



## **Constellation Power Circle – Referral Program Terms & Conditions**

This Power Circle- Referral Program (“Program”) pertains to Constellation NewEnergy, Inc. (“Constellation”, “we” or “us”) New Jersey residential electric supply customers in PSEG, JCPL, and ACE service territories referring other residential electric supply customers in Illinois, Maryland, New Jersey, Pennsylvania, Washington D.C, and Ohio. Your participation in this Program is subject to these Program Terms & Conditions.

### **Program Summary**

This Program is available to our current residential electricity supply customers in New Jersey that are under a fixed rate contract, have an active account with us and are current on all payments owed to us (each, a “Referrer”). Constellation will reward Referrers through issuance of a supply rate of \$0.00/kWh for 10 Qualified Referrals (as defined below) and for as long as 10 Qualified Referrals of Referrer remain enrolled with Constellation for residential electric supply. Void where prohibited.

### **Term/Termination**

A Referrer’s Qualified Referral count must remain at or above 10 upon our review on the 15<sup>th</sup> of each month in order to be eligible for free residential electricity supply. Once a Referrer’s Qualified Referral count falls below 10, we reserve the right to issue a plan change back to the Referrer’s originally contracted supply rate or their renewal contracted supply rate with Constellation. This Program is effective through August 31, 2013 unless terminated earlier by Constellation. We may terminate your participation in this Program or cancel this Program at any time in our sole discretion, but these Program Terms & Conditions will continue to apply to Qualified Referrals (as defined below) made prior to such termination or cancellation unless your participation is terminated because of a violation of these Program Terms & Conditions. Failure to comply with any of these Program Terms and Conditions or any fraud or abuse relating to the accrual of credits under the Program by you or anyone acting on your behalf may result in the immediate termination of your membership in the Program and return of your electricity account to your originally contracted supply rate with Constellation. In the event of any fraud, misconduct, or suspected fraud or misconduct by you or anyone acting on your behalf or under your password, we reserve the right to suspend access to your account indefinitely pending investigation.

### **Qualified Referrals**

“Qualified Referral” is any residential customer that is (i) not currently enrolled or under contract with Constellation or otherwise supplied by us, (ii) satisfies our enrollment requirements, (iii) enrolls with us for residential electricity supply, (iv) provides a valid Referral Code of any Referrer. By participating in this Program, you agree that we will make the final determination whether anyone you refer to us meets all requirements to be considered a Qualified Referral.

### **Reward**

The maximum reward you may earn through this program is an electricity supply rate of \$0.00/kWh for each month that you retain 10 Qualified Referrals. We reserve the right to change the threshold amount for Qualified Referrals at any time in our sole discretion.



### **Account**

As a Constellation customer, you have the opportunity to access some of the data regarding your referrals and rewards through our online portal. This portal allows you to log in and view your current plan details, the status of your referrals (note: referral status is only available after a Qualified Referral enrolled with us – statuses are either successful, unsuccessful or pending), view and track potential rewards, and share your unique referral code or link with friends and family.

### **Changes**

We reserve the right at any time and in our sole discretion to cease to proceed with all or any part of this Program or to alter, change, modify or assign the terms or content of this program. If any of the Program Terms & Conditions are changed or amended in any way, we will promptly publish such variation or amendment on our website at [home.constellation.com](http://home.constellation.com). It is your responsibility to check the Terms and Conditions page of the Program website regularly to determine whether these Terms and Conditions have been modified. If you do not agree to any modification of these Terms and Conditions, you must immediately cease participation in the Program. All previous Program offers will no longer be valid with respect to any Qualified Referrals made after the date of such change. Required thresholds for free electricity supply are subject to change at any time and such changes will apply to Qualified Referrals made after the date of such change. Additional restrictions may apply.

### **Confidentiality**

In connection with your participation in this Program, you may receive confidential and proprietary information from us, including sensitive customer data, which you agree to keep confidential and not to disclose to any third party except as necessary in connection with your participation in this Program. You also hereby authorize us to release any such information regarding your account to someone referred by you as necessary to enroll such potential customers with us. It is your responsibility to keep the access codes we provided for your Account confidential.

### **Referral Communications; Guidelines on Endorsements and Testimonials**

We are providing you with tools to share your referral code and link with your friends and family, as well as suggested language to use when making such referrals. You are not authorized to make any other marketing claims, including claims of savings or the nature of Constellation electricity service, as part of this Program. Any communications that you do make in connection with referrals must be honest and accurate. As part of your participation in the Program, you understand and agree that you are responsible for making truthful and accurate statements in connection with any referrals, and can be held liable for any false or misleading statements you make. You must disclose in any referral communication the fact that you are a Constellation customer, and that you may receive a reward in the form of free electricity supply if you maintain 10 successful referrals.

Any emails that you send under the Program must comply with federal CAN-SPAM Act requirements. The tools we have provided to allow you to share your referral code or link include the information required under the CAN-SPAM Act, and allow us to honor recipient opt-out requests as required by the Act. You understand and agree that you are not permitted under the Program to send out emails or share your code or link through other social media other than through the tools provided by us.

You are solely responsible for complying with the requirements of this section, and we will not be responsible for your failure to do so. Failure to comply with these requirements will result in immediate termination of your Program participation and forfeiture of any remaining Program credits. In addition, you will be responsible for any resulting damages.

### **Independent Contractor Relationship**

You acknowledge and agree that nothing herein authorizes you to act on our behalf nor on behalf of our parents and affiliates and that nothing herein shall be construed to constitute a or imply a joint venture, employer-employee relationship, partnership or association between you and us, our parent or our



affiliates. You acknowledge that you enrolled in this Program at your own risk and as an independent contractor.

#### **Indemnification**

By participating in this Program, you agree to indemnify, defend and hold harmless Constellation, its parent and their respective affiliates from and against any and all damages, costs, expenses, claims or liabilities of any kind, including third party claims, whether pending or threatened, including without limitation, reasonable attorneys' fees and court costs, incurred by any of them arising out of or related to your participation in this Program or breach of these Program Terms & Conditions.

#### **Warranty Disclaimers; Limitation of Liability**

YOU EXPRESSLY AGREE THAT YOUR PARTICIPATION IN THE PROGRAM IS AT YOUR OWN RISK. THE PROGRAM IS MADE AVAILABLE TO YOU ON AN "AS IS" BASIS WITHOUT WARRANTY OR ANY KIND, EXPRESS OR IMPLIED. NEITHER CONSTELLATION, ITS PARENT OR ANY OF THEIR AFFILIATES, THROUGH THESE PROGRAM TERMS & CONDITIONS, MAKES ANY WARRANTY REGARDING THE PROGRAM, AND EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL CONSTELLATION, ITS PARENT OR ANY OF THEIR AFFILIATES BE LIABLE FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES OR DAMAGES FOR LOSS OF PROFITS, REVENUE, USE, OR DATA AS A RESULT OF CLAIMS, WHETHER BROUGHT IN CONTRACT OR TORT, ARISING OUT OF OR CONNECTED WITH THESE PROGRAM TERMS & CONDITIONS OR THIS PROGRAM, EVEN IF CONSTELLATION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

#### **Acceptance and Jurisdiction**

By participating in the Program, you agree that you have read, understand and will abide, and be bound, by these Program Terms & Conditions. These Program Terms & Conditions shall be governed in all respects in accordance with the laws of the State of Maryland without regard to the conflict or choice of law rules thereof. The federal and state courts located in Baltimore, MD shall have exclusive jurisdiction over any dispute arising hereunder and by participating in this Program you consent to same.

#### **General**

You may not assign the right to participate in this Program to any other party. We may assign these Program Terms & Conditions or assign or delegate any of our rights or responsibilities hereunder to independent contractors or other third parties. We shall not be deemed to have waived any of our rights or remedies hereunder unless such waiver is in writing and executed by our authorized representative. No delay or omission by us in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies.