

eScore™ Smart Thermostat Pilot Participation Agreement

Pilot Overview

The eScore™ Smart Thermostat Pilot (“**Pilot**”), administered by the Tennessee Valley Authority (“**TVA**”), provides a Wi-Fi enabled thermostat and technical installation to residential customers of Knoxville Utilities Board (“**KUB**”) and TVA. Customers participating in the Pilot (“**Participants**”) will receive an ecobee (“**Host**”) smart thermostat, free of charge and installed by an eScore™ Energy Advisor employed by a TVA contractor (“**Contractor**”). During a period of high electrical demand (“**Demand Response Event**”), TVA and/or Contractor will inform Host of the need to adjust the installed thermostats to reduce the electrical demand on the power grid. Host servers will remotely inform the installed thermostat of a Demand Response Event, causing the thermostat to automatically change the temperature set-point on that day without any manual intervention by the Participant. At any time, the Participant may override this temperature set-point by simply turning the installed thermostat to a different temperature using the ecobee itself or the ecobee mobile application.

Pilot Eligibility

Pilot Participants must be active KUB residential electric account holders, must have held such accounts for at least one calendar year, and must operate qualified heating, ventilation, and air conditioning (“**HVAC**”) systems. Qualified HVAC systems include ducted electric heat pumps (i.e. air source heat pumps), electric forced air furnaces (electric heat), and central air conditioners. Dual fuel heat pumps, geothermal heat pumps, and ducted mini-split heat pumps are not eligible for participation in the Pilot. To qualify, Participant homes must be an existing single-family detached dwelling; a two-unit duplex; or a townhouse/condominium (excluding timeshare units) where the property lines are located between the dwellings. Qualifying homes must have permanent provisions for living, sleeping, eating, cooking, and sanitation. To participate, the home must also have and maintain: (1) internet service and Wi-Fi connectivity; (2) a dedicated water heating system; (3) a thermostat or thermostats that control a dedicated unitary heating system; (4) a minimum air conditioned, living floor area of 500 square feet or more; (5) for rental units, a minimum one-month term of tenant occupancy and be occupied by a tenant; (6) an average Attic Insulation and Air Sealing eScore of 6 or higher; (7) existing thermostat wiring compatible with the ecobee wiring; and (8) a smart meter installed by KUB. TVA may modify these requirements, in its sole discretion, at any time during the Pilot. This Pilot is limited to a maximum of one smart thermostat per qualifying HVAC system and two smart thermostats per KUB service address. Homes with existing smart thermostats do not qualify for the Pilot unless such thermostats are removed and replaced under the terms of this Agreement.

Installation

Participant agrees to allow TVA, KUB, and Contractor access to Participant’s energy usage data, enabled by the Participant’s previously installed smart meter, and smart thermostat data. Participant also agrees to provide TVA, KUB, and Contractor with access to the Participant’s home to complete the smart thermostat installation. If Participant is a renter, Participant agrees that their landlord was informed of Participant’s participation in the Pilot and that Participant received landlord’s consent to install a smart thermostat in the home. Participant agrees to allow Contractor to physically install the Pilot smart thermostat(s), remove any existing thermostat(s), connect the smart thermostat(s) to Wi-Fi, and enroll the smart thermostat(s) in Host’s demand response management platform. Contractor will assist Participant with enrolling in Host’s demand response platform, which includes ensuring Participant’s acceptance of Host’s platform terms & conditions. Contractor will educate Participant regarding use of the smart thermostat, Host’s mobile application, and how to request support from Host.

Participant will allow Contractor to gather site and Participant information as necessary to allow for the verification of installations, Participant information, and site information. Contractor will offer Participant installation services for up to two smart thermostats per home as part of the Pilot. Each thermostat must be connected to a separate qualifying HVAC system.

Participant Authorizations

By enrolling in this Pilot, Participant agrees as follows:

1. Participant consents to the installation of smart thermostat(s) and removal of any existing thermostat(s) in the Participant’s home. Any thermostat(s) removed will remain the property of Participant.
2. Participant agrees to the **Standard Terms and Conditions for Participating Customers** below.
3. Participant consents to enrollment in Host’s demand response management platform.
4. Participant agrees to register each smart thermostat with Host and to use each smart thermostat as directed by Contractor and Host.
5. Participant agrees that TVA and/or Host may change the temperature set-point in Participant’s home during a Demand Response Event without prior notification.

6. Participant agrees to allow TVA and Host to change the temperature set-point in the home up to a maximum of 18 times in a rolling 12-month period.
7. Participant agrees to allow KUB, TVA, Contractor, and any other third-party contractor hired by TVA access to all thermostat data collected from the smart thermostat(s) installed.
8. Participant agrees that KUB, TVA, Contractor, and Host may send Participant emails, text/SMS, and other notifications related to the Pilot, including notifications about enrollment status and Pilot-related adjustments to smart thermostat settings. Participant also agrees that notifications may be communicated directly through the smart thermostat(s) installed.
9. Participant agrees to remain enrolled in the Pilot for at least one-year. If Participant fails to participate for the full one-year period, TVA may charge Participant for the actual incurred costs of any smart thermostat installed under the Pilot. At the end of the initial one-year term, Participant will be automatically re-enrolled in the Pilot and remain a Pilot participant until (a) Participant opts out of the Pilot as provided below, (b) TVA terminates the Pilot and/or this Agreement, or (c) Host cancels its demand response program. Incentives may, in TVA's sole discretion, be available for Participants who remain enrolled in the Pilot after the initial one-year term ends.
10. Participant agrees to participate in the Pilot in accordance with all applicable laws and regulations, and with Host's Terms of Service, privacy policies, and other policies found on Host's website (<https://www.ecobee.com/legal/>).

Termination / Withdrawal

TVA may, unilaterally and without notice, terminate the Pilot and/or remove a Participant from the Pilot for any reason without any liability or penalty. Participant may opt out of the Pilot at any time by contacting 1-855-237-2673; however, Participant withdrawal from the Pilot may subject Participant to a fee as described below.

Incentives; Forfeiture; Termination Penalty:

- Participant may receive up to two smart thermostats free of charge.
- In the future, TVA may provide participation incentives to Participant if Participant remains enrolled in the Pilot for more than one year. Participation incentives, if any, will be provided solely by TVA.
TVA may charge Participant a fee to cover the cost of the smart thermostat(s) if Participant opts out of the Pilot (including moving residences) before the expiration of the one-year term. Fees will not exceed \$175.00 per smart thermostat. After expiration of the one-year term, any installed smart thermostats will be considered owned by Participant.

Standard Terms and Conditions for Participants

Participant agrees to this **Customer Participation Agreement**, including the **Standard Terms and Conditions for Participants** (collectively, the "**Agreement**") for the purpose participating in the Pilot funded by TVA. Participant, KUB, and TVA may be referred to in this Agreement individually as a "Party" and collectively as the "Parties." In consideration of the mutual covenants and agreements set forth below, the Parties hereby agree as follows:

1. **ACCESS AND PARTICIPATION.** Participant agrees to participate in the Pilot and support KUB and TVA in Pilot implementation. Participant acknowledges its intent to have smart thermostat(s) installed in Participant's home. Participant agrees to allow KUB, TVA, and Contractor access to its home, energy use, and energy cost information for the purposes of implementing the Pilot and this Agreement. If Participant is a tenant, Participant represents that by signing this Agreement it has obtained the property owner or landlord's permission to install smart thermostat(s) in the home as part of the Pilot. Participant agrees not to use the name or identifying characteristics of KUB, TVA, or its contractors for any advertising, sales promotion, or other publicity of any kind. The Pilot may be modified or terminated by TVA without prior notice, and this Agreement is subject to modifications at any time by TVA.
2. **ELIGIBILITY.** TVA will determine Participant eligibility in its sole discretion. Contractor may request verification of eligibility requirements at any time during the Pilot. Participant agrees to allow installation of all smart thermostat(s) provided by TVA under this Pilot; provided, however, if Participant does not allow installation of smart thermostat(s), then Participant shall return any uninstalled smart thermostat(s) to TVA.
3. **INCENTIVE PAYMENT.** Participant acknowledges that TVA may provide incentives to Participant in its sole discretion if: (a) Participant and installed smart thermostat(s) or services meet the Pilot eligibility requirements and the requirements outlined by the Pilot; (b) smart thermostat(s) are installed in eligible homes; and (c) smart thermostat(s) are installed at a home that has not received incentives from any of TVA's other energy efficiency pilots/programs for the same measure(s). Participant understands that TVA, in its sole discretion, may withhold incentive payments committed to Participant if a home is determined ineligible or does not otherwise comply with the requirements set forth by the Pilot. Participant acknowledges that any incentive amount will not exceed the cost of the smart thermostat(s). Incentives may be changed, modified, substituted, replaced, ceased, or terminated at any time in TVA's sole discretion. TVA is under no obligation to provide incentives to Participant at any time during the Pilot.

4. AUDITING, MONITORING AND VERIFICATION. Participant agrees to allow KUB, TVA, and Contractor access to its home for the purpose of confirming Participant's participation in the Pilot and installing smart thermostat(s). Participant agrees to cooperate with KUB, TVA, and Contractor as necessary throughout the Pilot. Participant understands that any incentives may be withheld if Participant refuses to participate in any required verification within a reasonable time period. Participant also understands that all smart thermostat(s) are installed in accordance with manufacturer's specifications and all applicable federal, state, and local laws.
5. CONFIDENTIALITY. KUB and TVA shall keep Participant information confidential to the extent permitted by law. Only KUB, TVA, Contractor, and Host will be granted access to Participant data as needed or required for implementation of the Pilot. KUB and TVA will not use the name or identifying characteristics of Participant in advertising sales promotion or other publicity without Participant's written approval.
6. NO WARRANTY. KUB, TVA, AND CONTRACTOR MAKE NO REPRESENTATIONS OR WARRANTIES, AND ASSUME NO LIABILITY WITH RESPECT TO QUALITY, SAFETY, PERFORMANCE, OR OTHER ASPECT OF ANY INSTALLED SMART THERMOSTAT PURSUANT TO THIS AGREEMENT AND EXPRESSLY DISCLAIM ANY SUCH REPRESENTATION, WARRANTY OR LIABILITY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED TO CREATE ANY DUTY TO, ANY STANDARD OF CARE WITH REFERENCE TO, OR ANY LIABILITY TO ANY THIRD PARTY. NEITHER KUB, TVA, NOR CONTRACTOR SHALL BE RESPONSIBLE FOR COSTS OR CORRECTIONS OF CONDITIONS ALREADY EXISTING IN THE HOME WHICH FAIL TO COMPLY WITH APPLICABLE LAWS AND REGULATIONS.
7. INDEMNIFICATION; LIMIT ON LIABILITY. PARTICIPANT AGREES TO INDEMNIFY KUB, TVA, AND CONTRACTOR AGAINST ALL LOSS, DAMAGES, COSTS AND LIABILITY ARISING FROM ANY CLAIMS RELATED TO ANY PRODUCTS INSTALLED OR SERVICES PERFORMED DURING THE INSTALLATION OR MAINTENANCE OF SMART THERMOSTAT(S) AS PART OF THE PILOT. NEITHER KUB, TVA, NOR CONTRACTOR SHALL BE LIABLE TO PARTICIPANT FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES RELATED TO THIS AGREEMENT OR THE PILOT. NEITHER KUB, TVA, NOR CONTRACTOR ARE RESPONSIBLE FOR ANY WALL REPAIR AND/OR PAINTING RESULTING FROM THE INSTALLATION OF SMART THERMOSTAT(S).
8. MISCELLANEOUS. This Agreement shall be governed by and construed under federal law. To the extent there is no body of federal law for guidance, the laws of the State of Tennessee, but not its choice of law provisions, will govern. Any action against TVA under or on account of this Agreement will be brought only in the United States District Court for the Eastern District of Tennessee, and the parties hereby irrevocably waive any right to trial by jury in any such action. Participant shall not assign, delegate, or subcontract this Agreement or its duties thereunder, in whole or in part, voluntarily or involuntarily (including a transfer to a receiver or bankruptcy estate) without the prior written consent of TVA. TVA may assign its rights and delegate its duties under this Agreement to any third party at any time without Participant's consent. If any provision of this Agreement is invalid or unenforceable, the other provisions in this Agreement shall remain in full force and effect and shall be liberally construed in order to effectuate the purpose and intent of this Agreement. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any such provision. The failure of any Party to enforce strict performance by the other of any provision of this Agreement, or to exercise any right available to the Party under this Agreement, shall not be construed as a waiver of such Party's right to enforce strict performance in the same or any other instance.