



Phone: **832-932-9239** Hrs. 8-5 M-F CST Toll Free: **888-256-2823 (24 X 7)** Fax: **832-932-9256**

### Residential Terms of Service

This document explains the terms and conditions that apply to your purchase of electricity from Shyne Energy (Shyne Energy, we, our, us). Your contract with us includes the Terms of Service, your enrollment authorization in writing, by telephone or the internet, the Electricity Facts Label (EFL), and the "Your Rights as a Customer" disclosure document, as they may be amended from time to time. The terms "includes" or "including" mean "including without limitation." By accepting electric service from Shyne Energy, you are entering into a contract with us and you will be bound by the Terms of Service.

### Spanish Language (Idioma Español)

Your contract documents are available in Spanish by contacting us at 832-932-9239 or 888-256-2823 or visit [ShyneEnergy.com/espanol](http://ShyneEnergy.com/espanol).

*Usted puede obtener los documentos de su contrato comunicándose con nosotros al 832-932-9239 o 888-256-2823 o [ShyneEnergy.com/espanol](http://ShyneEnergy.com/espanol).*

### Pricing

You agree to pay the price indicated in the EFL and all amounts shown on your bill. Some products may require an advanced meter (smart meter) that records your usage more frequently and you will only be eligible for these prices if the appropriate meter and any other necessary equipment are installed at your location. Price for Customers on a variable rate or default rate will vary according to a method determined by Shyne Energy as set for in your EFL.

You agree to pay all recurring and non-recurring fees charged by the transmission and distribution service provider (TDSP) that are necessary to implement and/or maintain electric service for you. (For the cost of maintaining electric poles and wires, meters, storm restoration, meter reads, etc.) These charges are approved by the Public Utility Commission of Texas and are passed through to you without any markup. Non- recurring fees by the TDSP may include service connection, disconnection or reconnection fees, meter test fees or special out-of- cycle meter read fees. Any Non-recurring fees will appear as line items on your bill.

You agree to pay all applicable Taxes (see Taxes below) and any fees charged by any governmental entity. The price, non-recurring fees and Taxes will be reflected on your monthly bill as Current Charges.

You agree to pay all non-recurring fees, other than TDSP fees as described below.

- **Late Payment Penalty** – For late payments or past due or delinquent balances, we may charge a one-time penalty of 5% of the past due balance.
- **Insufficient Funds Fee** – We may charge a fee up to \$25 for each payment that is not processed due to insufficient funds or other type of bank return or payment rejection.
- **Disconnect Notice Fee** - We may charge you a Disconnect Fee of up to \$10 each time we send you a disconnection notice.
- **Reconnect Fee** - If you receive a disconnection notice we may also charge you a Reconnect Fee of up to \$30 for reconnecting your services. This charge would be in addition to any TDSP charges related to disconnections/reconnections.
- **Early Cancellation Fee** – We may charge a fee for early cancellation of your Contract; check your EFL for more information.

### Deposits

We do not deny service based on your credit score. However, you may have to provide an initial deposit before receiving electricity service if you cannot demonstrate satisfactory credit. An initial deposit may also be required to continue to receive electricity service, if you have been late paying your bill more than once during the last 12 months or your service has been disconnected for non-payment. You may be required to provide an additional deposit to continue to receive electricity service if (1) your average annual electric service bill for the last 12 months is at least twice the amount of the original estimated annual bill, and (2) a notice for disconnection has been issued in the previous 12 months. If a deposit is required, the total amount of your deposit will not exceed an amount equal to the greater of either (1) the sum of the next two months estimated billings, or (2) one-fifth of the estimated annual billing.

If we hold your cash deposit longer than 30 days, your deposit will accrue interest from the day we received it at the interest rate established annually by the PUC. We will credit any accrued interest on your deposit to your account either on your January bill each year or on your final bill. This PUC rule can be viewed at:

<http://www.puc.texas.gov/agency/ruleslaws/subrules/electric/25.24/25.24.pdf>

If you are LITE-UP qualified and are required to pay a deposit greater than \$50, you will be eligible to pay your deposit in two installments. You must provide evidence of enrollment in a TDHS program. This PUC rule can be viewed at:

<http://www.puc.texas.gov/agency/ruleslaws/subrules/electric/25.454/25.454.pdf>

You may avoid paying a deposit if (1) you submit a credit reference letter from your previous electric service provider confirming your positive payment record for 12 consecutive months during the past two years, (2) you have a satisfactory credit rating through a consumer reporting agency, (3) you are at least 65 years of age and you do not have a delinquent balance with your current electric service provider, (4) you are medically indigent or, (5) you have been a victim of family violence and can provide a certification letter by the Texas Council on Family Violence. Please contact us for additional information if you believe you may be eligible for one of these options. You may send your letters to us by fax using our toll-free fax number, 1-888-256-3238.

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 the outstanding balance on your final bill or transfer the outstanding balance equal to the deposit identified in the Guarantee Agreement to the Guarantor's account for payment in accordance with the Guarantee Agreement. We will bill you for any remaining balance and the bill will be due upon receipt. We will refund any credit balance to you or transfer the credit balance to your new REP, at your request and with your new REP's consent.

### **Optional Outdoor Lighting Service for Residential Use**

Outdoor lighting service is available from us for guard and security lighting at your residence. If you have outdoor lighting service, you will pay the price for your specific outdoor lighting type described in the Miscellaneous Lighting Service or Outdoor Lighting EFL under the contract.

### **Billing, Payment and Payment Arrangements**

We will provide a monthly bill that will include Current Charges and the Amount Due that will be due and payable 16 calendar days from the date shown on the bill, except you agree that we may issue a bill less frequently if we do not receive meter readings or usage information from the TDSP or ERCOT in time to prepare and send a monthly bill. We may also issue bills less frequently or send your bills electronically if you agree to accept alternate arrangements. **If you would like to receive your monthly bill ELECTRONICALLY, please e-mail us at [customercare@shyneenergy.com](mailto:customercare@shyneenergy.com)**.

If you do not pay your bill by the due date, we may charge you a Late Payment Penalty of 5% on the amount for the previous month's past-due electric service. The Late Payment Penalty will not apply to customers who are "LITE-UP qualified." If you are a customer who receives food stamps, Medicaid, AFDC or SSI from the Texas Department of Human Services (TDHS), then you are considered "LITE-UP qualified." You must provide evidence of enrollment in a TDHS program. Late Payment Penalties will not exceed the maximum amount permitted by Law. "Law" means any law, statute, regulation, rule, ERCOT protocol, exchange rule, decision, writ, order, decree or judgment, or any interpretations by any court, agency or instrumentality that has jurisdiction, including ERCOT. Public Utility Commission (PUC) rules and guidelines can be viewed at: <http://www.puc.texas.gov/agency/ruleslaws/subrules/electric/Electric.aspx>

If you receive a disconnection notice you will be charged a Disconnect Notice Fee each time we send you a disconnection notice. When your service is restored you will be charge a reconnect fee on your next month's bill. We reserve the right to adjust your bill. We may calculate a bill based on estimated meter readings absent actual meter readings from the TDSP or ERCOT. Once actual meter readings are received, we will issue a bill or make adjustments on a subsequent bill.

If you fail to timely pay the amounts due and we refer your outstanding balance to an attorney or collection agent for collection, or file a lawsuit, or collect your outstanding balance through probate, bankruptcy or other judicial proceedings, then you agree to pay reasonable fees and expenses (including attorney fees) that we incur in the collection process.

### **Payment Assistance**

Please call us if you anticipate having difficulty paying your bill by the due date. You may be eligible for payment assistance or a deferred payment plan. Shyne Energy administers a low-income customer discount, subject to funding approved by the Texas Legislature, reserved for low-income customers that have been qualified by the Low-Income Telephone & Electric Utilities Texas Program ("LITE-UP").

For information about the LITE-UP TEXAS Program (Low Income Telephone and Electric Utility Discounts) please call 1-866-454-8387 or visit the PUC website at <http://www.puc.texas.gov/consumer/lowincome/Assistance.aspx>. If you are in need of bill payment assistance, please call 211 or contact your local health and human services department or the Texas Department of Housing and Community Affairs. Additionally, the Shyne Energy Care program is available to customers who have severe financial hardships and temporarily may be unable to pay their bills. This program is funded in part by

contributions from Shyne Energy, our employees and customers. You may contribute to this program go through the website [www.shyneenergy.com](http://www.shyneenergy.com) .

### **Switch-Hold**

A switch-hold may be applied to your ESI ID if you enter into certain payment arrangements. Additionally, your TDSP will apply a switch-hold to your ESIID if there is evidence of meter tampering. A switch-hold means that you will not be able to buy electricity from other companies until you have satisfied the terms of your payment arrangement or, in cases of meter tampering, have satisfied payment of the applicable charges and back-billing. While a switch-hold applies, if you are disconnected for not paying, you will need to pay Shyne Energy to get your electricity turned back on.

### **Right of Rescission**

If you are switching to Shyne Energy from another Retail Electric Provider (REP), you can cancel your acceptance of the contract with us without penalty or fee by contacting us before midnight of the 3<sup>rd</sup> federal business day after the date of your enrollment authorization and receipt of the contract documents. Please include the following: 1.) request to cancel contract 2.) name, address, phone number 3.) Account number or ESIID number. You may call us to cancel at 832-932-9239 or 888-256-2823 with this information, fax it at 832-932-9256 or 888-256-3238, or e-mail us at [customercare@shyneenergy.com](mailto:customercare@shyneenergy.com).

Your contract term is stated in the EFL. At the end of your contract term, you may cancel or terminate your contract by switching to a new provider. If you cancel the contract before the end of your contract term, you agree to pay the penalty or fee for early cancellation indicated in the EFL, if any, and you must select another REP to continue to receive electric service.

If you move from your existing premise during the contract term and provide a forwarding address to us, you will not be responsible for the cancellation fee stated in the EFL. We may also request that you provide reasonable evidence that you no longer occupy the location covered by the contract. In order to ensure timely processing, you should notify us at least 3 days before the requested termination date.

Our obligations will end after the meter read date where we are no longer designated as your REP or when your electric service is disconnected by the TDSP. Your obligations under the contract will end when your account balance is paid in full. A Month to Month contract can be cancelled at any time without penalty.

### **Contract Expiration Notice**

If you are on product that has a contract term of at least three months, we will send you a written notice at least 30 days prior to the date of contract expiration, but no more than 60 days or two billing cycles in advance of contract expiration. You do not need to take any action in response to the contract expiration notice in order to continue to receive service, which will be provided under an Shyne Energy default month-to-month renewal product. The contract expiration notice will let you know what you need to do if you want to renew your service to another term or change your service plan. The EFL for your month- to-month default renewal product, which will describe its price and other terms, will be included with your contract expiration notice.

### **Disconnection of Your Electric Service**

**WE MAY REQUEST DISCONNECTION OF YOUR ELECTRIC SERVICE IF YOU DO NOT PAY THE PAST DUE AMOUNT OF YOUR ELECTRIC SERVICE BILL IN FULL BY THE DUE DATE ON THE DISCONNECT NOTICE.** We will notify you in writing at least 10 calendar days before we disconnect electric service. We may request disconnection of your electric service without prior notice immediately under specific situations, including the existence of a dangerous condition at your service address or theft of service.

### **Balanced Billing**

For customers currently enrolled on Balanced Billing, this option gives you the convenience of a stable bill amount so that you can plan your monthly budget. First, we review your usage history from the previous year for the same time period. We then apply your price to this usage. These expected bills will be averaged to establish your balanced bill amount. Your monthly bills will show both your actual usage and actual bill amounts, but you pay only the balanced bill amount. The cumulative difference between your balanced bill payments and your actual cost will be reflected each month. After six months under this option, we will review your account to determine if this balanced bill amount is still appropriate. If this review determines that your actual bills were more than 10% over or under your original average, we will adjust your future balanced bill amount to better reflect your current usage. At the end of 12 months, any difference between your

payments and your actual charges will be included in the calculation of your monthly balanced bill amount for the next year or you may pay in full or the difference will be credited to your account if the contract is cancelled or terminated, or your electric service is disconnected any credit or unpaid balance will appear on your final bill. The Balanced Billing option does not affect your obligation to pay for all actual usage. Customers who qualify for the low-income electric rate reduction program shall qualify for Balanced Billing. Customers who are not currently delinquent in payment or who meet certain other criteria will also qualify for Balanced Billing. Please note that if you are delinquent in payment when you begin Balanced Billing, or if certain other conditions apply, a switch-hold may be applied to your account until your deferred balance and past due amount is paid and processed. Additionally, if you are delinquent in payment when you begin Balanced Billing, you may be required to pay up to 50% of the delinquent amount, with the remaining delinquent amount to be paid in at least 5 installments, or at Shyne Energy's option the remaining delinquent amount may be included in the calculation of Balanced Billing amount.

