

Terms of Service

These Terms of Service govern your company's purchase of electricity generation services from Actual Energy, Inc. Please keep a copy for your records.

- 1. Purchase and Sale:** These Terms of Service together with the Electric Generation Service Contract ("EGSC" or "Contract") and Attachment A - Account List ("Attachment A") collectively form the "Agreement." Subject to acceptance of this Agreement by Actual Energy Inc. ("Company") and in accordance with the terms of the Contract, Actual Energy Inc. agrees that it will sell and deliver to you ("you" or "Customer") and you agree to receive and pay for Generation Service for the service addresses identified in Attachment A. Customer's electricity consumption amount shall be the metered amount and is not subject to a maximum or minimum usage limit. This Agreement covers only the commodity portion of your electric service (i.e., Generation Service). The electricity purchased hereunder will be delivered to you, and billed separately, by your local Electric Distribution Company (EDC). The local EDC will also respond to emergencies and will remain the Customer's point of contact in the event of power outage(s).
- 2. Term of Supply:** The Customer's supply term will begin on the Enrollment Start Date and will continue on a month-to-month basis, for a minimum of one billing cycle, until the Enrollment End Date. Customer must provide 30-days written notice of termination to the Company.
- 3. Enrollment Start Date and Enrollment End Date:** The supply term start date will be determined after the Company enrolls Customer's EDC accounts on Attachment A on the Desired Start Month indicated on the EGSC. Similarly, the Company will file to de-enroll your account following the Company's receipt of your notice to terminate your contract. Note that your Electric Distribution Company will determine the actual supply start date and end date based on your EDC billing cycle date. Your first bill will reflect this supply term start date. The Company will terminate your service at the end of the EDC billing cycle following your notice to terminate service and de-enrollment by the EDC and bill you for amounts owed. Upon cancellation, Customer will be required to select another supplier or return to the EDC. Cancellation will not be effective until the next regularly scheduled meter-reading date after notice to the EDC. Customer must pay for all Actual Energy charges until the EDC has switched Customer to the EDC or another supplier.

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- 4. Billing:** Customer will continue to receive a bill for delivery service from your Connecticut EDC, namely, Eversource Energy Connecticut (“Eversource”) or The United Illuminating Company (“UI”), as it does now, and it will receive a separate bill from Actual Energy Inc. for the energy commodity supply portion of service. Customer’s payment is due net ten (10) days from the invoice date via [Electronic Funds Transfer](#) (“EFT”) only, per Company’s acceptance of Customer’s valid EFT form, which is specifically incorporated into this Agreement. The Company’s initial and continuing obligation to service Customer is expressly conditioned on Customer’s successful initial EFT set up and continued financial viability. If Customer’s EFT lapses, or Customer otherwise fails to pay its bill in a timely manner, Company may cancel this Agreement upon ten (10) days written notice without any liability to Customer. If Customer fails to make payment by the due date, interest charges will accrue daily on outstanding amounts from the due date until the bill is paid in full at a rate of 0.95% per month, or the highest rate permitted by law, whichever is less. Actual Energy shall apply partial bill payments or late bill payments first to all past due balances, then to all current charges. Additionally, if Customer’s full payment is not received by the date due and not timely cured, it will be considered late, and may be reported to a credit agency.
- 5. Rescission Rights:** In compliance with Connecticut law, you may rescind this Agreement, without fees or penalties of any kind, at any time prior to midnight of the third business day after the later date that: (i) you entered into this Agreement, or (ii) you received this written Agreement (“Rescission Period”). The sole methods of rescission shall be timely notice sent via email to: customercare@actualenergy.com or by fax to: (855) 807-8914. If you have questions or concerns you have the right to contact the Connecticut Public Utilities Regulatory Authority (PURA): Telephone: Call: 1-800-382-4586 (toll free in CT) or 1-860-827-1553 (outside CT); Address: Ten Franklin Square, New Britain, CT, 06051; Website: <https://portal.ct.gov/pura>

Utility Contact Information: Eversource Energy (Connecticut) at 1-800-286-2000; or United Illuminating at 1-800-722-5584.
- 6. Contact Information:** You may reach us by (i) phone at 844-822-8825; (ii) email at customercare@actualenergy.com; or (iii) mail at 74 Route 6A Sandwich, MA 02563. Our website is actualenergy.com. You agree to accept notices in electronic format. Should you wish to change your preferred method of communication, you agree to submit such a request to us in writing at customercare@actualenergy.com or by mail at 74 Route 6A Sandwich, MA 02563.

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- 7. Emergencies, Outages, and Equipment Service:** For emergencies, outages, and equipment service, contact your EDC: Eversource Energy (Connecticut) at 1-800-286-2000, or write to PO Box 270, Hartford, CT 06141-0270.; or United Illuminating at 1-800-722-5584 or write to PO Box 1564, New Haven, CT 06506-0901.
- 8. Contract Rate and Pricing Structure:** The Customer's electric service contract price (the "Purchase Price") is a variable price composed of a generation rate based on either the Real-Time or Day-Ahead wholesale hourly Locational Marginal Price ("RTLMP or DALMP") or a combination thereof plus all additional energy costs associated with serving the Customer including, but not limited to: Capacity, Renewable Energy Credits ("RECs") and similar state required renewable program costs, Line Losses, Ancillary Costs (such as system congestion, NCPC, wholesale transmission and distribution.) In addition the Company charges a \$0.01/kWh fee.

Capacity will be charged based on the Customer's ICAP tag as defined by the Utility/EDC, with service elements and pricing shown on Customer's monthly bill. Certain rate elements will be averaged into separate billing categories and adjusted from time to time as needed to match the Company's final costs to serve the Customer. The Company does not guarantee the Customer savings on their energy bill. The Purchase Price does not include increases in costs and charges which arise from, or relate to, any ISO adjustments, power pool or EDC program that is supplemented, amended or otherwise modified from time to time by a change in law(s). Any such costs are in addition to the Purchase Price and will be passed through to Buyer from Seller. Further, settlement costs in accordance with ISO-NE market rules are the Customer's responsibility.

You can compare your current rate to your EDC's current Generation Service Charge rate and obtain additional Utility rate information at http://ctenergyinfo.com/choose_entry.htm or by contacting the EDC/Utility at the number(s) listed below

Utility Contact Information: Eversource Energy (Connecticut) at 1-800-286-2000; or United Illuminating at 1-800-722-5584.

- 9. Customer Usage:** Customer's hourly kWh usage will be determined using Customer's actual hourly meter reading provided by Customer's EDC when available, or the EDC standard load profile and a good faith Company estimate using Customer's historical usage data and other relevant information when Customer does not have an hourly meter, or EDC hourly information is not available. If Company receives actual data that varies substantially from Company's good faith estimate, Company will reconcile the estimated charges and adjust them as needed in subsequent invoices to Customer.



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10. Risk Associated with Variable Rate: Electricity prices may be subject to substantial volatility based on economic conditions, fuel prices, seasonal electricity demands, generator outages, weather and other factors. Past results regarding particular electricity products are not necessarily an indication of future results. Electricity supplied directly through the ISO-NE administered energy markets can involve substantial direct and indirect costs, including but not limited to capacity and ancillary service costs, credit assurances, and NEPOOL and ISO expense assessments. In addition, participation in these markets may require processes such as Company and Customer load forecasting, scheduling, and settlement in accordance with ISO-NE market rules.

11. Air Emissions and Resource Mix Information: Carbon Dioxide (CO₂) is released when coal, oil, natural gas, trash, methane and biomass are burned. Carbon dioxide, a greenhouse gas, is thought to be a major contributor to global warming. Nitrogen Oxide (NO_x) is formed when fossil fuels, trash, methane and biomass are burned at high temperatures. They contribute to acid rain and ground-level ozone (or smog), and may contribute to respiratory illness. NO_x also accelerates vegetative growth in lakes and coastal waters which may lead to oxygen deprivation which is destructive to fish and other aquatic life. Sulfur Dioxide (SO₂) is formed when fuels containing sulfur are burned, primarily coal, oil and trash. Health risks associated with SO₂ include asthma, respiratory illness and aggravation of existing cardiovascular disease. SO₂ combines with water and oxygen in the atmosphere to form acid rain, which raises the acid level of lakes and streams, is detrimental to crops and forests and accelerates the deterioration of buildings and monuments.

Power Sources	New England Power Pool System Mix
Coal	1.91%
Natural Gas	31.77%
Oil (Diesel, Jet, Oil)	4.28%
Nuclear	21.97%
Connecticut Qualified Renewable Sources	19.32%
Other, Misc.	20.75%
Total	100.00%
System Mix source: NEPOOL GIS Reports (Q1-2019 through Q-4 2019). Power Sources reflect the system mix, with the CT Class I & Class II renewable sources itemized separately in the chart.	

