

**Terms of Service Agreement  
PENSTAR POWER, L.L.C. (REP No. 10087)  
Texas Pay As You Go Residential Customers**

**WELCOME TO PENSTAR POWER L.L.C.!**

Thank you for choosing PENSTAR POWER as your Retail Electric Provider (“REP”)! We recognize you have a choice, and we appreciate your trusting us to meet your needs as a pay as you go provider. This document explains the terms and conditions of your agreement to purchase electricity from PENSTAR POWER (the “Agreement”). If you would like to receive this information in Spanish, please call us at **(800) 427-HOME**. This and our Electricity Facts Label are available on our website for your review at [www.penstarpower.com](http://www.penstarpower.com).

*Usted puede obtener el mismo documento impreso detallando los Terminos de Servicio en español comunicandose con nosotros al **(800) 427-HOME**.*

**Please keep this Agreement for your future reference.**

**Obtaining and Canceling Service**

**How do I start service?** PENSTAR POWER offers you PAY-AS-YOU-GO billing. You can call 1-800-427-HOME or visit our website [www.penstarpower.com](http://www.penstarpower.com) to start service. We will provide you with electricity service after we receive your payment calculated on our estimate of your energy requirements. This payment will cover an initial 30 days of service. PENSTAR POWER does not deny service on the basis of your credit score.

**If a Deposit is Required:**

An initial deposit may be required to continue to receive electricity service. If you are an existing Customer and you have been late paying an invoice more than once during the last 12 months of service or your service has been disconnected for non-payment, a deposit may be required. You may be required to provide an additional deposit to continue to receive electricity service if your average annual electric service invoice for the last 12 month is at least twice the amount of the original estimated annual invoice and a notice for termination or disconnection has been issued in the previous 12 months. If a deposit is required, the total of your deposit will not exceed an amount equivalent to the greater of either the sum of the next two months estimated billings, or one-fifth of the estimated annual billing.

As an alternative to paying the required cash deposit, you may provide a Guarantee Agreement signed by an active PENSTAR POWER customer that has satisfactory credit standing. You also may not be required to pay a deposit if you submit a credit reference letter from your previous electric service provider confirming your positive payment record for a period of 12 consecutive months during the past two years, if you have a satisfactory credit rating through a consumer reporting agency, if you are at least 65 years of age and you do not have a current delinquent balance with your current REP, if you are medically indigent or if you have been a victim of family violence and can provide a certification letter by the Texas Council on Family Violence. Customers who qualified for the low income discount (LITE-UP Texas) are allowed to pay any required deposit in two equal installments. Please contact us for additional information if you believe you may be eligible for one or more of these options.

Interest will accrue on cash deposits retained for longer than 30 days. Interest will be paid at an annual rate at least equal to that set by the Public Utility Commission in December of the preceding year.

If you establish satisfactory credit with us by making timely payments for 12 consecutive months, then we will apply the deposit plus accrued interest to your account or cancel the Guarantee Agreement. If you do not establish satisfactory credit with us during the time you receive service from us, then we will apply the deposit plus accrued interest against any outstanding balance on your final bill or transfer the outstanding balance to the Guarantor’s account for payment in accordance with the Guarantee Agreement. Any remaining balance not applied to an outstanding balance will be refunded to you.

### **We Don't Discriminate**

We do not deny service or require deposit or prepayment for service based on applicant's race, creed, color, national origin, ancestry, religion, 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. Penstar Power does not use a credit score, credit history, or utility payment data as the basis for determining the price for electric service for a product with a contract term of 12 months or less for an existing residential customer or in response to an applicant's request to become a residential customer.

### **Right of Rescission**

If you are switching to Penstar Power from another REP, you have the right to rescind your switch request without fees or penalties of any kind by contacting us before midnight of the 3<sup>rd</sup> federal business (includes Saturdays) after the date your first received your TOS. You may rescind this switch by calling 1-800-427-HOME (toll free), faxing (877) 568-0524 (toll free), or email to [info@penstarpower.com](mailto:info@penstarpower.com). Please provide your name, address, phone number, ESI ID or account number, and a statement that you are rescinding your switch request under the 3 day right of rescission period.

### **Disconnection of Service**

We may disconnect your electric service if you do not pay your deposit or invoice in full by the designated due date. We will provide you with at least 10 calendar day's prior written notice of our intent to disconnect your electric service. We may disconnect service as early as the first day after the date stated on the disconnection notice. It is vitally important that you make timely payments; if service is disconnected it could take 24-48 hours to reconnect your electrical service if you choose to continue service with PENSTAR POWER.

Disconnection of your electric service does not excuse your obligation to pay all outstanding invoices.

PENSTAR POWER provides service on a pay as you go basis; if PENSTAR POWER does not receive payment after services have been disconnected for 10 days we will assume you no longer wish to continue service with us and will issue a move out request.

### **Making Payments**

You can avoid the delay of sending a payment through the mail by making a payment at any MoneyGram or ACE Cash Express location for an additional fee. PENSTAR POWER also accepts credit and debit cards. For a small fee these payments may be made through our automated phone service or you may pay online using your PENSTAR POWER account. Upon confirmation of your payment we will immediately send your Transmission Distribution Service Provider ("TDSP") the necessary request to initiate service. In most cases service can be provided in as little as 3 to 5 business days following receipt of payment. You may be required to prepay for an activation fee and any additional charges imposed by your TDSP to implement your electricity service which may include but are not limited to; a service connection fee, reconnection fee, meter test fee, an out-of-cycle or similar special meter read fee or priority fees if any of these services are performed on an expedited basis. For details on the current cost of your TDSP's services see the rates posted at <http://www.puc.state.tx.us/electric/rates.TDR.cfm>. By providing one of the following account access verification data: last four digits of the social security number, mother's maiden name, city or town of birth, month and date of birth, driver's license or government issued identification number to one of our authorized agents you authorize PENSTAR POWER to become your retail electric provider under the terms and conditions contained within this agreement.

**Do you perform a credit check? No credit check is required to initiate service!**

### **How long does this Agreement last and what is your option to renew this Agreement?**

PENSTAR POWER offers a PAY-AS-YOU-GO billing plan. When you sign up for service with PENSTAR POWER you are agreeing to pay for service on a pay as you go basis. After paying for the first thirty days of service you will receive a monthly bill that will be due and payable 16 calendar days from the date shown on the bill. We may issue less frequently or send your bills electronically if you agree to accept

these alternate arrangements. If you do not pay your bill by the due date, we may charge you a late fee of 5% on the amount for the previous month's past due electric service. If you receive a disconnection notice we may also charge you a Disconnect/Reconnect charge if you do not make payment before the date your service is subject to disconnection. If you choose to extend your service with PENSTAR POWER you may pay the amount due or enter into a payment arrangement or a deferred payment plan by making the required minimum payments. The usage included in this notice will be estimated as described in PUC Substantive Rule 25.479 (e) [www.puc.state.tx.us/rules/subrules/electric](http://www.puc.state.tx.us/rules/subrules/electric). The estimated usage is based on previous usage history at the address, where you live, the size of your home, and the season of the year, among other factors.

**Is there an early termination fee to discontinue service?** Once you are receiving power with Penstar Power, there are no cancellation fees.

**When can PENSTAR POWER cancel this service?** You are signing up for our PAY-AS-YOU-GO billing plan. PENSTAR POWER will disconnect your service for non payment if we do not receive payment by the due by date or you do not enter into a payment arrangement. After service has been disconnected for non payment and additional payments are not made, we will assume you no longer require PENSTAR POWER as your retail electric provider and your service will be terminated. This service will be cancelled automatically if we terminate your service for non-payment. There are circumstances under which PENSTAR POWER is permitted to cancel the service immediately and without prior written notice to you; a known dangerous condition exists, service is connected without authority by a person who has not applied for service, service is reconnected without authority after disconnection for non-payment, there has been an attempt to bypass the meter or tamper with other TDSP equipment or there is evidence of theft of service.

**What happens when one of us cancels this service?** If we cancel this service due to non-payment of charges owed, your service will be disconnected. Cancellation by you or PENSTAR POWER does not excuse your obligation to pay PENSTAR POWER all outstanding fees and charges under this Terms of Service.

