

YOU MUST BE AN EXISTING USER OF THE ecobee SERVICE TO ENTER THIS PROGRAM OR RECEIVE A REWARD. PLEASE READ THESE TERMS CAREFULLY. THIS PROGRAM IS VOID WHERE PROHIBITED BY LAW.

**Binding Agreement.** To participate in the Program, Participants must be at least 18 years of age and agree to these official terms and conditions ("**Terms**"). Because these Terms form a legally binding agreement with respect to the Program, please read them carefully. If you do not agree to the Terms, you are not eligible to participate in the Program. Your application for the Program and your electronic acceptance thereof constitutes your agreement to be bound by these Terms. Notwithstanding the foregoing, you will not become a "Participant" in the Program until your application has been accepted and approved by Sponsor.

**About the eco\$ave Rewards™ Texas program ("Program").** Participants whose applications to participate in the Program are accepted by ecobee ("**Participants**", "**you**", and "**your**") and who fully comply with these Terms may receive a reward, as described below ("**Reward**"). The Program attempts to reduce the electric consumption of Participants in the electric service areas managed by Participant's Utility to reduce the possibility of brownouts or blackouts during times of high electricity demand.

**Other Definitions.** In the context of these Terms,

- "**TDSP**" being Oncor Electric Delivery Company, Centerpoint Utilities, AEP Texas, Texas New Mexico Power or Nueces Electric Cooperative;
- "**Utility**" means your electric utility provider, TDSP and/or the Electric Reliability Council of Texas ("**ERCOT**");
- "**EnergyHub**" means, EnergyHub Inc.;
- "**ecobee**" means ecobee Inc.;
- "**PUCT**" means Public Utilities Commission of Texas;
- "**Sponsor Parties**" means, EnergyHub, ecobee, Utility, and their respective affiliates, agents, directors, officers, employees, successors and assigns;
- "**ecobee Mobile Application**" means the current ecobee Mobile Application available on the Google Play Store or Apple App Store with the eco+ feature available; and
- "**Compatible ecobee thermostat**" means eco+ compatible ecobee models (ecobee3, ecobee3 Lite, ecobee4 and ecobee Smart Thermostat with Voice Control) and newer with the eco+ feature enabled.

**Application Consent.** Customers of ecobee who submit applications to participate in the Program ("**Applicants**") authorize:

- Sponsor Parties and PUCT to send you emails and other notifications related to your application and participation in the Program; and
- ecobee, Utility, EnergyHub, PUCT and their respective agents to exchange data related to your identity and your energy usage, solely for the purposes of determining your eligibility and performance for the Program.

**Participation Consent.** Participants authorize:

- ecobee and EnergyHub to automatically adjust your thermostat, as required by the Program at times indicated by TDSP or ERCOT (as described below) or for general system testing purposes;
- ecobee, Utility, EnergyHub and PUCT to send you emails and other notifications related to the Program, including, but not limited, to your enrollment status and Program-related adjustments to your thermostat settings;

- ecobee, Utility, EnergyHub and PUCT to send you emails and other notifications related to surveys about the Program and to share your responses to such surveys among themselves. Such surveys may include questions about topics, such as your experience in the Program and your willingness to participate in future energy saving programs;
- ecobee, Utility, EnergyHub and PUCT, and their respective agents to exchange data related to your identity and your energy usage, solely for the purposes of fulfilling their obligations under the Program; and
- ecobee, PUCT and Utility to summarize the results of the Program in publicly-available studies, provided that any data included in such studies will be anonymous such that you are not individually identifiable.

**Reward.** As more fully described in the Official Rules (available at [www.ecobee.com/ecosaverwards-tx](http://www.ecobee.com/ecosaverwards-tx)) and subject to the terms of such Official Rules and these Terms, the possible Reward for participants is as follows:

- One(1) grand prize of \$2,500 USD
- Ten (10) ecobee SmartSensor 2-packs (valued at \$79USD per pack)

Draw will be conducted approximately on November 2, 2021 in accordance with the Contest Rules and winners will be notified via email.

**How To Apply.** Eligible Participants can apply to participate in the Program by contacting ecobee or by submitting an application via approved ecobee Mobile Application methods controlling a Compatible ecobee Thermostat. Sponsor Parties may accept or reject an Applicant's application in its sole discretion. All entries become the property of ecobee.

