception of the provisions in Substantive PUCT Rules 25.495, 25.481, and 25.485(a)-(b), as amended.

**18. REPRESENTATIONS AND WARRANTIES.** Each Party warrants and represents to the other Party that: (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (ii) it is authorized and qualified to do business in the jurisdictions necessary to perform this Agreement; (iii) the execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary corporate or other actions and do not violate any agreement to which it is a party or any laws or regulations applicable to it; and (iv) the Agreement, when delivered, will be valid and legally binding and enforceable in accordance with its respective terms (subject to equitable defenses). Customer further warrants and represents to Gexa Energy that (A) Customer's representative is at least eighteen (18) years of age and is legally authorized to enter into this Agreement on behalf of Customer and select Gexa Energy as Customer's REP; (B) Customer's representative is authorized to direct phone calls to the telephone number provided as contact number; (C) it has full power and authority with respect to the respective service location(s) to which the ESI ID(s) pertain; and (D) it is a commercial, non-residential user of electricity.

**19. DISCLAIMER OF WARRANTY.** GEXA ENERGY EXPRESSLY DISCLAIMS ALL WARRANTIES REGARDING THE QUALITY OF ELECTRICITY DELIVERED TO CUSTOMER PURSUANT TO THIS AGREEMENT, WHETHER WRITTEN, ORALLY EXPRESSED, OR IMPLIED, INCLUDING, WITHOUT LIMITATION, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**20. LIMITATION OF LIABILITY.** 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 AND DAMAGES AT LAW OR IN EQUITY ARE WAIVED AND NEITHER PARTY WILL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, INCLUDING LOST PROFITS (OTHER THAN PROFITS TO GEXA EXPECTED BY CUSTOMER'S DUE PERFORMANCE UNDER THIS AGREEMENT) 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 WILLFUL MISCONDUCT OF ANY PARTY. NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, CUSTOMER AGREES THAT NO REP, INCLUDING GEXA ENERGY, EXERCISES INDEPENDENT CONTROL OVER TDU'S FACILITIES NECESSARY FOR THE DELIVERY OF ELECTRICITY, AND GEXA ENERGY WILL HAVE NO LIABILITY OR RESPONSIBILITY TO CUSTOMER FOR THE OPERATIONS OF THE TDU OR FOR INTERRUPTION, TERMINATION, OR DETERIORATION OF TDU'S TRANSMISSION OR DISTRIBUTION SERVICE.

**21. FORWARD CONTRACT.** The Parties agree that this Agreement is a "forward contract" and that Gexa Energy is a "forward contract merchant" for purposes of the United States Bankruptcy Code, as amended, any payment related hereto will constitute a "settlement payment" as defined in Section 101 (51A) thereof. The text of these referenced Bankruptcy Code provisions may be found at [http://uscode.house.gov/download/title\\_11.shtml](http://uscode.house.gov/download/title_11.shtml).

**22. ATTORNEY'S FEES.** If Customer fails to timely pay amounts due under this Agreement and Gexa Energy refers Customer's outstanding balance to an attorney or collection agent for collection, or if Gexa Energy files a lawsuit in connection with this Agreement or to collect Customer's outstanding balance through bankruptcy or judicial proceedings, Customer agrees to pay Gexa Energy its reasonable fees and expenses (including reasonable attorney's fees) incurred by Gexa Energy in connection therewith.

**23. AMENDMENT.** Except as otherwise provided in the TOS, this Agreement may not be amended except by a written amendment signed by both Customer and Gexa Energy.

**24. SEVERABILITY.** If any provision of this Agreement is held to be void or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect to the extent that the intended essential purposes of this Agreement are not materially altered.

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**25. HEADINGS.** Headings are for the convenience of the Parties and shall be ignored for purposes of interpreting this Agreement.

**26. BROKERS.** If Customer's transaction under this Agreement was facilitated by one or more third party vendors including, without limitation, vendors that provide brokering services, Customer hereby grants Gexa Energy the right to share all Customer information with such third party vendors.

**27. ASSIGNMENT.** Gexa Energy may assign its rights and obligations under this Agreement to a third party. Customer may not assign its rights and obligations under this Agreement to a third party without the prior written consent of Gexa Energy, which consent shall not be unreasonably withheld. Gexa Energy may deny such assignment based on the creditworthiness of the assignee, as determined by Gexa Energy in its reasonable discretion. Any purported assignment or delegation in violation of these provisions shall be void.

**28. COUNTERPARTS.** With respect to a written enrollment, this Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall be deemed to be one and the same instrument.

**29. WAIVER.** No waiver by any Party hereto of any one or more of such Party's rights under this Agreement, or waiver of a default by the other Party in the performance of any of the provisions of this Agreement, shall be construed as a waiver of any such right, or any other default whether of a like kind or different nature.

**30. GOVERNING LAW AND VENUE.** This Agreement shall be governed by and construed, enforced and performed in accordance with the laws of the state of Texas, including any rules promulgated by or orders issued by the PUCT and/or ERCOT, and exclusive venue for any suit, claim, action or other proceedings, whether at law or in equity, relating to this Agreement, shall be in the state or federal courts of competent jurisdiction sitting in Harris County, Texas.

**31. NON-DISCLOSURE.** Customer agrees to keep all terms and provisions of this Agreement confidential and not to disclose such terms to any third parties without the prior written consent of Gexa Energy.

**32. LIMITED AUTHORIZATION AND WAIVER.** An action authorized to be taken by Gexa Energy for, or on behalf of, Customer under this Agreement is limited to such action, and does not result in imposition on Gexa Energy to take any further action or refrain from taking action. Customer hereby waives, any other duties imposed on Gexa Energy of any kind or nature, including fiduciary duties which may otherwise arise by operation of law.

**33. NOTICES.** Any notice or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be delivered to the receiving Party by first class or certified (prepaid) mail, e-mail, courier service or facsimile. Notwithstanding the previous sentence, Gexa Energy may send any notice to Customer using any method, including e-mail, permitted by applicable law. Gexa Energy's mailing address and facsimile number to be used for any notices that shall be given to or served on Gexa Energy by Customer are set forth at the top of this TOS. Customer's mailing address and facsimile number to be used for any notices that shall be given to or served on Customer by Gexa Energy are set forth in the Enrollment Documents.

Notice delivered by first class or certified mail (prepaid) shall be deemed to have been received at the end of the third business day after the date of mailing, or such earlier time as is confirmed by the receiving Party. Notice delivered by courier shall be deemed to have been received on the business day after it was sent or such earlier time as is confirmed by the receiving Party. Notice sent by facsimile or e-mail shall be deemed to have been received at the close of the business day on which it was transmitted (or, if transmitted after the close of business, then on the next business day) or such earlier time as is confirmed by the receiving Party.

**34. PUCT RULES.** Certain "Substantive Rules" of the PUCT referenced in this Agreement may be found at <http://www.puc.state.tx.us/agency/rulesnlaws/subrules/electric/Electric.aspx>.

**35. SUMMARY OF GEXA ENERGY NON-RECURRING CHARGES.** Gexa Energy non-recurring charges set forth above are summarized below. These do not include any non-recurring charges which may be imposed by the

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TDU (which will be shown in Customer's bills for payment by Customer), including those arising from a move-in or switch, such as self-selected meter reads, service connection, disconnection, or reconnection fees, and fees such as meter tampering charges. These also do not include charges for early termination or in connection with a termination arising from an Event of Default. Customer should review the relevant provisions of this TOS for specific terms and conditions concerning these charges.

- Additional Copy of Billing Records: \$5.00 per bill period requested ("Billing and Fees" section)
- Late Payment Penalty: 5% of past-due balance ("Billing and Fees" section)
- Insufficient Funds: \$25 per transaction ("Billing and Fees" section)
- Disconnection Fee: \$15 ("Termination of Agreement, and Disconnection of Customer's Service by Gexa Energy" section)
- Reconnection Fee: \$15 ("Termination of Agreement, and Disconnection of Customer's Service by Gexa Energy" section)
- Material Usage Deviation Charges incurred in connection with a Customer that is a Small Commercial Customer ("Customer Information" section)
- Sub-Metering Charges incurred in connection with a Customer that is a Small Commercial Customer ("Customer Information" section)

**36. SURVIVAL.** Notwithstanding any provision to the contrary in this Agreement, the provisions of this TOS regarding indemnity, disclaimers, limitation of liability, attorney's fees, governing law and venue, waivers and all other provisions which by their nature should survive termination shall survive termination of this Agreement. Provisions that require Customer to pay amounts due to Gexa Energy, as well as any remedies in favor of Gexa Energy to enforce those obligations, shall survive the termination of this Agreement and continue in full force and effect so long as there remain continuing obligations of Customer under this Agreement.

**37. WAIVER OF TRIAL BY JURY.** TO THE EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

**38. ENTIRE AGREEMENT.** This Agreement embodies the entire Agreement and understanding between the Parties, and supersedes all prior agreements and understandings between the Parties, whether written or oral, with respect to the subject matter hereof.

Texas Certificate No. 10027  
Page 12 of 12  
ESMCTXTOSFPINV080520

20455 State Highway 249, Suite 200, Houston, TX 77070  
Customer Service: 866-961-9399; Fax: 866-550-4392; Email: TX@gexaenergy.com

**YOUR RIGHTS AS A CUSTOMER**  
**Texas Residential and Small Commercial Customers**

Por favor refierse a la parte interior de este document para leer esta informacion en espanol.

This document summarizes Your Rights as a Customer, and is based on customer protection rules adopted by the Public Utility Commission of Texas (PUCT). These rules apply to all retail electric providers (REPs) and the provider of last resort (POLR), unless otherwise noted. You may view the PUCT's rules at:

<http://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/Electric.aspx>

**Reporting Outages. 24 HOUR POWER OUTAGE REPORTING:** If you need to report a power outage, please contact your appropriate transmission and distribution utility (TDU) directly:

ONCOR ELECTRIC DELIVERY: (888) 313-4747  
ONCOR ELECTRIC DELIVERY (FORMERLY SHARYLAND): (800) 545-4513  
CENTERPOINT ENERGY: (800) 332-7143  
AEP TEXAS NORTH and AEP TEXAS CENTRAL: (866) 223-8508  
TEXAS NEW MEXICO POWER: (888) 866-7456

NAME:	Gexa Energy, LP d/b/a Gexa Energy
PUCT REP CERTIFICATION NUMBER	10027
INTERNET ADDRESS	<a href="http://www.gexaenergy.com">www.gexaenergy.com</a>
EMAIL ADDRESS	Commercial: <a href="mailto:tx@gexaenergy.com">tx@gexaenergy.com</a> Residential: <a href="mailto:customercare@gexaenergy.com">customercare@gexaenergy.com</a>
MAILING ADDRESS	20455 State Highway 249, Suite 200 ATTN: Contract Administration Houston, TX 77070
TELEPHONE NUMBER	Commercial: (866) 531-GEXA (4392) Residential: (713) 961-9399 or toll-free (866) 961-9399 (outside Houston)
OFFICE HOURS OF OPERATION	Commercial: 8:00 am - 5:00 pm Central Time, Monday - Friday Residential: 7:00 a.m. - 8:00 p.m., Central Time, Monday - Friday and 8:00 a.m. - 2:00 p.m., Central Time, Saturday. Closed Sundays and holidays.
FAX NUMBER	Commercial: (866) 578-GEXA (4392) Residential: (713) 961-7997 or toll-free (877) 961-9369 (outside Houston)

**Public Utility Commission of Texas Information (PUCT):**

Address:  
Consumer Protection Division,  
PO Box 13326  
Austin, TX 78711-3326

Telephone Number:  
888-782-8477; 800-735-2988 (TTY)

Online:  
[www.puc.texas.gov](http://www.puc.texas.gov)

Email:  
customer@puc.texas.gov

**CHOICE OF LANGUAGE:**

You have the right to receive certain information in English, Spanish, or the language in which Gexa Energy's services were marketed to you. These items include the Terms of Service agreement, Electricity Facts Label, bills and bill notices, information on new electric services, discount programs, promotions, and access to customer assistance. Please contact Gexa Energy to request that this information be provided to you in Spanish or any language in which our services were marketed to you. You will receive this YRAC and disconnection notices in English and Spanish, or English and your designated language, if you have requested a language other than Spanish in which Gexa Energy services were marketed to you.

**SERVICE ISSUES:**

**Unauthorized Change of Service Provider or "Slamming".** A REP must obtain your verifiable authorization before switching your electric service. If you believe your electric service has been switched without your authorization, you should contact your chosen REP and request assistance. The affected REPs, TDU and ERCOT will work together to return you to your chosen REP, if appropriate in accordance with the market processes approved by the PUC.

If a REP is serving your account without proper authorization, the REP must work with other market participants to take all actions necessary to return you to your original REP as quickly as possible. Your original REP has the right to bill you at the price disclosed in your terms of service from either: (i) the date you are returned to your original REP, or (ii) any prior date chosen by your original REP for which that REP had the authorization to serve you. The REP that served you without proper authorization shall, within five days from the date that your service is returned to your original REP, refund all charges paid for the time period the original REP ultimately bills you. In addition, the REP that served you without your authorization is responsible for paying all charges associated with returning your service to your REP of choice. For periods that the unauthorized REP served you that are not billed to you by your original REP, the REP that served you without your authorization may bill you, but at a rate no higher than the rate you would have been charged by your original REP.

**BILLING ISSUES:**

**Unauthorized Charges or "Cramming".** Before any new charges are included on your electric bill, Gexa Energy must inform you of the product or service, all associated charges, how these charges will appear on your electric bill and obtain your consent to accept the product or service. If you believe your electric bill includes unauthorized charges, you may contact Gexa Energy to dispute such charges and you may

file a complaint with the PUCT. Gexa Energy will not seek to disconnect your electric service for non-payment of an unauthorized charge or file an unfavorable credit report against you for disputed unpaid charges that are alleged to be unauthorized, unless the dispute is ultimately resolved against you. If the charges are determined to be unauthorized, Gexa Energy will cease charging you for the unauthorized service or product, remove the unauthorized charge from your bill, and refund or credit all money you paid for any unauthorized charge within 45 days. If charges are not refunded or credited within three billing cycles, interest shall be paid to you at an annual rate established by the PUCT on the amount of any unauthorized charge until it is refunded or credited.

You may request all billing records from Gexa Energy related to any unauthorized charge within 15 days after the date the unauthorized charge is removed from your bill. Gexa Energy will not re-bill you for any charges determined to be unauthorized. PUCT on the amount of any unauthorized charge until it is refunded or credited. You may request all billing records under the REP's control related to any unauthorized charges within 15 business days after the date the unauthorized charge is removed from your bill. Gexa Energy will not re-bill you for any charges determined to be unauthorized.

**Deferred Payment Plans and Other Payment Arrangements.** If you cannot pay your bill, please call Gexa Energy immediately. Gexa Energy may offer you a short-term payment arrangement that allows you to pay your bill after your due date, but before your next bill is due. In addition, you may qualify for a "deferred payment plan." A deferred payment plan allows you to pay an outstanding balance in installments that extend beyond the due date of the current bill. Gexa Energy may require an initial payment to initiate the deferred payment plan. If you express an inability to pay your bill, Gexa Energy must offer you a deferred payment plan unless you have been disconnected during the preceding 12 months, have submitted more than two payments during the preceding 12 months that were found to have insufficient funds available, or you have been a Gexa Energy customer for less than 3 months and do not have sufficient credit or payment history with another REP.

All REPs must offer customers deferred payment plans for bills that are due during an extreme weather emergency and to customers who have been under-billed in the amount of \$50.00 or more (unless due to theft of service).

A deferred payment plan may include a 5% late payment penalty.

**Financial and Energy Assistance.** If you are a residential customer, and contact us and indicate that you are unable to pay your bill, we will inform you of all applicable payment options and payment assistance programs that are offered by or available from Gexa Energy. If you receive food stamps, Medicaid, TANF or SSI from the TDHS, or if your household income is not more than 125% of the federal poverty guidelines, you may qualify for energy assistance from the Texas Department of Housing and Community Affairs (TDHCA). You may contact TDHCA by emailing your question to [info@tdhca.state.tx.us](mailto:info@tdhca.state.tx.us), calling 800.525.0657, faxing 800.733.5120, or writing to TDHCA, P.O. Box 13941, Austin, TX 78711-3941.

Gexa Energy must also offer level or average payment plans to customers that are not currently delinquent in payment. Gexa Energy does not offer any special services such as readers or notices in Braille or TTY or any other programs for customers with physical disabilities.

**Discounts for Low-Income Customers.** For each month in which the PUCT makes State funds available, Gexa Energy will provide a discount on the electric bill for low-income customers who meet the eligibility requirements. This discount is referred to as the Low Income Telephone and Electric Utilities Program of Texas (LITE UP Texas). Customers are automatically eligible for LITE UP if they are enrolled in a Texas Health and Human Services Commission (HHSC) program, or may self-enroll if they meet the eligibility requirements in PUCT Substantive Rule 24.454 available at <http://www.puc.texas.gov/agency/ruleslaws/subrules/electric/25.454/25.454ei.aspx>. Please contact Gexa Energy for more information regarding these discounts and eligibility requirements. Customers qualified for the LITE UP Texas program are eligible to pay any required deposit that is greater than \$50

in two installments. The first installment shall be due no earlier than ten days, and the second installment no sooner than 40 days, after the issuance of written notification to the applicant of the deposit requirement.

**Meter Reading and Testing.** Please contact Gexa Energy for information regarding how to read your meter. The meter located on your premise can be tested once every four years at no cost to you. If you wish, Gexa Energy can send a standard electronic request for the test to the TDU on your behalf. If a test is performed more than once in a four-year period, and the meter is determined to be functioning properly, then you may be charged a fee for the additional meter test(s) at the rate approved for your TDU. The TDU provides test results, including the test date, testing person and, if applicable, the removal date of the meter.

#### **DISCONNECTION ISSUES:**

**Disconnection of Service.** The PUCT has provided that under certain dangerous circumstances (such as unsafe electric line situations), your TDU may disconnect your electric service without prior notice to you. Additionally, Gexa Energy may be allowed to seek to have your electric service disconnected for any of these reasons: (i) failure to pay a bill owed to Gexa Energy or to make a deferred payment arrangement by the date of disconnection, (ii) failure to comply with the terms of a deferred payment arrangement or other payment agreement made with Gexa Energy, (iii) using service in a manner that interferes with the service of others or the operation of nonstandard equipment, and/or (iv) failure to pay a deposit required by Gexa Energy. Prior to disconnecting your service for these reasons, Gexa Energy must provide you with a written Disconnect Notice. This notice must be mailed to you separately (or hand-delivered) no earlier than the first day after the date your bill is due. The disconnection date must be 10 days from the date the notice is issued and may not fall on a holiday or weekend (or the day preceding) unless Gexa Energy's and the TDU's personnel are available to take payments and service can be reconnected.

Your service cannot be disconnected for any of the following reasons:

- failure to pay for electric service by a previous occupant of the premise if that occupant is not of the same household;
- failure to pay any charge unrelated to electric service;
- failure to pay a different type or class of electric service not included on the account's bill when service was initiated;
- failure to pay any disputed charges until Gexa Energy or the PUCT determines the accuracy of the charges and you have been notified of this determination;
- failure to pay an estimated bill unless the estimated bill is part of a pre-approved meter-reading program or is based upon an estimated meter read by the TDU;
- if Gexa Energy receives notification by the due date stated on your disconnection notice that an energy assistance provider is forwarding sufficient payment on your account, and you have paid or made payment arrangements to pay any outstanding debt not covered by the energy assistance provider's payment;
- for non-payment during an extreme weather emergency (as defined), and upon request, Gexa Energy must offer you a deferred payment plan for bills due during the emergency; or
- for non-payment if you inform Gexa Energy, prior to the disconnection date stated on the notice, that you or another resident on the premises has a critical medical need for electric service. However, to obtain this exemption, you must enter into a deferred payment plan with Gexa Energy and have the ill-person's attending physician contact Gexa Energy and submit a written statement attesting to the necessity of electric service to support the ill person's life. This exemption from disconnection due to illness or disability shall be in effect for 63 days and may be applied for again after the 63 days has expired and the deferred payment plan has been fulfilled.
- Failure to pay charges resulting from an under-billing, except theft of service, more than six months prior to the current billing.

If, however, you have a Chronic Condition Residential Customer designation, you and any secondary contact listed on the PUCT-approved application form will receive written notice of Gexa Energy's intent to disconnect service no later than 21 days prior to the date that service will be disconnected.

**Restoration of Service:** If your service has been disconnected for non-payment or for reasons other than a dangerous situation, Gexa Energy will, upon satisfactory correction of the reasons for the disconnection and payment of appropriate all applicable fees and amounts due, notify your TDU to reconnect your service. If your service was disconnected due to a dangerous situation, your service will be reconnected once you demonstrate to the TDU that you have corrected the dangerous situation and Gexa Energy is notified that such corrective action is completed.

#### **DISPUTES:**

**Complaint Resolution.** Please contact Gexa Energy if you have specific comments, questions or complaints. Upon receipt of a complaint, Gexa Energy will investigate and notify you of the results within 21 days. If you are dissatisfied with the results of the investigation, you may request a supervisory review. Gexa Energy will advise you of the results of the supervisory review within 10 business days of your request. If you are dissatisfied with the results of the investigation or supervisory review, you may file a complaint with the PUCT or the Office of the Attorney General, Consumer Protection Division. For a PUCT complaint, please include sufficient information to identify you and the REP about which the complaint is made and describe the issue specifically.