### Payment Options

- **Automatic Bank Draft:** You may conveniently pay your bill by automatic bank draft.
- **Automatic Credit Card Pay:** You may pay your bill by Visa, MasterCard or Discover.
- **Third-Party Bill Payment Centers:** Select authorized bill payment centers allow you to pay your Shyne Energy balance in person by cash, check or money order. Please visit our website to find nearby authorized payment center locations. Payment centers may charge a fee for payment processing. Please be aware that paying at an unauthorized payment location may take 5-7 business days or longer for Shyne Energy to receive your payment.
- **Summary Billing:** Even if you have electric service at multiple locations, upon request, we can provide you with a single bill so long as you provide a single billing address.
- **Online Account Management:** You may receive, view and/or pay your bill electronically through our electronic bill presentment option.

### Antidiscrimination

We cannot deny service or require a prepayment or deposit for service based on your race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, level of income, disability, familial status, location in an economically distressed geographic area, or qualification for low income or energy efficiency services. We also cannot use a credit score, a credit history, or utility payment data as the basis for determining the price for electric service for products with a contract term of 12 months or less.

### Critical Care and Chronic Condition Customer

If you have a person permanently residing in your premise who has been diagnosed by a physician as being dependent upon an electric-powered medical device to sustain life, you may apply for designation as a Critical Care Residential Customer. If you have a person permanently residing in your premise who has been diagnosed by a physician as having a serious medical condition that requires an electric-powered medical device or electric heating or cooling to prevent the impairment of a major life function through a significant deterioration or exacerbation of the condition, you may apply for designation as a Chronic Condition Residential Customer. To be considered for such designation, the PUC-approved form must be submitted by facsimile or other electronic means to the TDSP by a physician. The TDSP will notify you of the final status of your designation as a Critical Care or Chronic Condition Residential Customer, and will notify you when such designation will expire and whether you will receive a renewal notice. The TDSP will also notify us about your status. This PUC rule can be viewed at: <http://www.puc.texas.gov/agency/rulesnlaws/subrules/electric/25.497/25.497.pdf> . Designation as a Critical Care or Chronic Condition Residential Customer does not relieve you of your obligation to pay for electric service that you receive from us.

### Power Outages and Emergencies

Please call the telephone number listed on your bill if you have an electrical emergency or a power outage.

Oncor	888-313-4747
CenterPoint Energy	800-332-7143 or 713-207-2222
TNMP	888-866-7456
AEP	866-223-8508
Sharyland	956-668-9551

### **Dispute or Complaints**

If you have any questions, concerns, or complaints, please contact us. In the unlikely event we cannot immediately respond to your question or complaint, we will promptly investigate the matter and report our findings to you. During this time, you will not be required to pay the disputed portion of your bill. If for any reason you are not satisfied with our response, you may contact the PUC.

### **Limitations of Liability**

YOU AGREE THAT CAUSES AND EVENTS BEYOND OUR CONTROL, INCLUDING ACTS OF GOD, ACTS OF ANY GOVERNMENTAL AUTHORITY, ACCIDENTS, STRIKES, LABOR TROUBLE, AND EVENTS OF FORCE MAJEURE OCCURRING WITH RESPECT TO THE TDSP, ERCOT, OR OTHER THIRD PARTY SYSTEMS OR ASSETS (A FORCE MAJEURE EVENT), MAY RESULT IN INTERRUPTIONS IN SERVICE AND THAT WE WILL NOT BE LIABLE FOR THOSE INTERRUPTIONS. YOU ALSO AGREE THAT WE ARE NOT RESPONSIBLE FOR GENERATING YOUR ELECTRICITY OR FOR TRANSMITTING AND DISTRIBUTING ELECTRICITY TO YOUR SERVICE ADDRESS. FURTHERMORE, YOU AGREE THAT WE WILL NOT BE LIABLE WITH RESPECT TO ANY THIRD PARTY SERVICES; THAT OUR LIABILITY NOT EXCUSED BY REASON OF FORCE MAJEURE OR OTHERWISE WILL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY; AND NEITHER OF US ARE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES. YOU WAIVE ALL OTHER REMEDIES AT LAW OR IN EQUITY. THESE LIMITATIONS APPLY EVEN IF THE DAMAGES RESULT FROM NEGLIGENCE, WHETHER SOLE, JOINT, CONCURRENT, OR ACTIVE OR PASSIVE. THERE ARE NO THIRD PARTY BENEFICIARIES TO THE CONTRACT.

### **REPRESENTATIONS AND WARRANTIES**

THE ELECTRICITY SOLD UNDER THIS CONTRACT WILL BE SUPPLIED FROM A VARIETY OF GENERATING SOURCES. IF YOU ELECT TO PURCHASE A RENEWABLE ENERGY PRODUCT, WE WILL ENSURE THAT THE APPROPRIATE AMOUNT OF RENEWABLE ENERGY CREDITS (RECs) IS RETIRED TO AUTHENTICATE THE RENEWABLE ENERGY CONTAINED IN THE PRODUCT. THE TDSP OR ERCOT SYSTEM WILL NOT DELIVER ELECTRICITY FROM A SPECIFIC GENERATING SOURCE TO YOUR SERVICE ADDRESS. IF YOU PURCHASE RENEWABLE ENERGY FROM US, YOU ARE PROVIDING FINANCIAL SUPPORT FOR RENEWABLE ENERGY GENERATION SOURCES AND NOT RECEIVING THE PRECISE ENERGY GENERATED FROM THAT SOURCE. WE MAKE NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THE CONTRACT, AND WE EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING MERCHANTABILITY, CONFORMITY TO MODELS OR SAMPLES AND FITNESS FOR A PARTICULAR PURPOSE.

### **Taxes**

You will be responsible and indemnify us for any and all Taxes. "Taxes" means all federal, state and local taxes, fees, governmental charges, and assessments presently or hereafter imposed on you as purchaser of electricity, on us as seller of electricity, or on electricity sales transactions, including gross receipts taxes, municipal administrative fees, and generation, utility, TDSP, regulatory, BTU or electricity taxes and assessments.

### **Provisions that Survive**

Obligations regarding indemnity, payment of Taxes, limitations of liability, and waivers will survive the termination of the contract indefinitely.

### **Unenforceability**

If either party or its activities under the contract become subject to any Law enacted during the contract term that renders the contract unenforceable or illegal, then either you or Shyne Energy may terminate the contract without the consent of, and upon 30 days' notice to, the other, and without any obligation, payment or otherwise (other than payment obligations for electricity previously supplied to you).

**Governing Law**

YOUR CONTRACT WITH SHYNE ENERGY IS GOVERNED BY THE LAWS OF THE STATE OF TEXAS. THE TEXAS UNIFORM COMMERCIAL CODE APPLIES TO THE TERMS OF SERVICE AND ELECTRICITY IS DEEMED A "GOOD". The Uniform Commercial Code can be viewed at the following website: <http://www.statutes.legis.state.tx.us/?link=BC> .

**Assignment**

You may not assign your contract with us, in whole or in part, or any of your rights or obligations under the contract without our prior written consent. Shyne Energy may, without your consent, (i) as part of any financing or other financial arrangements, assign, sell or pledge this agreement or its accounts, revenues, or proceeds, or (ii) assign this agreement to an affiliate of Shyne Energy or to any other person or entity succeeding to all or a substantial portion of the assets of Shyne Energy.

**Waiver**

If either of us waives any one or more defaults by the other in the performance of any of the provisions of the contract, then such waiver will not be construed as a waiver of any other default or defaults whether of a like kind or of a different nature.

**Material Change:** SHYNE ENERGY will provide you with at least 14 calendar days advance written notice of any material change in the Terms of Service, either in your bill or in a separate mailing. The changes will become effective on the date stated in the notice unless you cancel your Agreement. You may cancel your Agreement no later than 1 calendar day before the effective date of the material change without penalty from SHYNE ENERGY. If you do not choose another REP before the effective date of material change, Shyne Energy will continue to serve you under the modified terms and conditions of this Agreement. Changes in wholesale natural gas and/or electricity prices shall not constitute a Material Change under the terms and conditions of this Agreement. Changes in fixed rate prices and contract terms are also not a material change.

**Force Majeure:** If either Party is unable to perform its obligations, in whole or in part, due to an event of force majeure as defined herein then the obligations of the affected Party (other than the obligations to pay any amounts due prior to force majeure event) shall be suspended to the extent made necessary by such event. The term "Force Majeure" shall mean any act or event that is beyond the claiming Party's control (and which could not be reasonably anticipated and prevented through the use of reasonable measures), including, without limitation, the failure of the TDSP to receive, transport or deliver, or otherwise perform, unless due to the failure of the Party claiming Force Majeure to perform such Party's obligations hereunder, and an event of force majeure of SHYNE ENERGY suppliers.

The Party suffering the event of Force Majeure shall give written notice of such event of Force Majeure in reasonably full particulars to the other Party, as soon as reasonably possible.

