

## **Gexa Energy, Share & Save Referral Program**

### **Terms and Conditions**

PLEASE READ THIS PROGRAM MEMBERSHIP AGREEMENT (“AGREEMENT”) CAREFULLY BEFORE ENROLLING IN THE GEXA ENERGY SHARE & SAVE REFERRAL PROGRAM (“PROGRAM”) OFFERED BY GEXA ENERGY L.P. (“GEXA ENERGY”).

THIS AGREEMENT EXPLAINS THE TERMS AND CONDITIONS THAT GOVERN YOUR PARTICIPATION IN THE PROGRAM. THIS AGREEMENT IS BETWEEN YOU AND GEXA ENERGY. BY ENROLLING AS A MEMBER IN THE PROGRAM, YOU AGREE TO BE BOUND BY THIS AGREEMENT AND GEXA ENERGY’S PRIVACY POLICY

[https://www.gexaenergy.com/Legal/privacy\\_policy.aspx](https://www.gexaenergy.com/Legal/privacy_policy.aspx) AND TERMS OF USE <http://staging.gexaenergy.com/myaccount/pdf/shareandsaveterms.pdf>.

### **Program Overview**

This is an online-only program designed to reward existing residential customers of Gexa Energy for referring other residential customers to Gexa Energy. The Program is available through the Program website located at: <https://www.gexaenergy.com/myaccount> (“Program Website”).

### **Eligibility**

A Gexa Energy residential customer may participate in the Program and make referrals if he/she has an active account in good standing, a valid email address, and Internet access. This person making the referral is called the “Referrer”. (Gexa Energy is not responsible for your inability to connect to the Internet or log into the Program Website.)

The “Referee” is the customer who has been referred. To be a qualifying Referee, you must meet the following eligibility criteria: (i) you are not currently enrolled in or renewing any Gexa Energy service plan; (ii) you must not have been a Gexa Energy customer within 6 months of the time of enrollment; (iii) you must be a new residential customer who meets all Gexa Energy residential enrollment requirements set forth in the applicable Electricity Facts Label and/or Terms of Service for the applicable plan; and (iv) you must receive residential electric service from Gexa Energy for a minimum of 60 consecutive days.

**LIMIT:** One (1) Referrer account per person, per household, and per email address. You may not maintain multiple accounts even if you have multiple email addresses and Gexa Energy customer accounts. Any duplicate accounts will be subject to termination, and any pending bill credit rewards will be forfeited.

For a Referrer’s referral to be eligible to earn rewards: (a) the Referrer must already be a registered member of the Program with a Personal Referral ID; (b) the Referee must enter the Referrer’s valid Personal Referral ID during the enrollment process and maintain his or her residential electric service with Gexa Energy for at least 60 consecutive days after his or her start-of-service date; and (c) the Referee must have paid his or her first month’s bill in full.

The Referrer and Referee that comprise government accounts, corporations and other commercial enterprises are not eligible to participate.



## **Earning Rewards**

Subject to the eligibility requirements above, Referrers will earn a \$5 bill credit each month (not to exceed 12 months) for each full month that each Referee remains a Gexa Energy residential customer after having maintained his or her residential electric service from Gexa Energy for a minimum of 60 consecutive days from the start-of-service date. You can earn a maximum of \$60 in a 12 month period for each Referee and all Gexa Energy rewards including but not limited to gift cards, other promotions, and all customer referral type program rewards shall be capped at a maximum of \$575.00 in total rewards per calendar year

REFERRERS SHALL BE LIMITED TO TOTAL BILL CREDITS OF ANY AND ALL OTHER GEXA PROMOTIONAL ITEMS INCLUDING BUT NOT LIMITED TO GIFT CARDS, SWEEPSTAKES, PROMOTIONS AND GIFTS EQUAL TO A TOTAL OF \$575.00 PER CALENDAR YEAR UNDER ALL GEXA PROGRAMS "CREDIT AWARDS".

Referees must maintain their residential electric service from Gexa Energy for a minimum of 60 consecutive days from the date they activated service and must be a Gexa Energy customer in good standing at the time the bill credit reward is authorized in order to be eligible to receive their one-time \$25 bill credit.

The one-time \$25 bill credit will be applied to the Referee's account no later than 30 days after Gexa Energy receives payment-in-full of the Referee's first month's bill reflecting actual usage.

Bill credit rewards under this Program may not be assigned, sold or otherwise transferred and cannot be redeemed for cash. No substitutions allowed by Program participants. Referrers will be responsible for any and all tax liability arising out of their accrual or redemption of bill credit rewards.

As described in "Termination or Changes to the Program" below, Gexa Energy is not responsible for changes to, or discontinuance of, any bill credit reward or for any effect on accrual of bill credit rewards caused by changes to or discontinuance of the Program.

## **Program Guidelines on Endorsements and Testimonials - REFERRER**

- YOU MUST MAKE THE FOLLOWING DISCLOSURES CLEARLY AND CONSPICUOUSLY AT THE BEGINNING OF EVERY REFERRAL CONVERSATION, MESSAGE, OR POSTING: You must disclose the fact that you receive bill credit rewards for successful referrals and the Referee may receive a one-time bill credit reward for a successful referral. For example, "When you sign up for Gexa Energy using my referral code, we both win – you get a one-time \$25 bill credit and I get a \$5 bill credit each month that you remain a customer."
- You must disclose the fact that you are a Gexa Energy residential customer. For example, "I am a Gexa Energy residential customer and this is my personal opinion."

As part of your participation in the Program, you acknowledge and agree that you are solely responsible for making truthful and accurate statements about Gexa Energy's products or services in connection with any referrals. If you are unsure about the answer to a question about a Gexa Energy product or service in connection with your referral, refer that person to [www.gexaenergy.com](http://www.gexaenergy.com) or customer support at Gexa Energy.

By agreeing to this Agreement, you are agreeing to abide by these Program Guidelines on Endorsements and Testimonials (“Guidelines”). Failure to abide by these Guidelines can result in immediate termination of your Program membership and forfeiture of any and all Credit Rewards accrued hereunder.

### **Account Access**

To enroll in the Program, you must first create a username and password on the “My Gexa” portion of the Gexa Energy website. Your username and password will allow you to access your account at the Program Website, to send referral emails, and check your bill credits. There, you will also find your Personal Referral ID.

Gexa Energy is entitled to act on instructions received under your username and password. You are responsible for keeping your username, password and other account information confidential. Gexa Energy is not responsible for any account activity performed by third parties that access your account using your password.

### **Disclosure of Account Information**

Any personal data (for example, name, address, telephone number, or email address) that you transmit through the Program Website will be governed by Gexa Energy’s Privacy Policy [https://www.gexaenergy.com/Legal/privacy\\_policy.aspx](https://www.gexaenergy.com/Legal/privacy_policy.aspx), which is hereby incorporated into this Agreement by reference.

You authorize Gexa Energy to disclose necessary information that you have provided to third parties, or information that Gexa Energy has obtained about your account: (i) to agents of Gexa Energy or its affiliates, such as independent auditors, consultants or attorneys; (ii) to comply with government agency or court orders or requests; or (iii) where it is necessary for fulfillment with third-party suppliers.

### **Confidentiality**

In connection with your participation and enrollment in the Program, you may receive confidential and proprietary information of Gexa Energy, including sensitive customer data of an email with first and last name as well as first name and first initial of last name through referral correspondence (“Customer Information”). You will maintain all of such Customer Information in strict confidence and use the Customer Information only in connection with your participation in the Program. Notwithstanding anything to the contrary contained in this Agreement, you will comply with the all applicable customer confidentiality provisions set forth in Section 25.472 (“Privacy of Customer Information”) of the Rules of the Public Utility Commission of Texas.

### **CAN-SPAM Act Compliance**

If you designate a referral email address on your “My Share & Save” page that has previously opted-out of receiving commercial email communications from Gexa Energy, you will receive a message indicating that the email address you selected is not eligible to be sent a Share & Save refer-a-friend email.

### **Intellectual Property**

Your status as a member in the Program does not entitle you to use any trademarks, service marks, copyrighted materials, patents, trade names, logos or any other intellectual property owned or licensed by Gexa Energy or its affiliates. Notwithstanding the foregoing, you may solely use the Program materials

made available to you on the Program Website, unaltered, to share the Program offer with your friends and family. You may not use or exploit such Program materials for any other purpose.

### **Disclaimer; Limitation of Liability**

THE PROGRAM IS BEING PROVIDED TO YOU “AS IS” WITH NO EXPRESS OR IMPLIED WARRANTY OR CONDITION OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY LAW, GEXA ENERGY EXCLUDES ALL CONDITIONS, REPRESENTATIONS, WARRANTIES AND OTHER TERMS WHICH MIGHT OTHERWISE BE IMPLIED INTO OR INCORPORATED INTO THIS AGREEMENT, WHETHER BY STATUTE, COMMON LAW OR OTHERWISE, WITH RESPECT TO THE PROGRAM, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES AND TERMS AS TO MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR ANY PARTICULAR PURPOSE AND IMPLIED WARRANTIES AND TERMS ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. YOU ACKNOWLEDGE THAT YOU HAVE NOT RELIED UPON ANY REPRESENTATION, WARRANTY OR OTHER ASSURANCE GIVEN OR MADE BY OR ON BEHALF OF GEXA ENERGY PRIOR TO THIS AGREEMENT AND YOU WAIVE ALL REMEDIES WHICH, BUT FOR THIS SECTION, MIGHT OTHERWISE BE AVAILABLE TO YOU IN RESPECT OF SUCH REPRESENTATION, WARRANTY OR OTHER ASSURANCE. IN ADDITION, THE INFORMATION, CONTENT AND MATERIALS ON THE PROGRAM WEBSITE ARE PROVIDED ON AN “AS IS” BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND INCLUDING, WITHOUT LIMITATION, AS TO ANY PRESENT OR FUTURE EXISTENCE OF ANY FUNCTIONALITY, PROCESS OR APPLICATION. GEXA ENERGY DOES NOT WARRANT, GUARANTEE OR MAKE ANY REPRESENTATIONS THAT THE PROGRAM WEBSITE IS FREE OF DESTRUCTIVE MATERIALS. IN ADDITION, GEXA ENERGY DOES NOT WARRANT THAT ACCESS TO THE PROGRAM WEBSITE WILL BE UNINTERRUPTED OR ERROR-FREE, AND GEXA ENERGY ASSUMES NO RESPONSIBILITY FOR ANY LOSS OR DAMAGE CAUSED BY YOUR ACCESS, OR INABILITY TO ACCESS, THE PROGRAM WEBSITE.

IN NO EVENT, INCLUDING, BUT NOT LIMITED TO, GEXA ENERGY’S OWN NEGLIGENCE, SHALL GEXA ENERGY OR ANY OF ITS AFFILIATES BE LIABLE FOR ANY DAMAGES, CLAIMS OR LOSSES INCURRED (INCLUDING, WITHOUT LIMITATION, COMPENSATORY, INCIDENTAL, INDIRECT, DIRECT, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES (INCLUDING ANY DAMAGES FOR LOSS OF INCOME OR PROFITS)), HOWEVER CAUSED AND WHETHER ARISING BY STATUTE, COMMON LAW OR OTHERWISE IN CONNECTION WITH: (I) THE PROGRAM; (II) ANY FAILURE, DELAY, OR DECISION BY GEXA ENERGY IN ADMINISTERING THE PROGRAM; (III) THE USE OR INABILITY TO USE THE PROGRAM WEBSITE; OR (IV) THE PURCHASE OR USE OF ANY MERCHANDISE, PRODUCTS OR SERVICES IN CONNECTION WITH THE PROGRAM, EVEN IF GEXA ENERGY, OR REPRESENTATIVES THEREOF, ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, CLAIMS, OR LOSSES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

