

The Nest Learning Thermostat & Rush Hour Rewards Program Terms and Conditions

By submitting this Application, you indicate your understanding of the qualifications necessary to enroll in the Rush Hour Rewards Program (“Program”) and you agree to the following terms of participation once qualified for participation in the Program:

1. You grant Nest Labs, Inc. (“Nest”) permission to control, during periods of peak electric usage and other critical circumstances, the settings and operation of your Nest Learning Thermostat upon initiation of a Rush Hour by CPS Energy, based on the Program parameters. At any time that you desire, you may override this temperature setpoint simply by turning your Nest thermostat to a different temperature or using your mobile/Web client.
2. You give CPS Energy permission to collect, store and use customer information and data (“Program Content”), provided or generated by you through participation in the program, in its discretion consistent with CPS Energy privacy and information security policies. This will not include any personally identifiable data from your Nest Learning Thermostat.
3. Nest will administer the Rush Hour Rewards Program in accordance with the Nest Terms of Service, privacy policies and other policies on Nest’s website (<http://www.nest.com/legal>) and applicable laws and regulations. Nest will not share data from your thermostat with third parties, including CPS Energy, without asking you first.
4. Your incentive is provided solely by CPS Energy. Nest bears no responsibility for the incentive. You acknowledge that Nest is facilitating your ability to earn incentives, but Nest is not providing you any compensation or other financial benefit, and your permissions to Nest are not contingent on receipt or amount of the payment. Nest makes no promise of any specific incentive amount. CPS Energy reserves the right to seek further information to verify your eligibility for the incentive payment.
5. You expressly understand and agree that except for damages caused by CPS Energy's or Nest’s gross negligence or willful misconduct, CPS Energy's and Nest’s liability specifically excludes all losses of all types including but not limited to property damage, bodily injury, third party liability or any other claim, cost or expense directly or indirectly arising out of, resulting from, misuse, theft or vandalism of the Nest Learning Thermostat by you or any third party, interruption or loss related to moisture intrusion, mildew, fungus, spores, or mold of any type, nature, or description and that CPS Energy and Nest shall not be liable for any direct, indirect, special, incidental or consequential damages of any nature, including, but not limited to (a) damages relating to the use or distribution of the Program content, (b) damages from the installation or removal of the Nest Learning Thermostat, (c) damages from the introduction of computer viruses, or (d) damages caused by interruption, termination, or failed operation of your appliances, utilities or telecommunication services.
6. The information you have provided as part of this application is truthful and you meet the minimum eligibility requirements. CPS Energy may reject your application and not enroll you in the Program if you are not truthful in the information you submit as part of this application, if you do not satisfy eligibility requirements, or for any other reason. You are participating on a voluntary basis.
7. You release and hold harmless CPS Energy and Nest from any liability, claim, demand, cause of action, damage or expense resulting from your participation in the Program.

8. You agree that the term of your participation in the Program shall begin on the date of enrollment of your Nest Learning Thermostat in the Rush Hour Rewards program. You will continue your program participation each summer and receive a \$30 annual participation incentive each year unless your participation is terminated by you or CPS Energy. You may terminate at any time without liability by emailing ProductsandServices@cpsenergy.com. If you terminate participation in the Program before September 30 of any year, you will lose the \$30 incentive for the year.
9. CPS Energy may terminate your participation if you close your CPS Energy electric account. CPS Energy may also terminate your participation if your Nest Learning Thermostat WiFi connection is disconnected for an extended period of time. If CPS Energy terminates your participation in the Program before September 30 of any year, you will lose the \$30 incentive for the year.
10. You understand that CPS Energy may also terminate your participation for your violation of any of the participation terms found in this Application
11. You understand that you may not assign or transfer your obligations and rights under this Program to anyone else without CPS Energy's prior written consent.
12. You understand that CPS Energy may make modifications to the terms of Program participation at any time in its sole discretion.
13. You understand that CPS Energy and Nest Labs will communicate to you over phone, mailings and email regarding your participation in the Program, including, but not limited to: Program information, Program terms of participation, and requests for Program participation feedback.