



Welcome to Bounce Energy!

PUCT REP Cert. No. 10162, Bounce Energy, Inc.

Website: www.BounceEnergy.com

Hours of Operation: 8am - 8pm (Mon-Fri); 8am - 5pm (Sat), Central Time

Mailing Address: PO Box 8387, Houston, TX 77288

Toll Free Telephone Number: 1-888-452-6862

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Email Address: CustomerCare@BounceEnergy.com

Terms of Service Agreement

(SCCTOS113011F)

for

Small Commercial Customer Fixed Rate Product

Thank you for selecting Bounce Energy as your retail electric provider (REP). This Terms of Service Agreement (TOS), together with your enrollment authorization in writing, by telephone or the internet, the Electricity Facts Label (EFL), and the Your Rights as a Customer (YRAC) disclosure, as each may hereafter be amended, set forth your contract for service with Bounce Energy (contract). As your REP, Bounce Energy will arrange for the delivery of electricity to your service address from the Transmission and Distribution Service Provider (TDSP) in your area. References to the PUCT or ERCOT shall mean the Public Utilities Commission of Texas and the Electricity Reliability Council of Texas, respectively. References to "we", "our" and "us" refer to Bounce Energy.

Service Term. Your contract term is set forth in the EFL. Your service with us will begin on the date of your first meter read following your confirmed enrollment with us and will continue for the period stated in the EFL. Thereafter, your service with us will continue on a month-to-month basis, until you select another Bounce Energy electricity product, switch to another REP, or your service is terminated or disconnected by us.

Right of Rescission. If are switching service at your existing service address, then you may rescind your contract and cancel your service with us without penalty or fee within three federal business days after you receive your contract documents by contacting us at the telephone number, facsimile number or email address set forth in this TOS. Please include your name, service address and Bounce Energy account number. This right of rescission does not apply if you are moving into a new service address.

Cancellation. If a penalty or fee for early cancellation is stated in the EFL, then you agree to pay such penalty or fee for early cancellation cancel if you cancel your contract before the end of your contract term. If you move to another premises and provide a valid forwarding address to us, then you may terminate your service without penalty or fee prior to the expiration of your contract term. We may require you to provide sufficient evidence that you have moved and no longer

occupy the premises covered by your contract. Irrespective of the termination or disconnection of your service with us or the cancellation of your contract, you will nonetheless be responsible for all charges for electricity service due through the date on which your electricity service with us ceases, as well as all other fees, charges and amounts due under your contract and/or applicable law.

Disconnection of Service. We may authorize the disconnection of your electric service, after proper notice, at any time after the disconnection date stated in the notice for any of the following reasons: (1) your failure to pay any required deposit; (2) your failure to pay any bill for electric service owed to us or to make deferred payment arrangements by the date of disconnection stated on a disconnection notice; (3) your failure to comply with the terms of a deferred payment agreement; (4) using service in a manner that interferes with the service of others; (5) the operation of nonstandard equipment; or (6) failure of a guarantor comply with the terms of an agreement to pay any guaranteed payment amount.

In addition, we may authorize the disconnection of your electric service immediately and without prior notice for any of the following reasons: (1) a dangerous condition exists at your service address; (2) there is evidence of theft of service; (3) service is connected without authority by a person who has not made application for service; (4) service is reconnected without authority after disconnection for nonpayment; or (5) there has been tampering with the equipment of the TDSP.

Pricing. The pricing for your electricity service will be as described in the EFL. For small commercial customers (non-residential customers having a peak demand of less than 50 kW during preceding 12-month period), we do not charge a demand charge other than the pass-through of all applicable demand charges from the TDSP. You agree to pay all amounts shown on your invoices, including, but not limited to, all energy charges, base fees, meter fees, demand charges, TDSP charges, and other charges, assessments, fees and taxes. You will also be responsible for payment of all non-recurring fees and charges that are charged by us and/or the TDSP, including, but not limited to, service connection, disconnection, out-of-cycle meter reads, and/or reconnection fees, for specified services provided to you. These non-recurring charges will be itemized on your bill. Your bill will also include taxes and other governmental charges applicable your service. You agree to pay the price stated in the EFL and all amounts indicated on your bill.

We may assess the following fees and charges, in addition to fees and charges stated in the EFL:

- \$25.00 for each transaction that is not processed due to insufficient funds, inaccurate payment information, or disputed authorization, by any method of payment, including, but not limited to, returned checks, returned or rejected electronic funds transfers, failed auto-payment plan transactions, or rejected credit/debit card transactions.

- Late payments, delinquent or past due balances may result in a one-time fee of 5 percent of each current month's billing that is past due.
- All collection fees and expenses associated with any and all attempts to collect amounts owed by you; provided, that a minimum fee of \$25.00 shall be charged for each bill with a past due balance that is submitted to a third party collection agency or agent.
- \$25.00 each time full payment is not made prior to the expiration date stated in any disconnection notice issued by us (Disconnect Process fee).
- Fees agreed to by you, whether at the time of enrollment or otherwise, for additional services, including but not limited to, expedited connection services, out-of-cycle meter reads, and/or other services or products.
- \$25.00 each time we process a transaction requesting that the TDSP reconnect your service (Reconnect Process fee).

We may from time to time authorize third parties to accept payments from you on our behalf at various locations (e.g., a check cashing store or bill payment center). If you elect to make a payment at one of these locations, such third party will charge you a fee not to exceed \$3.00 per payment in order to process your payment.

Your pricing for any given billing cycle will be as stated in the ELF. Pricing is determined based upon the type of product that you choose to purchase (i.e., whether you chose a fixed rate product, an indexed product, or a variable price product, under a month-to-month or term contract).

Pricing Changes. We may only change the price of a product during the contract term in accordance with its EFL and consistent with the following: (i) for fixed rate products with a term of at least three months for which the price (including recurring charges) for each billing period of the contract term is the same throughout the contract term, the price may vary from the disclosed amount solely to reflect actual changes in the TDSP charges, changes to the ERCOT or Texas Regional Entity (TRE) administrative fees charged to loads, or changes resulting from federal, state or local laws that impose new or modified fees or costs on a REP that are beyond the REP's control; and (ii) for indexed products, for which the price (including recurring charges) can vary according to a pre-defined pricing formula that is based on publicly available indices or information and is disclosed to the customer, to reflect actual changes in TDSP charges, changes to the ERCOT or TRE administrative fees charged to loads or changes resulting from federal, state or local laws or regulatory actions that impose new or modified fees or costs on a REP that are beyond the REPs control. We may change pricing for variable price products at any time, subject to the EFL, without prior notice. Price changes for fixed rate and indexed products consistent with this paragraph do not require prior notice.

Contract Changes other than Price. We may make changes to the terms or conditions of your contract (other than contract length) at any time; provided that pricing changes shall be made in accordance with the preceding paragraph. If there is a change to your contract, we will notify you in writing at least 14 calendar days before the effective date of any such change.

You will have the right to cancel your contract or service without penalty or fee prior to the effective date of such change. If you do not cancel your contract, the change will become effective on the date stated in the notice. Notice is not required for any change to your contract that benefits you.

Contract Expiration Notice. If the product you chose to purchase is a term contract (a contract with a term in excess of 31 days), a contract expiration notice will be sent to you at least 14 days prior to the end of the initial contract term set forth in the EFL. If you fail to take action to ensure that you continue to receive retail electric service from us upon the expiration of your contract, then you will continue to be served by us automatically following the end of your contract term pursuant to a default renewal product, which shall be a month-to-month product.

Billing and Payment. We will bill you on a monthly basis for products and services, as applicable, together with other charges required or permitted by law. Your bill will include charges on behalf of your TDSP for certain products and services, as applicable, provided to you by your TDSP. We have no control over, or responsibility for, the pricing, amount or quality of products or services that your TDSP provides. Bills are due and payable on the 16th day following the issue date set forth on your bill. If you do not pay your bill on or prior to the due date, you will be charged a late fee equal to 5% of that bill's past due amount. Our acceptance of a partial payment of any bill will not relieve you of your obligation to pay the full amount owed, irrespective of any statement, declaration or other writing to the contrary made by you in conjunction with such partial payment. For information on your rights regarding a dispute you may have with your bill or information on how to contact the PUCT, please see the YRAC.