### **Indemnification**

By participating in the Program, you agree to and will indemnify and hold harmless Gexa Energy, its affiliates, and all persons acting by, through, under or in concert with them, from and against any and all claims, actions, damages, losses, liabilities, costs and expenses of any kind (including, but not limited to, reasonable attorneys’ fees), incurred by any of them arising out of or relating to your participation in the Program and/or any breach or alleged breach of this Agreement by you or any other person using your

account. Gexa Energy reserves the right to take over the exclusive defense of any claim for which it is entitled to indemnification under this section. In such event, you agree to provide Gexa Energy with such cooperation as is reasonably requested by Gexa Energy.

### **Termination or Changes to the Program; Termination of Membership**

Notwithstanding anything to the contrary in this Agreement, Gexa Energy reserves the right to discontinue the Program or any portion of the Program at any time at its sole discretion. Gexa Energy may, at any time, terminate this Agreement with you if Gexa Energy determines, in its sole discretion, that the provision of the Program to you is no longer commercially viable. Notification of Program termination may be sent to the email address that was provided to Gexa Energy during the registration process or publicized on the Program Website, but Gexa Energy will not be responsible for failing to notify you of Program termination.

Gexa Energy may modify this Agreement and/or the benefits, terms, or conditions of the Program, from time to time, with or without notice, and your continued participation in the Program after such modification shall be deemed to be your acceptance of any such modification. It is your responsibility to check the "Terms and Conditions" page of the Program Website regularly to determine whether this Agreement has been modified. If you do not agree to any modification of this Agreement, you must immediately cease participation in the Program.

Membership in the Program is subject to this Agreement. Any failure to comply with these Program terms and conditions, any fraud or abuse relating to the accrual or redemption of Credit Rewards, or any misrepresentation of any information furnished to Gexa Energy or its affiliates by you, or anyone acting on your behalf, may result in termination of your membership in the Program, cancellation of your Program account and/or forfeiture of your bill credit rewards. In the event of fraud, misconduct, or suspected fraud or misconduct by you, or anyone acting on your behalf, Gexa Energy reserves the right to suspend access to your account indefinitely pending investigation.

### **Disputes/Errors**

All questions or disputes regarding the Program, including, without limitation, questions or disputes regarding eligibility for the Program, or the eligibility of Credit Rewards for accrual or redemption, must be submitted in writing to Gexa Energy within 90 days of the qualifying transaction. Any such disputes shall be resolved by Gexa Energy at its sole discretion. All interpretations of these Program terms and conditions shall be at the sole discretion of Gexa Energy. In the event that an error is made by Gexa Energy, such error shall not constitute a breach of this Agreement, and your sole remedy shall be receipt of the disputed bill credit reward.

Gexa Energy will not be responsible for typographical, printing or other inadvertent errors in this Agreement or in any other materials or announcements relating to the Program.

### **Miscellaneous**

You acknowledge and agree that this Agreement shall be governed by the laws of the State of Texas, without regard to its choice of law provisions. You further acknowledge and agree that any dispute or claim resulting from your participation in the Program shall be subject to the exclusive jurisdiction of the state and federal courts located in Harris County, Texas. You hereby submit to the exclusive jurisdiction of such courts with regard to any such dispute or claim, and waive any and all objections to the exclusive jurisdiction of such courts. If any provision of this Agreement is found invalid or unenforceable, that provision shall be enforced to the maximum extent possible, and the other provisions contained herein

will remain in full force and effect. This Agreement constitutes the entire agreement between Gexa Energy and you with respect to the subject matter contained in this Agreement and supersedes all previous and contemporaneous agreements, proposals and communications, whether written or oral. This Agreement is personal to you and you may not assign it to anyone. You agree that regardless of any statute or law to the contrary, any claim or cause of action that you may have arising out of or related to the Program must be filed by you within one (1) year after such claim or cause of action arose or be forever barred. The relationship of the parties under this Agreement is that of independent contractors, and this Agreement will not be construed to imply that you are, and you will not represent that you are, the agent of Gexa Energy or its affiliates.