**Will you tell me if you change this Agreement?** Services are provided on a PAY-AS-YOU-GO billing. Rates may vary and change without prior notice. PENSTAR POWER reserves the right to make others non-pricing related changes to this agreement at any other time, as necessary. If these are material changes, you will receive at least 14 days advance notification before these changes take effect. This notification may be delivered either in a separate mailing or at PENSTAR POWER'S option may be included in your monthly bill. You are allowed to terminate service, without penalty, if you reject the proposed changes.

**How do I contact you?** If you have questions or want to exercise your rights under this Terms of Service, please contact us using one of the following methods:

**Mailing address:** P.O. Box 720997, Dallas, Texas 75372

**Toll-Free Customer Service Telephone Number:** (800) 427-HOME

**Customer Complaint Line:** (866) 254-5632

**Hours/Days of Operation** 7:00 am - 7:00 pm, Central Time, Monday-Friday and Saturday 9 am-2 pm.

**Fax Number:** (877) 568-0524

**Website:** [www.penstarpower.com](http://www.penstarpower.com)

**What will I be charged for my electricity service?** PENSTAR POWER's PAY-AS-YOU-GO billing plan is a Variable Price Product. As such, the prices charged may vary or change without notice. You will be billed a monthly base charge of \$19.99. We will also charge you for the electricity provided on a per kilowatt hour ("kWh") basis. Our rates for service are variable but will be no greater than the amount charged by the Provider of Last Resort (the "POLR"). The POLR rate changes from time to time.

Consequently, the rate you are charged to purchase electricity from PENSTAR POWER may vary with such changes in the POLR rate.

This rate is also subject to change for reasons including, but not limited to, a change in the TDSP charges or a change in the cost of fuel used to produce energy during the term of this Agreement. If our rate changes we will post a new Electricity Facts Label with the applicable rate for your TDSP region for that month. The rate is also available by calling us at our customer service number and will be provided in your monthly bill. True up of estimated charges with actual usage will be done within three months from enrollment and monthly thereafter as long as actual usage reads are received from the TDSP.

When you enroll, we will calculate an estimate of your charges for electricity service, fees, and non-recurring charges. Where you live, the size of your home, previous usage history at the service address, and the season of the year, among other factors, will be used to calculate our estimate. That estimate will be used to set your monthly payment amount, and this estimate may change based on seasonal differences or changes in other factors. We will receive your actual monthly usage from the TDSP and will compare your actual charges to our estimate. If your usage is less than the estimated billed amount you will be given a true up credit. If the estimated billed amount exceeds the previously billed amount you will be billed a true-up charge. These charges will be due immediately. You can enter into a payment arrangement or a deferred payment plan for these unbilled charges. We may change your monthly payment if your actual usage, fees, and non-recurring charges differ from our estimate for any given month.

A deferred payment plan is an agreement between the REP and customer that allows a customer to pay an outstanding bill in installments that extend beyond the due date of the current bill. A payment plan is any agreement between the REP and a customer to pay the outstanding bill after its due date, but before the due date of the next bill. The terms of the deferred payment plans and payment arrangements are described in PUC Substantive Rule 25.480 (i) and (j). These rules can be found at the Public Utility Commission of Texas website at: <http://www.puc.state.tx.us/rules/subrules/electric/index.cfm>.

At the time of your termination we will reconcile the actual amount of electricity you used during the period based on the information that has been provided to us by the TDSP. If your charges for the period were more than the estimated bills you paid, we will add the difference to your bill. If your charges for the period were less than our estimate, we will credit your bill by the amount of your overpayment. We will also reconcile your account at the time this Agreement is cancelled and whenever your service is terminated or disconnected. Due to the time it takes to receive information from the TDSP and when you are billed, it may take up to ninety (90) days for us to reconcile your account.

**What other charges may be applied to my Account?** We may charge you fees for certain services we provide on your behalf or in connection with your account. Such fees may include:

Description	Fee
Monthly Customer Charge	\$19.99
Reconnection Fee	\$22.49
Disconnection Fee	\$10.49
Late Fee	5% of the unpaid amount <sup>2</sup>

- 1 After your first request for copies of your billing records in any calendar year, you may be assessed a fee of ten dollars (\$10.00) per bill period requested.
- 2 If your bill is delinquent a one time penalty not to exceed 5% will be added.

