



MEMORANDUM

To: Board of Directors
From: Chad Seely, ERCOT Vice President, General Counsel and
Corporate Secretary
Date: October 4, 2016
Re: Item 12 – Member-Affiliate Determination related to New EFH
Restructuring Entity

TCEH Corp. completed its emergence process yesterday from the Chapter 11 voluntary bankruptcy of EFH Corp. and certain of its subsidiaries in the United States Bankruptcy Court for the District of Delaware.

Today ERCOT received the attached letter from TCEH Corp. (TCEH), requesting that the ERCOT Board of Directors determine, at its October 11, 2016 meeting, that TCEH and its subsidiaries are not Affiliates (as defined in the ERCOT Bylaws) of any other ERCOT Member for purposes of ERCOT Membership and stakeholder participation.

A determination by the ERCOT Board at its October meeting would allow TCEH to update its subsidiaries' ERCOT memberships in a timely fashion and participate in Market Segment elections which occur in November 2016 for the 2017 year. The Record Date for 2017 Market Segment elections for Board and Technical Advisory Committee seats is November 11, 2016.

Given the timing of receipt of this request, ERCOT Legal will provide a decision template for this Agenda Item prior to the October 11, 2016 Board meeting.

Mr. Craven Crowell
Chairman, Board of Directors
ERCOT
7620 Metro Center Drive
Austin, Texas 78744

Attn: Chad Seely

October 4, 2016

Dear Mr. Crowell:

As you know, on April 29, 2014, EFH Corp., and certain of its subsidiaries, commenced voluntary cases under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. § 101 et seq. in the United States Bankruptcy Court for the District of Delaware. On August 29, 2016, the Court approved EFH Corp.'s Third Amended Joint Plan of Reorganization,¹ which provided the path for the successor companies of Texas Competitive Electric Holdings LLC, and its subsidiaries, including Luminant and TXU Energy, to emerge from bankruptcy in a tax-free spin-off from EFH. We are pleased to report that we completed our emergence process yesterday, through a series of corporate transactions whereby the existing competitive subsidiaries were contributed to a new parent company, TCEH Corp. (TCEH), which is not affiliated with EFH or Oncor.

For the last several years, Luminant and TXU Energy have participated in the Investor-Owned Utility segment in ERCOT, as was required by the ERCOT Amended and Restated Bylaws (ERCOT Bylaws) based on their common ownership with Oncor by EFH. By this letter, TCEH requests the ERCOT Board of Directors to find that TCEH and its subsidiaries are not Affiliates of any other ERCOT member, as the term "Affiliate" is defined in Article 2 of the ERCOT Bylaws, for purposes of ERCOT membership or stakeholder participation. Upon that determination, TCEH intends to transfer its current memberships in the Investor-Owned Utility segment to a Corporate membership in the Independent Generator segment and an Associate membership in the Independent REP segment.

TCEH is requesting the Board's determination of non-affiliation because we have learned that certain entities that own or control more than five percent, but less than 20 percent, of the voting securities of TCEH either directly or indirectly own or control, or have affiliates that directly or indirectly own or control, voting securities in other ERCOT members. TCEH's relationships to those ERCOT members are described below and shown in the included diagrams.

First, Brookfield Asset Management Private Institutional Capital Adviser (Canada), L.P. (Brookfield), is the investment manager for certain affiliated and unaffiliated funds or entities that beneficially own in the aggregate approximately 15 percent of TCEH. Brookfield is indirectly controlled by Brookfield Asset Management Inc. (BAM). BAM also indirectly controls Brookfield-CREZ SPV LLC, which owns a fifty percent interest in WETT Holdings LLC, the parent of Wind Energy Transmission Texas, LLC (WETT), a corporate member of ERCOT in the Investor-Owned Utility segment.

¹ See Energy Future Holdings Corp. Form 8-K filed August 30, 2016.

Second, Oaktree Capital Management, L.P. (Oaktree) is the investment manager for certain affiliated funds or entities that beneficially own in the aggregate approximately 12 percent of TCEH. Oaktree Capital Group, LLC, the upstream parent of Oaktree, together with its affiliated entities (including Oaktree) and funds, beneficially owns approximately seven percent of Dynegy Inc., which has entered into a stock purchase agreement that, if consummated, will result in Dynegy Inc. becoming the indirect parent of GDF Suez Energy North America Inc. (GDF-Suez).² At that time, Dynegy Marketing and Trade LLC will become a corporate member of ERCOT in the Independent Generator segment.³

The ERCOT Bylaws allow the ERCOT Board to determine that TCEH and its subsidiaries are not Affiliates of either WETT or GDF-Suez for purposes of ERCOT membership and voting rights so long as TCEH and those companies do not share a common parent and are not under common influence or control, and so long as those entities do not exercise actual substantial influence or control over the policies and actions of one another. According to the ERCOT Bylaws, evidence of influence or control “shall include the possession, directly or indirectly, of the power to direct or cause the direction of the management and/or policies and procedures of another, whether that power is established through ownership or voting of at least five percent of the voting securities or by any other direct or indirect means.”

In support of this request, TCEH asserts that:

- TCEH does not share a common parent with WETT.
- TCEH does not share a common parent with GDF-Suez, nor will it share a common parent with GDF-Suez after the transaction closes by which Dynegy Inc. succeeds to indirect ownership of the assets of GDF-Suez.
- TCEH is not under common influence or control with WETT.
- TCEH is not under common influence or control with GDF-Suez, nor will it be under common influence or control with GDF-Suez after the transaction closes by which Dynegy Inc. succeeds to indirect ownership of the assets of GDF-Suez.
- TCEH will not have a board member that is also a board member of WETT.⁴
- TCEH will not have a board member that is also a board member of GDF-Suez or Dynegy, Inc.⁵

² See “*Application of Atlas Power Finance, LLC for Approval Pursuant to Section 39.158 of the Public Utility Regulatory Act*”, PUCT Docket No. 45764, Order, issued July 20, 2016; see also, “*Joint Application for Authorization of Disposition of Jurisdictional Assets and Purchase of Securities under Sections 203(a)(1) and 203(a)(2) of the Federal Power Act*,” FERC Docket No. EC-16-93-000, filed March 25, 2016 by Atlas Power Finance, LLC, Dynegy Inc., Energy Capital Partners III, LLC & GDF SUEZ Energy North America, Inc., as amended by the “*Notification of Dynegy Inc. that it is now the 100 percent owner of Atlas Power, LLC under EC16-93*,” filed June 29, 2016. Dynegy Inc., through its interest in Atlas Power, LLC, will purchase all of the issued and outstanding stock of GDF-Suez upon receipt of necessary regulatory approvals.

³ Dynegy Marketing and Trade LLC is currently a registered CRR account holder with ERCOT, but is not an ERCOT member. GDF Suez Energy Marketing North America, Inc. is a current ERCOT member in the Independent Generator segment; however, that entity will remain with the ENGIE, S.A., and will no longer be an affiliate of GDF-Suez after the transaction closes by which Dynegy Inc. succeeds to indirect ownership of the assets of GDF-Suez.

⁴ Brookfield will have a board member on the TCEH board who is a senior managing partner of BAM, but is not an elected officer of BAM, is not a board member of WETT or WETT Holdings LLC, and does not actually exercise influence or control over the policies and actions of WETT or WETT Holdings LLC.

⁵ Oaktree will have a board member on the TCEH board, but that individual is not a board member of Dynegy, Inc., will not be a board member of Dynegy, Inc. or GDF-Suez after the transaction pursuant to which Dynegy, Inc. succeeds to indirect ownership of the assets of GDF-Suez closes, does not actually exercise influence or

- TCEH does not exercise actual influence or control over WETT, nor does WETT exercise actual influence or control over TCEH.
- TCEH does not exercise actual influence or control over GDF-Suez, nor does GDF-Suez exercise actual influence or control over TCEH. Neither TCEH nor GDF-Suez will exercise actual influence or control over the other after the transaction closes by which Dynegy Inc. succeeds to indirect ownership of the assets of GDF-Suez.
- TCEH is not aware of any other ownership interests or relationships that would create an "Affiliate" relationship with any other ERCOT members under the ERCOT Bylaws definition.

In addition, TCEH is not an affiliate of either WETT or GDF-Suez under the definition of "Affiliate" as laid out in Chapter 11 of the Public Utility Regulatory Act of Texas.⁶

TCEH requests that the ERCOT Board of Directors grant TCEH's request to determine that TCEH and its subsidiaries are not Affiliates of any other ERCOT member, as the term "Affiliate" is defined in Article 2 of the ERCOT Bylaws, for purposes of ERCOT membership or stakeholder participation at its October 11, 2016 meeting so that TCEH can timely update its subsidiaries' ERCOT memberships and participate in segment elections. The ERCOT Board of Directors granted a similar request on September 17, 2013, pursuant to which it determined that Calpine Corporation is not an Affiliate of Cross Texas Transmission LLC under the ERCOT Bylaws merely because of the existence of a common indirect interest in each held by LS Power Development LLC.

Thank you for your consideration of this request. Amanda Frazier, Senior Director of Regulatory Policy for TCEH, will be available to answer any questions concerning this request at your October 11 meeting. In the meantime, if you have any questions, please contact me.

Sincerely,



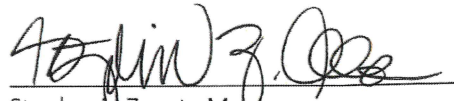
Stephanie Zapata Moore
Executive Vice President and General Counsel
TCEH Corp.
stephanie.moore@luminant.com
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control over the policies and actions of Dynegy, Inc., and will not actually exercise influence or control over the policies and actions of Dynegy, Inc. or GDF Suez after the transaction pursuant to which Dynegy, Inc. succeeds to indirect ownership of the assets of GDF-Suez closes.

⁶ TEX. UTIL. CODE ANN. §§ 11.001-66.016 (West 2007 & Supp. 2015) (PURA). PURA section 11.0042 excludes from consideration of affiliates certain specified entities, including those registered as investment advisers under the Investment Advisers Act of 1940. Both Brookfield and Oaktree are registered as investment advisers.

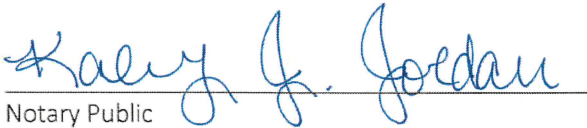
Affirmation in Support of Request

I, Stephanie Zapata Moore, state that I am Executive Vice President and General Counsel of TCEH Corp., and that I am authorized to execute this Affirmation. I affirm that, after reasonable inquiry, the information set forth in the attached letter is true and correct to the best of my knowledge, information and belief.

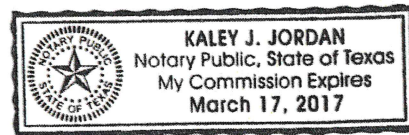


Stephanie Zapata Moore
Executive Vice President and General
Counsel, TCEH Corp.

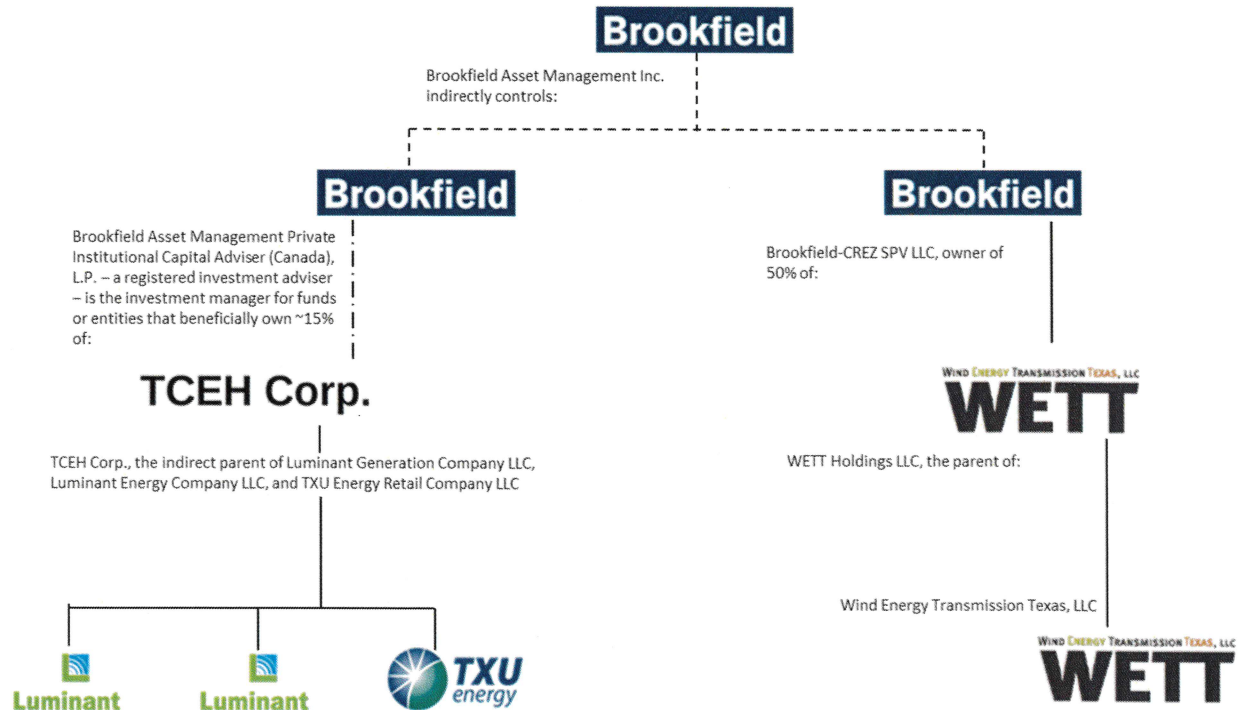
Subscribed and sworn before me, on this, the 3 day of October, 2016.


Notary Public

My Commission Expires: 3/17/17



Brookfield Relationship to TCEH Corp. and Wind Energy Transmission Texas, LLC



Oaktree Relationship to TCEH Corp. and GDF Suez Energy Marketing North America Inc.