The following information should be included in the complaint: (i) the account holder's name, billing and service addresses, and telephone number; (ii) the name of the REP or aggregator; (iii) the account number or electric service identifier (ESI ID); (iv) an explanation of the facts relevant to the complaint; (v) your requested resolution; and (vi) any documentation that supports the complaint, including copies of bills or terms of service documents. For a complaint involving a disputed bill, Gexa Energy will not initiate collection activities or terminate or disconnect service or report the delinquency to a consumer reporting agency with respect to the disputed portion of the bill. However, after appropriate notice, Gexa Energy may disconnect your service for non-payment of any undisputed portion of the bill.

#### **OTHER PROTECTIONS:**

**Do Not Call Lists.** Texans may register a residential telephone number for the "Do Not Call" list. Placing your name, address and telephone number on this list will identify you as someone who does not wish to receive telemarketing calls at home. However, telemarketers may contact customers with whom they have an established business relationship; if the customer requests contact; to collect a debt; on behalf of a non-profit organization or charity if the call does not meet the definition of a "telephone solicitation" by attempting to make a sale or gather information that will lead to a sale; or if the telemarketer is a state licensee (for example insurance or real estate agent, etc.); and the call is not made by an automated device; the solicited transaction is completed with face-to-face presentation to finalize a sales transaction and make payment, and; the consumer has not previously told the licensee that the consumer does not wish to be called.

You may register for the "Do Not Call List" in three ways: online at [www.texasnocall.com](http://www.texasnocall.com), toll free at 866-TXNOCALL (866-896-6225) or write Texas No Call PO Box 313 E. Walpole, MA 02032. You may be required to pay a fee not to exceed \$5.00 to register a telephone number and the number will remain on the Do Not Call list for three years. Online registration at [www.texasnocall.com](http://www.texasnocall.com) is now free. Your registered residential telephone number(s) will remain on this list for three years. Business telephone numbers **cannot** be registered on this list.

If you are a business customer, the "Electric No Call" list has been created to prevent calls from REPs and telemarketers calling about your electric service. There is a registration charge of \$2.55 for each number placed on the "Electric No Call" list. Numbers placed on this list will remain on the list five years. Only business numbers can be added to the "Electric No Call" list. Lists will be updated and published for

telemarketers on a quarterly basis. Within 60 days of the date your number appears on a published list, you should stop receiving telemarketing calls. If you continue to receive telemarketing calls after the 60th day, contact the PUCT or the Office of the Attorney General, Consumer Protection Division, 1-800-621-0508. To sign up for either list, visit [www.texasnocall.com](http://www.texasnocall.com). For an application or to register by phone using your Visa or MasterCard, call toll-free 866-TXNOCALL(L) (866.896.6225). To request an application in writing, send your request and personal check, money order, or credit card information to TEXAS NO CALL, P.O. Box 313, E. Walpole, MA 02032.

**Privacy Rights.** Except as described below, REPs may not release your proprietary customer information to any other person without your consent. This includes your name, address, account number, type or classification of service, historical electricity usage, expected patterns of use, types of facilities used in providing service, individual contract terms and conditions, price, current charges or billing records. This prohibition does not apply to the release of your information under certain circumstances as required by law, including release to the PUCT, an agent of your REP, consumer reporting agencies, law enforcement agencies or your TDU. In addition, this prohibition does not apply to the release of prior historical usage upon request and authorization of a current customer or applicant of a premise.

**Critical Care or Chronic Condition Residential Customer.** You have a right to apply for Critical Care Residential Customer designation if you have a person permanently residing in your premise who has been diagnosed by a physician as being dependent on an electric-powered device to sustain life. If you have a person permanently residing in your premise who has been diagnosed by a physician as having a serious medical condition that requires an electric powered medical device or electric heating or cooling to prevent the impairment of a major life function through a significant deterioration or exacerbation of the condition, you may apply for designation as a Chronic Condition Residential Customer. To be considered for such designation, the PUC-approved form must be submitted by fax or other electronic means directly to the TDU by a physician. The TDU will notify you when such designation will expire and whether you will receive a renewal notice. The TDU will also notify Gexa Energy about your status. If Qualification as a critical care residential customer does not relieve you of the obligation to pay the Gexa Energy for services rendered. However, a critical care residential customer who needs payment assistance is encouraged to contact Gexa Energy immediately regarding possible deferred payment options or other assistance that may be offered.

**Electricity Facts Label (EFL)**  
**Gexa Energy – Fixed Rate, Small Commercial**  
**Centerpoint Energy**  
**Issue Date: AUGUST 20, 2021**

<b>Electricity price</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33.33%;">Average Monthly Use</td><td style="width: 33.33%;">1,500 kWh</td><td style="width: 33.33%;">2,500 kWh</td><td style="width: 33.33%;">3,500 kWh</td></tr> <tr> <td>Average price per kWh</td><td>11.30¢</td><td>12.10¢</td><td>12.10¢</td></tr> <tr> <td>TDU Delivery Charges per Month</td><td style="text-align: center;">\$4.58</td><td style="text-align: center;">\$10.41</td><td style="text-align: center;">\$10.41</td></tr> <tr> <td>TDU Demand per kVA/kW</td><td style="text-align: center;">\$0</td><td style="text-align: center;">\$7.702642</td><td style="text-align: center;">\$7.702642</td></tr> <tr> <td>TDU Delivery Charges per kWh</td><td style="text-align: center;">\$0.030573</td><td style="text-align: center;">\$0.002750</td><td style="text-align: center;">\$0.002750</td></tr> </table>				Average Monthly Use	1,500 kWh	2,500 kWh	3,500 kWh	Average price per kWh	11.30¢	12.10¢	12.10¢	TDU Delivery Charges per Month	\$4.58	\$10.41	\$10.41	TDU Demand per kVA/kW	\$0	\$7.702642	\$7.702642	TDU Delivery Charges per kWh	\$0.030573	\$0.002750	\$0.002750
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TDU Demand per kVA/kW	\$0	\$7.702642	\$7.702642																					
TDU Delivery Charges per kWh	\$0.030573	\$0.002750	\$0.002750																					
The Average Price calculations incorporate 7kW demand for 1500 kWh, 11 kW demand for 2500 kWh and 16 kW demand for 3500 kWh based on a 30% load factor. The price you pay each month includes the Energy Charge and TDU Delivery Charges in effect for the monthly billing cycle. Taxes, if applicable, are a separate, additional charge. Some locations may be subject to a TDU Underground Facilities and Cost Recovery charge authorized by their city that is not included in the total average price shown. For more details, see your TDU service tariff for a listing of cities and authorized charges.																								
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33.33%;">Energy Charge</td><td style="width: 33.33%;">\$0.0797</td><td style="width: 33.33%;">per kWh</td></tr> </table>	Energy Charge	\$0.0797	per kWh																					
Energy Charge	\$0.0797	per kWh																						
<i>See the Terms of Service for a full listing of fees, deposit policy, and other terms.</i>																								
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33.33%;">Type of Product</td><td style="width: 33.33%;">Fixed Rate</td><td style="width: 33.33%;"></td></tr> <tr> <td>Contract Term</td><td>60 Month(s)</td><td></td></tr> </table>				Type of Product	Fixed Rate		Contract Term	60 Month(s)																
Type of Product	Fixed Rate																							
Contract Term	60 Month(s)																							
Do I have a termination fee or any fees associated with terminating service?	Yes. If service provided by Gexa Energy to one or more ESI IDs is terminated before the end of the Contract Term, Customer is required to pay Gexa Energy the "Early Termination Fee" for each such terminated ESI ID. The Early Termination Fee is equal to two (2) times the Average Monthly Charge (as defined in the Terms of Service) for each year and partial year of the remaining Contract Term for each such terminated ESI ID.																							
<b>Disclosure Chart</b>	Can my price change during contract period?	Yes																						

	how will it change, and by how much?	charges from the TDU, changes to the ERCOT, PUCT, Texas Regional Entity or other administrative fees, or other costs and expenses incurred by Gexa Energy as provided in the "Change in Law" section of the Terms of Service.
	What other fees may I be charged?	Please see "Summary of Gexa Energy Non-recurring Charges" and "Definitions" sections of the Terms of Service for a complete listing.
	Is this a pre-pay or pay in advance product?	No
	Does the REP purchase excess distributed renewable generation?	No
	Renewable Content	This product is 6% renewable.
	The statewide average for renewable content is	25%
	<p>Gexa Energy, LP  20455 State Highway 249, Suite 200  Houston, TX 77070  <a href="http://www.gexaenergy.com">www.gexaenergy.com</a>  <a href="mailto:tx@gexaenergy.com">tx@gexaenergy.com</a>  Monday - Friday: 8:00 a.m. - 5:00 p.m., CT  Closed holidays.  Toll Free: 1-866-961-9399  PUCT No. 10027  Version No: CNP_0821_0.07970_60</p>	



## BUSINESS ELECTRICITY AUTHORIZATION TEXAS SMALL COMMERCIAL SALES

<b>SERVICE INFORMATION</b>	
Contract Type: <input checked="" type="checkbox"/> New Service <input type="checkbox"/> Renewal	
Business Name ("Customer"): United Site Services Inc	<input checked="" type="checkbox"/> See attached Addendum A for ESI ID and Service Commencement Date information
Contact Name: James Greiman Email: james.greiman@unitedsiteservices.com Primary Phone: (508) 450-7922 Secondary Phone: Fax: Duns #:13-303-6850 Tax ID#:	
Preferred Language Information will be English unless the following box is checked: <input type="checkbox"/> Spanish (Español)	
<b>Tax Exemption:</b> If a non-renewing customer, a completed tax exemption certificate must accompany this Agreement. If no certificate is attached, Gexa Energy will assume that sales to Customer are subject to Taxes and will process Customer's account accordingly.	
<b>Energy Charge:</b> \$0.08970 per kWh	<b>Contract Term:</b> 60 Months
<b>Start Month/Year:</b> 9/2021	<b>Pay Terms:</b> Net SIXTEEN (16) Days
<b>Agreement, Authorization and Acknowledgement:</b> The contract documents governing Customer's purchase of electricity from Gexa Energy (this "Agreement") are comprised of the Electric Sales Terms of Service ("TOS"), attached hereto as Exhibit A (version ESMCTXTOSFPINVP080520), this Business Electricity Authorization ("BEA"), which is a part of the Customer's Terms of Service, all addenda to this BEA, and if customer is a Small Commercial Customer (as defined in the TOS), Customer's Electricity Facts Label ("EFL") and a Your Rights as a Customer document ("YRAC"). Any capitalized terms not defined in this BEA shall have the meanings set forth in the TOS. Any inconsistency between the BEA and the TOS shall be governed by the BEA. Customer hereby authorizes Gexa Energy, for the duration of this Agreement, to become its new REP and to act as its agent to perform the necessary tasks to establish Customer's electric supply account with Gexa Energy. This authorization to establish or switch Customer's provider of electric service applies to all ESI ID(s) listed on Addendum A. By signing this BEA (facsimile signature accepted as if it were an original), Customer hereby agrees, as of the Effective Date, that Customer has read and understands this Agreement (including the TOS) for the product for which Customer is enrolling and agrees to the terms and conditions set forth in the Agreement which describe the service Customer will receive. The undersigned below represents and warrants to Gexa Energy that he/she is at least eighteen (18) years of age, legally authorized to enter into this Agreement on behalf of Customer and select or change to Gexa Energy as the retail electric provider for the ESI ID(s) listed on Addendum A. <b>This Agreement is not valid or binding unless and until signed by both Parties.</b>	
<b>Rescission:</b> If Customer is a Small Commercial Customer (as defined in the TOS) and is making a switch request, Customer has the right to rescind this Agreement within three (3) federal business days after receiving this Agreement, without penalty. The TOS explains how to exercise this right of rescission before Customer's electric service is switched to Gexa Energy.	
<b>Energy Charge and Contract Term:</b> Except as described below for variable price plans, Customer agrees that (i) during the Contract Term, Customer shall pay the unit price set forth in the EFL, and (ii) the Contract Term of service from Gexa Energy to which the Customer has agreed is set forth above.	

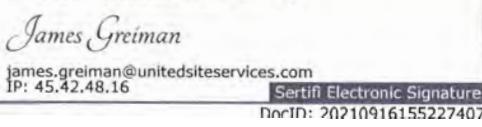
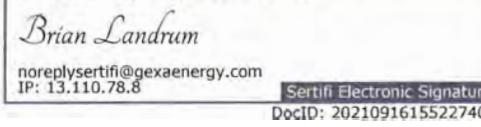
For variable price plans, Customer agrees that Customer shall pay the unit price on the EFL for the Customer's first Billing Cycle. For subsequent Billing Cycles, the price may change at the sole discretion of Gexa Energy in accordance with the Variable Price Product section of the TOS.

The unit price shown on the EFL provided to a Small Commercial Customer includes the Energy Charge for the supply of electricity as described in the TOS, all recurring TDU Delivery Charges, the ERCOT administrative fee, the Texas Regional Entity ("TRE") administrative fee, the PUCT Assessment fee, and any other recurring third-party fees. Specific TDU charges will vary depending on the TDU providing the services.

**Deposits:** Customer acknowledges that it understands that if Gexa Energy determines in its reasonable discretion that Customer cannot demonstrate satisfactory creditworthiness, Gexa Energy may require Customer to pay an initial cash deposit in an amount of up to one-fifth of Customer's estimated annual billing in order to enroll.

**Language:** Customer acknowledges that it prefers to receive information from Gexa Energy in the language specified above; provided, that if no language is specified, then Customer is deemed to prefer to receive information in English.

**Early Termination Fee:** With the exception of variable price plans, Customer is required to pay Gexa Energy the Early Termination Fee if supply provided by Gexa Energy to one or more ESI IDs is terminated before the end of the Contract Term. The Early Termination Fee is described in the Disclosure Table of the EFL.

<p>United Site Services Inc</p> <p>Authorized Signature:  James Greiman james.greiman@unitedsiteservices.com IP: 45.42.48.16 DocID: 20210916155227407</p> <p>Print Name: _____ James Greiman Title: _____ 09/16/2021 Date: _____</p>	<p>Gexa Energy, LP, By: Gexa Energy GP, LLC, its General Partner</p> <p>Authorized Signature:  Brian Landrum noreplysertifi@gexaenergy.com IP: 13.110.78.8 DocID: 20210916155227407</p> <p>Print Name: _____ President Title: _____ 09/17/2021 Effective Date: _____ Sales Representative: Dessie Sackey</p>
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## BUSINESS ELECTRICITY AUTHORIZATION TEXAS SMALL COMMERCIAL SALES

### Addendum A

**CUSTOMER NAME:** United Site Services Inc

**NOTICE TO CUSTOMER:** Notwithstanding anything to the contrary in the BEA or TOS, for each of the respective ESI IDs set forth in this Addendum A: (i) the Service Commencement Date (as that term is used in the TOS) shall be the first meter read date during or after the applicable ESI ID Start Month/Year set forth below; and (ii) the end of the Initial Term (as that term is used in the BEA and TOS) shall be the first meter read date during or after the applicable ESI ID End Month/Year set forth below.

#### ACCOUNTS INCLUDED IN AGREEMENT:

Utility Account Number	Service Address City, State and Zip	Billing Address City, State and Zip	Account Type*	Service Commencement Date	Service End Date
100890102380399367010 0	19950 HUFSMITH KOHRVILLE RD TOMBALL, TX 77375	118 Flanders Rd Westborough, MA 01581	N	09/20/2021	09/20/2026

N = New Account; or E = Renewal/Existing Account

**NOTICE TO CUSTOMER:** Notwithstanding any provision in the Agreement to the contrary, the following shall apply: It is possible that, for various reasons, the TDU will not enroll some or all the Accounts listed above and the TDU will so advise Gexa (such unenrolled Accounts being referred to as "UE Accounts"). In such case, Gexa will provide written notice to Customer of Customer's UE Accounts. All UE Accounts shall be automatically **deleted** from this Addendum A without an amendment hereto (i.e., an amendment signed by both Parties) and Gexa shall not be required to serve such UE Accounts.

**Customer Initials:** AG  
E-Signed

09/16/2021

**Date:** \_\_\_\_\_

**Gexa Energy, LP Initials:** BL  
E-Signed

09/17/2021

**Date:** \_\_\_\_\_



## BUSINESS ELECTRICITY AUTHORIZATION

### TEXAS SMALL COMMERCIAL SALES

### TERMS OF SERVICE

**BUSINESS ELECTRICITY AUTHORIZATION:** These Terms of Service ("TOS") explain the details of your electricity supply from Gexa Energy, LP ("Gexa Energy" or "we" or "us"). This TOS document, together with your written, telephonic or electronic (including internet) enrollment authorization, as applicable, and any related enrollment documentation or records, including any addenda thereto, the Electricity Facts Label ("EFL") and Your Rights as a Customer document ("YRAAC"), constitute your agreement with Gexa Energy (collectively, the "Agreement" or "Business Electricity Authorization"). Any inconsistency between these contract documents shall be governed by the TOS.

**SPANISH LANGUAGE (IDIOMA ESPAÑOL):** Your contract documents are available in Spanish by contacting us at 713 961 9399 or toll free at (866) 961 9399 (outside Houston). Usted puede obtener los documentos de su contrato comunicándose con nosotros al 713 961 9399 o sin cargos al (866) 639-8118 (fuera de Houston).

**24 HOUR SERVICE OUTAGE REPORTING:** Should an outage occur, Customer should contact the appropriate transmission and distribution utility:

ONCOR: (888) 313-4747  
CENTERPOINT ENERGY: (800) 332-7143  
AEP TEXAS: (866) 223-8508  
TEXAS NEW MEXICO POWER: (888) 866-7456

#### **GEXA ENERGY AND PUCT CONTACT INFORMATION:**

REP NAME:	Gexa Energy, LP
BUSINESS NAME:	Gexa Energy
CERTIFICATE NO.:	10027
INTERNET ADDRESS:	<a href="http://www.gexaenergy.com">www.gexaenergy.com</a>
EMAIL ADDRESS:	<a href="mailto:tx@gexaenergy.com">tx@gexaenergy.com</a>
MAILING ADDRESS:	20455 State Highway 249, Suite 200 ATTN: Contract Administration Houston, TX 77070
TELEPHONE NUMBER:	866-961-9399
FAX:	866-550-4392
OFFICE HOURS OF OPERATION:	Monday - Friday: 8:00 a.m. - 5:00 p.m., CT. Closed holidays.
PUCT:	1-888-782-8477 (TTY 1-800-735-2988) <a href="mailto:customer@puc.state.tx.us">customer@puc.state.tx.us</a>

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20455 State Highway 249, Suite 200, Houston, TX 77070  
Customer Service: 866-961-9399; Fax: 866-550-4392; Email: [TX@gexaenergy.com](mailto:TX@gexaenergy.com)

## 1. DEFINITIONS.

“Additional Pass-Through Charges” means any costs and charges arising from a Change in Law, Material Usage Deviation Charges and/or Sub-metering Charges.

“Average Monthly Charge” means, with respect to each ESI ID terminated, the amount that would be due to Gexa Energy under this Agreement for the Energy Charge assuming the Customer’s average monthly usage of each relevant ESI ID; provided, that if an average monthly usage cannot be determined due to a limited term of supply by Gexa Energy or any other circumstance, such average monthly usage as calculated by Gexa Energy.

“BEA” or “Business Electricity Authorization” means the Agreement entered into between Gexa Energy and Customer.

“Billing Cycle” means, for each ESI ID, the period between successive monthly meter read dates during the term of this Agreement.

“Change in Law” means a change in law, regulation, rule, ordinance, order or decree by a governmental authority (including ERCOT) or the implementation of an existing law, regulation, rule, ordinance, order or decree by a governmental authority (including ERCOT), including, without limitation, TDU tariffs and ERCOT Protocols (including, without limitation, those affecting any fees, costs, or charges imposed by ERCOT), changes in market rules, changes in load profiles, changes in how ERCOT calculates usage, changes in nodal and zonal definitions, changes in nodal protocols as currently constituted and documented. A “change,” as used above, includes, without limitation, any amendment, modification, nullification, suspension, repeal, finding of unconstitutionality or unlawfulness or any change in construction, calculation, interpretation or administration.

“Contract Documents” means this TOS, the EFL and YRAAC document.

“Contract Term” means the period commencing on the Service Start Date and continuing thereafter for the fixed number of months designated as the Contract Term (“fixed Contract Term”), or the month-to-month period, all as specified in the Enrollment Documents and the EFL, provided, however, that the Contract Term shall end on the meter read date for the last billing month of the Contract Term. If Customer is a Small Commercial Customer on a fixed rate product, then notwithstanding any contrary provision in this Agreement, the Contract Term shall end on the end date of the contract specified by Gexa Energy in a bill or otherwise; provided, that Gexa Energy may bill the Monthly Charge until the first meter read after the end date of the contract. Further, if an end date of the contract is specified for any Customer that is not a Small Commercial Customer in a bill or otherwise, then notwithstanding any contrary provision in this Agreement, the Contract Term shall end on the date through which Gexa Energy bills the Monthly Charge.

“Customer” or “you” is the applicant or person or entity identified as Customer in the Enrollment Documents.

“Customer Delivery Point” means the point of interconnection between the TDU facilities and Customer’s electric meter.

“Early Termination Fee” is described in the Disclosure Table of the EFL.

“Effective Date” is one of the following, as applicable, (i) for an internet enrollment, the date when Customer’s application to receive electricity supply from Gexa Energy is completed through Gexa Energy’s website without condition or rejection; (ii) for a telephonic enrollment, the date when the Parties agree to enter into this Agreement via Gexa Energy’s call center; or (iii) for a written enrollment, the date specified as the Effective Date on the enrollment authorization.

“EFL” is the Electricity Facts Label.

“Energy Charge” is the charge per kWh for the electricity generation supply provided to Customer by Gexa Energy during the Contract Term as specified in the Enrollment Documents and the EFL.

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“Energy Usage” means Customer’s total metered energy usage for the ESI ID(s) subject to this Agreement measured in kilowatt hours (“kWh”) for the applicable period.

“Enrollment Documents” means Customer’s written, telephonic or internet enrollment authorization, as applicable, and any related enrollment documentation or records, which for a written enrollment shall include the Addendum A.

“ERCOT” means the Electric Reliability Council of Texas.

“ESI ID” means the Customer’s Electric Service Identifier referenced in the Enrollment Documents.

“Event of Default” means, with respect to Customer, the occurrence of any of the following:(i) failure to make timely payment of all amounts due hereunder; (ii) failure to post a security deposit under the provisions of the “Credit and Deposit Requirements” Section herein within ten (10) days of a written request therefor; (iii) breach of any warranty or representation to Gexa Energy; (iv) failure to take exclusively from Gexa Energy, at any time during the Contract Term, the full requirements electric supply for any or all of the ESI ID(s) covered by the Agreement; (v) default on any material obligation under this Agreement (other than as provided in subparts (i), (ii), (iii) and (iv) above); (vi) Customer (A) makes an assignment for the benefit of creditors, (B) files a petition or otherwise authorizes the commencement of a proceeding under the Bankruptcy Code or similar law for protection of creditors, or has such petition filed against it, (C) otherwise becomes bankrupt or insolvent, or (D) is unable to pay its debts as they fall due; or (vii) subject to the “Assignment” Section of this Agreement, Customer enters into a merger with, or sells substantially all of its assets to, another entity that fails to assume Customer’s obligations under this Agreement.

“Gexa Energy” or “we” or “us” means Gexa Energy, LP, a Texas limited partnership.

“Holdover Period” is defined in the “Term” Section of this TOS.

“Late Payment Penalty” means a one-time fee of five percent (5%) assessed on invoices for the Monthly Charge that are not paid when due.

“Load Zone” means a group of electrical buses assigned to the same zone under Nodal Protocol Section 3.4, Load Zones.

“LMP” means either the day ahead or real time ERCOT Settlement Point Price for the applicable settlement location in which the Customer meter is located. The election of day-ahead or real-time shall be indicated in the EFL. If no specific ERCOT Settlement Point Price is indicated, then the day ahead ERCOT Settlement Point Price settlement will be used. LMP is expressed in \$/MWh and shall have no minimum price per MWh.

“Monthly Charge” means the sum of: (i) the product of Customer’s Energy Usage during a Billing Cycle and the applicable price, as described in the EFL, or, if the EFL is not provided to Customer prior to the end of the fixed Contract Term, the price of the default variable product as described in the “Pricing” Section of the TOS; (ii) Pass-Through Charges (including, without limitation, Additional Pass-Through Charges and the charges described in the “Change in Law” Section of this TOS) , if any; and (iii) Taxes.

“Party” means either Gexa Energy or Customer, and “Parties” means both Gexa Energy and Customer.

“Pass-Through Charges” means any non-recurring charges as described in the “Summary of Gexa Energy Non-Recurring Charges” Section of this TOS, any non-recurring TDU charges and/or non-recurring third-party fees and charges, and/ or Additional Pass-Through Charges. Examples of non-recurring TDU charges are those arising from a move-in or switch, such as self-selected meter reads; service connection, disconnection, or reconnection fees; and meter tampering charges. Pass-Through Charges may be treated as an adjustment to the Energy Charge or may be passed through to Customer, at Gexa Energy’s sole option.

“PUCT” means the Public Utility Commission of Texas.

“REP” means retail electric provider.

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"Seller Delivery Point" means the point of interconnection between a third-party transmission or delivery system and the TDU transmission or delivery system.

"Service Start Date" means the date on which the TDU switches the Customer's respective ESI ID(s) to Gexa Energy; during or after the applicable Service Start Date (Month/Year) specified in the Enrollment Documents, provided that, in the case of a renewal of electric supply already being provided by Gexa Energy to Customer, the Service Start Date means the day following the termination or expiration of Customer's most immediately preceding agreement with Gexa Energy.

"Small Commercial Customer" means a non-residential customer that has a peak demand of less than fifty (50) kW during any twelve-month period, unless the customer's load is part of an aggregation program whose peak demand is in excess of fifty (50) kW during the same twelve-month period.

"Taxes" means all federal, state, municipal or other governmental taxes, duties, fees, levies, premiums, assessments, surcharges, withholdings, or any other charges of any kind relating to the sale, purchase or delivery of electricity, including, without limitation, gross receipts taxes, together with all interest, penalties or other additional amounts imposed thereon, but excluding taxes on net income.

"TDU Delivery Charges" means those recurring charges payable to the TDU in connection with transmission and distribution of electricity pursuant to this Agreement, including, without limitation, all charges allowed or required by the PUCT, ERCOT or any other governmental or regulatory authority or any third parties.

"Transmission and Distribution Utility" or "TDU" means a utility that owns electric transmission and/or distribution facilities that deliver electricity to the facilities to which the ESI ID(s) pertain.

## **2. RESCISSION, FIXED TERM PRODUCT QUALIFICATION AND DISCONNECTION NOTICES.**

**NOTICE TO SMALL COMMERCIAL CUSTOMERS REGARDING RESCISSION:** If Customer is switching its electric service to Gexa Energy from another REP and Customer is a Small Commercial Customer (as defined above), Customer has the right to cancel this Agreement with Gexa Energy without any fee or penalty of any kind within three (3) federal business days of receiving the Contract Documents. To do so, Customer may call Gexa Energy at (713) 961 9399 or toll free at 866 961 9399 (outside Houston) to talk to a representative or leave a message, or Customer may fax Gexa Energy toll-free at (866) 550 4392, during or after the office hours of operation, on or before the third federal business day. This right to rescind does not extend to service requests for establishing electric service at a new location (also known as a "move-in").

**QUALIFICATION FOR FIXED TERM PRODUCT:** In order to qualify to enroll for a fixed term product, Customer's average electricity usage for all ESI IDs set forth on the BEA must be 75,000 kWh or less per month (the "Maximum Average Electricity Usage"). Customer hereby represents and warrants that the aggregate average monthly electricity usage of the ESI ID(s) set forth on the BEA is and will remain below the Maximum Average Electricity Usage. If at any time during the Contract Term, Customer's average monthly electricity usage for such ESI IDs is more than the Maximum Average Electricity Usage, Gexa Energy may terminate this Agreement without any liability or payments whatsoever to Customer by Gexa Energy and Customer will be subject to an Early Termination Fee.

**NOTICE TO SMALL COMMERCIAL CUSTOMERS REGARDING TERMINATION AND DISCONNECTION.** To terminate this Agreement, Customer may call or fax Gexa Energy at the contact numbers provided above. Customer may be subject to an Early Termination Fee. If Customer's termination requires a self-selected meter read by the TDU, Customer will be charged a fee established by the TDU. Regardless of the method or reason for termination of the Agreement, Customer is responsible for payment of all outstanding charges incurred through the date on which the termination is effected by the TDU. If Customer is a Small Commercial Customer, Customer may terminate electric service without penalty if Customer moves to another premises and provides Gexa Energy with evidence confirming that Customer has moved and Customer's forwarding address. Gexa Energy may order disconnection of Customer's electric service for non-payment as provided in this Agreement.

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**3. SERVICES.** During the term of this Agreement, Gexa Energy shall sell to Customer and Customer shall purchase from Gexa Energy Customer's electricity requirements for the ESI ID(s) specified in this Agreement, and Customer shall obtain such electricity requirements for such ESI ID(s) exclusively from Gexa Energy on the terms and conditions specified in this Agreement. Gexa Energy shall cause all such electricity to be delivered to the Seller Delivery Point(s) and Customer shall receive such electricity at the Customer Delivery Point(s). Notwithstanding the foregoing, Gexa Energy shall be under no obligation to supply any ESI IDs under a residential rate class and, if Gexa Energy does supply such ESI IDs, Customer hereby represents and warrants to Gexa Energy that such ESI IDs are used for commercial or governmental purposes.

**4. CUSTOMER INFORMATION.** Customer hereby authorizes Gexa Energy to obtain Customer's current and historical usage data from the TDU, payment and credit history and other information reasonably requested by Gexa Energy. Customer agrees, upon request, to provide Gexa Energy with facility descriptions, operating information, ESI IDs and locations, and such other information available to Customer reasonably required by Gexa Energy. Customer will provide prior written notice to Gexa Energy if Customer's contact information (including telephone number) provided by Customer hereunder or in connection with this Agreement changes for any reason or if Customer no longer has authority to direct calls at the telephone number provided as contact number. Customer's monthly usage for all ESI IDs shall not depart materially from the expected usage of such ESI ID(s) as such usage is determined by Gexa Energy. Customer shall pay Gexa Energy any losses and/or costs and charges reasonably associated with such material departures from its expected usage (such charges, "Material Usage Deviation Charges"). If Customer is a multi-family housing customer and the agreement includes a master metered account or any other account meter that is sub-metered at any time during the term of the agreement entered into with such customer, Customer shall pay Gexa Energy any losses and/or costs and charges reasonably associated with such sub-metering (such charges, "Sub-metering Charges"). If Customer is not a Small Commercial Customer, Material Usage Deviation Charges and Sub-Metering Charges will be assessed to Customer in Gexa Energy's Monthly Charge(s) as an Additional Pass-Through Charge.

**5. ENROLLMENT.** Provided Customer has submitted complete and correct enrollment information to Gexa Energy, Gexa Energy shall use commercially reasonable efforts to submit market orders to ERCOT as are necessary for the TDU to enroll Customer's ESI ID(s) with Gexa Energy for electricity supply. Gexa Energy's submission of market orders may be delayed due to events beyond its reasonable control including, but not limited to, submission of an incomplete, improperly completed, unclear, or inaccurate enrollment documentation by or on behalf of Customer, as reasonably determined by Gexa Energy. Customer agrees to cooperate with Gexa Energy's efforts with respect to enrollment. Gexa Energy shall not be held liable to Customer for delay or failure in enrolling Customer's ESI ID(s) if such delay or failure was due in whole or in part to any cause beyond Gexa Energy's control. Further, notwithstanding any provision in the Agreement to the contrary, it is possible that, for various reasons such as the ESI ID not existing, ESI ID not active or ESI ID is not the "first in", some or all the ESI IDs cannot be enrolled. In such case, Gexa Energy will use reasonable efforts to advise Customer of Customer's un-enrolled ESI IDs. All such un-enrolled ESI IDs shall be automatically deleted from service under this Agreement without an amendment hereto (i.e., an amendment signed by both Parties) and such failure to enroll will be an early termination by Customer. Gexa Energy shall not be required to serve such un-enrolled ESI ID(s).

**6. TERM.** This Agreement shall become effective on the Effective Date with electric service commencing for each ESI ID on the Service Start Date and continuing thereafter for the Contract Term, as specified in the Enrollment Documents and the EFL.

If Customer is enrolled in a plan with a fixed Contract Term and upon expiration of such Contract Term, Customer's ESI ID(s) are not successfully switched by the TDU to another REP, or Gexa Energy and Customer do not enter into a new or renewal Agreement, this Agreement shall continue on a month-to-month basis and Customer shall be supplied under a default variable product plan until Gexa Energy and Customer enter into a new or renewal Agreement, or either Party terminates this Agreement and the TDU switches Customer's ESI ID(s) to another REP, or Gexa Energy terminates this Agreement and disconnects Customer's ESI ID(s) from supply as provided under this Agreement (such period, the "Holdover Period"). If Customer is a Small Commercial Customer, a contract expiration notice will be sent to Customer at least fourteen (14) days prior to the end of the fixed Contract Term, and the Holdover Period shall begin following the end of the fixed Contract Term.

If Customer is enrolled in a plan with a month-to-month term, this Agreement shall become effective as of the Effective Date, with electric service commencing for each ESI ID on the Service Start Date, and continuing thereafter month-to-month until Gexa Energy and Customer enter into a new Agreement, or either Party terminates this Agreement and the TDU switches Customer's ESI ID(s) to another REP, or Gexa Energy terminates this Agreement and disconnects Customer's ESI ID(s) from supply as provided under this Agreement.

**7. PRICING.** The price that Customer agrees to pay for the Energy Usage is as provided on the EFL. In addition to the price, Customer agrees to pay any Pass-Through Charges and all applicable Taxes which shall be reflected on the monthly bill. Customer's accounts will be deemed taxable until proper tax exemption documentation is received by Gexa Energy. If Customer is a renewing customer and Customer has provided tax exemption documentation in connection with the previous agreement, Customer does not need to provide Gexa Energy with new tax exemption documentation if Customer's tax exempt status has not changed.

**FIXED RATE PRODUCT:** A fixed rate product has a Contract Term of three (3) months or more. During the Contract Term, Customer will pay the price set forth on the EFL. Such price may vary from the disclosed amount to reflect actual changes in the TDU charges, changes to recurring third party fees (including, but limited to, the ERCOT or TRE administrative fees), or in accordance with the "Change in Law" Section of this TOS, but otherwise will not change during the term.

**VARIABLE PRICE PRODUCT:** Variable price products are month-to-month contracts with a Contract Term of 31 days or less and for which the price may vary as determined by Gexa and as disclosed on the EFL. If Customer is enrolled in a variable price plan, the variable price is determined solely by Gexa Energy in its sole discretion. The variable price typically does not reflect business or market conditions (including current and future market prices) or changes to those conditions. The variable price will likely significantly exceed the price per unit under this Agreement and/or contract prices charged by other REPs to their customers. The following are some, but not all, of the material factors that can influence Gexa Energy's determination of the initial variable price and any subsequent changes to the variable price: (i) the current and future expected prices for wholesale electric supply (including an analysis of the supply and demand factors affecting these prices, if desired) and Gexa Energy's desired risk premiums on any pricing; (ii) Gexa Energy's supply position in the market and its comfort level with respect to those positions; (iii) Gexa Energy's expected gross margin, target gross and profit margins, and desired revenues; (iv) Gexa Energy's customer counts and attrition; and/or (ix) the prices charged by competitors. The variable price may also change in accordance with the "Change in Law" Section of this TOS.

**INDEXED PRODUCT:** Indexed products may be for a term of three (3) months or more, or may be month-to-month. If Customer is enrolled in an indexed price plan, the price may vary in accordance with a pre-defined pricing formula as set forth in the EFL. The price of a month-to-month indexed product may increase or decrease each month, as further described in the EFL. The price of indexed plans may also vary in accordance with the "Change in Law" Section of this TOS.

**DEFAULT VARIABLE PRODUCT DURING THE HOLDOVER PERIOD:** During the Holdover Period, if any, Customer shall be served on a month-to-month basis under a default variable product plan. The price of the default variable product plan may change each month at the sole discretion of Gexa Energy. If Customer is a Small Commercial Customer, the initial price of such default variable product plan will be specified in the EFL that will be sent to Customer prior to the end of the fixed Contract Term. If Customer is not a Small Commercial Customer, the EFL may not be provided and the price of the default variable product plan is set forth on Gexa Energy's website at [www.gexaenergy.com](http://www.gexaenergy.com) in the "For Business" section under "Legal Notices and Terms".

**8. BILLING AND FEES.** Unless the Parties agree in writing to alternate payment arrangements, Customer consents to be billed monthly for services provided hereunder. Each bill will consist of the Monthly Charge (including Taxes), or multiple Monthly Charges, if Gexa Energy defers Monthly Charges as provided below, and Customer agrees to pay such Monthly Charges. Customer agrees to pay each such bill on or before sixteen (16) days (unless agreed otherwise in writing) after the billing date on Customer's invoice or the postmark date on the invoice envelope, whichever is later. Gexa Energy may elect to defer sending monthly bills for all periods where actual usage is not available from the TDU. If any amounts are not paid when due, Gexa Energy shall have the right to assess the Late Payment Penalty and may report delinquent balances and related information to a credit agency.

Gexa Energy may also assess a twenty-five dollar (\$25) fee against any transaction not processed due to insufficient funds or credit availability for any method of payment, including checks, bank drafts or credit card. Any payment that is returned unpaid or not processed by Customer's financial institution will be treated as if Gexa Energy received no payment at all. If Customer has two (2) or more returned payments during any twelve (12) month period, Customer shall pay the bills by money order or cash until the Parties agree otherwise in writing. Gexa Energy is not responsible for notifying Customer of dishonored checks or returned electronic payments. If Customer participates in the auto-bill-payment program or the Budget Billing Program and a Customer's payment is dishonored for any reason, Gexa Energy reserves the right to remove the Customer from the program.

If the TDU fails to timely obtain or transmit a meter reading, Gexa Energy reserves the right to issue or cause to be issued a bill to Customer based on its estimated Energy Usage and charges during the Billing Cycle. Gexa Energy will include or cause to be included in any subsequent bill from Gexa Energy, adjustments related to previous billings, including estimates, previous billing errors, meter read errors, or other errors or omissions. Gexa Energy may apply any credit balance on a particular ESI ID to a balance owed on any other Customer ESI ID. If Customer disputes a bill, Customer must pay any undisputed portion of the bill by the due date specified in the applicable payment terms. If the unpaid, disputed portion of the bill is subsequently resolved in favor of Gexa Energy, the Late Payment Penalty will be applied to such unpaid amounts. One time per calendar year, Customer may request a copy of its billing records at no charge. Any additional requests may result in a fee of five dollars (\$5) per bill period requested.

If Customer is a "governmental entity" as defined in the Prompt Payment Act ("PPA"), Tex. Government Code, Chapter 2251, then, notwithstanding any contrary provisions in this Agreement, a payment by Customer shall become overdue as provided in the PPA, billing disputes shall be resolved as provided in the PPA, and interest on overdue payments shall be calculated and remitted in accordance with the PPA. As provided in the PPA: (i) "governmental entity" means a state agency or a political subdivision of the state of Texas; (ii) "state agency" means (A) a board, commission, department, office or other agency in the executive branch of state government that is created by the constitution or a statute of the state of Texas, including a river authority and an institution of higher education as defined by Section 61.003 of the Education Code, (B) the legislature or a legislative agency, or (C) the Supreme Court of Texas, the Court of Criminal Appeals of Texas, a court of appeals, a state judicial agency, or the State Bar of Texas; and (iii) "political subdivision" means (A) a county, (B) a municipality, (C) a public school district, or (D) a special-purpose district or an authority.

**9. BUDGET BILLING PROGRAM.** If Customer is a Small Commercial Customer, Gexa Energy offers a budget billing program (the "Program") that allows qualified customers to pay an equal budget bill amount each month subject to the following terms. To qualify for the Program, Customer cannot be delinquent in payments to Gexa Energy.

The budget bill amount is calculated using the last twelve (12) months' usage history of the ESI ID(s), if available, adjusted by a representative annual growth factor of four percent (4%) or more, as determined by Gexa Energy for the initial 12-month term on the Program, multiplied by Customer's current price per kWh, plus any applicable Taxes or fees, all divided by twelve (12). Customer will be billed this amount each month for the next twelve (12) months. If less than twelve (12) months' usage history is available for the service address, Gexa Energy will project the budget bill amount. Customer is also responsible for paying any non-recurring charges from the TDU or other non-recurring third party fees in addition to Customer's budget bill amount. Customer will receive a statement with Customer's calculated budget bill amount after Customer has been accepted into the Program. Customer is responsible for paying the budget bill amount each billing cycle by the bill due date, even if the bill shows a credit balance. Participation in the Program does not cancel Customer's obligation to pay for all actual usage.

Gexa Energy may modify the Customer's budget bill amount at any time to reflect changes in Customer's usage, price (if applicable) or for other authorized reasons. In addition, if Customer has enrolled in the Budget Billing program, Customer will continue in the Program after Customer's fixed Contract Term has expired, if Customer has not switched to another REP or the Agreement has not been otherwise terminated. At that time Customer will receive a credit towards Customer's account, if Customer has paid Gexa Energy more than Customer owes. If Customer has paid Gexa Energy less than Customer owes, Customer must pay Gexa Energy the difference; but that difference will be amortized over the next twelve (12) month period and added to Customer's monthly program payment.

Notwithstanding the above paragraph, if Customer's participation in the Program or the Agreement is canceled or terminated for any reason or Customer's electric service is disconnected, any credit or unpaid balance will appear on the final or other subsequent bill. Customer may opt out of the Program at any time by providing written notification of the Customer's desire to be removed from the program to the following address: Gexa Energy; 20455 State Highway, Suite 200; Houston, TX 77070; Attention: Budget Billing, or Customer may opt out via email by sending notice to [budget.billing@gexaenergy.com](mailto:budget.billing@gexaenergy.com). Customer may also contact customer service at: (713) 961-9399 or toll-free (866) 961-9399 (outside Houston).

**10. CREDIT AND DEPOSIT REQUIREMENTS.** Gexa Energy reserves the right to request a credit history on an applicant or customer for service prior to offering service and require a deposit from anyone who does not meet Gexa Energy's credit standards. Gexa Energy may refuse to provide electric supply to any applicant or customer for one or more of the reasons specified in the PUCT Substantive Rule 25.477 (See <http://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/25.477/25.477.pdf>), as amended.

If Gexa Energy determines in its reasonable discretion that Customer cannot demonstrate satisfactory creditworthiness, Gexa Energy may require Customer to pay an initial cash deposit or provide other credit support in an amount of up to one-fifth of Customer's estimated annual billing. If, at any time, Gexa Energy determines in its reasonable discretion that there has been a material adverse change in Customer's credit status or that Customer cannot demonstrate satisfactory creditworthiness, or if Customer fails to timely pay all amounts due or there otherwise exists a default with respect to Customer under this Agreement, Gexa Energy may require Customer to pay a cash deposit or provide other credit support in an amount reasonably satisfactory to Gexa Energy in addition to any existing or other cash deposit or credit support.

Notwithstanding the foregoing paragraphs, (i) Gexa Energy will not require an initial deposit from an existing Small Commercial Customer unless such Customer was late paying a bill more than once during the last twelve (12) months of service or had service terminated or disconnected for nonpayment during the last twelve (12) months of service, and (ii) Gexa Energy will not require an additional deposit from an existing Small Commercial Customer if the average of the customer's actual billings for the last twelve (12) months are at least twice the amount of the original average of the estimated billings and a termination or disconnection notice has been issued or the account disconnected within the previous twelve months.

Cash deposits held more than thirty (30) days will accrue interest from the date of receipt at the annual rate established by the PUCT and such accrued interest will be applied annually to Customer's account. After termination of this Agreement or disconnection of service, Gexa Energy will apply any cash deposit plus any unpaid accrued interest toward any outstanding balance on Customer's final bill and will refund any remaining deposit. Gexa Energy may apply any deposit on a particular ESI ID to a balance owed on any other ESI ID supplied hereunder. Any such cash deposit plus any unpaid accrued interest will be refunded by means of a credit to a Small Commercial Customer's bill(s) once such Customer has made twenty-four (24) consecutive payments without the assessment of any Late Payment Penalty.

**11. TERMINATION OF AGREEMENT BY CUSTOMER.** If Customer terminates this Agreement, in whole or in part as to any ESI ID(s), before the end of the Contract Term, Customer shall pay Gexa Energy the Early Termination Fee as well as all amounts due for electric service. If Customer terminates the Agreement, in whole or in part as to any ESI ID(s), after the end of the Contract Term, Customer shall pay Gexa Energy all amounts due for electric service. If Customer is a Small Commercial Customer, Customer may terminate this Agreement without penalty if Customer moves to another premises and provides Gexa Energy with evidence confirming that Customer has moved and Customer's forwarding address. If Customer terminates this Agreement as provided in this Section, Customer shall be obligated to pay for the electricity and related services provided to Customer pursuant to this Agreement prior to the date that such termination becomes effective, including Late Payment Penalties, if applicable.

Customer and Gexa Energy agree that, whether imposed under this Section or the following Section of the TOS, the Early Termination Fee and any other amounts recoverable under this Agreement are a reasonable estimate of loss and not a penalty. Gexa Energy is not required to enter into any replacement transaction in order to determine or charge the Early Termination Fee.

**12. TERMINATION OF AGREEMENT AND DISCONNECTION OF CUSTOMER'S SERVICE BY GEXA ENERGY.** Gexa Energy reserves the right to terminate this Agreement and disconnect Customer's service under this Agreement if an Event of Default has occurred with respect to Customer. If service is terminated in accordance with this Section, Customer shall pay Gexa Energy any Early Termination Fee due as well as all amounts due for electric service. Gexa Energy will notify Customer of its intent to disconnect electric service at least ten (10) days prior to the effective date of the disconnection.

If payment in the amount specified in the disconnect notice is not received by the date specified in the notice, and a disconnection transaction has been processed by Gexa Energy, Customer's account will be charged a fifteen dollar (\$15) disconnection fee. This fee will be assessed regardless of whether Customer's electric service is actually disconnected by the TDU. In addition, Customer's account will be charged a fifteen dollar (\$15) reconnection fee in the event that Gexa Energy processes a reconnect transaction for the account. These fees are in addition to those disconnection and reconnection fees that may be assessed by Customer's TDU.

Disconnection of electric service by Gexa Energy will not excuse Customer from paying any outstanding amounts owed to Gexa Energy. Gexa Energy may also disconnect Customer's electric service on any other grounds permitted by PUCT Substantive Rule 25.483 (See <http://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/25.483/25.483.pdf>), as amended. Gexa Energy may arrange for service to be disconnected without prior notice to Customer if one or more of the following conditions or events occur: there exists a known dangerous condition; service has been connected without authority by a person who has not made application for service; service has been reconnected without authority after disconnection for nonpayment; there has been tampering with the equipment of the transmission and distribution utility, municipally owned utility, or electric cooperative; or where there is evidence of theft of service.

**13. TITLE, RISK OF LOSS AND INDEMNIFICATION.** Title and risk of loss to the electricity sold hereunder shall pass from Gexa Energy when it is delivered to the Seller Delivery Point. Customer shall indemnify and defend Gexa Energy and its affiliates from all claims for any loss, damage, or injury to persons or property arising from or relating to the distribution or consumption of electricity at the Customer Delivery Point of or downstream of the Customer Delivery Point.

**14. FORCE MAJEURE.** Gexa Energy shall be excused from performance of its obligations under this Agreement, in whole or in part, to the extent caused by and during an event of Force Majeure (as defined herein); provided that Gexa Energy shall provide notice of such event to Customer and use commercially reasonable efforts to avoid the effects of such event and resume performance as soon as is commercially practicable. As used herein, "Force Majeure" means any act, condition, event or occurrence that is beyond Gexa Energy's reasonable control including, without limitation, an act of God or public enemy, storm, earthquake, or other natural forces, war, riot, public disturbance, labor action, or the acts or omissions of anyone not a Party to this Agreement, including the TDU.

**15. CHANGE IN LAW.** Notwithstanding any provision to the contrary in this Agreement, (i) if Customer is a Small Commercial Customer and there are any changes in the Transmission and Distribution Utility (TDU) charges, changes to the ERCOT or Texas Regional Entity administrative fees charged to loads, or changes resulting from federal, state or local laws that impose new or modified fees or costs, Gexa Energy may adjust the price or pass-through such new or modified fees or costs to Customer; or (ii) if Customer is not a Small Commercial Customer and there is a Change in Law and such Change in Law results in Gexa Energy incurring additional costs and expenses in providing the services contemplated herein, such additional costs and expenses shall be the Customer's responsibility and will be assessed to Customer in Gexa Energy's Monthly Charge(s) as an Additional Pass-Through Charge.

**16. NONDISCRIMINATION.** Gexa Energy does not deny service, require a prepayment or deposit for service or otherwise discriminate based on a customer's race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, level of income, disability, familial status, location in an economically distressed geographic area, or qualification for low income or energy efficiency services. Gexa Energy does not and will not boycott Israel during the term of this Agreement.

**17. WAIVER OF CUSTOMER RIGHTS AND PROTECTIONS.** If Customer is not a Small Commercial Customer, Customer waives its rights under the Substantive PUCT Customer Protection Rules for Retail

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20455 State Highway 249, Suite 200, Houston, TX 77070  
Customer Service: 866-961-9399; Fax: 866-550-4392; Email: TX@gexaenergy.com

**Electric Service with the exception of the provisions in Substantive PUCT Rules 25.495, 25.481, and 25.485(a)-(b), as amended.**

**18. REPRESENTATIONS AND WARRANTIES.** Each Party warrants and represents to the other Party that: (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (ii) it is authorized and qualified to do business in the jurisdictions necessary to perform this Agreement; (iii) the execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary corporate or other actions and do not violate any agreement to which it is a party or any laws or regulations applicable to it; and (iv) the Agreement, when delivered, will be valid and legally binding and enforceable in accordance with its respective terms (subject to equitable defenses). Customer further warrants and represents to Gexa Energy that (A) Customer's representative is at least eighteen (18) years of age and is legally authorized to enter into this Agreement on behalf of Customer and select Gexa Energy as Customer's REP; (B) Customer's representative is authorized to direct phone calls to the telephone number provided as contact number; (C) it has full power and authority with respect to the respective service location(s) to which the ESI ID(s) pertain; and (D) it is a commercial, non-residential user of electricity.

**19. DISCLAIMER OF WARRANTY.** GEXA ENERGY EXPRESSLY DISCLAIMS ALL WARRANTIES REGARDING THE QUALITY OF ELECTRICITY DELIVERED TO CUSTOMER PURSUANT TO THIS AGREEMENT, WHETHER WRITTEN, ORALLY EXPRESSED, OR IMPLIED, INCLUDING, WITHOUT LIMITATION, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**20. LIMITATION OF LIABILITY.** 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 AND DAMAGES AT LAW OR IN EQUITY ARE WAIVED AND NEITHER PARTY WILL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, INCLUDING LOST PROFITS (OTHER THAN PROFITS TO GEXA EXPECTED BY CUSTOMER'S DUE PERFORMANCE UNDER THIS AGREEMENT) 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 WILLFUL MISCONDUCT OF ANY PARTY. NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, CUSTOMER AGREES THAT NO REP, INCLUDING GEXA ENERGY, EXERCISES INDEPENDENT CONTROL OVER TDU'S FACILITIES NECESSARY FOR THE DELIVERY OF ELECTRICITY, AND GEXA ENERGY WILL HAVE NO LIABILITY OR RESPONSIBILITY TO CUSTOMER FOR THE OPERATIONS OF THE TDU OR FOR INTERRUPTION, TERMINATION, OR DETERIORATION OF TDU'S TRANSMISSION OR DISTRIBUTION SERVICE.

**21. FORWARD CONTRACT.** The Parties agree that this Agreement is a "forward contract" and that Gexa Energy is a "forward contract merchant" for purposes of the United States Bankruptcy Code, as amended, any payment related hereto will constitute a "settlement payment" as defined in Section 101 (51A) thereof. The text of these referenced Bankruptcy Code provisions may be found at [http://uscode.house.gov/download/title\\_11.shtml](http://uscode.house.gov/download/title_11.shtml).

**22. ATTORNEY'S FEES.** If Customer fails to timely pay amounts due under this Agreement and Gexa Energy refers Customer's outstanding balance to an attorney or collection agent for collection, or if Gexa Energy files a lawsuit in connection with this Agreement or to collect Customer's outstanding balance through bankruptcy or judicial proceedings, Customer agrees to pay Gexa Energy its reasonable fees and expenses (including reasonable attorney's fees) incurred by Gexa Energy in connection therewith.

**23. AMENDMENT.** Except as otherwise provided in the TOS, this Agreement may not be amended except by a written amendment signed by both Customer and Gexa Energy.

**24. SEVERABILITY.** If any provision of this Agreement is held to be void or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect to the extent that the intended essential purposes of this Agreement are not materially altered.

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20455 State Highway 249, Suite 200, Houston, TX 77070  
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**25. HEADINGS.** Headings are for the convenience of the Parties and shall be ignored for purposes of interpreting this Agreement.

**26. BROKERS.** If Customer's transaction under this Agreement was facilitated by one or more third party vendors including, without limitation, vendors that provide brokering services, Customer hereby grants Gexa Energy the right to share all Customer information with such third party vendors.

**27. ASSIGNMENT.** Gexa Energy may assign its rights and obligations under this Agreement to a third party. Customer may not assign its rights and obligations under this Agreement to a third party without the prior written consent of Gexa Energy, which consent shall not be unreasonably withheld. Gexa Energy may deny such assignment based on the creditworthiness of the assignee, as determined by Gexa Energy in its reasonable discretion. Any purported assignment or delegation in violation of these provisions shall be void.

**28. COUNTERPARTS.** With respect to a written enrollment, this Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall be deemed to be one and the same instrument.

**29. WAIVER.** No waiver by any Party hereto of any one or more of such Party's rights under this Agreement, or waiver of a default by the other Party in the performance of any of the provisions of this Agreement, shall be construed as a waiver of any such right, or any other default whether of a like kind or different nature.

**30. GOVERNING LAW AND VENUE.** This Agreement shall be governed by and construed, enforced and performed in accordance with the laws of the state of Texas, including any rules promulgated by or orders issued by the PUCT and/or ERCOT, and exclusive venue for any suit, claim, action or other proceedings, whether at law or in equity, relating to this Agreement, shall be in the state or federal courts of competent jurisdiction sitting in Harris County, Texas.

**31. NON-DISCLOSURE.** Customer agrees to keep all terms and provisions of this Agreement confidential and not to disclose such terms to any third parties without the prior written consent of Gexa Energy.

**32. LIMITED AUTHORIZATION AND WAIVER.** An action authorized to be taken by Gexa Energy for, or on behalf of, Customer under this Agreement is limited to such action, and does not result in imposition on Gexa Energy to take any further action or refrain from taking action. Customer hereby waives, any other duties imposed on Gexa Energy of any kind or nature, including fiduciary duties which may otherwise arise by operation of law.

**33. NOTICES.** Any notice or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be delivered to the receiving Party by first class or certified (prepaid) mail, e-mail, courier service or facsimile. Notwithstanding the previous sentence, Gexa Energy may send any notice to Customer using any method, including e-mail, permitted by applicable law. Gexa Energy's mailing address and facsimile number to be used for any notices that shall be given to or served on Gexa Energy by Customer are set forth at the top of this TOS. Customer's mailing address and facsimile number to be used for any notices that shall be given to or served on Customer by Gexa Energy are set forth in the Enrollment Documents.

Notice delivered by first class or certified mail (prepaid) shall be deemed to have been received at the end of the third business day after the date of mailing, or such earlier time as is confirmed by the receiving Party. Notice delivered by courier shall be deemed to have been received on the business day after it was sent or such earlier time as is confirmed by the receiving Party. Notice sent by facsimile or e-mail shall be deemed to have been received at the close of the business day on which it was transmitted (or, if transmitted after the close of business, then on the next business day) or such earlier time as is confirmed by the receiving Party.

**34. PUCT RULES.** Certain "Substantive Rules" of the PUCT referenced in this Agreement may be found at <http://www.puc.state.tx.us/agency/rulesnlaws/subrules/electric/Electric.aspx>.

**35. SUMMARY OF GEXA ENERGY NON-RECURRING CHARGES.** Gexa Energy non-recurring charges set forth above are summarized below. These do not include any non-recurring charges which may be imposed by the

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20455 State Highway 249, Suite 200, Houston, TX 77070  
Customer Service: 866-961-9399; Fax: 866-550-4392; Email: TX@gexaenergy.com

TDU (which will be shown in Customer's bills for payment by Customer), including those arising from a move-in or switch, such as self-selected meter reads, service connection, disconnection, or reconnection fees, and fees such as meter tampering charges. These also do not include charges for early termination or in connection with a termination arising from an Event of Default. Customer should review the relevant provisions of this TOS for specific terms and conditions concerning these charges.

- **Additional Copy of Billing Records:** \$5.00 per bill period requested ("Billing and Fees" section)
- **Late Payment Penalty:** 5% of past-due balance ("Billing and Fees" section)
- **Insufficient Funds:** \$25 per transaction ("Billing and Fees" section)
- **Disconnection Fee:** \$15 ("Termination of Agreement, and Disconnection of Customer's Service by Gexa Energy" section)
- **Reconnection Fee:** \$15 ("Termination of Agreement, and Disconnection of Customer's Service by Gexa Energy" section)
- **Material Usage Deviation Charges** incurred in connection with a Customer that is a Small Commercial Customer ("Customer Information" section)
- **Sub-Metering Charges** incurred in connection with a Customer that is a Small Commercial Customer ("Customer Information" section)

**36. SURVIVAL.** Notwithstanding any provision to the contrary in this Agreement, the provisions of this TOS regarding indemnity, disclaimers, limitation of liability, attorney's fees, governing law and venue, waivers and all other provisions which by their nature should survive termination shall survive termination of this Agreement. Provisions that require Customer to pay amounts due to Gexa Energy, as well as any remedies in favor of Gexa Energy to enforce those obligations, shall survive the termination of this Agreement and continue in full force and effect so long as there remain continuing obligations of Customer under this Agreement.

**37. WAIVER OF TRIAL BY JURY.** TO THE EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

**38. ENTIRE AGREEMENT.** This Agreement embodies the entire Agreement and understanding between the Parties, and supersedes all prior agreements and understandings between the Parties, whether written or oral, with respect to the subject matter hereof.

**YOUR RIGHTS AS A CUSTOMER**  
**Texas Residential and Small Commercial Customers**

Por favor refierse a la parte interior de este document para leer esta informacion en espanol.

This document summarizes Your Rights as a Customer, and is based on customer protection rules adopted by the Public Utility Commission of Texas (PUCT). These rules apply to all retail electric providers (REPs) and the provider of last resort (POLR), unless otherwise noted. You may view the PUCT's rules at:

<http://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/Electric.aspx>

**Reporting Outages. 24 HOUR POWER OUTAGE REPORTING:** If you need to report a power outage, please contact your appropriate transmission and distribution utility (TDU) directly:

ONCOR ELECTRIC DELIVERY: (888) 313-4747  
ONCOR ELECTRIC DELIVERY (FORMERLY SHARYLAND): (800) 545-4513  
CENTERPOINT ENERGY: (800) 332-7143  
AEP TEXAS NORTH and AEP TEXAS CENTRAL: (866) 223-8508  
TEXAS NEW MEXICO POWER: (888) 866-7456

NAME:	Gexa Energy, LP d/b/a Gexa Energy
PUCT REP CERTIFICATION NUMBER	10027
INTERNET ADDRESS	<a href="http://www.gexaenergy.com">www.gexaenergy.com</a>
EMAIL ADDRESS	Commercial: <a href="mailto:tx@gexaenergy.com">tx@gexaenergy.com</a> Residential: <a href="mailto:customercare@gexaenergy.com">customercare@gexaenergy.com</a>
MAILING ADDRESS	20455 State Highway 249, Suite 200 ATTN: Contract Administration Houston, TX 77070
TELEPHONE NUMBER	Commercial: (866) 531-GEXA (4392) Residential: (713) 961-9399 or toll-free (866) 961-9399 (outside Houston)
OFFICE HOURS OF OPERATION	Commercial: 8:00 am - 5:00 pm Central Time, Monday - Friday Residential: 7:00 a.m. - 8:00 p.m., Central Time, Monday - Friday and 8:00 a.m. - 2:00 p.m., Central Time, Saturday. Closed Sundays and holidays.
FAX NUMBER	Commercial: (866) 578-GEXA (4392) Residential: (713) 961-7997 or toll-free (877) 961-9369 (outside Houston)

**Public Utility Commission of Texas Information (PUCT):**

Address:  
Consumer Protection Division,  
PO Box 13326  
Austin, TX 78711-3326

Telephone Number:  
888-782-8477; 800-735-2988 (TTY)

Online:  
[www.puc.texas.gov](http://www.puc.texas.gov)

Email:  
customer@puc.texas.gov

**CHOICE OF LANGUAGE:**

You have the right to receive certain information in English, Spanish, or the language in which Gexa Energy's services were marketed to you. These items include the Terms of Service agreement, Electricity Facts Label, bills and bill notices, information on new electric services, discount programs, promotions, and access to customer assistance. Please contact Gexa Energy to request that this information be provided to you in Spanish or any language in which our services were marketed to you. You will receive this YRAC and disconnection notices in English and Spanish, or English and your designated language, if you have requested a language other than Spanish in which Gexa Energy services were marketed to you.

**SERVICE ISSUES:**

**Unauthorized Change of Service Provider or "Slamming".** A REP must obtain your verifiable authorization before switching your electric service. If you believe your electric service has been switched without your authorization, you should contact your chosen REP and request assistance. The affected REPs, TDU and ERCOT will work together to return you to your chosen REP, if appropriate in accordance with the market processes approved by the PUC.

If a REP is serving your account without proper authorization, the REP must work with other market participants to take all actions necessary to return you to your original REP as quickly as possible. Your original REP has the right to bill you at the price disclosed in your terms of service from either: (i) the date you are returned to your original REP, or (ii) any prior date chosen by your original REP for which that REP had the authorization to serve you. The REP that served you without proper authorization shall, within five days from the date that your service is returned to your original REP, refund all charges paid for the time period the original REP ultimately bills you. In addition, the REP that served you without your authorization is responsible for paying all charges associated with returning your service to your REP of choice. For periods that the unauthorized REP served you that are not billed to you by your original REP, the REP that served you without your authorization may bill you, but at a rate no higher than the rate you would have been charged by your original REP.

**BILLING ISSUES:**

**Unauthorized Charges or "Cramming".** Before any new charges are included on your electric bill, Gexa Energy must inform you of the product or service, all associated charges, how these charges will appear on your electric bill and obtain your consent to accept the product or service. If you believe your electric bill includes unauthorized charges, you may contact Gexa Energy to dispute such charges and you may

file a complaint with the PUCT. Gexa Energy will not seek to disconnect your electric service for non-payment of an unauthorized charge or file an unfavorable credit report against you for disputed unpaid charges that are alleged to be unauthorized, unless the dispute is ultimately resolved against you. If the charges are determined to be unauthorized, Gexa Energy will cease charging you for the unauthorized service or product, remove the unauthorized charge from your bill, and refund or credit all money you paid for any unauthorized charge within 45 days. If charges are not refunded or credited within three billing cycles, interest shall be paid to you at an annual rate established by the PUCT on the amount of any unauthorized charge until it is refunded or credited.

You may request all billing records from Gexa Energy related to any unauthorized charge within 15 days after the date the unauthorized charge is removed from your bill. Gexa Energy will not re-bill you for any charges determined to be unauthorized. PUCT on the amount of any unauthorized charge until it is refunded or credited. You may request all billing records under the REP's control related to any unauthorized charges within 15 business days after the date the unauthorized charge is removed from your bill. Gexa Energy will not re-bill you for any charges determined to be unauthorized.

