

## Mutual Confidentiality Agreement

This Mutual Confidentiality Agreement between SU FERC, L.L.C., a Texas Limited Liability Company and [\_\_\_\_\_] is made and entered into the [\_\_ day of \_\_\_\_\_, 2016 (the "Effective Date") in connection with our discussion and consideration of possible transactions related to transmission capacity on the Southline Transmission Project (a "Possible Transaction"), we recognize that certain non-public, confidential, proprietary information of both parties and their respective affiliates may be furnished and shared between the parties and their respective partners, directors, officers, employees, affiliates, agents, advisors, consultants, representatives, potential financing sources and potential co-investors (collectively "Representatives"). In consideration of the parties furnishing each other such Confidential Information (as defined below) and in consideration of the mutual covenants and conditions set forth below, and each intending to be legally bound, the parties agree as follows:

Confidentiality of Confidential Information. For the purposes of this Agreement, "Confidential Information" will mean any information disclosed by, or on behalf of, one of the parties (the "Disclosing Party") to the other party hereto (the "Receiving Party") or its Representatives in connection with a Possible Transaction, whether written, graphic, machine-readable or any other tangible medium and regardless of whether such information is specifically identified as "confidential". The term "Confidential Information" does not include information which (i) is or becomes generally available to the public other than as a result of a disclosure by the Receiving Party or its Representatives in violation of the provisions of this agreement, (ii) was or becomes available on a non-confidential basis to the Receiving Party or its Representatives from a source other than the Disclosing Party or its Representatives, provided that, to the Receiving Party's knowledge, such source is not prohibited from disclosing such information to the Receiving Party by a contractual, legal or fiduciary obligation, (iii) was already in the possession of the Receiving Party or its Representatives prior to the date hereof and was not obtained directly or indirectly from the Disclosing Party or its Representatives or (iv) was independently developed by Company or its Representative without use of or reference to the Disclosing Party's Confidential Information.

The Receiving Party and its Representatives will keep the Confidential Information confidential and will use it only in connection with evaluating the Possible Transaction. Without the prior written consent of the Disclosing Party, the Receiving Party will not disclose such Confidential Information other than to the Receiving Party's Representatives (it being understood that the Receiving Party's Representatives shall be informed by the Receiving Party of the confidential nature of such information and their need to abide by the terms of this agreement and the Receiving Party agrees to be fully responsible for any breach of this agreement by any of its Representatives).

In the event that the Receiving Party or any of its Representatives receives a request or is required (by law or regulation, deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to disclose all or any part of the Confidential Information, the Receiving Party or its Representatives, as the case may be, agrees to promptly notify the Disclosing Party, unless prohibited under applicable law, rule or regulation, of the existence, terms and circumstances surrounding such request or requirement. In such a case, (1) the Receiving Party or its Representatives, as the case may be, may disclose only that portion of the Confidential Information which the Receiving Party or its Representatives, as the case may be, is advised by its counsel is legally required to be disclosed and (2) the Receiving Party or its Representatives, as the case may be, shall not be liable for such disclosure unless disclosure was caused by or resulted from (A) a previous disclosure by the Receiving Party or its Representatives not permitted by this agreement or (B) any other material breach of this agreement.

Mutual Non-Disclosure of Discussions. Without the prior written consent of the other party, neither party nor its Representatives shall disclose to any third party not associated with a party (except as otherwise permitted herein) the fact that any investigations, analyses, discussions or negotiations are taking place between the parties concerning a Possible Transaction, that the Receiving Party has requested or received the Confidential Information or any of the terms or conditions with respect to a Possible Transaction between the parties.

Return or Destruction of Documents. Upon the Disclosing Party's written request, the Receiving Party shall (and it may at any time) promptly deliver to the Disclosing Party or destroy all Confidential

Information in tangible form (whether in written form, electronically stored or otherwise) without retaining, in whole or in part, any copies, extracts or other reproductions (whatever the form or storage medium) of such materials, and the Receiving Party may, and, at the Disclosing Party's request, the Receiving Party shall certify the return or destruction of such materials in writing to the Disclosing Party. Notwithstanding the foregoing, Receiving Party and its Representatives may retain such Confidential Information and material to the extent relevant to demonstrate its or its Representatives' compliance with any legal, fiduciary, professional or contractual obligation or document retention policy, and the obligations of this paragraph will not require the destruction of any information stored on data backup archives for disaster recovery purposes. All retained Confidential Information (whether in written form, electronically stored or otherwise) will continue to be subject to this agreement, and the return or destruction of any materials containing or based upon any Confidential Information will not relieve the Receiving Party from its obligation of confidentiality or from any other obligations hereunder.

Additional Provisions for CEII. Critical Energy Infrastructure Information (“CEII”) means Confidential Information that contains specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (physical or virtual) that is designated as CEII by a party in its sole discretion. The term “Recipient” means an individual who is approved to receive CEII. An individual requesting CEII must request approval as a Recipient; a party may approve an individual Recipient in its sole discretion and may require a signed certificate acknowledging the Recipient's obligations hereunder. No CEII will be provided to an individual who has not been approved as a Recipient.

In addition to the provisions of this Agreement governing non-disclosure of Confidential Information, all CEII shall be maintained by Recipient in a secure place in accordance with procedures and protocols no less stringent than those used by Recipient and Recipient's employer to protect Recipient's or Recipient's employer's critical energy infrastructure information. Access to CEII shall be limited to other Recipients of the same CEII. Copies of CEII become CEII, and notes of CEII shall be treated as CEII if they contain CEII. A Recipient may only discuss CEII with another Recipient of the identical CEII.

If Recipient or Recipient's employer submits CEII to a governmental agency, the CEII must be submitted in accordance with the agency's rules and regulations governing critical energy infrastructure information to afford the maximum protections against further disclosure of such CEII. Recipients must return or destroy CEII, and provide an affidavit of such return or destruction, within 15 days of a written request to do so, except that notes of CEII may be retained if kept secure.

Disclaimer of Representations and Warranties; Other Agreements. The Receiving Party acknowledges and agrees that none of the Disclosing Party or any of its Representatives is making any representation or warranty, expressed or implied, as to the accuracy or completeness of the Confidential Information, and none of the Disclosing Party or any of its Representatives, nor any of their respective officers, directors, employees, representatives, stockbrokers, owners, affiliates, advisors or agents, will have any liability to the Receiving Party or any other person on any basis (including, without limitation, in contract, tort, under federal or state securities laws or otherwise) resulting from the use of Confidential Information by the Receiving Party or any of its Representatives. Only those representations or warranties that are stated herein or made in a definitive agreement for the Possible Transaction (“Definitive Agreement”) when, as, and if it is executed, and subject to such limitations and restrictions as may be specified in such Definitive Agreement, will have any legal effect.

This agreement does not constitute or create any obligation on the part of either party to provide any Confidential Information or other information to the other party, but merely defines the rights, duties and obligations of the parties with respect to the Confidential Information to the extent it may be disclosed or made available. Each party also acknowledges and agrees that no contract or agreement providing for a Possible Transaction shall be deemed to exist between the parties unless and until a Definitive Agreement has been executed and delivered by a party and each of the other parties thereto, and each party hereby waives, in advance, any claims (including, without limitation, breach of contract)

in connection with any Possible Transaction unless and until a Definitive Agreement has been executed and delivered by a party and each of the other parties thereto. Each party also agrees that unless and until a Definitive Agreement between the parties with respect to a Possible Transaction has been executed and delivered by a party and each of the other parties thereto, there shall not be any legal obligation of any kind whatsoever with respect to any such transaction by virtue of this agreement or any other written or oral expression or proposal with respect to such transaction except, in the case of this agreement, for the matters specifically agreed to herein. For purposes of this agreement, the term "Definitive Agreement" does not include an executed letter of intent or any other preliminary written agreement, nor does it include any oral offer or bid by a party or oral indication of acceptance of an offer or bid, except to the extent such letter of intent or preliminary written agreement states specifically that it or certain provisions thereof are binding.

The parties acknowledge that each party may have affiliates engaged in various businesses, operations, industries and ventures. Nothing herein shall in any way restrict, prevent, preclude or prohibit either party, or their affiliates, from engaging, entering or participating in any line of business or market opportunity, whether or not it is the same as or similar to the Possible Transaction or in competition with the other party, so long as the Confidential Information is not used in violation of this Agreement. Furthermore, nothing in this Agreement shall act to limit the ability of either party to enter into negotiations or agreements with any other person or entity or to perform any business or operations whatsoever, regardless that such other persons, entities or business operations may be in direct competition with the other party, so long as the Confidential Information is not used in violation of this Agreement.

Legal Remedy. Each party understands and agrees that money damages might not be a sufficient remedy for any breach of this agreement by a party or its Representatives and that the Disclosing Party may be entitled to specific performance and injunctive relief as remedies for any such breach, without proof of actual damages. Each party agrees not to seek, and agrees to waive any requirement for the securing or posting of, a bond in connection with a party seeking or obtaining such relief. Such remedies shall not be deemed to be the exclusive remedies for a breach of this agreement by a party or its Representatives but shall be in addition to all other remedies available at law or equity. In the event of litigation relating to this agreement, if a court of competent jurisdiction renders a final, nonappealable order, the losing party shall reimburse the successful party for its reasonable costs and expenses (including, without limitation, reasonable legal fees and expenses) incurred in connection with all such litigation.

Neither party shall be liable to the other party for consequential, incidental, indirect or punitive damages.

Other. This agreement constitutes the entire agreement between the parties hereto regarding the subject matter hereof. This agreement may be changed only by a written agreement signed by the parties hereto. This agreement shall inure to the benefit of and be binding upon each of the parties and their respective successors and assigns, provided, however, that neither this agreement nor any of the rights, interests or obligations hereunder shall be assigned by either party hereto without the prior written consent of the other party, and no assignment of any right, interest or obligation shall release any such assigning party therefrom unless the other party shall have consented to such release in writing specifically referring to the right, interest or obligation from which such assigning party is to be released. The invalidity or unenforceability of any provision of this agreement shall not affect the validity or enforceability of any other provision of this agreement, which shall remain in full force and effect. No failure or delay by a party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder. This agreement shall be governed by and construed in accordance with the laws of the State of Texas applicable to contracts made and to be performed therein disregarding any conflict of laws rule which would result in the application of the laws of any other jurisdiction.

Term. Except as may be otherwise agreed to by the parties in a Definitive Agreement, this agreement (including all rights and obligations hereunder) shall terminate upon the earlier of two (2) years from the date first written above and the date the parties enter into a Definitive Agreement; provided that no termination of this agreement shall relieve any party from liability in respect of breaches of this agreement by such party prior to such termination.

*(Signature Page to Follow)*

IN WITNESS WHEREOF, the Parties have caused this Mutual Confidentiality Agreement to be executed by their duly authorized officers as of the Effective Date (including by facsimile or electronic transmission), it being understood that all counterpart copies will constitute but one agreement with respect to the subject matter of this agreement.

SU FERC, L.L.C.

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

[●]

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