



Constellation NewEnergy Canada, Inc.
Fixed Price
Electricity Supply Agreement – Ontario

Agreement is Not Valid Unless
Executed by NewEnergy

CRFA

CUSTOMER AND CONSTELLATION NEWENERGY CANADA, INC. (“NewEnergy”) AGREE AS FOLLOWS:

Defined Terms. Capitalized terms have the meaning set out in this Electricity Supply Agreement, including the attached General Terms and Conditions (“Agreement”); generally the words “you” and “your” refer to the Customer listed below and the words “we” and “us” refer to NewEnergy, unless the context clearly requires otherwise.

Purchase and Sale of Electricity. You will purchase from us on an exclusive basis and we will supply, or cause to be supplied, all of your electricity requirements for the account(s) identified in the Pricing Schedule below (“Account(s)”). By signing this Agreement, you authorize us to enroll your Accounts with your Utility or the IESO so that we can supply those Accounts. You will take such actions as we request to allow us to enroll your Account(s) in a timely manner. You also give us the authority to move your Account(s) onto and off of the Utility’s applicable default service during the service term; provided that such movement does not affect your NewEnergy Electricity Charge (as defined below).

Your Price. You will pay the fixed price per kilowatt-hour of electricity set forth in the Pricing Schedule multiplied by your kilowatt-hour (kWh) usage during the applicable period (the “NewEnergy Electricity Charge”). The fixed price is “fixed” for the existing term of this Agreement and only subject to change if there is a change in law, market structure, and/or your electricity needs or classifications, as described in Section 6 of the General Terms and Conditions, if there is a variation in your monthly usage, as described under the heading “Usage Variance” below, or if the Utility changes the designated rate class for any Account(s), in which case we will have the right to adjust your fixed price to reflect extra costs we incur. The NewEnergy Electricity Charge does not include: (1) Taxes - which we will pass through to you on our bill either as a separate line item or reflected as part of the price of electricity, as required by law, rule or regulation; (2) Delivery Charges which will be billed separately by the Utility; and (3) any other costs as set forth in this Agreement; such costs will be charged to you as a “pass-through,” which means they will change during the existing term of this Agreement if and as the related charges assessed or charged to us (in the case of Taxes and any other costs as set forth in this Agreement) or by the Utility (in the case of Delivery Charges) vary for any reason, including but not limited to the types of changes described above.

Term. This Agreement will become effective and binding on both of us after you have signed the Agreement and we have counter-signed and returned a copy to you. We will use commercially reasonable efforts to begin service to the Accounts on the Start Date(s) set forth below in the Accounts Schedule, but if we are unable to enroll one or more of the Accounts by such date as a result of circumstances beyond our control (including your failure to notify the Utility or IESO that it has selected us as its supplier or any acts or omissions of the Utility), the Start Date will commence on the next regularly scheduled Utility meter read date in the month and year following successful enrollment of such Accounts. In this circumstance, we, in our discretion, will have the right, but not the obligation, upon written notice to you to extend the End Date to reflect the delay in the start of our supplying electricity to you. If we are unable to commence service within 15 days we will have the right, in our discretion, to terminate this Pricing Schedule without penalty or prejudice upon written notice to you. At the end of the term of this Agreement (including any renewal term), if any Account(s) remain designated at the Utility as being served by us, we may continue to serve your Account(s) on a month-to-month holdover basis (which we will refer to as the “Holdover Term”) and will charge you an estimate of the weighted average spot price for your Utility plus \$.0005/kWh. This Agreement will continue to govern our relationship for the supply of electricity during the Holdover Term, and either of us may terminate the Holdover Term at any time upon 30 days advance written notice to the other. **Supply of electricity under this Agreement is conditioned upon (1) our review and approval of your creditworthiness, (2) our verification of the accuracy of all the information that you provide regarding your Accounts and electricity usage, (3) our receipt of copies of current Utility bills for Accounts, (4) your delivery of any documents as reasonably required by the Utility and us (including, but not limited to data authorization and letters of authorization forms), and (5) your Accounts being accepted into the retail access program established by the Utility or IESO. We shall have the right to terminate this Agreement upon 15 days’ notice to you, without penalty, if any of these conditions are not met to our satisfaction.**

Your Invoice. Your invoice for service to the Accounts will be issued by the Utility, and your payments should be sent to the Utility consistent with applicable Utility tariff payment terms. We reserve the right to adjust amounts previously invoiced based upon supplemental or additional data we may receive from your Utility or the IESO. If you fail to make payment by the Utility’s due date, then interest will accrue daily on outstanding amounts payable to us from the due date until the bill is paid in full at a rate of one and one-half percent (1.5%) per month, or the highest rate permitted by law, whichever is less. You will be deemed to have waived any billing disputes unless you present them to us in writing within 60 days after the date on your invoice. All other claims you may have related in any way to the Agreement and/or the products and services we provide will be deemed waived if you do not notify us of such claims within 60 days after termination or expiration of this Agreement.

Usage Variance. You acknowledge that your price is based upon your monthly usage and metered rate of consumption for each Account identified below. You agree to bear any additional charges relating to variance in your monthly usage of electricity at any Account of more than ten percent (10%), as compared to your actual historical kilowatt-hour usage or our good faith estimate of your anticipated monthly usage (when historical information is not available).

Government Rebates. NewEnergy has no control over the amount or availability of Government Rebates. Such rebates may be credits or debits. We will process any governmental rebates that we receive on your behalf, and will remit the rebate(s) to you less a \$50 processing fee.

Alternate Pricing Options. At any time during the term of this Agreement, you may request other NewEnergy standard pricing options then being generally offered. If the parties agree on alternate pricing and terms, then you may convert from the pricing provided in this Agreement to the selected alternate pricing option without penalty. The parties will execute a new Electricity Supply Agreement, or an amendment to this Agreement, to evidence your election.

Confidentiality and Warranty; Marketing. All terms of this Agreement are confidential and shall not be disclosed by you without our prior written consent, except as required by law. You warrant and represent that the electricity supplied under this Agreement is not for use at a residence. You further authorize us to utilize your name for publicity and marketing purposes.

Notices. All notices will be in writing and delivered by hand, certified mail, return receipt requested, or by express carrier to our respective business addresses. Our business address is 205 Richmond Street West, Suite 705, Toronto, Ontario M5V 1V3, Fax (416) 595-5566. Either of us can change our address by notice to the other as provided for in this paragraph.

Customer Service. You can contact us with questions about your invoice or our services at our Customer Service Department by calling toll-free 866-754-9400.

Consumer Protections. Additional information about energy-related matters in addition to handling complaints against market participants may be obtained by contacting the Ontario Energy Board's customer service centre (toll-free: 1-877-632-2727; in Toronto: 416-314-2455).

In witness whereof, the Parties have caused this Pricing Schedule to be executed on their behalf on the respective dates written below.

For:	Constellation NewEnergy Canada, Inc.	Customer:	_____
By:	_____	1	_____
	Rob Weir	Contact name	_____
		signature	_____
		2	_____
		Printed Name:	_____

Title:	Regional Vice President, Ontario	Title:	_____
		3	_____
Date:	_____	Date:	_____
		4	_____
OEB License			_____
Number:	<u>ER-2007-0958</u>		_____

General Terms and Conditions

1. Definitions:

"Delivery Charges" means any amounts charged by the Utility (or charged by IESO and passed through by the Utility) for delivery/transmission/distribution services, wholesale market service charges (including, but not limited to hourly uplift, ancillary service payments and the IESO administration charges), debt retirement charges, or rural rate protection charges.

"Delivery Point" means existing and future points of interconnection between your Utility transmission system and/or distribution system and those of a third party.

"Electricity Act" means the Electricity Act, 1998 (Ontario), as amended by the Electricity Restructuring Act, 2004 (Ontario), and as may be further amended, restated or re-enacted from time to time.

"End Date" means the first meter read date available for enrollment on or before the date specified in the Pricing Schedule. "HOEP" means (the final hourly market clearing price for electricity as posted on the IESO website at www.ieso.ca).

"IESO" means the Independent Electricity System Operator (formerly the Independent Electricity Market Operator) established under the Electricity Act, or other successor or replacement entity, public or private, administering transmission reliability and control of the electricity grid in the Province of Ontario.

"LMP" means the form of electricity pricing known as locational marginal pricing, as determined and modified by the IESO from time to time, to be considered and implemented by the IESO, if at all, based upon a non-uniform, real-time, price of electricity at each point, node, zone or other price reference location on the IESO-controlled grid and having the effect that such real-time prices reflect the costs of transmission congestion.

"Start Date" means the first meter read date available for enrollment on or after the date specified in the Pricing Schedule.

"Taxes" means all taxes, duties, fees, levies, premiums or any other charges of any kind, whether direct or indirect, together with all interest, penalties or other additional amounts imposed, including but not limited to gross receipts, sales, consumption, goods and services, use, value added, kWh, commercial activity or other privilege, excise, and any other tax (whether in effect as of the effective date of this Agreement or thereafter) imposed by any governmental entity.

"Utility" means your local electric distribution utility owning and/or controlling and maintaining the distribution system required for delivery of electricity to the Account(s).

2. Cash deposit and other security

At any time, we may require that you provide information to us so that we may evaluate your creditworthiness. We reserve the right to require that you make a cash deposit or provide other security acceptable to us (or increase such deposit or security) if your financial obligations to us increase under this Agreement, or if, in our opinion, your credit, payment history, or ability to pay your bills as they come due becomes a concern. You will need to deliver any required cash deposit or supply other required security within 5 days of our request.

3. Default under this Agreement

You will be in default under this Agreement if you fail to pay your bills on time and in full; provide cash deposits or other security as required; or perform all material obligations under this Agreement and you do not cure such default within 5 days of written notice from us; or if you declare or file for bankruptcy or otherwise become insolvent or unable to pay your debts as they come due.

4. What we can do if you are in default

If you are in default under this Agreement, in addition to any other remedies available to us, we may:

- terminate this Agreement upon 15 days' written notice and switch you back to the Utility's applicable default service; and/or
- require that you compensate us for all losses we sustain due to your default.

5. Certain payments to us following default or termination. As a result of your default or otherwise in circumstances where this Agreement is terminated early, the compensation we can recover from you may include, without limitation:

- payment of all amounts you owe us for electricity provided to you;
- when the Agreement is terminated, payment of an early termination fee in an amount (that we will calculate using our reasonable judgment) equal to the positive difference between (A) the dollar amount you would have paid to us under this Agreement had it not been terminated early and (B) the dollar amount we can resell such electricity for to a third party under then-current market conditions; and
- all costs (including attorneys' fees, expenses and court costs) we incur in collecting amounts you owe us under this Agreement. The parties agree that any termination payment under this Agreement is a reasonable approximation of harm or loss, and is not a penalty or punitive in any respect.

6. Changes in law, market structure, and/or your electricity needs or classifications

If a change in or implementation of (a) law, rule, regulation, ordinance, statute, judicial decision, administrative order, IESO operating guidelines, IESO protocols, zonal boundary definitions, Utility tariffs, and the like (including resource adequacy, renewable portfolio standards or other renewable energy requirements), (b) electricity market structure, including, the introduction by the IESO of LMP, or (c) your electricity needs, meter type or classifications, causes our costs under this Agreement to increase, we will have the right, upon 15 days' notice to you, to pass such increased costs on to you. The changes described in this Section may change any or all of the charges described in this Agreement other than the Administrative Fee, whether described as "fixed," "variable," "pass-through" or otherwise.

7. Events beyond either of our reasonable control

If something happens that is beyond either of our reasonable control that prevents either of us from performing our respective obligations under this Agreement, then whichever one of us cannot perform will be relieved from performance until the situation is resolved. Examples of such events include: acts of God, fire, flood, hurricane, war, terrorism; declaration of emergency by a governmental entity, the IESO or the Utility; curtailment, disruption or interruption of electricity transmission, distribution or supply; regulatory, administrative, or legislative action, or action or restraint by court order or other governmental entity; actions taken by third parties not under your or our control, such as the IESO or a Utility. Such events shall not excuse failure to make payments due in a

timely manner for electricity supplied to you prior to such event. Further, if such an event prevents performance for more than 15 days, then whichever one of us whose performance was not prevented by such events shall have the right to terminate the Agreement without penalty upon 15 days' written notice to the other.

8. Delivery point and indemnification obligations

We will deliver electricity to the Delivery Point. At that point title and risk of loss related to the electricity transfer to you, and you are responsible for all transmission, distribution, and other costs (including Taxes and other fees) related to the final delivery to the facilities to which the Accounts relate as well as your use of the electricity. While we will make arrangements for the delivery of electricity to you by your Utility, we will have no liability or responsibility for matters within the control of the Utility or the IESO-controlled grid, which include maintenance of electric lines and systems, service interruptions, loss or termination of service, deterioration of electric services, or meter readings. FROM AND AFTER THE DELIVERY POINT, YOU WILL DEFEND, INDEMNIFY AND HOLD NEWENERGY HARMLESS FROM ANY AND ALL CLAIMS (INCLUDING CLAIMS FOR PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE), LOSSES, EXPENSES (INCLUDING ATTORNEYS' FEES), DAMAGES, SUITS, CAUSES OF ACTION AND JUDGMENTS OF ANY KIND RELATED TO OUR DUTIES AND OBLIGATIONS HEREUNDER, THE DELIVERY TO YOU AND YOUR USE OF THE ELECTRICITY.

9. Limitation on Liability

NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, IN NO EVENT WILL NEWENERGY OR ANY OF OUR AFFILIATED COMPANIES BE LIABLE FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST OPPORTUNITIES OR LOST PROFITS, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NewEnergy's total liability related to this Agreement, whether arising under breach of contract, tort, strict liability or otherwise, will not exceed the amount of your first month's electricity bill. NO WARRANTY, DUTY, OR REMEDY, WHETHER EXPRESSED, IMPLIED OR STATUTORY, ON NEWENERGY'S PART IS GIVEN OR INTENDED TO ARISE OUT OF THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE.

10. Dispute Resolution; Applicable law and Venue

THIS AGREEMENT WILL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE PROVINCE OF ONTARIO WITHOUT GIVING EFFECT TO ANY CONFLICTS OF LAW PROVISIONS. WE BOTH AGREE THAT EXCLUSIVE JURISDICTION AND VENUE FOR THE ADJUDICATION OF ANY SUIT, CLAIM, ACTION OR OTHER PROCEEDING, WHETHER AT LAW OR IN EQUITY, RELATING TO THIS AGREEMENT WILL BE IN THE CITY OF TORONTO, ONTARIO. WE ALSO BOTH AGREE IRREVOCABLY AND UNCONDITIONALLY TO WAIVE ANY RIGHT TO A TRIAL BY JURY OR TO INITIATE OR BECOME A PARTY TO ANY CLASS ACTION CLAIMS WITH RESPECT TO ANY ACTION, SUIT OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

11. Relationship of Parties

We are an independent contractor, and nothing in this Agreement establishes a joint venture, fiduciary relationship, partnership or other joint undertaking. We are not acting as your consultant or advisor and you will **not rely** on us in evaluating the advantages or disadvantages of any specific product or service, predictions about future energy prices, or any other matter. Your decisions to enter into this Agreement and any other decisions or actions you may take is and will be based solely upon your own analysis (or that of your advisors) and not on information or statements from us.

12. Miscellaneous Provisions

If in any circumstance we do not provide notice of, or object to, any default on your part, such situation will not constitute a waiver of any future default of any kind. If any portion of this Agreement is held legally invalid, the remainder will not be affected and will be valid and enforced to the fullest extent permitted by law and equity, and there will be deemed substituted for the invalid provisions such provisions as will most nearly carry out our mutual intent as expressed in this Agreement. You may not assign or otherwise transfer any of your rights or obligations under this Agreement without our prior written consent. Any such attempted transfer will be void. We may assign our rights and obligations under this Agreement to another electricity services company or marketer qualified to do business in Ontario. This Agreement contains the entire agreement between both of us, supersedes any other agreements, discussions or understandings (whether written or oral) regarding the subject matter of this Agreement, and may not be contradicted by any prior or contemporaneous oral or written agreement. A facsimile copy with your signature will be considered an original for all purposes, and you will provide original signed copies upon request. Any document generated by the Parties with respect to this Agreement, including this Agreement, may be imaged and stored electronically ("Imaged Documents"). Imaged Documents may be introduced as evidence in any proceeding as if such were original business records and neither Party shall contest the admissibility of Imaged Documents as evidence in any proceeding. Except as otherwise explicitly provided in this Agreement, no amendment to this Agreement will be valid or given any effect unless signed by both of us. Applicable provisions of this Agreement will continue in effect after termination or expiration of this Agreement to the extent necessary, including those for billing adjustments and payments, limitations of liability and dispute resolution. This Agreement is an "Eligible Financial Contract" for purposes of the Bankruptcy and Insolvency Act (Canada), the Winding Up and Restructuring Act (Canada) and the Companies' Creditors Arrangement Act (Canada) and the bankruptcy, insolvency, creditor protection or similar laws of any other jurisdiction (regardless of the jurisdiction of such application or competence of such law). **The terms of any purchase order (PO) you send to us and/or any alterations, additions, or modifications you make to the preprinted terms of this Agreement shall be void and without any effect.**

Account Schedule

For the terms of the start date , end date and price, see Special Terms and Conditions below.

The following details must be exactly as it appears on the invoice for successful contract execution					
Service Account Name	Utility Name 6	Utility Account Number 7	Service Account Address 8	Service Account City	Service Account Postal Code

9 Primary Contact Information

The Primary Contact receives all 'Non-Billing' related correspondence.

Company: _____

Contact Name: _____ Title: _____

Address: _____

City: _____ Province: _____ Postal Code: _____

Telephone: _____ Fax: _____

Email: _____

10 Billing Contact Information

Please complete if the billing contact information is different from the information provided above.

Company: _____

Contact Name: _____ Title: _____

Address: _____

City: _____ Province: _____ Postal Code: _____

Telephone: _____ Fax: _____

Email: _____

Please note, should your contract contain multiple account numbers with different billing contact information, we require that you list each address and the associated utility account number(s) separately.

11 Special Terms & Conditions

Contract start date shall be after August 1, 2008 for the accounts listed above in the Account Schedule. The contract end date shall be the first meter read date after the completion of the term as selected below. **(Indicate with a check mark)**

_____ **Until December 2011 @ \$ 0.0748cents/ kWh**

_____ **Until December 2012 @ \$ 0.0756/ kWh**