**Deferred Payment Plans and Other Payment Arrangements.** If you cannot pay your bill, please call Gexa Energy immediately. Gexa Energy may offer you a short-term payment arrangement that allows you to pay your bill after your due date, but before your next bill is due. In addition, you may qualify for a "deferred payment plan." A deferred payment plan allows you to pay an outstanding balance in installments that extend beyond the due date of the current bill. Gexa Energy may require an initial payment to initiate the deferred payment plan. If you express an inability to pay your bill, Gexa Energy must offer you a deferred payment plan unless you have been disconnected during the preceding 12 months, have submitted more than two payments during the preceding 12 months that were found to have insufficient funds available, or you have been a Gexa Energy customer for less than 3 months and do not have sufficient credit or payment history with another REP.

All REPs must offer customers deferred payment plans for bills that are due during an extreme weather emergency and to customers who have been under-billed in the amount of \$50.00 or more (unless due to theft of service).

A deferred payment plan may include a 5% late payment penalty.

**Financial and Energy Assistance.** If you are a residential customer, and contact us and indicate that you are unable to pay your bill, we will inform you of all applicable payment options and payment assistance programs that are offered by or available from Gexa Energy. If you receive food stamps, Medicaid, TANF or SSI from the TDHS, or if your household income is not more than 125% of the federal poverty guidelines, you may qualify for energy assistance from the Texas Department of Housing and Community Affairs (TDHCA). You may contact TDHCA by emailing your question to [info@tdhca.state.tx.us](mailto:info@tdhca.state.tx.us), calling 800.525.0657, faxing 800.733.5120, or writing to TDHCA, P.O. Box 13941, Austin, TX 78711-3941.

Gexa Energy must also offer level or average payment plans to customers that are not currently delinquent in payment. Gexa Energy does not offer any special services such as readers or notices in Braille or TTY or any other programs for customers with physical disabilities.

**Discounts for Low-Income Customers.** For each month in which the PUCT makes State funds available, Gexa Energy will provide a discount on the electric bill for low-income customers who meet the eligibility requirements. This discount is referred to as the Low Income Telephone and Electric Utilities Program of Texas (LITE UP Texas). Customers are automatically eligible for LITE UP if they are enrolled in a Texas Health and Human Services Commission (HHSC) program, or may self-enroll if they meet the eligibility requirements in PUCT Substantive Rule 24.454 available at <http://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/25.454/25.454ei.aspx>. Please contact Gexa Energy for more information regarding these discounts and eligibility requirements. Customers qualified for the LITE UP Texas program are eligible to pay any required deposit that is greater than \$50

in two installments. The first installment shall be due no earlier than ten days, and the second installment no sooner than 40 days, after the issuance of written notification to the applicant of the deposit requirement.

**Meter Reading and Testing.** Please contact Gexa Energy for information regarding how to read your meter. The meter located on your premise can be tested once every four years at no cost to you. If you wish, Gexa Energy can send a standard electronic request for the test to the TDU on your behalf. If a test is performed more than once in a four-year period, and the meter is determined to be functioning properly, then you may be charged a fee for the additional meter test(s) at the rate approved for your TDU. The TDU provides test results, including the test date, testing person and, if applicable, the removal date of the meter.

#### **DISCONNECTION ISSUES:**

**Disconnection of Service.** The PUCT has provided that under certain dangerous circumstances (such as unsafe electric line situations), your TDU may disconnect your electric service without prior notice to you. Additionally, Gexa Energy may be allowed to seek to have your electric service disconnected for any of these reasons: (i) failure to pay a bill owed to Gexa Energy or to make a deferred payment arrangement by the date of disconnection, (ii) failure to comply with the terms of a deferred payment arrangement or other payment agreement made with Gexa Energy, (iii) using service in a manner that interferes with the service of others or the operation of nonstandard equipment, and/or (iv) failure to pay a deposit required by Gexa Energy. Prior to disconnecting your service for these reasons, Gexa Energy must provide you with a written Disconnect Notice. This notice must be mailed to you separately (or hand-delivered) no earlier than the first day after the date your bill is due. The disconnection date must be 10 days from the date the notice is issued and may not fall on a holiday or weekend (or the day preceding) unless Gexa Energy's and the TDU's personnel are available to take payments and service can be reconnected.

Your service cannot be disconnected for any of the following reasons:

- failure to pay for electric service by a previous occupant of the premise if that occupant is not of the same household;
- failure to pay any charge unrelated to electric service;
- failure to pay a different type or class of electric service not included on the account's bill when service was initiated;
- failure to pay any disputed charges until Gexa Energy or the PUCT determines the accuracy of the charges and you have been notified of this determination;
- failure to pay an estimated bill unless the estimated bill is part of a pre-approved meter-reading program or is based upon an estimated meter read by the TDU;
- if Gexa Energy receives notification by the due date stated on your disconnection notice that an energy assistance provider is forwarding sufficient payment on your account, and you have paid or made payment arrangements to pay any outstanding debt not covered by the energy assistance provider's payment;
- for non-payment during an extreme weather emergency (as defined), and upon request, Gexa Energy must offer you a deferred payment plan for bills due during the emergency; or
- for non-payment if you inform Gexa Energy, prior to the disconnection date stated on the notice, that you or another resident on the premises has a critical medical need for electric service. However, to obtain this exemption, you must enter into a deferred payment plan with Gexa Energy and have the ill-person's attending physician contact Gexa Energy and submit a written statement attesting to the necessity of electric service to support the ill person's life. This exemption from disconnection due to illness or disability shall be in effect for 63 days and may be applied for again after the 63 days has expired and the deferred payment plan has been fulfilled.
- Failure to pay charges resulting from an under-billing, except theft of service, more than six months prior to the current billing.

If, however, you have a Chronic Condition Residential Customer designation, you and any secondary contact listed on the PUCT-approved application form will receive written notice of Gexa Energy's intent to disconnect service no later than 21 days prior to the date that service will be disconnected.

**Restoration of Service:** If your service has been disconnected for non-payment or for reasons other than a dangerous situation, Gexa Energy will, upon satisfactory correction of the reasons for the disconnection and payment of appropriate all applicable fees and amounts due, notify your TDU to reconnect your service. If your service was disconnected due to a dangerous situation, your service will be reconnected once you demonstrate to the TDU that you have corrected the dangerous situation and Gexa Energy is notified that such corrective action is completed.

#### **DISPUTES:**

**Complaint Resolution.** Please contact Gexa Energy if you have specific comments, questions or complaints. Upon receipt of a complaint, Gexa Energy will investigate and notify you of the results within 21 days. If you are dissatisfied with the results of the investigation, you may request a supervisory review. Gexa Energy will advise you of the results of the supervisory review within 10 business days of your request. If you are dissatisfied with the results of the investigation or supervisory review, you may file a complaint with the PUCT or the Office of the Attorney General, Consumer Protection Division. For a PUCT complaint, please include sufficient information to identify you and the REP about which the complaint is made and describe the issue specifically.

The following information should be included in the complaint: (i) the account holder's name, billing and service addresses, and telephone number; (ii) the name of the REP or aggregator; (iii) the account number or electric service identifier (ESI ID); (iv) an explanation of the facts relevant to the complaint; (v) your requested resolution; and (vi) any documentation that supports the complaint, including copies of bills or terms of service documents. For a complaint involving a disputed bill, Gexa Energy will not initiate collection activities or terminate or disconnect service or report the delinquency to a consumer reporting agency with respect to the disputed portion of the bill. However, after appropriate notice, Gexa Energy may disconnect your service for non-payment of any undisputed portion of the bill.

#### **OTHER PROTECTIONS:**

**Do Not Call Lists.** Texans may register a residential telephone number for the "Do Not Call" list. Placing your name, address and telephone number on this list will identify you as someone who does not wish to receive telemarketing calls at home. However, telemarketers may contact customers with whom they have an established business relationship; if the customer requests contact; to collect a debt; on behalf of a non-profit organization or charity if the call does not meet the definition of a "telephone solicitation" by attempting to make a sale or gather information that will lead to a sale; or if the telemarketer is a state licensee (for example insurance or real estate agent, etc.); and the call is not made by an automated device; the solicited transaction is completed with face-to-face presentation to finalize a sales transaction and make payment, and; the consumer has not previously told the licensee that the consumer does not wished to be called.

You may register for the "Do Not Call List" in three ways: online at [www.texasnocall.com](http://www.texasnocall.com), toll free at 866-TXNOCL(L) (866-896-6225) or write Texas No Call PO Box 313 E. Walpole, MA 02032. You may be required to pay a fee not to exceed \$5.00 to register a telephone number and the number will remain on the Do Not Call list for three years. Online registration at [www.texasnocall.com](http://www.texasnocall.com) is now free. Your registered residential telephone number(s) will remain on this list for three years. Business telephone numbers **cannot** be registered on this list.

If you are a business customer, the "Electric No Call" list has been created to prevent calls from REPs and telemarketers calling about your electric service. There is a registration charge of \$2.55 for each number placed on the "Electric No Call" list. Numbers placed on this list will remain on the list five years. Only business numbers can be added to the "Electric No Call" list. Lists will be updated and published for

telemarketers on a quarterly basis. Within 60 days of the date your number appears on a published list, you should stop receiving telemarketing calls. If you continue to receive telemarketing calls after the 60th day, contact the PUCT or the Office of the Attorney General, Consumer Protection Division, 1-800-621-0508. To sign up for either list, visit [www.texasnocall.com](http://www.texasnocall.com). For an application or to register by phone using your Visa or MasterCard, call toll-free 866-TXNOCALL(L) (866.896.6225). To request an application in writing, send your request and personal check, money order, or credit card information to TEXAS NO CALL, P.O. Box 313, E. Walpole, MA 02032.

**Privacy Rights.** Except as described below, REPs may not release your proprietary customer information to any other person without your consent. This includes your name, address, account number, type or classification of service, historical electricity usage, expected patterns of use, types of facilities used in providing service, individual contract terms and conditions, price, current charges or billing records. This prohibition does not apply to the release of your information under certain circumstances as required by law, including release to the PUCT, an agent of your REP, consumer reporting agencies, law enforcement agencies or your TDU. In addition, this prohibition does not apply to the release of prior historical usage upon request and authorization of a current customer or applicant of a premise.

**Critical Care or Chronic Condition Residential Customer.** You have a right to apply for Critical Care Residential Customer designation if you have a person permanently residing in your premise who has been diagnosed by a physician as being dependent on an electric-powered device to sustain life. If you have a person permanently residing in your premise who has been diagnosed by a physician as having a serious medical condition that requires an electric powered medical device or electric heating or cooling to prevent the impairment of a major life function through a significant deterioration or exacerbation of the condition, you may apply for designation as a Chronic Condition Residential Customer. To be considered for such designation, the PUC-approved form must be submitted by fax or other electronic means directly to the TDU by a physician. The TDU will notify you when such designation will expire and whether you will receive a renewal notice. The TDU will also notify Gexa Energy about your status. If Qualification as a critical care residential customer does not relieve you of the obligation to pay the Gexa Energy for services rendered. However, a critical care residential customer who needs payment assistance is encouraged to contact Gexa Energy immediately regarding possible deferred payment options or other assistance that may be offered.

**Electricity Facts Label (EFL)**  
**Gexa Energy – Fixed Rate, Small Commercial**  
**Centerpoint Energy**  
**Issue Date: SEPTEMBER 16, 2021**

<b>Electricity price</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33.33%;">Average Monthly Use</td><td style="width: 33.33%;">1,500 kWh</td><td style="width: 33.33%;">2,500 kWh</td><td style="width: 33.33%;">3,500 kWh</td></tr> <tr> <td>Average price per kWh</td><td>12.30¢</td><td>13.10¢</td><td>13.10¢</td></tr> <tr> <td>TDU Delivery Charges per Month</td><td>\$4.58</td><td>\$10.41</td><td>\$10.41</td></tr> <tr> <td>TDU Demand per kVA/kW</td><td>\$0</td><td>\$7.702642</td><td>\$7.702642</td></tr> <tr> <td>TDU Delivery Charges per kWh</td><td>\$0.030573</td><td>\$0.002750</td><td>\$0.002750</td></tr> </table>				Average Monthly Use	1,500 kWh	2,500 kWh	3,500 kWh	Average price per kWh	12.30¢	13.10¢	13.10¢	TDU Delivery Charges per Month	\$4.58	\$10.41	\$10.41	TDU Demand per kVA/kW	\$0	\$7.702642	\$7.702642	TDU Delivery Charges per kWh	\$0.030573	\$0.002750	\$0.002750
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TDU Delivery Charges per kWh	\$0.030573	\$0.002750	\$0.002750																					
<p>The Average Price calculations incorporate 7kW demand for 1500 kWh, 11 kW demand for 2500 kWh and 16 kW demand for 3500 kWh based on a 30% load factor. The price you pay each month includes the Energy Charge and TDU Delivery Charges in effect for the monthly billing cycle. Taxes, if applicable, are a separate, additional charge. Some locations may be subject to a TDU Underground Facilities and Cost Recovery charge authorized by their city that is not included in the total average price shown. For more details, see your TDU service tariff for a listing of cities and authorized charges.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33.33%;">Energy Charge</td><td style="width: 33.33%;">\$0.0897</td><td style="width: 33.33%;">per kWh</td></tr> </table>				Energy Charge	\$0.0897	per kWh																		
Energy Charge	\$0.0897	per kWh																						
<b>Other Key Terms and Questions</b>	<p>See the Terms of Service for a full listing of fees, deposit policy, and other terms.</p>																							
<b>Disclosure Chart</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33.33%;">Type of Product</td><td style="width: 66.67%;">Fixed Rate</td></tr> <tr> <td>Contract Term</td><td>60 Month(s)</td></tr> </table>	Type of Product	Fixed Rate	Contract Term	60 Month(s)	<p>Do I have a termination fee or any fees associated with terminating service?</p>																		
	Type of Product	Fixed Rate																						
	Contract Term	60 Month(s)																						
	<p>Yes. If service provided by Gexa Energy to one or more ESI IDs is terminated before the end of the Contract Term, Customer is required to pay Gexa Energy the "Early Termination Fee" for each such terminated ESI ID. The Early Termination Fee is equal to two (2) times the Average Monthly Charge (as defined in the Terms of Service) for each year and partial year of the remaining Contract Term for each such terminated ESI ID.</p>																							
	<p>Can my price change during contract period?</p>			Yes																				

	how will it change, and by how much?	charges from the TDU, changes to the ERCOT, PUCT, Texas Regional Entity or other administrative fees, or other costs and expenses incurred by Gexa Energy as provided in the "Change in Law" section of the Terms of Service.
	What other fees may I be charged?	Please see "Summary of Gexa Energy Non-recurring Charges" and "Definitions" sections of the Terms of Service for a complete listing.
	Is this a pre-pay or pay in advance product?	No
	Does the REP purchase excess distributed renewable generation?	No
	Renewable Content	This product is 6% renewable.
	The statewide average for renewable content is	25%
	<p>Gexa Energy, LP  20455 State Highway 249, Suite 200  Houston, TX 77070  <a href="http://www.gexaenergy.com">www.gexaenergy.com</a>  <a href="mailto:tx@gexaenergy.com">tx@gexaenergy.com</a>  Monday - Friday: 8:00 a.m. - 5:00 p.m., CT  Closed holidays.  Toll Free: 1-866-961-9399  PUCT No. 10027  Version No: CNP_0921_ 0.08970_60</p>	



## BUSINESS ELECTRICITY AUTHORIZATION TEXAS SMALL COMMERCIAL SALES

SERVICE INFORMATION	
Contract Type: <input checked="" type="checkbox"/> New Service <input type="checkbox"/> Renewal	
Business Name ("Customer"): UNITED SITE SERVICES OF TEXAS, INC.	<input checked="" type="checkbox"/> See attached Addendum A for ESI ID and Service Commencement Date Information
Contact Name: Samantha Larson-Larsen Email: ap@unitedsiteservices.com Primary Phone: (508) 594-2638 Secondary Phone: Fax: 508-594-2631 Duns #: 92-675-9937 Tax ID#: 75-2593850	
Preferred Language Information will be English unless the following box is checked: <input type="checkbox"/> Spanish (Español)	
<b>Tax Exemption:</b> If a non-renewing customer, a completed tax exemption certificate must accompany this Agreement. If no certificate is attached, Gexa Energy will assume that sales to Customer are subject to Taxes and will process Customer's account accordingly.	
Energy Charge: See Addendum B	Initial Term: 60 Months
Start Month/Year: 12/2018	Pay Terms: Net SIXTEEN(16) Days
<b>Agreement, Authorization and Acknowledgement:</b> The contract documents governing Customer's purchase of electricity from Gexa Energy (this "Agreement") are comprised of the Electric Sales Terms of Service ("TOS"), attached hereto as Exhibit A (version ESMCTXTOSPINVP062618), this Business Electricity Authorization ("BEA"), which is a part of the Customer's Terms of Service, all addenda to this BEA, and if customer is a Small Commercial Customer (as defined in the TOS), Customer's Electricity Facts Label ("EFL") and a Your Rights as a Customer document ("YRAC"). Any capitalized terms not defined in this BEA shall have the meanings set forth in the TOS. Any inconsistency between the BEA and the TOS shall be governed by the BEA. Customer hereby authorizes Gexa Energy, for the duration of this Agreement, to become its new REP and to act as its agent to perform the necessary tasks to establish Customer's electric supply account with Gexa Energy. This authorization to establish or switch Customer's provider of electric service applies to all ESI ID(s) listed on Addendum A. By signing this BEA (facsimile signature accepted as if it were an original), Customer hereby agrees, as of the Effective Date, that Customer has read and understands this Agreement (including the TOS) for the product for which Customer is enrolling and agrees to the terms and conditions set forth in the Agreement which describe the service Customer will receive. The undersigned below represents and warrants to Gexa Energy that he/she is at least eighteen (18) years of age, legally authorized to enter into this Agreement on behalf of Customer, and select or change to Gexa Energy as the retail electric provider for the ESI ID(s) listed on Addendum A. This Agreement is not valid or binding unless and until signed by both Parties.	
<b>Rescission:</b> If Customer is a Small Commercial Customer (as defined in the TOS) and is making a switch request, Customer has the right to rescind this Agreement within three (3) federal business days after receiving this Agreement, without penalty. The TOS explains how to exercise this right of rescission before Customer's electric service is switched to Gexa Energy.	
<b>Energy Charge and Initial Term:</b> Customer acknowledges and agrees that (i) during the Initial Term, Customer shall pay the unit Energy Charge set forth in Addendum B, and (ii) the Initial Term of supply from Gexa Energy to which the Customer has agreed is set forth above.	

Page 1 of 2

Texas Certificate No. 10027  
00084138

ESMCTXBEA071815

20455 State Highway 249, Suite 200, Houston, TX 77070  
Customer Service: 866-981-5399; Fax: 866-578-4392; Email: TX@gexaenergy.com

The unit price shown on the EFL provided to a Small Commercial Customer includes Gexa Energy's Energy Charge for the supply of electricity as described in the TOS, all recurring TDU Delivery Charges, the ERCOT administrative fee, the Texas Regional Entity ("TRE") administrative fee, the PUCT Assessment fee, and any other recurring third-party fees. Specific TDU charges will vary depending on the TDU providing the services. Notwithstanding any provision to the contrary in this Agreement, if there has been any changes in the TDU charges, changes to the ERCOT or TRE administrative fees charged to loads, or changes resulting from federal, state or local laws that impose new or modified fees or costs that are beyond Gexa Energy's control, Gexa Energy may adjust the price or pass-through such new or modified fees or costs to Customer.

**Deposits:** Customer acknowledges that it understands that if Gexa Energy determines in its reasonable discretion that Customer cannot demonstrate satisfactory creditworthiness, Gexa Energy may require Customer to pay an initial cash deposit in an amount of up to one-fifth of Customer's estimated annual billing in order to enroll.

**Language:** Customer acknowledges that it prefers to receive information from Gexa Energy in the language specified above; provided, that if no language is specified, then Customer is deemed to prefer to receive information in English.

**Early Cancellation Charges:** Customer acknowledges that it understands that there is a penalty for early cancellation equal to two times the Average Monthly Electricity Charge for each twelve month period (prorated for partial twelve month periods) remaining in the Initial Term or, if higher, Gexa Energy's forward value damages, all as provided in the TOS. In addition, Customer acknowledges that it understands that there is a penalty for early cancellation with less than thirty days advance written notice equal to one-fourth of two times the Average Monthly Electricity Charge for each twelve month period remaining in the Initial Term.

UNITED SITE SERVICES OF TEXAS, INC.	
Authorized Signature:	
Print Name:	Charles Blue, Jr.
Title:	Area Manager
Date:	12/5/2018

Gexa Energy, LP, By: Gexa Energy GP, LLC, its General Partner:	
Authorized Signature:	
Print Name:	Brian Landrum
Title:	President
Effective Date:	12.10.18
Sales Representative: Dossie Sackey	



## BUSINESS ELECTRICITY AUTHORIZATION TEXAS SMALL COMMERCIAL SALES

### Addendum A

CUSTOMER NAME: UNITED SITE SERVICES OF TEXAS, INC.

**NOTICE TO CUSTOMER:** Notwithstanding anything to the contrary in the BEA or TOS, for each of the respective ESI IDs set forth in this Addendum A: (i) the Service Commencement Date (as that term is used in the TOS) shall be the first meter read date during or after the applicable ESI ID Start Month/Year set forth below; and (ii) the end of the Initial Term (as that term is used in the BEA and TOS) shall be the first meter read date during or after the applicable ESI ID End Month/Year set forth below.

#### ACCOUNTS INCLUDED IN AGREEMENT:

Utility Account Number	Service Address City, State and Zip	Billing Address City, State and Zip	Account Type*	Service Commencement Date	Service End Date
10443720000926242	4051 STATE HIGHWAY 85 UNIT A TEMPLE, TX 76502	118 Flanders Rd Westborough, TX 76581	N	12/03/2018	12/03/2023

N = New Account; or E = Renewal/Existing Account

**NOTICE TO CUSTOMER:** Notwithstanding any provision in the Agreement to the contrary, the following shall apply: It is possible that, for various reasons, the TDU will not enroll some or all the Accounts listed above and the TDU will so advise Gexa (such unenrolled Accounts being referred to as "UE Accounts"). In such case, Gexa will provide written notice to Customer of Customer's UE Accounts. All UE Accounts shall be automatically deleted from this Addendum A without an amendment hereto (i.e., an amendment signed by both Parties) and Gexa shall not be required to serve such UE Accounts.

Customer Initials:

Date: 12/5/2018

Gexa Energy, LP Initials:

Date: 12.10.18



**BUSINESS ELECTRICITY AUTHORIZATION  
TEXAS SMALL COMMERCIAL SALES  
Fixed Price Product**

**Addendum B**

**CUSTOMER NAME: UNITED SITE SERVICES OF TEXAS, INC.**

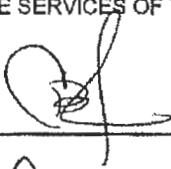
This Addendum shall be used with BEAs entered into with Small Commercial Customers, as defined in the Electric Sales Terms of Service of the BEA.

**MONTHLY BASE CHARGE: \$0.00 per Utility Account Number (ESI ID) per month.**

**ENERGY CHARGE:** The Energy Charge is \$0.07840 per kWh. The Energy Charge includes payment for the energy components checked in the table below as "Included in Energy Charge"

Component (ERCOT-SMALL)	Included In Energy Charge
Black Start Amount	X
ERCOT Administration Fee	X
Non Spin Bill Amount	X
Regulation Up Service Charge	X
Responsive Reserve Service Charge	X
Regulation Down Service Charge	X
Charge for Emergency Power Increase Amount	X
Base-Point Deviation Amount	X
Real-Time Revenue Neutrality Allocation Amount	X
Transmission & Distribution Losses	X
UFE Line Loss	X
Renewable Energy Credits for State RPS	X
Hub to Zone Differences (DALZ-DAHB)	X

Accepted and Agreed:

UNITED SITE SERVICES OF TEXAS, INC.  Authorized Signature: _____  Print Name: <u>Charles Blue Jr.</u> Title: <u>Area Manager</u> Date: <u>12/5/18</u>	Gexa Energy, LP, By: Gexa Energy GP, LLC, its General Partner:  Authorized Signature: _____  Print Name: <u>Brian Landrum</u> Title: <u>President</u> Effective Date: <u>12.10.18</u> Sales Representative: <u>Dessie Sackey</u>
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Texas Certificate No. 10027  
00084138

ESMCTXADDBFP071815

20455 State Highway 249, Suite 200, Houston, TX 77070  
Customer Service: 866-981-9388; Fax: 866-578-4382; Email: TX@gexaenergy.com

**Electricity Facts Label (EFL)**  
**Gexa Energy - Fixed Plan, Commercial**  
**Oncor Electric Delivery Company**  
**Issue Date: December 10, 2018**

Average Monthly Use	1,500 kWh	2,500 kWh	3,500 kWh
Average price per kWh	11.5¢	13.3¢	13.0¢
TDU Monthly	6.73	39	39
TDU Demand per kVA/kW	0	8.760171	8.760171
TDU per kWh	0.03192	0.000444	0.000444

**Electricity  
price**

The Average Price calculations incorporate 7kW demand for 1500 kWh, 11 kW demand for 2500 kWh and 16 kW demand for 3500 kWh based on a 30% load factor.

The price you pay each month includes the Energy Charge, any Monthly Base Charge, and TDU Delivery Charges in effect for the monthly billing cycle. Taxes, if applicable, are a separate, additional charge. Some locations may be subject to a TDU Underground Facilities and Cost Recovery charge authorized by their city that is not included in the total average price shown. For more details see your TDU service tariff for a listing of cities and authorized charges.

Energy Charge	\$ 0.0784	per kWh
Base Charge	\$ -	per meter

**Other Key  
Terms and  
Questions**

See *Terms of Service* statement for a full listing of fees, deposit policy, and other terms.

**Disclosure  
Chart**

Type of Product	Fixed Rate
Contract Term	60 months
Do I have a termination fee or any fees associated with terminating service?	Yes. If supply for any ESI ID is terminated prior to the end of the fixed term, the fee for each terminated ESI ID is two (2) times the Average Monthly Bill (as defined in the Terms of Service) for each year and partial year of the remaining fixed term. If service for any ESI ID is terminated with less than thirty (30) days written notice to Gexa Energy, the fee for each terminated ESI ID is one-quarter (1/4) of the Average Monthly Bill for each year or partial year of the remaining fixed term. See Terms of Service for additional details.
Can my price change during contract period?	Yes

	If my price can change, how will it change, and by how much?	Your price may be adjusted to reflect actual changes in charges from the TDU, changes to the ERCOT, PUCT, Texas Regional Entity or other administrative fees, or other costs and expenses incurred by Gexa Energy as provided in the "Change in Law" section of the Terms of Service.
Disclosure Chart Cont'd	What other fees may I be charged?	Please see "Summary of Gexa Energy Non-recurring Charges" and "Definitions" sections of the Terms of Service for a complete listing.
	Is this a pre-pay or pay in advance product?	No
	Does the REP purchase excess distributed renewable generation?	No
	Renewable Content	This product is 6% renewable.
	The statewide average for renewable content is	19%
<p style="text-align: center;">Gexa Energy, LP  20455 State Highway 249, Suite 200  Houston, TX 77070  <a href="http://www.gexaenergy.com">www.gexaenergy.com</a>  <a href="mailto:tx@gexaenergy.com">tx@gexaenergy.com</a></p> <p style="text-align: center;">Monday - Friday: 8:00 a.m. - 5:00 p.m., CT  Closed holidays.</p> <p style="text-align: center;">Toll Free: 1-866-961-9399  PUCT No. 10027  Version No: ONC_1218_0.0784_60</p>		



## BUSINESS ELECTRICITY AUTHORIZATION

### TEXAS SMALL COMMERCIAL SALES

### TERMS OF SERVICE

**BUSINESS ELECTRICITY AUTHORIZATION:** These Terms of Service ("TOS") explain the details of your electricity supply from Gexa Energy, LP ("Gexa Energy" or "we" or "us"). This TOS document, together with your written, telephonic or electronic (including internet) enrollment authorization, as applicable, and any related enrollment documentation or records, including any addenda thereto, the Electricity Facts Label ("EFL") and Your Rights as a Customer document ("YRAAC"), constitute your agreement with Gexa Energy (collectively, the "Agreement" or "Business Electricity Authorization"). Any inconsistency between these contract documents shall be governed by the TOS.

**SPANISH LANGUAGE (IDIOMA ESPAÑOL):** Your contract documents are available in Spanish by contacting us at 713 961 9399 or toll free at (866) 961 9399 (outside Houston). Usted puede obtener los documentos de su contrato comunicándose con nosotros al 713 961 9399 o sin cargos al (866) 639-8118 (fuera de Houston).

**24 HOUR SERVICE OUTAGE REPORTING:** Should an outage occur, Customer should contact the appropriate transmission and distribution utility:

ONCOR (INCLUDING SHARYLAND): (888) 313-4747  
CENTERPOINT ENERGY: (800) 332-7143

AEP TEXAS NORTH and AEP TEXAS CENTRAL: (866) 223-8508  
TEXAS NEW MEXICO POWER: (888) 866-7456

#### GEXA ENERGY AND PUCT CONTACT INFORMATION:

REP NAME:	Gexa Energy, LP
BUSINESS NAME:	Gexa Energy
CERTIFICATE NO.:	10027
INTERNET ADDRESS:	<a href="http://www.gexaenergy.com">www.gexaenergy.com</a>
EMAIL ADDRESS:	<a href="mailto:tx@gexaenergy.com">tx@gexaenergy.com</a>
MAILING ADDRESS:	20455 State Highway 249, Suite 200 ATTN: Contract Administration Houston, TX 77070
TELEPHONE NUMBER:	866-961-9399
FAX:	866-550-4392
OFFICE HOURS OF OPERATION:	Monday - Friday: 8:00 a.m. - 5:00 p.m., CT. Closed holidays.
PUCT:	1-888-782-8477 (TTY 1-800-735-2988) <a href="mailto:customer@puc.state.tx.us">customer@puc.state.tx.us</a>

Texas Certificate No. 10027  
Page 1 of 12  
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## 1. DEFINITIONS.

"Additional Pass-Through Charges" means any costs and charges arising from a Change in Law, Material Usage Deviation Charges and/or Sub-metering Charges.

"Base Charge" means a fixed monthly charge, if any, per ESI ID, as set forth in the Enrollment Documents and the EFL.

"BEA" or "Business Electricity Authorization" means the Agreement entered into between Gexa Energy and Customer.

"Billing Cycle" means, for each ESI ID, the period between successive monthly meter read dates during the term of this Agreement.

"Change in Law" means a change in law, regulation, rule, ordinance, order or decree by a governmental authority (including ERCOT) or the implementation of an existing law, regulation, rule, ordinance, order or decree by a governmental authority (including ERCOT), including, without limitation, TDU tariffs and ERCOT Protocols (including, without limitation, those affecting any fees, costs, or charges imposed by ERCOT), changes in market rules, changes in load profiles, changes in how ERCOT calculates usage, changes in nodal and zonal definitions, changes in nodal protocols as currently constituted and documented. A "change," as used above, includes, without limitation, any amendment, modification, nullification, suspension, repeal, finding of unconstitutionality or unlawfulness or any change in construction, calculation, interpretation or administration.

"Contract Documents" means this TOS, the EFL and YRAAC document.

"Contract Term" means the period commencing on the Service Start Date and continuing thereafter for the fixed number of months designated as the Contract Term ("fixed Contract Term"), or the month-to-month period, all as specified in the Enrollment Documents and the EFL, provided, however, that the Contract Term shall end on the meter read date for the last billing month of the Contract Term. If Customer is a Small Commercial Customer on a fixed rate product, then notwithstanding any contrary provision in this Agreement, the Contract Term shall end on the end date of the contract specified by Gexa Energy in a bill or otherwise; provided, that Gexa Energy may bill the Monthly Charge until the first meter read after the end date of the contract. Further, if an end date of the contract is specified for any Customer that is not a Small Commercial Customer in a bill or otherwise, then notwithstanding any contrary provision in this Agreement, the Contract Term shall end on the date through which Gexa Energy bills the Monthly Charge.

"Customer" or "you" is the applicant or person or entity identified as Customer in the Enrollment Documents.

"Customer Delivery Point" means the point of interconnection between the TDU facilities and Customer's electric meter.

"Early Termination Fee" or "ETF" is defined in the EFL.

"Effective Date" is one of the following, as applicable, (i) for an internet enrollment, the date when Customer's application to receive electricity supply from Gexa Energy is completed through Gexa Energy's website without condition or rejection; (ii) for a telephonic enrollment, the date when the Parties agree to enter into this Agreement via Gexa Energy's call center; or (iii) for a written enrollment, the date specified as the Effective Date on the enrollment authorization.

"EFL" is the Electricity Facts Label.

"Energy Charge" is the charge per kWh for the electricity generation supply provided to Customer by Gexa Energy during the Contract Term as specified in the Enrollment Documents and the EFL.

"Energy Usage" means Customer's total metered energy usage for the ESI ID(s) subject to this Agreement measured in kilowatt hours ("kWh") for the applicable period.

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"Enrollment Documents" means Customer's written, telephonic or internet enrollment authorization, as applicable, and any related enrollment documentation or records, which for a written enrollment shall include the Addendum A.

"ERCOT" means the Electric Reliability Council of Texas.

"ESI ID" means the Customer's Electric Service Identifier referenced in the Enrollment Documents.

"Event of Default" means, with respect to Customer, the occurrence of any of the following:(i) failure to make timely payment of all amounts due hereunder; (ii) failure to post a security deposit under the provisions of the "Credit and Deposit Requirements" Section herein within ten (10) days of a written request therefor; (iii) breach of any warranty or representation to Gexa Energy; (iv) failure to take exclusively from Gexa Energy, at any time during the Contract Term, the full requirements electric supply for any or all of the ESI ID(s) covered by the Agreement; (v) default on any material obligation under this Agreement (other than as provided in subparts (i), (ii), (iii) and (iv) above); (vi) Customer (A) makes an assignment for the benefit of creditors, (B) files a petition or otherwise authorizes the commencement of a proceeding under the Bankruptcy Code or similar law for protection of creditors, or has such petition filed against it, (C) otherwise becomes bankrupt or insolvent, or (D) is unable to pay its debts as they fall due; or (vii) subject to the "Assignment" Section of this Agreement, Customer enters into a merger with, or sells substantially all of its assets to, another entity that fails to assume Customer's obligations under this Agreement.

"Gexa Energy" or "we" or "us" means Gexa Energy, LP, a Texas limited partnership.

"Holdover Period" is defined in the "Term" Section of this TOS.

"Late Payment Penalty" means a one-time fee of five percent (5%) assessed on invoices for the Monthly Charge that are not paid when due.

"Load Zone" means a group of electrical buses assigned to the same zone under Nodal Protocol Section 3.4, Load Zones.

"LMP" means either the day ahead or real time ERCOT Settlement Point Price for the applicable settlement location in which the Customer meter is located. The election of day-ahead or real-time shall be indicated in the EFL. If no specific ERCOT Settlement Point Price is indicated, then the day ahead ERCOT Settlement Point Price settlement will be used. LMP is expressed in \$/MWh and shall have no minimum price per MWh.

"Monthly Charge" means the sum of: (i) the product of Customer's Energy Usage during a Billing Cycle and the applicable price, as described in the EFL, or, if the EFL is not provided to Customer prior to the end of the fixed Contract Term, the price of the default variable product as described in the "Pricing" Section of the TOS; (ii) Pass-Through Charges (including, without limitation, Additional Pass-Through Charges and the charges described in the "Change in Law" Section of this TOS) , if any; and (iii) Taxes.

"Party" means either Gexa Energy or Customer, and "Parties" means both Gexa Energy and Customer.

"Pass-Through Charges" means any non-recurring charges as described in the "Summary of Gexa Energy Non-Recurring Charges" Section of this TOS, any non-recurring TDU charges and/or non-recurring third-party fees and charges, and/ or Additional Pass-Through Charges. Examples of non-recurring TDU charges are those arising from a move-in or switch, such as self-selected meter reads; service connection, disconnection, or reconnection fees; and meter tampering charges. Pass-Through Charges may be treated as an adjustment to the Energy Charge or may be passed through to Customer, at Gexa Energy's sole option.

"PUCT" means the Public Utility Commission of Texas.

"REP" means retail electric provider.

"Retail Adder" means a component of the Energy Charge that is set forth on the EFL and/or the Enrollment Documents.

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"Seller Delivery Point" means the point of interconnection between a third-party transmission or delivery system and the TDU transmission or delivery system.

"Service Start Date" means the date on which the TDU switches the Customer's respective ESI ID(s) to Gexa Energy; during or after the applicable Service Start Date (Month/Year) specified in the Enrollment Documents, provided that, in the case of a renewal of electric supply already being provided by Gexa Energy to Customer, the Service Start Date means the day following the termination or expiration of Customer's most immediately preceding agreement with Gexa Energy.

"Small Commercial Customer" means a non-residential customer that has a peak demand of less than fifty (50) kW during any twelve-month period, unless the customer's load is part of an aggregation program whose peak demand is in excess of fifty (50) kW during the same twelve-month period.

"Taxes" means all federal, state, municipal or other governmental taxes, duties, fees, levies, premiums, assessments, surcharges, withholdings, or any other charges of any kind relating to the sale, purchase or delivery of electricity, including, without limitation, gross receipts taxes, together with all interest, penalties or other additional amounts imposed thereon, but excluding taxes on net income.

"TDU Delivery Charges" means those recurring charges payable to the TDU in connection with transmission and distribution of electricity pursuant to this Agreement, including, without limitation, all charges allowed or required by the PUCT, ERCOT or any other governmental or regulatory authority or any third parties.

"Transmission and Distribution Utility" or "TDU" means a utility that owns electric transmission and/or distribution facilities that deliver electricity to the facilities to which the ESI ID(s) pertain.

## 2. RESCISSION, FIXED TERM PRODUCT QUALIFICATION AND DISCONNECTION NOTICES.

**NOTICE TO SMALL COMMERCIAL CUSTOMERS REGARDING RESCISSION:** If Customer is switching its electric service to Gexa Energy from another REP and Customer is a Small Commercial Customer (as defined above), Customer has the right to cancel this Agreement with Gexa Energy without any fee or penalty of any kind within three (3) federal business days of receiving the Contract Documents. To do so, Customer may call Gexa Energy at (713) 961 9399 or toll free at 866 961 9399 (outside Houston) to talk to a representative or leave a message, or Customer may fax Gexa Energy toll-free at (866) 550 4392, during or after the office hours of operation, on or before the third federal business day. This right to rescind does not extend to service requests for establishing electric service at a new location (also known as a "move-in").

**QUALIFICATION FOR FIXED TERM PRODUCT:** In order to qualify to enroll for a fixed term product, Customer's average electricity usage for all ESI IDs set forth on the BEA must be 75,000 kWh or less per month (the "Maximum Average Electricity Usage"). Customer hereby represents and warrants that the aggregate average monthly electricity usage of the ESI ID(s) set forth on the BEA is and will remain below the Maximum Average Electricity Usage. If at any time during the Contract Term, Customer's average monthly electricity usage for such ESI IDs is more than the Maximum Average Electricity Usage, Gexa Energy may terminate this Agreement without any liability or payments whatsoever to Customer by Gexa Energy and Customer will be subject to an Early Termination Fee.

**NOTICE TO SMALL COMMERCIAL CUSTOMERS REGARDING TERMINATION AND DISCONNECTION.** To terminate this Agreement, Customer may call or fax Gexa Energy at the contact numbers provided above. Customer may be subject to an Early Termination Fee. If Customer's termination requires a self-selected meter read by the TDU, Customer will be charged a fee established by the TDU. Regardless of the method or reason for termination of the Agreement, Customer is responsible for payment of all outstanding charges incurred through the date on which the termination is effected by the TDU. If Customer is a Small Commercial Customer, Customer may terminate electric service without penalty if Customer moves to another premises and provides Gexa Energy with evidence confirming that Customer has moved and Customer's forwarding address. Gexa Energy may order disconnection of Customer's electric service for non-payment as provided in this Agreement.

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**3. SERVICES.** During the term of this Agreement, Gexa Energy shall sell to Customer and Customer shall purchase from Gexa Energy Customer's electricity requirements for the ESI ID(s) specified in this Agreement, and Customer shall obtain such electricity requirements for such ESI ID(s) exclusively from Gexa Energy on the terms and conditions specified in this Agreement. Gexa Energy shall cause all such electricity to be delivered to the Seller Delivery Point(s) and Customer shall receive such electricity at the Customer Delivery Point(s). Notwithstanding the foregoing, Gexa Energy shall be under no obligation to supply any ESI IDs under a residential rate class and, if Gexa Energy does supply such ESI IDs, Customer hereby represents and warrants to Gexa Energy that such ESI IDs are used for commercial or governmental purposes.

**4. CUSTOMER INFORMATION.** Customer hereby authorizes Gexa Energy to obtain Customer's current and historical usage data from the TDU, payment and credit history and other information reasonably requested by Gexa Energy. Customer agrees, upon request, to provide Gexa Energy with facility descriptions, operating information, ESI IDs and locations, and such other information available to Customer reasonably required by Gexa Energy. Customer will provide prior written notice to Gexa Energy if Customer's contact information (including telephone number) provided by Customer hereunder or in connection with this Agreement changes for any reason or if Customer no longer has authority to direct calls at the telephone number provided as contact number. Customer's monthly usage for all ESI IDs shall not depart materially from the expected usage of such ESI ID(s) as such usage is determined by Gexa Energy. Customer shall pay Gexa Energy any losses and/or costs and charges reasonably associated with such material departures from its expected usage (such charges, "Material Usage Deviation Charges"). If Customer is a multi-family housing customer and the agreement includes a master metered account or any other account meter that is sub-metered at any time during the term of the agreement entered into with such customer, Customer shall pay Gexa Energy any losses and/or costs and charges reasonably associated with such sub-metering (such charges, "Sub-metering Charges"). If Customer is not a Small Commercial Customer, Material Usage Deviation Charges and Sub-Metering Charges will be assessed to Customer in Gexa Energy's Monthly Charge(s) as an Additional Pass-Through Charge.

**5. ENROLLMENT.** Provided Customer has submitted complete and correct enrollment information to Gexa Energy, Gexa Energy shall use commercially reasonable efforts to submit market orders to ERCOT as are necessary for the TDU to enroll Customer's ESI ID(s) with Gexa Energy for electricity supply. Gexa Energy's submission of market orders may be delayed due to events beyond its reasonable control including, but not limited to, submission of an incomplete, improperly completed, unclear, or inaccurate enrollment documentation by or on behalf of Customer, as reasonably determined by Gexa Energy. Customer agrees to cooperate with Gexa Energy's efforts with respect to enrollment. Gexa Energy shall not be held liable to Customer for delay or failure in enrolling Customer's ESI ID(s) if such delay or failure was due in whole or in part to any cause beyond Gexa Energy's control. Further, notwithstanding any provision in the Agreement to the contrary, it is possible that, for various reasons such as the ESI ID not existing, ESI ID not active or ESI ID is not the "first in", some or all the ESI IDs cannot be enrolled. In such case, Gexa Energy will use reasonable efforts to advise Customer of Customer's un-enrolled ESI IDs. All such un-enrolled ESI IDs shall be automatically deleted from service under this Agreement without an amendment hereto (i.e., an amendment signed by both Parties) and such failure to enroll will be an early termination by Customer. Gexa Energy shall not be required to serve such un-enrolled ESI ID(s).

**6. TERM.** This Agreement shall become effective on the Effective Date with electric service commencing for each ESI ID on the Service Start Date and continuing thereafter for the Contract Term, as specified in the Enrollment Documents and the EFL.

If Customer is enrolled in a plan with a fixed Contract Term and upon expiration of such Contract Term, Customer's ESI ID(s) are not successfully switched by the TDU to another REP, or Gexa Energy and Customer do not enter into a new or renewal Agreement, this Agreement shall continue on a month-to-month basis and Customer shall be supplied under a default variable product plan until Gexa Energy and Customer enter into a new or renewal Agreement, or either Party terminates this Agreement and the TDU switches Customer's ESI ID(s) to another REP, or Gexa Energy terminates this Agreement and disconnects Customer's ESI ID(s) from supply as provided under this Agreement (such period, the "Holdover Period"). If Customer is a Small Commercial Customer, a contract expiration notice will be sent to Customer at least fourteen (14) days prior to the end of the fixed Contract Term, and the Holdover Period shall begin following the end of the fixed Contract Term.

If Customer is enrolled in a plan with a month-to-month term, this Agreement shall become effective as of the Effective Date, with electric service commencing for each ESI ID on the Service Start Date, and continuing thereafter month-to-

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month until Gexa Energy and Customer enter into a new Agreement, or either Party terminates this Agreement and the TDU switches Customer's ESI ID(s) to another REP, or Gexa Energy terminates this Agreement and disconnects Customer's ESI ID(s) from supply as provided under this Agreement.

**7. PRICING.** The price that Customer agrees to pay for the Energy Usage is as provided on the EFL. In addition to the price, Customer agrees to pay any Pass-Through Charges and all applicable Taxes which shall be reflected on the monthly bill. Customer's accounts will be deemed taxable until proper tax exemption documentation is received by Gexa Energy. If Customer is a renewing customer and Customer has provided tax exemption documentation in connection with the previous agreement, Customer does not need to provide Gexa Energy with new tax exemption documentation if Customer's tax exempt status has not changed.

**FIXED RATE PRODUCT:** A fixed rate product has a Contract Term of three (3) months or more. During the Contract Term, Customer will pay the price set forth on the EFL. Such price may vary from the disclosed amount to reflect actual changes in the TDU charges, changes to recurring third party fees (including, but limited to, the ERCOT or TRE administrative fees), or in accordance with the "Change in Law" Section of this TOS, but otherwise will not change during the term.

**VARIABLE PRICE PRODUCT:** Variable price products are month-to-month contracts with a Contract Term of 31 days or less and for which the price may vary as determined by Gexa and as disclosed on the EFL. If Customer is enrolled in a variable price plan, the price will vary in accordance with a method determined by Gexa Energy and may increase or decrease each month, as further set forth in the EFL. The price of variable plans may also vary in accordance with the "Change in Law" Section of this TOS.

**INDEXED PRODUCT:** Indexed products may be for a term of three (3) months or more, or may be month-to-month. If Customer is enrolled in an indexed price plan, the price may vary in accordance with a pre-defined pricing formula as set forth in the EFL. The price of a month-to-month indexed product may increase or decrease each month, as further described in the EFL. The price of indexed plans may also vary in accordance with the "Change in Law" Section of this TOS.

**DEFAULT VARIABLE PRODUCT DURING THE HOLDOVER PERIOD:** During the Holdover Period, if any, Customer shall be served on a month-to-month basis under a default variable product plan. The price of the default variable product plan may change each month at the sole discretion of Gexa Energy. If Customer is a Small Commercial Customer, the initial price of such default variable product plan will be specified in the EFL that will be sent to Customer prior to the end of the fixed Contract Term. If Customer is not a Small Commercial Customer, the EFL may not be provided and the price of the default variable product plan is set forth on Gexa Energy's website at [www.gexaenergy.com](http://www.gexaenergy.com) in the "For Business" section under "Legal Notices and Terms".

**8. BILLING AND FEES.** Unless the Parties agree in writing to alternate payment arrangements, Customer consents to be billed monthly for services provided hereunder. Each bill will consist of the Monthly Charge (including Taxes), or multiple Monthly Charges, if Gexa Energy defers Monthly Charges as provided below, and Customer agrees to pay such Monthly Charges. Customer agrees to pay each such bill on or before sixteen (16) days (unless agreed otherwise in writing) after the billing date on Customer's invoice or the postmark date on the invoice envelope, whichever is later. Gexa Energy may elect to defer sending monthly bills for all periods where actual usage is not available from the TDU. If any amounts are not paid when due, Gexa Energy shall have the right to assess the Late Payment Penalty and may report delinquent balances and related information to a credit agency.

Gexa Energy may also assess a twenty-five dollar (\$25) fee against any transaction not processed due to insufficient funds or credit availability for any method of payment, including checks, bank drafts or credit card. Any payment that is returned unpaid or not processed by Customer's financial institution will be treated as if Gexa Energy received no payment at all. If Customer has two (2) or more returned payments during any twelve (12) month period, Customer shall pay the bills by money order or cash until the Parties agree otherwise in writing. Gexa Energy is not responsible for notifying Customer of dishonored checks or returned electronic payments. If Customer participates in the auto-bill-payment program or the Budget Billing Program and a Customer's payment is dishonored for any reason, Gexa Energy reserves the right to remove the Customer from the program.

If the TDU fails to timely obtain or transmit a meter reading, Gexa Energy reserves the right to issue or cause to be issued a bill to Customer based on its estimated Energy Usage and charges during the Billing Cycle. Gexa Energy will

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include or cause to be included in any subsequent bill from Gexa Energy, adjustments related to previous billings, including estimates, previous billing errors, meter read errors, or other errors or omissions. Gexa Energy may apply any credit balance on a particular ESI ID to a balance owed on any other Customer ESI ID. If Customer disputes a bill, Customer must pay any undisputed portion of the bill by the due date specified in the applicable payment terms. If the unpaid, disputed portion of the bill is subsequently resolved in favor of Gexa Energy, the Late Payment Penalty will be applied to such unpaid amounts. One time per calendar year, Customer may request a copy of its billing records at no charge. Any additional requests may result in a fee of five dollars (\$5) per bill period requested.

If Customer is a "governmental entity" as defined in the Prompt Payment Act ("PPA"), Tex. Government Code, Chapter 2251, then, notwithstanding any contrary provisions in this Agreement, a payment by Customer shall become overdue as provided in the PPA, billing disputes shall be resolved as provided in the PPA, and interest on overdue payments shall be calculated and remitted in accordance with the PPA. As provided in the PPA: (i) "governmental entity" means a state agency or a political subdivision of the state of Texas; (ii) "state agency" means (A) a board, commission, department, office or other agency in the executive branch of state government that is created by the constitution or a statute of the state of Texas, including a river authority and an institution of higher education as defined by Section 61.003 of the Education Code, (B) the legislature or a legislative agency, or (C) the Supreme Court of Texas, the Court of Criminal Appeals of Texas, a court of appeals, a state judicial agency, or the State Bar of Texas; and (iii) "political subdivision" means (A) a county, (B) a municipality, (C) a public school district, or (D) a special-purpose district or an authority.

**9. BUDGET BILLING PROGRAM.** If Customer is a Small Commercial Customer, Gexa Energy offers a budget billing program (the "Program") that allows qualified customers to pay an equal budget bill amount each month subject to the following terms. To qualify for the Program, Customer cannot be delinquent in payments to Gexa Energy.

The budget bill amount is calculated using the last twelve (12) months' usage history of the ESI ID(s), if available, adjusted by a representative annual growth factor of four percent (4%) or more, as determined by Gexa Energy for the initial 12-month term on the Program, multiplied by Customer's current price per kWh, plus any applicable Taxes or fees, all divided by twelve (12). Customer will be billed this amount each month for the next twelve (12) months. If less than twelve (12) months' usage history is available for the service address, Gexa Energy will project the budget bill amount. Customer is also responsible for paying any non-recurring charges from the TDU or other non-recurring third party fees in addition to Customer's budget bill amount. Customer will receive a statement with Customer's calculated budget bill amount after Customer has been accepted into the Program. Customer is responsible for paying the budget bill amount each billing cycle by the bill due date, even if the bill shows a credit balance. Participation in the Program does not cancel Customer's obligation to pay for all actual usage.

Gexa Energy may modify the Customer's budget bill amount at any time to reflect changes in Customer's usage, price (if applicable) or for other authorized reasons. In addition, if Customer has enrolled in the Budget Billing program, Customer will continue in the Program after Customer's fixed Contract Term has expired, if Customer has not switched to another REP or the Agreement has not been otherwise terminated. At that time Customer will receive a credit towards Customer's account, if Customer has paid Gexa Energy more than Customer owes. If Customer has paid Gexa Energy less than Customer owes, Customer must pay Gexa Energy the difference; but that difference will be amortized over the next twelve (12) month period and added to Customer's monthly program payment.

Notwithstanding the above paragraph, if Customer's participation in the Program or the Agreement is canceled or terminated for any reason or Customer's electric service is disconnected, any credit or unpaid balance will appear on the final or other subsequent bill. Customer may opt out of the Program at any time by providing written notification of the Customer's desire to be removed from the program to the following address: Gexa Energy; 20455 State Highway, Suite 200; Houston, TX 77070; Attention: Budget Billing, or Customer may opt out via email by sending notice to [budget.billing@gexaenergy.com](mailto:budget.billing@gexaenergy.com). Customer may also contact customer service at: (713) 961-9399 or toll-free (866) 961-9399 (outside Houston).

**10. CREDIT AND DEPOSIT REQUIREMENTS.** Gexa Energy reserves the right to request a credit history on an applicant or customer for service prior to offering service and require a deposit from anyone who does not meet Gexa Energy's credit standards. Gexa Energy may refuse to provide electric supply to any applicant or customer for one or more of the reasons specified in the PUCT Substantive Rule 25.477 (See <http://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/25.477/25.477.pdf>), as amended.

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If Gexa Energy determines in its reasonable discretion that Customer cannot demonstrate satisfactory creditworthiness, Gexa Energy may require Customer to pay an initial cash deposit or provide other credit support in an amount of up to one-fifth of Customer's estimated annual billing. If, at any time, Gexa Energy determines in its reasonable discretion that there has been a material adverse change in Customer's credit status or that Customer cannot demonstrate satisfactory creditworthiness, or if Customer fails to timely pay all amounts due or there otherwise exists a default with respect to Customer under this Agreement, Gexa Energy may require Customer to pay a cash deposit or provide other credit support in an amount reasonably satisfactory to Gexa Energy in addition to any existing or other cash deposit or credit support.

Notwithstanding the foregoing paragraphs, (i) Gexa Energy will not require an initial deposit from an existing Small Commercial Customer unless such Customer was late paying a bill more than once during the last twelve (12) months of service or had service terminated or disconnected for nonpayment during the last twelve (12) months of service, and (ii) Gexa Energy will not require an additional deposit from an existing Small Commercial Customer if the average of the customer's actual billings for the last twelve (12) months are at least twice the amount of the original average of the estimated billings and a termination or disconnection notice has been issued or the account disconnected within the previous twelve months.

Cash deposits held more than thirty (30) days will accrue interest from the date of receipt at the annual rate established by the PUCT and such accrued interest will be applied annually to Customer's account. After termination of this Agreement or disconnection of service, Gexa Energy will apply any cash deposit plus any unpaid accrued interest toward any outstanding balance on Customer's final bill and will refund any remaining deposit. Gexa Energy may apply any deposit on a particular ESI ID to a balance owed on any other ESI ID supplied hereunder. Any such cash deposit plus any unpaid accrued interest will be refunded by means of a credit to a Small Commercial Customer's bill(s) once such Customer has made twenty-four (24) consecutive payments without the assessment of any Late Payment Penalty.

**11. TERMINATION OF AGREEMENT BY CUSTOMER.** If Customer terminates this Agreement, in whole or as relating to any single ESI ID(s), before the end of the Contract Term, Customer shall pay Gexa Energy the Early Termination Fee, if applicable. If Customer is a Small Commercial Customer, Customer may terminate this Agreement without penalty if Customer moves to another premises and provides Gexa Energy with evidence confirming that Customer has moved and Customer's forwarding address. In the event that Customer terminates this Agreement as provided for in this Section, Customer shall be obligated to pay for the electricity and related services provided to Customer pursuant to this Agreement prior to the date that such termination becomes effective, including Late Payment Penalties, if applicable. The Parties agree that the applicable Early Termination Fee or other amounts recoverable under this Agreement are a reasonable estimate of loss and not a penalty. Gexa Energy will not be required to enter into any replacement transaction in order to determine the Early Termination Fee.

**12. TERMINATION OF AGREEMENT AND DISCONNECTION OF CUSTOMER'S SERVICE BY GEXA ENERGY.** Gexa Energy reserves the right to terminate this Agreement and disconnect Customer's service under this Agreement if an Event of Default has occurred with respect to Customer. In the event service is terminated in accordance with this Section, Customer shall pay the Early Termination Fee, if applicable. Gexa Energy will notify Customer of its intent to disconnect electric service at least ten (10) days prior to the effective date of the disconnection.

If payment in the amount specified in the disconnect notice is not received by the date specified in the notice, and a disconnection transaction has been processed by Gexa Energy, Customer's account will be charged a fifteen dollar (\$15) disconnection fee. This fee will be assessed regardless of whether Customer's electric service is actually disconnected by the TDU. In addition, Customer's account will be charged a fifteen dollar (\$15) reconnection fee in the event that Gexa Energy processes a reconnect transaction for the account. These fees are in addition to those disconnection and reconnection fees that may be assessed by Customer's TDU.

Disconnection of electric service by Gexa Energy will not excuse Customer from paying any outstanding amounts owed to Gexa Energy. Gexa Energy may also disconnect Customer's electric service on any other grounds permitted by PUCT Substantive Rule 25.483 (See <http://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/25.483/25.483.pdf>), as amended. Gexa Energy may arrange for service to be disconnected without prior notice to Customer if one or more of the following conditions or events occur: there exists a known dangerous condition; service has been connected without authority by a person

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who has not made application for service; service has been reconnected without authority after disconnection for nonpayment; there has been tampering with the equipment of the transmission and distribution utility, municipally owned utility, or electric cooperative; or where there is evidence of theft of service.

**13. TITLE, RISK OF LOSS AND INDEMNIFICATION.** Title and risk of loss to the electricity sold hereunder shall pass from Gexa Energy when it is delivered to the Seller Delivery Point. Customer shall indemnify and defend Gexa Energy and its affiliates from all claims for any loss, damage, or injury to persons or property arising from or relating to the distribution or consumption of electricity at the Customer Delivery Point or downstream of the Customer Delivery Point.

**14. FORCE MAJEURE.** Gexa Energy shall be excused from performance of its obligations under this Agreement, in whole or in part, to the extent caused by and during an event of Force Majeure (as defined herein); provided that Gexa Energy shall provide notice of such event to Customer and use commercially reasonable efforts to avoid the effects of such event and resume performance as soon as is commercially practicable. As used herein, "Force Majeure" means any act, condition, event or occurrence that is beyond Gexa Energy's reasonable control, including, without limitation, an act of God or public enemy, storm, earthquake, or other natural forces, war, riot, public disturbance, labor action, or the acts or omissions of anyone not a Party to this Agreement, including the TDU.

**15. CHANGE IN LAW.** Notwithstanding any provision to the contrary in this Agreement, (i) if Customer is a Small Commercial Customer and there are any changes in the Transmission and Distribution Utility (TDU) charges, changes to the ERCOT or Texas Regional Entity administrative fees charged to loads, or changes resulting from federal, state or local laws that impose new or modified fees or costs, Gexa Energy may adjust the price or pass-through such new or modified fees or costs to Customer; or (ii) if Customer is not a Small Commercial Customer and there is a Change in Law and such Change in Law results in Gexa Energy incurring additional costs and expenses in providing the services contemplated herein, such additional costs and expenses shall be the Customer's responsibility and will be assessed to Customer in Gexa Energy's Monthly Charge(s) as an Additional Pass-Through Charge.

**16. NONDISCRIMINATION.** Gexa Energy does not deny service, require a prepayment or deposit for service or otherwise discriminate based on a customer's race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, level of income, disability, familial status, location in an economically distressed geographic area, or qualification for low income or energy efficiency services. Gexa Energy does not and will not boycott Israel during the term of this Agreement.

**17. WAIVER OF CUSTOMER RIGHTS AND PROTECTIONS.** If Customer is not a Small Commercial Customer, Customer waives its rights under the Substantive PUCT Customer Protection Rules for Retail Electric Service with the exception of the provisions in Substantive PUCT Rules 25.495, 25.481, and 25.485(a)-(b), as amended.

**18. REPRESENTATIONS AND WARRANTIES.** Each Party warrants and represents to the other Party that: (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (ii) it is authorized and qualified to do business in the jurisdictions necessary to perform this Agreement; (iii) the execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary corporate or other actions and do not violate any agreement to which it is a party or any laws or regulations applicable to it; and (iv) the Agreement, when delivered, will be valid and legally binding and enforceable in accordance with its respective terms (subject to equitable defenses). Customer further warrants and represents to Gexa Energy that (A) Customer's representative is at least eighteen (18) years of age and is legally authorized to enter into this Agreement on behalf of Customer and select Gexa Energy as Customer's REP; (B) Customer's representative is authorized to direct phone calls to the telephone number provided as contact number; (C) it has full power and authority with respect to the respective service location(s) to which the ESI ID(s) pertain; and (D) it is a commercial, non-residential user of electricity.

**19. DISCLAIMER OF WARRANTY.** GEXA ENERGY EXPRESSLY DISCLAIMS ALL WARRANTIES REGARDING THE QUALITY OF ELECTRICITY DELIVERED TO CUSTOMER PURSUANT TO THIS AGREEMENT, WHETHER WRITTEN, ORALLY EXPRESSED, OR IMPLIED, INCLUDING, WITHOUT LIMITATION, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

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**20. LIMITATION OF LIABILITY.** 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 AND DAMAGES AT LAW OR IN EQUITY ARE WAIVED AND NEITHER PARTY WILL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, 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 WILLFUL MISCONDUCT OF ANY PARTY. NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, CUSTOMER AGREES THAT NO REP, INCLUDING GEXA ENERGY, EXERCISES INDEPENDENT CONTROL OVER TDU'S FACILITIES NECESSARY FOR THE DELIVERY OF ELECTRICITY, AND GEXA ENERGY WILL HAVE NO LIABILITY OR RESPONSIBILITY TO CUSTOMER FOR THE OPERATIONS OF THE TDU OR FOR INTERRUPTION, TERMINATION, OR DETERIORATION OF TDU'S TRANSMISSION OR DISTRIBUTION SERVICE.

**21. FORWARD CONTRACT.** The Parties agree that this Agreement is a "forward contract" and that Gexa Energy is a "forward contract merchant" for purposes of the United States Bankruptcy Code, as amended, any payment related hereto will constitute a "settlement payment" as defined in Section 101 (51A) thereof. The text of these referenced Bankruptcy Code provisions may be found at [http://uscode.house.gov/download/title\\_11.shtml](http://uscode.house.gov/download/title_11.shtml).

**22. ATTORNEY'S FEES.** If Customer fails to timely pay amounts due under this Agreement and Gexa Energy refers Customer's outstanding balance to an attorney or collection agent for collection, or if Gexa Energy files a lawsuit in connection with this Agreement or to collect Customer's outstanding balance through bankruptcy or judicial proceedings, Customer agrees to pay Gexa Energy its reasonable fees and expenses (including reasonable attorney's fees) incurred by Gexa Energy in connection therewith.

**23. AMENDMENT.** Except as otherwise provided in the TOS, this Agreement may not be amended except by a written amendment signed by both Customer and Gexa Energy.

**24. SEVERABILITY.** If any provision of this Agreement is held to be void or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect to the extent that the intended essential purposes of this Agreement are not materially altered.

**25. HEADINGS.** Headings are for the convenience of the Parties and shall be ignored for purposes of interpreting this Agreement.

**26. BROKERS.** If Customer's transaction under this Agreement was facilitated by one or more third party vendors including, without limitation, vendors that provide brokering services, Customer hereby grants Gexa Energy the right to share all Customer information with such third party vendors.

**27. ASSIGNMENT.** Gexa Energy may assign its rights and obligations under this Agreement to a third party. Customer may not assign its rights and obligations under this Agreement to a third party without the prior written consent of Gexa Energy, which consent shall not be unreasonably withheld. Gexa Energy may deny such assignment based on the creditworthiness of the assignee, as determined by Gexa Energy in its reasonable discretion. Any purported assignment or delegation in violation of these provisions shall be void.