- 12. Credit Worthiness** At any time, Company may require that Customer provide information to Company so that Company may evaluate your creditworthiness. Counter-signed contract indicates Customer's initial credit approval.
- 13. Assurances:** For Commercial Accounts, if at any time during the Agreement, (i) Actual Energy Inc. has reasonable basis to believe Customer's creditworthiness or ability to perform obligations under this Agreement have become unsatisfactory; or (ii) any Financial Assurance held by Actual Energy Inc. has, in our reasonable discretion, become unsatisfactory, then Actual Energy Inc. shall be entitled to request Customer provide Actual Energy with Financial Assurance (including replacement or additional replacement Financial Assurance); Customer shall have five (5) business days from such request to provide Actual Energy with the requested Financial Assurance. The posting or amount of any Financial Assurance hereunder shall be subject to any applicable Laws and any limitations imposed by such Laws.
- 14. Consent to Obtain Usage Data and Information:** By executing this Agreement and/or accepting delivery of electricity under this Agreement, Customer authorizes Actual Energy to obtain, and its EDC to release, to Actual Energy for purposes related to account establishment, any Customer account information, including historical usage information, interval data, account number, and payment history. Specifically, Customer consents to the release to Actual Energy, from its EDC, any meter data, including demand (kW), usage (kWh) and/or kVA data, at both the interval and summary level for all accounts and service addresses listed in Addendum A. Customer further authorizes Actual Energy to release confidential and other information to Customer's EDC necessary to enroll Customer.
- 15. Notices:** Notices, correspondence, and address changes shall be in writing and delivered by regular or electronic mail, facsimile, or similar means or in person. Notice by facsimile, electronic mail or hand delivery shall be deemed to have been received on the date and time delivered (after 5 p.m. deemed received on next Business Day) and notice by overnight mail or courier are deemed received two Business Days after it was sent. All notices shall be provided to the person and addresses specified herein, or to such other person and address as a Party may from time to time specify in writing to the other Party.
- 16. Taxes:** "Taxes" shall mean all taxes and fees imposed on the purchase and sale of electric energy by any Governmental Authority. Customer will be responsible to pay and indemnify Company for all Taxes hereunder (excluding Actual Energy's income taxes).

- 17. Force Majeure:** “Force Majeure” shall mean an event beyond the reasonable control of the Party claiming Force Majeure that could not have been prevented by the exercise of due diligence. If either Party is rendered unable by Force Majeure to carry out, in whole or part, its obligations under this Agreement, such Party shall give notice and provide full details of the event to the other Party in writing as soon as practicable after the occurrence of the event. During such Force Majeure period, the obligations of the Parties (other than the obligation to make payments then due or becoming due with respect to performance prior to the event) will be suspended to the extent required. The Party claiming Force Majeure will make all reasonable attempts to remedy the effects of the Force Majeure and continue performance under this Agreement with all reasonable dispatch; provided, however, that no provision of this Agreement shall be interpreted to require Company to deliver, or Customer to receive, electric energy at points other than the delivery point(s). Force Majeure shall not include Customer’s inability to make payments then due or economic loss (e.g., Customer’s loss of market(s) or supply chain(s)).
- 18. Events of Default:** “Event of Default” means, with respect to a Party alleged to have taken or been affected by any of the actions set forth below in this section (the “Defaulting Party”): (a) the failure by the Defaulting Party to make, when due, any payment required under this Agreement if such failure is not remedied within five (5) Business Days after written notice of such failure is given to the Defaulting Party by the other Party (“Non-Defaulting Party”), or (b) any material information or representation or warranty made or presented by the Defaulting Party in this Agreement and/or any attachment to this Agreement, and Actual Energy’s Customer Service Application Form proves to have been false or misleading in any material respect when made or ceases to remain true during the Term; or (c) the failure by the Defaulting Party to perform any obligation set forth in this Agreement and for which a remedy is not provided herein and such failure is not excused by the other Party in writing or by Force Majeure or cured within five (5) Business Days after written notice thereof to the Defaulting Party; or (d) the failure of the Defaulting Party to provide Performance Assurance in accordance with the Credit Worthiness/Assurances Section above; (e) the Defaulting Party: (1) makes an assignment or any general arrangement for the benefit of creditors or (2) otherwise becomes Bankrupt or Insolvent. It will not be an Event of Default and no Termination Payment will be due if Customer discontinues service at a facility prior to the End Date due to the sale or closure of the facility, but only if Customer provides at least thirty (30) days’ prior written notice and an accurate Customer forwarding address and other evidence required by Company that Customer no longer occupies the facility.



