

POWER CONFIRMATION

Date: [_____]

To: [Seller]
Attn: [_____]
Email: [_____]

From: [Buyer]
Attn: [_____]
Email: [_____]
Tel: [_____]
Fax: [_____]

Re: Physical Power Transaction

Transaction Reference Number: _____

The purpose of this letter agreement is to confirm the terms and conditions of the Transaction entered into between us on the Trade Date referred to below. This letter constitutes a "Confirmation" as referred to in the ISDA Master Agreement specified below.

U.S. Federal law requires us to obtain, verify and record customer identification information.

1. This Confirmation supplements, forms a part of, and is subject to, the ISDA Master Agreement dated as of [_____], as modified, amended or restated from time to time (the "Agreement") between you and us. All provisions contained in the Agreement shall govern this Confirmation except as expressly modified below.
2. Terms used but not defined herein shall have the meaning ascribed to them in the Agreement.
3. The terms of the particular Transaction to which this Confirmation relates are as follows:

Trade Date: [_____]

Buyer: [_____]

Seller: [_____]

Products Limited to Those Described:

In no event shall Seller have any obligation to sell or deliver to Buyer under this Transaction any Product or other product, commodity or attribute, whether or not associated with the Project, other than Energy (which Product the parties recognize, for the avoidance of doubt, does not include installed capacity, production tax credits or renewable energy credits).

Calculation Agent: [_____]

Part (I): ERCOT West Hub Power Purchase and Sale (“WPP”)

WPP Hourly Quantity: As per Appendix A

WPP Total Quantity: [_____] MWh

WPP Product: Firm (LD) Energy

WPP Effective Date: [_____] , beginning hour ending (“HE”) 0100

WPP Termination Date: [_____] , through and including HE 2400

WPP Term: WPP Effective Date to and including the WPP Termination Date

WPP Delivery Period: All deliveries are made during the defined hour periods, HE 0100 through HE 2400 (24 hours each day), Monday through Sunday, including NERC Holidays, Central Prevailing Time (CPT)

WPP Contract Price: From the WPP Effective Date, through and including [_____] : \$[___] per MWh
From [_____] , through and including the WPP Termination Date: \$[___] per MWh

WPP Delivery Point: ERCOT West Trading Hub, subject to the “Changes in Delivery Point” section below

WPP Scheduling: Seller and Buyer shall Schedule the WPP Hourly Quantities of Energy from Seller to Buyer in the real time market. All scheduling will be completed on or before the time specified by either rule or convention applicable to the real time market at the WPP Delivery Point.

For all purposes of this Confirmation, the WPP Product shall be deemed to have been properly delivered if scheduled by Seller as required herein and settled to the QSE account of Buyer by ERCOT.

Notwithstanding that this Transaction is scheduled on a day-ahead basis, the parties acknowledge that the calculation of the Mismatch set forth below will be based upon real-time settlement prices and not day-ahead settlement prices, as reflected in the formulas for “Monthly Realized Revenue” and “Monthly Floating Obligation.”

WPP Daily Payment: For each day in the WPP Term, Buyer shall pay to Seller the product of the WPP Contract Price and the sum of the corresponding WPP Hourly Quantities of energy delivered by Seller to Buyer under this Confirmation. Such payment shall be made on the next Local Business Day following delivery.

Part II: ERCOT North Hub Power Purchase and Sale (“NPP”)

NPP Hourly Quantity: As per Appendix B

NPP Total Quantity: [_____] MWh

NPP Product: Firm (LD) Energy

NPP Effective Date: [_____], beginning HE 0100

NPP Termination Date: [_____], through and including HE 2400

NPP Term: NPP Effective Date to and including the NPP Termination Date

NPP Delivery Period: All deliveries are made during the defined hour periods, HE 0100 through HE 2400 (24 hours each day), Monday through Sunday, including NERC Holidays, Central Prevailing Time (CPT)

NPP Contract Price: \$[_____] per MWh

NPP Delivery Point: ERCOT North Trading Hub subject to the “Changes in Delivery Point” section below

NPP Scheduling: Seller and Buyer shall Schedule the NPP Hourly Quantities of Energy from Seller to Buyer in the real time market. All scheduling will be completed on or before the time specified by either rule or convention applicable to the real time market at the NPP Delivery Point.

