

BLACK HILLS ENERGY
TERMS & CONDITIONS FOR ENERGY MANAGEMENT PILOT PROGRAM

1. **Description:** This Agreement is for participating in Black Hills Energy’s Energy Management Program (“Program”). The Program is a two year pilot that consists of two sub-programs: Direct Load Control (DLC) Program and Innovative Pricing Program (IPP) as further described in the program information guide.
2. **Term:** This agreement shall be a term of two years, unless amended or otherwise terminated sooner by either party in accordance with this Agreement. The dates the Program will run are June 1st through September 30th of each year.
3. **Termination:** Either the customer or Black Hills Energy may terminate this Agreement for any reason, without penalty, upon three (3) days’ prior notice to the other party. Customer may call 719-546-6514 to terminate participation in the program. If customer moves from location where the “smart” meter is installed, this agreement will be terminated and customer will no longer be a participant in the Program.
4. **Thermostat:** Customer will receive a “smart” thermostat as a participant in either program at no cost. Customer will be able to keep the thermostat after the completion of the pilot program or prior termination, at no cost.
5. **Credit:** Participants in the DLC program will receive a \$30.00 credit on their October bill for each year of full participation in the program. Participants in the IPP program may receive a credit based on a formula for reduced electric usage during a specified load reduction event. A credit is not guaranteed for participants in the IPP program as it is based on voluntary participation of the customer.
6. **Indemnification:** The customer and Black Hills Energy (“Indemnifying Party”) each will indemnify, hold harmless and defend the other party and its officers, directors, shareholders, agents, employees, and representatives (“Indemnified Party”) from all claims, liabilities, fines, interest, costs, expenses and damages (including reasonable attorney fees) incurred by the Indemnified Party for any damage, injury, death, loss or destruction of any kind to persons, property or the environment, to the extent the damage, injury, death, loss or destruction arises out of any act or omission of the Indemnifying Party or any of its servants, representatives, agents, employees or subcontractors. If the damage or injury is caused by the joint or concurrent negligence of the parties, their officers, directors, shareholders, agents, employees or representatives, the parties shall bear the loss in proportion to their or their officers’, directors’, shareholders’, agents’, employees’ or representatives’ degree of negligence.
7. **Limitation of Liability.** With the exception of third party claims for indemnification, neither customer nor Black Hills Energy shall be liable to each other for any special, consequential, incidental, indirect, punitive or exemplary damages.
8. **Assignment:** This agreement may not be assigned to another person.
9. **Governing Law and Jurisdiction.** This Agreement shall be governed by, and construed in accordance with, the laws of the state of Colorado, without regard to conflicts of law principles. Customer hereby consents and submits to the personal jurisdiction and venue of the state and federal courts sitting in the state of Colorado.