

Electricity Supplier - Billing Services Agreement

THIS BILLING SERVICES AGREEMENT (“Agreement”) is made as of the _____ day of _____, 20____, (“Effective Date”) by and between BALTIMORE GAS AND ELECTRIC COMPANY (“BGE”) and _____ (“Supplier”) (collectively referred to as “Parties”).

Whereas, Supplier requests that BGE provide billing, receipt and remittance services to Supplier in connection with the Electric Commodity Service that Supplier is providing to customers on BGE’s electric distribution system; and

Whereas, BGE is interested in providing such services to Supplier; and

Whereas, the Maryland Public Service Commission has implemented regulations that provide for the utility’s purchase of the accounts receivables of licensed electric retail suppliers; and

Whereas, BGE and Supplier desire to enter into this Agreement whereby BGE agrees to bill Supplier’s electric commodity to customers, and Supplier agrees to sell to BGE, and BGE agrees to purchase at a discount, all accounts receivable on BGE’s consolidated bill (“Purchased Receivables”) in accordance with the terms and conditions of BGE’s Electricity Supplier Coordination Tariff.

Therefore, the Parties intending to be legally bound, do hereby agree as follows:

1. Applicable Tariff.
 - A. All of the terms and conditions of the BGE Electricity Supplier Coordination Tariff, as amended from time to time, are fully incorporated into this Agreement. Parties will be bound by the currently effective Electricity Supplier Coordination Tariff throughout the term of this Agreement. The purchase amount of the Purchased Receivables will be at

the discount reflected in the currently effective Electricity Supplier Coordination Tariff.

- B. Amendments or modifications to the Electricity Supplier Coordination Tariff shall be effective with respect to service pursuant to this Agreement on the date specified by the Maryland Public Service Commission.
- C. In the event of a conflict between this Agreement and the Electricity Supplier Coordination Tariff, the Electricity Supplier Coordination Tariff will control.

2. Billing Service.

- A. BGE will provide billing, receipt and remittance services (“Billing Services”) to Supplier.
- B. Billing Fee. BGE will charge, and Supplier agrees to pay for the Billing Services, a fee listed in Schedule 1 of the Electricity Supplier Coordination Tariff. BGE will invoice Supplier monthly for the Billing Services, and payment will be made in accordance with the terms of the invoice. If Supplier becomes more than 90 days past due in payments to BGE for Billing Services, BGE may, at its sole option terminate this Agreement and immediately cease providing the Billing Services to Supplier, in which event, the sale and purchase of the Purchased Receivables shall likewise terminate.

3. Representations and Warranties

- A. No Encumbrances. Supplier warrants to BGE that the Purchased Receivables are unencumbered and not subject to a security interest or lien held by a third party and Supplier shall demonstrate this upon request.

Supplier further warrants that it will not allow any interest or permit any third party to assert a claim of any type on those Purchased Receivables or any new Purchased Receivables during the term of this Agreement. Supplier warrants that it has the rights in, or the power to, transfer the Purchased Receivables to BGE. Supplier warrants that its title to the Purchased Receivables are free of all adverse claims, liens, security interest and restrictions on transfer or pledge and are not and will not be subject to any other valid or existing billing, collection, or financing instrument, and have not been billed and will not be collected by or for the benefit of any other party except BGE. Supplier warrants that the Purchased Receivables are and will remain free from any and all liens, claims, encumbrances, security interests and restrictions on transfer or pledge, and that no Purchased Receivables will be assigned, financed, sold, pledged, hypothecated, or otherwise encumbered, except to BGE.

- B. Title. Title to Supplier's Purchased Receivables shall pass to BGE as of the date customer bills are generated. Supplier shall have no rights in or to the Purchased Receivables and shall not seek to collect in any manner such amounts from Customers or pledge or attempt to encumber such amounts as security. BGE will have the exclusive ability to file a claim in bankruptcy court on the Purchased Receivables. Supplier hereby grants a security interest in the Purchased Receivables and BGE may in its discretion perfect a security interest in such Purchased Receivables to the extent necessary in order to give effect to this Agreement.

- C. Supplier represents that the Purchased Receivables reflect charges that are accurate to the best of its knowledge and limited exclusively to charges for Supplier's electric commodity service or other authorized charges as provided under the Electric Supplier Coordination Tariff or Commission regulations, orders or directives.
- D. Supplier represents that the Purchased Receivables are not aged and reflect current charges for commodity-related service provided within the month. Receivables purchased from July 15, 2010 through the effective date of this Agreement are excluded from Section 3.D.
4. Indemnification. Supplier shall indemnify and hold harmless BGE, its directors, officers, employees, and agents from all claims, liability, losses, and costs (including without limitation reasonable attorneys' fees) (together "Indemnified Amounts") that may be asserted against or incurred by BGE in connection with Supplier's failure to perform in accordance with the terms of this Agreement, unless the Indemnified Amounts are found by a court of competent jurisdiction to be the result of BGE's gross negligence or willful misconduct. In no event shall either party hereto be liable for special, indirect, punitive or consequential damages including without limitation the loss of profits or revenue, whether based on contract or tort (including negligence) strict liability or otherwise and whether or not either or both Parties were advised of the possibility or likelihood of occurrence.

5. Notices. All notices and other communications hereunder shall be in writing, personally delivered or sent by facsimile or certified mail, return receipt requested, addressed to the other party at its respective address stated below the signature of such party or at such other address as such party shall from time to time designate in writing to the other party and shall be effective from the date of receipt.
6. Governing Law. This Agreement and the rights and obligations of the parties hereunder shall in all respects be governed by, and construed in accordance with, the laws of the State of Maryland (without regard to the conflict of law principles of such state), including all matters of construction, validity and performance.
7. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and shall not be amended or altered in any manner except by a document in writing executed by both parties.
8. Titles. Section titles are for convenience of reference only and shall not be of any legal effect.
9. Waiver of Jury Trial. SUPPLIER AND BGE HEREBY UNCONDITIONALLY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL FOR ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF, DIRECTLY OR INDIRECTLY, THIS AGREEMENT, ANY DEALINGS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER HEREOF, AND/OR THE RELATIONSHIP THAT IS BEING ESTABLISHED BETWEEN THE PARTIES PURSUANT HERETO. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL

DISPUTES IN ANY COURT (INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS). THIS WAIVER IS IRREVOCABLE. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

10. Term and Termination. This Agreement shall become effective as of the Effective Date and shall remain in effect as long as the Supplier uses the consolidated billing services through BGE and the Supplier adheres to the Electricity Supplier Coordination Tariff.
11. Assignment. Obligations under this Agreement may not be assigned or transferred to any other person, firm or entity without the prior written consent of both parties, which consent may be withheld in the sole and absolute discretion of both parties. A merger, acquisition, or consolidation involving BGE or Supplier will not require prior written consent of BGE or Supplier, as applicable. This Agreement shall be binding on, and shall inure to the benefit of, the parties to it and their respective heirs, legal representatives, successors and permitted assigns.
12. Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which, when so executed and delivered, shall be an original, but all such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Billing Services Agreement to be executed, under seal, as of the day and year first above written.

Baltimore Gas and Electric Company

Supplier Name: _____

By: _____

Print Name:

Title:

By: _____

Print Name:

Title:

Electric Choice Programs
110 West Fayette Street
Baltimore, MD 21201

[Address]

Email: electric.supplier.relations@bge.com

Email: _____

Date: _____

Date: _____