



## SmartEnergy – Pennsylvania Disclosure Statement for Residential and Small Commercial Customers

1. **Agreement to Purchase Electricity.** **SmartEnergy Holdings, LLC (“SmartEnergy”)**, [www.smartenergy.com](http://www.smartenergy.com), is an **Electric Generation Supplier**, licensed by the **Pennsylvania Public Utility Commission (“PUC”)** to offer and supply electric generation services to residential and small commercial customers in the Commonwealth of Pennsylvania. **SmartEnergy’s PUC license number is A-2014-2416214.** Subject to acceptance by **SmartEnergy** and your **Electric Distribution Company (“EDC”)**, you agree to purchase, and **SmartEnergy** agrees to supply, all of your electricity, as delivered to you by your **EDC** under the terms and conditions set forth in this document (the “Disclosure Statement”). **SmartEnergy** will be supplying the generation portion of your electricity, and your **EDC** will continue to provide the distribution services. Generation prices and charges are set by **SmartEnergy**, the electric generation supplier you have chosen. The **Public Utility Commission** regulates distribution prices and services. The **Federal Energy Regulatory Commission** regulates transmission prices and services. As used herein, the words “we”, “us” and “our” refer to **SmartEnergy**, and the words “you” and “your” refer to the **Customer**.

Other defined terms:

- **Generation Charge:** The charge for producing electricity. Generation service is competitively priced and is not regulated by the **Public Utility Commission**. If you purchase electricity from an electric supplier, your generation charge will depend on the contract between you and your supplier.
- **Transmission Charge:** The cost for transporting electricity from the generation source to your electric distribution company. For most electric customers who select a new supplier, transmission costs will be included in the charges from your new supplier. The **Federal Energy**

**Regulatory Commission** regulates retail transmission prices and services. This charge will vary with your source of supply.

2. **Agreement and Duration.** The Disclosure Statement, Enrollment Form, Internet Enrollment Form, Telephone Verification Recording, Contract Summary and Welcome Letter shall be referred to collectively as the “Agreement”. The Contract Summary specifies the product type (fixed rate or variable rate) and the duration that applies to your Agreement with **SmartEnergy**. Only applicable sections that describe your specific product type will apply to your Agreement. The duration of this Agreement will begin on a date set by your **EDC** which may be the first meter read after the **EDC** completes your enrollment with **SmartEnergy** and will continue for the duration as set forth at the time of enrollment and confirmed in the Contract Summary under “Contract Duration/Length” unless canceled by you or **SmartEnergy** in accordance with the terms of this Agreement.

3. **Expiration/Change in Terms.**

a. If you enrolled in a fixed-rate plan, your Agreement will continue for the duration as set forth at the time of enrollment and confirmed in the Welcome Letter or the Contract Summary unless terminated by you or **SmartEnergy** in accordance with the terms of this Agreement. If you have a fixed duration contract approaching the expiration date, or whenever **SmartEnergy** proposes to change the contract, you will receive two separate written notifications, the first approximately 45-60 days in advance (Expiration Notice), and the second 30 days in advance of either the expiration date or the effective date of the proposed changes (Options Notice). These notifications will explain your options going forward.

b. If you enrolled in a variable-rate plan, your Agreement will continue on a month-to-month basis, unless cancelled by you or **SmartEnergy** in accordance with the terms of this Agreement. Whenever **SmartEnergy** proposes to change the terms of service, you will receive two separate written notifications, the first approximately 45-60 days in advance, and the second 30 days in advance of the effective date of the proposed changes. These notifications will explain your options going forward.

4. **Right of Rescission.** You may rescind this Agreement at any time before midnight of the third business day after receiving this Disclosure Statement. To rescind, you may contact **SmartEnergy** by writing to **SmartEnergy Holdings, LLC**, 74 W Broad Street, Suite 530, Bethlehem, PA 18018, or by telephone at 1-800-443-4440 (toll-free) Monday through Friday from 8:00 a.m. to 7:00 p.m. E.T., and Saturday from 9:00 a.m. to 6:00 p.m. E.T., or by email to [customer.care@smartenergy.com](mailto:customer.care@smartenergy.com). An Agreement for electric generation services shall not be legally binding until the rescission period has expired, and you have not, directly or indirectly, rescinded your selection of **SmartEnergy**.

5. **Cancellation Provisions.** Both you and **SmartEnergy** may cancel this Agreement in accordance with the terms provided below.

a. Relocation. You are required to provide notice to **SmartEnergy** if you relocate. If you relocate, a final reading will be made at your old address, and your account with both the **EDC** and **SmartEnergy** will be cancelled. If you relocate within your **EDC**'s service territory, you may be able to enter into a new electricity supply agreement with **SmartEnergy** if the service is not automatically transferred.

b. Cancellation by Customer. Unless otherwise specified in your Contract Summary, you may cancel this Agreement at any time, for any reason, without fees or penalties. If you enrolled under a fixed rate plan with an early termination fee and you cancel this Agreement for any reason prior to the Options Notice date of the initial contract duration for any reason, except as expressly provided herein, you will be charged an early cancellation fee in accordance with the terms of Section 11 (Penalties, Fees and Exceptions) of the Agreement. You will not be subject to the early cancellation fee if the contract is terminated within thirty (30) calendar days between the date the options notice is issued and the expiration of the fixed duration contract. To cancel, you may contact **SmartEnergy** by mail, telephone, or electronically at the contact information provided above.

c. Cancellation of Service by **SmartEnergy**. **SmartEnergy** may cancel this Agreement for an Event of Default (as defined in Section 10 below) by you,

provided that **SmartEnergy** provides you with at least thirty (30) days' advance written Notice for you to cure the Event of Default before the cancellation is effective. If **SmartEnergy** terminates this Agreement as a result of non-payment or any breach thereof, as described in Section 10, you will be charged a cancellation fee in accordance with the terms of Section 11 (Penalties, Fees and Exceptions) of the Agreement. In addition, in the event of a change in applicable law or regulation that prevents or prohibits **SmartEnergy** from performing under the terms of this Agreement, or for any other reason, **SmartEnergy** reserves the right to cancel this Agreement by following the applicable rules in providing Notice to you.

d. Effect of Cancellation. If you cancel this Agreement, you agree to pay for the electricity supplied by **SmartEnergy** through the date that another company begins to supply electricity to you. You are responsible for all charges incurred through the date that makes your cancellation effective, any fees incurred by **SmartEnergy** in collecting any unpaid amounts due and applicable early termination fees.

6. **Pricing.** You have enrolled either in a fixed-rate plan or a variable-rate plan as set forth at the time of enrollment and confirmed in the Welcome Letter or the Contract Summary. Fixed rates and variable rates, if applicable, will be determined as follows:

a. Fixed Rate. If you enrolled in a fixed-rate plan, the fixed rate per kilowatt-hour ("kWh") will be as indicated in the Welcome Letter or the Contract Summary. The fixed rate will be multiplied by the amount of electricity you use in the billing cycle to determine the generation portion of your bill. This price includes Transmission Charges (if applicable) and estimated Total State Taxes, including the Gross Receipts Tax, but excludes applicable state and local Sales Tax.

b. Variable Rate. If you enrolled in a variable rate plan, the variable rate per kWh for the first month will be as indicated in the Welcome Letter or the Contract Summary. Thereafter, or if your Agreement renews to a variable-rate plan, you will be charged a variable rate; variable rates may be higher or lower each month, will be set in **SmartEnergy**'s sole discretion, and are not based on a market or index price. **SmartEnergy**

typically considers some or all of the following factors when setting variable rates:

- publicly available competitor pricing;
- strategic business objectives;
- customer retention or attrition;
- market volatility or uncertainty;
- anticipated customer usage;
- the cost of procuring power including wholesale prices, any ancillary service costs, capacity auctions, utility fees, and transmission and distribution losses;
- weather, supply congestion and infrastructure issues;
- legal or regulatory issues; and
- profit margin.