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- 19. Remedies Upon an Event of Default:** If an Event of Default occurs, after any cure periods have expired or if such Event of Default has not been cured in a timely fashion for any reason, upon such date, the Non-Defaulting Party shall have the right to terminate this Agreement effectively immediately and terminate all accounts hereunder and/or suspend performance without liability.
- 20. Limitation of Liability:** For breach of this Agreement, the liability of the defaulting party shall be limited as set forth in this Agreement, and all other damages or remedies hereby are waived. If no remedy or measure of damages is expressly provided, the liability of the defaulting party shall be limited to direct actual damages only and all other damages and remedies are waived. In no event shall either party be liable to the other party for consequential, incidental, punitive, exemplary or indirect damages in tort, contract, or under an indemnity provision herein.
- 21. Indemnification:** Except as limited in the Limitation of Liability Section herein, each Party will indemnify, defend and hold harmless the other Party, its officers, agents, and employees from any claims, damages and actions of any kind arising from personal injury including without limitation, death, tangible property damage or any other damages arising from or out of any event, circumstance, act or incident occurring or existing with respect to the electricity provided pursuant to this Agreement while title to such electricity vests in the indemnifying Party. Control and title to electric energy shall be deemed to vest in Customer upon transfer from the EDC to Customer at the delivery point(s) on Attachment A.

- 22. Representations and Warranties:** As a material inducement to entering into this Agreement, each Party, represents and warrants to the other Party: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary to perform this Agreement; (b) it has all regulatory authorizations, permits and licenses necessary for it to legally perform its obligations under this Agreement; (c) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any law, rule, regulation, order, writ, judgment, decree or other legal or regulatory determination applicable to it; (d) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject to any equitable defenses; (e) it is not Bankrupt or Insolvent and there are no reorganization, receivership or other arrangement proceedings pending or being contemplated by it, or to its knowledge threatened against it; and (f) it has read this Agreement and fully understands its rights and obligations under this Agreement, and has had an opportunity to consult with an attorney of its own choosing to explain the terms of this Agreement and the consequences of signing it. Customer further represents and warrants to Company throughout the term of this Agreement that no facility or account listed on Attachment A is classified by the applicable utility as a residential account. Apart from any warranty that is expressly set forth in this Agreement, Company and its successors, assigns and delegates make NO WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PURPOSE. Regarding the services Company provides, or the activities Customer undertakes, pursuant to this Agreement, Company acts solely as counter-party in all transactions with Customer under this or any other Agreement. Accordingly, Company has no duty to advise Customer or exercise judgment on Customer's behalf as to the merits or suitability of any transactions that Company proposes to enter into with Customer.
- 23. Assignment:** Customer may not assign this Agreement or any of its rights or obligations under this Agreement without the prior written consent of the Company. The Company may sell, transfer, pledge, or assign the accounts, revenues, or proceeds due to it under this Agreement, which shall not require Customer consent or further notice. The Company may assign its obligations under the Agreement to another licensed retail electric provider or other entity as permitted by law.

- 24. Change in Law:** If any provision of this Agreement is held by a court or regulatory agency of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force without being invalidated in any way. In the event that there is a change in law, administrative regulation, or any fees or costs imposed by the applicable ISO or a Governmental Authority, or a change in ISO/RTO Operations, market structure, congestion zone design, or protocols, and such causes the Company to incur capital, operating, or other costs relating to the provision of services contemplated herein, such costs shall be passed through to Customer, provided that, in the event such a change in law renders performance under this Agreement illegal, the Parties shall meet as soon as practicable to attempt to renegotiate the Agreement to comply with such change. If the Parties are unable to amend the Agreement, the Parties' obligations hereunder shall terminate upon the earlier of the date the change in law becomes effective or on the date Customer commences service with a retail energy provider in lieu of Company.
- 25. Governing Law:** THIS AGREEMENT AND ALL MATTERS ARISING OUT OF OR RELATING TO IT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CONNECTICUT, WITHOUT REGARD TO ANY CONFLICTS-OF-LAW PRINCIPLE THAT DIRECTS THE APPLICATION OF ANOTHER JURISDICTION'S LAWS. IF THE MATTER AT ISSUE INVOLVES ACCOUNTS OR MATTERS IN MORE THAN ONE STATE, THE GOVERNING JURISDICTION AND VENUE SHALL BE DEEMED TO BE CONNECTICUT. EACH PARTY CONSENTS TO THE PERSONAL JURISDICTION IN ANY FEDERAL OR STATE COURT WITHIN CONNECTICUT AND WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION RELATING TO THIS AGREEMENT.
- 26. No Waiver Provision:** No waiver by any Party of any one or more defaults by the other Party in the performance of any of the provisions of this Agreement will be construed as a waiver of any other default or defaults whether of a like kind or different nature. No delay or failure by Company in enforcing any part of this Agreement shall be deemed a waiver of any of its rights or remedies. If any provision of this Agreement is found to be illegal or unenforceable, the other provisions shall remain effective and enforceable to the greatest extent permitted by law. All confidentiality and indemnity rights will survive the termination of this Agreement. This Agreement may be executed in several counterparts, each of which will be an original and all of which constitute one and the same instrument. In any action or proceeding to collect amounts due under this Agreement, the prevailing Party shall be entitled to recover its collection costs and expenses, including reasonable attorneys' fees, from the other Party.