We will also bill you on behalf of your TDSP for the goods and/or services it provides to you. These goods and services may include, but are not limited to: non-recurring TDSP charges for initiation of service; connection fees; meter test fees; special meter read fees; disconnect fees; reconnect fees; and, such other fees or charges lawfully imposed by your TDSP. TDSP fees may be found in the appropriate

TDSP tariff on file with the Public Utility Commission of Texas. These can be viewed online at <http://www.puc.state.tx.us/electric/rates/TDR/cfm>.

Acceptance by us of any partial payment from you will not relieve you of your obligation to pay the full amount owed. We reserve the right to include any charges or credits necessary to correct any billing errors (past or current) on your monthly bills. We reserve the right to pursue all legal methods to collect any amounts lawfully owed. In the event that you fail to pay your bill in accordance with this Term of Service Agreement, you agree to pay reasonable collection costs and expenses (including attorney's fees) we incur as a result of our attempt to collect any amounts you owe. We will make reasonable efforts to return any unclaimed credit if a credit balance exists on your account after payment of your final invoice from us.

#### **What if I have a dispute?**

If you have any questions or a dispute regarding the charges on your invoice or payments with respect to your account, please call us at (800) 427-HOME. If we are unable to respond to your question or dispute, we will investigate the matter promptly and report our findings to you. You will be required to pay the undisputed portion of your charges while we investigate. If you are not satisfied with our response you may contact the Public Utility Commission of Texas ("PUC") or the Office of the Attorney General, Consumer Protection Division. For more information on your rights in the event you have a dispute with your invoice or information on how to contact the Public Utility Commission of Texas, please see the "Your Rights as a Customer" document accompanying this Agreement.

**What forms of payment do you accept?** You may pay your invoice by money order or other certified funds (e.g. cashier's check). We will also accept payment through certain third-party payment service providers that we have identified as accepting payments on our behalf either in this Agreement or on our website (a "Convenience Payment"). The list of third parties accepting payments on our behalf may be changed from time-to-time by posting notice on our website and will be effective immediately. A transaction fee in addition to your payment amount will be collected by the third-party provider(s). PENSTAR POWER also accepts credit and debit cards for a small fee. Payment by any method other than one of the authorized payment methods in this paragraph will be returned and will not prevent any cancellation, termination, or disconnection of your account.

#### **How will I be billed and what do I need to do if I have a problem with my bill?**

All invoices, terms of service and our electricity facts label will be mailed for your review. For questions regarding your invoices or the other documents please call our customer service department at 1-800-427-HOME. For your convenience these will also be available for your review electronically on our website.

#### **Will I be charged for taxes on your services?**

You agree to pay all applicable Taxes and any fees charged by any governmental entity. These taxes and charges will be identified on your invoice.

#### **Other Billing Options**

PENSTAR POWER offers a budget billing program designed to even out the highs and lows in your electric bill to customers who are not currently delinquent in payment. This option allows for level bills for electric service costs based on projected annual usage. The program sets your monthly bill amount by averaging your most recent twelve-month billing history (or if you do not have twelve months' history, it is set by using your available billing history or estimated usage). Your monthly bill amount will remain the same for each season based on average seasonal usage calculation. Your account may be adjusted periodically and your bill amount recalculated based on your most recent twelve month billing history. An annual reconciliation will be made based on any difference between the total amount owed for actual usage and the payments received.

**Can you turn my power off?** Effective June 1, 2004, Retail Electric Providers may now request to disconnect your electric service; meaning that the flow of power to your home may be interrupted. We have the right to authorize the disconnection of your electric service upon at least 10 days prior written

notice if (i) you fail to pay your invoice or to make deferred payment arrangements on or before the date of disconnection stated on the disconnect notice that will be sent after your invoice becomes past due; or, (ii) you interfere with your electric service meter or other utility distribution systems or subsystems or the electric service meter or other utility distribution systems or subsystems of others or operate non-standard equipment.

In order to prevent disconnection, you must pay the entire amount stated in the disconnect notice by one of the approved payment methods set forth above in this Agreement. We may also authorize disconnection of your service without prior written notice as provided by Section 25.483(d) [www.puc.state.tx.us/rules/subrules/electric](http://www.puc.state.tx.us/rules/subrules/electric) of the rules and regulations of the Public Utility Commission of Texas including (i) where a known dangerous condition exists; (ii) where service is connected without authority; (iii) where service is reconnected without authority after being disconnected; (iv) for tampering with the TDSP's equipment; or (v) if there is evidence of theft of service. This Agreement will be automatically cancelled if you are disconnected for non-payment. To reestablish service with PENSTAR POWER, you will be required to reapply for service and formally choose PENSTAR POWER as your REP. Disconnection of your service does not relieve you of your responsibility for charges incurred in connection with this Agreement.

If you need assistance paying your bill or are ill and unable to make a payment, you may be able to make alternate payment arrangements, establish a deferred payment plan or possibly secure payment assistance. Please contact PENSTAR POWER for more information.

#### **Who should I contact in the event of a power-outage?**

**FOR OUTAGES AND EMERGENCIES 24 HOURS, 7 DAYS A WEEK, contact the TDSP in your service area:**

<b>CenterPoint</b>	<b>800-332-7143</b>	<b>HOUSTON AND SURROUNDING AREAS</b>
<b>TNMP</b>	<b>888-866-7456</b>	<b>WEST TEXAS &amp; EL PASO</b>
<b>AEP</b>	<b>866-223-8508</b>	
<b>Sharyland</b>	<b>956-668-9551</b>	
<b>Oncor</b>	<b>888-313-4747</b>	<b>DALLAS AND SURROUNDING AREAS</b>

#### **Where can I find all the PUCT rules you reference in this document?**

All the rules mentioned in this document can be found at the Public Utility Commission of Texas website at: <http://www.puc.state.tx.us/rules/subrules/electric/index.cfm>.

**WARRANTIES. PENSTAR POWER MAKES NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

**LIMITATION OF LIABILITY. OUR LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO DIRECT DAMAGES ACTUALLY INCURRED. WE SHALL NOT BE LIABLE FOR INTERRUPTION OR SHORTAGE OF SUPPLY, NOR ANY ASSOCIATED LOSS OR DAMAGE, RESULTING FROM CAUSES OUTSIDE OUR REASONABLE CONTROL. NEITHER YOU NOR US SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND WHATSOEVER, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE.**

**Force Majeure** We will not be in breach of our obligations under this Agreement to the extent that our failure to perform is caused by forces or circumstances beyond our reasonable control. Such forces or circumstances include, but are not limited to, unusually severe weather, flood, fire, lightning, drought, earthquake, failure of the Electric Reliability Council of Texas (ERCOT) or TDSP to transmit electricity or perform any of their obligations, or failure of performance of any of our suppliers, vendors or other third parties.

**Miscellaneous** By initiating service with PENSTAR POWER you certify that you are a resident of the service address, at least 18 years of age, and that you are legally authorized to select the Retail Electric Provider for the service address. If different from the service address, the billing address is the address you provided at sign-up. You may not assign this Agreement without our prior written consent. There are no third-party beneficiaries to this Agreement.

This Agreement will be governed and construed in accordance with the laws of the State of Texas. The terms and conditions set forth the final and entire Agreement between you and us regarding your purchase of electricity service (subject to applicable law), and supersede all previous promises, understandings and agreements. The headings in this Agreement are for convenience only. If any provision of this Agreement is deemed to be invalid, illegal or otherwise unenforceable, you and we agree that it shall be modified to the minimum extent necessary to render it valid, legal and enforceable. If any such provision cannot be modified in such a manner, that would make it valid, legal and enforceable, such provision shall be severed from this Agreement, and all other provisions hereof shall remain in full force and effect. Any failure on our part at any time to enforce any term or condition of our service or to exercise any right under this Agreement shall not be considered a waiver of our right thereafter to enforce each and every such term and condition or to exercise such right or any other right under this Agreement.