This list of factors is not exhaustive, and no single factor will determine the rate. Some factors may be estimated or projected, and the factors **SmartEnergy** considers may be weighed differently each month. **SmartEnergy** may spread sudden cost increases over multiple billing cycles so that its customers do not bear the burden of such increases in a single month. In addition, **SmartEnergy** seeks to acquire the majority of its anticipated electricity supply in advance rather than from the spot market. For all of these reasons, the variable rate may not correlate with changes in wholesale market prices, with the **EDC's** rate or with other suppliers' rates. The variable rate will be multiplied by the amount of electricity you use in the billing cycle to determine the generation portion of your bill. This price includes Transmission Charges (if applicable) and estimated Total State Taxes, including the Gross Receipts Tax, but excludes applicable state and local Sales Tax. The variable rate assigned to any particular individual account may vary from the rate assigned to any other particular individual account, even though such accounts may be in the same utility rate class. **SmartEnergy's** prices may be higher or lower than your **EDC's** rate in any given month. You will receive a written notice at least 30 days before a variable rate change comes into effect. To access current, available future and highest and lowest historical rates over the preceding 24 months, contact one of our customer care representatives at 1-800-443-4440 (toll-free) Monday through Friday from 8:00 a.m. to 7:00 p.m. E.T., and Saturday from 9:00 a.m. to 6:00

p.m. E.T. or visit our website [www.smartenergy.com](http://www.smartenergy.com). **THERE IS NO LIMIT ON HOW MUCH THE RATE MAY CHANGE FROM ONE BILLING CYCLE TO THE NEXT. THE RATE CAN CHANGE EACH BILLING PERIOD.**

b. If you accepted an offer from **SmartEnergy** that included an incentive to enroll, such as a month of free electricity or cash back, your incentive will be described in the Contract Summary or Welcome Letter (or both). You must complete the instructions and comply with the terms and conditions on the form included with your Welcome Letter to receive the incentive. You must have an active account with **SmartEnergy** when we process the form in order to be eligible. If you have questions regarding the incentive, you may call **SmartEnergy** at 1-800-443-4440 (toll-free) Monday through Friday from 8:00 a.m. to 7:00 p.m. E.T., and Saturday from 9:00 a.m. to 6:00 p.m. E.T.

c. You may contact **SmartEnergy** by telephone at 1-800-443-4440 (toll-free) Monday through Friday from 8:00 a.m. to 7:00 p.m. E.T., and Saturday from 9:00 a.m. to 6:00 p.m. E.T., or by email to [customer.care@smartenergy.com](mailto:customer.care@smartenergy.com) or online at [www.smartenergy.com](http://www.smartenergy.com) to obtain the previous 24 months' average monthly billed prices for that customer's rate class and **EDC** service territory. Historical pricing is not indicative of present or future pricing.

d. Information about shopping for an electric supplier is available at [www.PaPowerSwitch.com](http://www.PaPowerSwitch.com) or other successor media platform as determined by the **Public Utility Commission**, by calling the **Public Utility Commission** at 1-800-692-7380 and the **Office of Consumer Advocate** at 1-800-684-6560 or at [www.oca.state.pa.us](http://www.oca.state.pa.us).

7. **Billing.** You will receive one bill from your **EDC** monthly, in which your **SmartEnergy** supply charges will be listed separately from your **EDC's** delivery charges. Your **EDC** may or may not charge a fee for switching service to **SmartEnergy**. **SmartEnergy** may offer budget billing for the generation portion of the bill if permitted by your **EDC**. If at any time during the duration of this Agreement your **EDC** does not provide consolidated billing for your

account, you will be billed by **SmartEnergy** for any charges owed to **SmartEnergy**. In that case, you will be billed separately by your **EDC** for any taxes, distribution charges or other utility fees and charges. **SmartEnergy** will pass through to you all charges related to the collection of past due charges, including but not limited to, collection agency fees, legal and court fees and account termination fees. You may visit the official electric shopping website of the **Pennsylvania Public Utility Commission (PUC)** at [www.PaPowerSwitch.com](http://www.PaPowerSwitch.com) to find and compare the rates offered by **SmartEnergy** and other **Electric Generation Supplier** to the Price to Compare, or by calling the **Commission** at 1-800-692-7380 and the **Office Of Consumer Advocate** at 1-800-684-6560 or at [www.oca.state.pa.us](http://www.oca.state.pa.us).

8. **Payment.** Your payment is due by the date specified in your **EDC** bill, and late payments will be subject to interest at 1.5% per month or the highest amount allowable under applicable law, whichever is lower. The **EDC** will set your payment due date and the payment address.

9. **Information Release Authorization.** You authorize **SmartEnergy** to obtain and review information from your **EDC**, including but not limited to the following: account name, account number, billing address, service address, standard offer service type, historical and future electricity usage, rate classification, characteristics of electricity service. This information may be used by **SmartEnergy** to determine whether it will commence and/or continue to provide electricity to you. Such information may be disclosed to a third-party if (a) required by law; (b) such disclosure is to a third party service provider under confidentiality obligations not to disclose such information and to use it solely for the purpose of providing services to us; (c) in connection with your electric generation service; and (d) to our affiliates and subcontractors for marketing purposes. Your acceptance of this Agreement is an authorization for the release of this information to **SmartEnergy**. This authorization will remain in effect during the duration of this Agreement. You may rescind this authorization at any time by providing Notice thereof to **SmartEnergy** or calling 1-800-443-4440 (toll-free) Monday through Friday from 8:00 a.m. to 7:00 p.m. E.T., and Saturday from 9:00 a.m. to 6:00 p.m.

E.T. **SmartEnergy** reserves the right to cancel this Agreement on thirty (30) calendar days' Notice in the event you rescind such authorization. **SmartEnergy** will maintain the confidentiality of a customer's personal information including the customer's name, address, telephone number, electric usage and historic payment information, as required by applicable **Public Utility Commission** regulations and Federal and State laws.

10. **Events of Default.** An Event of Default shall mean: (i) failure to make any payment required under this Agreement when due; (ii) the failure to take electric supply when delivered under the terms of this Agreement; (iii) if you file a petition or otherwise commence, authorize or acquiesce in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or have such petition filed against you and such petition is not withdrawn or dismissed for twenty (20) days after such filing; (iv) you are unable to pay your debts as they are due and such inability is not cured within ten (10) days after **SmartEnergy** provides you with written Notice; or you rescind your authorization for release of information provided in the Section 8 (Information Release Authorization).

a. **Remedy for Event of Default.** **SmartEnergy** has the right to cancel this Agreement according to Section 4 above if an Event of Default by you occurs.

b. **Collection of Past Due Charges.** **SmartEnergy** will pass through to you all charges related to the collection of past due charges, including but not limited to, collection agency fees, legal and court fees and account cancellation fees.

11. **Penalties, Fees and Exceptions.** If you enrolled under a fixed rate plan with an early termination fee, and cancel the Agreement prior to the Options Notice date of the initial contract duration for any reason, except as expressly provided herein, you will be charged an early cancellation fee of \$10 per month remaining in the initial contract duration at the time of cancellation. If **SmartEnergy** terminates this Agreement as a result of non-payment or any breach thereof, as described in Section 10 (Event of Default), you will be charged a cancellation fee of \$10 per month remaining in the initial contract duration at the time of

cancellation. You will not be subject to the early cancellation fee if:

a. The contract is canceled within thirty (30) calendar days prior to the contract expiration date.

b. You move to another service location and provide evidence that you are moving, along with a forwarding address.

c. **SmartEnergy** terminates this Agreement unilaterally for any reason. If **SmartEnergy** terminates this Agreement, you will still pay all **SmartEnergy** charges through the date you are switched to the **EDC** or another provider and any applicable early cancellation fees.

12. **Renewable Energy and Renewable Energy Credits.** If you have selected a renewable energy product from **SmartEnergy**, your rate includes an additional charge for the purchasing of Renewable Energy Certificates and the following provision applies: **SmartEnergy** will, either directly and/or through its affiliate(s), retire, on your behalf, non-certified Renewable Energy Credits ("RECs") resulting from electricity generated from renewable energy sources, which may include solar, wind, geothermal, biomass, biogas, or low-impact hydro, in an amount matching either all of your usage for a calendar year or the renewable content amount specified in your plan description. Each REC represents 1,000 kilowatt hours. You will not have electricity from a specific generation facility delivered directly to your meters; but, through this product, you can support generators of renewable energy that provide electricity to the electricity grid. Renewable energy source availability and generation varies hour-to-hour and from season-to-season, as does all customer electricity usage. **SmartEnergy** relies on regional system power from the grid to serve its customers' minute-by-minute consumption. But, through retirement of RECs by **SmartEnergy**, on behalf of customers, **SmartEnergy** will acquire enough RECs to match either all of your usage or the renewable content amount specified in your plan description. **SmartEnergy** may take up to six (6) months after the end of a calendar year to retire RECs needed to fulfill this product. **SmartEnergy** will not be liable to you or any other party for any advertising assertions related to this product including, without limitation, any claim or liability arising from a

representation made as to the "green" or "carbon free" nature of the electricity or this product.

13. **Legal Notice.** All legal notice to be given hereunder ("Notice") will be in writing and delivered as specified in this Agreement to both you and **SmartEnergy**, as applicable, by certified mail or email to you at your service or email address, and to **SmartEnergy** at 74 W Broad Street, Suite 530, Bethlehem, PA 18018 or [customer.care@smartenergy.com](mailto:customer.care@smartenergy.com). Notice will be effective upon either confirmation of receipt by the person to whom it is addressed, or when delivery is confirmed by the carrier, whichever is earlier.

14. **Miscellaneous.**

a. **Electronic Communications.** If at any time during the term of this Agreement, you provide us with your email address, you are: (i) consenting, where permitted by applicable law, to receiving documents, notices, and other communications from **SmartEnergy** in electronic form, and (ii) required to provide a correct, working email address and notify **SmartEnergy** of any change in your email address or any withdrawal of consent for the electronic documents, notices and other communications.

b. **Dispute Resolution.** You agree to contact **SmartEnergy** by phone at 1-800-443-4440 (toll-free) (toll-free) Monday through Friday from 8:00 a.m. to 7:00 p.m. E.T., and Saturday from 9:00 a.m. to 6:00 p.m. E.T., or by mail addressed to **SmartEnergy Holdings, LLC**, 74 W Broad Street, Suite 530, Bethlehem, PA 18018, or by email at [customer.care@smartenergy.com](mailto:customer.care@smartenergy.com) regarding any dispute related to the Agreement. You should contact your **EDC** concerning a power outage or any other emergency. If you are not satisfied after discussing your complaint with **SmartEnergy**, you may contact the **PUC** at 400 North Street, Harrisburg, PA 17120 or at 1-800-692-7380 (toll free).

Contact Information

**Electric Generation Supplier:**  
**SmartEnergy Holdings, LLC**  
7450 Tilghman Street, Suite 100  
Allentown, PA 18106-9030

**PUC license number A-2014-2416214**

1-800-443-4440, Monday to Friday, 8:00 a.m. to 7:00 p.m. E.T., and Saturday, 9:00 a.m. to 6:00 p.m. E.T.