**28. COUNTERPARTS.** With respect to a written enrollment, this Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall be deemed to be one and the same instrument.

**29. WAIVER.** No waiver by any Party hereto of any one or more of such Party's rights under this Agreement, or waiver of a default by the other Party in the performance of any of the provisions of this Agreement, shall be construed as a waiver of any such right, or any other default whether of a like kind or different nature.

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**30. GOVERNING LAW AND VENUE.** This Agreement shall be governed by and construed, enforced and performed in accordance with the laws of the state of Texas, including any rules promulgated by or orders issued by the PUCT and/or ERCOT, and exclusive venue for any suit, claim, action or other proceedings, whether at law or in equity, relating to this Agreement, shall be in the state or federal courts of competent jurisdiction sitting in Harris County, Texas.

**31. NON-DISCLOSURE.** Customer agrees to keep all terms and provisions of this Agreement confidential and not to disclose such terms to any third parties without the prior written consent of Gexa Energy.

**32. LIMITED AUTHORIZATION AND WAIVER.** An action authorized to be taken by Gexa Energy for, or on behalf of, Customer under this Agreement is limited to such action, and does not result in imposition on Gexa Energy to take any further action or refrain from taking action. Customer hereby waives, any other duties imposed on Gexa Energy of any kind or nature, including fiduciary duties which may otherwise arise by operation of law.

**33. NOTICES.** Any notice or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be delivered to the receiving Party by first class or certified (prepaid) mail, e-mail, courier service or facsimile. Notwithstanding the previous sentence, Gexa Energy may send any notice to Customer using any method, including e-mail, permitted by applicable law. Gexa Energy's mailing address and facsimile number to be used for any notices that shall be given to or served on Gexa Energy by Customer are set forth at the top of this TOS. Customer's mailing address and facsimile number to be used for any notices that shall be given to or served on Customer by Gexa Energy are set forth in the Enrollment Documents.

Notice delivered by first class or certified mail (prepaid) shall be deemed to have been received at the end of the third business day after the date of mailing, or such earlier time as is confirmed by the receiving Party. Notice delivered by courier shall be deemed to have been received on the business day after it was sent or such earlier time as is confirmed by the receiving Party. Notice sent by facsimile or e-mail shall be deemed to have been received at the close of the business day on which it was transmitted (or, if transmitted after the close of business, then on the next business day) or such earlier time as is confirmed by the receiving Party.

**34. PUCT RULES.** Certain "Substantive Rules" of the PUCT referenced in this Agreement may be found at <http://www.puc.state.tx.us/agency/rulesnlaws/subrules/electric/Electric.aspx>.

**35. SUMMARY OF GEXA ENERGY NON-RECURRING CHARGES.** Gexa Energy non-recurring charges set forth above are summarized below. These do not include any non-recurring charges which may be imposed by the TDU (which will be shown in Customer's bills for payment by Customer), including those arising from a move-in or switch, such as self-selected meter reads, service connection, disconnection, or reconnection fees, and fees such as meter tampering charges. These also do not include charges for early termination or in connection with a termination arising from an Event of Default. Customer should review the relevant provisions of this TOS for specific terms and conditions concerning these charges.

- Additional Copy of Billing Records: \$5.00 per bill period requested ("Billing and Fees" section)
- Late Payment Penalty: 5% of past-due balance ("Billing and Fees" section)
- Insufficient Funds: \$25 per transaction ("Billing and Fees" section)
- Disconnection Fee: \$15 ("Termination of Agreement, and Disconnection of Customer's Service by Gexa Energy" section)
- Reconnection Fee: \$15 ("Termination of Agreement, and Disconnection of Customer's Service by Gexa Energy" section)
- Material Usage Deviation Charges incurred in connection with a Customer that is a Small Commercial Customer ("Customer Information" section)
- Sub-Metering Charges incurred in connection with a Customer that is a Small Commercial Customer ("Customer Information" section)

**36. SURVIVAL.** Notwithstanding any provision to the contrary in this Agreement, the provisions of this TOS regarding indemnity, disclaimers, limitation of liability, attorney's fees, governing law and venue, waivers and all other provisions which by their nature should survive termination shall survive termination of this Agreement. Provisions that require Customer to pay amounts due to Gexa Energy, as well as any remedies in favor of Gexa Energy to enforce

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those obligations, shall survive the termination of this Agreement and continue in full force and effect so long as there remain continuing obligations of Customer under this Agreement.

**37. WAIVER OF TRIAL BY JURY. TO THE EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.**

**38. ENTIRE AGREEMENT.** This Agreement embodies the entire Agreement and understanding between the Parties, and supersedes all prior agreements and understandings between the Parties, whether written or oral, with respect to the subject matter hereof.

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20455 State Highway 249, Suite 200, Houston, TX 77070  
Customer Service: 866-961-9399; Fax: 866-550-4392; Email: TX@gexaenergy.com

**YOUR RIGHTS AS A CUSTOMER**  
**Texas Residential and Small Commercial Customers**

Por favor refierse a la parte interior de este document para leer esta informacion en espanol.

This document summarizes Your Rights as a Customer, and is based on customer protection rules adopted by the Public Utility Commission of Texas (PUCT). These rules apply to all retail electric providers (REPs) and the provider of last resort (POLR), unless otherwise noted. You may view the PUCT's rules at:

<http://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/Electric.aspx>

**Reporting Outages. 24 HOUR POWER OUTAGE REPORTING:** If you need to report a power outage, please contact your appropriate transmission and distribution utility (TDU) directly:

ONCOR ELECTRIC DELIVERY: (888) 313-4747  
ONCOR ELECTRIC DELIVERY (FORMERLY SHARYLAND): (800) 545-4513  
CENTERPOINT ENERGY: (800) 332-7143  
AEP TEXAS NORTH and AEP TEXAS CENTRAL: (866) 223-8508  
TEXAS NEW MEXICO POWER: (888) 866-7456

NAME:	Gexa Energy, LP d/b/a Gexa Energy
PUCT REP CERTIFICATION NUMBER	10027
INTERNET ADDRESS	<a href="http://www.gexaenergy.com">www.gexaenergy.com</a>
EMAIL ADDRESS	Commercial: <a href="mailto:tx@gexaenergy.com">tx@gexaenergy.com</a> Residential: <a href="mailto:customercare@gexaenergy.com">customercare@gexaenergy.com</a>
MAILING ADDRESS	20455 State Highway 249, Suite 200 ATTN: Contract Administration Houston, TX 77070
TELEPHONE NUMBER	Commercial: (866) 531-GEXA (4392) Residential: (713) 961-9399 or toll-free (866) 961-9399 (outside Houston)
OFFICE HOURS OF OPERATION	Commercial: 8:00 am - 5:00 pm Central Time, Monday - Friday Residential: 7:00 a.m. - 8:00 p.m., Central Time, Monday - Friday and 8:00 a.m. - 2:00 p.m., Central Time, Saturday. Closed Sundays and holidays.
FAX NUMBER	Commercial: (866) 578-GEXA (4392) Residential: (713) 961-7997 or toll-free (877) 961-9369 (outside Houston)

**Public Utility Commission of Texas Information (PUC):**

Address:  
Consumer Protection Division,  
PO Box 13326  
Austin, TX 78711-3326

Telephone Number:  
888-782-8477; 800-735-2988 (TTY)

Online:  
[www.puc.texas.gov](http://www.puc.texas.gov)

Email:  
customer@puc.texas.gov

**CHOICE OF LANGUAGE:**

**You have the right to receive certain information in English, Spanish, or the language in which Gexa Energy's services were marketed to you. These items include the Terms of Service agreement, Electricity Facts Label, bills and bill notices, information on new electric services, discount programs, promotions, and access to customer assistance. Please contact Gexa Energy to request that this information be provided to you in Spanish or any language in which our services were marketed to you. You will receive this YRAC and disconnection notices in English and Spanish, or English and your designated language, if you have requested a language other than Spanish in which Gexa Energy services were marketed to you.**

**SERVICE ISSUES:**

**Unauthorized Change of Service Provider or "Slamming".** A REP must obtain your verifiable authorization before switching your electric service. If you believe your electric service has been switched without your authorization, you should contact your chosen REP and request assistance. The affected REPs, TDU and ERCOT will work together to return you to your chosen REP, if appropriate in accordance with the market processes approved by the PUC.

If a REP is serving your account without proper authorization, the REP must work with other market participants to take all actions necessary to return you to your original REP as quickly as possible. Your original REP has the right to bill you at the price disclosed in your terms of service from either: (i) the date you are returned to your original REP, or (ii) any prior date chosen by your original REP for which that REP had the authorization to serve you. The REP that served you without proper authorization shall, within five days from the date that your service is returned to your original REP, refund all charges paid for the time period the original REP ultimately bills you. In addition, the REP that served you without your authorization is responsible for paying all charges associated with returning your service to your REP of choice. For periods that the unauthorized REP served you that are not billed to you by your original REP, the REP that served you without your authorization may bill you, but at a rate no higher than the rate you would have been charged by your original REP.

**BILLING ISSUES:**

**Unauthorized Charges or "Cramming".** Before any new charges are included on your electric bill, Gexa Energy must inform you of the product or service, all associated charges, how these charges will appear on your electric bill and obtain your consent to accept the product or service. If you believe your electric bill includes unauthorized charges, you may contact Gexa Energy to dispute such charges and you may

file a complaint with the PUCT. Gexa Energy will not seek to disconnect your electric service for non-payment of an unauthorized charge or file an unfavorable credit report against you for disputed unpaid charges that are alleged to be unauthorized, unless the dispute is ultimately resolved against you. If the charges are determined to be unauthorized, Gexa Energy will cease charging you for the unauthorized service or product, remove the unauthorized charge from your bill, and refund or credit all money you paid for any unauthorized charge within 45 days. If charges are not refunded or credited within three billing cycles, interest shall be paid to you at an annual rate established by the PUCT on the amount of any unauthorized charge until it is refunded or credited.

You may request all billing records from Gexa Energy related to any unauthorized charge within 15 days after the date the unauthorized charge is removed from your bill. Gexa Energy will not re-bill you for any charges determined to be unauthorized. PUCT on the amount of any unauthorized charge until it is refunded or credited. You may request all billing records under the REP's control related to any unauthorized charges within 15 business days after the date the unauthorized charge is removed from your bill. Gexa Energy will not re-bill you for any charges determined to be unauthorized.

**Deferred Payment Plans and Other Payment Arrangements.** If you cannot pay your bill, please call Gexa Energy immediately. Gexa Energy may offer you a short-term payment arrangement that allows you to pay your bill after your due date, but before your next bill is due. In addition, you may qualify for a "deferred payment plan." A deferred payment plan allows you to pay an outstanding balance in installments that extend beyond the due date of the current bill. Gexa Energy may require an initial payment to initiate the deferred payment plan. If you express an inability to pay your bill, Gexa Energy must offer you a deferred payment plan unless you have been disconnected during the preceding 12 months, have submitted more than two payments during the preceding 12 months that were found to have insufficient funds available, or you have been a Gexa Energy customer for less than 3 months and do not have sufficient credit or payment history with another REP.

All REPs must offer customers deferred payment plans for bills that are due during an extreme weather emergency and to customers who have been under-billed in the amount of \$50.00 or more (unless due to theft of service).

A deferred payment plan may include a 5% late payment penalty.

**Financial and Energy Assistance.** If you are a residential customer, and contact us and indicate that you are unable to pay your bill, we will inform you of all applicable payment options and payment assistance programs that are offered by or available from Gexa Energy. If you receive food stamps, Medicaid, TANF or SSI from the TDHS, or if your household income is not more than 125% of the federal poverty guidelines, you may qualify for energy assistance from the Texas Department of Housing and Community Affairs (TDHCA). You may contact TDHCA by emailing your question to [info@tdhca.state.tx.us](mailto:info@tdhca.state.tx.us), calling 800.525.0657, faxing 800.733.5120, or writing to TDHCA, P.O. Box 13941, Austin, TX 78711-3941.

Gexa Energy must also offer level or average payment plans to customers that are not currently delinquent in payment. Gexa Energy does not offer any special services such as readers or notices in Braille or TTY or any other programs for customers with physical disabilities.

**Discounts for Low-Income Customers.** For each month in which the PUCT makes State funds available, Gexa Energy will provide a discount on the electric bill for low-income customers who meet the eligibility requirements. This discount is referred to as the Low Income Telephone and Electric Utilities Program of Texas (LITE UP Texas). Customers are automatically eligible for LITE UP if they are enrolled in a Texas Health and Human Services Commission (HHSC) program, or may self-enroll if they meet the eligibility requirements in PUCT Substantive Rule 24.454 available at <http://www.puc.texas.gov/agency/ruleslaws/subrules/electric/25.454/25.454ei.aspx>. Please contact Gexa Energy for more information regarding these discounts and eligibility requirements. Customers qualified for the LITE UP Texas program are eligible to pay any required deposit that is greater than \$50

in two installments. The first installment shall be due no earlier than ten days, and the second installment no sooner than 40 days, after the issuance of written notification to the applicant of the deposit requirement.

**Meter Reading and Testing.** Please contact Gexa Energy for information regarding how to read your meter. The meter located on your premise can be tested once every four years at no cost to you. If you wish, Gexa Energy can send a standard electronic request for the test to the TDU on your behalf. If a test is performed more than once in a four-year period, and the meter is determined to be functioning properly, then you may be charged a fee for the additional meter test(s) at the rate approved for your TDU. The TDU provides test results, including the test date, testing person and, if applicable, the removal date of the meter.

#### **DISCONNECTION ISSUES:**

**Disconnection of Service.** The PUCT has provided that under certain dangerous circumstances (such as unsafe electric line situations), your TDU may disconnect your electric service without prior notice to you. Additionally, Gexa Energy may be allowed to seek to have your electric service disconnected for any of these reasons: (i) failure to pay a bill owed to Gexa Energy or to make a deferred payment arrangement by the date of disconnection, (ii) failure to comply with the terms of a deferred payment arrangement or other payment agreement made with Gexa Energy, (iii) using service in a manner that interferes with the service of others or the operation of nonstandard equipment, and/or (iv) failure to pay a deposit required by Gexa Energy. Prior to disconnecting your service for these reasons, Gexa Energy must provide you with a written Disconnect Notice. This notice must be mailed to you separately (or hand-delivered) no earlier than the first day after the date your bill is due. The disconnection date must be 10 days from the date the notice is issued and may not fall on a holiday or weekend (or the day preceding) unless Gexa Energy's and the TDU's personnel are available to take payments and service can be reconnected.

Your service cannot be disconnected for any of the following reasons:

- failure to pay for electric service by a previous occupant of the premise if that occupant is not of the same household;
- failure to pay any charge unrelated to electric service;
- failure to pay a different type or class of electric service not included on the account's bill when service was initiated;
- failure to pay any disputed charges until Gexa Energy or the PUCT determines the accuracy of the charges and you have been notified of this determination;
- failure to pay an estimated bill unless the estimated bill is part of a pre-approved meter-reading program or is based upon an estimated meter read by the TDU;
- if Gexa Energy receives notification by the due date stated on your disconnection notice that an energy assistance provider is forwarding sufficient payment on your account, and you have paid or made payment arrangements to pay any outstanding debt not covered by the energy assistance provider's payment;
- for non-payment during an extreme weather emergency (as defined), and upon request, Gexa Energy must offer you a deferred payment plan for bills due during the emergency; or
- for non-payment if you inform Gexa Energy, prior to the disconnection date stated on the notice, that you or another resident on the premises has a critical medical need for electric service. However, to obtain this exemption, you must enter into a deferred payment plan with Gexa Energy and have the ill-person's attending physician contact Gexa Energy and submit a written statement attesting to the necessity of electric service to support the ill person's life. This exemption from disconnection due to illness or disability shall be in effect for 63 days and may be applied for again after the 63 days has expired and the deferred payment plan has been fulfilled.
- Failure to pay charges resulting from an under-billing, except theft of service, more than six months prior to the current billing.

If, however, you have a Chronic Condition Residential Customer designation, you and any secondary contact listed on the PUCT-approved application form will receive written notice of Gexa Energy's intent to disconnect service no later than 21 days prior to the date that service will be disconnected.

**Restoration of Service:** If your service has been disconnected for non-payment or for reasons other than a dangerous situation, Gexa Energy will, upon satisfactory correction of the reasons for the disconnection and payment of appropriate all applicable fees and amounts due, notify your TDU to reconnect your service. If your service was disconnected due to a dangerous situation, your service will be reconnected once you demonstrate to the TDU that you have corrected the dangerous situation and Gexa Energy is notified that such corrective action is completed.

#### **DISPUTES:**

**Complaint Resolution.** Please contact Gexa Energy if you have specific comments, questions or complaints. Upon receipt of a complaint, Gexa Energy will investigate and notify you of the results within 21 days. If you are dissatisfied with the results of the investigation, you may request a supervisory review. Gexa Energy will advise you of the results of the supervisory review within 10 business days of your request. If you are dissatisfied with the results of the investigation or supervisory review, you may file a complaint with the PUCT or the Office of the Attorney General, Consumer Protection Division. For a PUCT complaint, please include sufficient information to identify you and the REP about which the complaint is made and describe the issue specifically.

The following information should be included in the complaint: (i) the account holder's name, billing and service addresses, and telephone number; (ii) the name of the REP or aggregator; (iii) the account number or electric service identifier (ESI ID); (iv) an explanation of the facts relevant to the complaint; (v) your requested resolution; and (vi) any documentation that supports the complaint, including copies of bills or terms of service documents. For a complaint involving a disputed bill, Gexa Energy will not initiate collection activities or terminate or disconnect service or report the delinquency to a consumer reporting agency with respect to the disputed portion of the bill. However, after appropriate notice, Gexa Energy may disconnect your service for non-payment of any undisputed portion of the bill.

#### **OTHER PROTECTIONS:**

**Do Not Call Lists.** Texans may register a residential telephone number for the "Do Not Call" list. Placing your name, address and telephone number on this list will identify you as someone who does not wish to receive telemarketing calls at home. However, telemarketers may contact customers with whom they have an established business relationship; if the customer requests contact; to collect a debt; on behalf of a non-profit organization or charity if the call does not meet the definition of a "telephone solicitation" by attempting to make a sale or gather information that will lead to a sale; or if the telemarketer is a state licensee (for example insurance or real estate agent, etc.); and the call is not made by an automated device; the solicited transaction is completed with face-to-face presentation to finalize a sales transaction and make payment; and; the consumer has not previously told the licensee that the consumer does not wished to be called.

You may register for the "Do Not Call List" in three ways: online at [www.texasnocall.com](http://www.texasnocall.com), toll free at 866-TXNOCALL (866-896-6225) or write Texas No Call PO Box 313 E. Walpole, MA 02032. You may be required to pay a fee not to exceed \$5.00 to register a telephone number and the number will remain on the Do Not Call list for three years. Online registration at [www.texasnocall.com](http://www.texasnocall.com) is now free. Your registered residential telephone number(s) will remain on this list for three years. Business telephone numbers **cannot** be registered on this list.

If you are a business customer, the "Electric No Call" list has been created to prevent calls from REPs and telemarketers calling about your electric service. There is a registration charge of \$2.55 for each number placed on the "Electric No Call" list. Numbers placed on this list will remain on the list five years. Only business numbers can be added to the "Electric No Call" list. Lists will be updated and published for

telemarketers on a quarterly basis. Within 60 days of the date your number appears on a published list, you should stop receiving telemarketing calls. If you continue to receive telemarketing calls after the 60th day, contact the PUCT or the Office of the Attorney General, Consumer Protection Division, 1-800-621-0508. To sign up for either list, visit [www.texasnocall.com](http://www.texasnocall.com). For an application or to register by phone using your Visa or MasterCard, call toll-free 866-TXNOCALL(L) (866.896.6225). To request an application in writing, send your request and personal check, money order, or credit card information to TEXAS NO CALL, P.O. Box 313, E. Walpole, MA 02032.

**Privacy Rights.** Except as described below, REPs may not release your proprietary customer information to any other person without your consent. This includes your name, address, account number, type or classification of service, historical electricity usage, expected patterns of use, types of facilities used in providing service, individual contract terms and conditions, price, current charges or billing records. This prohibition does not apply to the release of your information under certain circumstances as required by law, including release to the PUCT, an agent of your REP, consumer reporting agencies, law enforcement agencies or your TDU. In addition, this prohibition does not apply to the release of prior historical usage upon request and authorization of a current customer or applicant of a premise.

**Critical Care or Chronic Condition Residential Customer.** You have a right to apply for Critical Care Residential Customer designation if you have a person permanently residing in your premise who has been diagnosed by a physician as being dependent on an electric-powered device to sustain life. If you have a person permanently residing in your premise who has been diagnosed by a physician as having a serious medical condition that requires an electric powered medical device or electric heating or cooling to prevent the impairment of a major life function through a significant deterioration or exacerbation of the condition, you may apply for designation as a Chronic Condition Residential Customer. To be considered for such designation, the PUC-approved form must be submitted by fax or other electronic means directly to the TDU by a physician. The TDU will notify you when such designation will expire and whether you will receive a renewal notice. The TDU will also notify Gexa Energy about your status. If Qualification as a critical care residential customer does not relieve you of the obligation to pay the Gexa Energy for services rendered. However, a critical care residential customer who needs payment assistance is encouraged to contact Gexa Energy immediately regarding possible deferred payment options or other assistance that may be offered.