CONFIDENTIALITY AGREEMENT

 This Confidentiality Agreement (“Agreement”) is made by and between Texas Eastern Transmission, LP (“Enbridge”) and [full legal name] (“Company”).  Enbridge and Company are sometimes referred to herein collectively as the “Parties” or individually as a “Party”.

**RECITALS**

 **WHEREAS** Company is considering entering into one or more contracts with Enbridge for the storage and/or transmission of natural gas (the “Transaction”);

 **WHEREAS** the Parties are interested in exchanging certain information of a confidential or proprietary nature in order for Enbridge to determine the credit worthiness and general financial condition of Company for purposes of the Transaction;

 **AND** **WHEREAS** Enbridge and Company are unwilling to exchange such Proprietary Information unless they have agreed to restrictions on the use and disclosure of such Proprietary Information as provided herein;

 **NOW THEREFORE** for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

**AGREEMENT**

1. **Definitions**. For purposes of this Agreement, the following terms shall have the meanings set forth below:

 “Affiliate” shall mean, when used with respect to a specified “Person”, any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such specified Person.

 “Control” shall mean, when used with respect to any specified Person: (i) the possession, directly or indirectly, of the power or authority to direct or cause the direction of the management and policies of such specified Person, whether through the ownership of voting securities, as a trustee, by contract, or otherwise; or (ii) the ownership directly or indirectly of more than fifty (50) percent of the voting ownership interests in such specified Person.

 “Person” shall be interpreted broadly to include, without limitation, the media (electronic, print or otherwise), the Internet, any governmental agency, representative or authority or any corporation, company, limited liability company, partnership, limited partnership, joint venture, enterprise, association, trust, group, entity or individual.

 “Proprietary Information” shall mean all written, recorded or oral information related to the Transaction received by a Party (“Recipient”) and disclosed by the other Party (“Disclosing Party”), after the date hereof, that concerns the business, finances, assets and/or operations of Disclosing Party or any of Disclosing Party’s Representatives, together with all copies, reproductions, summaries, analyses or extracts thereof in the possession of Recipient or in the possession of any of Recipient's Representatives. For illustrative purposes only, Proprietary Information includes, but is not limited to: exploration and production samples or information such as geological and/or rock samples and data, engineering data, production data, drilling data, well log information, land information, surveys, prospects, ownership data, and all other such related information; general business information such as business and strategic plans, customer lists, the identity of key contacts at customers, the requirements of customers, sources of supply and the identity of suppliers; contract terms with oil and gas joint interest owners, other business partners, contractors and vendors; budgets, sales and marketing information, pricing, costs, profits, and losses; actual and contemplated acquisitions and divestitures; actual and contemplated litigation; personnel, administrative and operations matters; technical information developed or utilized in Disclosing Party’s operations or the operations of any of Disclosing Party’s Representatives, whether patentable or not; software, hardware, computer codes, documents, designs, system configurations, infrastructure, network information, and data and reports related thereto; and trade secrets and know-how. Proprietary Information does not include, however, information which (a) is or becomes generally available to the public other than as a result of a disclosure by Recipient or Recipient's Representatives, but only after and to the extent such information becomes generally available to the public, (b) was available to Recipient in written documents on a non-confidential basis prior to its disclosure to Recipient by Disclosing Party, (c) becomes available to Recipient on a non-confidential basis from a person who is not otherwise bound by a confidentiality agreement with Disclosing Party, or is not otherwise prohibited from transmitting the information to Recipient, (d) is independently developed by Recipient, without reliance on any Proprietary Information, or (e) is approved for disclosure by prior written consent of Disclosing Party.

 “Representatives” of a Party shall mean any Affiliates, directors, officers, employees, agents of the Party, or its consultants, subcontractors or outside counsel, and any directors, officers, employees and agents of an Affiliate of the Party, or the consultants, subcontractors or outside counsel of an Affiliate of the Party.

1. **Confidentiality**. Unless otherwise agreed to in writing by Disclosing Party and Recipient, Recipient shall: (a) keep all Proprietary Information confidential and not disclose or reveal any Proprietary Information to any Person other than those Representatives who agree to be bound by the terms and conditions of this Agreement with regard to the confidentiality and use obligations set forth herein, and who: (i) are employed, engaged or retained by Recipient or one of its Affiliates and are actually involved in the evaluation of the Proprietary Information and the Transaction; or (ii) are acting on Recipient's behalf and actively and directly participating in the discussions regarding the Transaction; or (iii) otherwise need to know the Proprietary Information for the purpose of supporting the discussions between the Parties regarding the Transaction; and (b) not use Proprietary Information for any purpose other than in direct relation to discussions between Recipient and Disclosing Party concerning the Transaction. Recipient shall under no circumstances use any Proprietary Information, whether directly or indirectly, in any way whatsoever to the detriment of Disclosing Party. Recipient will be fully responsible for any breach of the terms hereunder by Recipient, or any of its Representatives. The Parties expressly understand and agree that clause 2(b) prohibits Recipient from using, directly or indirectly, in whole or in part, any Proprietary Information in any administrative or judicial proceeding involving the other Party, other than a proceeding to enforce this Agreement. Notwithstanding any provision to the contrary herein, this paragraph 2 shall survive termination of this Agreement.
2. **Compelled Disclosure.** If Recipient is required by any legal or regulatory process (whether state, federal or local) to disclose any Proprietary Information of Disclosing Party, Recipient will not, unless required by law to do so, make such a disclosure until Disclosing Party has first: (a) received prompt written notice of such disclosure requirement; and (b) had a reasonable opportunity to obtain a protective order or other reliable assurance that confidential treatment will be accorded to the applicable Proprietary Information. Further, in the event of such a legal or regulatory requirement, Recipient will not oppose and will fully cooperate with, at the expense of Disclosing Party, any actions that Disclosing Party reasonably deems necessary to assure such appropriate confidential treatment of the relevant Proprietary Information, and in the event that any Proprietary Information must ultimately be disclosed, Recipient will make such disclosure only to the limited extent necessary to comply with the relevant legal requirement.
3. **Ownership.** Each Recipient acknowledges and agrees that any Proprietary Information that a Disclosing Party makes available to Recipient is and shall remain the sole and exclusive property of Disclosing Party and may not be used by Recipient for any purpose other than as expressly permitted hereunder.
4. **Term.** This Agreement shall remain in effect for a period of three (3) years from the date hereof, after which it shall terminate.
5. **Termination of Discussions; Return or Destruction of Proprietary Information**. If, at any time during the effectiveness of this Agreement, any Party decides that it does not wish to continue discussions with respect to the Transaction, such Party will promptly notify the other Party of that decision by giving such other Party a written termination notice. If requested in a termination notice or at any other time for any reason, upon the written request of Disclosing Party, Recipient will promptly deliver to Disclosing Party all Proprietary Information (whether written/hardcopy or electronic) and any and all copies thereof furnished to Recipient by or on behalf of Disclosing Party, including without limitation: (i) any copies of such Proprietary Information (including any extracts therefrom); and (ii) any portion of such Proprietary Information that may be found in reports, analyses, notes, compilations, studies and other documents prepared by or for Recipient. In lieu of returning the Proprietary Information to Disclosing Party after receiving a written request to do so as described in the preceding sentence, Recipient may provide a written certification to Disclosing Party from one of its duly authorized officers that all Proprietary Information of Disclosing Party and copies thereof in Recipient’s possession have been destroyed. Notwithstanding the termination of any discussions with respect to the Transaction or the return or destruction of any Proprietary Information, the Parties will continue to be bound by the terms of this Agreement in accordance with clause 5 hereof and to the extent provided herein. Notwithstanding anything to the contrary provided elsewhere herein, Recipient may retain or destroy Proprietary Information as required by applicable law, court order or regulation or in accordance with bona fide internal compliance procedures (including, without limitation, the retention of one copy of its notes, analyses, board, and executive presentations for compliance purposes, and for the protection of its legitimate interests and the legitimate interests of its board of directors) or bona fide internal legal records retention policies (including retention of electronic or hard copy versions of the Proprietary Information and any such Proprietary Information contained on back-up tapes and other back-up media made in the ordinary course of business, including by Recipient’s technology service providers).
6. **Governing Law.** This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Texas and the federal laws of the United States of America applicable in Texas, without regard to its choice of law rules. The Parties irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of the State of Texas and all courts competent to hear appeals from such courts with respect to any claim arising out of or in relation to this Agreement. Each Party irrevocably and unconditionally waives, to the fullest extent permitted by law: (i) any objection which it may have at any time to the laying of venue of any action or proceeding arising out of or relating to this Agreement in any such court; and (ii) any claim that any such action or proceeding brought in any such court has been brought in an inconvenient forum.
7. **Waiver.** It is further understood and agreed that no failure or delay by either Party in exercising any right, power, defense 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.
8. **No Further Agreements Hereunder; Non Exclusivity**. Neither Party shall, by virtue of this Agreement or the exchange of Proprietary Information hereunder, be under any obligation to enter into any further agreement, contract, letter of intent or business arrangement of any kind, including but not limited to the Transaction contemplated herein. Each Party reserves the right, in its sole discretion, to decline, make, retract, or reject at any time any proposal which has not yet become legally binding by execution of a definitive written agreement between the Parties with respect to any further agreements or business arrangements with the other Party or its Affiliates and to terminate all further discussions and negotiations. Subject to keeping all Proprietary Information confidential, the Parties shall be free at all times to hold negotiations or enter into agreements with any other Person whatsoever in addition to or in lieu of the discussions hereunder and any such activities shall not be a breach of this Agreement or any obligations owed to the other Party hereunder.
9. **Relationship of the Parties.** This Agreement is not intended to and shall not be construed as creating a joint venture, partnership, agency, association or other formal business relationship between the Parties or any of their respective Affiliates. Neither Party will incur any liabilities or enter into any contractual or other arrangements which will in any way bind the other Party except as specifically stated herein. The Parties neither create nor intend to create any right in any third party not a signatory hereto by executing this Agreement or performing under it.
10. **Notices**. Any notices to be delivered to Enbridge or Company shall be in writing and shall be sufficiently given if delivered by hand, by courier service, sent by registered mail, postage prepaid or by email to Enbridge or to the Company at the address set forth below:

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#  If to Enbridge:

 5400 Westheimer Court

 Houston, TX 77056

 Attention:

 Email:

 Phone:

If to Company:

Attention:

Email:

Phone:

1. **Authorization**. The Parties hereto have all of the requisite corporate power and authority to execute and deliver this Agreement and to consummate the Transaction contemplated herein. Further each Party represents that this Agreement constitutes a legal, valid and binding obligation of such Party, enforceable against it in accordance with its terms.
2. **Miscellaneous.**

(a) This Agreement constitutes the entire agreement between the Parties as to the subject matter hereof and supercedes, replaces and merges all prior discussions and agreements between them related to the subject matter described herein. This Agreement may not be amended or modified other than by a writing signed by both Parties to this Agreement.

(b) Without prejudice to any other rights and remedies the Parties may have, the Parties agree that the Proprietary Information is valuable and that damages may not be an adequate remedy for any breach of this Agreement by Recipient. Accordingly, the Parties agree that they shall each be entitled to seek the remedies of an injunction and other equitable relief upon proof of any actual or threatened breach by Recipient of this Agreement. In the event of litigation relating to this Agreement, if a court of competent jurisdiction determines in a final nonappealable order that this Agreement has been breached by Recipient or by its Representatives, then such Party will reimburse Disclosing Party for its costs and expenses (including, without limitation, court costs, the cost of investigation, cost of settlement and reasonable attorneys' fees and expenses) incurred in connection with all such litigation. Each of the Parties irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the Transaction contemplated hereby.

(c) Although Disclosing Party will endeavor to include materials that Disclosing Party believes to be reliable for Recipient’s evaluation, Disclosing Party makes no representation or warranty as to the accuracy or completeness of any such provided information. Furthermore, neither Disclosing Party nor its Representatives shall have any liability to Recipient or its Representatives resulting from the use of any such information by Recipient or its Representatives.

(d) This Agreement shall be binding upon and for the benefit of Company and Enbridge and their respective Representatives, successors, and permitted assigns. Neither Party may assign its rights or obligations hereunder without the prior written consent of the other Party.

(e) This Agreement may be executed by facsimile, or electronically and scanned and in one or more counterparts, each of which will be deemed to be an original of this Agreement, and all of which when taken together, shall be deemed to constitute one and the same agreement.

(f) If any provision of this Agreement is held to be invalid or unenforceable, it will be ineffective only to the limited extent of the invalidity without affecting or impairing the validity and enforceability of the remainder of the provision or the remaining provisions of this Agreement.

(g) Unless required by law, a Party hereto shall not make or issue any press release or public announcement or statement regarding the existence of this Agreement or the Parties’ relationship created thereby without the consent of the other Party.

(h) Notwithstanding any other provision of this Agreement, Recipient may disclose to any government or governmental agency (or any representative of a government or governmental agency), including in a voluntary disclosure to any regulatory or enforcement authority, Proprietary Information provided in response to any sanctioned foreign entity legislation or *U.S. Foreign Corrupt Practices Act* due diligence request made to Recipient, provided that Recipient shall give notice to Disclosing Party prior to such disclosure to the extent reasonably possible.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of \_\_\_\_\_\_\_\_ \_\_\_\_, 201\_\_.

Texas Eastern Transmission, LP
by its general partner,

Spectra Energy Transmission Services, LLC

By: By:

Name: Name:

Title:­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: