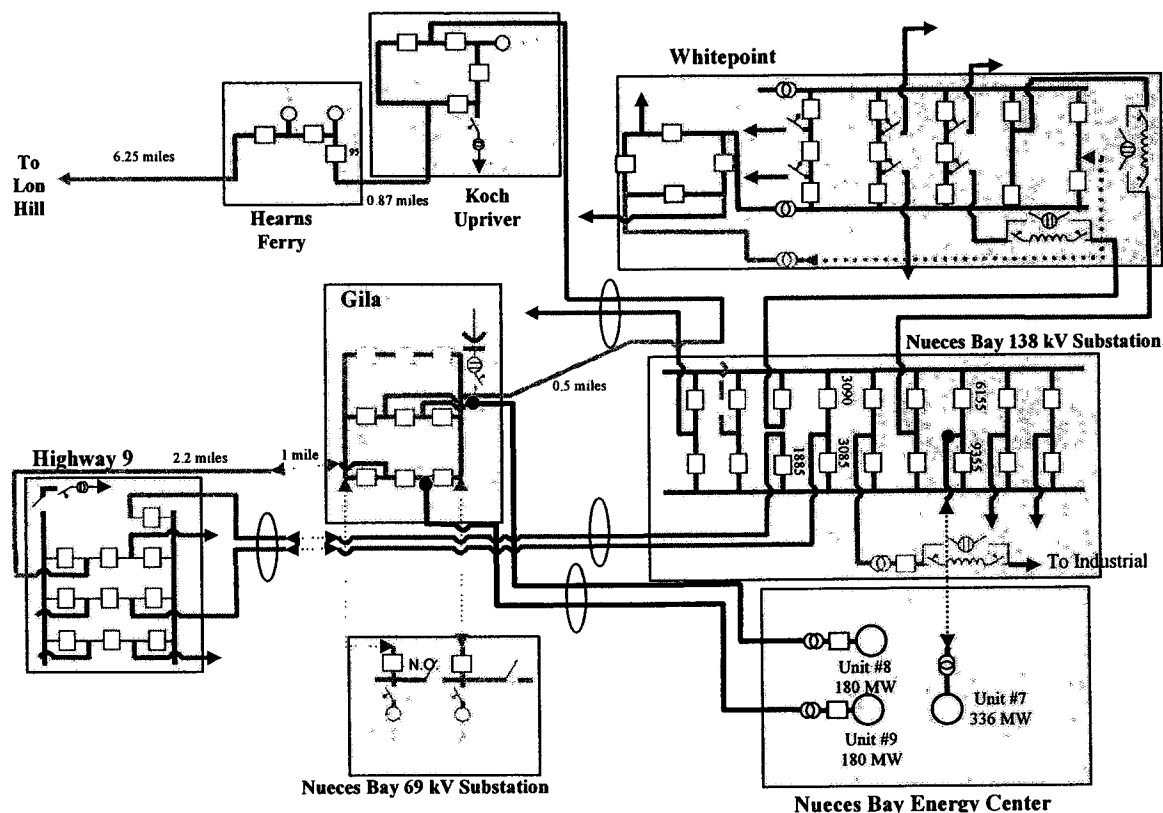


## EXHIBIT "C-1"

### Conceptual One-Line Drawing of the Transmission Interconnection Facilities And System Upgrades



#### Legend

- Double Circuit
- Underground Cable
- Existing 138 kV TSP Facilities
- Existing 69 kV TSP Facilities
- Existing Below 69 kV TSP Facilities
- Future(solid)/Removed(dashed) TSP Facilities
- Future Generator Facilities
- EPS Meter

**EXHIBIT "D"**  
**NOTICE INFORMATION OF THE INTERCONNECTION**  
**AGREEMENT**

(a) All notices of an operational nature shall be in writing and/or may be sent between the Parties via electronic means including facsimile as follows:

If to Generator:

Nueces Bay WLE, LP  
2002 East Navigation Blvd.,  
Corpus Christi, 78402  
Office: 361-561-2210  
Fax : 361-561-2215

If to Transmission Service Provider:

AEPTexas Central Company  
c/o American Electric Power Service Corp.  
Manager, Transmission Dispatching  
5502 Corporate Dr.  
Corpus Christi, TX 78403  
(361) 289-4003  
dkkunkel@AEP.com

(b) Notices of an administrative nature:

If to Generator:

Nueces Bay WLE, LP  
Attn: Commercial Relations  
2705 Bee Caves Road  
Suite 340  
Austin, TX 78746  
Telephone: (512) 314-8600  
Fax: (512) 314-8699

If to Transmission Service Provider:

AEP Texas Central Company  
c/o American Electric Power Service Corp.  
Manager, Transmission & Interconnection  
Services  
P.O. Box 201  
212 E. 6<sup>th</sup> St.  
Tulsa, OK 74102  
(918) 599-2723  
(918) 594-3579  
rlpennybaker@aep.com

(c) Notice for statement and billing purposes:

If to Generator:

Nueces Bay WLE, LP  
Attn: Accounting  
2705 Bee Caves Road  
Suite 340  
Austin, TX 78746  
Telephone: (512) 314-8600  
Fax: (512) 314-8699

If to Transmission Service Provider:

AEP Texas Central Company  
c/o American Electric Power Service Corp.  
Accounts Receivable  
301 Cleveland Ave SW  
Canton, OH 44702

(d) Information concerning Electronic Funds Transfers:

	If to Generator:	If to Transmission Service Provider:
Bank Name:	Union Bank of California, N.A	Citibank, N.A.
Address:	551 Madison Avenue - 11th Floor	399 Park Ave
City, State:	New York, NY 10022	New York, NY 10043
ABA No.	122000496	21000089
For credit to:	Topaz Power Holdings for Nueces Bay WLE Transmission	AEP Texas Central Company
Account No.	6711847302	30489767

## **EXHIBIT "E"**

### **SECURITY ARRANGEMENT DETAILS**

1. As a condition to TSP's obligation to plan, license, engineer, design, procure equipment and materials, and construct the TIF and System Upgrades described in Item 8 of Exhibit "C", Generator will provide a financial security (Security) either as a letter of credit (LOC), corporate guaranty or other form of collateral security reasonably acceptable to TSP in an amount totaling up to \$41.0 million, as required pursuant to Section 8.3 of this Agreement. Such Security may be provided in up to as many as 4 installments where the first installment of \$17.0 million shall be provided within 10 business days of execution of this Agreement. A second installment of \$16.9 million (for a total combined amount up to \$33.9 million) or the remaining amount, whichever is less, shall be provided within 9 months of execution of this Agreement; a third installment of \$6.3 million (for a total combined amount up to \$40.2 million) or the remaining amount, whichever is less, shall be provided within 18 months of execution of this Agreement; and a fourth installment of \$0.8 million (for a total combined amount up to \$41.0 million) or the remaining amount, whichever is less, shall be provided within 24 months of execution of this Agreement. Generator shall not be obligated to make a required installment of Security if the Plant is completed and the Generator begins to take the requested transmission service prior to the date that the installment payment would otherwise be due.
2. If it is determined by TSP that the portion of TIF described in item 8 of Exhibit "C" is not required to meet the TIF In-Service Date, the total Security described above shall be \$40.0 million with the second installment of such Security to be \$15.9 million. All other amounts and schedules of security shall be the same as described above.
3. Depending upon the creditworthiness of Generator, a corporate guaranty may or may not be reasonably acceptable Security. If Generator chooses to provide a corporate guaranty, it shall provide any financial reports reasonably requested by TSP. If creditworthiness of Generator is acceptable to TSP, the corporate guaranty shall be in a form substantially similar to that shown in Exhibit "E-1".
4. LOC means an irrevocable, transferable standby LOC issued by a U.S. commercial bank or a foreign bank with a U.S. branch, with a credit rating of at least A- from Standard & Poor's or A3 from Moody's Investors Services. Such LOC shall be in a form substantially similar to that shown in Exhibit "E-2", or, if not in a form similar to that shown in Exhibit "E-2", in a form reasonably acceptable to TSP. Such LOC shall state that it is issued in favor of TSP. The cost of the LOC shall be borne by the applicant for such LOC.
5. Upon receipt of the Security, TSP will promptly proceed with the work required to meet the In-Service Date. Failure of Generator to provide any installment of such Security by the date specified in the schedule may be deemed a Default under Section 10.6 of this Agreement.

6. Per PUC Substantive Rule §25.195(c)(1) (B) TSP shall return all Security to Generator or its parent when Generator begins to take the requested transmission service.

**EXHIBIT "E-1"**  
**FORM OF CORPORATE GUARANTY**

**GUARANTY**

THIS GUARANTY is executed as of the \_\_\_\_ day of \_\_\_\_\_, 2008 between \_\_\_\_\_, a \_\_\_\_\_ corporation (the "Guarantor"), and **AEP Texas Central Company** (the "Counterparty")

**RECITAL**

**Nueces Bay WLE, LP** (the "Company"), and the Counterparty have entered into an Interconnection Agreement, dated as of \_\_\_\_\_ hereof (the "Agreement"). As an inducement to the Counterparty to enter into the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor covenants and agrees as follows:

1. **Guaranty of Payment.** The Guarantor hereby irrevocably and unconditionally guarantees the due punctual and full payment of any and all obligations of the Company to the Counterparty now or hereafter due pursuant to the Agreement (the "Guaranteed Obligation"), subject to the limits set forth herein. Upon any failure by the Company to pay any of the Guaranteed Obligation, the Guarantor agrees that it will forthwith on demand pay any amounts which the Company has failed to pay the Counterparty, at the place and in the manner specified in the Agreement. This Guaranty is a guaranty of payment and not merely a guaranty of collection. The Guarantor agrees that the Counterparty may resort to the Guarantor for payment of any of the Guaranteed Obligation, whether or not the Counterparty shall have resorted to any collateral security, or shall have proceeded against any other obligor principally or secondarily obligated with respect to any of the Guaranteed Obligation. Guarantor reserves the right to assert defenses which the Company may have to payment of any Guaranteed Obligation other than defenses arising from the bankruptcy, insolvency or similar proceeding of the Company and other defenses expressly waived hereby.

2. **Guaranty Unconditional and Absolute.** The obligations of the Guarantor hereunder shall be unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by:

(i) any extension, renewal, settlement, compromise, waiver, discharge or release in respect of any Guaranteed Obligation of the Company;

(ii) the existence, or extent of, any release, exchange, surrender, non-perfection or invalidity of any direct or indirect security for any of the Guaranteed Obligation;

(iii) any modification, amendment, waiver, extension of or supplement to the Agreement or any of the Guaranteed Obligation agreed to from time to time by the Company and the Counterparty;

(iv) any change in the corporate existence (including its constitution, laws, rules, regulations or powers), structure or ownership of the Company or the Guarantor, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Company or its assets, the Guarantor or any other guarantor of any of the Guaranteed Obligation;

(v) the existence of any claim, set-off or other rights which the Guarantor may have at any time against the Company, the Counterparty or any other corporation or person, whether in connection herewith or in connection with any unrelated transaction; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim if such claim, set off or other right arose in connection with the Guaranteed Obligation.

3. Term: Reinstatement in Certain Circumstances. This Guaranty shall remain in full force and effect until the earlier of (i) expiration or termination of the Agreement, (ii) \_\_\_\_\_. Such termination shall not release Guarantor from liability for any Guaranteed Obligation arising prior to the effective date of such termination. If at any time any payment of any of the Guaranteed Obligation is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of the Company, the Guarantor's obligations hereunder with respect to such payment shall be reinstated at such time as though such payment had not been made.

4. Waiver by the Guarantor. The Guarantor irrevocably waives acceptance hereof, diligence, presentment, demand, protest, notice of dishonor, notice of any sale of collateral and any notice not provided for herein, and any requirement that at any time any person exhaust any right to take any action against the Company or its assets or any other guarantor or person.

5. Subrogation. Upon making any payment hereunder, the Guarantor shall be subrogated to the rights of the Counterparty against the Company with respect to such payment; provided that the Guarantor shall not enforce any right or receive any payment by way of subrogation until all of the Guaranteed Obligation then due shall have been paid in full and Counterparty agrees to take at Guarantor's expense such steps as the Guarantor may reasonably request to implement such subrogation.

6. Stay of Acceleration Ineffective with Respect to Guarantor. In the event that acceleration of the time for payment of any amount payable by the Company under the Agreement is stayed upon the insolvency, bankruptcy or reorganization of the Company, all such amounts otherwise subject to acceleration or required to be paid upon an early termination pursuant to the terms of the Agreement shall nonetheless be payable by the Guarantor hereunder forthwith on demand by the Counterparty.

7. Assignment: Successors and Assigns. The Guaranty shall be binding upon and inure to the benefit of the Guarantor and its successors and assigns and the Counterparty and its successors and assigns. Guarantor may not assign its rights and obligations hereunder without the prior written consent of the Counterparty, and any such purported assignment without such written consent will be void.

8. Amendments and Waivers. No provision of this Guaranty may be amended, supplemented or modified, nor any of the terms and conditions hereof waived, except by a written instrument executed by the Guarantor and the Counterparty.

9. Remedies Cumulative. The rights, powers, remedies and privileges provided in this Guaranty are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law and any other agreement.

10. Limitation. Notwithstanding anything in this Guaranty to the contrary, Guarantor's liability under this Guaranty and the Counterparty's right of recovery under the same shall be limited to an aggregate amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). Guarantor's liability hereunder shall be and is specifically limited to payments expressly required to be made under the Agreement (even if such payments are deemed to be damages); and in no event shall Guarantor be subject hereunder to consequential, exemplary, equitable, loss of profits, punitive, or any other damages, except to the extent specifically provided in the Agreement to be due from Company. In the event Counterparty engages in litigation to enforce this Guaranty, Guarantor agrees to pay, in addition to any amounts of Debtor which Guarantor has otherwise guaranteed to pay hereunder, any and all costs and expenses incurred by Counterparty (including reasonable attorney's fees) in enforcing this Guaranty provided Counterparty is successful in such litigation.

11. Representations and Warranties.

(A) The Guarantor is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has full corporate power to execute, deliver and perform this Guaranty.

(B) The execution, delivery and performance of the Guaranty have been and remain duly authorized by all necessary corporate action and do not contravene any provision of law or of the Guarantor's constitutional documents or any contractual restriction binding on the Guarantor or its assets.

(C) All consents, authorizations and approvals of, and registrations and declarations with, any governmental authority necessary for the due execution, delivery and performance of this Guaranty have been obtained and remain in full force and effect and all conditions thereof have been duly complied with, and no other action by and no notice to or filing with, any governmental authority is required in connection with the execution, delivery or performance of this Guaranty.

(D) This Guaranty constitutes the legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles.

12. Notices. All notices or communications to the other party may be faxed and shall be followed in writing by registered or certified mail or overnight delivery service to:

**To Guarantor:**

\_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Fax: ( ) \_\_\_\_\_

**To Counterparty:**

AEP Texas Central Company  
c/o American Electric Power Service Corporation  
Attention: Lisa Groff  
One Riverside Plaza  
Columbus, OH 43215

or such other address as each party shall from time to time specify.

13. GOVERNING LAW AND JURISDICTION. THIS GUARANTY WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT REFERENCE TO CHOICE OF LAW DOCTRINE.

14. Third Party Beneficiaries. This Guaranty shall not be construed to create any third party beneficiary relationship as to or with any person or entity other than the Counterparty.

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be duly executed as of the date first above written.

(\_\_\_\_\_)

By: \_\_\_\_\_  
Name:  
Title:

## EXHIBIT "E-2"

### FORM OF IRREVOCABLE STANDBY LETTER OF CREDIT

DATE OF ISSUANCE: \_\_\_\_\_

[Address]

RE: Credit No. \_\_\_\_\_

We hereby establish our Irrevocable Standby Letter of Credit in your favor for the account of \_\_\_\_\_ (the "Account Party"), for the aggregate amount not exceeding \_\_\_\_\_ United States Dollars (\$ \_\_\_\_\_), available to you for payment at sight upon demand at our counters at (Location) on or before the expiration hereof against presentation to us of the following document, dated and signed by a representative of the beneficiary:

The Account Party has not performed in accordance with the "Interconnection Agreement between AEP Texas Central Company and Nueces Bay WLE, LP" (the "IA") and is in Default under the IA. Wherefore, the undersigned does hereby demand payment of USD [Beneficiary fills in the amount not to exceed the full value of the letter of credit]

Partial and multiple drawings are permitted hereunder.

We hereby agree with you that documents drawn under and in compliance with the terms of this Letter of Credit shall be duly honored upon presentation as specified. This Letter of Credit is being provided in connection with the IA.

This Letter of Credit shall be governed by the Uniform Customs and Practice for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500 (the "UCP"), except that should an event of the type referred to in Article 17 of the UCP interrupts our business (each, an "Interruption Event") and causes the place for presentation of this Letter of Credit to be closed for business on the last day for presentation, the expiry date of this Letter of Credit will be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business.

This Letter of Credit shall be deemed automatically extended without an amendment for one year period beginning on the present expiration date hereof, and upon each anniversary of such date, unless at least 90 days prior to any such expiration date we have sent you notice by courier service or overnight mail that we elect not to permit this Letter of Credit to be so extended beyond, and will expire on its then current expiry date. No presentation made under this Letter of Credit after such expiry date will be honored.

All commissions, expenses and charges incurred with this Letter of Credit are for the account of the Account Party.

{Note: Must note the Expiry Date in the format}  
[BANK SIGNATURE]

## **ENCLOSURE 2**

**INTERCONNECTION AGREEMENT  
BETWEEN  
AEP TEXAS CENTRAL COMPANY  
AND  
BARNEY M. DAVIS, LP**

**For the  
Barney Davis Energy Center**

**Dated: June 18 , 2008**

**INTERCONNECTION AGREEMENT  
BETWEEN  
AEP TEXAS CENTRAL COMPANY  
AND  
BARNEY DAVIS WLE, LP**

This Interconnection Agreement (including all Exhibits, this "Agreement") is made and entered into this 18th day of June, 2008 (the "Effective Date") between AEP Texas Central Company ("Transmission Service Provider" or "TSP") and Barney M. Davis, LP ("Generator"), hereinafter individually referred to as "Party", and collectively referred to as "Parties". In consideration of the mutual covenants and agreements herein contained, the Parties hereto agree as follows:

TSP represents that it is a public utility that owns and operates facilities for the transmission and distribution of electricity. Generator represents that it owns and operates the electric generating facility generally known as the Barney Davis Energy Center (the "Plant"). Pursuant to the terms and conditions of this Agreement, Transmission Service Provider shall interconnect Generator's Plant with Transmission Service Provider's System consistent with the results of the "Interconnection Study for New Generation in Nueces County" that was prepared in response to a generation interconnection request (# 09INR0038) from Topaz Power Group to the Electric Reliability Council of Texas, Inc.

This Agreement applies only to the Plant and the Parties' interconnection facilities as identified in Exhibit "C", and does not provide transmission service or guarantee the availability of transmission service.

This Agreement shall become effective as of the Effective Date, subject to Governmental Authority approval, if required, and shall continue in full force and effect until terminated in accordance with Exhibit "A".

This Agreement will be subject to the following, all of which are incorporated herein:

- A. The "Terms and Conditions of the ERCOT Generation Interconnection Agreement" attached hereto as Exhibit "A";
- B. The ERCOT Requirements (unless expressly stated herein, where the ERCOT Requirements are in conflict with this Agreement, the ERCOT Requirements shall prevail);
- C. The PUCT Rules (where the PUCT Rules are in conflict with this Agreement, the PUCT Rules shall prevail);
- D. The Time Schedule attached hereto as Exhibit "B";
- E. The Interconnection Details attached hereto as Exhibit "C";
- F. The Notice Requirements attached hereto as Exhibit "D"; and
- G. The Security Arrangement Details attached hereto as Exhibit "E".

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

Transmission Service Provider

AEP Texas Central Company

By: \_\_\_\_\_/s/\_\_\_\_\_

Name: Michael Heyeck

Title: Vice President

Date: 6/20/2008

Generator

Barney M. Davis, LP

By: \_\_\_\_\_/s/\_\_\_\_\_

J. Darren Stephens  
President

Date: 6-18-08

## EXHIBIT "A"

### TERMS AND CONDITIONS OF THE INTERCONNECTION AGREEMENT

#### ARTICLE 1. DEFINITIONS

Capitalized terms shall have the meanings as set forth below, except as otherwise specified in this Agreement:

1.1 "Affiliate" shall mean any person or entity that controls, is controlled by or is under common control with the Party in question. For purposes of this definition, control shall mean direct or indirect ownership or control of a majority of the voting interests of an entity.

1.2 "Agreement" shall mean this Agreement, all Exhibits or Appendices attached, and all amendments thereto.

1.3 "Applicable Laws and Regulations" shall mean all applicable federal, state and local laws, ordinances, rules and regulations, and all duly promulgated orders and other duly authorized actions of any Governmental Authority having jurisdiction over the Parties and/or their respective facilities. Notwithstanding the foregoing, each Party shall have the right at its sole expense to contest the application of any Applicable Laws and Regulations to such Party before the appropriate authorities.

1.4 "CCN" shall mean a Certificate of Convenience and Necessity issued by the PUCT.

○ 1.5 "Commercial Operation" shall mean the date on which Generator declares that the construction of the Plant has been substantially completed, Trial Operation of the Plant has been completed, and the Plant is ready for dispatch.

○

1.6 "Control Area" shall have the meaning ascribed thereto in PUCT Rule 25.5(8) or its successor.

1.7 "ERCOT" shall mean the Electric Reliability Council of Texas, Inc.

1.8 "ERCOT Requirements" means the ERCOT Operating Guides, ERCOT Metering Guidelines, ISO Generation Interconnection Procedures, ERCOT Protocols as well as any other documents adopted by the ISO or ERCOT relating to the interconnection and operation of generators and transmission systems in ERCOT as amended from time to time, and any successors thereto. Any requirement in the foregoing documents imposed upon generation entities or generation facilities shall become the responsibility of Generator, and any

requirements imposed on transmission providers or transmission facilities shall become the responsibility of TSP.

1.9 “Facilities Study” shall have the meaning as described in PUCT Rule 25.198(g) or its successor.

1.10 “Facilities Study Agreement” shall mean the agreement executed by the Parties or their affiliates relating to the performance of the Facilities Study.

1.11 “FERC” shall mean the Federal Energy Regulatory Commission, or any successor thereto.

1.12 “GIF” shall mean Generator’s interconnection facilities as described in Exhibit “C.”

1.13 “Good Utility Practice” shall have the meaning described in PUCT Rule 25.5(31) or its successor.

1.14 “Governmental Authority(ies)” shall mean any federal, state, local or municipal body having jurisdiction over a Party.

1.15 “In-Service Date” shall be the date, as reflected in Exhibit “B,” that the TIF will be ready to connect to the GIF.

1.16 “ISO” shall mean the ERCOT Independent System Operator.

1.17 “Plant” shall mean the electric generation facility owned and operated by Generator, as specified in Exhibit “C.”

1.18 “Point of Interconnection” shall mean the location(s) where the GIF connects to the TIF as negotiated and defined by the Parties and as described in Exhibit “C” of this Agreement.

1.19 “Project Financing” shall mean one or more loans and/or debt issues, together with all modifications, renewals, supplements, substitutions and replacements thereof, the proceeds of which are used to finance or refinance the costs of the Plant, any alteration, expansion or improvement to the Plant, the purchase and sale of the Plant or the operations at the Plant.

1.20 “Project Financing Holder” shall mean any holder, trustee or agent for holders, of any component of the Project Financing.

1.21 “PUCT” shall mean the Public Utility Commission of Texas.

1.22 “PUCT Rules” shall mean the Substantive Rules of the PUCT.

1.23 “Reasonable Efforts” shall mean the use of Good Utility Practice and the exercise of due diligence (pursuant to PUCT Rule 25.196(e)).

- 1.24 “Regulatory Approvals” shall mean all consents, approvals, certifications, filings or orders that may be required by Applicable Laws and Regulations.
- 1.25 “System Protection Equipment” shall mean those facilities located within the TIF and the GIF as described in Section 5.6 and Exhibit “C” of this Agreement.
- 1.26 “System Security Study” shall have the meaning as described in PUCT Rule 25.198(f) or its successor.
- 1.27 “System Upgrades”, if any, shall mean the equipment and facilities described in Paragraph 8 of Exhibit “C” of this Agreement.
- 1.28 “TCOS” shall mean TSP’s transmission cost of service as allowed by the applicable Governmental Authority.
- 1.29 “TIF” shall mean TSP’s interconnection facilities as described in Exhibit “C” of this Agreement.
- 1.30 “Trial Operation” shall mean the process by which Generator is engaged in on-site test operations and commissioning of the Plant prior to Commercial Operation.
- 1.31 “TSP” shall mean Transmission Service Provider.
- 1.32 “TSP System” shall mean the electric transmission facilities, including the TIF and System Upgrades, and all associated equipment and facilities owned and/or operated by TSP.

## ARTICLE 2. TERMINATION

### 2.1 Termination Procedures. This Agreement may be terminated as follows:

- A. Generator may terminate this Agreement after giving TSP thirty (30) days advance written notice; or
- B. TSP may terminate this Agreement (subject to Governmental Authority approval, if required) on written notice to Generator if Generator’s Plant has not achieved Commercial Operation within one year after the scheduled Commercial Operation date reflected in Exhibit “B”; or
- C. Either Party may terminate this Agreement in accordance with Section 10.6.

### 2.2 Termination Costs. If a Party elects to terminate this Agreement pursuant to Section 2.1 above, Generator shall pay all costs incurred (or committed to be incurred) by TSP, as of the date

of the other Party's receipt of such notice of termination, that are the responsibility of Generator under this Agreement. In the event of termination by either Party, both Parties shall use commercially reasonable efforts to mitigate the damages and charges that they may incur as a consequence of termination. The provisions of Sections 2.2 and 2.3 shall survive termination of this Agreement.

2.3 Disconnection. Upon termination of this Agreement, the Parties will disconnect the GIF from the TIF in accordance with Good Utility Practice and all Applicable Laws and Regulations.

### ARTICLE 3. REGULATORY FILINGS

3.1 Filing. TSP shall file this Agreement with the FERC (and provide a copy of the filing to the PUCT) within thirty (30) business days of the date first written above. Parties agree to assist one another and use all reasonable efforts in obtaining such approvals or making such filings as promptly as practicable. Any portions of this Agreement asserted by Generator to contain competitively sensitive commercial or financial information shall be filed by TSP identified as "confidential" under seal stating, for TSP's showing of good cause, that Generator asserts such information is confidential information and has requested such filing under seal. If requested by TSP, Generator shall provide TSP, in writing, with Generator's basis for asserting that the information referred to in this Section 3.1 is competitively sensitive information, and TSP may disclose such writing to the appropriate Governmental Authority.

3.2 Regulatory Approvals. Unless exempt, TSP shall timely request and obtain ISO and all Regulatory Approvals necessary for it to carry out its responsibilities under this Agreement. Such approvals shall include any CCN required for the construction of the TIF or System Upgrades.

### ARTICLE 4. INTERCONNECTION FACILITIES ENGINEERING, PROCUREMENT, AND CONSTRUCTION

4.1 Options. Generator shall select one of the following options (subsection A or subsection B) and include the selected option in Exhibit "B" for completion of the TIF:

A. TSP shall design, procure, and construct the TIF, using Reasonable Efforts to complete the TIF by the In-Service Date reflected in Exhibit "B." TSP will utilize its own resources and will contract for additional resources, as reasonably necessary, to meet the In-Service Date. Such resources shall include, as TSP believes is reasonable, use of other contractors, other equipment suppliers, other material suppliers, additional contract personnel, additional payments to contractors for expedited work, and premiums paid to equipment and material suppliers for expedited delivery. TSP shall not be required to undertake any initiative which is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its

labor agreements, Applicable Laws and Regulations, and ERCOT Requirements. In the event TSP reasonably expects that it will not be able to complete the TIF by the In-Service Date, TSP will promptly provide written notice to Generator and will undertake Reasonable Efforts to meet the earliest date thereafter.

B. (i) TSP shall design, procure, and construct the TIF by the In-Service Date reflected in Exhibit "B." The Parties acknowledge that the In-Service Date was either agreed upon through good faith negotiations or designated by Generator upon failure of the Parties to agree. In the process of negotiating the In-Service Date, Generator will request a date upon which it reasonably expects it will be ready to begin use of the TIF and upon which it reasonably expects to begin doing so. Any date designated by Generator shall in no event be less than fifteen months from the date that all conditions of Sections 4.2 and 4.3 have been satisfied. The designated In-Service Date will be extended day for day for each day that the ISO refuses to grant clearances to install equipment. If TSP fails to complete the TIF by the In-Service Date reflected in Exhibit "B," TSP shall pay Generator liquidated damages in accordance with this Section 4.1.B.

(ii) The Parties agree that actual damages to Generator, in the event the TIF are not completed by the In-Service Date, may include Generator's fixed operation and maintenance costs and lost opportunity costs. Such actual damages are uncertain and impossible to determine at this time. The Parties agree that, because of such uncertainty, any liquidated damages paid by TSP to Generator shall be an amount equal to  $\frac{1}{2}$  of 1% of the actual cost of the TIF, per day. However, in no event shall the total liquidated damages exceed 20% of the actual cost of the TIF. The Parties agree that such liquidated damages are less than Generator's actual damages. The Parties agree that the foregoing payments will be made by TSP to Generator as just compensation for the damages caused to Generator, which actual damages are uncertain and impossible to determine at this time, and as reasonable liquidated damages, but not as a penalty or a method to secure performance of this Agreement.

(iii) TSP shall apply to have the full costs of the TIF included in TCOS. If the PUCT issues a final, appealable order excluding from TCOS any portion of the TIF costs, including higher contractor and vendor costs due to liquidated damage provisions in those contracts and insurance costs to cover liquidated damages, which costs may have been reasonably incurred but which the PUCT finds should not be recovered through TCOS, Generator shall reimburse TSP for such costs in an amount not to exceed the difference between TSP's estimate of the cost of the TIF under section 4.1.A and TSP's estimate of the cost of the TIF under Section 4.1.B as reflected in Exhibit "C." Such costs shall be estimated using Good Utility Practice.

(iv) No liquidated damages shall be paid to Generator if Generator is not ready to commence use of the TIF for the delivery of power to the Plant for Trial Operation or export of power from the Plant on the In-Service Date, unless Generator would have been able to commence use of the TIF for the delivery of power to the Plant for Trial Operation or export of power from the Plant but for TSP's delay.

(v) If the In-Service Date has been designated by Generator upon a failure of the Parties to agree on the In-Service Date, TSP may, at its option, require Generator to subcontract with TSP for all or part of the design, procurement and construction of the TIF in accordance with TSP's standard subcontractor agreements. In such event, TSP shall be subject to the payment of liquidated damages to Generator only if the In-Service Date is not met solely due to TSP's failure to complete the portion of the TIF for which TSP has retained responsibility. It is the intent of this subsection to give TSP full control of the contents and quality of the TIF. To the extent Generator acts as a subcontractor to TSP, the following will apply: 1) Generator shall engineer, procure equipment, and construct the TIF (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by TSP; 2) In its engineering, procurement and construction of the TIF, Generator shall comply with all requirements of law to which TSP would be subject in the engineering, procurement or construction of the TIF; 3) TSP shall review and approve the engineering design, acceptance tests of equipment, and the construction of the TIF; 4) TSP shall have the right to approve and accept for operation the TIF in accordance with the standards and specifications provided in advance by TSP, such approval and acceptance shall not be unreasonably withheld, conditioned, or delayed; 5) Should any phase of the engineering, equipment procurement, or construction of the TIF, including selection of subcontractors, not meet the standards and specifications provided by TSP, and therefore be deemed unacceptable, then Generator shall be obligated to remedy that portion of the TIF or selection of subcontractors that is deemed unacceptable, TSP's approval of Generator's selection of subcontractors will not be unreasonably withheld, conditioned or delayed; and 6) Once the TIF is accepted for operation by TSP, then TSP shall reimburse Generator for the reasonable and necessary costs incurred by Generator to complete the TIF, not to exceed the amount specified in the subcontract. Such reimbursement shall be made within thirty days after receipt of the invoice, unless otherwise agreed to by the Parties.

4.2 Equipment Procurement. If responsibility for construction of the TIF is borne by TSP, then TSP shall commence design of the TIF and procure necessary equipment within a reasonable time after all of the following conditions are satisfied:

A. TSP has completed the Facilities Study pursuant to the Facilities Study Agreement;

B. TSP has received written authorization to proceed with design and procurement from Generator by the date specified in Exhibit "B"; and

C. Generator will provide security to TSP in accordance with Section 8.3 by the dates specified in Exhibit "E."

TSP and Generator agree to work together to procure equipment in the most time and cost efficient manner. Should Generator procure equipment on behalf of the TSP, such equipment will be either specified by the TSP or approved by the TSP prior to procurement. Costs for such

procurement shall be reimbursed by the TSP to the Generator upon the achievement of Commercial Operation or, if Commercial Operation is not achieved, the Parties will work cooperatively to fashion a cost reimbursement arrangement based on the useful value of the procured equipment.

4.3 Construction Commencement. TSP shall commence construction of the TIF as soon as practicable after the following additional conditions are satisfied:

- A. Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;
- B. Necessary real property rights, if any, have been obtained;
- C. TSP has received written authorization to proceed with construction from Generator by the date specified in Exhibit "B"; and
- D. Generator has provided security to TSP in accordance with Section 8.3 by the dates specified in Exhibit "E."

4.4 System Upgrades. TSP shall design, procure, and construct any necessary System Upgrades, using Reasonable Efforts to complete the System Upgrades by the System Upgrades In-Service Date reflected in Exhibit "B." TSP will utilize its own resources and will contract for additional resources, as reasonably necessary, to meet the In-Service Date. Such resources shall include, as TSP believes is reasonable, use of other contractors, other equipment suppliers, other material suppliers, additional contract personnel, additional payments to contractors for expedited work, and premiums paid to equipment and material suppliers for expedited delivery. TSP shall not be required to undertake any initiative which is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, Applicable Laws and Regulations, and ERCOT Requirements. In the event TSP reasonably expects that it will not be able to complete the System Upgrades by the System Upgrades In-Service Date, TSP will promptly provide written notice to Generator and will undertake Reasonable Efforts to meet the earliest date thereafter.

TSP and Generator agree to work together to procure system upgrade equipment in the most time and cost efficient manner. Should Generator procure system upgrade equipment on behalf of the TSP, such system upgrade equipment will be either specified by the TSP or approved by the TSP prior to procurement. Costs for such procurement shall be reimbursed by the TSP to the Generator upon the achievement of Commercial Operation or, if Commercial Operation is not achieved, the Parties will work cooperatively to fashion a cost reimbursement arrangement based on the useful value of the procured equipment.

4.5 System Upgrades Commencement. TSP shall commence construction of the System Upgrades as soon as practicable after the following conditions are satisfied:

A. Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;

B. Necessary real property rights, if any, have been obtained;

C. TSP has received written authorization to proceed with construction from Generator by the date specified in Exhibit "B"; and

D. Generator has provided security to TSP for the System Upgrades in accordance with Section 8.3 by the dates specified in Exhibit "E."

4.6 Work Progress. The Parties will keep each other advised periodically as to the progress of their respective design, procurement and construction efforts. If, at any time, Generator becomes aware that the completion of the TIF or System Upgrades will not be required until after the specified In-Service Date or System Upgrades In-Service Date, Generator will promptly provide written notice to TSP of a new, later In-Service Date or System Upgrades In-Service Date.

4.7 Conditions Precedent Delay. To the extent this Agreement incorporates a specified In-Service Date or System Upgrades In-Service Date and Generator fails to satisfy conditions precedent under Sections 4.2, 4.3, or 4.5, as applicable, so that TSP may meet the In-Service Date or System Upgrades In-Service Date, the Parties will negotiate in good faith to establish a new schedule for completion of the TIF or System Upgrades, and the In-Service Date and the Scheduled Commercial Operation Date shall be extended accordingly.

## ARTICLE 5. FACILITIES AND EQUIPMENT

5.1 Information Exchange. The Parties shall exchange information and mutually agree upon the design and compatibility of the Parties' interconnection facilities. The Parties shall work diligently and in good faith to make any necessary design changes to ensure compatibility of the GIF to the TSP System.

5.2 GIF Construction. Generator agrees to cause the GIF to be designed and constructed in accordance with Good Utility Practice, ERCOT Requirements and the National Electrical Safety Code in effect at the time of construction. Within one-hundred and twenty (120) days after Commercial Operation, unless the Parties agree on another mutually acceptable deadline, Generator shall deliver to TSP the following "as-built" drawings, information and documents for the GIF: a one-line diagram, a site plan showing the Plant and the GIF, plan and elevation drawings showing the layout of the GIF, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with Generator's main-power transformers, the facilities connecting the Plant to the main power transformers and the GIF, the impedances (determined by factory tests) for the associated main power transformers and the generators, and the impedance of any transmission voltage lines that are part of the GIF.

5.3 TIF Construction. TSP agrees to cause the TIF to be designed and constructed in accordance with Good Utility Practice, ERCOT Requirements and the National Electrical Safety Code in effect at the time of construction.

5.4 Equipment Changes. If either Party makes equipment changes to the Plant, the GIF, the TIF or the TSP System which it knows will affect the operation or performance of the other Party's interconnection facilities or the Plant, the Parties agree to notify the other Party, in writing, of such changes. Such changes shall be made in accordance with ERCOT Requirements and coordinated between the Parties.

5.5 Metering, Telemetry and Communications Requirements.

A. Metering and telemetry of data will be accomplished in accordance with ERCOT Requirements. The specific metering, telemetry and communications equipment to be installed and data to be telemetered are described in Exhibit "C."

B. At the Point of Interconnection, the metering and telemetry equipment shall be owned by TSP. However, TSP shall provide Generator with metering and telemetry values in accordance with ERCOT Requirements.

C. A minimum set of inputs to the telemetry equipment is specified in Exhibit "C." Additional sets of inputs may be subsequently mutually agreed upon.

D. TSP will notify Generator at least five (5) working days in advance of any planned maintenance, inspection, testing, or calibration of the metering equipment, unless otherwise agreed to in writing. Generator, or its designated representative, shall have the right to be present for these activities and to receive copies of any documents related to the procedures and results.

E. Prior to the connection of the GIF to the TIF, acceptance tests will be performed by the owning Party to ensure the proper functioning of all metering, telemetry and communications equipment associated with the Point of Interconnection and both Parties' interconnection facilities, and to verify the accuracy of data being received by TSP, the Control Area in which the Plant and TSP are located and Generator. All acceptance tests will be performed consistent with ERCOT Requirements.

F. TSP shall, in accordance with Good Utility Practice and ERCOT Requirements, specify communications facilities, including those necessary to transmit data from the metering equipment to TSP, that are necessary for the effective operation of the Plant and the GIF with the TSP System. Such communication facilities shall be included in Exhibit "C." Generator shall make arrangements to procure and bear the cost of such facilities.

G. Any changes to the meters, telemetry equipment, voltage transformers, current transformers, and associated panels, hardware, conduit and cable, which will affect the data being received by the other Party must be mutually agreed to by the Parties.

H. Each Party will promptly advise the other Party if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by the other Party. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible in accordance with ERCOT Requirements. If a meter is found to be not in compliance with the accuracy standards required by ERCOT Requirements, readings for the prior six months, or from the time the meter was in service since last tested, but not exceeding six months, shall be corrected and adjusted bills shall be rendered.

#### 5.6 System Protection and Other Controls Requirements.

A. Each Party will use Reasonable Efforts to design and operate its respective facilities such that they will isolate any fault, or correct or isolate any abnormality, that would negatively affect the other Party's system or other entities connected to the TSP System.

B. Each Party shall be responsible for protection of its facilities consistent with ERCOT Requirements and Good Utility Practice.

C. Each Party's protective relay design shall incorporate the necessary test switches to perform the tests required in Section 5.6.F. The required test switches will be placed such that they allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and tripping Generator's units.

D. Recording equipment shall be installed to analyze all system disturbances in accordance with ERCOT Requirements.

E. Each Party will test, operate and maintain System Protection Equipment in accordance with ERCOT Requirements. Each Party will provide reasonable notice to the other Party of any testing of its System Protection Equipment allowing such other Party the opportunity to have representatives present during testing of its System Protection Equipment.

F. Prior to the In-Service Date, and again prior to Commercial Operation, each Party or its agent shall perform a complete calibration test and functional trip test of the System Protection Equipment. At intervals suggested by Good Utility Practice or at intervals described in the ERCOT Requirements if so defined therein, and following any apparent malfunction of the System Protection Equipment, each Party shall perform both calibration and functional trip tests of its System Protection Equipment. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.

5.7 No Annexation. Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property, unless otherwise mutually agreed by the Parties.

## ARTICLE 6. OPERATION AND MAINTENANCE

6.1 Operation and Maintenance of Interconnection Facilities. The Parties agree to operate and maintain their systems in accordance with Good Utility Practice, National Electrical Safety Code, the ERCOT Requirements, PUCT Rules and all Applicable Laws and Regulations. Subject to any necessary ISO approval, each Party shall provide necessary equipment outages to allow the other Party to perform periodic maintenance, repair or replacement of the TIF or GIF as the case may be. Such outages shall be scheduled at mutually agreeable times, unless conditions exist which a Party believes, in accordance with Good Utility Practice, may endanger persons or property. Each Party shall use commercially reasonable efforts to minimize the frequency and duration of any outages. No changes will be made in the normal operation of the Point of Interconnection without the mutual agreement of the Parties except as otherwise provided herein. All testing of the Plant that affects the operation of the Point of Interconnection shall be coordinated between TSP, ERCOT, and Generator and will be conducted in accordance with ERCOT Requirements.

6.2 Control Area Notification. At least three months before Trial Operation, Generator shall notify TSP and the Control Area in accordance with ERCOT Requirements. The Parties will diligently cooperate with one another to enable this Agreement to be implemented on a schedule necessary to meet the Trial Operation date specified in Exhibit "B."

6.3 Land Rights and Easements. Terms and conditions addressing the rights of TSP and Generator regarding any facilities located on the other Party's property shall be addressed in a separate, duly executed and recorded easement agreement between the Parties. Prior to Commercial Operation, the Parties will mutually agree upon procedures to govern access to each other's property as necessary for the Parties to fulfill their obligations hereunder.

6.4 Service Interruption. The Parties recognize that the interruption of service provisions of the PUCT Rules give TSP the right to disconnect the TSP System from the Plant under the conditions specified therein. Notwithstanding the PUCT Rules to the contrary, TSP will not disconnect the TSP System from the Plant unless required by Good Utility Practices. In the event of such interruption of service, TSP shall provide prompt notice to Generator of cause of such interruption and an estimation of when the Plant will be re-connected to the TSP. Generator will promptly disconnect the Plant from the TSP System when required by and in accordance with the PUCT Rules and ERCOT Requirements. The TSP shall use commercially reasonable efforts to minimize the frequency and duration of any service interruptions. The Parties acknowledge and agree that Generator shall have no liability to TSP, its Affiliates, subcontractors and customers for disconnecting the Plant from the TSP when required by and in accordance with the PUCT Rules, ERCOT Requirements or Applicable Laws and Regulations.

**6.5     Switching and Clearance.**

A.     Any switching or clearances needed on the TIF or the GIF will be done in accordance with ERCOT Requirements.

B.     Any switching and clearance procedure necessary to comply with Good Utility Practice or ERCOT Requirements that may have specific application to the Plant shall be addressed in Exhibit "C."

**6.6     Start-Up and Synchronization.** Consistent with ERCOT Requirements and the Parties' mutually acceptable procedure, Generator is responsible for the proper synchronization of the Plant to the TSP System.

**6.7     Routine Operational Communications.** On a timely basis, the Parties shall exchange all information necessary to comply with ERCOT Requirements, and shall otherwise reasonably cooperate with each other.

**6.8     Blackstart Operations.** If the Plant is capable of blackstart operations, Generator will coordinate individual Plant start-up procedures consistent with ERCOT Requirements. Any blackstart operations shall be conducted in accordance with the blackstart criteria included in the ERCOT Requirements and TSP's Blackstart Plan on file with the ISO. Notwithstanding this section, Generator is not required to have blackstart capability by virtue of this Agreement. If Generator will have blackstart capability, then Generator shall provide and maintain an emergency communication system that will interface with TSP during a blackstart condition.

**6.9     Power System Stabilizers.** Generator shall procure, install, maintain and operate power system stabilizers if required to meet ERCOT Requirements and as described in Exhibit "C."

**ARTICLE 7. DATA REQUIREMENTS**

**7.1     Data Acquisition.** The acquisition of data to realistically simulate the electrical behavior of system components is a fundamental requirement for the development of a reliable interconnected transmission system. Therefore, TSP and Generator shall be required to submit specific information regarding the electrical characteristics of their respective facilities to each other as described below in accordance with ERCOT Requirements.

**7.2     Initial Data Submission by TSP.** The initial data submission by TSP shall occur no later than 120 days prior to Trial Operation and shall include transmission system data necessary to allow Generator to select equipment and meet any system protection and stability requirements.

**7.3     Initial Data Submission by Generator.** The initial data submission by Generator, including manufacturer data, shall occur no later than 90 days prior to the Trial Operation and shall include a completed copy of the following forms contained in the ISO's Generation

Interconnection Procedure: (1) Plant Description/Data and (2) Generation Stability Data. It shall also include any additional data provided to the ISO for the System Security Study. Data in the initial submissions shall be the most current Plant design or expected performance data. Data submitted for stability models shall be compatible with the ISO standard models. If there is no compatible model, Generator will work with an ISO designated consultant to develop and supply a standard model and associated data.

7.4 Data Supplementation. Prior to Commercial Operation, the Parties shall supplement their initial data submissions with any and all "as-built" Plant data or "as-tested" performance data which differs from the initial submissions or, alternatively, written confirmation that no such differences exist. Subsequent to Commercial Operation, Generator shall provide TSP any data changes due to equipment replacement, repair, or adjustment. TSP shall provide Generator any data changes due to equipment replacement, repair, or adjustment in the directly connected substation or any adjacent TSP-owned substation that may affect the GIF equipment ratings, protection or operating requirements. The Parties shall provide such data no later than 30 days after the date of the actual change in equipment characteristics. Also, the Parties shall provide to each other a copy of any additional data later required by the ISO concerning these facilities.

7.5 Data Exchange. Each Party shall furnish to the other Party real-time and forecasted data as required by ERCOT Requirements. The Parties will cooperate with one another in the analysis of disturbances to either the Plant or TSP System by gathering and providing access to any information relating to any disturbance, including information from oscillography, protective relay targets, breaker operations and sequence of events records.

## ARTICLE 8. PERFORMANCE OBLIGATION

### 8.1 Generator's Cost Responsibility.

A. Generator will acquire, construct, operate, test, maintain and own the Plant and the GIF at its sole expense.

B. In addition, Generator may be required to make a contribution in aid of construction payment to TSP in the amount set out for certain TIF described in Exhibit "C," if any, in accordance with PUCT Rules. Such cost will include salaries and wages, including overheads and benefits for TSP personnel, the cost of subcontractors selected by TSP for engineering and construction and the cost of equipment and materials. Generator agrees to reimburse TSP, if required by PUCT Rules, for any federal income tax gross up amount that may be due as a result of such payment by Generator to TSP if TSP is required by Applicable Laws and Regulations to pay federal income tax on this receipt. Generator shall not be responsible for any interest and/or penalties associated with any future gross up requirements.

C. Upon the achievement of Commercial Operation, the TSP will provide the Generator with an invoice(s) for the actual costs of item 8.1 (B) above. Generator agrees to

reimburse TSP for all costs required to be paid by PUCT Rules within thirty days of receipt of an invoice(s) therefore. At Generator's request, TSP will provide Generator with supporting documentation and will permit Generator to examine during normal business hours at TSP's office in Tulsa, Oklahoma, relevant books and records reasonably necessary for Generator to verify costs which have been invoiced to Generator.

**8.2 TSP's Cost Responsibility.** TSP will acquire, own, operate, test, and maintain the TIF and System Upgrades at its sole expense, subject to the provisions of Section 4.1.B and the contribution in aid of construction provisions of Section 8.1 of this Agreement.

**8.3 Financial Security Arrangements.** TSP requires Generator to pay a reasonable deposit or provide another means of security, to cover the costs of planning, licensing, procuring equipment and materials, and constructing the TIF and the System Upgrades as described in Exhibit "C", Item 8. The required security arrangements shall be specified in Exhibit "E". Within five business days after the Plant achieves Commercial Operation, TSP shall return the deposit(s) or security arrangements to Generator. However, TSP may retain an amount to cover the incremental difference between TSP's actual out of pocket costs associated with the choice of Section 4.1.B over Section 4.1.A, pending a final PUCT Order as contemplated in Section 4.1.B(iii). If the Plant has not achieved Commercial Operation within one year after the scheduled Commercial Operation date identified in Exhibit "B" or if Generator terminates this Agreement in accordance with Section 2.1 and the TIF and System Upgrades are not required, TSP may, subject to the provisions of Section 2.2, retain as much of the deposit or security as is required to cover the costs it incurred in planning, licensing, procuring equipment and materials, and constructing the TIF and System Upgrades that specifically relate to Generator's facilities, including the Plant as described Exhibit "C", Item 8. If a cash deposit is made pursuant to Exhibit "E," any repayment of such cash deposit shall include interest at a rate applicable to customer deposits as established from time to time by the PUCT or other Governmental Authority.

## ARTICLE 9. INSURANCE

**9.1** Each Party shall, at its own expense, maintain in force throughout the period of this Agreement, and until released by the other Party, the following minimum insurance coverages, with insurers authorized to do business in Texas:

A. Employers Liability and Worker's Compensation Insurance providing statutory benefits in accordance with the laws and regulations of the State of Texas. The minimum limits for the Employer's Liability insurance shall be One Million Dollars (\$1,000,000) each accident bodily injury by accident, One Million Dollars (\$1,000,000) each employee bodily injury by disease, and One Million Dollars (\$1,000,000) policy limit bodily injury by disease.

B. Commercial General Liability Insurance including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage

(including coverage for the contractual indemnification) products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available and a cross liability endorsement, with minimum limits of One Million Dollars (\$1,000,000) per occurrence/One Million Dollars (\$1,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.

C. Comprehensive Automobile Liability Insurance for coverage of owned, non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage.

D. Excess Public Liability Insurance over and above the Employer's Liability, Commercial General Liability and Comprehensive Automobile Liability Insurance coverage, with a minimum combined single limit of Twenty Million Dollars (\$20,000,000) per occurrence/Twenty Million Dollars (\$20,000,000) aggregate.

E. The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance, and Excess Public Liability Insurance policies shall name the other Party, its parent, associated and affiliated companies and their respective directors, officers, agents, servants and employees ("Other Party Group") as additional insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this Agreement against the Other Party Group and provide thirty (30) days advance written notice to Other Party Group prior to anniversary date of cancellation or any material change in coverage or condition.

F. The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies shall contain provisions that specify that the policies are primary and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Party shall be responsible for its respective deductibles or retentions.

G. The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies, if written on a Claims First Made basis, shall be maintained in full force and effect for two (2) years after termination of this Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Parties.

H. The requirements contained herein as to the types and limits of all insurance to be maintained by the Parties are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Parties under this Agreement.

I. Within ten (10) days following execution of this Agreement, and as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within ninety (90) days thereafter, each Party shall provide certification of all insurance required in this Agreement, executed by each insurer or by an authorized representative of each insurer.

J. Notwithstanding the foregoing, each Party may self-insure to the extent it maintains a self-insurance program; provided that, such Party's senior secured debt is rated at investment grade, or better, by Standard & Poor's. For any period of time that a Party's senior secured debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, such Party shall comply with the insurance requirements applicable to it under Sections 9.1.A through 9.1.I. In the event that a Party is permitted to self-insure pursuant to this Section 9.1.J, it shall not be required to comply with the insurance requirements applicable to it under Sections 9.1.A through 9.1.I.

K. The Parties agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of this Agreement.

## ARTICLE 10. MISCELLANEOUS

### 10.1 Governing Law and Applicable Tariffs.

A. This Agreement for all purposes shall be construed in accordance with and governed by the laws of the State of Texas, excluding conflicts of law principles that would refer to the laws of another jurisdiction. The Parties submit to the jurisdiction of the federal and state courts in the State of Texas.

B. This Agreement is subject to all valid, applicable rules, regulations and orders of, and tariffs approved by, duly constituted Governmental Authorities.

C. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

10.2 No Other Services. This Agreement is applicable only to the interconnection of the Plant to the TSP System at the Point of Interconnection and does not obligate either Party to provide, or entitle either Party to receive, any service not expressly provided for herein. Each Party is responsible for making the arrangements necessary for it to receive any other service that it may desire from the other Party or any third party. This Agreement does not address the sale or purchase of any electric energy, transmission service or ancillary services by either Party, either before or after Commercial Operation.

10.3 Entire Agreement. This Agreement, including all Exhibits, Attachments and Schedules attached hereto, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement. Notwithstanding the other provisions of this Section, the Interim Agreement and the Facilities Study Agreement, if any, is unaffected by this Agreement.

10.4 Notices. Except as otherwise provided in Exhibit "D," any formal notice, demand or request provided for in this Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person, or sent by either registered or certified mail, postage prepaid, overnight mail or fax to the address or number identified on Exhibit "D" attached to this Agreement. Either Party may change the notice information on Exhibit "D" by giving five business days written notice prior to the effective date of the change.

10.5 Force Majeure.

A. The term "Force Majeure" as used herein shall mean any cause beyond the reasonable control of the Party claiming Force Majeure, and without the fault or negligence of such Party, which materially prevents or impairs the performance of such Party's obligations hereunder, including but not limited to, storm, flood, lightning, earthquake, fire, explosion, failure or imminent threat of failure of facilities, civil disturbance, strike or other labor disturbance, sabotage, war, national emergency, or restraint by any Governmental Authority.

B. Neither Party shall be considered to be in Default (as hereinafter defined) with respect to any obligation hereunder (including obligations under Article 4), other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this Section shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

10.6 Default

A. The term "Default" shall mean the failure of either Party to perform any obligation in the time or manner provided in this Agreement. No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this Agreement or the result of an act or omission of the other Party. Upon

a Default, the non-defaulting Party shall give written notice of such Default to the defaulting Party. Except as provided in Section 10.6.B, the defaulting Party shall have thirty (30) days from receipt of the Default notice within which to cure such Default; provided however, if such Default is not capable of cure within 30 days, the defaulting Party shall commence such cure within 30 days after notice and continuously and diligently complete such cure within 90 days from receipt of the Default notice; and, if cured within such time, the Default specified in such notice shall cease to exist.

B. If a Default is not cured as provided in this Section, or if a Default is not capable of being cured within the period provided for herein, the non-defaulting Party shall have the right to terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. A defaulting Party may not recover monies from a non-defaulting Party unless such recovery is permitted under applicable law or equity. The provisions of this Section will survive termination of this Agreement.

10.7 Intrastate Operation. The operation of the Plant by Generator shall not cause there to be a synchronous or an asynchronous interconnection between ERCOT and any other transmission facilities operated outside of ERCOT unless ordered by the Federal Energy Regulatory Commission under Section 210 of the Federal Power Act. The Parties recognize and agree that any such interconnection will constitute an adverse condition giving TSP the right to immediately disconnect the TIF from the GIF, until such interconnection has been disconnected. Generator will not be prohibited by this Section from interconnecting the Plant with facilities operated by the Comision Federal de Electricidad of Mexico, unless such interconnection would cause ERCOT utilities that are not "public utilities" under the Federal Power Act to become subject to the plenary jurisdiction of the Federal Energy Regulatory Commission.

10.8 No Third Party Beneficiaries. This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

10.9 No Waiver. The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of obligations, rights, or duties imposed upon the Parties. Termination or Default of this Agreement for any reason by Generator shall not constitute a waiver of Generator's legal rights to obtain an interconnection from TSP under a new interconnection agreement.

10.10 Headings. The descriptive headings of the various articles and sections of this Agreement have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement.

10.11 Multiple Counterparts. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

10.12 Amendment. This Agreement may be amended only upon mutual agreement of the Parties, which amendment will not be effective until reduced to writing and executed by the Parties.

10.13 No Partnership. This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

10.14 Further Assurances. The Parties agree to (i) furnish upon request to each other such further information, (ii) execute and deliver to each other such other documents, and (iii) do such other acts and things, all as the other Party may reasonably request for the purpose of carrying out the intent of this Agreement and the documents referred to in this Agreement. Without limiting the generality of the foregoing, TSP shall, at Generator's expense, when reasonably requested to do so by Generator at any time after the execution of this Agreement, prepare and provide such information in connection with this Agreement (including, if available, resolutions, certificates, opinions of counsel or other documents relating to TSP's corporate authorization to enter into this Agreement and to undertake the obligations set out herein) as may be reasonably required by any potential lender to Generator under a proposed loan agreement. TSP will use commercially reasonable efforts to obtain any opinion of counsel reasonably requested by Generator, but TSP shall not be in Default of any obligation under this Agreement if TSP is unable to provide an opinion of counsel that will satisfy any potential lender to Generator. Specifically, upon the written request of one Party, the other Party shall provide the requesting Party with a letter stating whether or not, up to the date of the letter, that Party is satisfied with the performance of the requesting Party under this Agreement.

10.15 Indemnification and Liability. The indemnification and liability provisions of the PUCT Rule 25.202(b)(2) or its successor shall govern this Agreement.

10.16 Consequential Damages. OTHER THAN THE LIQUIDATED DAMAGES HERETOFORE DESCRIBED, IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER ANY PROVISION OF THIS AGREEMENT FOR ANY LOSSES, DAMAGES, COSTS OR EXPENSES FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT OR REVENUE, LOSS OF THE USE OF EQUIPMENT, COST OF CAPITAL, COST OF TEMPORARY EQUIPMENT OR SERVICES, WHETHER BASED IN WHOLE OR IN PART IN CONTRACT, IN TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY; PROVIDED, HOWEVER, THAT DAMAGES FOR WHICH A PARTY MAY BE LIABLE TO THE OTHER PARTY UNDER ANOTHER AGREEMENT WILL NOT BE CONSIDERED TO BE SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES HEREUNDER.

**10.17 Assignment.** This Agreement may be assigned by either Party only with the written consent of the other which consent won't be unreasonably withheld or delayed; provided that either Party may assign this Agreement without the consent of the other Party to any Affiliate of the assigning Party or to any transmission service provider provided, in either case, that the assignee has an equal or greater credit rating and the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement; and provided further that Generator shall have the right to assign this Agreement, without the consent of TSP, for collateral security purposes to aid in providing financing for the Plant, provided that Generator will require any secured party, trustee or mortgagee to notify TSP of any such assignment (and presentation of an agreement to TSP under Section 10.18 below shall be deemed to satisfy such notice requirement). Any financing arrangement entered into by Generator pursuant to this Section will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify TSP of the date and particulars of any such exercise of assignment right(s). Any attempted assignment that violates this Section is void and ineffective. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

**10.18 Lender Security.** TSP agrees, if requested by Generator, to enter into an agreement (in a form reasonably acceptable to TSP) with the Project Financing Holders, pursuant to which TSP will acknowledge the creation of security over Generator's rights under this Agreement and agree that, upon breach of this Agreement or breach of any loan documents by Generator or the insolvency of Generator, the Project Financing Holder shall:

- (a) have the right within a reasonable period of time as specified therein to cure any breach of this Agreement complained of, provided the Project Financing Holder agrees to perform Generator's obligations under this Agreement during the cure period; and
- (b) have the right, upon payment of all outstanding amounts due and payable to TSP, to assume all the rights and obligations of Generator under this Agreement.

**10.19 Severability.** If any provision in this Agreement is finally determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this Agreement; provided that if Generator (or any third-party, but only if such third-party is not acting at the direction of TSP) seeks and obtains such a final determination with respect to any provision of Section 4.1.B, then none of the provisions of Section 4.1.B. shall thereafter have any force or effect and the Parties' rights and obligations shall be governed solely by Section 4.1.A.

**10.20 Comparability.** The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

**10.21 Invoicing and Payment.** Unless the Parties otherwise agree (in a manner permitted by applicable PUCT Rules and as specified in writing in an Exhibit "E" attached hereto), invoicing

and payment rights and obligations under this Agreement shall be governed by PUCT Rules or applicable Governmental Authority. Invoices shall be rendered to the paying Party at the address specified on, and payments shall be made in accordance with the requirements of, Exhibit "D."

#### 10.22 Confidentiality.

A. Subject to the exception in Section 10.22.B, any information that a Party claims is competitively sensitive, commercial or financial information under this Agreement ("Confidential Information") shall not be disclosed by the other Party to any person not employed or retained by the other Party, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this Agreement or as a transmission service provider or a Control Area operator including disclosing the Confidential Information to the ISO. The Party asserting confidentiality shall notify the other Party in writing of the information it claims is confidential. Prior to any disclosures of the other Party's Confidential Information under this subsection, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subsection, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

B. This provision shall not apply to any information that was or is hereafter in the public domain (except as a result of a breach of this provision).

## **EXHIBIT "B"**

### **TIME SCHEDULE**

Interconnection Option chosen by Generator (check one):   X   Section 4.1.A. or        Section 4.1.B

Date on which Generator provided notice to proceed with design and procurement, as specified in Section 4.2, so that TSP may maintain schedule to meet the In-Service Date:

Provided hereby on the date of this Agreement

Date by which Generator must provide notice to commence construction as specified in Section 4.3, so that TSP may maintain schedule to meet the In-Service Date:

Provided hereby on the date of this Agreement

Date by which Generator must provide prerequisites of Section 4.5, so that TSP may maintain a schedule to meet the in-service date of the System Upgrades:

Provided hereby on the date of this Agreement

TIF In-Service Date:

November 1, 2009

Scheduled Trial Operation Date:

February 1, 2009 for backfeed  
July 1, 2009 for turbine roll

Scheduled Commercial Operation Date (subject to extension due to a Force Majeure event):

November 1, 2009

Special Protection Scheme (SPS) In-Service Date:

November 1, 2009

System Upgrades In-Service Date:

Forty-eight (48) months from the date that this Agreement is executed and conditions of Section 4.5 in Exhibit "A" hereof are met, provided however, that ninety percent (90%) of the Plant's nominal capacity, as described in item 4 of Exhibit "C", shall be available under normal conditions by the TIF In-Service Date. The Parties shall cooperate and

work in good faith and TSP shall use Reasonable Efforts to substantially complete the upgrades such that the Plant can operate at full output under normal conditions as soon as possible.

Due to the nature of the subject of this Agreement, TSP may change the TIF In-Service Date and Generator may change the Scheduled Trial Operation Date and Scheduled Commercial Operation Date, provided the party requesting the change is using Reasonable Efforts to meet its applicable milestone date.

## EXHIBIT "C"

### INTERCONNECTION DETAILS

1. **Name:** **Barney Davis Energy Center**
2. **Point of Interconnection location:** The Barney Davis Energy Center (Barney Davis Power Plant or the "Plant") is located adjacent to the existing Barney Davis Substation which is located approximately four miles south of Hwy 358 on Waldron Road in Corpus Christi, Texas. There are five Points of Interconnection at the Barney Davis Substation. Four of these provide interconnection of each of the four generating units that comprise the Plant and another provides for interconnection of the Plant's reserve auxiliary transformer. All of these Points of Interconnection are at the dead end substation structures at the Barney Davis Substation. See Exhibit "C-1".
3. **Delivery Voltage:** 138 kV
4. **Number and size of Generating Units:** Nominal 1,035 MW capacity comprised of existing Unit #1 @ 339 MW, existing Unit #2 @ 336 MW, future Unit #3 @ 180 MW and future Unit #4 @ 180 MW.
5. **Type of Generating Units:**
  - i) Unit #1 - gas-fired conventional steam turbine generator
  - ii) Units #2 - 4 gas-fired combined cycle comprised of the following turbine generators:  
Unit #2 - steam turbine  
Unit #3 - gas turbine  
Unit #4 - gas turbine
6. **Metering and Supervisory Control and Data Acquisition (SCADA) Equipment:**
  - (a) The ERCOT Polled Settlement (EPS) metering equipment described below will be procured, paid for, owned and installed by TSP inside the Barney Davis Substation.
    - (i) three (3) 138 kV meter panels with primary and back up meters
    - (ii) six (6) 138 kV billing accuracy metering units comprised of combination potential transformers and current transformers. The metering will be a three phase, four wire system.

Note: The metering equipment described above provides for the interconnection of Units 1, 3 and 4 of the Plant. If the existing installed metering equipment for Unit 2 can

not be reused, an additional set of 138 kV meter panels with primary and backup meters and two additional 138 kV billing accuracy metering units comprised of potential transformers and current transformers will be procured, paid for, owned and installed by TSP.

b) The SCADA equipment described below will be paid for (including TSP costs to install) by Generator in the form of a contribution in aid of construction but procured, owned, and installed by TSP inside the Plant.

- i) one (1) GE D20 remote terminal unit (RTU), including associated interface equipment

c) Such facilities shall meet the following TSP requirements in addition to ERCOT Requirements. If there is a conflict between the TSP requirements below and the ERCOT Requirements, the ERCOT Requirements shall govern.

- i) The transfer of power between the TIF and the GIF shall be metered at the Point of Interconnection with bi-directional metering. Backfeed power from the TSP System to the Plant is "Out MW". "Out MW" is considered positive and "In MW" is considered negative. The same conventions will be observed on the reactive power. Each of the four quantities will be recorded separately. Recording of Plant and GIF energy usage for the billing period will be determined by TSP. If there is more than one Point of Interconnection (e.g., two lines), independent bi-directional metering is required on each interconnecting circuit.
- ii) Meters are required for generation net output, with the bi-directional feature used to measure station use auxiliaries when not exporting power. Unless used for the interconnection metering, all voltage and current transformers used for generation metering shall conform to relay accuracy class or better. MW and MVAR transducers shall be 3-element transducers with an accuracy of  $\pm 0.2\%$  or better.
- iii) If requested by Generator, and if available from the TSP metering equipment, the following information can be provided to Generator at the Point of Interconnection. If not available from the TSP metering equipment, the "Out MWh", "In MWh", "Out MVARh", "In MVARh", +/- MW and +/- MVAR data can be provided to Generator at Generator's expense. If requested by Generator, MW and MVAR transducers shall be 3-element transducers with an accuracy of  $\pm 0.2\%$  or better.
- iv) All affected parties shall be involved in engineering changes of interconnect metering equipment from project inception. All parties must be notified so a mutually agreeable time can be set for the changes. All parties involved must be satisfied to the making of any changes.
- v) Metering and operation personnel of all affected parties shall be notified at least 48 hours in advance, or at a mutually acceptable advance notice, prior to any calibrations or maintenance. In emergency conditions, TSP may make necessary repairs with notification to affected parties within 24 hours. Copies of the repair and calibration records shall be forwarded to all involved parties.

## **7. Generator Interconnection Facilities:**

- a) GIF includes the following:
  - i) the Plant, including all facilities within it and Optical Ground Wire (OPGW) on each transmission circuit between the Plant and the Barney Davis Substation
  - ii) 138 kV transmission line from all units of the Plant to the dead end substation structures in the Barney Davis Substation
  - iii) communication equipment described in item 9a below

## **8. Transmission Service Provider Interconnection Facilities And System Upgrades:**

a) TIF are required to synchronize and deliver maximum Plant capacity and energy output from Units #2, #3 and #4 to the TSP System. TSP shall procure, pay for\*, install and own the following TIF:

- i) upgrades\* to the 138 kV Barney Davis Substation necessary to terminate the 138 kV transmission conductors from Unit #3 and Unit #4 of the Plant
- ii) upgrades to the 138 kV Barney Davis Substation necessary to connect the existing 138 kV buses to the future 138 kV buses
- iii) metering and SCADA equipment as described in item 6 above
- iv) communication equipment described in item 9b below
- v) station data recorder\*\*
- vi) special protection scheme (SPS)\*\*\* at TSP System facilities in the Barney Davis area

\* Note: Generator will pay TSP, in the form of a contribution in aid of construction, the installed costs of the following facilities:

- i) two dead-end structures, four 138 kV circuit breakers and related relay panels, eight 138 kV switches, six 138 kV CCVTs and all related bus work at the Barney Davis Substation

\*\* Note: A station data recorder installed at the Barney Davis Substation may be sufficient to monitor each generating unit of the Plant. If not, a station data recorder will be installed inside the Plant.

\*\*\* Note: If it is determined by TSP that a SPS is not required to meet the TIF In-Service Date, the financial security required in accordance with Section 8.3 of Exhibit "A" shall be reduced as specified in Exhibit "E".

b) With TIF in service, System Upgrades are required to deliver the maximum Plant capacity and energy to the TSP System. System Upgrades include the following:

- i) upgrades to the 138 kV Westside Substation necessary to terminate the 138 kV transmission lines from the Barney Davis and Nelson Sharpe substations
- ii) upgrades to the 138kV Nelson Sharpe Substation necessary to terminate the 138 kV transmission lines from the Barney Davis and Westside substations
- iii) 138 kV transmission line (single circuit section) from the Barney Davis Substation to the Westside Substation\*\*
- iv) 138 kV transmission line (double circuit section) from the Barney Davis Substation to the Westside Substation,-including OPGW\*\*
- v) 138 kV transmission line (single circuit section) from the Barney Davis Substation to the Nelson Sharpe Substation to the Westside Substation\*\*
- vi) 138 kV transmission line (double circuit section) from the Nelson Sharpe Substation to the Westside Substation,-including OPGW\*\*
- vii) upgrades to the McKenzie Substation necessary for the re-built 138 kV transmission line from the Westside Substation
- viii) upgrades to the Westside Substation necessary for the re-built 138 kV transmission line from the McKenzie Substation
- ix) rebuilt McKenzie to Westside 138 kV transmission line\*\*

\*\* Note: If this Agreement is executed at Generator's request prior to ERCOT's approval of these System Upgrades and ERCOT does not approve these TIF, Generator and TSP will work together to mitigate as much as possible the impact of the ERCOT decision.

## 9. Communications Facilities:

a) The communications facilities described below will be paid for, owned, and installed by Generator.

- i) 1 – dedicated voice dispatch circuit from Generator's control center to TSP's Corpus Christi dispatch office
- ii) 1 – dial-up circuit, including associated interface equipment at the Plant or Barney Davis Substation, whichever is required, for the station data recorder
- iii) 1 – RTU communications circuit between the Plant and TSP's master SCADA system at TSP's Corpus Christi dispatch office or another location specified by TSP
- iv) 1 – telephone company interface box (demarcation equipment) at the Plant for demarcation of telephone company circuits
- v) high voltage isolation equipment for all telephone company circuits at the Plant, if required by the local telephone company.

b) The communications facilities described below will be paid for, owned, and installed by TSP.

- i) 1 – dial-up circuit, including associated interface equipment at the Barney Davis Substation for the ERCOT-pollled settlement meters
- c) All communication facilities shall meet the following TSP requirements in addition to ERCOT Requirements. If there is a conflict between the TSP requirements below and the ERCOT Requirements, the ERCOT Requirements shall govern.
  - i) Generator shall be responsible for confirming with TSP the project-specific circuit requirements and requesting specific TSP addresses and TSP contact names in preparation for issuing communication circuit orders with Generator's telecommunication service provider of choice. These communication circuits shall be leased telephone company circuits or other media satisfactory to TSP. For each telephone company circuit leased by Generator, Generator shall provide TSP and the telecommunication service provider with advanced authorization for communication circuit maintenance, allowing TSP and any of its affiliates and subsidiaries to monitor the circuit, report trouble and take corrective action with the telecommunication service provider, at the Generator's expense, to maintain circuit reliability. The communication circuits described here shall be operational and commissioned by TSP prior to TSP providing a continuous power source to the interconnection facility. Typical facility circuit requirements include the following
    - 1) RTU communications circuit - This is a leased circuit from the demarcation equipment (demark) associated with the RTU at the Plant to the TSP dispatch office. This circuit is to be ordered and paid for by Generator. One circuit is required for each RTU. This circuit will be utilized by TSP to communicate with the RTU and, if applicable, the station data recorder. The required circuit is a 56 Kbps frame circuit with DDS interface at the RTU end and DDS interface at the TSP dispatch office end.
    - 2) Voice dispatch circuit - This is a leased circuit from the Plant operators to the TSP dispatch office. If the Plant operators are not located on the Plant site, then the circuit must be terminated at the actual location of the Plant operators. This circuit is required of Generator where the total Plant generation capacity is equal to or greater than 50 MVA. This circuit is to be ordered and paid for by Generator. The required circuit is a Bell 428, also known as an OSPA 428. This circuit is a two-point off-premise station voice-grade two-wire analog facility with loop start signaling at the TSP dispatch office end. For circuit design and ordering purposes, the circuit origination is to be at the TSP dispatch office; the circuit termination is to be at the actual location of the Plant operators.
    - 3) Dial-up circuit - This is a standard business telephone line (with a 10-digit telephone number) with long distance provisioning to be ordered and paid for by Generator. The requirement for one or more dial-up circuits will be determined by TSP on a project-

specific basis. This circuit may be required for interconnect meter reading, system protection equipment interrogation and access to the station data recorder. If the interconnect metering, system protection equipment and station data recorder are located at multiple sites, then multiple dial-up circuits may be required. If these devices are located at the same site, one dial-up circuit may suffice for dial-up access. If approved by TSP, Generator may install a telephone switch to share one dial-up circuit among multiple devices.

- ii) For all telephone company circuits leased into a substation, demarcation equipment (demark) satisfactory to TSP shall be installed and maintained. The demark will provide the interface between the telephone company's service cable and the substation. The demark design shall accommodate 24 hour per day accessibility by TSP personnel without escort from telephone company personnel, Generator, facility operator or land owners. The demark design shall accommodate 24 hour per day accessibility by telephone company personnel without escort from TSP personnel, Generator, facility operator or land owners. The demark shall be located on the substation ground grid and accessible from outside the substation fence or through a secured personnel gate. Generator shall be responsible for providing surge protection satisfactory to TSP on the communications cable between the demark and the substation control building. The demark described here shall be operational and commissioned by TSP prior to TSP providing a continuous power source to the interconnection facility.
- iii) If required by TSP or the telephone company, high voltage isolation (HVI) equipment for all telephone company circuits leased into a substation shall be installed and maintained. The HVI equipment shall be designed to adequately protect against ground potential rise and shall be satisfactory to TSP and the telephone company. The HVI equipment design shall accommodate 24 hour per day accessibility by TSP personnel without escort from telephone company personnel, Generator, facility operator or landowners. The HVI equipment design shall accommodate 24 hour per day accessibility by telephone company personnel without escort from TSP personnel, Generator, facility operator or landowners. The HVI equipment shall be located on the central office (telephone company) side of the demark. The HVI equipment shall be located on the substation ground grid and accessible from outside the substation fence or through a secured personnel gate. The HVI equipment described here shall be operational and commissioned by TSP prior to TSP providing a continuous power source to the interconnection facility.
- iv) If GIF includes Optical Ground Wire (OPGW), it shall be installed by Generator in accordance with TSP specifications. Generator shall, at its cost, engineer, furnish, and install at its substation all-dielectric station entrance fiber cable (station entrance cable), the splice point for the

OPGW to station entrance cable transition, and the control building fiber distribution panel (FDP). Generator shall, at its cost, at its substation, perform splicing of all fibers in the transition splice and the FDP. Generator shall make a portion of the OPGW fibers available to TSP at no cost to TSP in order for TSP to meet its operational obligations. Generator hereby assigns TSP the rights to the following:

- 1) ownership of the last 24 fibers in the OPGW on each transmission circuit
- 2) ability to co-locate fiber optic equipment in Generator's substation
- 3) access to and use of all TSP fibers - FDP to FDP
- 4) control building rack space for communications equipment
- 5) 125VDC/200W power circuits upon request and availability
- 6) 120VAC/15A power circuits upon request and availability
- 7) access to Generator's substation for the installation and management of fiber jumpers and electronics

The OPGW fibers and the station entrance cable fibers shall not be sublet or otherwise reassigned to third parties without the mutual consent of Generator and TSP. Upon Generator's request and TSP acceptance, TSP will, at Generator's expense, provide maintenance and repair including replacement, if needed, of the station entrance cable, the splice point for the OPGW to station entrance cable transition, and the FDP at Generator's substation. TSP shall, at Generator's expense, engineer, furnish, and install at TSP's substation the station entrance cable, the splice point for the OPGW to station entrance cable transition, and the FDP, and shall perform splicing of all fibers in the transition splice and the FDP.

## **10. System Protection Equipment:**

Protection of each Party's system shall meet the following TSP requirements in addition to ERCOT Requirements. If there is a conflict between the TSP requirements below and the ERCOT Requirements, the ERCOT Requirements shall govern.

- a) TSP assumes no responsibility for the protection of the Plant and GIF for any or all operating conditions. Generator is solely responsible for protecting his equipment in such a manner that faults or other disturbances on the TSP system or other interconnected systems do not cause damage to the Plant and GIF.
- b) It is the sole responsibility of Generator to protect its Plant and GIF from excessive negative sequence currents.
- c) Generator shall furnish at a minimum, a manual disconnect switch with visual contacts and allowance for padlocking, to separate the Plant and GIF from TIF. The location of this switch will be determined by TSP, and be readily accessible to TSP at all times. The disconnect switch will be under the exclusive control of TSP and will be

considered as part of TSP's switching arrangement. TSP reserves the right to open this disconnecting device, isolating the Plant and GIF for any of the following reasons:

- i) The Plant or GIF, upon TSP's determination, causes objectionable interference with other customer's service or with the secure operation of the TSP System.
- ii) The Plant output as determined by TSP exceeds the operating boundaries outlined above.
- iii) The Generator's control and protective equipment causes or contributes to a hazardous condition. TSP reserves the right to verify on demand all protective equipment including relays, circuit breakers, etc. at the inter-tie location. Verification may include the tripping of the tiebreaker by the protective relays.
- iv) In TSP's opinion, continued parallel operation is hazardous to Generator, the TSP System or to the general public.
- v) To provide TSP or TSP personnel the clearances for dead line or live line maintenance.

TSP will attempt to notify Generator before disconnection, but notification may not be possible in emergency situations that require immediate action.

d) Automatic reclosing is normally applied to transmission and distribution circuits. When the TSP's source breakers trip and isolate the Plant and GIF, Generator shall insure that the Plant and GIF is disconnected from the TSP circuit prior to automatic reclosure by TSP. Automatic reclosing out-of-phase with the Plant may cause damage to Generator's equipment. The Generator is solely responsible for the protection of his equipment from automatic reclosing by TSP.

e) A station data recorder will be paid for, owned and installed by TSP at a mutually agreed location. If installed at the Plant, Generator shall provide the cable and conduit for the station data recorder and the necessary connections to the recording equipment. TSP will terminate the signal connections in the recorder. The station data recorder shall be equipped with time synchronizing equipment. The monitoring requirement of TSP does not reduce the Generator's obligation to meet all disturbance monitoring requirements of NERC.

f) Documentation of all protective device settings shall be provided. The setting documentation shall also include relay type, model/catalog number and setting range. If automatic transfer schemes or unique or special protective schemes are used, a description of their operation should be included TSP must review and approve the settings of all protective devices and automatic control equipment which: (1) serve to protect the TSP System from hazardous currents and voltages originating from the Plant or (2) must coordinate with System Protection Equipment or control equipment located on the TSP System.

## **11. Remote Terminal Unit (RTU) and SCADA Inputs:**

- a) A transmission-specific RTU is required for all transmission interconnections. In addition, a generation-specific RTU will be required at the Plant for TSP's generation-specific SCADA. The RTU protocol from the RTUs to the TSP dispatch office shall be satisfactory to TSP. Generator shall marshal all their RS-485 and hardwired RTU inputs at a marshalling cabinet (interface terminal block or interface cabinet) satisfactory to TSP. Generator shall engineer, procure, construct and own the marshalling cabinet, wire to the marshalling cabinet from the various generation or substation equipment, provide TSP with documentation identifying the location of generation or substation SCADA points wired to the marshalling cabinet, and provide TSP with terminals at the marshalling cabinet from which to wire to the RTU. Generator shall provide a dedicated station DC breaker for each RTU.
- b) Prior to TSP providing a continuous power source to the Plant and GIF, the transmission-specific RTU and the generation-specific RTU described here shall be operational with TSP-required RTU functions commissioned by TSP.
- c) In addition to ERCOT Requirements, the following information shall be supplied by Generator, regardless of the size of the Plant capacity, for each Point of Interconnection and connected to TSP's recording equipment and the transmission-specific remote terminal unit (RTU) used for the transmission interconnection. If there is a conflict between the TSP requirements below and the ERCOT Requirements, the ERCOT Requirements shall govern. Except where specified as hardwired, RTU inputs shall be supplied from an intelligent electronic device (IED), from a TSP-approved interface device, or hardwired. RTU inputs from an IED or a TSP-approved interface device shall be Ethernet or RS-485 using DNP 3.0 protocol.
- i) Status Points
    - 1) Transmission line breaker status (required for each Generator-owned transmission line)
    - 2) IED failure (required for each IED sourcing a required point)
    - 3) IED communications failure (required for each IED sourcing a required point)
    - 4) Battery charger trouble (required for the battery powering the RTU)
    - 5) Battery charger AC power failure (required for the battery powering the RTU)
    - 6) Smoke alarm (required for the structure housing the RTU)
    - 7) Fire or high temperature alarm (required for the structure housing the RTU)
  - ii) Analog Points from each Generator-owned transmission line shall include MW, MVAR, voltage per phase and current per phase.
  - iii) Hourly Accumulation Points from each Generator-owned transmission line shall include MWh In, MWh Out, MVARh In and MVARh Out.

d) For Plants where the total generation capacity is equal to or greater than 50 MVA, a generation-specific RTU is required at the Plant or GIF for TSP's generation-specific SCADA. A specific RTU data interface list will be developed by TSP as a part of each generation project based upon the project's electrical configuration. For such purpose the Generator shall be responsible for providing TSP with metering and relaying one-line diagrams of the generation and substation facilities. Generator will supply the following SCADA information to TSP in addition to the transmission interconnection SCADA information specified above:

- i) Control Points – The following RTU inputs shall be hardwired.
  - 1) Trip (required for one or more generation or transmission line breakers to allow TSP to trip the Plant during system emergencies)
- ii) Status Points – Except where specified as hardwired, the following RTU inputs shall be supplied from an IED, from a TSP-approved interface device, or hardwired. RTU inputs from an IED or a TSP-approved interface device shall be Ethernet or RS-485 using DNP 3.0 protocol.
  - 1) Generation breaker status (hardwired for each breaker where trip control is required)
  - 2) Circuit switcher / line switch status (“a” and “b” contacts)
  - 3) Transformer high-side breaker status (hardwired for each breaker where trip control is required)
  - 4) Transformer high-side motor operated switch status (“a” and “b” contacts)
  - 5) Transmission line lockout relay operated
  - 6) Transmission line lockout relay failure
  - 7) Auxiliary breaker status
  - 8) Capacitor bank breaker/switch status
  - 9) Supervisory cutoff (hardwired for each breaker where trip control is required)
  - 10) Breaker failure lockout status (hardwired for each breaker where trip control is required)
  - 11) Breaker critical alarm (required for each breaker where trip control is required, combine critical alarms for each breaker)
  - 12) Transformer critical alarm (combine critical alarms for each transformer)
  - 13) Transformer primary lockout relay operated
  - 14) Transformer primary lockout relay failure
  - 15) Transformer backup lockout relay operated
  - 16) Transformer backup lockout relay failure
  - 17) Generator automatic voltage regulator (AVR) status
  - 18) Fault recorder trouble alarm
- iii) Analog Points – The following RTU inputs shall be supplied from an IED, from a TSP-approved interface device, or hardwired. RTU inputs from an IED or a TSP-approved interface device shall be Ethernet or RS-485 using DNP 3.0 protocol.
  - 1) Generation gross MW (required for each unit)

- 2) Generation gross MVAR (bi-directional values required for each unit)
- 3) Generation station use MW auxiliary (required for each auxiliary transformer)
- 4) Generation station use MVAR auxiliary (bi-directional values required for each auxiliary transformer)
- 5) Station frequency HZ (for those stations where a common bus does not exist between multiple generation units, individual unit frequency points will be required)
- 6) Voltage per phase for each winding of each transformer
- 7) Current per phase for each winding of each transformer
- 8) MW for each winding of each transformer
- 9) MVAR for each winding of each transformer
- 10) MW for each circuit breaker/switcher in the station
- 11) MVAR for each circuit breaker/switcher in the station

## 12. Supplemental Terms and Conditions:

The following supplemental terms and conditions shall be met unless there is a conflict between these terms and conditions and the ERCOT Requirements, in which case the ERCOT Requirements shall govern.

a) If this Agreement is executed at Generator's request prior to ERCOT's approval of the TIF and/or System Upgrades and ERCOT does not approve the TIF and/or System Upgrades, Generator and TSP will work together to mitigate as much as possible the impact of such ERCOT decision.

b) Each Party shall be consulted during the planning and design process of the Plant, GIF and TIF. The engineering and design work (including drawings, plans, materials lists, specifications and other documentation and supporting data) will be prepared in accordance with recognized industry standards and all applicable laws, rules and regulations, and is intended to be used solely in connection with the construction of the Plant, GIF and TIF. Neither Party shall make use of any aspect of the engineering and design work of the other Party for any other projects without the prior written consent of the other Party. Each Party may provide its contractors with copies of the engineering and design work of the other Party in connection with the construction of the Plant, GIF and TIF, provided that (i) the Party's contractor agrees in writing that the engineering and design work is intended to be used solely in connection with the construction of the Plant, GIF and TIF, and (ii) the Party's contractor shall not make use of any aspect of the engineering and design work on any other projects without the prior written consent of the other Party.

c) If wye delta connected transmission voltage step up transformers are utilized they shall be wye connected to the TIF and delta connected to the GIF.

d) Generator shall submit drawings of the GIF to TSP for review. TSP will review only those portions of the drawings that affect the TSP System. Any changes required by TSP shall be made prior to final issue of drawings and TSP shall be provided with final copies of the revised drawings. TSP will review only those portions of the drawings, which apply to protection, metering and monitoring which affect the TSP System. To aid the Generator, TSP may make suggestions on other areas. TSP's review of Generator's drawings shall not be construed as confirming or endorsing the design or as any warranty of safety, durability or reliability of the facility or equipment. Generator shall provide copies of the following:

- i) one line and three line diagrams indicating the following:
  - 1) equipment names and/or numerical designations for all circuit breakers, contactors, air switches, transformers, generators, etc. associated with the generation as required by TSP to facilitate switching
  - 2) power transformers – name or designation, nominal kVA, nominal primary, secondary, tertiary voltages, vector diagram showing winding connections, tap setting and transformer impedance.
  - 3) station service transformers –phase(s) connected to and estimated kVA load
  - 4) instrument transformers – voltage and current, phase connections.
  - 5) surge arresters/gas tubes/metal oxide varistors/avalanche diode/spill gaps/surge capacitors, etc. – type and ratings
  - 6) capacitor banks – kVAR rating and reactive (static and dynamic) device operation capability
  - 7) disconnect switches –status if normally open (N.O.), manual or motor operated including switch voltage, continuous and interrupting ratings
  - 8) circuit breakers and/or contactors – interrupting rating, continuous rating, operating times
  - 9) generators(s) –nameplate , test report, type, connection, kVA, voltage, current, rpm, power factor, impedances, time constants, etc.
  - 10) Point of Interconnection and phase identification
  - 11) fuses – manufacturer, type, size, speed, and location
  - 12) transmission structure geometry (phase to phase, phase to ground, and shield to phase), phase conductor data, shield wire data, transmission line ratings, positive and zero sequence impedances and mileage.
- ii) potential and current elementary drawings associated with the protection and control schemes for the Plant and GIF and control elementary drawings of the Plant and interconnection circuit breaker indicating the following:
  - 1) terminal designation of all devices – relay coils and contacts, switches, transducers, etc.

- 2) relay functional designation – per latest ANSI Standard where the same functional designation shall be used on all drawings showing the relay
  - 3) complete relay type (such as CV-2, SEL321-1, REL-301, IJS51A, etc.)
  - 4) switch contact shall be referenced to the switch development if development is shown on a separate drawing.
  - 5) switch developments and escutcheons where the majority of contacts are used where contacts of a switch are used on a separate drawing, that drawing should be referenced adjacent to the contacts in the switch development. Any contacts not used should be referenced as spare.
  - 6) all switch contacts are to be shown open with each labeled to indicate the positions in which the contact will be closed with explanatory notes defining switch coordination and adjustment where mis-adjustment could result in equipment failure or safety hazard
  - 7) auxiliary relay contacts shall be referenced to the coil location drawing if coil is shown on a separate drawing where all contacts of auxiliary relays should be shown and the appropriate drawing referenced adjacent to the respective contacts
  - 8) device auxiliary switches (circuit breakers, contactor) should be referenced to the drawing where they are used.
  - 9) any interlocks electromechanical, key, etc., associated with the generation or interconnection substation.
  - 10) ranges of all timers and setting if dictated by control logic
  - 11) all target ratings; on dual ratings note the appropriate target tap setting
  - 12) complete internal for electromechanical protective relays where microprocessor type relays may be shown as a “black box”, but manufacturer’s instruction book number shall be referenced and terminal connections shown
  - 13) isolation points (states links, PK-2 and FT-1 blocks), etc., including terminal identification
  - 14) all circuit elements and components, with device designation, rating and setting where applicable and where coil voltage is shown only if different from nominal control voltage
  - 15) size, type, rating and designation of all fuses
  - 16) phase sequence designation as ABC or CBA
  - 17) potential transformers – nameplate ratio, polarity marks, rating, primary and secondary connections
  - 18) current transformers (including aux. CT’s) – polarity marks, rating, tap ratio and connection
- iii) transformer nameplate and test report