**How To Withdraw.** Once confirmed as a Participant, Participants can withdraw from the Program by contacting ecobee by emailing [support@ecobee.com](mailto:support@ecobee.com), calling 1.877.932.6233 or disabling the Community Energy Savings functionality contained in the eco+ feature within the approved ecobee Mobile Application controlling Compatible ecobee Thermostats. Withdrawing will not affect the other services provided by Sponsor Parties to you. By withdrawing, you may render yourself ineligible to receive a Reward or other compensation, participate in the Program in the future, or participate in other programs offered by Sponsor Parties.

**Program Termination.** Sponsor Parties ability to offer the Program is contingent on receiving certain approvals and acceptances from your Utility and electricity grid governing bodies including PUCT. Should Sponsor Parties fail to obtain such approvals and acceptances or if the Program is declared unlawful, the Program will be terminated, and Participants may not receive any Reward or other compensation.

**Participant Termination by Sponsor Parties.** Sponsor Parties reserve the right to terminate your participation in the Program at any time and without liability to Participant upon notice via email if you violate these Terms, any Official Rules applicable to a Reward, applicable law, your Utility declares you ineligible or if your account with any Sponsor Parties is no longer in good standing. If you enroll in a conflicting energy program through your Utility, Sponsor Parties may terminate your participation in the Program without liability and without notice.

**Privacy Notice.** By participating in the Program, you agree that Sponsor Parties can collect your personal information or data and that if they cannot collect the required information or data, you may not be eligible to participate in the Program. Sponsor Parties will protect your personal information and usage data consistent with these Terms and each company's then-current privacy policy. Sponsor Parties may be required to share your data with PUCT for the purposes of assessing program performance as defined in Attachment 1.

**Changes in Your Electricity Costs.** Sponsor Parties are not responsible for any changes in your electricity costs during the Program.

**System Testing.** In addition to the specific periods listed below, Sponsor Parties may adjust your thermostat at any time for general system testing and maintenance.

**Eligibility.** Potential Participants who meet the following criteria may apply to participate in the Program:

- You must have one or more thermostats that are compatible with and connected to the ecobee platform ("**Service**"); and
- You must have an active account in good standing on the Service;

**Program Period.** The Program will run for the period of May 1, 2021 through and including September 31, 2021 (the "**Program Period**"). You may be automatically re-enrolled in subsequent Program Periods at ecobee's discretion, subject to the then-current Terms for the Program.

**Participation Requirements.** Participant agrees during the duration of the Program to:

- Maintain an active account on the Service;
- Maintain the connection between an enrolled thermostat(s) and the Service;
- Maintain (*i.e.*, always on) internet service; and
- Assist Sponsor Parties' support personnel in troubleshooting and resolving connectivity and other thermostat-related issues.

**Adjustment Window.** Participant's enrolled thermostat(s) may be adjusted:

- Monday through Friday, 1PM-7PM Central time excluding Federal Holidays; and
- At any time for system testing, as described above.

**Adjustment Frequency.** There is no limit to the number of adjustments per season. Notwithstanding the foregoing, there is no limit to the adjustments for system testing, as described above.

**Adjustment Details.** Participant agrees to allow Sponsor, Provider, and TDSP to control his or her thermostat to reduce demand during the Program Period by increasing the current setpoint or scheduled target temperature setpoint by up to 4°F to temporarily reduce normal operating patterns in order to reduce electrical demand. These setpoint increases may be preceded by "pre-cool" periods, wherein the current or scheduled target setpoint is temporarily decreased to prepare the premises for the subsequent setpoint increase. The change is measured relative to the thermostat cooling setpoint defined by the programmed thermostat schedule as set with Sponsor or Provider or, if no schedule is set or automated, relative to the set point of your thermostat at the beginning of an adjustment period. Furthermore, for certain types of services offered by Sponsor, Provider and/or TDSP, your thermostat may be adjusted even if the thermostat is in hold mode at the start of an event.

**Opting Out of an Adjustment.** Participant may opt out of an adjustment at any time from their thermostat or through components of the Service, such as the web portal and smart phone applications. Participants may opt out of the Program in its entirety by contacting ecobee through email at [support@ecobee.com](mailto:support@ecobee.com), by phone at 1.877.932.6233 or disabling the Community Energy Savings functionality on their ecobee Mobile Application.

**Texas Consumer Protection Disclosures and Provisions.** The following disclosures are made and provisions are included in accordance with PUCT Substantive Rule §25.181, subsection (u) (the “Rule”).

(A) You have the right to a cooling-off period of three business days, in which these Terms may be canceled. Additionally, you may opt out of the program at any time;

(B) EnergyHub is the energy efficiency services providers for purposes of the Rule. Its street address is: 232 3rd Street, Suite C201, Brooklyn, NY 11215, and its telephone number is (718) 522-7051; no subcontractors will be performing any services at your home or business on behalf of ecobee in connection with these Terms;

(C) incentives are made available to ecobee and EnergyHub programs funded by a Utility or through the bidding of your load reduction in the ERCOT Emergency Response Service Weather-Sensitive Loads (ERS WSL) program; the amount of the incentive provided by these programs to ecobee and EnergyHub varies between approximately \$12/kW and \$40/kW;

(D) the incentives that will be provided to you will consist of a potential reduction in your utility bill for electricity, and the chance to enter into the sweepstakes described in these Terms;

(E) you will not be required to enter into any additional agreements in connection with your participation in the Program;

(F) EnergyHub and ecobee do not measure or report to the Utility the energy and peak demand savings from the energy efficiency measures associated with the Program;

(G) EnergyHub and ecobee do not carry liability insurance to cover property damage to your property because EnergyHub and ecobee will not enter onto your property as a part of the Program, and will not otherwise install anything onto your property;

(H) no payment will be due to you from ecobee, or from you to ecobee in connection with the services described in these Terms; these Terms do not constitute an installment sales agreement;

(I) EnergyHub and ecobee are not part of or endorsed by the Public Utility Commission of Texas or the Utility; and

(J) if you wish to file a complaint, please contact your applicable Utility, or contact ecobee and we will assist you in contacting your applicable Utility; you may also contact the Office of Customer Protection of the Public Utility Commission of Texas (**1-888-782-8477**) or the Office of Attorney General’s Consumer Protection Hotline (**1-800-621-0508**).

We further inform you of the following, and you agree that:

(A) given the nature and scope of the Program, there are no relevant work activities, completion dates, and terms and conditions that protect residential customers in the event of non-performance by ecobee;

(B) waiver of consumer protection statutes, performance warranties, and false claims of energy savings and reductions in energy costs are prohibited;

(C) your consumption data may be disclosed to the Evaluation, Measurement and Verification (EM&V) contractor of the Utility or PUCT for evaluation purposes; and

(D) if you wish to file a complaint to address performance issues by ecobee, please contact ecobee at [support@ecobee.com](mailto:support@ecobee.com), by phone at 1.877.932.6233, or 25 Dockside Drive, Suite 700, Toronto, Ontario, M5A 0B5.

**Information.** Participant represents and warrants that the information Participant provides while applying for and during the course of the Program is accurate and agrees to promptly notify Sponsor if any changes occur.

**Conduct.** By applying for the Program, Participant agrees to comply with and be bound by the Terms, any Official Rules applicable to a Reward and any other additional Program information provided to you during the Program. Failure to comply with these Terms may result in your disqualification from the Program. You further agree to comply with and be bound by the decisions of the Sponsor regarding your eligibility to participate, which are final and binding in all respects. Sponsor reserves the right in its sole discretion to disqualify any Participant it finds to be: (1) tampering or attempting to tamper with the operation of the Program; or (2) violating the Terms, conditions of use, or Terms of any of Sponsor Parties’ property or service. **Any inaccurate or false information provided within the context of the Program by any Participant is a violation of**

**these Terms and may result in the immediate disqualification of a Participant and forfeiture of any Reward.**

**General Conditions.** This Program is governed by the laws of the State of New York. All federal, state and local laws and regulations apply. The Sponsor Parties are not responsible for any typographical or other error in the printing of the offer or administration of the Program. The Sponsor's failure to enforce any term of these Terms shall not constitute a waiver of that provision. As a condition of participating in the Program, Participant agrees that any and all disputes which cannot be resolved between the parties, and causes of action arising out of or in connection with the Program, shall be resolved individually, without resort to any form of class action. Further, in any such dispute, under no circumstances will a Participant or other entrant be permitted to obtain awards for, and each entrant hereby explicitly waives all rights to claim punitive, incidental or consequential damages, including attorneys' fees.

**No Recourse to Judicial or Other Procedures.** To the fullest extent permitted by law, the rights to litigate, to seek injunctive relief, or to any other recourse to judicial or any other procedure in case of disputes or claims resulting from or in connection with the Program are hereby excluded, and you expressly waive any and all such rights. Note, such waiver is not enforceable in all jurisdictions.

**DISCLAIMER:** THE SPONSOR PARTIES ARE NOT RESPONSIBLE OR LIABLE FOR ANY INCORRECT OR INACCURATE PROGRAM APPLICATION INFORMATION, AND ASSUME NO RESPONSIBILITY FOR (I) TYPOGRAPHICAL OR OTHER ERRORS IN THE PRINTING OF THE PROGRAM MATERIALS OR THE OFFERING OR ANNOUNCEMENT OF ANY REWARD, (II) ANY ERROR, OMISSION, INTERRUPTION, DEFECT OR DELAY IN OPERATION OR TRANSMISSION AT ANY WEBSITE, (III) FAILURE OF ANY APPLICATION TO BE RECEIVED BY SPONSOR DUE TO TECHNICAL PROBLEMS, TELEPHONE SERVICE PROBLEMS, PRINTING ERRORS, HUMAN ERROR OR TRAFFIC CONGESTION ON THE INTERNET OR AT ANY WEBSITE, (IV) COMMUNICATIONS LINE, HARDWARE AND/OR SOFTWARE FAILURES, (V) DAMAGE TO ANY COMPUTER (SOFTWARE OR HARDWARE) RESULTING FROM PARTICIPATION IN THE PROGRAM, (VI) THEFT OR DESTRUCTION OF, TAMPERING WITH, UNAUTHORIZED ACCESS TO, OR ALTERATION OF APPLICATIONS AND/OR PROGRAM APPLICATION INFORMATION, OR (VII) ENTRIES WHICH ARE LATE, LOST, STOLEN, DAMAGED, ILLEGIBLE, AND/OR UNINTELLIGIBLE (OR ANY COMBINATION THEREOF).

**LIMITATIONS OF LIABILITY:** PARTICIPANTS ASSUME ALL RISK OF PARTICIPATION IN THE PROGRAM. TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU INDEMNIFY AND AGREE TO KEEP THE SPONSOR PARTIES INDEMNIFIED AT ALL TIMES FROM AND AGAINST ANY LIABILITY, CLAIMS, DEMANDS, LOSSES, DAMAGES, COSTS AND EXPENSES THAT ARISE FROM OR ARE RELATED TO ANY ACT, DEFAULT OR OMISSION BY YOU AND/OR A BREACH OF ANY WARRANTY BY YOU AND/OR TO ANY ACT, DEFAULT OR OMISSION BY YOU UNDER THESE TERMS INCLUDING, WITHOUT LIMITATION, RESULTING FROM OR IN RELATION TO ANY BREACH, NON-OBSERVANCE, ACT OR OMISSION WHETHER NEGLIGENT OR OTHERWISE, PURSUANT TO THESE TERMS BY YOU. TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU AGREE TO HOLD THE SPONSOR PARTIES HARMLESS FROM ANY INJURY OR DAMAGE CAUSED OR CLAIMED TO BE CAUSED BY PARTICIPATION IN THE PROGRAM AND/OR USE OR ACCEPTANCE OF ANY REWARD OTHER THAN FOR: (1) DEATH OR PERSONAL INJURY ARISING AS A RESULT OF SPONSOR'S GROSS NEGLIGENCE OR BREACH OF CONTRACT; OR (2) THE SPONSOR PARTIES' FRAUDULENT MISREPRESENTATION OR DELIBERATE BREACH OF CONTRACT. THE SPONSOR PARTIES HAVE NO LIABILITY TO ANY PARTICIPANT FOR ANY LOSS, DAMAGE, COSTS OR EXPENSE INCURRED AS A RESULT OF OR IN CONNECTION WITH A PARTICIPANT'S PARTICIPATION IN THE PROGRAM.

**Third Parties.** The Sponsor Parties are not responsible for the policies, actions, or inactions of others that might prevent the Participant from entering, participating, or claiming a Reward. All Participant applications are subject to review by and require approval from ecobee and Sponsor Parties.

**Severability.** If any provision(s) of these Terms are held to be invalid or unenforceable, all remaining provisions hereof will remain in full force and effect.

**Entire Agreement.** These Terms, together with any Official Rules applicable to a Reward, constitutes the entire agreement between Sponsor Parties and Participant relating to the subject matter hereof and supersedes all other such prior or contemporaneous oral and written agreements and understandings.