

NOCO Electric Program Terms and Conditions

What should I know about NOCO Electric?

1. Quantities and Type of Service: Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller (each a "Party" or jointly "Parties"), the full electricity requirements for the account entered on your Enrollment Application/Contract. Sales and purchases under this Contract shall be made on a "firm" basis.
2. Term: This agreement is effective for the term as identified above and will renew automatically for successive thirty (30) day periods at the then applicable Variable Price. If you are receiving a Fixed Price your Agreement will renew for successive thirty (30) day extension periods after the term as identified above at the then applicable Variable Price. If you cancel your service prior to the expiration of your Contract term, you will be responsible for all electricity used, and other applicable charges accrued on your account until the service termination date. If you are a Fixed Price or Hybrid Price customer, you may be subject to a \$99 early termination fee. Seller shall have the right to match any bona fide competing offer at the end of any annual renewal term. Residential service classification customers shall have the right to cancel this Contract within three (3) business days after its receipt, without penalty or cancellation fee, by calling 800-662-6776.
3. Price: The price for electricity sold under this Agreement shall be: 1) a variable \$/KWH price, established by NOCO Electric based upon the market price of electricity and related market conditions, or 2) a fixed price with a specific term, or 3) a Hybrid Price with a specific term.
4. Measurement, Heating Value and Quality: The electricity delivered shall meet the tariff specifications of the receiving Utility. All warranties of quality or fitness for a particular purpose are expressly disclaimed.
5. Billings and Payments: Seller shall arrange with the Utility for the monthly invoice to Buyer. The invoice will include the Utility charges for delivering the electricity from the Delivery Point to the Buyer. Buyer agrees to pay Utility's invoice within normal Utility payment terms. Buyer will be entitled to a refund of any substantial overcharges discovered within one (1) year after billing date, if Buyer makes a claim within two (2) months of discovery. Seller will likewise be entitled to bill and be paid for any substantial undercharges discovered within one (1) year after the original billing date if the corrected billing is made within two (2) months of the discovery. By signing and returning your Enrollment Application/Contract, Buyer agrees to authorize the Utility to release Buyer's consumption and payment information to Seller.
6. Taxes: Unless Buyer's price indicates otherwise, the price does not include any federal, Indian, state, or local sales, use, consumption taxes, import taxes, or similar taxes which may now or hereafter be imposed on the transfer of title or possession of the electricity to Buyer or on Buyer's subsequent use or disposition thereof. Buyer shall pay any such taxes directly to the taxing authority unless Seller is required by law to collect and remit such taxes, in which case Buyer shall reimburse Seller for all amounts so paid. If Buyer claims exemption from any such taxes, Buyer shall provide Seller a proper exemption certificate.
7. Force Majeure: If either Party is unable to perform its obligations under this Contract due to force majeure, other than Buyer's obligation to pay for electricity delivered hereunder, performance of such obligations shall be suspended until the force majeure is corrected. The Party claiming such inability shall give written notice thereof to the other Party as soon as practicable after the occurrence of the force majeure. Force majeure shall mean acts of God, acts of war, strikes, lightning, fires, floods, explosions, storms or storm warnings, breakage of machinery or pipelines, freezing of wells or pipelines, sudden failure of electric supply, failure or curtailment of firm transportation, and any other causes not within the control of the Party claiming force majeure. Any suspension of obligations under this paragraph shall not extend the term of this Contract. During any curtailment caused by force majeure, Seller's available supplies at the affected points shall be prorated, based on nominated volumes, among Seller's firm customers receiving electricity at those points.
8. Assignment: This Contract may be assigned by Seller without the prior written consent of Buyer. This Contract may not be assigned by Buyer without prior written consent of Seller. Change of control or ownership, merger or recapitalization of either Party shall not be considered an assignment. Seller must give (30) days notice before assigning contract to another service provider.
9. Confidentiality: Both Parties shall keep the terms of this Contract confidential except as may be required to effectuate transportation of the electricity or to meet the requirements of a regulatory agency having jurisdiction over the matter for which information is sought.
10. Title and Indemnification: Seller warrants that it shall have the right to sell the electricity delivered and that such electricity shall be free from liens and adverse claims of any kind.
11. Service Complaints: If you experience service-related problems you should contact your Utility by phone. (National Grid 1-800-642-4272, NYSEG 1-800-572-1111, RG&E 1-800-743-2110).
12. Emergency: In an emergency, you should immediately call your Utility (National Grid 1-800-892-2345, NYSEG 1-800-572-1131, RG&E 1-800-743-1701) and local emergency personnel at 911.
13. Limitation of Liability and Warranty: NOCO will not be responsible for any type of special, consequential, or punitive damage whatsoever. NOCO does not give any type of warranty, express or implied, and to the full extent of the law disclaims any warranty of merchantability of fitness for a particular purpose.

14. Entire Contract, Modification: This is the complete Contract between the Parties. Seller may modify any terms that affect Buyer's price or payment terms any time by notifying Buyer of the change. In addition, Seller may modify this Contract based on changes to applicable tariffs, rules, regulations, or laws, including changes that adversely affect Seller's ability to economically operate the program. Any change to the contract other than to the open price provision, shall require the customer's affirmative consent, documented under one of the three methods specified in the Uniform Business Practices (telephonic, electronic or written). After the initial term, customers who select our Fixed Price or Hybrid Price programs will continue on the same Price or Hybrid Price program – at the same fixed price – unless market conditions prevent NOCO from retaining the original price. If NOCO is unable to maintain the original price, or if the customer requests (after the initial term), NOCO will default these customers to the Guaranteed Savings Variable Price program.

15. Law and Dispute Resolution (Residential): This Agreement shall be governed by and construed in accordance with laws of the State of New York. For Residential Customers, the services provided under this contract are protected by the State's Home Energy Fair Practices Act (HEFPA). Residential Customers may contact the Department of Public Service for issues relating to HEFPA at (800) 342-3377. The Parties shall use their best efforts to resolve any claim or dispute through good faith negotiations. Upon failure of such negotiations, Residential Buyers can seek resolution of their complaint from the New York State Public Service Commission, Office of Consumer Services.

16. Law and Dispute Resolution (Non-Residential): The Parties shall use their best efforts to resolve any claim or dispute through good faith negotiations. Upon failure of such negotiations, and within 60 days of notice to the other party of a dispute, Non-Residential Buyers may request the American Arbitration Association to appoint an arbitrator to resolve the dispute. The arbitrator shall conduct a hearing and within 30 days thereafter, unless such time is extended by agreement of the parties, shall notify the parties in writing of the decision. The arbitrator shall not have the power to amend or add to this Agreement. The decision of the arbitrator shall be confined to the issue(s) presented for arbitration. Subject to such limitation, the decision of the arbitrator shall be final and binding, except that any party may petition a court of competent jurisdiction for review of errors of law. Although the Department of Public Service (DPS) will not directly resolve disputes for Non-Residential customers receiving services provided under this agreement, it will monitor inquiries and contacts regarding energy services companies (ESCO) and may choose to revoke an ESCO's eligibility to sell electricity.

17. Contacts: Should Buyer have any questions or require additional information regarding this Contract, Buyer can contact Seller at (716) 833-6626. Buyer may also request information from the New York State Public Service Commission at (888) 697-7728 (Toll Free) or New York State Public Service Commission, Office of Consumer Services, 3 Empire State Plaza, Albany, NY 12223-1350 or www.dps.state.ny.us.