Website: [www.smartenergy.com](http://www.smartenergy.com)

Email: [customer.care@smartenergy.com](mailto:customer.care@smartenergy.com)

**Pennsylvania Public Utility Commission (PUC):**

400 North Street

Harrisburg, PA 17120

1-800-692-7380 (toll free)

[www.puc.pa.gov](http://www.puc.pa.gov)

b. Assignment. You may not assign your rights or obligations under this Agreement without **SmartEnergy's** express written consent. **SmartEnergy** may sell, transfer, pledge, or assign the accounts, revenues, or proceeds due to it under this Agreement, and may also assign its interest in this Agreement to another electric supplier or other entity as permitted by law.

c. Publicity. When you provide a testimonial or win a contest, **SmartEnergy** shall be entitled to disclose and publicize your identity as a customer of **SmartEnergy** on its website and in any other marketing material.

d. Entire Agreement. This Agreement is the entire agreement between you and **SmartEnergy** and supersedes any prior written or verbal agreements. This Agreement is binding upon you and **SmartEnergy** and each of its respective successors and permitted legal assigns. This Agreement is not intended to benefit any third party.

e. Representations and Warranties, Limitation of Liability and Arbitration. The electricity supplied by **SmartEnergy** under this Agreement will be purchased from a variety of sources. SMARTENERGY MAKES NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT, AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE. SMARTENERGY'S LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY, WHICH WILL NOT EXCEED THE AMOUNT OF YOUR SINGLE

LARGEST MONTHLY INVOICE DURING THE PRECEDING TWELVE (12) MONTHS. NEITHER SMARTENERGY NOR ANY OF ITS AFFILIATES OR SUBCONTRACTORS SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR OTHER DAMAGES, REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED ON A CLAIM RELATING TO CONTRACT, TORT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, LOST PROFITS, BREACH, NON-PERFORMANCE OR ANY OTHER BASIS. YOU AND SMARTENERGY WAIVE THE RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. BOTH SMARTENERGY AND YOU AGREE NOT TO INITIATE OR BECOME A PARTY TO ANY CLASS ACTION SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT.

f. Arbitration. If your complaint or dispute is not resolved through contact with our customer service department, you agree to resolve those disputes through binding arbitration or small claims court instead of in courts of general jurisdiction. Any arbitration under this Agreement will take place on an individual basis; class arbitrations and class actions are not permitted. Please visit <https://www.smartenergy.com/resolving-disputes/> for the full terms and conditions that govern your agreement to resolve any disputes arising under this Agreement through binding arbitration or small claims court.

g. Force Majeure. **SmartEnergy** will make commercially reasonable efforts to provide electricity supply but does not guarantee continuous service. **SmartEnergy** is not responsible for power outages or other events outside its control that may prevent **SmartEnergy** from supplying electricity (collectively, "Force Majeure Events"), including without limitation, acts of God or governmental authority, accidents, labor disputes, required maintenance, your **EDC's** non-performance, including without limitation, an outage, or changes in laws of any governmental authority or any other cause beyond **SmartEnergy's** control. **SmartEnergy** shall not be liable to you for any interruptions caused by a Force Majeure Event.

h. Governing Law. This Agreement shall be construed under and shall be governed by the laws of the Commonwealth of Pennsylvania without regard to the application of its conflicts of law principles.

i. Non-Waiver; Severability. The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any subsequent breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself. If any provision of this Agreement is held unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

15. **Environmental Disclosure Label.** An Environmental Disclosure Label specifying the approximate generation resource mix and environmental characteristics of the power supply being offered under this Agreement can be found on the **SmartEnergy** website at [www.smartenergy.com](http://www.smartenergy.com). **SmartEnergy** will provide a printed copy of the environmental disclosure information upon request and periodically to the extent required by applicable law.

16. **Electric Emergencies and Power Quality.** The **EDC** will continue to operate the electric transmission lines and to maintain responsibility for power outages and for power quality. You will hold **SmartEnergy** harmless in the event of a loss of power caused by any entity other than **SmartEnergy**. If you have an electrical emergency, power outage or reduction in power quality, you should contact your **EDC** at its telephone number for emergencies.