

ROOSEVELT COUNTY ELECTRIC COOPERATIVE, INC.

Thermal Energy Service Loop Agreement (Revised 5-20-13)

By signing this agreement, the undersigned Member elects to take advantage of a geothermal loop Thermal Energy Service offered by Roosevelt County Electric Cooperative, Inc. (RCEC). This rate is offered as an option for all qualifying RCEC members. In this Agreement, the term “Loop” refers only to the underground pipes and the portion of the pipes that are located at or near grade level where disconnect can occur.

This Thermal Energy Service Loop Agreement allows Member to install a geothermal heat pump system at a lower initial cost. Once the ground Loop is installed, Member agrees to pay to RCEC a monthly fee (“Loop Tariff”), which is based on loop/equipment size (see attached). The Loop Tariff is subject to change at any time at the discretion of the RCEC Board of Trustees in accordance with RCEC’s rate change process, procedures and bylaws. Thermal Energy Service Loop fees will be included on the member’s monthly RCEC billing and will be paid prior to any other charges from RCEC for delivery of electric service. Failure to pay the RCEC bill in full will be considered a default in payment of the monthly service bill and RCEC may take such actions for enforcement as are permitted by its rules, including disconnection of the loop and/or termination of electric service.

Once this Agreement is signed, Member understands that RCEC will begin to incur expenses in time and materials for the purchase and installation of the Ground Loop. If the Member elects to terminate this Agreement prior to complete installation of the Loop, the member shall reimburse all costs incurred on the loop by RCEC in full within 30 days of billing. The costs incurred may include but not be limited to: expenses for equipment, labor, materials, administrative time and overhead.

Member understands that as a condition precedent to any performance by RCEC of any part of this Agreement, Member shall grant to RCEC a perpetual easement upon Member’s property for the installation, removal, maintenance, repair and/or replacement of the Loop. This easement will be in a separate document referred to as a “General Geothermal Ground Loop Easement” (or like title) that will be recorded in the Office of the Clerk and Recorder in any county where Member’s property is located. Member shall sign said easement upon presentment by RCEC.

Member hereby agrees to remain connected to the Loop for a minimum of sixty (60) consecutive months following the date of installation of the complete geothermal heat pump System contemplated by this Agreement. At any time after the first 60 months, Member may elect to cease participating in this program by giving written notification to RCEC. Within 30 days following receipt of the notice, RCEC will disconnect the Loop and billing for the Loop Tariff will cease at the next billing date.

If the Loop is disconnected by RCEC following the mandatory 60-month minimum service period, the Member will not be charged a disconnect fee. However, if Member, or Member’s successor in interest to the Loop System, requests the loop to be reconnected, RCEC will assess a reconnect fee in an amount equal to twelve months of the Loop Tariff based on the charge at the

time of the disconnect, plus a fee for time and materials in an amount to be determined by RCEC.

If the Loop is disconnected and the Loop Tariff is no longer being assessed, the Member agrees to comply with RCEC rules for service and shall not reconnect the Loop nor have an outside entity reconnect the Loop. It will be considered “loop tampering” if the Loop is reconnected without the written consent of RCEC, and the Member will be charged a penalty equivalent to the meter tampering charge filed with the NMPRC, plus the Loop Tariff charge for each month RCEC estimates the Member was wrongfully connected.

Member acknowledges and agrees that any structure of any kind, including but not limited to outbuildings, garages, concrete slabs, and trees or other vegetation placed, planted, or built over the loop field are subject to the perpetual easement granted by member to RCEC, and may be damaged or destroyed by RCEC or its agents as any of them installs, maintains, or works on the loop field. Member hereby assumes all liability and responsibility for damage to said structures or vegetation, and for any damage or change in characteristics done to the loop system by member.

RCEC will provide the Member with an “As Built” map of the Loop field. It is the Member’s responsibility to call 811 “Call Before You Dig” for all non-loop line locates when digging. In addition, the Member must call RCEC (575-356-4491) to locate the Loop field when digging in the vicinity of the Loop.

If the Loop locate procedures are not followed and the Loop is cut or damaged as a result of not calling for line locates, the Member will be liable for all damages and charges associated with the repairs of the Loop. Further, if a Member calls RCEC reporting their Loop is not working or is inoperable, and RCEC determines that the problem with the system is *not* the ground Loop, then Member will be billed for a service call.

To participate in the Thermal Energy Service Loop Agreement program, Member agrees that any Green Tags, Renewable Energy Credits, Carbon Credits or similar incentives, if applicable now or in the future, shall be retained by RCEC.

RCEC must be contacted by contractors installing geothermal heat pump system prior to installation of said equipment to obtain any requirements established by RCEC. All design and construction shall be in accordance with the Ground Source Heat Pump Association, as well as other requirements established by RCEC.

The Member acknowledges that the performance of the geothermal heat pump system is the responsibility of the installation contractor (and the Member to the extent the installation contractor provides instruction to the Member on system operation). RCEC is responsible for maintenance and repair of the Loop from leakage or pipe failure. RCEC is not responsible for design or construction work performed by any individual or entity other than RCEC.

Arbitration

The Parties to this agreement hereby agree that as relates to any customer dissatisfaction regarding any installed GHP system to which a timely resolution of the problem cannot be effected by the Dealer, the ground loop Driller or the equipment supplier, each Party hereby expressly waives any right to resort to state or federal courts and agrees to submit all claims of any type to binding arbitration in the following form. Upon written notice received by RCEC of the affected customer, RCEC, at its sole discretion, may elect to hire an independent third party Registered Professional Mechanical Engineer (the "Engineer") licensed in New Mexico, and having at least 10 years of experience in GHP applications, to perform a forensic analysis of the GHP HVAC system. The Engineer will be the sole arbitrator and will determine which party or parties are responsible for the problem (the "Responsible Party"). Should the Engineer find no defect with the system, the customer shall be deemed the Responsible Party. The Engineer will review design calculations, equipment specifications, and inspect installation workmanship. The Engineer may also perform building modeling and testing of the system components to be sure that they are adequate for the building's needs and are functioning as designed. Once the problem is defined, the Engineer will prescribe a corrective action, which will be promptly performed by the Responsible Party at no cost to the customer, unless the customer is the Responsible Party. The Responsible Party will also reimburse RCEC for the costs and expenses incurred for the arbitration process, including, but not limited to payment services on an hourly basis at the Engineer's standard rate, plus reasonable out-of-pocket expenses for travel, hotel, and meals. This arbitration process shall be binding and final without right of appeal, except as to the customer. The customer may, for a period not longer than six (6) months from receiving notice of any adverse decision, appeal any final adverse determination to AAA in accord with then applicable AAA rules for appealing arbitrations.

If either party seeks enforcement of rights under this Agreement, the prevailing party shall be entitled to reimbursement from the non-prevailing party of all expenses of enforcement, including reasonable attorney fees and costs.

By signing this document, the Member acknowledges that he/she understands this Thermal Energy Service Loop Agreement and thereby requests to participate in the program.

Participation in this program allows the Member to install a geothermal heat pump system for a smaller up-front cost. The monthly Loop Tariff payment to RCEC is to compensate RCEC for absorbing a portion of the installation costs. The Member may terminate participation in this program at any time by purchasing the Loop for fair value. Fair value will be equivalent to a depreciated replacement loop cost with the depreciated life of 35 years and a residual value of 30%. If Member elects to purchase the Loop, upon receipt of the payoff amount, all monthly Loop Tariff payments will terminate, RCEC will vacate the General Geothermal Heat Pump Loop Easement and RCEC will no longer be responsible for the maintenance of the loop system.

Consumer Signature
(Both must sign if married)

Consumer Signature

Printed Name

Printed Name

Date

Account #

Meter #

RCEC Representative

Date