New York Energy $mart℠ Products Program

Retailer Partnership Guidelines and Agreement

Effective January 1, 2011

Program Overview

The **New York Energy $mart℠** Products Program (the Program) is designed to increase the demand for and supply of energy-efficient consumer products in New York State. This is accomplished by forming partnerships with retailers located within System Benefits Charge (SBC) territory and manufacturers worldwide.

This program includes many rules including the Federal ENERGY STAR® Program standards and guidelines, and Program guidelines. If you need additional information or assistance, your Account Representative will answer your questions at any time. An Account Representative is Program staff that will be visiting your store(s) on a 6-8 week rotation to provide necessary support including assistance with Program documents and product labeling.

Program Territory

The SBC territory (the Program territory) comprises service territories of Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric and Gas Corporation, National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation. The New York electric distribution customers of each of these electric distribution companies pay an SBC surcharge on their utility bill. The customers' surcharge forms a fund that is administered by the New York State Energy Research and Development Authority (NYSERDA) on behalf of the Public Service Commission. As steward of the SBC fund, NYSERDA develops and implements programs that serve these SBC Ratepayers. Incentives are provided under this program for the benefit of SBC Ratepayers.

NYSERDA is responsible for the effective and efficient use of the public dollars used to fund these programs and makes every effort to continually monitor and evaluate all program activities and progress.

Retail Partner Eligibility Requirements

There are four eligibility requirements that retailers must meet in order to participate in the Program:

1) Partners must complete, sign, and mail in the Retailer Partnership Agreement in this document (page 5).
2) Partners must be located in the Program or SBC Territory (see above).
   Note: Retail partners must have 1-14 retail storefronts located in the Program territory; Gold Retail partners must have 15 - 64 retail storefronts located in the Program territory; Platinum Retail partners must have 65 or more retail storefronts located in the Program territory.

3) Partners must stock, prominently display, and sell at least four models of the ENERGY STAR-qualified or other energy-efficient products listed in the accompanying Retailer Marketing Guidelines and Agreement.
4) Partners must submit an accurate monthly Sales Reporting Form by the 15th of each month, and must continue to report sales data each month to remain in the Program. Sales data allows NYSERDA to evaluate the impact of the Program on qualifying product sales in New York, and is essential to identifying program needs. NYSERDA will not provide partners with co-op advertising or other incentives unless the sales data submissions are complete and current.

Confidentiality of Sales/Shipping Data

The NYS Freedom of Information Law ("FOIL"), Public Officers Law, Article 6, provides for public access to records NYSERDA has in its possession. However, Public Officers Law, Section 87(2)(d) provides for exceptions to disclosure for records or portions thereof that are trade secrets. NYSERDA's regulations define trade secrets as including, among other things, "any proprietary data concerning past, present, or planned future energy distribution, sales volumes, costs, or prices, and other confidential or proprietary information which is not published or divulged, disclosure of which would cause substantial injury to the competitive position of the subject enterprise." 21 NYCRR 501.6(a).

Any sales data that is submitted to NYSERDA that the partner wishes to have treated as proprietary and confidential trade secret information should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to except it from disclosure, which incorporates a written statement of the reasons why the information should be accepted from disclosure.

For further information on NYSERDA's treatment of FOIL requests, please refer to the NYSERDA regulations codified at 21 NYCRR Part 501 and found at www.nyserda.org.

Although not required, you are also encouraged to become a partner of the national ENERGY STAR program by signing up at www.energystar.gov. This will ensure consumers visiting the National ENERGY STAR web site looking for retailers selling ENERGY STAR products will be able to find your contact information.

Retailer Partnership Agreement Criteria

I will use the ENERGY STAR® name and logo to show endorsement of ENERGY STAR qualified products only, and to promote their use.

I will not use the ENERGY STAR name or logo on materials produced by or for use in any way that indicates, or appears to indicate, Federal or State government sponsorship or endorsement of products or services. I will:

1) Submit an accurate Monthly Sales Data Reporting Form each month for as long as I am a partner, with the understanding that the data is used for the sole purpose of evaluating the Program, that it will be aggregated with other data, and that it will be treated in accordance with NYSERDA's policies.

2) Continuously display at least three Point-of-Purchase (POP) items such as brochures, banners, ceiling danglers, posters, tent cards and/or other promotional items provided by the Program or approved by the National ENERGY STAR Program.

3) Work with Program staff to ensure that qualified products on display receive the ENERGY STAR label.

4) Submit advertiser rate cards and review the Program and incentive guidelines prior to placing any co-operative advertisements.

5) Follow the co-operative advertising requirements, including requirements for pre-approval, if applicable.

6) Allow NYSERDA or a Program Representative to contact my business, seeking product donations to be given away to consumers during special events or promotions. **I understand that I am not obligated to make any donations.**

7) Upon request, allow review of supporting documentation to Program representatives for verifying the accuracy of monthly sales data reports.

8) Adhere to all ENERGY STAR logo usage guidelines as detailed on the CD available by calling 1-877-NY STAR1 and on the Logo Guidelines included with this agreement.

9) Comply with all relevant Federal, State and Local consumer protection laws and rules, as well as local licensing laws.

10) Complete and submit the *Marketing Agreement* and *Products Displayed, In-Stock and Available* form (see accompanying Retailer Marketing Guidelines and Agreement).

I understand that failure to comply with the requirements stated above will make me ineligible for monetary incentives and other program benefits such as POP supplies and listing on the www.GetEnergySmart.org store locator, and may lead to temporary or permanent inactive partner status.

I understand that all incentive reimbursements can take 4-6 weeks to process and will be reduced by 15%; an amount retained until the end of the incentive offering. If, at the end of the current incentive offering, NYSERDA's contractor has received all Monthly Sales Data reporting forms and other required documentation included in this booklet, the retained amount will be reimbursed. Incentive payments will be made only as long as there is available funding.

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Retailer Partnership Agreement

I have read and agree to the terms and conditions in the New York Energy $mart[SM] Products Program Retailer Partnership Guidelines and Agreement (effective January 1, 2011).

Accepted and Agreed to:

Owner/Manager Signature: _____ Date: _____

Print Name: _____ Title: _____

Retail Store Name: _____

Type of Products: ☐ Appliance ☐ Power Management Tools ☐ CFLs
☐ Solid State Lighting (SSL) Integral Lamps (Screw Base Light Bulbs)
☐ Lighting Fixtures ☐ Consumer Electronics

Partner Category: ☐ Retail (1-14 storefronts) ☐ Gold Retail (15-64) ☐ Platinum Retail (65 or more)

Address Line 2: _____

City: _____ Zip Code: _____

County: _____ Electric Utility: _____

Phone Number: _____ Fax Number: _____

E-mail Address: _____

Web Site Address: _____

Tax ID #: _____

_____

How do you prefer to receive your sales data request and other Program documentation?

☐ **E-mail** ☐ **fax** ☐ **other** _____

Complete this form and mail to:

Lockheed Martin
880 Third Avenue, 9th Floor
New York, NY 10022
Attn: Deborah Hill, Operations Manager

NYSERDA Signature: _____Date: _____

NYSERDA reserves the right, for any reason, to stop approving incentive applications at any time without notice**. Incomplete forms submitted will delay the approval process.**

Please keep a copy for your files