For all purposes of this Confirmation, the NPP Product shall be deemed to have been properly delivered if scheduled by Seller as required herein and settled to the QSE account of Buyer by ERCOT.

Notwithstanding that this Transaction is scheduled on a day-ahead basis, the parties acknowledge that the calculation of the Mismatch set forth below will be based upon real-time settlement prices and not day-ahead settlement prices, as reflected in the formulas for “Monthly Realized Revenue” and “Monthly Floating Obligation.”

NPP Daily Payment: For each day in the NPP Term, Buyer shall pay to Seller the product of the NPP Contract Price and the sum of the corresponding NPP Hourly Quantities of energy delivered by Seller to Buyer under this Confirmation. Such payment shall be made on the next Local Business Day following delivery.

Part (III): Tracking Account

TA Hourly Quantity: As per Appendix C

TA Effective Date: [_____]

TA Termination Date: [_____] (unless if as of [_____], the Flip Point (as defined in the Holdings LLC Agreement as in effect on the date hereof) has not occurred, in which case, [_____])

TA Term: TA Effective Date to and including the TA Termination Date

Monthly Realized Revenue: $\sum_{i=1}^{Intervals} (P_i^N \times V_i^A)$

where,

Intervals shall reflect, for each Month, the total number of Settlement Intervals for that Month.

P_i^N shall be the published real-time price at the ERCOT node assigned to the Project for each Settlement Interval.

V_i^A shall be the actual volume generated by the Project for each Settlement Interval.

If Seller has failed to schedule or make deliveries of the WPP Hourly Quantities or NPP Hourly Quantities to the WPP Delivery Point or NPP Delivery Point (or, if the Alternative TA Hedge has been executed, the quantities sold by Seller under the transaction contemplated by the definitions thereof), during any Settlement Interval as required hereunder, all Settlement Intervals for such hour shall be excluded from the summation in determining the Monthly Realized Revenue.

Monthly Floating Obligation: $\sum_{j=1}^{hours} (P_j^{EWI} \times V_j^W + P_j^{ENI} \times V_j^N + P_j^{ETA})$

where,

hours shall reflect, for each Month, the total number of hours for that Month.

P_j^{EWI} shall be the arithmetic average of the published real-time prices for WPP Delivery Point for each hour.

V_j^W shall be the applicable WPP Hourly Quantity for each hour (expressed in MWh).

P_j^{ENI} shall be the arithmetic average of the published real-time prices for the NPP Delivery Point for each hour.

V_j^N shall be the applicable NPP Hourly Quantity for each hour (expressed in MWh).

P_j^{ETA} shall be \$[____]/MWh; provided that if the Alternative TA Hedge has been executed, P_j^{ETA} shall equal the arithmetic average of the published real-time prices for each hour for the delivery point for the purchases made under the transaction contemplated by the definition thereof.

If Seller has failed to schedule or make deliveries of the WPP Hourly Quantities, NPP Hourly Quantities, or, if the Alternative TA Hedge has been executed, the quantities sold by Seller under the transaction contemplated by the definitions thereof, during any Settlement Interval as required hereunder, such hour shall be excluded from the applicable summation in determining the Monthly Floating Obligation.

Mismatch: Monthly Realized Revenue less the Monthly Floating Obligation.

Monthly Payment of
Tracking Account:

A payment and true-up mechanism will be performed at the end of each Month as follows:

If the Mismatch for any Month is greater than 0, then Seller shall make a payment to Buyer in an amount equal to the Adjustment Amount. To the extent Seller makes a payment to Buyer, the Tracking Account Balance shall simultaneously be adjusted by adding the amount of the payment to the Tracking Account Balance.

If the Mismatch for any Month is less than 0, then Buyer shall make a payment to Seller in an amount equal to the Adjustment Amount. To the extent Buyer makes a payment to Seller, the Tracking Account Balance shall simultaneously be adjusted by subtracting the amount of the payment from the Tracking Account Balance.

Payments required under the preceding two paragraphs with respect to the Mismatch for a particular Month shall be due (i) if the Adjustment Amount is payable by Seller, on or before the later of the fifteenth (15th) Local Business Day of the Month following such Month, or the fifteenth (15th) day after Seller's receipt of an invoice from Buyer, and (ii) if the Adjustment Amount is payable by Buyer, on or before the later of the fifteenth (15th) day of the Month following such Month and the third Local Business Day after Buyer's receipt of the data necessary to calculate such amount; provided that, in either case, if such day is not a Local Business Day, then such payment shall be made on the next Local Business Day.

Buyer shall prepare an invoice for the Adjustment Amount and all other amounts due with respect to each Month promptly after receipt of the report containing the settlement data necessary to calculate the Mismatch for such Month. Buyer acknowledges that such reports shall contain data, all or a portion of which, may not be final ERCOT settlement quality data and agrees that Buyer shall calculate the Mismatch and corresponding Adjustment Amount for each Month based on such data (regardless of whether it is final) when such data necessary for such calculations for such Month has first been provided by (or on behalf of) Seller. Buyer shall reconcile and true-up such amounts with the final settlement amounts on a monthly basis, and any reconciliation shall be payable on the timeline set forth above with respect to monthly settlement of Adjustment Amounts (or with respect to the Month ending on the TA Termination Date, to be included in the applicable payments required to settle the Tracking Account Balance, as applicable). For the purposes of the foregoing, the parties agree that they shall include in such monthly reconciliation and true-up, any restatement or resettlement of data made by ERCOT (including due to correction of a Relevant Price by ERCOT) in the three (3) Months immediately following the Month to which such restatement or resettlement data relates, but not in any subsequent Months. Each invoice provided by Buyer for each Month shall contain such level of detail and supporting documentation as reasonably requested by Seller to support the amounts invoiced thereunder, and shall contain a summary of all amounts payable by the parties with respect to such Month, including with respect to the WPP Daily Payment and NPP Daily Payment obligations.

The Tracking Account Balance shall accrue interest each day at a per annum rate equal to the Three-Month LIBOR in effect on such day, plus [___] basis points for negative balances in the tracking account through and including [_____], and [___] basis points thereafter and such interest shall be added to the applicable Tracking Account Balance at the last day of each Month. Interest on negative Tracking Account Balances shall be calculated using negative numbers, and such negative numbers shall be added to the Tracking Account Balance.

Beginning on [_____], the Undrawn Tracking Account Balance shall accrue interest each day at a per annum rate equal to [___] basis points, and such interest shall be added to the applicable Tracking Account Balance at the last day of each Month. Interest on Undrawn Tracking Account Balances shall be calculated using negative numbers, and such negative numbers shall be added to the Tracking Account Balance. Upon the consummation of the Alternative TA Hedge, the Undrawn Tracking Account Balance shall cease to accrue interest on the effective date of the exercise and shall not thereafter accrue additional interest prior to the TA Termination Date (but in each case without limiting any default interest payable with respect thereto payable in accordance with the Agreement).

If the Tracking Account Balance is less than the Tracking Account Limit at the end of any Month ending prior to the TA Termination Date, then Seller shall pay to Buyer an amount equal to the absolute value of the difference between the Tracking Account Limit and the Tracking Account Balance on or before the later of the fifteenth (15th) Local Business Day of the Month following such Month, or the fifteenth (15th) day after Seller's receipt of an invoice from Buyer; provided that if such day is not a Local Business Day, then such payment shall be made on the next Local Business Day. Upon such payment by Seller, the Tracking Account Balance shall be increased by the amount of the payment.

If the Tracking Account Balance is less than zero as of the TA Termination Date, then Seller shall repay to Buyer an amount equal to the absolute value of such Tracking Account Balance (the "Seller Tracking Account Obligation") by one or any combination of the following (such election of methods being at Seller's discretion):

(a) making a single payment to Buyer on or before five (5) Business Days after the TA Termination Date; or

(b) making twelve (12) equal payments (unless if the TA Termination Date is [_____], in which case, eight (8) equal payments), with such payments due on each June 30, September 30, December 31, and March 31 thereafter until such amounts have been paid in full. If any such day is not a Local Business Day, then such payment shall be made on the next Local Business Day. The unpaid amount of the Seller Tracking Account Obligation shall accrue interest each day at a per annum rate equal to the Three-Month LIBOR in effect on such date plus [___] basis points through and including [_____], and [___] basis points thereafter and such interest shall be due and payable with each quarterly payment. On the date that is thirty-six (36) months (unless if the TA Termination Date is [_____], in which case, twenty-four (24) months) from the first quarterly payment date, all accrued but unpaid interest and the remaining balance of the Seller Tracking Account Obligation shall be due and payable by Seller to Buyer.

The Seller Tracking Account Obligation may be prepaid in whole or in part without premium or penalty. Prepayments shall be applied first toward accrued but unpaid interest and then toward remaining payments on a pro rata basis. If Seller fails to make any payment under this paragraph when due and payable and such failure is not remedied on or before the second Local Business Day after notice of such failure is given by Buyer to Seller, the unpaid balance of the Seller Tracking Account Obligation and all accrued but unpaid interest thereon shall become immediately due and payable upon Buyer's demand.

(c) Notwithstanding anything in the foregoing clauses (a) or (b) to the contrary, if the scheduled date of payment for any amount due under the foregoing clauses (a) or (b) is not a Local Business Day, then such payment shall be made on the next Local Business Day.

On or before the fifth (5th) Business Day after the TA Termination Date, as applicable, Seller shall provide written notice to Buyer of which of the above repayment option(s) that it will utilize in connection with the repayment of the Seller Tracking Account Balance. If Seller fails to so provide such notice on or before such fifth (5th) Business Day after the TA Termination Date, as applicable), clause (a) above shall apply.

As used herein, the following terms shall have the following meanings:

“Adjustment Amount” means, with respect to any Month, (a) if the Mismatch for such Month is greater than 0, an amount equal to the lesser of (1) the Mismatch for such Month and (2) the difference of (x) Tracking Account Funding Cap – (y) Prior Tracking Account Balance, and (b) if the Mismatch for such Month is less than 0, an amount equal to the absolute value of the greater of (1) the Mismatch for such Month and (2) the difference of (x) Tracking Account Limit – (y) Prior Tracking Account Balance.

“Month” means a calendar month.

“Prior Tracking Account Balance” means the Tracking Account Balance at the end of the immediately preceding Month, provided that for the purposes of this definition, the Prior Tracking Account Balance shall not be a number less than the Tracking Account Limit and the initial Prior Tracking Account Balance shall be zero. For the avoidance of doubt, the Prior Tracking Account Balance at the end of the immediately preceding Period reflects the application of the Adjustment Amount for the immediately preceding Period.

“Settlement Interval” means the time period for which the ERCOT real time Energy market is settled, which as of the Trade Date is fifteen (15) minutes.

“Tracking Account Balance” means the Tracking Account Balance determined in accordance with these Tracking Account provisions; provided that the initial Tracking Account Balance shall be zero.

“Tracking Account Funding Cap” means \$0.

“Tracking Account Limit” means negative \$[____] million; provided that if the Alternative TA Hedge is consummated, upon the effective date of such purchase transaction, the Tracking Account Limit shall be negative \$[____] million.

“Undrawn Tracking Account Balance” means (i) the Tracking Account Limit minus (ii) the lesser of (a) the Tracking Account Balance and (b) negative \$[____] million, provided that (y) if the Alternative TA Hedge is consummated, the Undrawn Tracking Account Balance shall be zero and (z) in no event shall the Undrawn Tracking Account Balance be greater than zero (0).

Prepayments of Tracking Account Balance:

Seller may prepay a negative Tracking Account Balance or the Seller Tracking Account Obligations, in either case, in whole or in part, at any time and from time to time without premium or penalty.

Payments on non-Business Days

Notwithstanding any provision hereof to the contrary, any payment hereunder that otherwise would be due on a day that is not a Local Business Day instead shall be due on the first Local Business Day to occur thereafter.

Other Energy Terms:

Notwithstanding anything to the contrary set forth in the Agreement or in this Confirmation, at any time prior to the Project Completion Date, the foregoing “Monthly Realized Revenue,” “Monthly Floating Obligation,” “Mismatch,” and “Monthly Payment of Tracking Account” sections of this Confirmation shall not apply, and all payments in respect of this Confirmation shall be made in accordance with the provisions of the Power Annex.

Notwithstanding anything to the contrary set forth in the Agreement: (i) any amounts with respect to a particular Month that Seller is obligated to pay Buyer pursuant to Section (c)(i) of the Power Annex, up to the lesser of (A) the sum of the absolute value of the Tracking Account Limit plus the Prior Tracking Account Balance, and (B) \$[____] million, shall be payable on the applicable date described in the “Monthly Payment of Tracking Account” section of this Confirmation, and (ii) any amounts that Buyer is obligated to pay Seller pursuant to Section (c)(ii) of the Power Annex shall be payable on the applicable date described in the applicable “WPP Daily Payment” and “NPP Daily Payment” sections of this Confirmation.

The Parties acknowledge and agree that Seller shall not be considered to have incorrectly reported any data for the purpose of Part 4(s) of the Schedule as a result of delivering data that is not final settlement quality data and that may be subject to adjustment after receipt of settlement quality data from ERCOT.

With respect to this Transaction, the sole Market Disruption Events shall be “Price Source Disruption” and “Disappearance of Commodity Reference Price”.

Changes in Delivery Point:

If, after the Trade Date, the Delivery Point of Energy is redefined, replaced or eliminated by ERCOT, including through the addition or subtraction of a material portion of the electrical buses from the Hub comprising the Delivery Point, and such change has a material adverse effect on one of the parties to this Transaction,

then at the affected party's reasonable request, the parties shall promptly enter into negotiations to specify a new Delivery Point(s) that allocates the economic benefits and burdens of this Transaction between the parties in the same proportion as they were allocated on the Trade Date (in respect of Energy). For avoidance of doubt, a redefinition of the Delivery Point shall not include a circumstance whereby ERCOT replaces certain hub buses pursuant to its Process for Defining Hubs. A redefinition would include the replacement of all or substantially all of the hub buses that currently define the Delivery Point.

Income Tax Designation: Party B intends the Transaction to be a hedging transaction for U.S. federal income tax purposes pursuant to Section 1221(a)(7) of the U.S. Internal Revenue Code of 1986, as amended, and Treasury Regulation Sections 1.1221-2 and 1.446-4; provided, however, that such intent shall have no bearing on Party A's tax treatment of the Transaction.

4. Account Details:

Payments to [Buyer]:

Account for payments: Bank: []
ABA #: []
Account No.: []
Reference: [].

Payments to [Seller]:

Account for payments: The Revenue Account.

(signatures follow)

This Power Confirmation shall become effective and be binding on the parties hereto when executed and delivered by each party hereto.

Accepted and confirmed as of the date first above written:

[_____]
 (“Buyer”)

By: _____
Name:
Title:

[_____]
 (“Seller”)

By: _____
Name:
Title:

APPENDIX A

WPP Hourly Quantity (MW per hour)

During the WPP Term, the WPP Hourly Quantity shall be set forth in the table below opposite the applicable calendar month; otherwise the WPP Hourly Quantity shall be zero.

MW/h	7x16	7x8		MW/h	7x16	7x8
18-Apr				23-Oct		
18-May				23-Nov		
18-Jun				23-Dec		
18-Jul				24-Jan		
18-Aug				24-Feb		
18-Sep				24-Mar		
18-Oct				24-Apr		
18-Nov				24-May		
18-Dec				24-Jun		
19-Jan				24-Jul		
19-Feb				24-Aug		
19-Mar				24-Sep		
19-Apr				24-Oct		
19-May				24-Nov		
19-Jun				24-Dec		
19-Jul				25-Jan		
19-Aug				25-Feb		
19-Sep				25-Mar		
19-Oct				25-Apr		
19-Nov				25-May		
19-Dec				25-Jun		
20-Jan				25-Jul		
20-Feb				25-Aug		

20-Mar				25-Sep		
20-Apr				25-Oct		
20-May				25-Nov		
20-Jun				25-Dec		
20-Jul				26-Jan		
20-Aug				26-Feb		
20-Sep				26-Mar		
20-Oct				26-Apr		
20-Nov				26-May		
20-Dec				26-Jun		
21-Jan				26-Jul		
21-Feb				26-Aug		
21-Mar				26-Sep		
21-Apr				26-Oct		
21-May				26-Nov		
21-Jun				26-Dec		
21-Jul				27-Jan		
21-Aug				27-Feb		
21-Sep				27-Mar		
21-Oct				27-Apr		
21-Nov				27-May		
21-Dec				27-Jun		
22-Jan				27-Jul		
22-Feb				27-Aug		
22-Mar				27-Sep		
22-Apr				27-Oct		
22-May				27-Nov		
22-Jun				27-Dec		
22-Jul				28-Jan		
22-Aug				28-Feb		

22-Sep				28-Mar		
22-Oct				28-Apr		
22-Nov				28-May		
22-Dec				28-Jun		
23-Jan				28-Jul		
23-Feb				28-Aug		
23-Mar				28-Sep		
23-Apr				28-Oct		
23-May				28-Nov		
23-Jun				28-Dec		
23-Jul				29-Jan		
23-Aug				29-Feb		
23-Sep				29-Mar		

For the purposes of the foregoing:

7x16 shall be HE 0700 through HE 2200 CPT, Monday through Sunday, including NERC Holidays, or any successor period in accordance with ERCOT protocols.

7x8 shall be HE 0100 through HE 0600 and HE 2300 through HE 2400 CPT, Monday through Sunday, including NERC Holidays, or any successor period in accordance with ERCOT protocols.

APPENDIX B

NPP Hourly Quantity (MW per hour)

Prior to the month of [_____], the NPP Hourly Quantity shall be zero. Commencing the month of [_____] through and including the month of [_____], the NPP Hourly Quantity shall be set forth in the table below opposite the applicable calendar month. Commencing the month of [_____] and thereafter, the NPP Hourly Quantity shall be zero.

Month	7x16	7x8
Jan		
Feb		
Mar		
Apr		
May		
Jun		
Jul		
Aug		
Sep		
Oct		
Nov		
Dec		

For the purposes of the foregoing:

7x16 shall be HE 0700 through HE 2200 CPT, Monday through Sunday, including NERC Holidays, or any successor period in accordance with ERCOT protocols.

7x8 shall be HE 0100 through HE 0600 and HE 2300 through HE 2400 CPT, Monday through Sunday, including NERC Holidays, or any successor period in accordance with ERCOT protocols.