Any such event of Force Majeure shall, so far as possible, be remedied with all reasonable dispatch. Force Majeure shall not include (i) the opportunity for SHYNE ENERGY to sell the electricity to be sold under this Agreement to another party at a higher price than that set forth in the Agreement, (ii) the opportunity for Customer to purchase the electricity for its ESI IDs from another party at a lower price than that set forth in the Agreement, or (iii) the inability of either Party to pay its bills under the Agreement or any other of its bills. Therefore, you agree that we are not liable for damages caused by events of force majeure, including acts of God, extraordinary weather occurrences, acts of any governmental authority, including the Public Utility Commission of Texas or the Electric Reliability Council of Texas (ERCOT), accidents, strikes, labor trouble, required maintenance work, inability to access the Local TDSP system, nonperformance of the Local TDSP, delay of deregulation or changes in laws, rules, regulations, practices or procedures of any governmental authority or ERCOT, or any cause beyond our control. If such an event occurs, which makes it impossible for SHYNE ENERGY to perform under this Agreement, our performance under this Agreement shall be excused for the duration of such event.

### **Changes to Contract Provisions**

Your price during the contract term is only subject to change to reflect changes in the TDSP charges, changes to the ERCOT or Texas Regional Entity administrative fees charged to load or changes resulting from federal, state or local laws that impose new or modified fees or costs on REPs, including Shyne Energy, that are beyond the control of REPs. We can make changes to the provisions of the contract at any time during the contract term with appropriate notice of 14 days except for changes to your price if you have a fixed rate product or changes to the pricing formula on an indexed product or the length of your contract term. If you do not cancel the contract before the effective date of the change, the change will become effective on the date stated in the notice. Notice is not required for a change that is beneficial to you.

### **ARBITRATION AGREEMENT:**

**In the unlikely event that we are unable to resolve a dispute or complaint you may have to your satisfaction, we each agree to resolve those disputes through binding arbitration or small claims court instead of in courts of general jurisdiction.** Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, allows for more limited discovery than in court, and is subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award.

We and you agree to arbitrate all disputes and claims between us. This agreement to arbitrate is intended to be broadly interpreted. It includes, but is not limited to:

claims arising out of or relating to any aspect of the relationship between us, whether based in contract, tort, statute, fraud, misrepresentation or any other legal or equitable theory;

- claims that arose before this or any prior Contract;
- claims that are currently the subject of purported class action litigation in which you are not a member of a certified class; and
- claims that may arise after the termination of your Contract.

Notwithstanding the foregoing, either party may bring an individual action in small claims court. This arbitration agreement does not preclude you from bringing issues to the attention of federal, state, or local agencies, including, for example, the PUCT. Such agencies can, if the law allows, seek relief against us on your behalf. No amendment of this arbitration agreement shall apply to disputes or claims of which we had actual notice from you on the date of the amendment. **You agree that, by entering into your Contract, you and TXU Energy are each waiving the right to a trial by jury or to participate in a class action, and the Federal Arbitration Act governs the interpretation and enforcement of this agreement.** This arbitration agreement shall survive termination of your Contract.

The arbitration will be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this agreement, and will be administered by the AAA. The AAA Rules are available online at [adr.org](http://adr.org) or by calling the AAA at 1-800-778-7879. The arbitrator is bound by the terms of your Contract. All issues are for the arbitrator to decide, except that issues relating to the scope and enforceability of the arbitration provision are for the court to decide.

The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. **YOU AND WE AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR OUR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING, INCLUDING IN ANY PROCEEDING THAT ORIGINATES IN A SMALL CLAIMS COURT AND ANY RELATED APPEAL.** Further, unless both you and we agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. If this specific provision is found to be unenforceable, then the entirety of this arbitration provision shall be null and void.

### **WAIVER OF RIGHT TO JURY TRIAL OR TO CLASS ACTION OR CLASS ARBITRATION:**

**TO THE FULLEST EXTENT THAT APPLICABLE LAW ALLOWS, YOU AND WE AGREE THAT (1) YOU AND WE WAIVE ANY RIGHT TO TRIAL BY JURY AND (2) NEITHER YOU NOR WE WILL SEEK OR SUPPORT ANY ORDER CERTIFYING AN ACTION OR ARBITRATION INVOLVING YOU AND US AS A CLASS ACTION OR CLASS ARBITRATION OR JOIN OR PARTICIPATE AS A PARTY OR CLASS.**