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- 27. Enrollment and Contract Authorization:** Customer has read and agrees to the provisions contained in this Agreement. Customer acknowledges receiving Actual Energy's Informational Disclosure Label with, and on the date of its signing of, this Agreement. Customer authorizes Actual Energy to enroll Customer with its EDC as Customer's electricity supplier. Customer understands that it may only designate one company as its retail electric supplier for each account and that there may be a fee charged by its current supplier to switch to Actual Energy. By signing this Agreement and/or accepting electricity supply, the individual undersigning below warrants and represents that he/she is legally authorized to enter into this Agreement on behalf of Customer. Customer also understands that supply of electricity under this Agreement is conditioned upon Actual Energy's verification of the accuracy of all Customer-provided information with respect to electricity usage and Attachment A. Actual Energy Inc. is licensed by the Connecticut Public Utilities Regulatory Authority to provide electric supply services under License No. 20-10-30 Application of Actual Energy, Inc. For a Connecticut Electric Supplier License
- 28. Dispute Resolution:** Contact Actual Energy Customer Care via mail (74 Route 6A, Sandwich, MA 02563), email (customercare@actualenergy.com), or telephone (844-822-8825) with any complaints or disputes. In the event of an unresolved dispute or complaint, or for general utility information, you may contact PURA by calling (860) 827-1553 or (800) 382-4586 or TDD (860) 827-2837 or by mail at 10 Franklin Square, New Britain, CT 06051 or by visiting the CT Public Utilities Regulatory Authority at <https://portal.ct.gov/pura>.
- 29. Third-party Fees:** If Customer was represented by a third party in connection with the procurement or performance of this Agreement, Customer's price may include that third-party's fee. Customer should consult the contract between Customer and the third-party to determine whether the prices set forth herein include any such fee and,

if so, the amount per kilowatt hour of such fee.

- 30. Miscellaneous:** This Agreement sets forth the entire agreement between the Parties respecting this subject matter, and all prior agreements, understandings, and representations, whether oral or written, are merged in this Agreement. No modification or amendment of this Agreement shall be binding on either Party unless in writing and signed by authorized representatives of both Parties. No waiver of any right under this Agreement shall be effective unless it is in writing and signed by an authorized representative of the Party granting such waiver and no such waiver or failure to enforce a term or provision of this Agreement on any occasion shall be construed as a waiver of the same or any other term or condition on any other occasion. The Parties acknowledge and agree that this Agreement is a “forward contract” and that to the extent permitted by law they are “forward contract merchants” within the meaning of the United States Bankruptcy Code.
- 31. Definitions:** The electricity account(s) in the Agreement are referred to herein individually as an “Account”, and collectively as the “Account(s).” “Change in Law” means any new Laws, rules, regulations, filed tariffs, orders, or any change, modification, or change in interpretation or application of any Laws, rules, regulations, filed tariffs, or orders (including but not limited to: changes to rates, formula rate calculations, inputs, percentages, forecasts, or variables) issued by any applicable federal or state regulatory authority, or applicable regional transmission organization (“RTO”) or independent system operator (“ISO”). “Commercial Account” means an Account classified by PURA or applicable EDC tariffs as not residential. “EDC” means the Account’s local electricity distribution company. “EGSC” means the Electric Generation Service Contract executed under this Agreement. “Historic kWh Usage” means Customer’s kWh usage in the immediately preceding 12 months from the date of this Agreement. “ISO” means the independent system operator or regional transmission organization responsible for the service territory governing an electricity account or any successor or replacement entity. “kWh” means the amount of electrical energy (expressed in kilowatt hours) purchased by Customer under the terms of this Agreement. “Laws” means any law, rule, order, regulation, ordinance, statute, judicial decision, administrative order, ISO business practices or protocol, EDC tariff, ISO tariff, rule of any commission or jurisdiction in the state in which an Account is located, or rule by the Federal Energy Regulatory Commission. “PURA” means the Connecticut Public Utilities Regulatory Authority.