You may pay your bill using any of our available payment methods (which may change from time to time). Such payment methods may include: telephone (via toll free number listed on your bill or our website) or online (via website listed herein) payment using a credit/debit card accepted by us, payment by check or money order sent to the mailing address listed on your bill or our website, or payment by cash at any pay station authorized by us to receive payments. We are not responsible for postal or other delays resulting in your payment being late. Checks or electronic fund transfers returned by a bank or otherwise rejected for any reason will constitute non-payment of your bill.

If you do not pay your bill by the stated due date, you will be sent a disconnection notice at least 10 days in advance of disconnection of your service. If you fail to pay your bill prior to the expiration date stated in the disconnection notice, then we may request disconnection of your service without further notice to you. In addition, we may use all available legal means to collect any amounts owed by you. In such event, you agree to pay reasonable collection fees and expenses (including, without limitation, reasonable attorneys' fees and costs, as well as third party collection fees and costs) associated with or in connection with any and all attempts to collect amounts owed by you.

If you do not have the ability to pay all of your bill by the due date, you may be eligible for a deferred payment plan. If you wish to obtain more information or enter into such a plan, please call us at the toll free telephone number set forth in this TOS to discuss your eligibility and/or to obtain information regarding deferred payment plans.

Level Billing. Bounce Energy offers a Levelized Payment Plan (Level Billing) that enables customers to pay a calculated amount each month based on levelized electricity usage. This program is available to all customers who are not delinquent in payment at the time of enrollment. We will bill or credit you the amount of any overbilling or underbilling, as appropriate, against your actual usage during prior Level Billing periods, at least once every twelve months and upon termination of your service. Customers with questions regarding Level Billing or wishing to enroll in Level Billing may call our toll free number listed in this TOS.

Credit and Deposits. We may require customers and applicants to establish and maintain satisfactory credit as a condition of providing service. By your applying for our service, you agree that we may review your eligibility, including requesting information from consumer credit reporting agencies and/or requesting a payment reference letter from your previous electric providers in order to verify your electric service payment history for the purpose of assessing your creditworthiness. We will not deny service based upon your credit score. You may, however, be required to provide an initial deposit as a condition to receiving service if you do not demonstrate satisfactory credit. If we agree to conditionally waive or defer your initial deposit based upon your agreement to comply and continue to comply with certain terms, then your failure to comply with such terms may result in your initial deposit becoming due and payable.

Existing customers that are late paying a bill more than once during the prior 12 months or had service terminated or disconnected for nonpayment during the prior 12 months may be required to pay an initial deposit. If you have paid a deposit, you may be required to pay an additional deposit if the average of your actual billings for the immediately preceding 12 month period is at least twice the amount of the original estimated annual billings, and you have been sent a disconnect notice within the prior 12 months.

Deposits held more than 30 days will accrue interest from the date of receipt at the annual rate established by the PUCT. Payment of the interest may be made either annually or at the time the deposit is returned or credited to your account. Your deposit will be returned or credited to your account at such time as you have made 24 consecutive monthly payments without having a late payment. After 12 months of service with us, you may request in writing that your required deposit be re-calculated based upon your actual historical usage.

Upon termination of your service, we will apply your deposit, if any, plus accrued interest, against your total outstanding balance on your final bill. We will bill you for any remaining outstanding balance after application of the deposit and interest.

If the deposit and accrued interest, as applied, exceed the outstanding balance owed, we will refund the credit balance to you. We reserve the right to include on your bills charges or credits necessary to correct or true-up any previously estimated bills, meter read errors, miscalculations of taxes, fees or other charges, billing errors, and other errors or omissions.

Taxes and Charges. You are responsible for paying all applicable federal, state and local taxes, fees, governmental charges, assessments, and other charges for which you are responsible as a purchaser of electricity, or which are imposed upon us as a retail seller of electricity, or which are imposed upon electricity sales transactions, including, without limitation, gross receipts taxes, municipal administrative fees, and generation, utility, TDSP, regulatory, BTU or electricity taxes, fees, and assessments.

Antidiscrimination. We cannot deny service or require a prepayment or deposit for service based on your 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.

Refusal of Service. We reserve the right to refuse to provide service to you for any lawful reason, including, without limitation, those reasons set forth in the PUCT rules and regulations.

Warranties. WE MAKE NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THE CONTRACT AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Limitation of Liability. OUR LIABILITY UNDER THE CONTRACT SHALL BE LIMITED SOLELY TO DIRECT DAMAGES ACTUALLY INCURRED. WE SHALL NOT BE LIABLE FOR ANY INTERRUPTION OF SERVICE OR SHORTAGE OF ELECTRICITY SUPPLY, INCLUDING, WITHOUT LIMITATION, ANY LOSS OR DAMAGE EITHER DIRECTLY OR INDIRECTLY RELATED TO DISCONNECTION OF ELECTRIC SERVICE ARRANGED BY US IN ACCORDANCE WITH THE CONTRACT OR APPLICABLE LAWS OR RULES PROMULGATED BY THE PUCT OR ERCOT, NOR ANY LOSS OR DAMAGE RESULTING FROM CAUSES OUTSIDE ITS REASONABLE CONTROL. NEITHER YOU NOR US SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING LOST PROFITS OR DATA, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF ADVISED AS TO THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES.

Force Majeure. We shall not be deemed in violation or breach of the Contract if and to the extent that any failure to

perform or interruption of your service results from any Force Majeure event, which shall include, without limitation, floods, fires, lightning, explosions, drought, earthquakes, storms, tornados, landslides, severe weather, or other acts of God, acts of any governmental authority, acts of terrorists or enemies of the state, accidents, strikes, labor issues, required maintenance, changes in laws, rules, or regulations, failure of ERCOT or any TDSP to transmit electricity or to perform any of their respective obligations, or the failure of any of our suppliers, vendors and/or other third parties, and other events, forces, and/or circumstances beyond our reasonable control. We shall not be liable for any losses or damages arising in connection with any force majeure event.

Disclaimer. We do not generate, transmit, or distribute your electricity and, accordingly, cannot guarantee that your electricity service will be continuous or uninterrupted. YOU AGREE THAT WE WILL NOT BE RESPONSIBLE OR LIABLE TO YOU OR ANY OTHER PARTY FOR ANY INTERRUPTIONS OR IRREGULARITIES IN YOUR ELECTRIC SERVICE.

Change in Law. If we incur new or modified fees, performance costs, supply costs, or other charges (including, without limitation, changes to TDSP delivery charges, or ERCOT ancillary services or other charges), as a result of a change in laws, rules, regulations or guidelines (including, without limitation, those promulgated by the PUCT, ERCOT, or other governmental or regulatory body), then we may reasonably allocate and bill you for any such incremental fees, costs or other charges as an authorized adjustment to the price without prior notice.

Assignment. You may not assign your Contract without our prior written consent. We may assign or transfer the Contract without your consent. Without limiting the generality of the foregoing, we may, without limitation: (i) transfer, sell, pledge, encumber, secure, or collaterally assign the Contract and/or any accounts, revenues or proceeds thereunder in connection with any financing transaction, financial arrangement, or other transaction; (ii) assign or transfer your contract to any entity succeeding to all or substantially all of our business or assets; and/or (iii) transfer or assign your contract to a certified REP or an affiliated entity.

No Waiver. Any failure by us to enforce any term or condition of your service or otherwise exercise any right it may have under your contract shall not be deemed a waiver of any rights to thereafter enforce any or all terms or conditions of your service or to exercise rights under your contract.

This Agreement is governed by, construed, enforced, and performed in accordance with the laws of the state of Texas (without giving effect to any conflicts of laws principles). The Texas Uniform Commercial Code applies to this Agreement and electricity is deemed a “good” thereunder. The text of the Texas Uniform Commercial Code is available at the following website address: www.statutes.legis.state.tx.us.

If your annual peak demand at any time during the preceding 12-month period equals or exceeds 50 kW or 50 kVA, then to the extent allowed by applicable law, you understand and agree that the Customer Protection Rules (PUCT Substantive Rules §25.471, et seq.) do not apply. The PUCT Substantive Rules may be found in Subsection R at the following website: www.puc.state.tx.us/rules/subrules/electric/index.cfm.

IMPORTANT NOTICE: