



Econergy Energy Company, Inc.
P.O. Box 1020, Spring Valley, NY 10977
1-800-805-8586 • www.econergy.com

PROMO CODE: 10-High	CAMPAIGN CODE: NCVOA
RIDER ID:	
AFFINITY CODE: LYNBR	

New York

Econergy Commercial Enrollment Consent ver011007.C.a

* Full Name of Business Entity or Sole Proprietor (including d/b/a): _____ ("Customer")

* Name on utility account if different: _____

* Current Billing Address: _____

* City: _____ * State: _____ * Zip: _____

* Current Service Address if different: _____

* Telephone: _____ Ext. _____ E-Mail: _____

* Accounts Payable Contact Person: _____

* Taxpayer Identification #: _____

Check box if Tax Exempt or reduced tax rate and include tax exempt form with Agreement.

* Budget Bill Yes No

If Customer: (i) is enrolling multiple accounts to be billed under the same Business Entity, (ii) requires a Guarantor, or (iii) is having this enrollment completed by Customer's legal representative, please complete and attach Appendix to this Enrollment Consent.

Please enroll me for **Natural Gas Service**

Gas Utility Name: _____ Account Number: _____

Approximate Annual Consumption _____ (therms/cufs), as applicable

Rate: **Variable**

Rate Protection Plan (see attached Rider) **Fixed Rate** (see attached Rider)

Please enroll me for **Variable Rate Electric Service**

Electric Utility Name: _____ Account Number: _____

Approximate Annual Consumption _____ kWhs

ALL FIXED RATE OR RATE PROTECTION PLAN RATES ARE ONLY VALID IF ACCOMPANIED BY A RIDER

Please initial → _____ I have read and agree to the New York Commercial Terms and Conditions version 011007.C.a and any riders attached to this Enrollment Consent (*customer please initial*).

* I understand that I am not required by law to choose an alternative energy supplier at this time.

* I understand that the sales representative represents Econergy, and is not affiliated with or working on behalf of my utility.

* I am more than 18 years old and am authorized to purchase energy for this account.

* Print Name: _____ * Title: _____

* Customer Signature: _____ * Date: _____

Your Representative is: Rob Kane Rep. ID / Agent Code 6464V

Facsimile signatures on the Agreement shall be deemed original.

Econergy Review:
For office use only

Appendix to Econnergy Commercial Sales Agreement and Enrollment Consent

For multiple account numbers under the same business entity complete this section.

Natural Gas Account Numbers:

Electric Account Numbers:

If more space is needed, please attach another Appendix.

If this Agreement requires a **Guarantor**, a financially responsible party must be listed here (as Guarantor) and must sign number (1) below. By signing below, Guarantor promises in consideration of Econnergy's extension of credit to customer, to pay to Econnergy each and every item of Customer's indebtedness and to perform each obligation of Customer to Econnergy in the event Customer fails to make such payment or perform such obligation when due.

Guarantor: _____ Federal Tax I.D. #: _____

Guarantor Address: _____ City: _____ State: _____ Zip: _____

If this Agreement is signed by Customer's **legal representative**, the legal representative must be listed here and must sign (2) below. By signing below, legal representative certifies that he/she has been authorized by Customer to enter into this Agreement on Customer's behalf and have provided evidence of this agency or power of attorney relationship to Econnergy's representative.

Legal Representative Name: _____ Company Name: _____

Legal Representative Address: _____ City: _____ State: _____ Zip: _____

I agree that the information completed above on this Appendix is incorporated into the Enrollment Consent executed on _____, 20__ and will be subject to the New York Commercial Terms and Conditions version 011007.C.a and any Riders.

Print Customer Name: _____

Signature of Customer: _____ **Date:** _____

(1) Print Name: _____

(1) Signature of Guarantor: _____ **Date:** _____

(2) Print Name: _____

(2) Signature of Legal Representative: _____ **Date:** _____

New York Commercial Terms & Conditions v. 011007.C.a

Your Commercial Energy Sales Agreement ("Agreement") with Econnergy Energy Company, Inc. ("Econnergy") or an Econnergy affiliate shall consist of: (i) your telephonic, electronic or written agreement to initiate service and begin enrollment with Econnergy ("Enrollment Consent"), (ii) the terms and conditions contained herein and (iii) any applicable Rider to Energy Sales Agreement or Enrollment Consent ("Rider").

In the event of an electric or gas emergency or service interruption, you should immediately contact your local distribution company ("LDC") and emergency personnel.

Central Hudson Gas and Electric: 800-527-2714

Consolidated Edison of NY: 800-752-6633

Conning Natural Gas: 607-936-3755

KeySpan Energy Delivery NY: 718-643-4050

KeySpan Energy Delivery LI: 800-490-0045

National Fuel Gas: 800-444-3130

National Grid: 800-892-2345

NYSEG: 800-572-1131

Orange and Rockland: 877-434-4100

Rochester Gas and Electric: 800-743-1701 (electric)/800-743-1702 (gas)

1. Agreement to Sell and Purchase Energy. Econnergy shall sell to the customer identified in the Enrollment Consent ("Customer") and Customer shall purchase from Econnergy, all of the electricity or natural gas necessary to satisfy Customer's requirements for the LDC account(s) identified in the Enrollment Consent, during the term of the Agreement. Customer agrees to initiate service and begin enrollment with Econnergy. The parties anticipate that Customer's actual usage requirements will not vary by more than 10% from Customer's historical usage during the previous 12 months. Customer must provide advance notice to Econnergy of any event that may result in a variation of more than 10% from Customer's historical usage. If Customer fails to provide such advance notice, Customer shall be liable to Econnergy for costs incurred or losses suffered as a result of such variation. Fixed Rate or Rate Protection Plan Customers are governed by Section 2 of the Rider.

2. Agreement Term. The Agreement shall be effective as of the date your enrollment or re-enrollment is accepted by Econnergy ("Effective Date") and shall continue for 12 months from the Effective Date unless a different period of time is agreed to in a Rider ("Initial Term"). The Agreement shall then automatically renew for successive twelve (12) month periods ("Renewal Term") unless one party notifies the other party in writing, at least thirty (30) days prior to the anticipated renewal date, that it does not wish for the Agreement to renew.

3. Material Change; Renewal Notice: (a) Econnergy will send written notice at least 30 days prior to making any material changes to this Agreement. Such changes will automatically take effect unless Customer notifies Econnergy that Customer wishes to terminate this Agreement. (b) If Customer has chosen a Fixed Rate or Rate Protection Plan product, then no later than 45 days prior to the end of the Term, Econnergy may elect to send a notice ("Renewal Notice") of the price, terms and conditions that will apply for the Renewal Term. If no Renewal Notice is sent by Econnergy this Agreement shall continue and the price shall be a variable rate price set by Econnergy based on market conditions, plus all applicable taxes. Unless Customer terminates this Agreement at least 30 days before the end of any Initial Term or Renewal Term, this Agreement will automatically renew in accordance with this Agreement and any Renewal Notice.

4. Supply Term. Econnergy's supply of electricity or natural gas pursuant to the Agreement shall commence on (i) the date that the LDC deems the switch to Econnergy effective (or new enrollments) or (ii) the date that the LDC deems the rate change effective (typically your next meter read date) if you are an existing Econnergy customer that is changing from a variable rate plan or (iii) upon expiration of your previous Fixed Rate or Rate Protection Plan (if you are currently enrolled in Econnergy's Fixed Rate or Rate Protection Plan), or (iv) at some other date agreed to in writing by both parties on a Rider. Econnergy's supply of electricity or natural gas shall terminate upon the completion of the Initial Term and any Renewal Term.

5. Price. The price for all electricity or natural gas sold during the Initial Term of the Agreement shall be the rate agreed to in the Enrollment Consent and any Rider, plus all applicable taxes. The price for all electricity or natural gas sold during any Renewal Term of the Agreement shall be the price set forth on the Renewal Notice, or new Rider executed by the Customer. If no Renewal Notice is sent by Econnergy or no new Rider is executed by the Customer, the price shall be a variable rate price set by Econnergy based on market conditions, plus all applicable taxes.

6. Econnergy Contact Information. Customer may contact Econnergy's Customer Service Center at 1-800-805-8586 Monday through Friday 9:00 a.m. - 5:00 p.m. ET (contact center hours subject to change). Customer may write to Econnergy at: Econnergy Energy Company, Inc., P. O. Box 1020, Spring Valley, N. Y. 10977 or email Econnergy at service@econnergy.com.

7. Consumer Protections. The services provided by Econnergy are protected by the terms and conditions of the Agreement. The services provided by the LDC are protected by the Non-Residential Rules of the New York State Department of Public Service. Econnergy will provide at least fifteen (15) calendar days' notice prior to any cancellation of service to Customer. Customer may obtain additional information by contacting Econnergy, or the New York State Department of Public Service ("DPS"), Office of Consumer Services, toll free at 1-888-697-7728, in writing: Three Empire State Plaza, Albany, NY 12223, or by visiting www.dps.state.ny.us.

8. Information Release Authorization. Customer's Enrollment Consent shall constitute Customer's authorization for Econnergy and its agents to obtain and review information regarding Customer's credit history from credit-reporting agencies. Customer's acceptance shall also constitute Customer's authorization for Econnergy and its agents to obtain from the LDC, and for the LDC to release to Econnergy, the following information regarding Customer: consumption history; billing determinants; payment history; credit information; public assistance status; medical emergency status; status of Customer as elderly, blind or disabled; data pertaining to cold weather periods under PSL §32(3); information pertaining to the multiple dwellings provisions of PSL §33; tax-exempt status; and eligibility for economic development or other incentives. Econnergy and its agents may use the information obtained from the credit reporting agencies and the LDC to determine whether to commence and/or continue to provide energy supply service to Customer and to facilitate regular invoicing and collection of monies owed. These authorizations shall remain in effect as long as the Agreement is in effect. Customer may rescind these authorizations at any time by either calling or providing written notice to Econnergy. Econnergy reserves the right to reject Customer's enrollment or terminate its Agreement with Customer, in whole or with respect to any particular account(s) covered by the Agreement, in the event Customer rescinds these authorizations, fails to meet or maintain satisfactory credit standing as determined by Econnergy, or fails to meet minimum or maximum threshold consumption levels as determined by Econnergy. If a customer fails to remit payment in a timely fashion, Econnergy may report the delinquency to a credit-reporting agency.

9. Dispute Resolution. In the event of a billing dispute or disagreement involving Econnergy's service, Customer should contact Econnergy's Customer Service Center as provided above. Customer must pay the bill in full, except for the specific disputed amount, during the pendency of the dispute. If the parties cannot resolve the dispute within 45 days, either party may avail itself of all remedies available under law or equity. The DPS will not resolve Non-Residential disputes associated with the services provided under this Agreement. However, the DPS will monitor inquiries and contacts from Non-Residential customers regarding energy service companies and an excessive number of confirmed complaints may result in an energy service company no longer being eligible to supply electricity or natural gas in New York State. The DPS Office of Consumer Services can be reached: by telephone toll free at 1-888-697-7728; in writing at: New York State Public Service Commission, Office of Consumer Services, Three Empire State Plaza, Albany, New York 12223; or by visiting www.dps.state.ny.us.

10. Termination.

(a) Termination of Variable Rate contract. If the price in effect under the Agreement is a variable rate price (without a ceiling) Customer may cancel the Agreement with 90 days written notice without penalty and Econnergy may terminate the Agreement without penalty at any time: in whole or with respect to any particular account(s) covered by the Agreement by providing advance written notice of termination to the Customer. If Customer cancels without 90 days written notice, Customer may be subject to a \$25 administrative fee.

(b) Termination of Rate Protection Plan or Fixed Rate contract. If the price in effect under the Agreement is a variable with ceiling under the Rate Protection Plan or a fixed price under Econnergy's Fixed Rate, and either: (i) Customer terminates the Agreement, in whole or with respect to any particular account(s) covered by the Agreement, or (ii) Econnergy terminates the Agreement, in whole or with respect to any particular account(s) covered by the Agreement, for non-payment or for a breach by Customer of any of the terms and conditions of the Agreement, Customer shall be required to pay all of Econnergy's charges for the energy supplied by Econnergy at the price set forth in Section 5 above until such time as the LDC or another ESCO actually begins supplying the energy to such terminated account(s), and an early termination fee ("Early Termination Fee"), as liquidated damages, in the amount agreed to in the Enrollment Consent and any Rider. Any Early Termination Fee hereunder shall become due and payable immediately upon the effective date of the termination of service to the account(s). The Early Termination Fee is not a penalty, but is designed to compensate Econnergy for the cost of buying natural gas or electricity in advance on Customer's behalf.

(c) Customer account(s) that are terminated or cancelled shall be returned to the LDC or another ESCO for energy supply pursuant to the terms of the New York Uniform Business Practices Act ("UBPA"). Depending upon the particular procedures of the LDC and other relevant factors, it may take up to several billing cycles for Customer's account(s) to be returned to the LDC. Customer is required to pay all of Econnergy's charges for the energy supplied by Econnergy until such time as the LDC or other ESCO actually begins supplying the energy to Customer's account(s). A final invoice will be rendered after the final scheduled meter reading. If access to the meter is unavailable, an estimate of consumption will be used in the final invoice which will be true-up following the final meter reading.

(d) This Agreement will remain in effect if Customer moves to a location within the state of New York where Econnergy provides substantially similar service and Econnergy will continue to provide service at Customer's new location. However, if Customer moves to a location outside the state of New York or to a location within the state of New York where Econnergy does not provide substantially similar service Econnergy may terminate this Agreement.

11. Measurement. For purposes of accounting for the electricity or natural gas supplied under the Agreement, the parties accept the quantity, quality, and measurement determined by the LDC. If the LDC is unable to read Customer's meter, the LDC will estimate Customer's usage and Econnergy shall calculate its charges based on the LDC's estimate. Econnergy may then adjust its charges on a subsequent invoice to reflect receipt of actual usage information from the LDC.

12. Agency. Customer appoints Econnergy as its agent to acquire the supplies necessary to meet its electricity or natural gas needs, contract for and administer transportation, transmission and related services over interstate facilities and those of the LDC needed to deliver electricity or natural gas to the Customer's premises. These services are provided to Customer on an arms-length basis and market-based compensation is included in the price hereunder.

13. Billing and Payment. Depending on Customer's location and other relevant factors, Customer will receive either: (i) consolidated invoices from Econnergy or the LDC reflecting both the commodity and delivery charges, or (ii) separate invoices from Econnergy and the LDC. A Customer payment remitted in response to a consolidated invoice shall be prorated by the billing party in accordance with the procedures adopted by the DPS. Econnergy may make appropriate adjustments to subsequent invoices to account for previous billing errors, meter read errors, miscalculation of taxes, or other errors or omissions. Customer shall pay each invoice in full within twenty (20) days of the invoice date or be subject to a late payment charge of 1.5% per month. Econnergy's acceptance of a payment for a lesser amount, with an endorsement or statement thereon, or upon any correspondence accompanying or relating to such payment, that such lesser amount is payment in full, shall be given no effect. Econnergy may accept such payment without prejudice to any other rights or remedies that Econnergy may have against Customer and Econnergy may apply it to Customer's account(s) as a partial payment. A \$20.00 insufficient funds fee shall be assessed for any payment transaction, whether by check, electronic funds transfer or credit card that is dishonored or rejected due to insufficient funds or insufficient credit availability. If any payments made by Customer directly to Econnergy are rejected two times in a one-year period, the only form of payment acceptable will be a certified check, money order or electronic funds transfer. In the event of failure to remit payment when due, Customer's breach of any of the other terms and conditions of the Agreement, a material adverse change in the business or financial condition of Customer (as determined by Econnergy in its discretion) or if Customer fails to post any security deposit required by Econnergy, then, in addition to any other remedies that it may have, Econnergy shall have the right to terminate the Agreement, in whole or with respect to any particular account(s) covered by the Agreement, upon fifteen (15) days' written notice to Customer. In the event Econnergy takes legal action to recover an outstanding balance on Customer's account(s), Customer shall be liable for attorneys' fees equal to twenty-five percent (25%) of the outstanding balance or \$500.00, whichever is greater. Failure to make full payment of Econnergy's charges due on any consolidated bill prepared by the LDC for Econnergy will be grounds for disconnection of utility services in accordance with NYSPSC rules and regulations on the termination of service to non-residential customers, 16 NYCRR Section 13.3.

14. Title. All electricity or natural gas sold pursuant to the Agreement shall be delivered to a location ("Point of Delivery") which shall constitute the point at which the sale occurs and title to the energy passes from Econnergy to Customer. For natural gas, the Point of Delivery shall be a location outside the State of New York. For electricity, the Point of Delivery shall be, depending on the specific transaction, either a location outside the State of New York or the New York Independent System Operator (NYISO) Econnergy load bus (located outside of the municipality where Customer resides).

15. Default Liability. FOR BREACH OF ANY PROVISION OF THE AGREEMENT FOR WHICH AN EXPRESS REMEDY IS PROVIDED, SUCH EXPRESS REMEDY SHALL BE THE SOLE AND EXCLUSIVE REMEDY. THE BREACHING PARTY'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER DAMAGES AT LAW OR IN EQUITY SHALL NOT APPLY. IF NO EXPRESS REMEDY IS PROVIDED, ECONNERGY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY (WHICH WILL NOT EXCEED THE AMOUNT OF CUSTOMER'S SINGLE LARGEST MONTHLY INVOICE DURING THE PRECEDING TWELVE MONTHS). SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES AT LAW OR IN EQUITY ARE HEREBY WAIVED. IN NO EVENT SHALL ECONNERGY BE LIABLE FOR ANY PUNITIVE, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, INDIRECT, THIRD-PARTY CLAIMS OR OTHER DAMAGES WHETHER BASED ON CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, OR FOR LOST PROFITS ARISING FROM A BREACH OF THE AGREEMENT.

16. Governing Law. Jurisdiction and venue for any lawsuit brought to enforce any term or condition of the Agreement or to construe the terms hereof shall be exclusively in the State of New York. The Agreement shall be construed under and shall be governed by the laws of the State of New York. If at some future date there is a change in any law, rule, regulation or pricing structure, or there is a regulatory or judicial ruling or decision which shall have a detrimental economic impact upon Econnergy's performance under the Agreement, or in the event that compliance with such change, ruling or decision shall result in a material change in the way prices are calculated under the Agreement, or a material change in the level of components of pricing under the Agreement, or Econnergy is otherwise prevented, prohibited or frustrated from fulfilling its obligations under the Agreement, Econnergy shall have the right to terminate the Agreement, in whole or with respect to any particular account(s) covered by the Agreement, upon fifteen (15) days' notice to Customer.

17. Assignment. Customer may not assign the Agreement, in whole or in part, or any of Customer's rights or obligations hereunder without the prior written consent of Econnergy. Econnergy may, without Customer's consent: (a) transfer, sell, pledge, encumber or assign the Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial or billing services agreement; (b) transfer or assign the Agreement, in whole or in part, to an ESCO affiliate of Econnergy; and/or (c) transfer or assign the Agreement, in whole or in part, to another approved ESCO or other entity authorized by the DPS.

18. Severability. If any provision of the 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.

19. No Warranties. Unless otherwise expressly set forth in the Agreement, Econnergy provides and Customer receives, no warranties, express or implied, statutory or otherwise, and Econnergy specifically disclaims any warranty of merchantability or fitness for a particular purpose. Additionally, Econnergy specifically disclaims any warranty or guaranty that the price charged by Econnergy for the energy supplied pursuant to the Agreement will be lower than the price that Customer would have been charged by the LDC or another ESCO.

20. Delay or Failure to Exercise Rights. No partial performance, delay or failure on the part of Econnergy in exercising any rights under the Agreement and no partial or single exercise thereof shall constitute a waiver of such rights or of any other rights hereunder.

21. Force Majeure. The term "Force Majeure" shall mean any cause not reasonably within the control of the party claiming suspension and which by the exercise of due diligence such party is unable to prevent or overcome, including but not limited to, any act or cause which is deemed a Force Majeure by the LDC or any transportation or transmitting entity. If either party is unable, wholly or in part, by Force Majeure to perform or comply with any of the terms or conditions of the Agreement, such party shall give immediate written notice, to the maximum extent practicable, to the other party. Such obligations or conditions, so far as they are affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, and such party shall be relieved of liability and shall suffer no prejudice for failure to perform the same during the period. The party claiming suspension of obligations must in good faith attempt to mitigate and/or terminate the Force Majeure.

22. Taxes and Laws. Except as otherwise provided in the Agreement or by law, all taxes of whatsoever kind, nature and description, due and payable with respect to Customer's performance of its obligations under the Agreement, shall be paid by Customer. Any lawful tax exemption will only be recognized on a prospective basis from the date Customer provides valid tax exemption certificates to Econnergy. The parties' obligations under the Agreement are subject to present and future legislation, orders, rules, or regulations of a duly constituted governmental authority having jurisdiction over the Agreement or the energy supply service to be provided hereunder.

23. Entire Agreement. The Agreement (including the Enrollment Consent and any Riders that are attached thereto) sets forth the entire agreement between the parties. Any and all prior or contemporaneous agreements, understandings and representations between the parties, whether oral or written, are superseded by the Agreement.

24. Acceptance and Amendments. The Agreement shall not become effective until accepted by Econnergy. Econnergy may amend the terms of the Agreement at any time, consistent with any applicable law, rule or regulation. Where required by law Econnergy will provide notice to Customer of any such changes. The Agreement is binding upon the parties hereto and their respective successors and legal assigns.